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**PINE PLAINS PLANNING BOARD MINUTES
SEPTEMBER 14, 2011
7:30 PM**

IN ATTENDANCE: Sarah Jones, Acting Chair
Don Bartles, Jr.
Brian Coons
Bonnie Quaid
Ken Mecciarollo
Vikki Soracco
Kate Osofsky (arrived 7:35 PM)
John Forelle, Alternate

ALSO PRESENT: Warren Replansky
Drew Weaver
Sandra David
Thirteen members of the public

Sarah Jones called the meeting to order at 7:30 PM. A quorum was present.

TOWN CENTRE AT PINE PLAINS/STISSING FARMS: John Reilly was present representing the applicant. This is a continuation of a public hearing held on August 10, 2011. Reilly stated that what the applicant has done between the last meeting and this was to submit a revised application eliminating the request for under 55 rentals and changing it to over 55 rentals based on the prior site plan approval. He stated the only change to the site plan approval would be to eliminate condominiums and insert multi-family. He stated the concerns of the Board and the public would be addressed by eliminating the under 55 rental concept. He stated the concern of the septic system would not be overburdened as it would remain over 55, the parking is sufficient and the concept would not be any different from condominiums to senior rental, he traffic and school impacts would not be any different and the impact on the neighborhood would remain the same. He stated by narrowing the request for the change from all-age rentals to senior rentals that would eliminate the concerns of the Board and the public and they can move forward with what should be a minor legal change to the site plan. Jones asked for comments from the Board. Bartles asked what is involved with a change like this in just the approval. Replansky stated that the public should weigh in on it with the change in the application. Jones asked for public comment. Pat Nannetti asked if there are restrictions to how many people would occupy the units. Nannetti stated her concern is she could rent the unit and move her daughter and family in with her and bring two or three children. She stated it could be rented to over 55 but occupied by under 55. Reilly stated the current approval limits anybody under 18 to being a temporary guest; they cannot be a permanent resident. Reilly stated they could have a 55-year-old woman and a 48-year-old man or a 75-year-old woman who has a 36-year-old caretaker. Nannetti stated that someone could have grandchildren that might come on the weekends or spend the summer. Reilly stated

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they cannot be permanent residents and it would be very hard to regulate if someone has a guest stay for two weeks. Nannetti stated that is her point. Reilly stated they can't go to school and can't be permanent residents. Nannetti asked if what he was saying is that they couldn't control the whole thing. Reilly stated he doesn't think you can control property to the extent that she is thinking about on any kind of property but the approvals that were done were particularly done that the person, under the old plan, had to be at least 55 and if there was a person under 55 that was okay but nobody under 18 could be a permanent resident or could attend the school district. Reilly stated that narrows the range of situations that you could run into where children would be living there beyond a short period of time. Nannetti asked about more than one family in the unit. Reilly stated the units are 1850 square feet with an attached garage. He stated they are one bedroom with a den area. Soracco asked Nannetti if she has seen them. Nannetti replied no. Reilly stated they are not conducive to holding a whole lot of people. Nannetti stated by your standards. Coons stated they could be considered 2 bedrooms. Nannetti stated that you could have one or more families technically living in the units. Reilly stated in the original approval there is a model lease that has the restrictions in it. Nannetti stated she could rent two units and move her family into the second. Reilly stated you have to live where you rent; it has to be your primary residence. Reilly stated they have been renting for three years and have never come across a situation where they have more than two people. Reilly stated it is not the market they are looking for. Reilly stated that Nannetti was suggesting families that were unrelated would stuff themselves into a unit. Reilly stated the vast majority of people that were described are looking for a school district. Reilly stated that you would then have to start passing regulations for everybody's house and everybody's property. Nannetti stated she is not here asking them to bail me out of something. Reilly stated he disagrees with the last comment. Jane Waters stated they applicant already has approval to make them senior rentals so what is the difference. Reilly stated that the approval was for the units constructed as of the date of that approval not to build the 38 units and they would also like to eliminate the condominiums from the old resolution. Osofsky stated she was late and wanted to know what the concerns were. Nannetti stated what if an over 55 person rented and then moved their daughter, son-in-law and children in. Nannetti stated the children could be 18 or 19 also. Osofsky stated we don't have enough children in the school district now. Doug Coons asked if the rental units would be built all at once. Reilly stated he has asked that they be built in two phases because they are downing their rental market to 55 and older he doesn't think they would fill 38 units at once and it would be a mistake to try to construct them and put them all on the market at once. Reilly stated they are asking the Board to do two phases; one of 18 and one of 20 units two years apart. Coons stated it seems as if there would be all kinds of construction and noise. Reilly stated that under the original approval he could build them all in one fell swoop. Reilly stated that if the condominium market were hot they would have built them all at once. Coons stated if they were owner occupied they would probably be built at a slower pace. Reilly stated they couldn't build one at a time; they have to build four, six or eight at a time. He stated if they do it twice the impact would be for a shorter period than having the impact stretched out over a longer

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period of time. Reilly stated he disagrees and thinks the impact would be better to be narrowed in timeframe than to be stretched out unit by unit because you would have a lot of the same construction issues with six that you would have with eighteen. Coons stated he is wondering what will happen if this doesn't work out, as it seems that the original plan didn't work out. Coons stated the applicant was here a month ago with a plan that had quite a bit of opposition and now is back with a slightly different plan and what if this plan doesn't work. Coons asked what would be next. Reilly stated that Coons is making it sound like this one condominium project had problems and the rest of the world moved along efficiently. Reilly stated there is not one condominium project in New York State that didn't run into the same issues. Reilly stated he doesn't feel you can say the applicant screwed up but the reality is the government passed laws to make it nearly impossible for new condominium projects to exist and to build because people cannot get financing for loans to buy them. Reilly stated this is not just their problem but also the country's problem with regard to condominiums. Reilly stated that New Jersey recently passed a law stating that any developer who was building condominiums can take off any kind of multi-family and age restrictions. Reilly stated if New York were to do that tomorrow they would be free to pursue all-age rentals. Reilly stated that Connecticut has the same law on the agenda right now. Reilly stated these projects need to be finished across the country and a lot of states are going forward with legislation to help make that happen. Reilly stated what they did is to look at the public's reactions, addressed them, understood the timing that the Board would have to go through to address the concerns of the public and decided to compromise and narrow the request to take into consideration the concerns of the public and the planning of the project. Pat Nannetti stated that some of us were at the meetings back then and these were their concerns and here we are six years later it is as if they had a crystal ball and here we are. She stated these were the public's concerns back then and were told that would never happen and here we are. Reilly stated he read all the minutes from 2000 to 2004/05 when the project was approved and the major concerns at that time were Section 8 housing and Aids hospice and negative school impacts. Reilly stated it has been five years and he has not seen one Section 8 applicant, renter or owner or one hospice or one person going into the school district so every concern was addressed at the prior application was taken into account. Reilly stated that the real estate problems were not foreseen at the time of the original application but this is happening all over the State and the country and doesn't feel it can be ignored. Virginia Kemp stated that we live here and she was born here and she sat on the Town Board when this project was proposed and like Mrs. Nannetti said, it was stated they weren't going to be rentals. Kemp asked how many are rented. Reilly stated 8 of 10 are rented. Kemp stated baloney. Reilly asked if she was saying he was lying. Kemp stated she hopes he is not. Jones stated that this was not going to be a back and forth. She stated this is an opportunity for the public to be heard and she stated that Reilly doesn't really have to answer. She stated it is a public hearing and an opportunity for the public to be heard. Kemp stated she is speaking for her community. Reilly stated it is his community too. Jones reiterated that she did not want a dialogue. Kemp stated the public has a genuine concern that whoever is building this project is going to want their money

