

**VILLAGE OF NEW HEMPSTEAD VILLAGE BOARD OF TRUSTEES
RESOLUTION 22-__**

WHEREAS, the Village of New Hempstead Village Board of Trustees (the “Village Board”) received an application for a zone change to an optimized single-family cluster zone for the project known as Pennington Lots LLC under the Village of New Hempstead’s Local Law #3 of 2021 zoning standards, located on the east side of McNamara Road in the Village of New Hempstead, County of Rockland [Section 42.09 Block – 2, Lot – 1; and Section - 42.05, Block – 2, Lot – 14] (the “Project”); and

WHEREAS, the Project would involve actions by other agencies, including but not limited to, subdivision review by the Village Planning Board and realty subdivision approval by the Rockland County Department of Health (“RCDOH”); and

WHEREAS, the Village Board has considered all activities, steps and/or approvals required for the Project as part of the action in its review pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Project Sponsor submitted a Full Environmental Assessment Form (“FEAF”), in accordance with Article 8 of the Environmental Conservation Law and the regulations adopted thereto at 6 N.Y.C.R.R. Part 617 (i.e., SEQRA); and

WHEREAS, the Village Board adopted a resolution pursuant to 6 N.Y.C.R.R. §617.6 on November 23, 2021, declaring itself lead agency for the purpose of conducting a coordinated review of the Project pursuant to SEQRA; and

WHEREAS, the Village Board notified all involved agencies on at least 30 days’ notice that the Village Board intended to act as lead agency pursuant to SEQRA, and no objection to the Village Board assuming such status was made; and

WHEREAS, the Village Board held public hearings on November 23, 2021, December 21, 2021, February 3, 2022 and February 22, 2022 where input from all involved and interested agencies, including but not limited to the Village Planning Board, Rockland County Department of Planning, RCDOH, Rockland County Department of Highways, Town of Ramapo and others and heard and considered all input from the public, as well as from the Village’s consultants/professional staff [Engineer/Planner], that addressed the Village Board in connection with the Project; and

WHEREAS, following the close of the Public Hearing, the Village Board, after duly considering the criteria for significance pursuant to 6 N.Y.C.R.R. § 617.7, adopted a Negative Declaration at its February 22, 2022 Meeting; and

WHEREAS, following its adoption of a Negative Declaration on February 22, 2022, the Board became aware that the RCDOH takes the position that any project involving a “realty subdivision” is a Type 1 action under SEQRA pursuant to regulations

adopted by the New York State Department of Health (“State DOH”); and

WHEREAS, although the Board is not entirely convinced of the RCDOH’s position, including because the regulations it appears to rely on for its position relate only to the State DOH, in an excess of caution, the Board is now considering the Project as a Type 1 Action under SEQRA; and

WHEREAS, although the SEQRA regulations indicate that generally Type 1 actions are more likely to require the preparation of an environmental impact than unlisted actions, as the New York State Department of Environmental Conservation, the agency primarily responsible for SEQRA’s implementation, makes clear in its guidance to SEQRA (the “SEQR Handbook”), an environmental impact statement is not automatically required for Type 1 actions, rather, the lead agency must determine the environmental significance of all Type 1 and unlisted actions on a case-by-case basis; and

WHEREAS, in response to an FEAF Part 2 issued for the Project, the Project Sponsor, through its environmental consultants, has further submitted to the Village Board an expanded FEAF Part 3 analysis and associated documentation, which considered in detail the Project’s potential impacts on areas including construction, wetlands, groundwater, flooding, historic resources, and traffic, which the Village Board has duly considered;

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE OF NEW HEMPSTEAD VILLAGE BOARD AS FOLLOWS:

Upon thorough review and due consideration by the Village Board of all information, the comments and input provided by the involved and interested agencies and the public, as well as the reports, studies, visual simulations, and analyses provided by the Project Sponsor and the Village Board consultants and professional staff, the Village Board makes the following findings:

1. The Village Board has considered the entire action comprising the Project pursuant to the parameters and criteria set forth in 6 N.Y.C.R.R. §§ 617.2(b) and 617.3(g).
2. The Village Board now classifies its review and approval of the Project as a Type I action pursuant to 6 N.Y.C.R.R. §617.4 and 10 N.Y.C.R.R. § 97.14.
3. The Village Board has carefully reviewed the project, the criteria set forth in 6 N.Y.C.R.R. §617.7(c), the comments and input provided by the involved and interested agencies and the public, as well as the technical information and analyses provided by the Project Sponsor and the Village Board’s consultants, with regards to the Project. Based on the foregoing analyses and information, the Village Board has thoroughly reviewed the potentially relevant areas of environmental concern and finds that the Project will not result in a potential significant adverse impact on the environment for the following reasons:

(a) The Project will not have a significant potential adverse impact on land, since the Project Site will be developed in accordance with the plans provided to the Village Board by the Project Sponsor's experts and consultants. The Project Site is comprised of 13.55± acres and will be utilized as single-family residences. The Project will not affect any unique or unusual land formations.

(b) The Project will not have a significant potential adverse impact on water or surface water quality or quantity. The Project will not affect any protected water body. The Project Sponsor shall comply with applicable permit requirements set forth in NYSDEC's Phase II SPDES General and Individual Permits for Stormwater Discharges from Construction and Industrial Activities and the Village of New Hempstead's laws regarding stormwater discharges. The Project would impact less than a tenth of an acre of wetlands. Accordingly, it would be covered by ACOE Nationwide Permit 29 for single-family housing. Nationwide Permits are issued by ACOE pursuant to Section 404 of the Clean Water Act on a class-wide ("General Permit") basis pursuant to a determination that the category of activities that they cover "will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment." See 33 U.S.C. §§ 1344(a) & (e). As such, the level of wetland impacts proposed in connection with the Project presumptively will have minimal adverse environmental impacts. See id. The Project's minimal impact on wetland would also fulfill the intent of the Village's Freshwater Wetlands Law, including by preserving the Site's wetlands in an undisturbed and natural condition. See Village Code § 159-2. The Village Wetlands Law regulates certain activities within 100 feet of wetlands boundaries for the purpose of protecting wetlands. See Village Code § 159-5. The Project proposes activities within the regulated area, and will implement the Freshwater Wetlands Law's goal of protecting the actual wetlands themselves by placing stakes, 18 inches high, at regular intervals around the wetlands boundaries, which shall state that they mark the boundaries of wetlands and that disturbance beyond these points is prohibited. This signage will protect the Site's wetlands by ensuring that future homeowners are aware and remain cognizant that draining, dredging, excavation of material (other than debris or refuse), depositing materials (such as soil, rock, debris, garbage), and the erection of any buildings or structures are prohibited in the wetlands. The Project sponsor's wetland consultant, Tim Miller Associates, has confirmed using the New York State Department of Environmental Conservation ("DEC") Environmental Resource Mapper that the stream on the Site is classified as a Class C stream under the DEC's Protection of Waters regulations, see Exhibit "B," and, therefore, is not regulated by DEC as a "protected stream" under Article 15 of the New York Environmental Conservation Law. (See 6 N.Y.C.R.R. §§ 608.1(aa) & 608.2). As such, no DEC permits would be necessary to cross it or otherwise alter it. As such, the proposed impacts on the stream on the Site presumptively will have minimal adverse environmental impacts. See id. There will be no significant potential adverse impact to surface or groundwater quality and quantity including because as part of the coverage under the DEC State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges from Construction Activity, the Project is required to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP), which must be in accordance with the requirements included in the General Permit for Stormwater

Discharges from Construction Activity and include detailed Soil Erosion and Sediment Control Plan, specifically designed to avoid adverse impacts during construction. As set forth in the Preliminary Drainage Analysis prepared by Brooker Engineering, PLLC, dated February 11, 2022, which was submitted as part of the Project Sponsor's EAF Part 3, an underground stormwater infiltration system will be constructed on the Site near Pennington Way and the new cul-de-sac. The stormwater detention system has been sized and designed to reduce peak discharge from the Project, providing a net decrease in peak discharges from the Property. Specifically, the Project provides a net decrease in the peak discharges from the 1-, 2-, 10-, 25- and 100-year storm events. The Project also includes significant drainage system improvements that will alleviate a known drainage issue of flooding in the backyards of the existing dwellings along Pennington Way. As such, the Project will not alter drainage flow or patterns, or surface water runoff. All activities at the Project Site shall be subject to applicable NYSDEC stormwater permitting requirements. Appropriate erosion measures shall be implemented as part of the Stormwater Pollution Prevention Plan required by NYSDEC and the Village of New Hempstead for all construction activities.

(c) The Project will not affect air quality.

(d) The Project will not result in a potential significant adverse impact on plants and animals. There are no threatened or endangered species of animal or plant life present on the Project site. The Project will not substantially or adversely impact any non-threatened or non-endangered habitat. Approximately 6.265 acres of the Project site would be left undisturbed.

(e) The Project will not result in a potential significant adverse impact on agricultural resources land resources.

(f) The Project will not have a potential significant adverse impact on aesthetic resources. The Project will create a single-family residential neighborhood, which will be consistent with the prevailing community character, and will not have a potential significant adverse impact on the aesthetic and character of area where the project is proposed.

(g) The Project will not result in a potential significant adverse impact to historic or archaeological resources. All construction and operational activities at the Project Site shall be conducted in conformance with the requirements of the NYS Office of Parks, Recreation and Historic Preservation, as necessary.

(h) The Project will not have a potential significant adverse impact on existing open space and recreation. In fact, the Project provides for substantial dedicated open spaces, totaling approximately 4.28 acres, and is designed to preserve steep slopes towards the back of the Property along McNamara Road and provide significant separation between the proposed homes and wetlands on the Property.

(i) The Project will not have a potential significant adverse impact on a Critical Environmental Area as designated pursuant to 6 N.Y.C.R.R. § 617.14(g) of the SEQRA regulations.

(j) The Project will not have a potential significant adverse impact on transportation or the existing traffic patterns and flow. Based on the analysis provided by the Project Sponsor, the Project will not have a significant adverse impact on transportation operations within the Project area. On-site pedestrian amenities and circulation are adequate, as well as the proposed parking options available for potential guests and visitors to the Project Site.

(k) The Project will not have a potential significant adverse impact on energy.

(l) The Project will not have a potential significant adverse related to objectionable noise and odor.

(m) The Project will not have a potential significant adverse impact on public health or safety.

(n) The Project will not have a potential significant adverse impact on growth and character of the community and neighborhood. The Project's proposed use and density is consistent with the goals and purposes of the ordinance and the comprehensive zoning plans of the Village of New Hempstead. The ambulance and fire departments have determined that an adequate capacity of services is available to manage any additional service demands presented by the Project.

(o) The Project would be consistent with the Village's current plans or goals as officially adopted, the Comprehensive Plan specifically identifies the Property as a target site for the Village's Optimized Single Family Cluster Overlay ("OSFC") Zoning. See Comprehensive Plan at 153.

4. Based on the foregoing, the Village Board finds that the Project will not have a potential significant adverse environmental impact on the environment in accordance with the New York State Environmental Quality Review Act, Article 8 of the New York Environmental Conservation Law and, in particular, pursuant to the criteria set forth at 6 N.Y.C.R.R. § 617.7(b) of the SEQRA regulations. The Village Board thus issues a Negative Declaration pursuant to SEQRA.

5. The name and address of the lead agency is the Village of New Hempstead Board of Trustees, Village Hall, 108 Old Schoolhouse Road, New City, New York 10956.

6. Additional information can be provided by Allison Weinraub, the Village Clerk, Village Hall, 108 Old Schoolhouse Road, New City, New York 10956, with a telephone number of (845) 354-8100.

7. The action, its location, and its SEQRA classification are as set forth in this Resolution.

8. A Notice of Negative Declaration shall be filed and/or published to the extent required by the SEQRA regulations, and as the Village Board may deem advisable, including with: (i) the Village Mayor; (ii) the Board of Trustees; (iii) all Involved Agencies; (iv) any person who requests a copy, and; (v) with the applicant. The findings and conclusions relating to the determination of significance contained within the Notice of Negative Declaration are hereby adopted and incorporated by reference into this Resolution as applicable.

9. This Resolution has been prepared in accordance with Article 8 of the New York Environmental Conservation Act by the Village Board, with offices located at Village Hall, 108 Old Schoolhouse Road, New City, New York 10956.

10. This Resolution shall take effect immediately upon adoption.

_____ called for a vote which was as follows:

