

VILLAGE OF PITTSFORD
PLANNING AND ZONING BOARD OF APPEALS
Special Meeting – November 11, 2014 at 7:00 PM

PRESENT:

Chairperson: Remegia Mitchell
Members: Meg Rubiano
George Wallace
Jill Crooker
Joe Maxey

Attorney: Jeff Turner
Building Insp.: John Limbeck
Recording Sec: Linda Habeeb

EXECUTIVE SESSION

Motion: Chairperson Mitchell made a motion, seconded by Member Rubiano, to enter into a closed attorney-client privilege session at 6:40 pm.

Vote: Rubiano – yes; Mitchell – yes; Maxey – yes; Wallace - yes. ***Motion carried.***

Motion: A motion was made by Chairperson Mitchell, seconded by Member Rubiano, to leave the executive session at 7:25 pm and re-enter the regular session of the meeting.

Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes; Wallace - yes. ***Motion carried.***

Chairperson Mitchell apologized for the delay in starting the meeting, and requested a moment of silence in honor of Veteran’s Day.

Pittsford Canalside Properties, LLC, 75 Monroe Avenue ~ Final Site Plan Review

Present: Applicants: Chris DiMarzo, Mark IV; Peter Vars, BMI; John Mancuso, Harris Beach

Chairperson Mitchell stated that this is a continuation of final site plan review for the 75 Monroe Avenue project. She stated that a letter was sent to the Board from Daniel Spitzer, attorney for the Board of Trustees, requesting that the Board reopen the public hearing on the final site plan and allow public comment on the project. She indicated that, in her opinion, the modifications made to site plan were not significant and she requested that the Planning Consultant, John Steinmetz, state his opinion regarding this request. Mr. Steinmetz stated that the modifications to the site plan are not substantial and do not rise to a level requiring reopening of the public hearing.

Motion: Chairperson Mitchell made a motion, seconded by Member Wallace, to deny the request to reopen the public hearing for the site plan.

Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes; Wallace - yes. ***Motion carried.***
The decision was filed in the Office of the Village Clerk on November 11, 2014.

Chairperson Mitchell stated that the Village Board of Trustees has adopted a policy requiring applicants to submit all plans, documents, reports, digital media, and any other materials pertaining to their application one week prior to the meeting at which it will be discussed. Board members stated that in this case, only minor modifications have been made to the plans and not substantive revisions. Chairperson Mitchell further stated that minor modifications are a normal part of the review process.

Mr. Vars stated that they have consolidated the plans and resubmitted the site plan with some minor changes, based on comments from the Planning Board. He stated that there is a modification at the west end of Building 5000 to relocate it 10 feet further to the south, resulting in 16 feet of separation from the sidewalk along the canal side of the structure, with additional landscaping at the corner. He further stated that this is a total reduction of 10-16 feet in width across the building: 10 feet at the canal side and 6 feet at the railroad tracks. Chairperson Mitchell noted that these modifications will increase the available landscaping space. Mr. Vars stated that the landscaping plan proposes planting the Hornbeam species of tree, which has a height at maturity of 15-25 feet.

Chairperson Mitchell noted that the ingress lane has been widened, as requested by the Fire Marshal. The applicants stated that it is not necessary to widen the egress lane, as the intent is for emergency vehicles to be able to enter the area as quickly as possible.

Chairperson Mitchell stated that during discussions regarding the proposed changes for the restaurant, the Board requested that the applicant revert to the Addendum #4 building footprint. Board members discussed whether more open space around the building or more articulations on the building was preferable. Mr. DiMarzo explained that a protrusion on the building that is shown on the site plan is a 2-foot overhang, and not an addition to the foundation of the building. It was also noted that the APRB will be reviewing the shape of the building and might require further modifications. The Board determined that what has been referred to as "Lobe A" of the restaurant, the portion of the structure along Monroe Ave., will be as outlined in black, and is that which is shown on Addendum #4, and "Lobe B", the more interior portion, which is outlined in red, is as shown in Addendum #5. Board members also discussed the main entrance to the restaurant and requirement for appropriate landscaping for the area.

Member Rubiano questioned the applicants about the average finished grade per building. Mr. Vars described the method for determining individual building finished grades relative to the topography across the site.

Mr. Vars expressed concern with the time constraints required in some of the conditions of approval, and questioned the logic of these timelines. He further noted that a number of the requirements are tied to outside agencies, over which the applicants have no control.