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at some point down the road and county and state money is guaranteed money and that is Section 8. Reilly stated that Section 8 would not work for the owners, as it wouldn't cover their costs. Reilly stated the owner is a resident of the town and has the same concerns and there has been absolutely zero evidence that this project has ever had a Section 8 issue. Kim Parks stated she lives near the project. Parks asked if these would be long-term rentals with yearly leases or month to month. Reilly stated all of the extended leases are one year with the option to renew. Reilly stated that the average age of their residents is probably 75 and older. He stated they have unfortunately had tenants die or move to assisted living or in with their families. Reilly stated there would be more turnover than in a normal rental community but they have tenants that have been there 2 and 3 years plus. Parks stated her property borders the property and she is concerned about blasting and drainage. Parks stated she has drainage problems she never had until this project was started. Parks stated she is very concerned about that. Parks stated she has spent thousands of dollars fixing the drainage issues and doesn't want it to happen again. Reilly stated all the infrastructure has been complete and there are no more roads to be built and no more blasting to be done. He stated all the utilities are in for all 48 units. He stated also the drainage, water pipes, and laterals for the foundation holes are already in. Reilly stated the only impervious additions would be the actual footprint of each unit. Reilly stated the road structures and parking lots are all done. Parks asked if any trees would be coming down behind her. Reilly stated they have added trees and he wouldn't take more down, as they are incredibly expensive to replace. Reilly stated they have always worked with all of their neighbors in terms of putting in extra buffers wherever they have requested them. Reilly stated he would be happy to work with Parks. Parks asked how the public hears about things other than looking them up on line. Jones stated the minutes are available online. Reilly stated all public hearing notices are in the newspaper. Jones asked for any further comments from the public. No further comments. Osofsky made a motion to close the public hearing at 7:55 PM; second by Soracco. All in favor. Motion passed. Bartles asked if the ownership would be one parent company. Reilly stated it has always been Stissing Farms Inc. and will remain so. Reilly stated under a rental program it would have to stay under one ownership. Reilly stated that it would be very hard for the drainage problem at Parks to be from their project. Soracco wondered if it could be from what is going on at the School. Reilly stated all their drainage studies showed their concerns were to the south and to the east. Reilly stated they haven't had any drainage issues and is sorry to hear that Mrs. Parks did. Jones asked Replansky what would be the legalities in making these changes. Replansky stated the Board still has the same authority they had for the initial request. Replansky stated there were concerns when this project was put in place that it not be a rental project and that is why it was required to do the condominiums where and offering plan has to be filed. Replansky stated that the over 55 condominiums are governed by the rules and regulations of the Attorney Generals' office. Replansky stated the condominium by-laws offer restrictions and there is a lot of oversight over the way the condominium project is owned, operated and maintained. Replansky stated the Board has to decide whether making it a 55 and older rental project operated by a single owner satisfies the initial concerns of

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the Board. Replansky stated the filing will be removed and the oversight will be removed in terms of the Attorney General's office. Replansky stated he would like to know how this is going to be regulated in terms of making sure these units are rented to only qualified people. Replansky stated when it is a condominium the Board of Managers regulates it. Replansky stated that there is a difference between a condominium owned by an individual and being rented out and a straight rental project. Replansky stated these are issues the Board has to grapple with before making any decisions. Replansky stated that Jurkowski does have to go out there and doesn't know why he hasn't yet. Replansky stated that Jurkowski seemed to think the inspection was called off. Proper stated she hasn't talked to him. Proper stated the only thing he received was the email stating the change in the project. Replansky stated Jurkowski is going out this week and will report back to the Board. Replansky stated the Board should have Jurkowski's input and do a site visit. Replansky stated the Board should go through the minutes of the meetings to see what was in the minds of the Board during the process. Replansky stated if it were going to be approved he would want an opinion letter from the applicants' counsel as to the legality of this type of change and would want to review it. Replansky stated he would want to know what the rules and regulations were going to be for rentals. Replansky stated if this is approved, he wants to know how the age restrictions will be enforced in the future to insure that the units are leased for at least a period of one year to age-restricted tenants. Replansky stated he would want to see something that he and the Board could review that is similar to what is in the condominium-offering plan that is enforceable in terms of the rental project. Replansky stated the applicant can start all over and come in under the new Zoning Law with rental units and he would have to go through the entire process. Replansky stated the applicant is asking the Board to amend an approval that was granted under the old law and that is different and the Board has to be very cautious about how it is done. Replansky stated he wants to see a new phasing plan. Replansky wants the new phasing plan to be approved by the Town Engineer before this is approved. Replansky stated he might think of other things that are needed as they go along but these are his initial concerns and his advice to the Board in terms of getting up to speed before they make a decision as to whether to allow this or not. Replansky stated he is still in a quandary about how SEQR would apply here. He stated he would like Jurkowski's opinion on that. Replansky stated it might be that this does not trigger anything to reopen the SEQR process. He stated there would have to be a substantial change in the project that raises an environmental concern. Replansky stated the concerns are not necessarily environmental but community character so it is a close call and has to be discussed with Jurkowski. Reilly stated the Attorney General does not approve things but accepts the final offering plan and its main concern is disclosure to the risks of the buyer in terms of price and amenities. Reilly stated the Attorney General's office does not do anything beyond an annual filing to be sure what the prices are. Reilly stated they do not have a lot of oversight governing the condominiums. Reilly stated they don't govern anything but accept what you give them to be dispersed to the public. Reilly stated there is no rule against having a rental association. Reilly stated many rental communities have homeowner associations that have regulations on pets, gardens, etc. Reilly stated he

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disagrees that a rental community cannot govern itself effectively. Reilly stated he has a model lease already approved and doesn't feel it has to go away because it is changed to a rental. Reilly stated he has no problem living up to the terms of the leases that were already approved by the Board. Reilly stated that there is no evidence that the project has not adhere to the precepts of the leases and the reality is that the Town has a Codes Compliance Officer that is supposed to be looking into these things and copies of their leases will be provided upon request. Reilly stated that the Code Compliance Officer can follow up on any type of complain that there are children entered into the school system and there is already in place through the Zoning Law many ways to make sure people are conforming to your site plan approvals. Reilly stated that he doesn't think that the lease as constructed nor the physical premises nor the neighbors who are the main clientele would let it slip by that they stuffed a unit full of unrelated families that are illegal aliens or something that he feels is the undertow here. Reilly stated he doesn't think it will happen and doesn't think his renters who are paying \$1200 per month would put up with it. Reilly stated he wouldn't lose a paying client to stuff one unit; it doesn't make economic sense. Reilly stated that in a town of this size where everything is noticed, he had to convince the Town that they were allowed to have a caretaker in a caretaker's unit. Reilly stated this took about 6 months and was triggered because he has 2 children that he has visiting custody of on weekends and was turned in as having under 55 renters with kids in the school system. He stated the kids were registered under their mother's house in school and the caretaker is allowed to have a unit and that is in the approval. Reilly stated the scrutiny is already at a very high level and wouldn't doubt that any future violation would be reported with the same gusto that any past infraction was reported even though it wasn't an infraction. Reilly stated he agrees with Replansky about the opinion letter and submitting the phasing plan. Reilly stated he has no problem in terms of Jurkowski's inspection. Replansky asked for copies of the CD that was required o show exact amounts. Reilly stated he as no problem with the site visit. Reilly stated he has a large issue with the SEQR. Reilly agreed that one aspect of the review is impact on towns, schools and character but the idea of reopening SEQR is what he wanted to avoid by addressing the public's concerns and narrowing the scope to 55 and older rental. Reilly stated if they are going to go through the whole process it would behoove the ownership and do what Replansky said and reapply under the new Zoning Law because the project already meets or exceeds every site plan necessity under the new law. Coons asked why they didn't just do that now. Reilly stated if they don't apply for their government loans to build rentals now, they will not have the loans next spring which means they miss next year's building period. Reilly stated the owners would be writing checks for another two years because they will miss another cycle. Reilly stated if they miss the cycle they will start over. Reilly stated if they were able to amend it, it would make fiscal sense for the owners to compromise and go forward this way. Reilly stated if they have to miss all of next year anyway, he would advise the owners to go forward under the new Zoning Law. Reilly stated the new Zoning Law was tailored to put multi-family housing somewhere in town and this is one of the only spots that would make sense. Reilly stated they exceed all the requirements of the Zoning Law. Jones stated if they came

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in under the Zoning Law, how many units would they request. Reilly stated it would be the same. Reilly stated he is not restricted in terms of age or type of housing under the Zoning Law. Jones asked how the Board should proceed. Bartles stated he wants to hear from Jurkowski and also read through some past information to pick out the issues that were addressed in the original SEQR. Bartles stated he is in favor of having a workshop meeting to review minutes and narratives. Coons stated that during that time the project was under review there were several different Planning Board secretaries and each had their own filing system and it will take a little time to sort through. Replansky stated the Board should review the minutes. Meccariello agreed that he would like to do a workshop meeting. It was decided to have a workshop meeting on Wednesday, October 5 at 6PM. Bartles stated that the minutes and everything should be in the office. Proper stated she would research. Soracco asked Proper if she could find the information requested. Proper stated she was fairly sure she could find minutes. Soracco asked if these items could be submitted to the Board prior to the 5th. Proper stated she would do her best and let the Board know when she had packets ready for them to pick up. Replansky gave Proper the resolution to make copies for the Board. Bartles stated Jurkowski should be part of this. Replansky asked if the Board wanted to get Stolzenburg involved. The Board decided that was not necessary. Discussion followed on age-restricted rental properties in the area. Proper advised that there is one in Red Hook called Red Hook Commons.

ALDA GRAHAM: At the request of the applicant, she would like the Board to review the proposed subdivision plan that she presented at the July meeting and give her their opinion on how she can proceed. Jones stated that it is her understanding that she is interested in going forward with this and came in with a question about flag lot frontage. Jones stated that this question has been answered for her and it is pretty clear what the minimum frontage is and that is 25 feet. Jones stated that she needs to know this to find a buyer so she can do the subdivision. Jones stated her question has been answered and the Board doesn't need to take any further action without a plan in front of them. Coons stated that she is not subdividing it now. Jones agreed. Coons asked if Graham understands the Town regulations. Weaver stated in the R district, flag lots might be permitted provided that the character of the land precludes typical subdivision and he doesn't see how this property does that. Weaver stated she has plenty of land and there is no reason to create a flag lot. Jones stated she is trying to get to the piece in the back that is an appropriate place to put a house. Coons stated she doesn't want to disturb the crops and that is her prerogative but she still has lots of land and she could move the line over. Jones asked how wide does Coons want to make it. Coons replied how wide does it have to be? Coons asked what does she need for frontage? Coons stated he is playing devil's advocate. Osofsky asked what the negative is in creating a flag lot? Bartles stated if you take the guy who has 10 acres and stack one house in over another that is where you end up with smaller lots. Jones stated this is a large rural area and she is trying to preserve the rural character of the whole parcel and it is a good place to put a house on the property as it is very discreet and doesn't affect any major environmental issues or steep slopes. Coons stated that disturbing the area is now

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the people across the street can look at the house on the hill. Jones stated the house will sit back and will not be an issue and that is her view of it. Jones stated that obviously until Graham comes before the Board with a plan, they don't have to make a decision on it. Jones stated Graham wanted to know how wide she needed to make it with her intention of coming in with a flag lot. Jones stated the law is pretty clear that the minimum is 25 feet. Jones stated under the law maybe it should be bigger but it isn't. Bartles stated if she makes it 25 feet she cannot further develop it because she would need to put in a development road. Bartles stated if this were a significant piece of property this would preclude it from further development. Bartles stated his fear is saying 25 feet is fine and in ten years she comes back in and everything has changed. Bartles stated he thinks she just wants to draw a map right now and have it mapped. Bartles stated it used to say sufficient width for emergency vehicles. Jones stated that obviously there is discretion on the part of the Board in terms of how wide it is going to be and what is going to be granted. She stated the Board has the ability later on as part of the negotiation to say we think it needs to be wider. Bartles stated she is looking for a hard number and 25 feet is it but the Board still has the discretion to change that but it can't be less than 25 feet. Bartles stated this is not a decision the Board has to make until the plan is in front of them.

Coons made a motion to approve the minutes of July 13; second by Soracco. All in favor. Motion passed.

Bartles made a motion to approve the minutes of August 10; second by Soracco. All in favor. Motion passed.

Motion by Soracco to adjourn at 8:45 PM; second by Coons. All in favor. Motion passed.

Respectfully submitted by:

Nancy E. Proper
Secretary

Sarah Jones
Acting Chair