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 Assessor: (845) 688-5003
 Assessor Fax: (845) 688-5708
 ZBA/ZEO/Planning: (845) 688-5008
 Highway: (845) 688-9901
 Fax: (845) 688-2041
 P.O. Box 134, 7209 Rte. 28, Shandaken, NY 12480

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**Town of Shandaken Planning Board
 Minutes for Regular Monthly Meeting
 November 9th, 2023**

The regular monthly meeting was called to order with the pledge of allegiance at 7:02 pm.

Roll called by Secretary to the Planning Board Olivia Amantia, and attendance was recorded as follows:

| | |
|----------------------|---------|
| Cliff Rabuffo, Chair | Present |
| Art Christie | Present |
| Joanne Kalb | Present |
| John Horn | Present |
| Allen Shiner | Present |
| Sam Spata | Present |
| Vivian Welton | Present |

Roll Call Summary: 7 Present, 0 Absent

Others Present: Zoning Enforcement- Officer Grace Grant, Supervisor- Peter Disclafani, Tariq Gujar, Don Brewer

Minutes:

Chair Rabuffo asked the Board if they had any comments or corrections from the previous month's meeting minutes. Board Member Christie made a motion to accept the minutes from the October 2023 meeting with no corrections, Board Member Welton seconded the motion, all in favor.

Aero Star Petroleum – 4.46-3-10

The first order of business on the agenda is Aero Star Petroleum. Tariq Gujar, owner of the Bellayre Plaza is here this evening with the newest site plan for the plaza. The Board members review the new revised site plan. In previous meetings there was a question of use of the space, and how much the new plaza would increase in that current use. The revised site plans reflect less than fifty percent use. The gasoline pumps have been reduced

as well as the parking spots to accommodate the setbacks. The laundry facility has also been reduced as well. Chair Rabuffo asks the Board Members if they have looked over the Short Environmental Assessment Form, which has been reviewed at previous meetings. Chair Rabuffo states everything has been addressed, and revised which needed to be.

Chair Rabuffo reads the draft resolution for both the Negative Declaration as well as the approval of the Site Plan (draft resolution attached to these minutes.)

Board Member Shiner made a motion to accept the Negative Declaration, seconded by Board Member Spata. Roll call vote as follows:

| | |
|----------------------|-----|
| Cliff Rabuffo, Chair | Yes |
| Art Christie | Yes |
| Joanne Kalb | Yes |
| John Horn | Yes |
| Allen Shiner | Yes |
| Sam Spata | Yes |
| Vivian Welton | Yes |

7 yes's 0 nos.

Board Member Christie made a motion to approve the Site Plan, seconded by Board Member Kalb. Roll call vote as follows:

| | |
|----------------------|-----|
| Cliff Rabuffo, Chair | Yes |
| Art Christie | Yes |
| Joanne Kalb | Yes |
| John Horn | Yes |
| Allen Shiner | Yes |
| Sam Spata | Yes |
| Vivian Welton | Yes |

7 yes's 0 nos.

APFU LLC – 13.-2-1.112

The next order of business is APFU LLC. Don Brewer is here to represent them this evening. Mr. Widensky owner of APFU LLC, would like to put a 7 unit townhouse in. The Board Members look over the maps provided for them. Mr. Brewer states he will go to the Zoning Board of Appeals if necessary. Chair Rabuffo states the town code does not approve townhouses, it simply doesn't allow it in the code. Board Member Spata would like to hear some more information regarding the proposed units. Mr. Brewer states Mr. Widensky recognizes the need for housing, and this would speak to the need for it. The potential units are one bedroom, one bathroom, in a one story building. Board Member Spata asks if these

proposed units would be short term rentals? Mr. Brewer replied no they will not be, Mr. Widensky is interest in long term rentals, not short term rentals. Board Member Welton states one of the units look's bigger then the rest, Mr. Brewer states the size difference is due to the setbacks, and the placement of the septic . The property was previously for a two-bedroom home, and has been subdivided. Board Member Spata asks why change it now? Mr. Brewer states the owner feels it would appeal to the housing need. Chair Rabuffo adds, the owner wanted to do a townhouse from the start. The septic, and an entrance to the property has already been done, neither of which they require permits from the Town.

Chair Rabuffo states since we know this 7-unit townhouse is not allowed in the code, it should be referred to the ZBA. If the applicant goes to the ZBA, and they grant them a variance , then the Board would need more information on this project, and would need to continue reviewing this. Board Member Spata states the applicant could proceed with four units? ZEO Grant states, the only way you can have a three-unit building in Shandaken is through the conversion of an existing structure, and there is no structure. ZEO Grant refers to 116-40A in the code book and states there are six requirements, and at least four which will require a variance. Board Member Spata states he does not like the idea of a potential 7 unit townhouse, he feels it does not fit in the character of our town. He adds it is not appropriate for our community character, especially if it looks similar to Norsdale on Route 28. Board Member Welton states we need housing, and this is a start, it is only a one-story building, it will not look too out of place. Chair Rabuffo reads a section 116-40 A from the code book pertaining to this potential project. ZEO Grant states if the variances are approved, what more would this Board like to see when the applicant returns to present. The Board states elevations, lighting, landscaping, and septic approval. Board Member Welton makes a motion to refer this applicant to the ZBA for an area variance in relief of 116-40 a, subsection 1,2, and 4, seconded by Board Member Shiner. All in favor, except for Board Member Spata. He states the reason hes opposed is it is out of character for the Town.

Shandaken Inn Properties LLC – 4.20-1-21.110

The next order of business is the Shandaken Inn. Rafael Santiago is here this evening to represent them. He is here this evening for an extension of site plan approval. Chair Rabuffo and Board Member Spata recused themselves. Board Member Welton states neighbors of the Shandaken Inn have been expressing there has been traffic congestion, and those whose driveways are right next to the Inn have been having trouble getting in and out of their driveways. Mr. Santiago states he will investigate it. Board Member Shiner makes a motion to give the Shandaken Inn the continuance they need, seconded by Board Member Christie. Roll call vote as follows:

| | |
|----------------------|---------|
| Cliff Rabuffo, Chair | Recused |
| Art Christie | Yes |
| Joanne Kalb | Yes |
| John Horn | Yes |
| Allen Shiner | Yes |
| Sam Spata | Recused |
| Vivian Welton | Yes |

5 yes's 2 Recused

Zen Arts Center Inc – 25.1-2-9.100

The next order of business is Zen Arts Center Inc, for a special use permit. Adam Katsman is here this evening to represent them. The applicant attended last month's Planning Board workshop, and is here this evening to update the Board on the project. The Zen Arts Center plan to install solar panels. Board Member Christie ask's the applicant if he was able to get the approvals he needed, since the last time we saw him. The applicant states they are still waiting for permission from NYSEG, so it is still ongoing. Board Member Welton ask's if this is going to tie into community solar. The applicant states no, they currently have several solar panels all over the property. Board Member Kalb states last time the applicant was here, they had planned on connecting all the solar panels. The new panels although will be in a field they would like them to look nice, and be aesthetically pleasing. Board Member Christie states the applicant is asking for a 19.68 kilowatt expansion, but it will be connected to the old panels? There is a discussion amongst the Board whether the multiple solar panels count'' as accessory structures. ZEO Grant states three accessory structures are allowed according to code, if the parcel is larger then 5 acres then more are allowed by Special Use Permit. Chair Rabuffo ask's the Board Members if they have reviewed the short environmental assessment form. Board Member Christie adds he does not see any issue with this, and that no one will see the panels. Board Member Welton makes a motion to set a public hearing for December 13th at 6:45, seconded by Board Member Horn, all in favor.

Michael Ferrari & Maxine Sherman – 25.15-1-11.100

The next order of business is Maxine Sherman, and Mike Ferrari for a special use permit to convert an existing barn into an Accessory Dwelling Unit. The couple was previously represented by Tim Guiher, Kaaterskill Construction. They recently were given the approvals for the septic system. Board Member Christie ask's the applicant to walk the Board through the project, since its been months since they have discussed this project. Mr. Ferrari states it is an existing small barn on a 3 acre property that they are looking to renovate, plans had been submitted but they were awaiting the approval of the septic. Chair Rabuffo asks for a motion to be made to close the public hearing for the applicant that had been left open, months prior, upon waiting for the septic approval. Board Member Welton makes a motion to close the public hearing, seconded by Board Member Kalb, all in favor.

Board Member Christie makes a motion to approve the special use permit, seconded by Board Member Welton, roll call vote as follows:

| | |
|----------------------|-----|
| Cliff Rabuffo, Chair | Yes |
| Art Christie | Yes |
| Joanne Kalb | Yes |
| John Horn | Yes |
| Allen Shiner | Yes |
| Sam Spata | Yes |
| Vivian Welton | Yes |

7 yes's 0 nos.

Adjournment: There being no further business before the Board, Chair Rabuffo makes a motion to close the meeting, seconded by Board Member Siner; all in favor. Meeting adjourned at 8:15pm.

These minutes were prepared by the Planning Board Secretary Olivia Amantia

**RESOLUTION
TOWN OF SHANDAKAN PLANNING BOARD
AERO STAR PINE HILL PROJECT
SEQR NEGATIVE DECLARATION AND NOTICE
SPECIAL USE PERMIT AND SITE PLAN APPROVAL**

BE IT RESOLVED that the application of Aero Star Petroleum, Inc., for special use permit and site plan approval for specified commercial uses is granted, subject to the conditions, limitations and restrictions set forth below.

| | |
|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Application Name: | Aero Star Pine Hill Mobil |
| Reviewed Materials: | Site plan, prepared by North Engineers & Design Associates, last revised October 27, 2023: Application and Short Environmental Assessment Form (EAF); EAFMapper; Stormwater Pollution Prevention Plan (SWPPP); Ulster County Planning Board recommendation with review date September 6, 2023; responses to County Planning and other comments from North Engineers, dated September 19, 2023; memorandum from Zoning Board of Appeals, dated October 19, 2023 |
| Property Location: | 9014-9022 State Route 28, Pine Hill Tax Map No. 4.46-3-10 |
| Zoning District: | HC (Hamlet Commercial) |
| SEQR Status: | Unlisted |
| Description of Action: | Re-development of site to maintain existing uses and add Dunkin' establishment in a multi-use building |

The subject site is currently improved with a gas station, convenience store, including deli and liquor store, and commercial laundromat in two buildings. The applicant proposes to demolish and remove the existing structures and re-develop the site with two new buildings for the same uses and add a Dunkin' establishment in a multi-use building. The gas station is a lawful nonconforming use, the laundromat is an authorized special use and the other uses are permitted as of right in the HC zoning district.

The proposed improvements, including buildings, associated vehicle entrance and exit from/to Route 28, on-site driveways, off-street parking, fuel delivery area, stacking lane for the Dunkin' establishment, internal by-pass lane, signage, water and sewer connections, and dumpster enclosure are shown on the site plan. The re-developed site will utilize existing stormwater/drainage patterns which flow to three existing depressions in the State right-of-way

fronting the property. The site will continue to be served by the NYCDEP sewer system and the Town's water system.

The site plan complies with all bulk requirements. In response to a determination made by the Zoning Board of Appeals at a meeting held on October 18, 2023, the applicant reduced the land area of the proposed re-developed site, the size of the buildings and the number of gas pumps such that none of those features are enlarged by more than 50% of the existing conditions, all as shown on the revised site plan. The two proposed buildings are each set back further from the front lot line than the existing buildings and therefore, are more conforming than the existing buildings. In addition, since the State right-of-way is very wide in front of this property, the proposed buildings locations and parking spaces are set far back (65-75 feet) from the Route 28 highway itself.

Although the gas station is a lawful nonconforming use, as opposed to a special permit use, the Board reviewed the special use permit conditions, in §116-40D of the zoning code, applicable to retail gas stations and to combined gas station/quick-stop retail food outlets. Although this site plan is not required to comply with the gas station conditions, the Board determines that all of those special conditions are met by this site plan application, except subsection (2). With respect to subsection (2), the site plan complies with all of the requirements of that subsection, except the provision that no building shall be erected closer than 50 feet to a lot line. The proposed building is located much greater than 50 feet from all lot lines, except for the front lot line and, as stated above, the proposed building is more conforming than the existing building and is located approximately 65-75 feet from the Route 28 highway.

A public hearing was duly noticed and held on _____, continued to _____, and thereafter closed. The Board has carefully considered all public comments. Public comments primarily related to traffic, the Dunkin' stacking lane and compliance with zoning requirements

With respect to SEQR compliance, the Board has considered the criteria set forth in §617.7(c) of the SEQR Regulations and evaluated relevant areas of potential environmental concern to determine whether this action may have a significant adverse impact on the environment. The Board has reviewed the Short Environmental Assessment Form Part 1, the Full EAFMapper for this parcel on the NYSDEC website, and all Board members are familiar with the proposed project and the area. Based on the EAF Part 1, the EAFMapper, public comments, agency comments, and the Board's knowledge of the area, and after careful review and evaluation, there is no evidence of potential significant adverse environmental impacts that may be caused by this project. The Board approves the EAF Part 2.

The EAFMapper states that the site is within the NYC Watershed boundary, but since wastewater will be discharged to the NYCDEP sewer system and the stormwater/drainage patterns, discharge and conveyance will remain the same, with no discharge to any wetlands or waterbodies, there will be no adverse environmental impact on the NYC watershed. The EAFMapper also states that regulated wetlands or other waterbodies adjoin the project site, but based on inspection, no wetlands or other waterbodies adjoin the project site. There will be no

disturbance of or discharge to any wetlands or other waterbodies, and there will be no adverse environmental impact.

The Ulster County Planning Board (UCPB) recommendation states, as a required modification, that the Board conduct a traffic analysis and a queuing analysis, to limit the eastern driveway as entrance only and limit the western driveway to exit only, and to consider a left-hand turn lane. Board members have inspected other Dunkin' establishments for stacking requirements and determine that the proposed stacking – for 12 vehicles – is adequate. In addition, the Board determines that Route 28 has significant traffic capacity, and that the re-developed site will not cause an adverse traffic impact on Route 28 or any intersections. Neither the traffic volume nor the accident data provided by warrant a left-hand turn lane. The final site plan complies with the UCPB recommendation concerning the entrance and exit driveways.

UCPB's recommendation states that the applicant must provide a detailed landscaping plan. However, the total site itself (including the existing developed area) is only approximately 1.25 acres, whereas the size of the property is 3.98 +/- acres, and the site is surrounded by woods. The applicant's project engineer has informed the Board that if permitted by NYSDOT, the applicant will plant low-growing perennials on the slopes facing Route 28 within the State right-of-way. NYSDOT has informed the applicant's engineer that "substantial plantings" are not permitted in the State right-of-way.

UCPB's recommendation states that it is important to include compliance with the NYS Energy Code, and this project is required to and will comply with the NYS Energy Code.

The UCPB recommendation states that a stormwater management and grading plan must be provided. A stormwater/drainage management and grading plan and a stormwater Pollution Prevention Plan (SWPPP) related to the ½ acre of new disturbance on the site has been provided by the applicant. The site currently drains in sheet flow to three depression basins in the State right-of-way and crosses under Route 28 near the easterly end of the property. This drainage pattern will continue with the re-developed site. In addition, the drive-thru area will include two catch basins and a culvert to convey roof and area runoff to the western depression basin. The grading plan also shows spot elevations to demonstrate that the stormwater/drainage plan will function properly. The proposed retaining wall will not adversely affect runoff quantity or quality. The wall will direct runoff from the uphill wooded area to either side of the site and into the east and west depression basins. There will be no adverse environmental impact.

The UCPB recommendation states that lighting levels must be calculated with levels not exceeding Illuminating Engineering Society (IES) Outdoor Site recommended illuminance levels, that all lighting is required to be LED and meet the "fully shielded" definition adopted by the International Dark-Sky Association (IDSA), and recommends that canopy lighting be less than 20 footcandles to reduce off-site glare. The site plan shows that all proposed new lights are specified and all lights shall be LED with full cutoff and comply with the dark-sky regulations. The Board determines that the proposed lighting plan, together with existing lighting, is adequate and necessary for the site, and will not cause an adverse environmental impact.

As noted above, the proposed buildings, like the existing buildings, will connect to the NYCDEP sewer system and the Town water system. The sewer connection from each building to the nearest manhole is shown on the site plan. All sewer and water lines and connections are required to meet the applicable codes and are subject to inspection by the governmental authorities. The applicant's professional engineer estimates occasional peak water usage and sewage flows of 15 gallons per minute, which is within the capacity of the water and sewer systems. There will be no adverse environmental impact related to water or sewer use.

Regarding character of the neighborhood, the site is located on State Route 28 and not in the hamlet of Pine Hill. This project will not adversely affect the character of Pine Hill or the Pine Hill Historic District. The use of the site will remain predominantly the same as existing. The existing buildings and structures on the site are deteriorated, poorly organized for an efficient use of the site, and generally visually unappealing. The re-development of the site will improve the character of the neighborhood and promote the public interest.

Based on all of the above, the Board determines that this action will not cause a significant adverse environmental impact, and this SEQR Negative Declaration is hereby issued and shall be filed in accordance with the SEQR Regulations.

This Negative Declaration is prepared in accordance with Article 8 of the state Environmental Conservation Law.

Contact Person:

Cliff Rabuffo, Chairman
Town of Shandaken Planning Board
P.O. Box 134, 7209 Route 28
Shandaken, New York 12480
Tel. No. (845) 688-5008

A copy of this SEQR Negative Declaration and Notice shall be sent to:

Town Clerk
Town of Shandaken
P.O. Box 134, 7209 Route 28
Shandaken, New York 12480

NYS Department of Environmental Conservation
Region 3
21 South Putt Corners Road
New Paltz, New York 12561

NYS Department of Transportation
Region 8
4 Burnett Boulevard
Poughkeepsie, New York 12603

NYCDEP
Address?

The UCPB recommendation letter contains required modifications. Those required modifications have either been addressed and complied with by the final site plan and this resolution or, if not addressed, the Board hereby overrides such UCPB required modifications.

The required modification concerning access from Route 28 is addressed above. Certain of those required modifications are addressed by the site plan and this resolution, and those modifications not addressed are overridden for the reasons stated above.

The required modifications concerning internal access are addressed by the site plan and resolution. A dedicated driving lane to access the drive-thru is identified on the site plan and the number of gas pumps has been reduced from the initial proposal. Parking spaces and the drive-thru lane are separated and a bypass lane to avoid the stacking lane is shown on the site plan. The site plan shows adequate widths of travel aisles and turning radius for truck deliveries and emergency vehicles. The site must comply with the State Fire Code pertaining to emergency vehicles access.

The required modifications concerning landscaping is addressed above and those modifications not addressed are overridden for the reasons stated.

The required modification concerning lighting is addressed above. To the extent this modification is not addressed by the site plan and this resolution, such modifications are overridden for the reasons stated.

The required modification concerning grading and stormwater management is addressed above. The applicant must submit a construction design for the retaining wall to the Building Inspector as part of the building permit application.

The required modification concerning energy sustainability is overridden. This project is required to and shall comply with the NYS Energy Code. Compliance with the NYS Stretch Energy code is not required. Electric vehicle charging stations are not required, although the site plan does not preclude future installation of EV charging stations. To the extent the site plan and this resolution do not address this required modification, such modification is overridden.

The required modification concerning signage is overridden. The new freestanding sign will be in the same location and height as the existing sign. A photograph of the proposed freestanding sign is shown on the site plan. Drivers from the east will not be able to see a monument-style sign soon enough for safe braking and turning into the site. Proposed new signage is shown on the site plan and must conform with the zoning code. To the extent this required modification has not been addressed by the site plan and this resolution, such modification is overridden.

The site plan addresses the required modifications concerning fuel tanks. The proposed tank location is shown on the site plan and the applicant is required to register that tank with NYSDEC and to remove the existing underground tank in accordance with NYSDEC requirements.

The Board has carefully reviewed the UCPB recommendation letter and the required modifications in that letter. To the extent that any specific required modification has not been addressed by the site plan and this resolution, the Board intends to override such modification. The UCPB recommendation requires a re-referral of the application and site plan to UCPB. Since most of the UCPB recommendations and required modifications have been addressed by the final site plan and this resolution and because those modifications not completely addressed by the site plan and this resolution are overridden by the Board, the re-referral modification is overridden.

The Board determines to grant site plan and special use permit approval, subject to the following conditions, limitations and restrictions:

1. Compliance with all applicable agency approvals and all applicable laws, rules and regulations.
2. Compliance with all statements and representations made by the applicant and its representative(s).
3. Compliance with all site plan sheets and map notes.
4. Compliance with this resolution, including conditions of approval, may be reviewed and enforced by the Town of Shandaken, the Town of Shandaken Building Department and the Town of Shandaken Planning Board.
5. The payment of all fees prior to signing the site plan.

On a motion by Member _____, seconded by Member _____, the foregoing resolution was adopted on a vote of _____ Ayes, _____ Nays.

Dated: November 9, 2023