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April 5, 2007

Mr. Don Bartles, Jr., Chairman, and Members of the Board
Town of Pine Plains Planning Board
Pine Plains Town Hall
3284 Route 199
Pine Plains, New York 12567

RE: Project Name: Carvel Property Development
Applicant: 1133 Taconic, LLC
Approval Sought: dEIS Declared Complete for Public Review

Dear Mr. Bartles,

1. Introduction

Elan Planning & Design, Inc., has been retained by Pine Plains United to review the Draft Environmental Impact Statement (dEIS) for the Carvel Property Development. As you know, the applicant is seeking the Planning Board to declare the dEIS complete, both in regards to the approved scope and for the purposes of public comment. This letter is intended to urge the Board to require the applicant to supply more information in certain sections before making this determination.

2. Summary

The basis for declaring the dEIS complete is twofold. First, the Planning Board must determine that the content of the dEIS is complete when compared to the final approved scope. In addition, the Board must determine whether the content of the dEIS is sufficient, both as a basis for public comment, and for the Board to make an informed decision.

The focus of the SEQR process after the dEIS is declared complete is on reviewing the information provided and on collecting and responding to public comment. Although the Lead Agency may request additional information during this period, the comments collected from the public will be based on the dEIS. Any changes made by the applicant after this period will not be subject to comment. The comments received are based on the dEIS as released to the public; as such, any technical deficiencies must be addressed prior to this point in the process, to allow for both the public and the Lead Agency to make informed decisions about the project. Therefore, it is vital that technical deficiencies are addressed prior to the dEIS being declared complete.

For these reasons and as the consulting planners for Pine Plains United, we would like to request that the Board decline to declare the dEIS complete, pending the submittal of additional information, as outlined in detail below.

3. Visual Impacts

One of the most important aspects of the character of any community is its appearance. This is especially important in a town with such vibrant aesthetic resources as Pine Plains. As stated in Chapter 1 of the dEIS, “the visual experience of the project site and the siting of development activities... could have the most immediate effect on neighbors and travelers.” Given the high level of importance placed on visual impacts both by the applicant as well as the Lead Agency, it is inadvisable to declare the EIS complete as currently written, due to the numerous technical deficiencies outlined by George M. Janes of the Environmental Simulation Center, dated March 9, 2007.

The issues brought forth by Mr. Janes represent a serious deficiency in the dEIS for the Carvel project. Mr. Janes outlined the technical issues in a clear and comprehensive manner which need not be reiterated. However, the consequence of not addressing these issues prior to declaring the dEIS adequate for public comment may have negative ramifications on the future review of the EIS.

The technical issues identified by Mr. Janes indicate that the visual simulations in the dEIS are not accurate. It may seem as though the technical issues about the scope of disturbance/grading, color, and photographic lenses as minor compared to the overall scope of the dEIS. In addition, given the breadth of information and analysis contained in the EIS, the inconsistency between Figures 7.34 and 7.53 in this preliminary dEIS submission is understandable. However, these issues are of paramount importance in determining the extent of the potential impact on visual resources, and whether the proposed mitigation measures are adequate.

In addition, the potential impact on visual resources is intertwined with the potential impacts on several other resources, including:

- a. Community character, due to the fact that the community’s character is affected by its appearance
- b. Land use and zoning, due to possible contradictions with the Comprehensive Plan
- c. Critical environmental areas, due to possible views from Stissing Mountain

Given the extent to which the potential impacts on visual resources affects the remainder of the dEIS, the applicant should provide the most complete, accurate, reasonable worst case assumptions possible. The Lead Agency should not declare the dEIS complete until the technical issues outlined by Mr. Janes are rectified.

4. Fiscal Impacts

In addition to visual impacts, the economic impact of the proposed development has serious ramifications on the community. As such, the final approved scope calls for an evaluation of “the existing current level of taxes generated from the project site and anticipated post development taxes generated, including property taxes.” This evaluation, as stated in Chapter 14 of the dEIS, is based on 2005 tax rates. The amount of taxes anticipated to be generated by the proposed action are the basis for many of the conclusions drawn as to impact on schools, community services, and facilities.

