

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Regular Meeting March 18, 2019 at 7:00 PM

PRESENT:

Chairperson: Justin Vlietstra
Members: Jo Anne Shannon
Renee Stetzer
Susan Lhota
Eli Bannister

Recording Sec: Linda Habeeb
PZBA Attorney: Mindy L. Zoghlin, Esq.

Motion: Chairperson Vlietstra made a motion, seconded by Member Shannon, to open the workshop meeting at 6:30 pm.

Vote: Shannon – yes; Vlietstra – yes; Lhota – yes; Stetzer – yes; Bannister - yes. *Motion carried.*

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to close the workshop meeting and call the regular meeting to order at 7:00 pm.

Vote: Shannon – yes; Vlietstra – yes; Lhota – yes; Stetzer – yes; Bannister - yes. *Motion carried.*

Conflict of interest disclosure:

- Member Vlietstra stated that he will recuse himself from the discussion of the 75 Monroe Avenue application because he has made numerous public statements about the project prior to joining the PZBA.

Chairperson Vlietstra stated that at the previous meeting, the Board announced that the public hearing for the use variance application for 47 State Street would be continued at the March meeting, but the applicant has since withdrawn the application, so the Board has no further action to take on this application.

Motion: Chairperson Vlietstra made a motion, seconded by Member Lhota, to close the public hearing for 47 State Street.

Vote: Shannon – yes; Vlietstra – yes; Lhota – yes; Stetzer – yes; Bannister - yes. *Motion carried.*

Member Vlietstra left the meeting room at this time.

Pittsford Canalside Properties, 75 Monroe Avenue

Present: Chris DiMarzo, Bryan Powers, Mark IV Enterprises; John Mancuso, Harris Beach PLLC

Discussion: Member Lhota stated that she will be the Acting Chairperson for the 75 Monroe Avenue matter. She stated that she will begin with a recap of the actions that led to this meeting. On January 21, 2018, PCP delivered a Coastal Assessment Form to the Planning Board. The Board held a public hearing, and received comments from the public, and the Planning Board determined that the proposed Westport Crossing project was not consistent with the Local Waterfront Revitalization Program (LWRP). On January 21, 2019, PCP asked the Planning Board to reconsider the LWRP

review, and on January 28, 2019, the Planning Board voted to rehear PCP's application for an LWRP consistency determination. PCP delivered a letter to the Planning Board, dated February 13, 2019, in support of its request.

Member Lhota explained that the applicant will be given approximately 15 minutes to explain the reason that the Board should determine that the Westport Crossing Project is consistent with the Village's Local Waterfront Revitalization Program. Then the hearing will be open to the public, and each speaker will have 3 minutes to state a comment; they are reminded that the comments should be addressed solely to the Board.

Motion: Member Lhota made a motion, seconded by Member Shannon, to open the public hearing at this time.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes. *Motion carried.*

Mr. DiMarzo began by stating that this is the 153rd public meeting on the Westport Crossing Project. There have been multiple meetings with multiple boards over a number of years. The Local Waterfront Revitalization Program's purpose is to protect the waterfront and revitalize the area. Mr. DiMarzo further explained that the area for the proposed project was previously an oil refinery. The applicants entered a New York State Brownfield Program and remediated the site. He showed a 1989 photograph showing the site as it previously was. PCP removed contaminated petroleum from the site. Over the years, the contaminated petroleum had infiltrated into the canal. He stated that PCP has spent approximately \$5 million to clean up the site. He further commented that they have received a certificate from the DEC stating that the site is now clean. He further stated that cleaning up the contaminated site is consistent with the LWRP.

