

**PINE PLAINS PLANNING BOARD MINUTES
FEBRUARY 8, 2006**

IN ATTENDANCE:

Don Bartles, Chair
Jon DePreter
Kate Osofsky
Ken Mecciarello
Brian Coons
Vikki Soracco
Bruce Pecorella

ALSO:

Ray Jurkowski
Nan Stolzenburg
Warren Replansky
Lauren Kingman
Ross Williams
Matt Rudikoff
John Adams
Mike Kearney
15 members of the public
Register Herald
Millerton News
Rick Butler

Chairman Bartles announced that Dr. Erik Kiviat was scheduled to make a presentation but had a personal emergency and was not able to attend. Karen Schneller McDonald, a colleague of Kiviat's, was in attendance. Bartles asked her if she had anything to add about Kiviat's review of the DEIS. McDonald stated it was all last minute and she had nothing prepared but stated that she did prepare twelve pages on Chapter 8. McDonald stated that they feel the issue of completeness is not resolved and they feel very strongly that there are some further research needs on the site before impact can be addressed. She stated that it is not possible to come up with effective mitigation until the impact has been completely described. McDonald stated she would be happy to answer questions. Coons asked what elements were or were not in the document. McDonald stated she wasn't entirely prepared but thought that there was an element regarding birds and amphibians. She stated that the scale of the development would require a higher level of scrutiny because it does affect such a wide area and adjoining area. McDonald stated that given five minutes she could look through it and pull out a couple of other things if that would be helpful. Pecorella stated that McDonald did not come prepared and didn't want to put her on the spot. Bartles stated he understood but was just asking since she did work on the report. McDonald stated that she thought there were some wetland related issues also regarding habitats and vernal pools. Bartles stated he didn't mean to put McDonald on the spot. Bartles stated that the Board had recently received comments on the Kiviat comments from the applicant and asked Rudikoff to explain what was received. Bartles stated he didn't want to put Rudikoff on the spot either as he wasn't

scheduled to discuss anything at the meeting. Rudikoff stated that what was provided was a matrix of all of the comments received on all of the chapters. This was to identify which they felt were appropriate completeness comments and ones they would respond to. The ones in gray are the ones that Carvel will be responding to. The comments in yellow were the ones they had some question about. The third set were comments that they felt did not need response or more action. In that last category of comments, the majority of them were from Chapter 8. Rudikoff asked Joe Bridges, sr. biologist at MDRA, to speak. Bridges explained how they came up with their comments. Bridges stated that one of the one of the difficulties that seems to apply is when is it enough for the purposes of SEQR. Bridges stated that they feel the studies conducted to date, under Category A, indicates those studies that they feel are not necessary at this time and possibly not necessary at all. Bridges read aloud for the record: Category A they consider that no additional surveys or project site aquatic studies are considered necessary because adequate habitat protection to offset potential direct adverse impacts to obligate principally aquatic species will be provided by the proposed action. He stated there are very few wetland impacts proposed for the project and as such the great majority of wetlands on the site which contain the highest proportion of rare species will be protected. Not only the resource itself but for most of those resources, essentially the wetlands, streams and the like, there is about a 100 foot buffer zone around most of them and certainly the DEC wetlands would have a 100 foot buffer zone that will be largely restricted. In addition to the 100 foot buffer zone, there are some additional buffer areas that extend well beyond 100 feet in the upland area. Bridges stated that the rest of it the Board could read for themselves as to the rationale for not requiring additional studies. Williams stated that a lot of what he read suggests that a lot of species require considerable space beyond their wetland for maintenance of the species. He stated that to try to bound their study by the fact that they protected 100 feet around a wetlands when they don't know whether a species is there or not, is not serving the purpose of the species study which is to find out if something is there and then to determine what habitat it requires. Williams stated the fact that there is a 100 foot buffer does not suggest that the habitat would be protected for some of these rare species that might inhabit these wetlands. Williams asked Bridges how they factor in the question of upland habitat requirements at a much greater distance than 100 feet from a wetland. Bridges stated that Category A refers primarily to obligate aquatic species which the upland buffer is not a consideration or primarily aquatic species that have limited use of an adjacent upland area. Bridges stated that the 100 foot buffer is somewhat arbitrary and it is the limit of the State anticipated wetland adjacent area. Bridges stated that they have looked at most of the species which are largely limited to aquatic environment and beyond that they are addressing other species that are not primarily aquatic but are more amphibious and utilize the upland areas to a greater extent than the limits of the 100 foot around the aquatic resource. Stolzenburg asked if the habitat map that was presented in Chapter 8 is detailed enough to identify all of the different upland habitat types that are on the site. Bridges stated that the major ecological communities have been identified. They will be identifying additional ecological communities within the major ecological communities. For example, they will be delineating the old chestnut forests out of the hardwood forests on the present maps of the site. He stated there may be additional communities they may delineate and describe in more detail for the next completeness review document.

Stolzenburg asked if there were a detailed habitat map showing all of the upland habitats, could they identify what species could potentially use those upland habitats. Bridges stated yes and they are in the process of doing that. They are developing a master table that looks at the rare and uncommon species that are known to utilize the various habitats on the site. This is a work in progress. Rudikoff stated that in Category B all of the comments are listed where that additional work is agreed to be done. Stolzenburg stated that it says under Category B, no additional surveys are required. Rudikoff stated no additional surveys are required because there is additional sufficient information from existing field notes that may not be in the DEIS that can now be incorporated. Rudikoff stated that they feel the amount of natural resource identification work that has been done on this EIS already is considerably more than has been done on an EIS in the State of NY for a project this size, according to DEC. Rudikoff stated that this is a broad statement he wouldn't want to be held to that. Rudikoff stated that DEC advised that the bird, insect and mollusk detail surveys are rarely done in SEQR and really are beyond the scope. He stated that this amount of natural resource work is getting close to what DEC refers to as exhaustive and encyclopedic which is really beyond the scope of SEQR but more appropriate to a biodiversity study of the site and that is not really what SEQR is intended to do. Rudikoff stated it is a gray line and is a decision for the Lead Agency to make along with their consultants that the level of survey work that is being proposed by some of the review consultants is onerous and not related to potential significant impact but more of a search mission to finding potential issues. Rudikoff stated at some level that line has to be drawn. Bridges stated that they spent thousands of hours conducting field work on the site and have accumulated massive amounts of data. He stated all the data has to be brought down in a practical way to prepare the EIS and obviously not all the data can go into it. He stated that in some instances the data that they have should have been included and is not. He stated that the emphasis from the comments received indicates that they need to provide more information in various categories and they will do that. He gave an example of the golden eagle survey. He stated that the golden eagle has been spending its winters on the east side of Stissing Mountain since approximately 1970. As many as three golden eagles have appeared. Bridges stated that the fact that the golden eagles have chosen this particular location to roost indicates that there is something about that area that seems to be preferred by them and they can be seen there very reliably by birders. Bridges stated that they really don't know if they ever go on the Carvel site. He stated based on conversations with birders, most of their feeding needs appear to be satisfied by hunting in the Mashomack Preserve area. He stated that obviously there is an opportunity for them to visit the Carvel site and it may happen that periodically they do forage there. He believes the golden eagles come down from Maine to winter and on their way back to Maine it is possible they fly over the Carvel site. Bridges stated they do have enough information to further elaborate on that without having to do a golden eagle survey which would take enormous amount of time to sit and track whether the golden eagle is traveling to the Carvel site or where it is exactly feeding. Bridges stated there are other categories where they do have a substantial amount of information or they can readily get that information from literature resources or by talking to people who are knowledgeable about the species and incorporating that information in the DEIS so that there is a more expanded review of natural resources. Bridges stated that Category C is the one category where additional survey information

will be provided. Bridges stated that they will be reviewing the Red and Jack pine stands to see if they are native plantings and will report on their findings. Bridges stated they have conducted interview with bird atlas surveyors and will continue to do so to get additional information on species that may have been seen on the site. Bridges stated that one of the Town's consultants identified an area of carbonate bedrock on the site and they will be in touch with Erik Kiviat to find out the location and to examine it to see if it has the potential to support some of the rare calcicolous plants or plants that have an affinity for carbonate rock and soils associated with that rock and provide additional information in that regard. Bartles asked about the timeline shown on the matrix. Bridges stated that for Category A, the timeline is that their position is that no additional studies have to be done so the timeline is irrelevant. Likewise for category B. Category C is one that will be completed by the end of March because they would like the revised DEIS completed at that time. The timeframes of February and March are not necessarily sensitive to a survey and they believe they can provide enough information in those two months to expand on what has already been done in Chapter 8. Rudikoff reviewed how the scoping went with regard to the natural resource issues. He stated that follow-up surveys could be done and information would be developed at a level of detail which is just beyond the level of detail required for SEQR which is looking to identify major and significant impacts not all impacts. Rudikoff stated that SEQR is very clear about that. Bartles asked Replansky, Stolzenburg and Jurkowski to speak to that onerous and encyclopedic statement. Bartles first asked anyone else for their questions or comments. DePreter asked the difference on the matrix between the green and the blue; does not identify specific species. Bridges stated that a stream salamander survey was conducted on a few streams and the types of salamanders found were mentioned. They did not describe them in any great detail. Bridges stated that since these species weren't actually named, they decided to use the blue symbol in the bar graph to indicate that it didn't refer to any one particular species. Bartles asked the consultants' comments as to what level of information or study is to be done with regard to SEQR. Bartles stated that the Board has to decide what the threshold is and after that it becomes onerous and encyclopedic. Stolzenburg stated the legal issue may be different than the ecological issue. She stated that her perspective is that she would want enough information to know what the habitat types are on the property, what species are likely to be there or are there, which of those have some sort of status such as endangered or threatened, and what are the specific locations on the site that they are using or could use. Stolzenburg stated she is not sure that there is an understanding of the upland areas yet. Stolzenburg stated that Kiviat may have a different perspective. Stolzenburg stated that the Board should understand the uplands species and be confident in the design that the applicant is moving forward with so that it leaves those intact so that the site remains functioning as a whole. Bridges explained how they are moving forward with the ecological community information. Bridges stated that they have over 27 natural communities on the site and several non-natural communities on the site, all of which have been mapped. Additional details of mapping within these communities have been requested, and they will do that. Bartles stated he is still trying to understand what the applicant considers to be excessive. Bartles asked them to give an example from the matrix which they feel goes beyond the scope or the intent of the SEQR review. Rudikoff explained with regard to the aquatic habitats. Bridges explained with regard to Rocky Mountain Sedge. Bridges looked for it at the

Carvel site and has not found it there. It seems to be restricted to the east slope of Stissing Mountain where the rock type is dramatically different than what is on site at Carvel. He is not sure it would not grow at the Carvel site, but they have not found it. Bridges stated there are only one or two sentences addressing the species on Stissing. They can elaborate on it and explain why the plants haven't been found. Bartles asked if they feel with the majority of the comments and questions, Carvel feels that they have the information available to answer most of them with the information they already have. Bridges stated he believed so. Bartles stated in that sense, it is not an onerous request to do some of the additional work. Replansky read the SEQR language on this issue. Replansky stated that the issue is not whether the analysis should be done; the question is whether or not additional surveys are required to do the analysis. Replansky stated that a complete biodiversity study of the site is not the purpose of SEQR. Replansky stated that the Board is looking to identify species which may be impacted or their habitat which may be impacted and help in considering alternatives in the design of the project which will reduce or eliminate that impact. Replansky stated that the real issue is that their position is that all the analysis that needs to be done can be done without further surveys. Replansky stated that the Board needs to make a determination that if, in providing that analysis, they want additional survey work done. Replansky would like Kiviat to respond and give input as to why the additional surveys would be necessary with regard to SEQR. Rudikoff stated that expanding on the analysis portion is very appropriate but doing the additional surveys recommended is not. Replansky stated that the dialogue with Kiviat is necessary for the Board to make their decision. McDonald asked to comment. McDonald wanted to know who specifically in DEC made the statements about the EIS. She stated that she has personally seen projects much smaller than this go through more scrutiny. McDonald stated that since the project is so large it would be easier to scrutinize 2 or 3 wetlands instead of 23 but that does not mean that they are not subject to as careful a scrutiny as if the project only had 2 or 3. McDonald would like the chance to discuss with Kiviat and go over the matrix as they were just received. McDonald stated that what she found encyclopedic was the manner in which the data was presented. It is very hard to follow and correlate. There were so many sections and so many parts that it was hard to put it all together. McDonald stated that perhaps some of the comments are more due to that than they are due to the lack of specific information. McDonald stated that it is very hard to prove that some species are not there. McDonald stated that you have to assume that if the suitable habitat is there, certain creatures that are known to frequent that habitat probably are there too and plan the mitigation around that rather than to assume that because your surveys did not show the presence of those creatures, that they are not there. McDonald stated that is a very important distinction to make if additional surveys are not done. McDonald stated that water quality can be a very insidious impact of aquatic habitats. The buffer can be there but if you are not careful what is running into that wetland, you can kill it anyway. McDonald stated that biology is messy and complex and sometimes generalizations are made that may not really be true and in the best interest of the Town. Bartles extended the invitation to Kiviat to be at the March 8 meeting.

Stolzenburg stated that Carvel has requested another meeting to discuss the alternatives. Stolzenburg stated that the Board has not discussed the alternatives enough to know if there needs to be adjustments or have other ideas. Stolzenburg does not feel comfortable

meeting and offering opinions when it has not been discussed by the Board. Jurkowski asked that the applicant come back to continue the discussion of the alternatives. Jurkowski suggested the members of the Board take a look at that section in preparation. Stolzenburg stated that the alternatives that the scoping document requested were requested. Stolzenburg stated her issue was some of the assumptions that went into some of the alternatives such as the clustering option where they chose all attached housing over detached or a combination. She stated that this doesn't necessarily have to be the assumption for that alternative. Bartles stated they are basing their alternatives on their marketability and function. Stolzenburg stated that this is what they didn't do. Pecorella asked how they can even talk about housing placement until they know the answers to the habitat questions. Bartles stated that the large alternative maps that were presented at the last meeting are available to the Board. Bartles would like the Board to be prepared for the next meeting. Short discussion of clustering followed. Bartles stated that everything should have been touched on by March 8th. Bartles asked Milan informally to urge their consultants to have their comments available by the 8th. Stolzenburg asked it to be a few days before so that it can be read over. Pecorella asked about what the impact of running electricity to the site would be. Replansky emailed a copy of a proposed agreement with Carvel with regard to the moratorium. Replansky would like the Board's input by the next meeting.

Jurkowski stated that the Board would draft a letter to the applicant with regard to completion with comment letters attached.

Bartles stated that he, Mecciarollo, Kingman and Williams toured the visual sites as shown in the visual impact chapter. Stolzenburg flushed out a lot of the areas where she felt needed comment.

Jurkowski stated that there is a meeting with the NYS DOT on the 16th of March at 10 AM.

Stolzenburg reiterated that she would reinvite Kiviat for the March 8th meeting and have him respond to the notion of additional studies needed, finish the chapter reviews and complete the comments on completeness.

Replansky updated the Board on the Parkview litigation. Replansky gave the Board a copy of Judge Dolan's decision which dismissed the lawsuit in its entirety. Replansky doesn't know what the next step will be, appeal or come back to the Board.

Replansky stated that he would send a proposed agreement on Village Green also. He would like the Board's comments.

DAVID PASSERI- Passeri stated that he would like to make two one-bedroom apartments on the top floor of his building. Passeri stated that he has approval for a restaurant downstairs and two offices upstairs. Bartles read a portion of the moratorium law pertaining to the applicant. Bartles stated that he feels the Board can address the applicant as it doesn't fall under the moratorium law. Bartles asked what level of review the Board would like to see. Passeri showed a map of what he is proposing. The Board asked several questions. The site would be commercial downstairs and residential upstairs. Passeri stated that Morris Assoc. inspected the septic installed by Doug Weaver and signed off on it. Bartles asked if it was adequate for the new uses. Passeri stated yes.

He stated Morris Assoc. has the plans. Bartles asked how many parking spaces. Bartles stated there will be three residential uses, including the house, and possibly two commercial uses on the site. Passeri stated yes. Osofsky stated that she would like to see a map with parking on it. Passeri stated it was done. The Board looked at the map which was presented. Osofsky stated he would need to know how many parking spots are needed for a one-bedroom apartment. DePreter stated he would need to redo the parking and include an approval of the septic which would be attached to the document. Lighting was discussed. Bartles stated that there has been a site visit. Bartles stated they need a note showing BOH approval for the apartments. Coons stated he would like to see the lighting on the map. Coons advised him to do downward, low intensity lighting on the building. Bartles asked if Weaver had approved his plans. He stated yes. Bartles stated that everything (parking, lighting, septic, driveway) needs to be on a survey map that is presented to the Board. Bartles also wants to see the floor plans and architectural rendering and elevation. Bartles also wants the fence shown on the map. Bartles also requested that he advise the Board of the type of lighting which will be installed. Passeri asked if he could start sheet rocking upstairs. Bartles stated that he can build what he has authority to build. Bartles stated that what the old site plan is, he can build. There will be a public hearing on March 22nd.

Jurkowski asked the Board if they wanted Bridges and Kiviat to have a meeting prior to the March 8th meeting. Jurkowski stated that he would have Stolzenburg advise Board members when the meeting is set up so that they could attend if they wanted. Bartles stated he has no problem with this. Jurkowski will advise Stolzenburg to set the meeting up and advise the Board. They will still be at the March 8th meeting to discuss this with the Board.

Soracco asked Jurkowski if he was following up on Stissing Farms. Jurkowski stated he is about to put together a letter to the developer on the project. Soracco stated that she thought the pine trees were to be left on site. Jurkowski stated that they were to remain, however, when they started construction they realized that the cluster of pines were half dead. Jurkowski stated he did a site visit on Tuesday with the contractor and told them that he would be requesting a landscaping plan based on the additional clearing that had taken place. Jurkowski stated that this should be revised and brought before the Board. Jurkowski stated that the developer's intention was to leave clusters of pines but that couldn't be done. Pecorella asked if they were going to center the houses in the center of the pines. Pecorella asked if they were going to leave the pines, how did they get to the point of leveling the site where it is now. Jurkowski stated he didn't understand the question. DePreter asked if they are following the original grading plan. Jurkowski said yes. Jurkowski stated that there were two areas on the upper knoll that had the pine clusters. Pecorella asked if they took more than they should have. Jurkowski said no. Coons called the DEC with regard to mining permits and they don't need a mining permit because they are using the material on site. Discussion of mining followed. Jurkowski stated that the storm water is in. They have been receiving inspections from DEC. Their engineer is there on a weekly basis. They have completed the entire water infrastructure. The water system will be tested within the next week or so. The applicant will have to come back to the Board for Parcel B.

CHRISTINE SNYDER: Bartles stated that the Board had talked about a revised plan for this property. Bartles stated that they had hoped for a public hearing at this meeting but there was a communication problem. Bartles stated the original proposal was having a newly constructed house, storage unit with an apartment and the original single family house with a small apartment. The Board declined to review the proposal stating it was too intense of a use and too many uses on two small parcels. Snyder came back and asked if she could make the commercial property into a single family residence on one lot and keep the original house with a small efficiency apartment on the main lot. Snyder spoke with Bob Harpp about the driveway(s). Harpp spoke with Bartles and he had no issue with abandoning the first driveway onto Academy Street and reopening the original driveway which will become the principal driveway for the back lot. The front driveway will be the principal driveway for the original house. Bartles stated the issue that remains is the size of the lots which would be .423 acres and .409 acres. The property is on Town water. The current commercial property has a new septic which was approved for a single family residence. Snyder stated that the commercial property will be a single family residence with no more storage units. Snyder stated that eventually she will use the entire building for living space. Bartles stated what is existing now is a storage unit downstairs with an apartment upstairs. Soracco asked if Snyder had a bldg. permit for upstairs. Snyder replied yes. Soracco stated she would have to get another permit when the storage units are removed. Bartles stated that the moratorium should not come into play because it is a minor subdivision and there is no site plan review required. DePreter would want the approval of this contingent on the business closing. DePreter asked if there was a site plan. Bartles stated the karate was approved. Bartles stated the next step is a SEQR and public hearing. Bartles stated that in his experience the half acre comes into play when there is no public utility which is not the case with this property. Snyder asked the Board to look at the survey map and make sure everything is on there that the Board wanted. Bartles stated she would need an okay from Harpp for the driveway. Bartles stated he would like a note on the map stating no commercial uses on Parcel B without site plan review, identify that the first driveway on Academy Street is to be abandoned and show the existing driveway to be reopened. Soracco asked whose fence was there. Snyder said yes. Snyder asked if the surveyor had to place those things on the map. Bartles stated yes. Bartles asked her to complete the short form EAF which will be completed after the public hearing. Bartles stated that recreation fees would be per new lot and is \$2000. Bartles stated that this would have to be paid on approval. Proper advised that she would also have to pay \$50 for legal notice. Bartles stated that the public hearing would be at 7 pm on March 8th. Proper advised Snyder she would need copies of the revised map for the file so that the public could look at it if they want after the legal notice is posted. Soracco stated she thought that the Board should dedicate the 8th to Carvel and have the two public hearings on March 22nd. It was agreed to move the two public hearings and any other matters that come in to the March 22nd meeting. Proper told Snyder she could drop the materials off at the Town Hall at any time but to make sure it is in ten days before the 22nd. Bartles advised that we would need at least three copies; one for file, one for Weaver and one for the applicant's filing purposes. Proper advised that the \$50 would be due before the public hearing also.

Bartles reminded the Board that if anyone wanted paper or ink cartridges to let Proper know so that she could order them.

Bartles stated that there is a CD burned with Carvel's comments matrix on it. Bartles stated that it was emailed but it is 109 pages so if anyone needs a CD, please let Proper know.

Bartles stated that each Board member will be getting a copy of the new draft subdivision regs and a copy of the new draft site plan law. Copies of the highway specs were given to each member by Proper. Butler stated that it came to the Town Board's attention that the Planning Board had never seen a final draft. The draft subdivision regulations have been reviewed by no-one according to Butler. Stolzenburg revised them.

Bartles stated that the full size Carvel alternative maps are available to members. He asked that they get in touch with Proper if they are interested in taking the large map to sign them out.

Bartles stated that Pine Plains United has asked to be added as an interested agency with regard to SEQR and Carvel. Replansky sent them a letter stating that since Pine Plains United is not a state or local agency, the Planning Board has determined that it does not have the power or authority to designate Pine Plains United as an interested agency in the SEQR review. They were advised they have the right to participate in the SEQR review process in the same manner as private citizens and residents of the Town and the Board welcomes their continued interest and input in this project and other pending projects.

Bartles asked the Board if they had read the minutes from December and January. Bartles asked if anyone wanted to make a motion to accept the minutes. Bartles asked them to be prepared to approve the minutes at the next meeting.

Motion by Pecorella, second by Osofsky to adjourn. All in favor.

Respectfully submitted by:

Nancy E. Proper
Secretary

Donald Bartles
Chair