Mr. Harter stated that conditions # 1-4 are fundamental items that need to be completed in a timely manner. He explained that the timelines can be extended, but that thresholds need to be established. He also noted that condition number 22 states that if the applicants are not able to meet the time frame, they can request an extension of time from the Planning Board.

Mr. DiMarzo stated that he and his team are extremely eager to move forward and are not objecting to the conditions, but he repeated the concern that a number of the contingencies are dependent on outside agencies beyond their control.

Board members discussed the January 21, 2015 deadline in the conditions, and determined that this will be extended to February 21, 2015. The Board determined that a collaborative effort, whereby the Village Engineer and the Building Inspector meet with outside agencies to determine if there is a problem that is beyond the developer's control, and issue a report to the Planning Board. The Planning Board will then determine whether to extend the timeline, based on the report.

Motion: Chairperson Mitchell made a motion, seconded by Member Rubiano, to approve the final site plan for 75 Monroe Avenue, with the conditions adopted on November 11, 2014, and with the changes indicated in the transcript of this meeting.

Vote: Rubiano – yes; Mitchell – yes; Crooker – yes; Maxey – yes Wallace - yes. Motion carried. The decision was filed in the Office of the Village Clerk on November 11, 2014.

A copy of the approved, modified conditions are annexed hereto.

Adjournment: There being no further business, Chairperson Mitchell adjourned the meeting at 10:00 pm.

Linda Habeeb, Recording Secretary

1. Verify that the proposed water system can support the required fire suppression system and the domestic needs of the development using current pressure and flow data. In the event that this condition is not satisfied by 21 February 2015, this final site plan approval shall expire. It should be noted that with regard to the lapse provision of this paragraph, the Planning Board, the Village Engineer and the Dedicated Code Enforcement Officer will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frame. In the event that Pittsford Canalside Properties is unable to meet the required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside Properties' control in deciding whether to extend such time frame upon application by Pittsford Canalside for such relief prior to the expiration of any such time frame.

2. Provide a letter of intent from the Pittsford Central School District indicating their willingness to provide the proposed easement enveloping the new twelve-inch (12") water main by 21 February 2015. Also, verify the liber and page of the easement at the Talbot's location by 21 February 2015. In the event that these conditions are not satisfied by 21 February 2015, this final site plan approval shall expire. It should be noted that with regard to the lapse provision of this paragraph, the Planning Board, the Village Engineer and the Dedicated Code Enforcement Officer will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frame. In the event that Pittsford Canalside Properties is unable to meet the required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside Properties' control in deciding whether to extend such time frame upon application by Pittsford Canalside for such relief prior to the expiration of any such time frame.

3. It is noted that Pittsford Canalside Properties' site remediation activities have interrupted the preexisting flow of stormwater from properties to the east of the site, across the site to the canal. In the event that Pittsford Canalside Properties has not filed with the Planning Board a plan which provides for the restoration of the above mentioned pre-existing flow of stormwater approved by the DEC, the Village of Pittsford, and any other required agencies, together with a timeline for the implementation of the plan and the construction required thereby, acceptable to the Village Engineer by February 21, 2015, this final site plan approval shall expire. In the event that the implementation of the above mentioned plan and the construction required thereby is not completed within the time frame established by the Village Engineer, this final site plan approval shall expire. It should be noted that with regard to the lapse provision of this paragraph, the Planning Board, the Village Engineer and the Dedicated Code Enforcement Officer will work

collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frame. In the event that Pittsford Canalside Properties is unable to meet the required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside Properties' control in deciding whether to extend such time frame upon application by Pittsford Canalside for such relief prior to the expiration of any such time frame.

4. Provide updated drainage (water quality) calculations and related design adjustments based on the impervious area that existed when the project was first submitted (Existing Conditions Map) by 21 February 2015. The drainage design will address all point source locations, for example, the proposed parking garages, etc. Use the water quality calculation referenced in the Irondequoit Creek Watershed Design Standards (Packet for Developers). In the event that such calculations and data are not provided by 21 February 2015, this final site plan approval shall expire. It should be noted that with regard to the lapse provision of this paragraph, the Planning Board, the Village Engineer and the Dedicated Code Enforcement Officer will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frame. In the event that Pittsford Canalside Properties is unable to meet the required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside Properties' control in deciding whether to extend such time frame upon application by Pittsford Canalside for such relief prior to the expiration of any such time frame.