Mr. Powers presented the current site plan, dated 4/3/18. The drawings show the original plans that have been revised based on APRB changes. He stated that the proposed buildings have been reduced in size. The sum total of all the building footprints on the site is 14 percent smaller; approximately 12,000 square feet of building has been reduced. The building lengths have been reduced by 156 feet over six buildings, which is an 11.8 percent reduction in the overall building length. The impervious area of the site has been reduced by 6.7 percent. The amount of 4-story areas of the buildings has also been reduced by 73 percent. The building volume (length, width, and height) has been reduced by 33 percent over 6 buildings. The number of apartments has not been changed: 167. Mr. DiMarzo explained that this is allowed by the R-5 Code, and the business cannot be sustained without this number of apartments.

Motion: Member Lhota made a motion, seconded by Member Shannon, to open the hearing for public comment at this time.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes. *Motion carried.*

- Mike Reynolds, 35 Church Street, stated that PCP claims that the project is compatible with the Village because the buildings are varied in size and each building is uniquely different. He further stated that the main buildings are all the same size: larger than any other buildings in the Village. The buildings all have the same features: stacks of balconies, which are not appropriate in an historic district, and fake chimneys. To be compatible with Schoen Place, the buildings would have to appear to have been built by different owners at different times.

- Mr. Reynolds stated that a Type I SEQR action should have been reviewed for compliance with the LWRP. The review was not done, which renders the R-5 Zoning Code invalid.

Motion: Member Lhota made a motion, seconded by Member Shannon, to close the public hearing at this time, as there was no one else wishing to comment.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes. *Motion carried.*

Member Lhota explained that Chapter 121 of the Village Code guides this discussion, which chapter sets forth the factors that the Board is required to consider in evaluating the consistency of the proposed action with the Local Waterfront Revitalization Program.

Village Code § 121-5(G)(1) states that the action shall be consistent with the policy to:

Foster a pattern of development in the LWRP area that incorporates the design guidelines contained in Section V of the LWRP and which enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of the waterfront location, minimizes adverse effects of development (LWRP Policy 1), and takes advantage of the community's location on the canal to provide amenities for residents and visitors, and guides future development so that it complements, not competes with or detracts from, the historic village.

Member Lhota stated that the Board will begin with a discussion about community character. She stated that there are some observable facts about the Village of Pittsford. The Village has been referred to as an old canal Village, with the Erie Canal being a defining constant, and structures along the canal displaying a variety of building styles and shapes relating to their original function. Schoen Place is one of the oldest remaining sections of original canal buildings that have been preserved to reflect that history. It is an important defining feature of the character of the community.

Member Lhota stated that another fact about the Village of Pittsford is that it is primarily a small, residential Village, and the entire village has been designated as historic. The residences are primarily single-family homes that are organized along walkable blocks; sidewalks connect neighborhoods along streets with off-street parking. She further stated that residences address the street, and have garages, and parking is out of view. The streets are tree-lined and the houses on the streets exhibit individual landscaping, and design schemes. Most residences are one- and two-story structures, made of wood, and balconies are nonexistent. Village scale has been determined by consistency in building size, variation, and style. Canal-side views are either canal-commercial, reflecting the agrarian past, or are open spaces. There are no large groups of uniformly designed buildings in the Village such as this project proposes.

Member Bannister stated that the Village is quaint, with desirable walkability. He stated that in the LWRP Appendix, there are 20 examples of village vernacular, and the proposed size and scale of the project do not match any of the examples. A typical Village building is one or two stories, with varied individual styles.

Member Stetzer stated that the proposed project is different from any other structures that currently exist in the Village, and therefore, there is nothing comparable to compare it to in the Village. Member Lhota stated that it is a residential community, and throughout the Village, there is a consistency in building size and height, and the manner in which the buildings address the street. There are no

groupings of large buildings, such as that proposed by the applicant. She further stated that the proposed project is a new scale for the village, and the question is whether the project complements the historic character of the village or detracts from it. Member Lhota stated that for these reasons, a main street comparison is valid. The LWRP asks whether the project is consistent or inconsistent with these unique characteristics of the Village.

Member Lhota stated that another feature that defines the Village is view sheds. A new development should not be constructed in such a way as to block existing view sheds. On Sutherland Street, there is currently a clear view shed to the canal, which is a visual open space that defines the Village of Pittsford. She further stated that the proposed development is a visual anomaly. Member Shannon added that this is a gateway to the Village, and the project should not overpower the historic character of the Village. She pointed out that the entire Village is a National Historic District, and even though the project is somewhat isolated from the Village, it is still a part of the Village.

Board members reviewed the factors the Board is required to consider in evaluating the consistency of a proposed action with the LWRP.

Member Lhota stated that Village Code § 121-5(G)(1) (LWRP Policy 1) “Foster a pattern of development in the LWRP area that incorporates the design guidelines contained in Section V of the LWRP” is inconsistent with this policy, for the reasons discussed previously.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **inconsistent** with this policy.

Member Lhota stated that Village Code § 121-5(G)(2) (LWRP Policy 2) “Protect water-dependent uses, promote siting of new water-dependent uses in suitable location and support efficient harbor operation” is consistent with this policy. Board members noted that the project allows for pedestrian walkways, and enhances the canal–front property, which is a positive aspect of the plan.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **consistent** with this policy.

Member Lhota stated that Village Code § 121-5(G)(3) (LWRP Policy 3) “Protect existing agricultural lands within the LWRP area” is not applicable to this policy.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **not applicable** to this policy.

Village Code § 121-5(G)(4) (LWRP Policy 4): “Promote sustainable uses of living marine resources in coastal waters”. Member Lhota stated that the project does nothing to detract from those resources, and by making the canal more accessible to the public, it promotes sustainable uses.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **consistent** with this policy.

Board members agreed that Village Code § 121-5(G)(5) (LWRP Policy 5) “Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities” is not applicable to this policy.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **not applicable** with this policy.

Member Lhota stated that Village Code § 121-5(G)(6) (LWRP Policy 6) “Protect and improve water resources” is consistent with this policy. Board members noted that the applicants were responsible for removing toxic substances that were seeping into the canal.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **consistent** with this policy.

Board members agreed that Village Code § 121-5(G)(7) (LWRP Policy 7) “Minimize loss of life, structures and natural resources from flooding and erosion” is not applicable to this policy.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **not applicable** with this policy.

Board members agreed that Village Code § 121-5(G)(8) (LWRP Policy 8) “Protect and improve air quality in the LWRP area” is consistent with this policy.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **consistent** with this policy.

Board members agreed that Village Code § 121-5(G)(9) (LWRP Policy 9) “Minimize environmental degradation in the LWRP area from solid waste and hazardous substances” is consistent with this policy.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **consistent** with this policy.

Board members agreed that Village Code § 121-5(G)(10) (LWRP Policy 10) “Provide for public access to, and recreational use of, coastal waters, public lands and public resources of the LWRP area” is consistent with this policy.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **consistent** with this policy.

Village Code § 121-5(G)(11) (LWRP Policy 11) “Enhance visual quality and protect outstanding scenic resources.” Member Lhota stated that in order to enhance the visual quality of the Village, the project should be in the context of an historic village. She further stated that if the project is built at one of the main gateways into the village, the visual quality of the historic village will not be enhanced, but will be obstructed. The defining quality of the Village is contrasted with the proposed project by its height and scale. The buildings along the canal reflect the commercial history of the Village – an agrarian past that resulted in buildings that are functionally individual and appropriate buildings. The buildings in the proposed project are new and out of character with the Village.

Member Bannister commented that the view sheds from various areas in the Village will be negatively affected by the massiveness of the buildings in the proposed project.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **inconsistent** with this policy.

Village Code § 121-5(G)(12) (LWRP Policy 12) “Preserve historic resources of the LWRP area.”

Member Lhota stated that the historic resource is the Village itself, for example, neighborhoods that are defined by tree-lined streets and houses of a certain elevation, and the buildings along Schoen Place. Board members agreed that the building heights, the building materials, the grouping of buildings, and the project’s isolation do not preserve the historic resources of the Village. Member Stetzer questioned whether the LWRP refers to the specific site where the project is proposed, or whether it refers to the entire Village. Member Lhota stated that she reads the LWRP with a broader interpretation to include the entire Village.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **inconsistent** with this policy.

Village Code § 121-5(G)(13) (LWRP Policy 13) All actions must conform to the State Environmental Quality Review Act (SEQRA) regulations (6 NYCRR Part 617). The Board of Trustees conducted SEQR review and issued a negative declaration for this project.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **consistent** with this policy.

Village Code § 121-5(G)(14) (LWRP Policy 14) All actions must adhere to Village protective measures for environmental resource preservation (Pittsford Environmental Guidebook and the Greenprint for Pittsford's Future).

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister - yes.

Finding: the action is **not applicable** with this policy.

Ms. Zoghlin explained that the waterfront consistency law of the Village provides a framework for considering the policies and purposes of the Local Waterfront Revitalization Program when reviewing actions that are within the LWRP district. The LWRP provides the tools to consider all of the factors to make this determination.

Member Lhota stated that the first factor carries a great deal of weight in making this determination. She explained that there are many areas of consistency, but those areas do not outweigh the visual impact of the project. She stated that the project detracts from the Village character. She also noted that the Board appreciates the work that the developer has done in cleaning up a contaminated site.

Motion: Member Lhota made a motion, seconded by Member Shannon, that the proposed project is **inconsistent** with waterfront consistency standards, affirming the Board's previous determination of April 16, 2018.

Vote: Shannon – yes; Lhota – yes; Stetzer – yes; Bannister – yes; Vlietstra - abstain.

Motion: Member Lhota made a motion, seconded by Member Shannon, to adjourn the meeting at 8:30 pm.

Vote: Shannon - yes; Lhota-yes; Erwin – yes; Stetzer – yes. *Motion carried.*

RESOLUTION 2019- 3 Village of Pittsford PZBA

At a regular meeting of the Village of Pittsford Planning Board held at the Village Hall on the 18th day of March 2019 at 7:00 p.m. The meeting was called to order by Susan Lhota and upon roll being called, the following were present:

PRESENT: Renee Stetzer
 Eli Bannister
 Susan Lhota

JoAnne Shannon
Justin Vlietstra

Member Justin Vlietstra recused himself on the basis of conflict of interest.

The following resolution was offered by Acting Chair Susan Lhota, who moved its adoption, and seconded by Board Member Shannon, to wit:

WHEREAS, On January 22, 2018 Pittsford Canalside Properties, LLC (“PCP”) delivered a Coastal Assessment Form (“CAF”) to the Village of Pittsford Planning Board (the “Board”) for the proposed Westport Crossing Development at 75 Monroe Avenue pursuant to chapter 121, Local Waterfront Consistency, of the Code of the Village of Pittsford; and

WHEREAS, The Board held a public hearing, and received comments thereat; and

WHEREAS, after review, on April 16, 2018 the Planning Board determined that the Westport Crossing project was not consistent with the LWRP; and

WHEREAS, by letter dated January 21, 2019 PCP asked the Planning Board for permission to address specific concerns raised during the LWRP review; AND

WHEREAS, on January 28, 2019, the PZBA unanimously passed a resolution to rehear PCP’s application for a waterfront consistency determination; and

WHEREAS, PCP asked the Planning Board to set the rehearing down for the March 2019 meeting; and

WHEREAS, PCP submitted a letter dated February 13, 2019 to the Planning Board in support of its application; and

WHEREAS, the ZBA held a regular meeting, duly published and posted on March 18, 2019 to rehear the PCP application for a waterfront consistency determination; and

WHEREAS, the ZBA reopened the public hearing on waterfront consistency determination at the March 18, 2019 meeting; and

WHEREAS, PCP offered public comment in support of its application; and

Whereas, the public offered comments with respect to PCP's application,

NOW THEREFORE, IT IS RESOLVED as follows:

1. **WHEREAS**, after review, the Planning Board makes the following findings regarding the waterfront impacts as required by §121-5.G:

(1) Foster a pattern of development in the LWRP area that incorporates the design guidelines contained in Section V of the LWRP and which enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of the waterfront location and minimizes adverse effects of development (LWRP Policy 1), takes advantage of the community's location on the canal to provide amenities for residents and visitors and guides future development so that it complements, not competes with or detracts from, the historic village.

Finding: the action is **inconsistent** with this policy.

(2) Protect water-dependent uses, promote siting of new water-dependent uses in suitable location and support efficient harbor operation (LWRP Policy 2).

Finding: the action is **consistent** with this policy.

(3) Protect existing agricultural lands within the LWRP area (LWRP Policy 3). Finding: the action is **not applicable** with this policy.

(4) Promote sustainable uses of living marine resources in coastal waters (LWRP Policy 4).

Finding: the action is **consistent** with this policy.

(5) Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands and rare ecological communities (LWRP Policy 5).

Finding: the action is **not applicable** with this policy.

(6) Protect and improve water resources (LWRP Policy 6).

Finding: the action is **consistent** with this policy.

(7) Minimize loss of life, structures and natural resources from flooding and erosion (LWRP Policy 7).

Finding: the action is **not applicable** with this policy.

(8) Protect and improve air quality in the LWRP area (LWRP policy 8).

Finding: the action is **consistent** with this policy.

(9) Minimize environmental degradation in the LWRP area from solid waste and hazardous substances (LWRP Policy 10).

Finding: the action is **consistent** with this policy.

(10) Provide for public access to, and recreational use of, coastal waters, public lands and public resources of the LWRP area (LWRP Policy 11).

Finding: the action is **consistent** with this policy.

(11) Enhance visual quality and protect outstanding scenic resources (LWRP Policy 12).

Finding: the action is **inconsistent** with this policy.

(12) Preserve historic resources of the LWRP area (LWRP Policy 13).

Finding: the action is **inconsistent** with this policy.

(13) All actions must conform to the State Environmental Quality Review Act (SEQRA) regulations (6 NYCRR Part 617).

Finding: the action is **consistent** with this policy.

(14) All actions must adhere to Village protective measures for environmental resource preservation (Pittsford Environmental Guidebook and the Greenprint for Pittsford's Future).

Finding: the action is **not applicable** with this policy.

(15) Perform dredging and disposal of dredge spoil materials in a manner which is protective of natural resources.

Finding: the action is **not applicable** with this policy.

2. The following additional findings are noted: The basis for these Findings will be set forth in a written Findings Statement based on the documents considered by the Planning Board and its deliberations in this matter.
3. **NOW THEREFORE, IT IS RESOLVED** that the Planning Board of the Village of Pittsford finds the action to be **inconsistent** with waterfront consistency standards.
4. The Planning Board affirms its determination of April 16, 2018.
5. That the determination to affirm our April 16, 2018 determination will not prejudice any vested rights PCP may have as a result of our April 16, 2018 determination.

The question of the foregoing resolution was duly put to vote as follows:

	Yes	No	Abstain
Justin Vliestra	<input type="checkbox"/>	<input type="checkbox"/>	x
Renee Stetzer	x	<input type="checkbox"/>	<input type="checkbox"/>
Eli Bannister	x	<input type="checkbox"/>	<input type="checkbox"/>
Susan Lhota	x	<input type="checkbox"/>	<input type="checkbox"/>
JoAnne Shannon	x	<input type="checkbox"/>	<input type="checkbox"/>

Dated: March 18, 2019
Pittsford, New York

By order of the Village of Pittsford Zoning Board of Appeals

s/ Susan Lhota
Susan Lhota, Acting Chair

Linda Habeeb, Recording Secretary