

June 25, 2021

PINE PLAINS PLANNING BOARD MINUTES
Wednesday June 23, 2021
7:30 PM
Via Zoom and Uploaded to YouTube

IN ATTENDANCE: Michael Stabile, Chairman
Ethan DiMaria, Alternate
Dick Hermans
Kate Osofsky
Ken Meccariello
Steve Patterson
Peter Salerno
Vikki Soracco

ABSENT:

ALSO PRESENT: Sarah Jones, Town Liaison
Ray Jurkowski, Town Engineer
Warren Replansky, Town Attorney
Drew Weaver, Town ZEO
The Chazen Companies, Durst Planners
BJF Planning, Pine Plains Planners
The Durst Corporation
Jennifer Van Tuyl, Durst Attorney
The Reynolds Asset, Stissing Farms
John Furth, Stissing Farm's Attorney
Jack Banning
Banning's Attorney
William and Patricia Hollick
Hollick's Attorney
Members of the public to speak at the KTB Hearing

Chairman Stabile opened the meeting at 7:30 pm with a quorum present.

The Hudson Valley Project Sketch Plan Review: Sarah Yackel spoke and went over the steps for tonight's meeting. The first is Pine Plains declaring themselves lead agency. Yackel said none of the involved agencies have contested it.

Yackel said the next action would be the determination of significance. Yackel said based on parts 2 and 3 of the EAF she is assuming the board would declare a positive declaration after which the scoping sessions should be scheduled.

June 25, 2021

The first session would be July 21st and the second July 31st. Due to Governor Cuomo lifting the state of emergency, both sessions will now be in person. The scoping session will run for another ten days after the July 31st meeting and written comments will be received by the town until August 10th.

Yackel then reviewed the EAF parts 2 and 3.

Yackel then asked if there were any questions. Stabile asked about the significance if a box is not checked on the form. Yackel said if something is checked small to no impact, verses large to moderate, it doesn't necessarily mean that the issue will not be studied during the scoping process. An example would be that the air quality box was not checked, but the applicant is still going to perform an air quality test. Additional issues may be raised during the scoping process that are not included in the form.

Hermans asked about section 4B and water demand since the project has a golf course and potentially a hotel why wouldn't water usage be a critical issue. Yackel replied that it was a fair point but she doesn't think they are anticipating that, but it can be changed to moderate to large if he prefers. Mesinger said either box is fine because the EIS will have them looking at all the water demands from different uses in comparison to the water source of on-site wells. Mesinger said the concern is legitimate and it is in the scope. Yackel went ahead and changed it.

Hermans then asked about 8F and impact on farmland. Hermans said an email from Chazen suggested changing this from moderate to no impact. Herman would like to know what the rationale was behind agreeing to that change. Yackel said it could be changed back, but she believes it was changed because there wouldn't be any action with a conservation subdivision. Mesinger said the infrastructure for the project is entirely self-contained and no infrastructure is being created that would service any other developments.

Hermans then asked about 9B and screening or impacting scenic views and the Taconic Parkway was referenced. Hermans asked about sites on this proposal that are directly next to the Taconic Parkway and wouldn't this be an impact on a scenic view, which the Taconic Parkway is. Mesinger said he wouldn't argue with that and when they were looking at it, they were thinking about Pine Plains, but he is right in terms of the Town of Milan. Mesinger said he is fine with changing it.

June 25, 2021

Hermans then asked about 17B and the project not growing the population by more than 5%. Hermans said a 5% increase of the population in Pine Plains is 125 people and the project will have 288 houses, therefore Hermans feels it should be a moderate to large impact. Yackel and Mesinger agreed.

Yackel then went over the resolution that walks through all the actions discussed.

Stabile mentioned with the change to the state's executive order it will restrict some people from attending the scoping meeting, since they will now be in person, who are not comfortable. Stabile suggested they write in their comments then. Yackel said they would have until August 10th (or postmarked) at 4pm to send in comments. Yackel said all the comments would be compiled into a final scope that would be reviewed as a board to be accepted at the September meeting.

Stabile then asked about the notices regarding the involved agencies and lead agency status. If there is no reply does that mean we assume they are fine with it. Yackel replied that is correct if nothing is heard, that is a de facto agreement of Pine Plains being lead agency, but they will remain an involved agency.

Replansky asked Devine if anything regarding lead agency was received from the Town of Milan. Devine replied only from their zoning department.

Stabile then asked for a motion to accept the resolution. Motion by Patterson, second by Meccariello, all in favor, motion carried.

Stissing Farms/Town Centre Public Hearing: Stabile opened the public hearing at 8pm. The applicant then presented a presentation about the project, including its history, what has already been completed, and what is expected with the new construction.

Replansky then asked Reynolds, the applicant, if they can enter the presentation into the record and provide a copy. Reynolds replied yes.

Replansky then asked if the as built shown in the presentation was an updated one. Jurkowski replied that he believes it is an updated version. Replansky asked because it is a condition in

June 25, 2021

the resolution to provide an updated one. Jurkowski said it will still remain a condition.

Salerno then asked Reynolds if they are one-bedroom units. Reynolds replied that it is one bedroom plus a den. Salerno said they aren't intended for families then and Reynolds replied not a large family.

Stabile asked about the basements and if they were in the original design. Reynolds said the basements were always a part of the plan but some basements were required to be built where there was a topography change allowing for a walk out basement. Stabile said he was looking for the history - were the basements removed from the plan. Replansky said at one time the developer did say they were going to remove the basements, but it was only a representation, not a condition imposed by the planning board. Replansky said since the project is reverting back to the original plan there is no problem with having the basements.

Jurkowski said all the existing infrastructure will remain under private ownership.

Stabile asked if anyone from the public would like to speak. There were none.

Patterson made a motion to close the public hearing, second by Hermans, all in favor, motion carried.

Stabile said the board heard from county planning and deemed it a "matter of local concern" but that the pedestrian plan should be taken into account, i.e., sidewalks.

Replansky said it was not necessary to go over the EAF because there was not anything in the revised plan that would warrant a SEQR.

Salerno asked if the original project was supposed to be age limited in some way. Furst, the applicant's attorney, said yes it was originally, but in September of 2014 the age restriction was lifted. Salerno said so it was an exception to the original plan then. Replansky said the applicant has reverted to the original condominium plan which would not have age restrictions.

Stabile then asked if the ancillary agreements were listed in the resolution as conditions. Replansky said the bond was in the original agreement and feels the applicant made a deposit to the Stissing National Bank, instead of a performance bond,

June 25, 2021

because of financial issues. Replansky said he was not comfortable with that way of proceeding so the new resolution requires it be transferred to a surety bond. Once the bond is approved the town will release whatever monies are being held at Stissing National Bank.

Stabile then went over the pertinent elements of the resolution.

Stabile then asked for a motion to accept the resolution, motion by Salerno, second by Patterson, all in favor, motion carried.

KTB Properties, LLC Public Hearing Continuation: The board went over the revised site plan with the applicant, Jack Banning.

The board then went over the lighting Banning chose as well as the landscaping.

The board then went over a decibel comparison chart Banning had included with the other items. Banning feels creating a baffle around the compressor will bring it down to almost no decibels. Stabile asked what sort of material Banning would be using and he replied an acoustic tiling of some kind. Jurkowski asked Banning to submit a cutsheet of the material to Weaver.

Replansky asked Banning if the location of the compressor was shown on the amended site plan. Banning replied that he did not believe it was, but he explained that it was located next to where it says "shed" on the site plan. Jurkowski suggested it be labeled on the site plan.

DiMaria asked about string lights above the patio and Banning replied that their counsel and the Hollick's counsel decided the ground lights would be better than the string lights.

Soracco asked if the lights along the ground would be enough. Banning feels along the pathway they will be sufficient. Soracco said she does not think the lights will be enough for the back dining area. Banning said they would like to use the string lights, but he feels either one will be safe. Soracco said she doesn't think Banning should say he is not using the string lights and maybe they could be hung along the fence or on the building or the bottom of the trees.

The Hollick's Counsel, Wayne Thompson, then spoke. Thompson thanked Banning for taking the time to meet with him and said they were very close to coming to an agreement and having all their concerns addressed. Thompson said his clients were never

June 25, 2021

against the restaurant opening, just about the rear dining area. His clients feel there should be some type of separation between the commercial use and the residential use. Thompson said he is glad that there will be plantings installed and asked Banning what size arborvitae or cypress he planned on using. Stabile said he would allow Banning to answer but to remember this isn't a dialogue opportunity. Banning said he will not be doing what Thompson requested in a letter that day, which is 12 ft arborvitae, as it would be \$27,000. Banning said they would put something in in the 4-6 ft range. Thompson asked that they consider something a bit taller. Thompson said if the twenty plantings are installed then the Hollick's objections to the project have been met.

The Hollicks then spoke and said their concern is the privacy and sounds. They were hoping for a solid fence or shrubs that are tall enough. The Hollicks said the stones are nosy and they would like a sound buffer. The Hollicks said the current fence is 6 ft so 4-6 ft plantings would not get any sun and die. They feel there should be a wall of trees. They agree the lighting sounds good. They did want the compressor moved. Stabile asked if they had any other issues. They responded that they are concerned about the closing time, 10pm, and they feel it is too late. They would also like Sunday brunch to end at 1pm, not 2pm.

Stabile then asked if anyone from the public was looking to speak.

Susan Crosley expressed her support for the restaurant to open.

Jane Kelly expressed her support for the restaurant to open.

Douglas Koch expressed his support for the restaurant to open.

Matthew Llewellyn expressed his support for the restaurant to open.

Stabile asked for a motion to close the public hearing, motion by Meccariello, second by Patterson, all in favor, motion carried.

The board went over the part 2 of the EAF.

Stabile asked Weaver the town statue for fences. Weaver replied it's 6 ft in side and rear yards and 4 ft in front yards.

June 25, 2021

Stabile said he was glad that the two sides' counsel were able to meet and work out some of the disagreements.

Stabile asked for a motion to declare that based upon the review of the SFEAF pt. 2 that the board has determined that this action does not have the potential for any significant environmental impacts and that a DEIS will not be required, motion by Hermans, second by Meccariello, all in favor, motion carried.

The board then went over the resolution.

Stabile asked if the signpost already there has lights. Banning said it is electrified, but it is unlikely they will be using it.

Replansky asked if they would be using the existing sign or have a new one. Banning said they would need a new sign with the name of the restaurant. Stabile asked if the sign application can go to Weaver. Weaver replied yes because the zoning was changed so that the planning board and ZEO act as equals for signs.

The board discussed whether smoking and/or vaping should be banned entirely in the outside dining area, or just during business hours. It was decided to leave it as is, but an employee could smoke in other areas of the property, if need be.

Replansky asked if only the dining area would be gravel, and the rest of the backyard grass. Banning said they hadn't decided yet. It would be whatever is best for the soil to avoid mud. Banning said right now the gravel is clumped together, which is probably why it is noisy, but it will be spread out over a larger area.

Stabile asked if any board members wanted to add any conditions. Hermans said the hours of operation are not in the resolution. Replansky said in the original resolution it states the hours of operation for the outdoor eating are not to be past 10pm. Osofsky and other board members felt 9pm was too early. The Banning's counsel then said that his discussion with Thompson was 10pm was for the outdoor area, not the entire facility. Soracco said it says 9pm in the Hollick's letter and the Banning's counsel replied that condition is not agreeable. Stabile is concerned if a private party ever goes past 10pm. He feels there is a difference between everything getting down to the button and acting reasonably. Soracco asked Banning what

June 25, 2021

hours he put down on his liquor license. Banning replied that the liquor license is under Michel and Patricia Jean and he does not know, but he does have other liquor licenses and has not seen that on them.

Meccariello brought up that a restaurant's hours depend on economics and if people are out and about.

Stabile felt it seemed too restrictive since the restaurant across the street is allowed to have a band playing until 11pm.

The board decided to leave the resolution as is in terms of operating hours.

Stabile then said the board should discuss music and should amplified music be allowed. Soracco said she sees no problem with soft music in the back. Stabile did bring up that amplified could be a speaker system in the back. Banning said they are not anticipating live music, but would the board be against an XM radio playing at a low volume. Stabile said that is amplified. Replansky said the intent of his language in the resolution was referring to an amp and increasing the sound, not prohibiting any music in the back yard. Stabile suggested leaving it out and if it becomes an issue, it can be revisited. Hermans said during previous meetings it was discussed that music wouldn't be played in the backyard. Stabile said the applicant volunteered that he wasn't planning on having music back there but he isn't sure if he thought through how encompassing that would be, but that Herman's point is fair.

The board then voted if a music restriction should be in the resolution or not, it was decided to not put it in.

Stabile asked if the board wants to mandate what the landscaping will be on the site plan. It was decided that the applicant is willing to put in shrubbery 4-6 feet and that is sufficient for the site plan and to also add that the plants will be replaced if they die.

Stabile asked for a motion to pass the resolution, motion by Salerno, second by Meccariello, all in favor, motion carried.

Motion by Herms to adjourn at 10:40 pm by, second by Patterson, all in favor, motion carried.

June 25, 2021

Respectfully submitted by:

Tricia Devine

Michael Stabile

DRAFT

TOWN OF PINE PLAINS PLANNING BOARD

**RESOLUTION GRANTING AMENDED SITE PLAN APPROVAL FOR
STISSING FARM INC. RESIDENTIAL CONDOMINIUM DEVELOPMENT**

WHEREAS, the Pine Plains Planning Board received an application from Stissing Farm Inc. (hereinafter the "Developer") dated January 3, 2003 for site plan approval (pursuant to the Town's then Site Plan Review Law) for development of a senior residential development consisting of 49 attached dwelling units, a 400 to 500 sq. ft. maintenance building and related infrastructure and other site improvements, not limited to water supply, sanitary sewage disposal, roadways, parking, stormwater management, lighting, landscaping and pedestrian walkways on Parcel C of Filed Map No. 9918 consisting of a 12.76 acre parcel located at State Route 199 in the Town of Pine Plains; and

WHEREAS, the proposed development has been modified, since the original application, to reduce the number of attached dwelling from 49 to 48 units, together with a reconfiguration of the size and layout of the development; and

WHEREAS, the Planning Board conducted public hearings, and made a determination of non-significance ("Negative Declaration") for the proposed development dated April 9, 2003, and amended July 9, 2003, in accordance with the requirements of the State Environmental Review Act ("SEQRA"); and

WHEREAS, the Planning Board after the conduct of public hearings, and review of the application and related submittals, granted approval of the site plan on February 9, 2005, subject to satisfaction of certain conditions, including the creation of a condominium in accordance with the requirements of Article 9B of the New York State Real Property Law (the "Condominium

Act") and the filing of an Offering Plan in accordance with the requirements of §352 of the General Business Law of the State of New York; and

WHEREAS, the said approval had been conditioned upon the requirement that the Declaration of Covenants and Restrictions contained in the Offering Plan restrict the condominium to elderly Applicants as provided in the Declaration of Covenants and Restrictions, a copy of which was annexed to the Planning Board's conditional approval, which required, in relevant part, among other things: (i) that the units were to be owner occupied; (ii) that no person or entity shall own more than five (5%) percent of the units upon the original sale; and (iii) that the project sponsor shall not control the Board of Directors of the condominium and/or HOA after the sale of fifty (50%) percent of the units; and

WHEREAS, upon application of the Developer, an Amended Resolution was issued by the Planning Board on July 13, 2003, which removed the requirement that the units be owner occupied, but set forth detailed requirements for restriction of the occupancy of the units to senior citizens; and

WHEREAS, the Amended Resolution required the Applicant to execute an Agreement for the Reimbursement for Professional Fees and Funding of Escrow Account with the Town of Pine Plains for reimbursement to the Town for expenses incurred by the Town for services rendered by professional consultants, in accordance with requirement additional approvals and inspections for the project ("Escrow Account"); and

WHEREAS, the Amended Resolution required the Applicant to prepare and submit a phased construction plan for the project and submit said plan to the Board within 75 days of the date of the Resolution and the construction of an emergency access road to be included as part of the construction; and

WHEREAS, the Amended Resolution required the Developer to provide a performance guarantee in the amount to be determined by the Planning Board, in the form of a bond or certificate acceptable to the Attorney to the Town to insure construction of all outstanding site improvements for the entire site not completed at the time of issuance of any Certificates of Occupancy; and

WHEREAS, the Amended Resolution provided, in relevant part, that the site plan approval shall be deemed null and void if construction and sale of at least one dwelling unit is not completed within one (1) calendar year of the stamping of the site plan and that the construction and occupancy of all dwellings be completed within three (3) calendar years of the stamping of the site plan unless an extension by the Planning Board was granted at the end of the three year period; and

WHEREAS, on September 12, 2007, the Planning Board granted approval to the Developer for amendment of the site plan: (i) for a revision in the layout of buildings numbered 5 and 6 so that there would be a total of six (6) of buildings containing the same total of ten (10) units constructed with the configuration of two duplex buildings located on each side of a smaller single unit building along the north and east side of the cul-de-sac; (ii) to permit the Developer to pave the cu-de-sac roadway leading to buildings 5 and 6 within the development under certain conditions more fully set forth in a letter of the then Town Engineer, Morris Associates dated May 14, 2008; and (iii) extending the approval period for a period of three (3) years; and

WHEREAS, the Developer made application in 2011 to the Planning Board for further amendment of the site plan approval to allow a change in the project: (i) from an age restricted condominium to a 55 and over age restricted rental project with the ownership of the units,

common areas and infrastructure vested in the Developer; (ii) to modify the phasing requirements of the project; and (iii) to extend the approval period for the project for an additional period of three (3) years; and

WHEREAS, the Board referred the Developer's application and its submittals to the Town's engineering and legal consultants for their review and comment; and

WHEREAS, the Planning Board duly conducted a public hearing on this application, at which time it considered comments, and input, from the public; and

WHEREAS, the Planning Board determined that the proposed amendment to the site plan approval would not involve any physical change in the site plan, building plans or infrastructure plans; and

WHEREAS, since the original, and amended approval, for this project, the Town of Pine Plains duly enacted a Zoning Law on October 15, 2009, which law superseded the Town of Pine Plains Site Plan Review Law; and

WHEREAS, the Town Board determined that this project would require the issuance of a special use permit and site plan approval under the Town's current Zoning Law, and, therefore, the development constitutes a "non-conforming use" pursuant to the provisions of Article XIII of the Zoning Law; and

WHEREAS, the Planning Board determined that the 2011 application did not involve any change or extension to the project which would require an application for special use permit or site plan review pursuant to the requirements of Article XIII of the Zoning Law; and

WHEREAS, the Planning Board determined that the proposed changes in the project would not have the potential for one or more significant adverse environmental impacts and,

as a result, there was no need for the Planning Board to conduct a supplemental SEQRA review of this project in conjunction with the application; and

WHEREAS, the Developer had represented to the Planning Board that due to a downturn in the economy and the housing market, it had been virtually impossible for the Developer to market and sell these units as condominiums in accordance with the original site plan approval and condominium offering plan; and

WHEREAS, the Planning Board determined that it was in the best interests of the Town of Pine Plains to permit the requested amendments to the site plan approval for this project subject to conditions and that such amended approval would benefit and not be a detriment to the Town of Pine Plains, and its residents; and

WHEREAS, the Planning Board by Resolution dated November 9, 2011 amended its site plan approval for this project in the following respects:

1. That paragraph no. 2 at page 2 of the Amended Resolution of the Planning Board dated July 13, 2005 was deleted to remove the requirement that the project be a condominium development and that a condominium offering plan be filed in accordance with the requirements of Article 9B of the New York State Real Property Law;

2. That multi-family rental units owned by the Developer may be constructed in accordance with the 2005 site plan approval and amended design change approved in May of 2008 and the Amended Resolution for minor modifications to the original site plan;

3. That the then current June 2012 date for completion of construction was extended until November 9, 2015 to allow for an appropriate time period for completion of the proposed 48 unit senior multi-family project, subject to the following terms and conditions and the

Developer was permitted to make application to the Planning Board for an extension of that time period upon good cause demonstrated.

(a) That the Developer within 120 days of the date of the Resolution prepare and submit a phasing plan for construction of the units, and infrastructure, to be approved by the Town's Engineer and the Planning Board, and signed by the Chairman, or Acting Chairman, of the Planning Board.

(b) That the Developer prepare and submit for approval by the Town Engineer and by the Planning Board a current revised landscaping plan for the project within 120 days of the date of the Board's determination to be signed by the Chairman, or Acting Chairman, of the Planning Board.

(c) That the Developer take the necessary steps to rescind the condominium Offering Plan filed in the Office of the Attorney General and file such documentation as may be required to rescind the Declaration of Covenants and Restrictions filed in the Office of the Dutchess County Clerk, in conjunction with said Offering Plan and provide proof of such actions to the Attorney for the Town of Pine Plains and to the Planning Board within twelve months of the date of this Resolution.

(d) That the Developer shall take the necessary steps to cause to be reconveyed units which have been sold to third parties to the Developer and to provide proof to the attorney to the Town of Pine Plains and to the Planning Board of the filing of such reconveyances in the Office of the Dutchess County Clerk within twelve months of the date of this Resolution.

(e) That rental the units shall be rented and occupied only by individuals meeting the following requirements:

- (i) to a single individual aged 55 or older;
- (ii) two persons, both aged 55 or older;
- (iii) married persons, the husband or wife is 55 or older;
- (iv) one child residing with one or two parents who are age 55 or older, providing that the child is over the age of 18 years;
- (v) the surviving spouse of a person aged 55 or older, providing the surviving spouse was a resident of the development at the time of the death.
- (vi) An adult 18 years or older residing with one or two persons age 55 or older, provided that they are essential to the long term care of the elderly person as certified to by a physician duly licensed in New York State.

(f) That the Developer within sixty (60) days of the date of said Resolution, file a Declaration of Age Covenants and Restrictions, for the exclusive benefit of the Town of Pine Plains in a form to be approved by the Attorney for the Town of Pine Plains and the Planning Board in the Office of the Dutchess County Clerk: (i) restricting the occupancy of the units in accordance with the Resolution; (ii) providing that the Declaration of Covenants and Restrictions run with the land; (iii) granting the exclusive right to the Town of Pine Plains, and its officers, to enforce the terms of the Declaration of Covenants and Restrictions; and (iv) granting the Town and its duly authorized representatives the right to enter the premises at reasonable time and in a reasonable manner when practicable after giving written notice to inspect the records of the occupancy of the project for compliance with the terms of this covenant and that such record be provided to the Town upon request.

(g) That the Developer shall keep on file copies of all leases and applications for leases, together with supportive age qualification documentation and provide copies of such documentation to the Town's Code Enforcement Officer, as may reasonably be requested and provide documentation to the Town's Code Enforcement Officer, as may reasonably be requested, and provide in each lease a provision in which the tenant agrees to waive privacy or confidentiality with respect to the provision of these documents to the Town's Code Enforcement Officer.

(h) That the Developer shall prepare and submit for approval of the Attorney to the Town and to the Planning Board, a set of rules and regulations for the rental community with regard to the use and occupancy of the individual units, and such rules and regulations shall be made a part of each tenant's lease agreement.

(i) That the Developer continue to maintain, as required by the Planning Board, an Agreement for Reimbursement for Professional Fees and Funding of Escrow Account with the Town of Pine Plains for reimbursement of all expenses incurred by the Town for services rendered by professional consultants which are employed by Town Planning Board from time to time subsequent to the date of this Resolution for inspection of work performed by the Applicant and review of documentation submitted by the Applicant and maintain an escrow balance of no less than \$5,000.00.

(j) That the Developer enter into an agreement with the Town of Pine Plains for a performance bond in the amount of \$155,000.00 in a form acceptable to the Attorney to the Town and the Board, and if the security is provided in the form of a Certificate of Deposit, or other account maintained by the Applicant at a banking institution, that the agreement permit the Town to draw on those funds in the event of a failure of the

Developer to construct the roads and infrastructure as required by the site plan approval by notification to the banking institution of the breach without the requirement of any further action, or legal action, and that the agreement be signed by the lending institution as well as the Developer and that said agreement be fully executed no less than thirty (30) days from the date of this Resolution.

(k) That the Developer shall comply with all other terms and conditions of the Amended Site Plan Approved and modifications made thereto, that are not inconsistent with the terms and conditions of this Resolution.

(l) That in the event of a breach of any of these conditions and the failure of the Applicant to either remedy such breach within thirty (30) days of written notification from the Planning Board, the Attorney to the Town or the Town Code Enforcement Officer, to the Developer, or, if the breach is such that the same cannot be totally remedied within the thirty (30) day period, failure of the developer to provide proof that appropriate steps have been taken by the developer to remedy the violation within a reasonable time period as determined by the Planning Board, the Attorney to the Town or the Town Code Enforcement Officer, the Planning Board and the Town reserve in their discretion the right to: (i) rescind the site plan approval for this project; (ii) refuse to grant and/or withhold any building permits and/or certificates of occupancy for the project; (iii) rescind any building permits or certificates of occupancy issued for this project; and (iv) take such other enforcement action as may be permitted pursuant the Town of Pine Plains Zoning Law for violation of site plan approval; and

WHEREAS, the Developer made application to the Planning Board to again amend the site plan approval for the project to change the use of the project from 55 and over age restricted rentals to all age market rentals representing to the Planning Board that:

- (a) The building plan changes for the project would be minor and proposed to, and approved by, the Building Inspector;
- (b) The Developer will eliminate most basements in the units;
- (c) The Developer has reviewed the plans with the Pine Plains Central School District, which has endorsed this application;
- (d) That the market rates for the rental units will range from \$975 to \$1,200 per month;
- (e) That traffic and car usage will be kept at approved site plan numbers;
- (f) That the Developer will have the Town Engineer review and approve septic plans prior to building permit applications;
- (g) That the Developer will limit any parking to two cars per tenant; and
- (h) That the occupancy of each unit will be limited to a single family, as that term is defined in the Town's Zoning Law;

and

WHEREAS, the Planning Board duly noticed and conducted a public hearing on said application on June 12, 2014; and

WHEREAS, apparently, the Stissing Farm Inc. residential development property has been sold to Stissing Farm Town Homes LLC by deed dated March 10, 2021 and recorded in the office of the Dutchess County Clerk on March 12, 2021, as Document No. 02-2021-1289; and

WHEREAS, Stissing Farm Town Homes LLC (the “Applicant”) has appeared before the Planning Board and advised the Planning Board that the Applicant now seeks to develop this project as a condominium project in accordance with the original site plan approval and requirements of the Planning Board dated January 3, 2003; and

WHEREAS, the Applicant has submitted to the Town Engineer, CPL Architecture, Engineering, Planning (“CPL”) partial project “as built” plans, and a proposed phasing plan, which have been reviewed by CPL, copies of which are annexed hereto as Schedules “A” and “B”; and

WHEREAS, CPL has, by letter dated June 2, 2021, a copy of which is annexed hereto as Schedule “C”, advised the Planning Board that these plans have been reviewed by CPL; that CPL has conducted a site plan inspection; that CPL has reviewed past plans and Board approvals; and that CPL has reviewed previous correspondence and estimates for the project; and

WHEREAS, CPL has, in its June 2, 2021 letter, identified several infrastructure completion requirements, which need to be completed; and

WHEREAS, CPL has further advised the Planning Board that since significant time has passed since the original bond calculations were determined and since construction costs have escalated since that time and, in addition, since several infrastructure defects have been identified, which require addressing and remediation; CPL has recommended that the current performance bond amount be increased to \$368, 200; and

WHEREAS, CPL has recommended that as a condition of any further approval that:

(a) The “as built” drawings be updated to include the location of buildings and utilities including drainage, water, sewer, telephone, electric, the existing water distribution system within the site;

(b) That all fire hydrants be flow tested and banded with the appropriate flow rates;
and

(c) The approved SWPPP be reviewed and updated as required to provide maintenance requirements and that the Project Engineer submit a correspondence and/or memorandum regarding the extent of all future maintenance requirements; and

WHEREAS, the Planning Board determined due to the complexity of this project and additional issues which need to be addressed with regard to the site plan, that a public hearing on said site plan amendment application shall be conducted; and

WHEREAS, the Planning Board, by Resolution dated June 9, 2021, scheduled a public hearing on the proposed application for amendment of the site plan for the Stissing Farm project on June 23, 2021 at 8:00 p.m. in the afternoon; and

WHEREAS, the Planning Board Clerk forwarded a copy of the June 9, 2021 Resolution to the Dutchess County Department of Planning and Development, together with all of Applicant's submittals, in accordance with the requirements of §239-m of the General Municipal Law and the SEQRA Declaration of Non-Significance dated April 9, 2003 as amended July 9, 2003; and

WHEREAS, the Dutchess County Department of Planning and Development by letter dated June 23, 2021 advised the Planning Board that the application was a matter of local concern but requested the Town to review the Town of Pine Plains Pedestrian Plan completed by the County's Pedestrian Council in 2014 for longstanding issues relating to pedestrian infrastructure in the area; and

WHEREAS, the Planning board opened the public hearing on June 23, 2021 at 8:00 p.m., and closed the public hearing on that same evening; and

WHEREAS, the Planning Board, after review of the application, and the history of the approvals for the same, determined that the current proposed amendment to the site plan approval of this project would not have the potential for any significant environmental impacts and there is no need to conduct a supplemental SEQRA review of the project in conjunction with this application.

NOW, THEREFORE, be it

RESOLVED, that the application of Stissing Farm Town Homes LLC for amended approval of the site plan approval for this project dated February 9, 2021 is hereby approved by the Planning Board and the Planning Board Chairman is authorized to sign the amended site plan as submitted, upon satisfaction of the following conditions:

1. That the “as built” drawings submitted by the Applicant be updated to include the location of buildings and utilities, including drainage, water, sewer, telephone, electric and the existing water system within the site and submitted to the Planning Board Engineer for review and approval;
2. That all fire hydrants installed in conjunction with the project be flow tested and banded with appropriate flow rates;
3. That the SWPPP be reviewed and updated, as required, to provide maintenance requirements and that the Applicant’s Project Engineer submit correspondence and/or memoranda regarding the extent of all future maintenance requirements for the SWPPP and that the same be submitted to and approved by the Engineer for the Planning Board;
4. That the project proceed to completion in accordance with the amended site plan, grading plan and phasing plan for the project, a copy of which is annexed hereto

and that the project and all infrastructure be completed no later than two years from the date of this Resolution;

5. That the Performance Guarantee to ensure construction of all outstanding site improvements for the site including, but not limited to, the roads and all infrastructure be amended to increase the bond requirement amount to \$368,200 and that the Performance Guarantee Agreement be amended to provide for a bond, letter of credit or cash deposit (collectively "Bond") secured by a Security Agreement, in form and substance acceptable to the Attorney for the Town, and approved by the Town Board in the amount of \$368,200 and that the Agreement, in relevant part, permit the Town to call upon the funds in the event of the failure of the developer to complete the project and the roads and infrastructure, as required by the site plan as amended by this Resolution. That upon approval, execution and deposit with the Town of the Security Agreement and Bond, the Town and the Attorney to the Town shall release all holds on the Certificate of Deposit now on deposit with the Salisbury Bank and Trust Company as security for this project;
6. That the following work be completed and be secured as part of the required bond amount and approved by the Town Engineer and Zoning Enforcement Officer within 2 years of the date of this Resolution:
 - (a) Roadway foundation and binder asphalt course installed in the lower hammerhead area located in the northeasterly section of the project site.
 - (b) Top asphalt course for all of the roadways and parking area be installed.
 - (c) Concrete sidewalk to the upper building area be constructed.
 - (d) Asphalt concrete curb along all sidewalk and roadways be constructed.

- (e) Installation of the emergency access road and gate to the north of the property leading to the existing gravel road between the high school and Pioneer Drive.
 - (f) Restoration of all disturbed areas.
7. In addition that the following maintenance and/or damaged infrastructure items, as identified by the Town Engineer in his letter of June 2, 2021 be repaired and completed to the satisfaction of the Engineer to the Planning Board prior to the issuance of any Certificate of Occupancy for any units within buildings #1 and 2:
- (a) Broken and dislodged water main valve boxes. These need to be inspected to confirm an operating wrench can be placed onto the valve, and, if required, a new valve box and cap shall be installed. This work may also include partial excavation of the valve box area to reset the valve box over the valve for proper operation.
 - (b) Spalled, cracked or broken catch basin covers, lids and pipe penetrations. These precast concrete lids need to be replaced and reset as required to the finished asphalt elevation.
 - (c) Main entrance asphalt replacement and repairs to existing sidewalk drop curb at entrance into the site. This will require milling approximately 325 linear feet of the existing asphalt roadway prior to the placement of a final top course of asphalt.
 - (d) Removal and replacement of numerous sections of concrete sidewalk that appear to have been set at a higher elevation than the proposed finished

asphalt surface. These areas of sidewalk shall be removed and replaced to provide proper reveal along the finished asphalt roadway and parking areas.

- (e) The stormwater management area shall be maintained and cleaned of all debris and overgrowth. The plans call for a maintenance road, fence and guiderail that shall be installed in accordance with the original plans.
- (f) Provide access to the master water pit serving the site to confirm the proper operation of the water meter.
- (g) Repave the existing asphalt walkway within the common area of the site.

and be it further

RESOLVED, that all of the above items, including all improvements as shown on the amended site plan and grading plan, shall be completed prior to the release of the Performance Bond; and be it further

RESOLVED, that all conditions imposed by the prior Resolutions and amended Resolutions of this Board with regard to occupancy and age restrictions on the persons residing within the condominium units are hereby eliminated and removed as conditions of the site plan approval; and be it further

RESOLVED, that the Applicant file an amendment to the Offering Plan with the Attorney General's Office in accordance with the requirements of §352 of the General Business Law of the State of New York to reflect: (i) the removal of age and occupancy restrictions upon the condominium unit; (ii) the new ownership of the project; and (iii) in satisfaction of such other requirements for amendment of the Offering Plan as may be required by the New York State Attorney General's Office. The Applicant shall provide proof to the Attorney to the Town of the filing of the amendment to the Offering Plan with the Attorney General's Office and provide a

copy of the Offering Plan, as amended, to the Attorney for the Town within 180 days from the date of this Resolution; and be it further

RESOLVED, that, except as modified by this Resolution, all requirements of the original and amended approvals for this project shall remain in full force and effect; and be it further

RESOLVED, That in the event of a breach of any of these conditions and the failure of the applicant to either remedy such breach within thirty (30) days of written notification from the Planning Board, the Attorney to the Town or the Town Code Enforcement Officer, to the Developer, or, if the breach is such that the same cannot be totally remedied within the thirty (30) day period, failure of the developer to provide proof that appropriate steps have been taken by the developer to remedy the violation within a reasonable time period as determined by the Planning Board, the Attorney to the Town or the Town Code Enforcement Officer, the Planning Board and the Town reserve in their discretion the right to: (i) rescind the site plan approval for this project; (ii) refuse to grant and/or withhold any building permits and/or certificates of occupancy for the project; (iii) rescind any building permits or certificates of occupancy issued for this project; and (iv) take such other enforcement action as may be permitted pursuant the Town of Pine Plains Zoning Law for violation of site plan approval; and be it further

RESOLVED, that the escrow already established for reimbursement for engineering, legal and other consulting fees to the Town remain in full force and effect with a balance of no less than \$5,000 at any time, until such time as this project is fully completed and all Certificates of Occupancy and other approvals are issued. In addition, all filing fees shall be paid in full within one week of the date of this Resolution; and be it further

RESOLVED, that the approval of this site plan shall be effective for a period of 24 months from the date of this Resolution unless extended in accordance with the provisions of §275-63(M) of the Code.

The Planning Board members voted as follows:

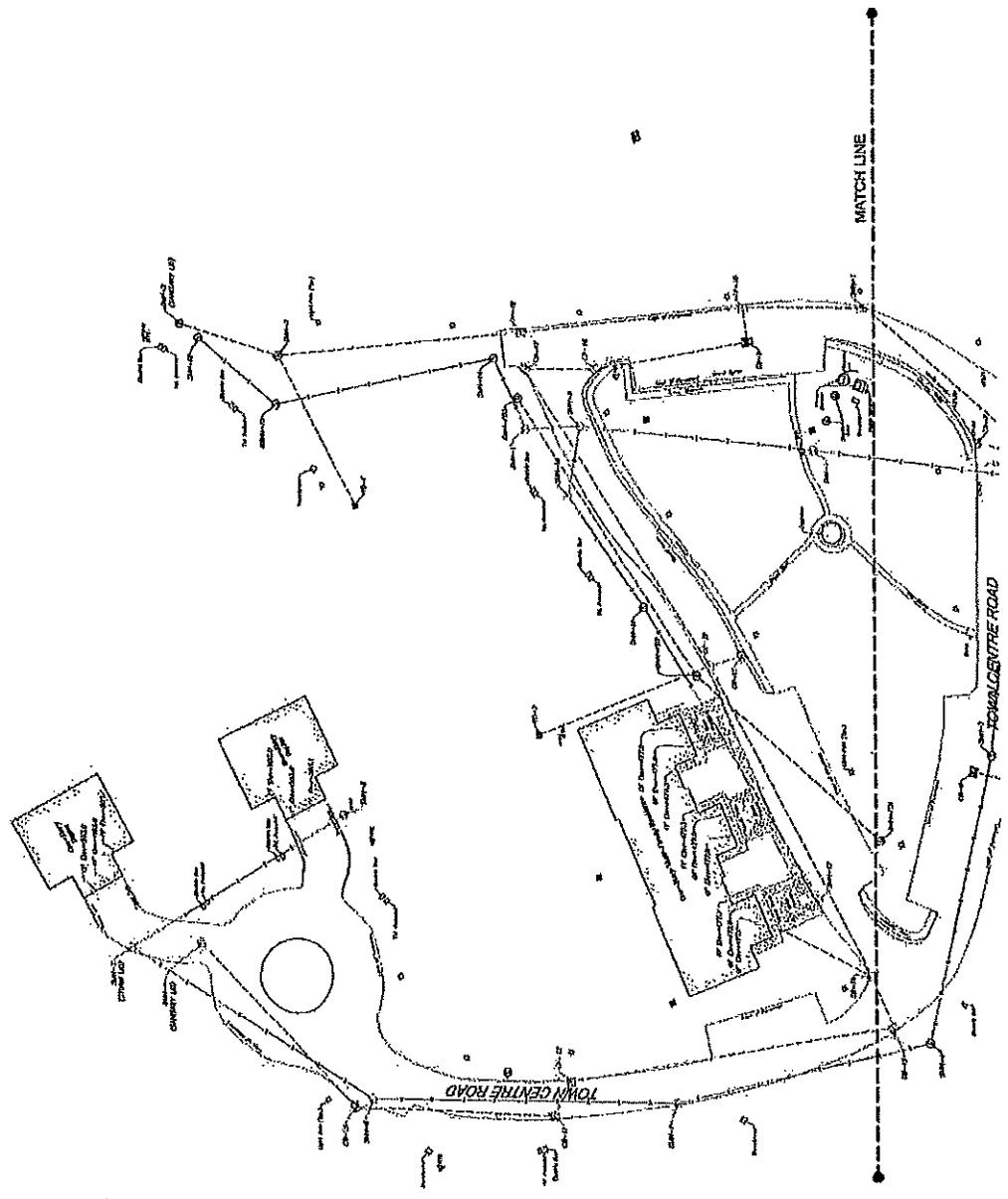
Michael Stabile, Chairman	Yay
Vikki Soracco, Vice Chairman	Yay
Richard Hermans	Yay
Ken Meccariello	Yay
Kate Osofsky	Yay
Steve Patterson	Yay
Peter Salerno	Yay

This Resolution was duly adopted by the Town of Pine Plains Planning Board on June 23, 2021.

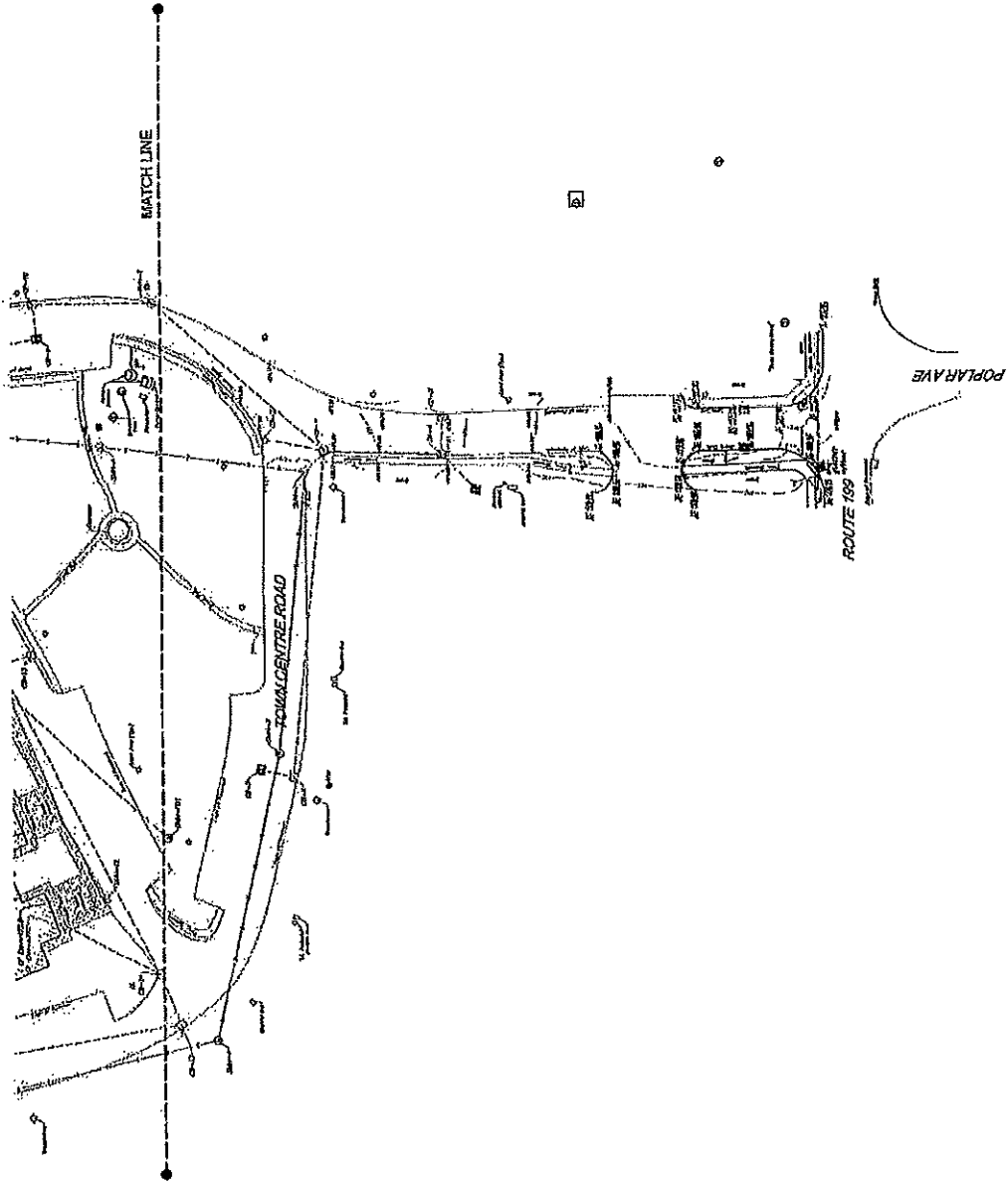


Tricia Devine, Planning Board Secretary

SCHEDULE A



PRELIMINARY AS-BUILT DRAWING INFORMATION
PROJECT NAME: [illegible]
DRAWING NO.: [illegible]
DATE: [illegible]
SCALE: [illegible]
DRAWN BY: [illegible]
CHECKED BY: [illegible]
APPROVED BY: [illegible]
REVISIONS: [illegible]



PRELIMINARY AS-BUILT DRAWING INFORMATION

- PROJECT NO. 10-12-10-01
- DRAWING NO. 10-12-10-01-01
- DATE 10/12/10
- DRAWN BY J. K. [unreadable]
- CHECKED BY [unreadable]
- DESIGNED BY [unreadable]
- APPROVED BY [unreadable]
- 10/12/10

© 2010 CH2M HILL

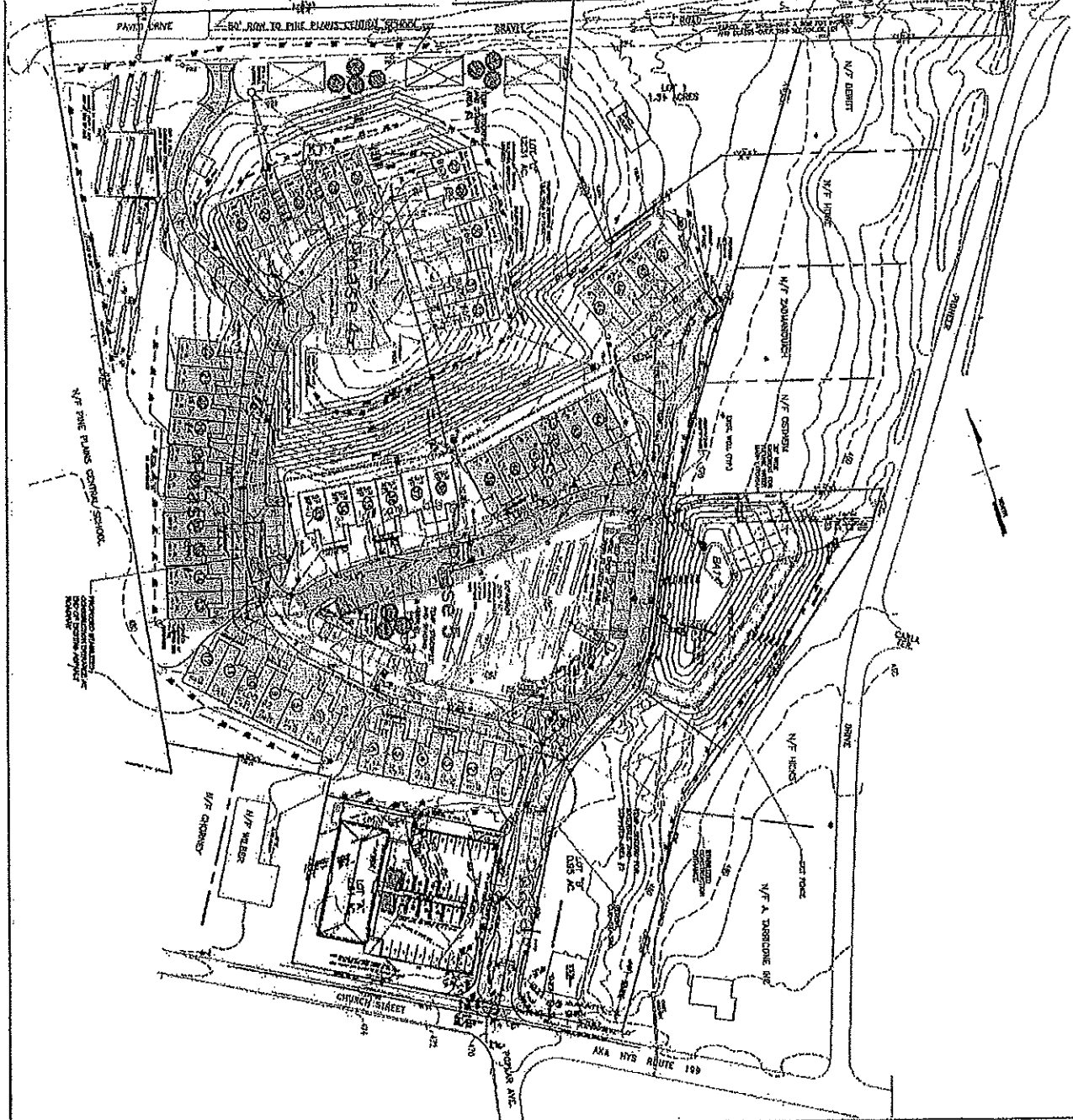
SCHEDULE B


GENERAL CONSTRUCTION NOTES

The intent of the site plan is to begin construction of the buildings in Phase 1 and upon completion of the buildings in Phase 1 the owner shall proceed to start the foundations and construction of the late associated with Phase 2 and in accordance with the way in Phase 3 and the final construction complete in Phase 3.

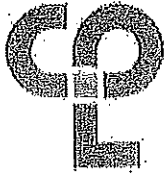
NUMBERS SHOWN IN BLUE ARE THOSE LISTED BY ORANGE COUNTY BLDG. DEPT. OR THE MUNICIPALITY RECORD ON THE PLAN BUT NOT NECESSARILY THE MUNICIPAL UNIT NUMBERS. THE PROPOSED PROJECT DOES NOT INCREASE THE NUMBER OF UNITS FROM THE ORIGINAL APPROVALS.

- Phase 1
The proposed construction is to be in accordance with the original approved site plan and shall be completed within 12 months of the start of construction.
- Phase 2
The proposed construction is to be in accordance with the original approved site plan and shall be completed within 12 months of the start of construction.
- Phase 3
The proposed construction is to be in accordance with the original approved site plan and shall be completed within 12 months of the start of construction.
- Phase 4
The proposed construction is to be in accordance with the original approved site plan and shall be completed within 12 months of the start of construction.
- Phase 5
The proposed construction is to be in accordance with the original approved site plan and shall be completed within 12 months of the start of construction.



<p>SI-G</p>	<p>AMENDED SITE PLAN and GRADING PLAN</p>	<p>STISSING FARM SENIOR RESIDENTIAL HOUSING COMPLEX TOWN OF PINE PLAINS DUTCHESS COUNTY, NEW YORK</p>	<p>DATE: 10/1/2011 SCALE: AS SHOWN BY: MJB CHECKED BY: MJB</p>	<p>PROJECT: STISSING FARM SENIOR RESIDENTIAL HOUSING COMPLEX CLIENT: STISSING FARM SENIOR RESIDENTIAL HOUSING COMPLEX ADDRESS: 199 NYS ROUTE 199, PINE PLAINS, NY 12568 PHONE: 518-537-4000</p>	 <p>MICHAEL J. BUDZINSKI, P.E. CONSULTING ENGINEER 88 MORGAN ROAD SOUTH PATERSON, NEW YORK 10964 914-977-0021</p>
--------------------	--	--	--	---	---

SCHEDULE C



ARCHITECTURE
ENGINEERING
PLANNING
C/P team.com

June 2, 2021

Town of Pine Plains
Town Planning Board
3284 Route 199
P.O. Box 955
Pine Plains, NY 12567

Attn: Michael Stabile
Planning Board Chairman

**RE: Stissing Farm Housing Project
Project Status and Revised Bonding Amount
MA #203851.00**

Dear Chairman Stabile and Planning Board:

Pursuant to the recent discussions with the planning board, this office is in receipt of a partial project as-built and proposed phasing plan. This office has also conducted a site inspection, reviewed past Planning Board Approvals, previous correspondences and bond estimates for the project.

Based on this office's inspection, several infrastructure bond items identified in this office's previous calculation still need to be completed and shall remain as a part of the required bond amount. These items include the following:

- a. Roadway foundation and binder asphalt course in the lower hammerhead area located in the northeasterly section of the project site.
- b. Top asphalt course for all of the roadways and parking area.
- c. Concrete sidewalk to the upper building area.
- d. Asphalt concrete curb along all sidewalk and roadways.
- e. Installation of the emergency access road and gate to the north of the property leading to the existing gravel road between the high school and Pioneer drive.
- f. Restoration of disturbed areas.



**RE: Stissing Farm Housing Project
Project Status and Revised Bonding Amount
MA #203851.00**

Significant time has passed since the original bond calculations were determined. Since such time, construction costs continue to escalate. Therefore, this office has updated the unit prices for the remaining infrastructure items that have not been completed, and as outlined above. In addition, to the above, as the existing infrastructure has continued to age, numerous maintenance and/or damaged infrastructure items been identified as needing to be addressed. These include but are not limited to:

- a. Broken and dislodged water main valve boxes. These need to be inspected to confirm an operating wrench can be placed onto the valve, and if required a new valve box and cap shall be installed. This work may also include partial excavation of the valve box area to reset the valve box over the valve for proper operation.
- b. Spalled, cracked or broken catch basin covers, lids and pipe penetrations. These precast concrete lids need to be replaced and reset as required to the finished asphalt elevation.
- c. Main entrance asphalt replacement and repairs to existing sidewalk drop curb at entrance into the site. This will require milling approximately 325 linear feet of the existing asphalt roadway prior to the placement of a final top course of asphalt.
- d. Removal and replacement of numerous sections of concrete sidewalk that appear to have been set at a higher elevation than the proposed finished asphalt surface. These areas of sidewalk shall be removed and replaced to provide proper reveal along the finished asphalt roadway and parking areas.
- e. The stormwater management area shall be maintained and cleaned of all debris and overgrowth. The plans call for a maintenance road, fence and guiderail that shall be installed in accordance with the original plans.
- f. Provide access to the master water pit serving the site to confirm the proper operation of the water meter.
- g. Repave the existing asphalt walkway within the common area of the site.

Based on the above, this office recommends that the Planning Board consider increasing the required bond amount to \$368,200.00. A copy of this office's updated bond estimate has been attached herewith.

In addition to the above, this office provides the following recommendations for consideration by the Planning Board regarding items that shall be completed prior to the release of the maintenance bond:



Pine Plains Planning Board
Pine Plains, N.Y. 12567

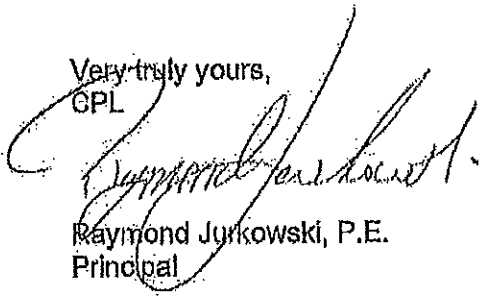
Page 3
June 2, 2021

**RE: Stissing Farm Housing Project
Project Status and Revised Bonding Amount
MA #203851.00**

- a. Update the as-built drawings shall be updated to include the location of buildings and utilities including drainage, water, sewer, telephone, electric, the existing water distribution system within the site.
- b. All fire hydrants shall be flow tested and banded with the appropriate fire flow rate.
- c. The approved SWPPP shall be reviewed and updated, as required, to provide up to date maintenance requirements. The project engineer shall submit a correspondence and/or memorandum regarding the extent of all future maintenance requirements.

The above information is provided for your consideration. If you have any questions, please do not hesitate to contact me at (518) 828-2300.

Very truly yours,
GPL



Raymond Jurkowski, P.E.
Principal

Encl.

Cc: Warren Replansky, Town Attorney

Bond Estimate for Housing Updated October 19, 2006 Updated September 16, 2008 To include upper road section Updated June 2, 2021				PERFORMANCE BOND ESTIMATE Stissing Farm TOWN OF PINE PLAINS MA # 203851		
ITEM	QUANTITY	UNIT	UNIT PRICE	VALUE	COMPLETED QUANTITY	COST TO COMPLETE
Clear & Grub	5.0	Acre	\$3,000.00	\$15,000		\$15,000
Milling of entrance pavement	325	L.F.	\$20.00	\$6,500		\$6,500
Foundation Course	500	L.F.	\$18.00	\$9,000		\$9,000
Asph. Binder Course	1000	S.Y.	\$25.00	\$25,000		\$25,000
Asph. Wearing Course	5000	S.Y.	\$20.00	\$100,000		\$100,000
Asphalt Conc Curb	3150	L.F.	\$15.00	\$47,250		\$47,250
Port'l'd Conc Sidew'k	550	S.Y.	\$35.00	\$19,250		\$19,250
Topsoli-Seed-Mulch	1000	S.Y.	\$6.00	\$6,000		\$6,000
Street Sign	5	ea.	\$150.00	\$750		\$750
Street Light	0	ea.	\$550.00	\$0		\$0
Erosion Controls	1	Lump	\$5,000.00	\$5,000		\$5,000
Emergency Access Road & Gate	1	Lump	\$5,000.00	\$5,000		\$5,000
Topsoli seed and mulch Restroation	2,000	S.Y.	\$5.00	\$10,000		\$10,000
Repair Catch Basins	16	ea.	\$750.00	\$12,000		\$12,000
Drywell	1	ea.	\$4,000.00	\$4,000		\$4,000
Repair Manholes	8	ea.	\$500.00	\$4,000		\$4,000
Water Quality/Quantity Pond Access	1	Lump	\$2,500.00	\$2,500		\$2,500
Guideralls	150	L.F.	\$50.00	\$7,500		\$7,500
Gate Valve Riser and Caps	12	ea.	\$1,500.00	\$18,000		\$18,000
As-Built	1	Lump	\$10,000.00	\$10,000		\$10,000
TOTAL CONST. COST				\$306,800		\$306,800
BOND CONST. COST	(TOTAL X 1.2)			\$368,200		\$368,200
BOND AMOUNT			ORIGINAL	\$368,200	REDUCED	\$368,200
Bond amount will remain in effect for two years.					% COMPLETE	0
MAINTENANCE BOND	(ORIGINAL BOND x 10%)			\$36,800		
INSPECTION FEE	(ORIGINAL BOND x 3%)			\$11,000		

TOWN OF PINE PLAINS PLANNING BOARD

RESOLUTION APPROVING SITE PLAN APPLICATION FOR KTB PROPERTIES LLC FOR THE PROPERTY LOCATED AT 2938 CHURCH STREET, PINE PLAINS, NEW YORK FOR USE AS A RESTAURANT WITH INDOOR AND OUTDOOR SEATING WITH CONDITIONS

WHEREAS, KTB Properties, LLC has submitted an application to the Town of Pine Plains Planning Board for site plan approval for the property located at 2938 Church Street, Pine Plains, New York, Tax Parcel No. 134200-6872-18-363194; and

WHEREAS, the property is located within the Town's Hamlet Business (H-Bus) District in which a restaurant is a permitted use as a matter of right, subject to site plan approval by the Planning Board; and

WHEREAS, the Dutchess County Parcel Access records and Town assessment records reflect that the principal structure on the property was built in or about 1925 and has been used as a commercial restaurant; dining establishment for many years pre-dating the adoption of the Town's Zoning Code by Local Law No. 2 - 2009 on or about October 15, 2009 and subsequent thereto; and

WHEREAS, the Planning Board does not have any records of site plan approval for a restaurant at that site prior, or subsequent, to the enactment of the Town's Zoning Code; and

WHEREAS, §275-79 of the Zoning Code provides, in relevant part, that any use or building lawfully established prior to the enactment of the Zoning Code which is not prohibited by the provisions of the Zoning Code, but which requires issuance of a special use permit or site plan approval, shall be deemed to be a "non-conforming use" pursuant to the Code; and

WHEREAS, the original application submitted to this Board on or about April 21, 2021 indicated that the applicant was seeking approval of an outdoor dining area for the restaurant in the rear of the restaurant building as an extension of a non-conforming use pursuant to §275-72 of

the Zoning Code; and

WHEREAS, §275-71(D) of the Zoning Code provides, in relevant part, that a non-conforming use which has been discontinued for any reason for a period of one calendar year or longer loses its non-conforming use status; and

WHEREAS, thereafter the applicant amended its application to provide, in relevant part, that the applicant was seeking site plan approval of the property for use as a restaurant with an indoor and outdoor dining area pursuant to Article XII of the Zoning Code; and

WHEREAS, the application as amended was submitted and reviewed by the Planning Board at its May 26, 2021 meeting, at which time the Planning Board received and reviewed: (i) a site plan application; (ii) Short Environmental Assessment Form; (iii) narrative accompanying Site Review; (iv) Dutchess County Parcel Access Map; (v) Taconic Engineering Septic Report; and (vi) authorization from St. Anthony's Church for access to the property over the St. Anthony's property for site improvement work; and

WHEREAS, a site plan for the restaurant and the outdoor seating have been provided to the Planning Board and reviewed by the Planning Board's Engineer; and

WHEREAS, the Planning Board, at its May 26, 2021 meeting, assumed lead agency status for SEQRA review of this application; declared this to be an "Unlisted" Action; and approved the Part 1 of the Short Environmental Assessment Form; and

WHEREAS, the application was scheduled for a public hearing on June 9, 2021 at 7:30 p.m.; and

WHEREAS, the Planning Board forwarded to the Dutchess County Department of Planning and Development the site plan application and supportive materials including the Part 1 of the Short Form EAF; and

WHEREAS, the public hearing was duly noticed and opened on June 9, 2021 at approximately 7:30 p.m. and was continued to June 23, 2021 at 7:45 p.m.; and

WHEREAS, the public hearing was closed on June 23, 2021; and

WHEREAS, the site plan application indicates that the said property had been operated as a restaurant under various owners for almost 30 years and, at various times, operated as a café, a full service restaurant and a diner; and

WHEREAS, the Dutchess County Department of Health advised the Town Engineer and the Planning Board that the existing on-site septic system is approved for 640 gallons of use per day and for seating for 23 patrons; and

WHEREAS, §275-45 of the Code requires 12 on-site parking spaces but the site plan does not include any off street, on-site parking. However, the applicant has noted in its narrative and at the public hearing that there is sufficient off-street parking within 400 feet of the restaurant available for public use and parking for the restaurant; the municipal parking lot is located 350 feet away; and that there are approximately 6 to 10 immediately adjacent on-street parking spaces outside the restaurant; and

WHEREAS, the applicant proposes to deposit garbage and recyclables pursuant to a service supplied by a sanitation service with curbside pick-up, bi-weekly waste disposal service with interim storage of waste pending pick-up in appropriate containers at the southeast corner of the restaurant in an out of sight in the location where propane tanks were formerly sited; and

WHEREAS, the applicant has indicated that the propane tanks will be moved to the rear of the building and fenced to keep them out of view; and

WHEREAS, the application indicates that there is a small carriage light at the front entrance, a small light over the side door on the East side of the premises, and a third light on the

East side of the building near the waste containers. The applicant indicates that other than inground down facing lights along the East side path from the front to back of the building and two overhead strings of unobtrusive low voltage (7 watt), down-facing warm/semi-white bulbs in the backyard when outdoor dining is utilized, no additional lighting is proposed; and

WHEREAS, the applicant purposes that there will be a single sign with the name of the restaurant on the existing post in the front patio area or in front of the structure which will have shaded low wattage illumination and will otherwise conform to zoning size limitations; and

WHEREAS, the applicant's narrative indicates that it has provided for landscaping via small shrubs in the front of the patio area and has agreed to provide a line of shrubs or wood fencing across the lot in the rear to protect neighboring properties; and

WHEREAS, it was revealed during the course of the public hearing that a compressor has been installed at the premises outside of the west door of the property for the refrigeration system, which the neighbors directly to the west of the property indicate causes noise when in operation. The applicant has stated that it intends to install sound dampening material around the compressor; and

WHEREAS, the applicant proposes no other exterior changes to the building other than the addition of an outdoor seating area to the rear of the building, as shown on the amended site plan and signage; and

WHEREAS, the Planning Board has reviewed the application materials and the site plan and, upon advice of the Town Engineer, has determined that the site plan submissions substantially comply with the requirements of §275-62 of the Zoning Code and to the extent that any of the application and map requirements, as set forth in §275-62(C)(1) and (2) are not provided, they are deemed waived and unnecessary for the Planning Board's adequate review of this site plan and

that such waiver will not impair the health, safety or general welfare of the Town and the surrounding neighborhood, all in accordance with §275-62(E) of the Zoning Code; and

WHEREAS, although the site plan does not provide any off-street parking on the site, the Planning Board has determined that the proposed off-site available parking for the restaurant provides adequate capacity for parking to serve the restaurant use in accordance with the provisions of §275-45(C) and that no records or testimony has been produced indicating that the off-site parking for the restaurant in its prior iterations and uses have been inadequate; and

WHEREAS, Dutchess County Planning and Development has submitted a response to the 239-m referral indicating that this is a matter of “local concern”; and

WHEREAS, the Planning Board has reviewed Part 2 of the Short Form Environmental Assessment Form and determined that the operation of this restaurant, in accordance with the site plan submitted, does not have the potential for significant environmental impacts and that minor impacts of the restaurant operation can be adequately addressed by conditions imposed on the site plan approval, and that a Draft Environmental Impact Statement will not be required; and

WHEREAS, the Planning Board further finds that the application and site plan substantially apply with the requirements of §275-62(c)(1) and (2) of the Zoning Code; and

WHEREAS, the Town Board has considered the criteria for site plan decision-making as set forth in §275-63 of the Town Code and has determined that the site plan and supportive materials are consistent with the criteria for approval of such site plans, as set forth in that section of the Code; and

WHEREAS, the Planning Board has further found that the proposed use is consistent with the uses made of the property in past years and is generally compatible with neighboring properties in the H-Bus District and will not unreasonably impact or increase ambient noise levels, generate

glare or cause other nuisances; and

WHEREAS, the Planning Board has reviewed and considered the three letters submitted in opposition to the site plan approval on behalf of the neighboring property owners, Patricia & William Hollick, through their attorneys, Wayne Thompson, Esq., and have considered the arguments set forth in the letters and during the public hearing that the application does not comply with the requirements of the Zoning Code; and

WHEREAS, the Planning Board, upon advice of its Attorney, Engineer and Zoning Enforcement Officer, has determined that the application substantially complies with the requirements of §275-62(A), (B) and (C) of the Zoning Code and that this parcel is a pre-existing lot of record with pre-existing structures and restaurant use established thereon and that the lot area requirements as set forth in the Town's Schedule of Bulk Regulations should not be applied to this application.

NOW, THEREFORE, be it

RESOLVED, that the Planning Board hereby grants site plan approval to KTB Properties, LLC for the operation of a restaurant with indoor and outdoor seating at the property located at 2938 Church Street in accordance with the site plan submittal and site plan plat as amended June 21, 2021 filed with the Planning Board subject to the following conditions:

1. That the site plan be amended to include all elements of the site plan, as approved by the Planning Board, including, but not limited to: (a) all lighting; (b) plans for the backyard seating area; (c) landscaping, including protective landscaping along the west fence dividing the property from the neighboring property, as required by the Planning Board; (c) the sound dampened compressor; and (e) all other requirements of the site plan approval as stated hereinafter and that the applicant

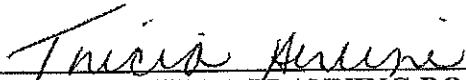
comply with all elements of the site plan in operation of its restaurant;

2. That the total seating for the restaurant, including the indoor and outdoor space, not exceed 23 seats, as currently approved by the Dutchess County Department of Health. However, in the event the DOH approves additional seating, seating may increase in accordance with the Department of Health approval, both indoor and outdoor;
3. That application be made to the Town Zoning Officer for any signage on the property in accordance with the sign regulations contained in Article X of the Town Zoning Code;
4. That waste disposal be provided to the site, as set forth in the application narrative and that any outdoor trash receptacles and propane tank storage remain where shown on the site plan;
5. That exterior lighting be limited to those shown on the site plan, and that no additional exterior lighting is permitted other than two overhead strings of non-obtrusive low voltage down-facing warm/semi-white (<3000k) light bulbs in the backyard when outdoor dining is utilized. All outdoor lighting is to be shaded and baffled so as to avoid glare;
6. That all outdoor smoking and/or vaping should be prohibited in the outdoor dining area.
7. That all escrow fees for the review of the application by the Town Engineer and Attorney to the Town and filing fees be paid in full prior to the granting of site plan approval.

The Planning Board members voted as follows:

Michael Stabile, Chairman	Yay
Vikki Soracco, Vice-Chairman	Yay
Richard Hermans	Yay
Ken Meccariello	Yay
Kate Osofsky	Yay
Steve Patterson	Yay
Peter Salerno	Yay

The Resolution was carried by a seven person vote of the Planning Board members on June 23, 2021.



**TRICIA DEVINE, PLANNING BOARD
CLERK, TOWN OF PINE PLAINS**