As stated in the dEIS, the project calls for 388 attached and semi-attached residential units. These are assessed at projected full market value of between \$375,000 - \$600,000.¹ However, neither Chapter 2 (Description of the Proposed Project) or Chapter 14 (Fiscal Impacts) state whether these units are to be townhouses or condominiums. According to Jim Mara, Assessor for the Town of Pine Plains, condominium units are often assessed at roughly 50% of equivalent townhouse units, and therefore generate half the tax revenue. The difference in assessments between condominium and townhouse units represents a large potential discrepancy in the fiscal impact on tax revenues as stated in Chapter 14. This may affect the methodologies upon which the potential impacts are based. It is possible that, were these units to be assessed as condominiums, the fiscal impact to the town could be negative, not positive as stated in the dEIS. Given the importance of the ownership scenario of these units on the overall fiscal impact, this deficiency represents an issue of completeness of the dEIS.

Without a clear understanding of the basis for the projected assessments, the Board will not be able to make an informed decision on the potential fiscal impact of the project. The applicant should clarify the basis for the assessment projections prior to the Board declaring the dEIS complete.

5. Comprehensive Plan

The approved final scope calls for the dEIS to “Describe the relationship and evaluate the compatibility of this project with local, county, regional, and State land use studies and plans including ... the draft Town of Pine Plains Updated Comprehensive Plan...” Specifically, the scope calls for the “discussion of ... the draft Pine Plains Updated Comprehensive Plan [to] include an evaluation of the project’s relationship to each of the community values and land use goals.” This has not been accomplished.

In particular, the dEIS only discusses the ways in which the project is consistent with the Comp Plan and ignores the ways in which it is *inconsistent*. If consistency with the Pine Plains Comprehensive Plan is discussed as an issue, the ways in which the project is *not* consistent should also be discussed, as this may potential represent a negative impact.

¹ See page 14-135 of the dEIS.

Examples include:

- a. In Chapter 3 of the dEIS, the Future Land Use (FLU) Map is discussed. The dEIS contends that the proposed action is consistent with the FLU, but there are no figures referenced to show the FLU superimposed on the development plan which would confirm or refute this statement. Since this information is missing, the Board and the public must rely solely on the applicant's contention that this statement is true. This is not a sufficient basis for the Board to make an informed decision regarding consistency with the Comprehensive Plan, and a figure which explicitly confirms or refutes this contention should be included for the dEIS to be considered complete.
- b. In Chapter 3 of the dEIS, each goal of the Comprehensive Plan is discussed in general terms, but those specific actions called for in the Comprehensive Plan which directly conflict with the goals or design of the project are not addressed. In addition, the restatement of the some of the Comprehensive Plan goals in the dEIS are not accurate – they have been paraphrased in a way that makes the goals seem more consistent with the project. For example, the Comprehensive Plan calls for “The hamlet of Pine Plains will be maintained as the town center and principal location for commercial, cultural, and *residential* uses.”²[emphasis added] Yet the dEIS restates this goal as “Maintenance of the hamlet of Pine Plains as the Town center for business and community life.”³ The creation of a large-scale residential center outside the hamlet area is in direct conflict with the stated strategy of the Comprehensive Plan, yet this conflict is never mentioned in the dEIS.
- c. The final approved scope calls for an evaluation of an alternative which would study a site layout consistent with the conservation subdivision process called for in the Pine Plains Comprehensive Plan⁴. In Chapter 17 of the dEIS, the discussion of Alternative 4 (Conservation Subdivision) contends that the proposed action was revised several times between the adoption of the scope and the submittal of the dEIS. Since, according the dEIS, the proposed action was redesigned in accordance with the conservation subdivision strategy called for in the Comprehensive Plan, Alternative 4, as called for in the scope, has become the proposed action. However, although the applicant states that the proposed site layout was completed in conformance with the conservation subdivision process, no references or figures which would confirm that this process was followed were included in Chapter 17, or in Chapter 2.1.5, Project Design Processes. The inclusion of Figure SP-3, which shows important ecological features on the property, is not a substitute for the conservation subdivision process. If the case is being made that the proposed action is consistent with the Comprehensive Plan, it must be explicitly

² See page 57 of the Pine Plains Comprehensive Plan.

³ See page 3-105 of the dEIS.

⁴ See page 49 of the Pine Plains Comprehensive Plan.

demonstrated. Merely stating that a certain process was followed is not sufficient to show consistency with the Comprehensive Plan.

6. Conclusion

Given these examples of the inadequacy of the Carvel Property Redevelopment dEIS as compared to the scope adopted on January 8, 2007, we urge the Board to consider delaying a declaration of completeness on the dEIS until further information as detailed above is submitted by the applicant.

Thank you for the opportunity to provide feedback on the adequacy of the dEIS for public comment. I look forward to reviewing the completed document on behalf of Pine Plains United. If you have any questions, please do not hesitate to contact me.

Sincerely,

Lisa Nagle, AICP
Principal
Elan Planning & Design, Inc.

CC: