



## Intra-Agency Communication

To: Town of Pine Plains Town Board and Town of Pine Plains Planning Board  
From: Town Consultants: Nan Stolzenburg, AICP; Bonnie Franson, AICP; Ray Jurkowski, PE; and Warren Replansky, Esq  
Date: February 10, 2010  
Re: Carvel Property NND Pre-Application Review

As per the Town's zoning regulations, the submission of a NND floating zone petition application requires that the applicant appear before the Town Board and Planning Board at a pre-application meeting. The purpose of the first meeting is to:

- solicit preliminary non-binding comments of the Town Board and Planning Board with regard to the consistency of the NND proposal with the criteria set forth in §100-28.B;
- identify any issues that would need to be addressed during the NND review process; and
- review a sketch plan that conveys conceptually the use and site improvements being proposed.

We are in receipt of the Carvel Property Development, New Neighborhood Development Narrative and NND Pre-Application Sketch Drawings dated January 21, 2010. Based on both individual review and joint discussions among the Town consultants related to the NND Pre-Application, we have jointly developed this memo and offer the following comments for consideration:

### **I. NND PRE-APPLICATION SKETCH PLAN DRAWINGS**

#### **A. Appendix A.1 – Boundary Survey Map**

This map was analyzed as it serves as the basis for the existing lot credit that the applicant is seeking under §100-34 of the Town zoning law, as well as information regarding the acreage on which the density yield is calculated.

1. A review of the original subdivision maps for the existing Sports City Estates subdivision reveals that the existing subdivision contains several parcels that were identified within the subdivision as "open land". Notes upon the filed map state that these lots "are not to be sold as residential parcels and shall not be built upon. We raise the question whether there are any restrictions, i.e., Homeowner Association covenants, deed restrictions or map notes, which would limit the ability to use these parcels for development. Section (C) (1) of the

Zoning Law states “No part of the required 750 acres may be composed of land or property already restricted from development by a conservation easement, deed restriction, or other restriction limiting development. For purposes of these regulations, no portion of said restricted lands may be used in the calculation of open space or for purposes of calculating residential density.” It is recommended that the Town Attorney review the Planning Boards file, as well as any additional restrictions and covenants to determine whether these parcels can be reconfigured as part of the new application.

2. The applicant is seeking approval of 195 pre-existing lots. Based on a review of the municipal boundary line shown on Appendix A.1, it is unclear if this map may be relied upon to determine the number of lots located in Milan, and those located in Pine Plains. As an example, Lot 85 is identified as being located in the Town of Milan. However, the lot is clearly shown to be located entirely in the Town of Pine Plains. An accurate map needs to be provided on which the Town may determine how many lots the applicant may apply for “credit”. Further, does the 195 pre-existing lots:
  - a. Include parcels not in the control of the applicant?
  - b. Include the areas designated as “open lands” as depicted on the original subdivision map (filed map #3623 and #3977)?
  - c. Include parcels partially contained within both Towns of Pine Plains and Milan?
3. Based on a review of the table “Subdivision Lots – Town of Pine Plains”, the number of single family building lots wholly or partially in Pine Plains totals 180 lots. An additional two (2) lots are identified as “group houses”. Three (3) parcels are identified as road parcels, and one (1) parcel consists of the lake. Ten (10) parcels are identified as “open land” lots (Note: OL1 appears to be in the Town of Milan – the table may be in error). Based on the table data, there are a total of 196 lots in Pine Plains. If the road, open space, and lake parcels are excluded, the total would be 182 lots.
4. The applicant must clarify how many of the lots are “split” lots, i.e., partially in Milan and partially in the Town of Pine Plains, and how many are being credited to the Town of Pine Plains. A comparison of the tables identifying lots in Milan and lots in Pine Plains demonstrates that there is overlap. For example, Lots 6 and 7 are listed in both tables.
5. With regard to the table entitled “Total of Subdivision Parcels”, are the acreages provided based on tax map data, or actual surveys?
6. With regard to the “Total of Subdivision Parcels” table, the acreage for Pine Plains adds up to 1808.01 acres, not 1816 acres. Also the acreage for the Town of Milan adds up to 447.37 acres, not 439 acres. Please check acreages and revise, if necessary. This may affect the density calculation provided in Appendix D.
7. Information presented in the above noted table does not match with notes on the map. For example, in the table, Subdivision Tax Map # 6672-11 & 12 (PP) totals 162.9 acres. However, in the note above the label “Lake Carvel”, the acreage is noted as 127.3 acres. It would appear that the table is actually providing the acreage for all lots in Tax Map #6672, Blocks 11, 12, 15 & 16. Please clarify.
8. Two of the lots contain the following notes: “Area zoned group houses.” What does this mean?

9. A note is shown just north and west of the Funk outparcels. It notes the portion of Mount Ross Road located on the project site. However, the right-of-way is not shown.
10. The date on which information on adjoining ownership should be provided as a map note to ensure the list is up-to-date.
11. Zoning Law, Article 12 Sketch Plan Requirements (100-62 (A)) requires a site location map provided at a scale of 1"=2000' or larger. Although that map is found on the 1"=1500' Title Sheet and may meet the requirements of 100-62 (A)(1.b), it is too small to use for this purpose. We recommend that the site location map be placed on a full sheet and ensure that all required items are included.

#### **B. A.2 – Existing Topographic Conditions**

12. This plan sheet shows topography based on five foot contours. As a general question, was the determination of steep slopes based on 2-foot contours, or 5-foot contours?
13. Have the wetlands on the map been delineated and their boundaries verified by the Army Corps of Engineers and NYSDEC?

#### **D. A.4 - Proposed Uses and Structures**

14. In our opinion, this is too simplistic a representation of the proposed plan for the project. Even if only conceptual, the plan should illustrate the applicant's proposal for:
  - The mix of residential dwellings, i.e., single family detached, semi-attached, attached, etc.;
  - Preliminary identification of housing mix by bedroom type;
  - Information on lot size ranges, perhaps color-coded on the sketch plan
  - A trail system, including which components would be public;
  - Where sidewalks would be located, if any;
  - Connection to the hamlet, as required by the NND regulations;
  - Community amenities.
  - Parking areas and signage beyond the entrance monuments.
15. "ASSHTO" should read "AASHTO"...it is an acronym for the "American Association of State Highway and Transportation Officials".
16. As a general question, will the roads in the Town of Milan be public or private?
17. For wayfinding and descriptive purposes, it would be useful to label the roads "A", "B", etc.
18. As a general comment, the narrative indicates that the full service interchange to the Taconic Parkway will be closed so that southbound traffic must use an alternate route. As part of the SEQRA review process, the applicant should identify the main route out from the development to obtain access to Route 199. If it is the "ASSHTO rural collector", we question whether a 20-foot wide road is adequate. Also, if this is the main collector, we would discourage a lot arrangement that fronts the lots on the main collector.

19. As a general comment, the narrative or the map should specifically call out the existing structures that are proposed to be preserved or re-used. Existing buildings are shown to remain on the Hedge Farm and the Hicks Farm – how will they be used/preserved?
20. The conservancy lots should be specifically identified so that they can be reviewed to ensure that each meet the 5 acre minimum lot size requirement.
21. The proposed layout illustrates one conservancy lot with frontage on state road. Although we would not favor any lots fronting on the state highway for this planned development, is this lot intended to preserve an existing dwelling? Is the structure historic?
22. It cannot be determined with certainty whether the application meets the requirement that 50 percent of the lots are in the residential core – it appears that less than 50 percent are in the core. A plan sheet should be provided that specifically highlights the lots which are considered to be located within the core for verification purposes.
23. Neighborhood greens, trails, recreational areas should specifically identified on the plan. A minimum of one percent of the minimum required open space area must consist of greens, commons, squares and parks. The minimum requirement must be quantified and verified.

#### **E. Appendix C – Proposed Water and Wastewater Service Areas**

24. It would be useful if the sketch plan noted the percentage of the lots required to be served by central water and sewer as per the NND, and the percentage provided by the proposal. The Town reviewers could then readily determine whether the map illustrates conformity with the provisions. We acknowledge that the statement is made in the narrative, but map notes are always useful.

#### **F. Appendix D – Constrained Lands Affecting Density Calculation**

25. A map of constrained lands should show constraints within the area “not included in density calculation” per zoning law. The Town Board must make a determination whether the proposed layout is superior to the underlying, previously approved subdivision. Like the Ecological Communities map, it would be useful to see the constraints underlying the existing subdivision.
26. It appears that Lake Carvel is being included in the existing subdivision area. The acreage of the existing subdivision and Lake Carvel should be confirmed. However, for density purposes, since the Lake must be excluded from density calculations, its inclusion in or outside of the existing subdivision will not impact the density calculations.
27. The Comprehensive Plan map shows constraints where the existing Carvel subdivision exists. Yet, the constraint map (Appendix D) removes the original subdivision from analysis. The applicant should not exclude the existing subdivision on the constraints map. As the lands contained within the existing subdivision are included in the NND as new lots, then evaluation of constraints in this location is just as important as elsewhere on the property.

## **II. NARRATIVE SUMMARY**

Comments below are keyed to the page number of the NND Narrative.

28. It should be clarified for the record that the application pending before the Town of Pine Plains is a subdivision application.
29. The introductory statement should also refer to other discretionary incentive approvals that the application will necessarily require, including, but not limited to:
- Subdivision of pre-existing lots in accordance with §100-34 of the Zoning Law;
  - Application for Incentive Zoning in accordance with §100-22 of Zoning Law;
  - An affordable housing application in accordance with §100-23 of the Zoning Law.

The applicant cannot achieve the proposed density for the NND based solely on application of the NND provisions.

30. It is sometimes unclear whether references to acreages, housing units, etc., refer to the entire development or the Pine Plains portion only.
31. p. 5 - With regard to the pre-existing lots, please refer to comments above under review of Appendix A.1 of the sketch plan submission. The application requires additional information for the Town Board to determine how many pre-existing lots the applicant may seek credit for.
32. p. 5 recognizes the NND purposes to protect “environmental features, preservation of open space, and compatibility with the rural image and character...”. However, 100-28 (A) of the zoning Law also identifies other critical purposes including that the NND must be economically beneficial, socially desirable, and benefits the public. There is no narrative offered to explain how the NND addresses those stated purposes. The NND purposes also to establish other major goals that are not addressed in the NND Pre-application. The text does not address how the project will promote a neighborhood development character comparable to that in the hamlet, how it is transitional between the hamlet and undeveloped areas of Pine Plains, or what the range and diversity of housing will be. It does articulate that Arendt’s “Crossroads, Hamlet, Village, Town” will be used but does not illustrate how or in what fashion. Thus the Town has little detail on how the NND proposal is consistent with the stated purposes of the NND.
33. p. 6 - The narrative states that there are 32 conservancy lots south of Route 199 – including the two lots in Milan. However, there appears to be 29 lots. If the lots on the north side of Route 199 on the Spruce Farm are included, there appears to be 34 lots. A detailed development program of housing units should be provided.
34. p. 6 - No less than 25 percent of all dwelling units shall be designed using green building techniques. Although the narrative indicates that the clubhouse and homeowners facility will be built to LEED standards, no discussion is provided regarding the dwellings compliance with LEED standards.
35. We note that the narrative does not identify or appear to incorporate civic uses and spaces.

36. p. 7 – Although this may be addressed as part of SEQRA review of the application, we note that the environmental review should address the likely route that residents will use to access the Taconic Parkway southbound. This has implications for the lotting arrangement.
37. p. 7 – The road geometry will need to be reviewed against the number of vehicles anticipated to use each road. The sketch plan does not provide information on where sidewalks, trails, bikeways, would be located. The plan should provide conceptual information on routing.
38. p. 7 – With regard to common driveways, the applicant will need to confer with the NYS Department of Transportation to determine whether they will allow common driveways. The Town's highway specifications allow up to three (3) lots to be served by a common driveway, although this requirement may be waived where appropriate. The Town will need to consider the advantages and disadvantages of allowing up to four homes to be located off a common drive.
39. The narrative regarding open space should provide some indication of how the space will be used. Will agricultural operations of former farm fields be allowed? Will the fields be left fallow? The proposed use of the space should be described.
40. p. 9 – the Narrative states that a map showing ecological communities is provided, "noting that many of these communities are common to the area". We would strike this sentence from the Narrative. First, it will not necessarily be apparent to Board members which ecological communities may be deemed "common". Although the habitat may be "common", it may support fauna that is sensitive thereby elevating its status.
41. p. 9 - The Narrative should provide additional detail with regard to the structures that are proposed to be retained, reused, and/or rehabilitated. A criterion of approval for a NND is to encourage protection of historical buildings and sites, sensitive archaeological areas and other important cultural resources. It would be useful if the narrative defined these resources.
42. p. 10 – The NND specifically references non-constrained land illustrated on the Pine Plains Future Land Use Concept map. The sketch plan should include a map which overlays the future land use map on the project site. The Town Board is to review the map, and determine whether the development site is characterized by unconstrained lands as shown on this map. Further, the narrative states that the 986 acres of unconstrained land as calculated by the applicant is sufficient to meet 100-28 (B) criteria but offers no explanation as to why or if this conclusion is accurate.
43. p 11 - Section 100-28 (C) (6) of the Zoning Law requires "sufficient amounts of land included in the non-constrained district illustrated in the "Pine Plains Future Land Use Concept" map in the Town of Pine Plains Comprehensive Plan to allow for development satisfying, to the fullest extent practicable, the criteria set forth in §100-28.B." The narrative explains that project data has been used to refine the identification of constrained lands as compared to the Comprehensive Plan Future Land Use Concept Map. We have several concerns about this. How, and to what extent, has this been refined? Is the applicant implying that the constrained map developed for the NND is more accurate and thus the Comprehensive Plan map is not relevant?

44. p. 11 – The base residential yield is in question, subject to the applicant verifying the acreage located in the Town of Pine Plains. We noted earlier a discrepancy of 8 acres.
45. p. 11 – As mentioned previously, Appendix A.1 does not provide sufficient detail and information to confirm that there are 195 pre-existing lots. Some of these lots are “split” lots, and others included in the count are not “building” lots, e.g., open land lots.
46. p 11 - Section 100-28 (D) of the Zoning Law articulates the requirements for a pre-application meeting that includes a narrative that discusses the community benefits provided from incentive dwelling units. Although the Pre-application identifies and calculates incentives requested, it does not address what community benefits will be gained by approval of those incentives. Since all density incentives are discretionary, it is critical that the Town Board have information that details community benefits.
47. p. 12 – The Narrative and sketch plan offer no evidence of the public recreational land or trails, public access to streams, and other recreational opportunities that will be provided. Thus, there is no support provided for this incentive request.
48. p. 13 – The Narrative should utilize the table provided in the Zoning Law for purposes of calculating the yield. Based on the applicant’s representations, the maximum yield for this project is as follows:

<b>See Zoning Law Section Number</b>	<b>Procedure</b>	<b>No. of Dwelling Units</b>
100-31.C	1. Determine Net Density Acreage	838 acres
100-28.E.(2)	2. Determine Residential Base Yield (Net Buildable Area/3 acres)	279 dwellings
100-28.E.(3)	3. Mandatory Affordable Housing	28 dwellings
100-28.E.(4)	4. Zoning Law Incentives (up to 30% of “2” above)	84 dwellings
100-28.E.(5)	5. Economic Development Area Incentive (10% of “2” above)	28 dwellings
100-34	Resubdivision of pre-existing lots	195 dwellings
100-28.E.(1)	Maximum Number of Dwelling Units on-Site (Shall not exceed 611 dwelling units)	614 dwellings

If all of the affordable units are developed on site, the maximum yield must be reduced by three dwelling units. It is our understanding that the applicant seeks to provide a fee in lieu of on-site affordable housing. Thus, the applicant is seeking a total of 572 on-site dwellings (614-42 = 572).

## **CRITERIA FOR APPROVAL OF THE NND**

49. The NND sketch plan and Narrative do not provide sufficient information to enable the consultants at this time to provide substantive comments to the Town Board and Planning Board as to whether the NND proposal is consistent with the criteria set forth in 100-28B. It is acknowledged that the applicant may not want to furnish specific information, e.g., architectural renderings or elevations, until a later date. However, there are opportunities to at least inform the Boards of the applicant's thoughts on architecture, e.g., photos of buildings that would be consistent with the architectural theme being considered. The pre-application materials do not provide adequate information regarding how each of the 18 criteria in 100-28B will be met. It is recommended that the applicant expand on the materials submitted to identify and provide specific examples on how the proposed project will meet each of the criteria of this section of the zoning. Specifically related to the 18 criteria, we note the following about the NND Pre-Application:

- #2 – The narrative fails to provide specifics regarding if and how the project will provide continuous systems of open space to link open spaces on adjoining properties. Since the open space and natural resources included on the maps do not extend beyond the property boundary, there is no information to evaluate how well this criterion will be met.
- #3 - The narrative states that “A series of interconnecting sidewalks and trails will be provided to promote pedestrian movement between and through neighborhoods, planned site amenities, recreational facilities, proposed open space resources, as well as linkage to the adjoining hamlet district”. However, neither the narrative nor the plans provide the locations, layout, configuration or any details as to how this will be achieved. Additionally:
  - a. Are these systems to be available to all of the public or only the residents of the project?
  - b. Who is responsible for the maintenance and cost of maintenance of the systems?
  - c. Will the systems be protected by easements?
- #4 – No information has been provided indicating how the project will promote architecture and building design consistent with that of Pine Plains and the Hudson Valley. For example:
  - a. The narrative only briefly mentions the clubhouse and social facility buildings, but does not provide any information as to the individual residences.
  - b. Will there be an architectural review board by a home owners association, or the Town level?
- #5 - The narrative states that the Clubhouse and social facilities will meet LEED standards. However, in previous information provided to the Planning Board, the applicant indicated that individual residences would also meet these requirements. This should be clarified and discussed regarding their impact and how these requirements will be monitored and achieved.
- #6 - The narrative does not provide a breakdown as to makeup of the proposed dwelling units regarding satisfying the needs of various household types, age groups, and

- income levels. The increase in base density, (i.e., one dwelling unit per 3 acres), was intended to ensure, among other things, that alternative housing types are constructed. It is not apparent whether the project will meet this objective.
- #7 – The narrative indicates it will promote traditional building and site development patterns, but does not offer illustrations, maps or further details as to how it will accomplish this criterion. The narrative should address conformance with traditional building and site development patterns, or the inability and reasons why these traditional patterns cannot be met.
- #9 – No information has been provided regarding how the community service demand generated by the increase population associated with the NND will be met.
- #10- No information is provided in the Pre-application to determine if this criterion has been met. Consistency with 100-28 (F) (1) (C) (housing diversity) cannot be determined.
- #11 - The SEQRA process will aid in the determination if the project preserves the site's biodiversity, protects significant habitats and insures long term protection of water quantity and quality. However, the Pre-application does not provide enough preliminary information to determine how this criterion will be met.
- #12 - The Pre-application does not discuss or show how the NND will protect historical and/or archaeological sites.
- #14 - The project mapping indicates that portions of the project will take place on slopes greater than 25% however, the narrative does not address how these slopes will be protected from erosion. The narrative does not address how the project's grading and layout will preserve the maximum amount of natural cover.
- #15 - The material submitted does not mention or address the minimization of stormwater runoff or the maximization of runoff quality and who will be responsible for the future maintenance of the stormwater facilities.
- #16 – The narrative indicates the potential for providing community benefits, however it fails to provide any specifics regarding how any of these will be provided. In addition, the narrative does not indicate to what extent, and in what manner, these community benefits (golf, trails, open space, public access to streams, etc.) will be available to the entire community of Pine Plains.
- #17 – The narrative states that approximately 54,125 feet of public roads will be constructed. The narrative should clearly indicate the future intent regarding the ownership and maintenance of these roadways. In addition, the narrative shall identify that many of the proposed roadways do not meet the requirements of the Town of Pine Plains Highway Specifications and that the applicant will be seeking the approval and acceptance of these roadways by the Town of Pine Plains Town Board and Highway Superintendent.

The consultants recognize that the applicant may have met the technical requirements of the submissions required for an NND pre-application meeting. However, since the purpose of the

pre-application meeting is to provide meaningful input on, and reaction to, the NND application from the Town Board and Planning Board members, the consultants feel that a higher level of detail than what has been supplied by the applicant should have been provided in the pre-application submission to further this discussion at this time. The applicant may want to consider addressing some of the deficiencies, and requests for further information, contained in this memo with a revised pre-application package to be submitted, reviewed and commented upon by the Town's consultants and the Town Board and Planning Board before moving forward with its submission of the NND Zone Petition.

**Attachment**  
**Criteria for Approval of a New Neighborhood Development (NND)**

- (1) creates a distinct neighborhood settlement area integrated with protected open space which may be used for agricultural, silvicultural, recreational, limited nonresidential and environmental protection purposes;
- (2) in its design, maximizes opportunities to provide a continuous system of open space which may be linked to open space areas on adjoining property;
- (3) creates opportunities and/or the potential to physically link the existing Pine Plains hamlet to the NND by creation of pedestrian and bicycle corridors and accessways;
- (4) promotes architecture and building design consistent with that existing in traditional and historic Hudson River valley communities including the Pine Plains hamlet;
- (5) promotes energy-saving and building techniques, like those promulgated by the U.S. Green Building Council;
- (6) includes a diversity of dwellings that satisfy the needs of various household types, age groups, and income levels in Pine Plains, and promotes affordable housing opportunities;
- (7) promotes traditional building and site development patterns with an interconnected and generally grid-like pattern of streets and blocks, except where topography and other unique environmental characteristics limit said pattern;
- (8) promotes use of neighborhood greens, landscaped streets, and “single-loaded” streets woven into street and block patterns in order to provide neighborhood identity and space for social activity, parks, and visual enjoyment, except where topography and other unique environmental characteristics limit said pattern;
- (9) meets the community service demands generated by an increased population associated with a NND;
- (10) is designed in accordance with the design standards set forth in §100-28.F;
- (11) preserves the site’s biodiversity, maintains the diversity of plant and animal communities, protects significant habitats and insures long-term protection of water quantity and quality;
- (12) encourages protection of historical buildings and sites, sensitive archaeological areas and other important cultural resources;
- (13) encourages the conservation and enhancement of the visual quality and rural character of undeveloped areas of the Town by protecting visible open space and scenic vistas and encourages the creation and/or preservation of vegetative buffers along highways and between potentially conflicting land uses by the careful siting, design and buffering of building development;
- (14) minimizes flooding and erosion by protecting the functions of wetlands, water bodies,

- water courses, flood plains, areas of high water table, steep slopes, erosion hazard areas and natural vegetative cover;
- (15) minimizes stormwater runoff and maximizes the quality and quantity of groundwater recharge by reducing land disturbance, using natural drainage systems wherever possible, filtering runoff from impervious surfaces and maximizing on-site recharge;
  - (16) provides special community benefits such as open space protection, public access to park land, hiking trails, biking trails and recreational resources;
  - (17) provides for the construction or improvement of public facilities, services or utilities;
  - (18) allows limited opportunity for nonresidential development through adaptive reuse of historic structures, or proposes uses that are allowed in the R district and will not compete with retail, personal service or other commercial uses intended to be accommodated in the Pine Plains hamlet.