5. Final site plan approval is contingent upon the successful completion of any/all conditions imposed by the permitting requirements of any Federal, State or Local agency having jurisdiction upon this development. If modifications to the final site plan are necessary due to requirements of such an agency, the developer will apply to the Village of Pittsford Planning Board to modify the final site plan, including the modifications required by the Architectural Preservation and Review Board in its review of the project.

6. This approval will be subject to any comments received from Monroe County Planning following its review of the final site plan.

7. Pittsford Canalside Properties will grant the Village of Pittsford a permanent easement with regard to the new drainage pipe or pipes which will restore the drainage of storm water from areas to the east of the CSX tracks through the site to the canal together with such pipe or pipes being accepted for dedication by the Village of Pittsford as recommended by the Village Engineer, prior to the issuance of any building permits. This easement will supersede any easement which enveloped the original pipe that was damaged during remediation.

8. Pittsford Canalside properties will grant the Village of Pittsford an easement for the purpose of servicing, if necessary, the infrastructure of the internal, on-site storm sewer system, prior to the issuance of any building permit. It is understood that this is a privately owned and maintained storm sewer system and that this easement is provided to the village in the event that the system is not adequately/properly maintained.

9. Pittsford Canalside Properties will file all proposed easements at the Monroe County Clerk's office prior to the issuance of a building permit. The recorded liber and page of each easement shall be added to the project drawings for verification and reference.

10. Pittsford Canalside Properties will submit to the Village of Pittsford a copy of the site management plan from the New York State Department of Environmental Conservation that identifies how the site can be used upon completion of the remediation as it relates to development of the site as compared with the approved final site plan to assess any necessary changes, inspection protocol or possible unknown complexities at this time. Pittsford Canalside Property will apply to the Village of Pittsford Planning Board for any site plan modifications that may be required as a result of such site management plan.

11. Pittsford Canalside Properties will verify that the project lighting and luminaries, as proposed, are compliant with the Village Lighting Code and will produce no detrimental glare onto the railroad lands.

12. Final site plan is contingent on the Village of Pittsford extending its Sewer District to the annexed portion of 75 Monroe Avenue parcel pursuant to Article 14 of the New York State Village Law and Chapter 164 of the Code of the Village of Pittsford, the sewer system infrastructure constructed by Pittsford Canalside Properties being accepted for dedication by the Board of Trustees of the Village of Pittsford as recommended by the Village Engineer and Pittsford Canalside Properties providing the Village of Pittsford with any and all easements required by such dedication, as recommended by the Village Engineer. Additionally, the sanitary sewer system is subject to the current design and construction standards, where applicable, as identified by the Village Engineer in recent Planning Board meetings.

13. Pittsford Canalside Properties shall post a letter of credit to cover the construction of the site's infrastructure with recommendations of items by the Village Engineer in conjunction with input from the Village Planning Board. Approval and then posting of the letter of credit is required prior to the issuance of a building permit.

14. Pittsford Canalside Properties shall post a letter of credit in the amount of one-half (1/2) of onepercent (1%) of the total project cost of thirty-million dollars (\$30,000,000.00) to cover the cost of artwork for the project. Proposed location of such artwork shall be submitted to the dedicated code enforcement official for approval and such artwork shall be subject to the approval of the Planning Board. Any exterior artwork shall also be subject to Architectural Preservation and Review Board approval as well. It is expected that a majority of such artwork will be exterior and viewable by the public.

15. Pittsford Canalside Properties shall submit a complete set of the revised site plan within two (2) weeks of the date of the final site plan approval. It shall include all details and drawings including, but not limited to, a final Landscaping Plan, Grading Plan, Construction Erosion Plan, Utility Plan, Lighting Plan, Monroe Avenue Traffic Calming Plan, Profile Sheet, Detail Sheet(s), Offsite Southerland Street Plan and Pump Station Plan. Site notes #6 should be revised to indicate the following: the amount of open space provided should be revised to eliminate the sidewalks and any greenspace that is less than 200 sq ft in size.

16. A certified soils monitor shall be employed on-site throughout construction to report to the dedicated building inspector any environmental issues or discrepancies with the Site Management Plan. This qualified inspector shall be provided with primary responsibilities being to monitor all excavation in terms of the quality of the soil being removed and replaced in agreement with all related conditions set forth in the Site Management Plan.
17. The certified soils monitor shall confirm safe excavation procedures in accordance with OSHA requirements.
18. The certified soils monitor shall confirm proper and adequate soil placement and compaction.
19. The certified soils monitor shall certify observations and inform the dedicated code enforcement official regarding corrective actions taken as/when/if necessary with findings reported to the dedicated code enforcement official at a frequency established with/by the dedicated code enforcement official.
20. In the event that no building permit has been issued for this project by 31 December 2015, this final site plan approval shall expire.
21. The restaurant building only footprint shall be as it was shown on Addendum #4 provided that what has been referred to as "Lobe A" of the restaurant will be as outlined in black and is that which is shown on addendum #4, and what has been referred to as "Lobe B" is outlined in red and is that which is shown on addendum #5. Foundation landscaping, in the manner it is provided for other buildings shall be added to "Lobe B" of the revised restaurant plan.
22. It should be noted that with with regard to any of the lapse provision contained in paragraphs 1, 2, 3, 4 and 20 herein, the Planning Board, the Village Engineer and the dedicated code enforcement official will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frames. Inthe event that Pittsford Canalside Properties is unable to meet any required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside Properties control in deciding whether to extend such time frames upon application

Footnotes:

1. It should be noted that all required easements, for any related system, must be in-place prior to the issuance of a building permit for that system.
2. No building permit shall be issued until a completed Storm Water Pollution Prevention Plan (SWPPP) has been submitted, reviewed and approved by the Village Engineer. Upon approval, the Village Engineer will submit a positive recommendation to the village board for execution of the required NYSDEC MS4 acceptance form that will then be returned to the developer for inclusion with the "Notice of Intent"(NOi) form that is then transmitted for processing by NYSDEC. Upon acceptance of this information by NYSDEC, a letter will be issued to the applicant and village to this effect. Upon receipt of this letter, the site is compliant with the statewide general permit.
3. The landscaping to be installed in the new median on Monroe Avenue shall be subject to Village Board of Trustee approval.

4. No certificate of Occupancy shall be issued until all traffic calming measures required by the Special Permits for the Project shall have been completed.
5. No Certificate of Occupancy shall be issued until the improved water main required by the Special Permits has been installed.
6. The Pittsford Fire Department shall have the right to conduct safety drills as permitted by the Special Use Permits.
7. The hours of operation of the restaurant, outdoor entertainment for the restaurant, lighting for the restaurant, garbage and recycling for the restaurant and the control of odors emanating from the restaurant shall be as provided in the restaurant Special Use Permit.
8. The Project Regulating Plan requires that the project be completed within three (3) years of the issuance of the first building permit.
9. Release of funds from the posted letter of credit shall be approved by the Village Board upon recommendation by the Village Engineer.
10. Project shall comply with all applicable Federal, State, County and local requirements.
11. Acceptance of dedication of the sanitary pump station is by the Village Board.
12. Work within the Sutherland Street right of way requires a maintenance and protection plan covering this area of the project with acceptance/approval/permitting by the DPW Superintendent and Village Board.
13. Acceptance of the maintenance of the traffic calming improvement is by the Village Board.
14. The project is subject to the current Design and Construction Standards adopted by the Village of Pittsford .
15. The Planning Board has addressed the issue of building articulation so as to accommodate placement and arrangement of site plan elements required by site plan review and approval and conformity with the Regulating Plan. The Planning Board expects that in its review of the Project, the Architectural Preservation and Review Board (APRB) will require such other building scale and architectural articulation modifications as the APRB may deem appropriate and necessary.
16. Village approval signatures shall include the Village Engineer, the Chairperson of the Village Planning Board and the Mayor, depending upon the action being approved.

**Findings of the
Village of Pittsford Planning Board
Regarding the Application of
Pittsford Canalside Properties, LLC
Dated September 4, 2013**

PROCEDURAL HISTORY

Pittsford Canalside Properties, LLC (hereinafter “PCP”) has proposed a multiple dwelling and building community and restaurant project to be located at 75 Monroe Avenue, in the Village of Pittsford (hereinafter “Village”). The Village of Pittsford Planning Board (hereinafter “Planning Board”) granted Preliminary Site Plan Approval for the project on July 10, 2013. The rationale for such approval is fully set forth in the Findings of the Planning Board, which the Planning Board adopted in connection with that Preliminary Site Plan Approval. A copy of that Findings document is annexed hereto as Exhibit “A”.

Article XVII of the Zoning Code of the Village of Pittsford contemplates a formal two-stage site plan approval process. See Village Code §210-82 through 210-86.

The first stage is an application for Preliminary Site Plan Approval, which requires a public hearing, and a formal approval by the Planning Board.

As more fully set forth above, the Planning Board granted such formal approval of PCP’s Preliminary Site Plan on July 10, 2013.

§210-85 of the Zoning Code of the Village of Pittsford contemplates an application for Final Site Plan Approval within six (6) months of the date of the Preliminary Site Plan Approval and further requires that such Final Site Plan shall conform to the approved Preliminary Site Plan.

On September 4, 2013, PCP filed its application for Final Site Plan Approval.

On October 23, 2013 the certified Code Enforcement Official (hereinafter “CEO”) designated for the project, certified as complete, PCP’s application for Final Site Plan

Approval which application then included addendum #1 dated October 17, 2013. Annexed hereto as Exhibit “B” is a copy of the CEO’s determination of completeness.

Following the above mentioned certification of completeness by the CEO, PCP filed addendum #2 on December 9, 2013, addendum #3 on January 23, 2014, addendum #4 on February 14, 2014, addendum #5 on October 28, 2014, addendum #6 on November 5, 2014, and addendum #7 on November 11, 2014.

On December 20, 2013 Friends of Pittsford Village, Inc. (hereinafter “FOPV”), Justin Vliestra and Michael Reynolds filed an Appeal challenging the CEO’s determination of Final Site Plan Application completeness with the Zoning Board of Appeals of the Village of Pittsford (hereinafter “ZBA”).

On the January 15, 2014 the Planning Board opened a public hearing with regard to PCP’s Final Site Plan Application.

That public hearing was continued on January 27, 2014, and February 24, 2014, and finally closed on February 24, 2014.

On March 5, 2014, PCP applied to the ZBA for variances: (1) for an elevated speed table, pursuant to Village Code §210-19.5F(5); (2) for restaurant parking, pursuant to Village Code § 210-19.5H(3); and (3) for monument signs, pursuant to Village Code § 210-19.5K.

On March 11, 2014, the Board of Trustees of the Village of Pittsford (hereinafter “Board of Trustees”) determined that there had been changes to the project as well as newly discovered information which might result in a potential significant adverse environmental impact.

On May 1, 2014, the Board of Trustees rescinded the original negative declaration granted for the project.

Based upon the above-mentioned Board of Trustee's determination, the Planning Board suspended its Site Plan review, and the ZBA suspended its review of the FOPV appeal and the variance applications.

On May 20, 2014 PCP commenced an Article 78 Proceeding challenging the rescission of the original negative declaration.

On October 28, 2014 Honorable John J. Ark, J.S.C. issued an Order overturning the above-mentioned negative declaration rescission and further requiring the Planning Board and the ZBA to recommence their review of the project applications pending before them.

Following the closing of the public hearing on February 24, 2014, the Planning Board continued to work with the applicant on minor modifications and improvements to the Final Site Plan which modifications and improvements were not substantive in nature and required no public comment.

On October 29, 2014, the ZBA upheld the CEO's October 23, 2013 determination of Final Site Plan Application completeness and granted variances (1) for an elevated speed table, pursuant to Village Code §210-19.5F(5); (2) for restaurant parking, pursuant to Village Code § 210-19.5H(3); and (3) for monument signs, pursuant to Village Code § 210-19.5K.

On November 11, 2014, the Planning Board granted Final Site Plan Approval with the following conditions and footnotes:

1. Verify that the proposed water system can support the required fire suppression system and the domestic needs of the development using current pressure and flow data. In the event that this condition is not satisfied by 21 February 2015, this Final Site Plan Approval shall expire. It should be noted that with regard to the lapse provision of this paragraph, the Planning Board, the Village Engineer and the Dedicated Code Enforcement Officer will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frame. In the event that Pittsford Canalside Properties is unable to meet the required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside Properties' control in deciding whether to extend such time frame upon application by Pittsford Canalside Properties for such relief prior to the expiration of any such time frame.

2. Provide a letter of intent from the Pittsford Central School District indicating their willingness to provide the proposed easement enveloping the new twelve-inch (12") water main by 21 February 2015. Also, verify the liber and page of the easement at the Talbot's location by 21 February 2015. In the event that these conditions are not satisfied by 21 February 2015, this Final Site Plan Approval shall expire. It should be noted that with regard to the lapse provision of this paragraph, the Planning Board, the Village Engineer and the Dedicated Code Enforcement Officer will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frame. In the event that Pittsford Canalside Properties is unable to meet the required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside

Properties' control in deciding whether to extend such time frame upon application by Pittsford Canalside Properties for such relief prior to the expiration of any such time frame.

3. It is noted that Pittsford Canalside Properties' site remediation activities have interrupted the preexisting flow of stormwater from properties to the east of the site, across the site to the canal. In the event that Pittsford Canalside Properties has not filed with the Planning Board a plan which provides for the restoration of the above mentioned pre-existing flow of stormwater approved by the DEC, the Village of Pittsford, and any other required agencies, together with a timeline for the implementation of the plan and the construction required thereby, acceptable to the Village Engineer by February 21, 2015, this Final Site Plan Approval shall expire. In the event that the implementation of the above mentioned plan and the construction required thereby is not completed within the time frame established by the Village Engineer, this Final Site Plan Approval shall expire. It should be noted that with regard to the lapse provision of this paragraph, the Planning Board, the Village Engineer and the Dedicated Code Enforcement Officer will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frame. In the event that Pittsford Canalside Properties is unable to meet the required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside Properties' control in deciding whether to extend such time frame upon application by Pittsford Canalside Properties for such relief prior to the expiration of any such time frame.

4. Provide updated drainage (water quality) calculations and related design adjustments based on the impervious area that existed when the project was first submitted (Existing Conditions Map) by 21 February 2015. The drainage design will address all point source locations, for example, the proposed parking garages, etc. Use the water quality calculation referenced in the Irondequoit Creek Watershed Design Standards (Packet for Developers). In the event that such calculations and data are not provided by 21 February 2015, this Final Site Plan Approval shall expire. It should be noted that with regard to the lapse provision of this paragraph, the Planning Board, the Village Engineer and the Dedicated Code Enforcement Officer will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frame. In the event that Pittsford Canalside Properties is unable to meet the required time frame, the Planning Board will take into account any exigencies and difficulties which are outside of Pittsford Canalside Properties' control in deciding whether to extend such time frame upon application by Pittsford Canalside Properties for such relief prior to the expiration of any such time frame.

5. Final Site Plan Approval is contingent upon the successful completion of any/all conditions imposed by the permitting requirements of any Federal, State or Local agency having jurisdiction upon this development. If modifications to the Final Site Plan are necessary due to requirements of such an agency, the developer will apply to the Village of Pittsford Planning Board to modify the Final Site Plan, including the modifications required by the Architectural Preservation and Review Board in its review of the project.

6. This approval will be subject to any comments received from Monroe County Planning following its review of the Final Site Plan.

7. Pittsford Canalside Properties will grant the Village of Pittsford a permanent easement with regard to the new drainage pipe or pipes which will restore the drainage of storm water from areas to the east of the CSX tracks through the site to the canal together with such pipe or pipes being accepted for dedication by the Village of Pittsford as recommended by the Village Engineer, prior to the issuance of any building permits. This easement will supersede any easement, which enveloped the original pipe that was damaged during remediation.

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9. Pittsford Canalside Properties will file all proposed easements at the Monroe County Clerk's office prior to the issuance of a building permit. The recorded liber and page of each easement shall be added to the project drawings for verification and reference.

10. Pittsford Canalside Properties will submit to the Village of Pittsford a copy of the site management plan from the New York State Department of Environmental Conservation that identifies how the site can be used upon completion of the remediation as it relates to development of the site as compared with the approved Final Site Plan to assess any necessary changes, inspection protocol or possible unknown complexities at this time. Pittsford Canalside Properties will apply to the Village of Pittsford Planning Board for any site plan modifications that may be required as a result of such site management plan.

11. Pittsford Canalside Properties will verify that the project lighting and luminaries, as proposed, are compliant with the Village Lighting Code and will produce no detrimental glare onto the railroad lands.

12. Final Site Plan is contingent on the Village of Pittsford extending its Sewer District to the annexed portion of 75 Monroe Avenue parcel pursuant to Article 14 of the New York State Village Law and Chapter 164 of the Code of the Village of Pittsford, the sewer system infrastructure constructed by Pittsford Canalside Properties being accepted for dedication by the Board of Trustees of the Village of Pittsford as recommended by the Village Engineer and Pittsford Canalside Properties providing the Village of Pittsford with any and all easements required by such dedication, as recommended by the Village Engineer. Additionally, the sanitary sewer system is subject to the current design and construction standards, where applicable, as identified by the Village Engineer in recent Planning Board meetings.

13. