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**PINE PLAINS PLANNING BOARD MINUTES
APRIL 11, 2012
7:30 PM**

IN ATTENDANCE: Don Bartles, Jr., Chairman
Sarah Jones
Vikki Soracco
Steve Patterson
Ken Mecciarello
John Forelle
Kate Osofsky
Peter Salerno, Alternate

ABSENT: Louisa Grassi, Alternate

ALSO PRESENT: Lauren Kingman, Town of Milan
Sandra David
Warren Replansky
Drew Weaver
George Keeler
Millerton News
Fourteen members of the public

Chairman Bartles called the meeting to order at 7:30 pm. He explained that the Board would be addressing a letter that was sent to the Board by Jennifer Van Tuyl of Cuddy and Fedder who represent Carvel Property Development. He stated that the letter arrived while the website administrator was away so not all of the information was placed on the Town's website.

CARVEL PROPERTY DEVELOPMENT: Bartles stated that the letter from Cuddy and Fedder asked that the Board exercise their authority in continuing the SEQR. Bartles stated that the members of the Board have been expressing their frustration in not really knowing how to proceed. He stated their frustration is that ten years of really significant work has been put in to getting to the point where we are and also trying to answer comments that are coming out of the community both for and against the Board taking any action at all. Bartles stated this has been discussed previously with the Replansky and his advice, which was consented to by a consensus but not by motion or resolution, was that he felt the Town Board was in the driver's seat and since they are processing the NND application that they should be the ones that re-initiated SEQR. Bartles stated this would probably be a whole new SEQR in which Lead Agency was advertised for again and go through the scoping again, etc. Bartles stated the applicant is suggesting the Planning Board take the initiative and look for a supplemental scope to the original scoping and basically build on the original information that has been compiled over the last ten years.

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Bartles stated this is fairly new ground and this situation does not have a lot of case law behind it. Bartles stated he has asked the Board to convene tonight to hash this out publicly on what their thoughts and feelings are with regard to this. Bartles stated he is not really sure how the Board would like to proceed. Bartles stated he would like to step down momentarily as Chair as he has his own comments and has had his hand slapped before as the Chair is supposed to speak for the Board and would like to speak for himself. Bartles stated that both Replansky and Van Tuyl are present. Bartles stated that he would like to know how the Board feels this should go. Bartles stated that the Board is looking at two possible alternatives. One is to adopt a resolution that says we will wait for the Town Board to go through the initiation of a new SEQR process. The second is to just continue with a SDEIS and address the NND as if it were just a new piece of legislation that needs to be scoped and discussed in that process. Bartles stated in doing that they may be placing themselves in conflict with the Town Board and also would have to enter into consultant agreements with the applicant as the Board would have to hire their own consultants that weren't necessarily consultants to the Town. Bartles stated he spoke with Replansky at length about it and there are other options that he suggested. Bartles asked the Board what their feeling was on how to proceed. Bartles stated that the letter from Van Tuyl is just a starting point for discussion. Osofsky stated that she was taken aback a few meetings ago that there was the possibility the Town Board would be the Lead Agency. She stated that it is her feeling that the Board has put in ten years and have steered them in the direction of the NND option so she would like to continue. She stated the Board has done a lot of work for ten years and doesn't understand why suddenly there would be a change. Patterson stated he doesn't see anything in the Zoning Law showing the basis for changing the Lead Agency to the Town Board. Osofsky stated that her impression is that the Town Board probably wouldn't want to become Lead Agency. Replansky stated this is not an easy case to deal with. He stated he spoke to the counsel's office at DEC about this and it is unclear how a situation like this is handled. Replansky stated that there is an application that was filed under an old Site Plan Review Law and Subdivision Regulations in 2003/2004 and that proceeded under those regulations to a point of preparation of a DEIS which was never accepted. Replansky stated a moratorium law was issued. Osofsky stated the Board voted and continued going through the process knowing this was going to happen. Replansky stated we knew there would be a new Zoning Law but did not know at that time what form the Zoning Law would take. Replansky stated when the Town adopted the moratorium and had an agreement with the applicant to move forward, the type of Zoning Law was unknown. Osofsky stated the Board discussed that as well and asked if she was wrong. Soracco

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stated no we did do that. Replansky stated the Town did agree the applicant could move forward in spite of the fact that there was a moratorium law in effect and if the Town did not have that agreement the applicant could not have moved forward. Replansky stated the applicant could have, under the new Zoning Law, made application for a very similar type of project and similar type of process that we had under the old law by doing a conservation subdivision. Replansky stated the new law had a new provision called NND and the applicant elected to proceed under that provision even though in the application that was submitted they argue that it is just a modification of the old. Replansky stated that is a very hard nut to crack as he would agree that if the application had been modified as a conservation subdivision by utilizing the new Zoning Law, there would be a very strong argument that could be made that you just continue through the process with the amended application and the Planning Board would continue as Lead Agency. Replansky stated that with the NND it requires a new application process, which is very detailed and requires application to the Town Board for re-zoning. Replansky stated that is a new form of application and, in addition, the application that was filed in 2003 would not be permitted under the new Zoning Law because of the density. Replansky stated it is hard to say the application survived the enactment of the new Zoning Law. He stated the question is how to move forward from here. He advised the first step is usually that the Town Board takes the NND application and decides to move forward with that application and that involves the Town and Planning Boards in that very detailed application process. Replansky stated whether a Lead Agency needs to be or should be re-established at this point is not a clear-cut issue under the law. Replansky stated his opinion is that there can be a re-establishment of the Lead Agency because of the new NND application. Replansky stated this would mean the involved agencies would vie for Lead Agency status. He stated it could be the Town Board, the Planning Board, the Town of Milan or the DEC. He stated what he did not suggest is that the Town Board should be Lead Agency. He stated he never suggested that and suggested that the Planning Board, when the dust settles, is the more appropriate agency to continue as Lead Agency under the process. Replansky stated that whatever process ends up being decided, the work that has been done over the last eight years will be reformatted into the continuation or new SEQR process under the new law and whoever is the Lead Agency will continue in that process. Replansky stated no matter how it proceeds it will probably be the same process in terms of the work that is produced. He stated it is illogical to think that all the studies and work that was done by the applicant over the years under the old application would simply be thrown away. He stated it would be refaced and utilized in the SEQR process. He stated the first step is to determine whether the Town Board is going

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to move forward with this project and there hasn't been any decision or determination by them. Replansky stated if they do, whether there is going to be a conflict or dispute as to who should assume Lead Agency status. He stated all parties could agree that the Planning Board can simply remain Lead Agency for purposes of the environmental review. Replansky stated if it becomes a contentious issue, it will not be decided by the Town Board but will be decided by DEC. Replansky stated he would think DEC would decide on the Planning Board. Replansky stated it is probably a better process for the Boards to cooperate and decide. Forelle stated he would agree with what counsel said almost to the word. He stated if the applicant had come in for a subdivision under the statute that didn't involve the Town Board, he would think the Planning Board would just proceed ahead with the project as an application for a conservation subdivision. Forelle stated the fact that they are into the NND process, as he understands it, it is a legislative rezoning that is a much bigger deal and it is a two-pronged process. Forelle stated the Town Board has the right to consider if it even wants to look at this project or not and is a legislative or political act. He stated if they do agree to move forward then the Town Board has to proceed in a rational manner under the code to follow all the rules that are laid out. Forelle stated he feels if this Board starts to proceed now it is sort of undercutting the Town Board. He stated the Town Board could just say tomorrow they don't want to do the project. Forelle stated on page 48, section 7, the Town Board at its discretion may elect to consider or not consider or reject the project. He stated if they agree to consider it then you go through the administrative process of dealing with it. Forelle stated it seems silly to go through the whole SEQR thing only to have to Town possibly say we don't want the project. Patterson stated where he is confused is paragraph 6 says subsequent to completion of SEQRA or prior to any action taken by the Town Board, the Planning Board has to do SEQRA. Jones stated it says the Lead Agency has to and what is unclear is about the Lead Agency. Jones stated she raised this when the law was being reviewed as a problem and here we are. Jones stated she thinks the Town Board is dealing with this and her understanding is they are trying to get counsel, which is taking some time, but they are moving forward. She feels it will be disrespectful to the Town Board to make this decision. Jones stated she believes the Planning Board will likely be the Lead Agency and has no problem with that but to do that at a time when the Town Board has not had the opportunity to make a decision. She stated there is also a new administration and the application came shortly before they took office and she doesn't want to undercut the Town Board. Jones stated it is unnecessary and is an issue of a little additional delay. She stated there is also another perspective on the process that because no FEIS was ever effectuated after the DEIS due

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to the applicant's position actually there was perhaps an abandonment of the initial project after the hearings. Jones stated this is another wrinkle that the Planning Board never went forward with the FDEIS which was the understanding we had with the applicant that, while the moratorium was in effect, the Board would go as far as the FEIS and would not do findings at that point but would wait until the moratorium was lifted. Forelle stated he has the same question about paragraphs 6 and 7 seeming to be in conflict. He stated that it seemed to him when he read it that 6 had to mean action after the Town Board decided to consider because if you look at 7 it says clearly at any time they can throw it out. Forelle stated he read it to mean step one was to consider or not consider and if they consider take action. Replansky stated that was the intent of the law and there was more ambiguity in the initial round which was corrected. Replansky stated the intent was for the Town Board to decide whether to move forward with the petition and once it did then you triggered the SEQRA process and then you had to follow that and the application was not considered complete until the Lead Agency is determined and the SEQRA process has gone through. Bartles stated the reading he has and he thinks is also the reading the applicant has is that at any time the Town Board can choose to not continue their review. Replansky stated that is correct. Bartles stated that is a real stumbling point. Replansky asked why. Bartles stated you could have all the findings you want and choose not to review. Replansky stated that is the way any overlay or NND is created because they are intended to be legislative acts that are different from discretionary acts of a Planning Board in site plan review. Replansky stated a legislative act is totally different and at the discretion of the legislative authority which means the Town Board could decide at the onset that it wants to consider it, move forward and then midway it doesn't want to proceed or even get to the tail end and turn it down then. Replansky stated it is a risky business applying for an NND that requires re-zoning. Van Tuyl stated that the applicant never objected to that part of the analysis. She stated certainly in any given SEQR process every agency that has a permit to grant retains its own jurisdiction and one agency is the Lead Agency for purpose of conducting a SEQR analysis but that doesn't take away one bit of any other agency's jurisdiction and in a legislative situation like this one, the Town Board has the right to say no right off the bat but it also has the continuing right to say no at any time. Van Tuyl stated their position has never disputed that but they say the Planning Board is the Lead Agency and there is no basis to change it and there is nothing in the Board's moving forward under SEQR that takes away any of the Town Board's discretion. She stated that the DEIS actually analyzes a broad range of densities because they did anticipate that the Zoning was going to be enacted and she thinks an appropriate alternative for the

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Board to require in an SDEIS is consideration of a conservation subdivision because as we get to the end of the whole SEQOR process if the Town Board says no two and a half years from now after much more analysis and public hearings, obviously the law says there shall be one SEQOR process or action and what the Planning Board is analyzing is the proposed action for development of the property which encompasses many applications before many agencies. Van Tuyl stated while the NND application is a very important one; it is an application within the overall review of the project. She stated they understand the position of the Board and don't want to encourage anything other than total cooperation between the Boards but the applicant believes very strongly that there is no basis to change the Lead Agency. She stated SEQOR sets forth the grounds on which a Lead Agency can be changed and this isn't one of them. Van Tuyl stated for that reason they feel the SDEIS should go forth by the Planning Board. Van Tuyl stated the Town Board could consider or say no at any time but the ironic situation is that the Zoning Law makes very clear that absent this SDEIS or the EIS the NND isn't even considered complete. She stated they don't want to end up in a situation of paralysis where no one is doing anything. Van Tuyl agreed that spirits have run high in the community about the project as it is a very important project but they feel the best way to analyze the merits and the costs and benefits is to proceed with an SDEIS under the jurisdiction of the Planning Board. Bartles stated when the Towns of Pine Plains and Milan were originally vying for Lead Agency status, there was a Zoning change that would have had to been requested in the Town of Milan. Bartles stated that would have been a similar action, in his opinion, to the same legislative action of the NND and yet we assumed it would not trigger the same kind of issues we have here. Jones stated in the SEQORA handbook it does mention that a Lead Agency can change during the SEQOR process and one of the circumstances is where a supplemental to a final DEIS is required so there is some basis to the possibility of that happening. Jones stated this is the type of situation where she thinks this could happen. She stated she doesn't expect it to happen but would like to go through what she would consider to be a process that doesn't lead the two boards to be inconsistent with each other. Meccariello stated the Town Board has not said the Planning Board is not the Lead Agency. He asked why couldn't we just proceed. He stated it would not be the end of the world between the Town and Planning Boards. Jones stated the Town Board is trying to deal with it. Meccariello stated they are not communicating with us that they are. He asked why don't they tell us that they want to be the Lead Agency. Jones stated they haven't made that decision. Forelle stated the Lead Agency is not the issue in his mind but does it make sense to proceed as an inferior board to the Town Board and to proceed ahead of them when they should speak first. He

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stated we should seek guidance from them. Soracco asked what are they going to base their yes or no on. The Planning Board has done all the research. Soracco said would they base it on that one last meeting when the Planning Board has done ten years of work. Forelle stated this is a Zoning change not a subdivision approval. Soracco stated if we continue on with the SDEIS wouldn't it give the Town Board more of a basis and more information for them to make their decision. Soracco asked how the Town Board could make their decision if they don't have the information. Forelle stated at the end of the day there is a lot of SEQR information and it is available to them and they will make a decision based on what they think is good for the town but on a broader set of criteria on just how the SEQR plays out. He stated that if the Board pushes the SEQR, we are pushing them in a way that is not appropriate. He stated we should be following them not leading them. Soracco asked if it was so bad to push them. Forelle stated the Town does not elect us. He stated they are elected and they have to make a decision on whether this is a good thing for the Town or not. Patterson stated he agrees with Mecciareello. He stated we are still the Lead Agency. Jones stated that the NND could determine to have a different Lead Agency and that is a possibility. She stated that we should let the Town Board discuss that and make a decision as to how they see it and they are trying to get counsel to advise them on those issues. She stated it is not for us to butt in and make decisions that will force their hand. She stated who knows what impacts those decisions will have. Jones stated she would like to have an organized approach and not a rushed approach. She stated the Town is poorly served if they are rushed or pushed by this Board. She stated it doesn't make sense and it isn't appropriate. Jones stated it is supposed to be a political decision on the NND and this Board is not supposed to be political. Jones stated she thinks the Board would be making a political decision and doesn't think it is appropriate. Bartles stated he came to the meeting wholeheartedly supporting the Board stating its desire to proceed with the SDEIS and to maintain the Lead Agency status. He stated we have a project out there and a developer out there who has been one of the best that he has ever worked with in his time on this Board which is about twenty some odd years of experience. Bartles stated anything the Board has asked has been carefully considered. He stated this project was unusual in that it was developed by SEQR. He stated there was a very general proposal that was thrown out and then the SEQR process over the last ten years has molded this and continues to mold this project into something that most of us could be proud of. Bartles stated he senses that the applicant is getting very frustrated and is proceeding at a very, very huge expense but not going towards any recognizable goal. Bartles stated he keeps thinking in terms of what the Town could lose as a result of dropping back to what doesn't have to go before

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the Town Board, which would be about 230 lots that would be very, very high impact lots. Bartles stated they have a number of separate pieces of property that could come in under separate applications and the number of units they have requested and the number of units that he has the potential of building without the NND process may be within 100 units. Bartles stated if they go with a supplemental he doesn't see it being completed for another year to eighteen months. Bartles stated there possibly could be a whole new Board sitting by the time the NND application is considered. He stated the whole new Board could just decide not to review it any further and throw the whole thing out. He stated it also could be the whole same Board and they may have totally different feelings about it. Bartles stated if they were to go with what is possible there are an awful lot of amenities that we probably would lose. Bartles stated we talked in terms of a trail system and what benefits to the Town we could see. He stated it is a very, very difficult decision and he has agonized over what the impacts would be if the Board chose to go off on their own. He stated what would the relationship with the Town Board be. Bartles stated the Board would have to come up with their own consultants and have escrow agreements established. He stated it is an extremely uncomfortable situation that the Planning Board would be putting themselves in. Bartles stated if the Board did something like that would it be able to sustain a third party challenge. Bartles stated he feels the Town Board and Planning Board would be able to resolve their differences and continue. Bartles stated he thinks the SEQR is the larger portion of the whole project and the NND is something to be considered and scoped within SEQR but the project is bigger than just whether or not they have the NND or not. Bartles stated, except for the third party challenge, he is leaning towards continuing as Lead Agency. Bartles stated this Board is supposed to be totally divorced from politics and is totally autonomous from the Town Board. He stated the Town Board has established the Planning Board to have longer terms, overlaps and continuity that is important to reviewing a project of this nature. Bartles stated this is too important a project to lose and too important a developer to lose and we are nowhere near a final project. Bartles stated he feels we have to keep it going and can't lose what little momentum that is left. Patterson stated he feels there is some confusion in the statute but asked if we vote to do the SDEIS how does it hurt the Town Board? He stated the Town Board can still decide we are the Lead Agency and even if the NND is taken off the table we are still going to have to do an SDEIS anyway with the conservation subdivision plan. Patterson stated it would have to be done sooner or later. Osofsky stated it would be nice to know what the Town Board is thinking. She said if they did say forget the NND the project would still continue under the conservation subdivision. Replansky stated the Town Board has no

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jurisdiction over anything but the NND. Patterson stated that is what he is saying. Patterson stated if the NND doesn't go through and the applicant continues under the conservation subdivision plan, the Board would still have to do the SDEIS. Patterson stated he doesn't understand how we would be stepping on the Town Board's toes. Forelle stated his position has nothing to do with the substance of the project and agrees with a lot of what Bartles said about the project. He stated the fact is the applicant didn't make an application to the Planning Board. He stated the application is made to the Town Board. Bartles stated he considers that there is an application still out there. Forelle disagreed. He said the old one is dead and the new one is made to the Town Board. Bartles asked why the old one is dead. Forelle stated that is what counsel said. Replansky stated it is not permitted under the Zoning Law. Replansky stated there is another way of proceeding. He stated he feels if the Planning Board does choose to go forward he doesn't feel an SDEIS is the way to go. He stated the Planning Board could declare a notice of intent to act as Lead Agency on the NND application. He stated any involved agency could do that. He stated that would involve sending out a notice to all the involved agencies and declaring the Board's intent. Replansky stated if nobody contests within a period of thirty days then the Board could move forward with the environmental review process. Replansky stated usually it's the agency that has primary permitting responsibility that assumes Lead Agency. Replansky stated he feels that might move the process forward in a better way. Van Tuyl stated the applicant would object to that. She stated the Planning Board has not lost its jurisdiction. She stated the Lead Agency status has not lapsed so there is no basis for a recirculation. She stated the SDEIS would have the full procedures of SEQR including the scoping, etc. and feels that is the only option before the Board. Jones stated she disagrees because the NND separately would have to have a SEQRA. She stated we never had an NND before and the prior SEQRA had nothing to do with the NND. She stated the NND certainly requires a SEQRA and all of the things like finding of Lead Agency. She stated she could see how it could be all folded in but disagrees that there is only one way to proceed because she thinks the project was abandoned previously and it would be neater, tidier and make more sense to allow the Town Board to go forward with their findings and make the Planning Board Lead Agency which is what she feels they will do. Van Tuyl totally disputes that there was any abandonment of the project as the applicant has been here working for over ten years. Jones stated the process wasn't completed. She stated it lapsed as the Board never dealt with the public comments that came in which the Board is required to do. Jones stated the process stopped and the new configuration came into being. She stated there was a break in the continuity of the SEQR process. Van Tuyl stated the

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comments will be dealt with because even if an SDEIS is done there will have to be an FEIS and all the comments that were made have to be answered which is another reason why this is the right process. Van Tuyl stated she feels Jones' position is based on a misunderstanding of the distinction between an application or a permit that is required and what SEQR addresses. She agreed with Bartles that SEQR is broader and addresses a proposed action, which is the development of the Carvel property, which could require from one to fifteen permits or applications. She stated it is not unusual that during the review of a proposed action would require permits from many agencies including the Town Board as they were an involved agency in the beginning because of the road decisions. She stated it is not unusual during a review that new zoning is enacted and that is a new, important application. She stated it gives the Town Board absolute veto power on this particular application or NND permit but as to what the Board is doing as Lead Agency it is much broader than any one permit. She stated the fact that this is a new legislative permit that is required to develop the land at this density means that the project can't be developed at this density without that approval but the SEQR process can't just be suspended until the Town Board decides whether to approve it or not because the SEQR process is, while not wholly the basis, a key part of the Town Board's decision. Van Tuyl stated that many of the eighteen criteria are specifically linked to the SEQR analysis. She stated there is abundant case law on the issue of length of the SEQR process, abandonment, etc., and she feels there is no question of abandonment. She stated the NND is an important application within the SEQR process that was already going on. Jones stated if it weren't for the SEQR process, the Town Board would have the right to vie for the Lead Agency. Van Tuyl stated any time there is an application at the very same time there is a proposed action under SEQRA. She stated if we didn't already have the ten years of analysis, there would have to be a Lead Agency circulation for the proposed action. Van Tuyl stated the circumstance is that there is already a SEQR process going on for the same proposed action. She stated the project is smaller, less dense, more open space, more environmentally sensitive and more planning sensitive. She stated even without the NND this kind of improvement of a project though the SEQR process is something that happens all the time. Van Tuyl stated that by proceeding in the Board's capacity of Lead Agency it would not be a declaration of war on the Town Board. She stated it would be doing what a Lead Agency is supposed to do in determining the next SEQR steps. She stated it does not impinge on the Town Board's jurisdiction to say no. Forelle stated for the Board to proceed as if it is just another permit seems to be disrespectful to the Town Board and the citizens. He stated if the applicant had come in with an application for a conservation subdivision the Board would process it over a period of time. Forelle

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stated here we don't have anything unless the Town Board says so and to march on as if it is just a permit doesn't make sense. Van Tuyl stated no one could issue an approval including the Town Board without a SEQR analysis. Discussion followed. Van Tuyl stated the Town Board can say no at any time without the SEQR but they can't say yes without it. Replansky stated that the Board could go to DEC and have them make a determination about the Lead Agency. Osofsky asked David if she had any idea what the Town Board is thinking. David stated they are interviewing for counsel. She stated she would tell the Board at the next meeting that the Planning Board would like more direction. Osofsky asked if the Town Board would take a month to go through the application and then decide. David said she didn't know how long it would take. Osofsky asked what it would take for the Town Board to say yay or nay on the NND. David said they will discuss the 18 criteria and the application and that is why they are hiring people to help guide them through the process. Jones stated it would be nice if the Planning Board could get some authorization from the Town Board to proceed as Lead Agency. She stated she would much rather have the Town Board give us the authority than sit and try to take it, which makes her extremely uncomfortable. Soracco stated we already have the authority. Jones stated she doesn't see it that way. She stated the statute left open the issue of Lead Agency. Jones stated there is no reason the NND process can't go forward in parallel with the SEQR process. Jones stated she would rather have the authority from them. Discussion followed. Bartles asked Lauren Kingman from the Town of Milan if he had any comments. Kingman stated it seems that he would agree that it is an ongoing and the final form is all going to depend on what permits are granted. He stated change in laws require change in the project. He stated without knowing the details of the NND, it is another significant permit but one in which if it were not granted the applicant would continue with the project under a modified form so it would seem to make sense for the Planning Board to continue in its role as Lead Agency and move forward with the SEQR requirements and evaluation. Kingman stated the one concern he would have is the Planning Board having its own consultants rather than those appointed by the Town Board. Bartles asked Salerno his opinion. Salerno stated he is an alternate and has no vote tonight. He stated he looked through the Zoning Law and the NND to see if he could find any guidance and he sees a clear indication that when an NND is filed the Town Board has to appoint the Lead Agency and commence the SEQR process. He stated that the previous application may have some relevance but the Zoning Law contemplates the Town Board's action in starting the SEQR process, which includes the Lead Agency designation, comes first. He stated it doesn't mean they are changing the Lead Agency but the NND is clearly a new thing changing the law to allow this project and his view is

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fortified by subparagraph 3 of subsection D of the NND law. He stated the following events have to occur after the NND application has been filed: a Lead Agency has to be designated and the Lead Agency has to commence the SEQR process. He stated it is clear to him that the SEQR process would have to consider the NND as a very significant development and would seem strange to figure out how the NND fits into the SEQR process only to have the Town Board somewhere down the road reject the NND and all the time would be wasted. Salerno stated that it is contemplated that the Town Board would designate the Lead Agency and start the SEQR process but doesn't feel all the previous work is for nothing as it all can be part of the review process going forward. He stated the existence of it would not be nullified as it is there and useful. Forelle asked Van Tuyl why she is so sure continuation of the previous SEQR is safer from an attack standpoint than bringing on a new one. Van Tuyl stated it is the safer course of action as the process has gone on, people have commented and if the SEQR is started new those comments are no longer part of any record. Forelle asked if you could fold those into a new SEQR. Van Tuyl stated no as it would be a complete start over. She stated the SDEIS is the conservative option and the best for the Town and the applicant because it doesn't short change anyone. She stated the applicant will have to prepare a draft scope and public comments would be made and the scope would be adopted. She stated there would be the preparation of a supplemental DEIS which would be reviewed for completeness including public hearings and then a final EIS to answer comments on the supplemental as well as the comments that exist in the prior project. She stated it is a modified form of the same proposed action. Jones stated it is not exactly the same configuration of the land involved because there is a large piece in the middle that was left out initially that is now incorporated in so it is not the same exact project. Van Tuyl stated the changes in the land are 5% so it is 95% the same land including the old Carvel site which was at the behest of the Town. Patterson stated he would just like the Lead Agency situation cleared up. Replansky stated if they do go through the process of redesignating the Lead Agency he thinks that more than likely the end result would be the Planning Board would be Lead Agency. Replansky asked Van Tuyl if that happened would there be anything that would prevent the Board from requiring a SEIS rather than starting from scratch. Van Tuyl stated there is no basis for redesignation. Replansky stated he thinks the Board could do that if there was a redesignation. Van Tuyl stated she doesn't think the premise has any basis in the law. Discussion followed. Replansky stated that the Zoning Law does allow for what was done before to be folded over into the SEQR review. Discussion followed with regard to starting over versus SDEIS. Bartles stated that the NND application is going to be reviewed for the 18 criteria for a significant period of

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time once they establish their consultants. Bartles stated he expects that will take a significant amount of time. Discussion of Lead Agency status followed. Bartles stated the Board could agree to adopt a resolution this evening but it must be professionally drafted and submitted to the Board at next month's meeting for approval. Bartles stated in the meantime the Town Board is going to meet and we should have the information we need at that next meeting. He stated he really doesn't want this to drag out by covering old ground over and over again. Bartles asked if the Board wanted to open the meeting to public comment. The Board's consensus was not to do that.

Soracco made a motion to resolution to proceed with a SDEIS. No second.

Forelle made a motion to allow Replansky to draft a resolution to the Town Board asking their guidance on whether we should commence or continue with or undertake the SEQR process in light of the NND application. No second.

Soracco made a motion to allow Replansky to prepare a resolution for the May meeting stating the Planning Board will proceed with the SDEIS in conjunction with the NND application; second by Mecciarello. Discussion followed. Soracco voted aye, Mecciarello voted aye, Patterson voted aye; Bartles voted aye, Jones voted nay, Forelle voted aye, Osofsky voted aye. Motion passed 6:1.

Forelle made a motion to ask the Town Board for their comments if possible by the next Planning Board meeting. Bartles stated he would attend the Town Board meeting and present the request. Second by Jones. All in favor. Motion passed.

OTHER BUSINESS:

Motion by Jones to accept the March 14 minutes with the following correction: page 4; paragraph 3 should read, "Weaver stated the Bank of Millbrook is proposing to install a new sign. Discussion followed. Weaver will contact the Bank to discuss." Second by Mecciarello. All in favor. Motion passed.

Motion by Jones to adjourn at 9:20 pm; second by Soracco. All in favor. Motion passed.

Respectfully submitted by:

Nancy E. Proper
Secretary

Donald Bartles, Jr.
Chairman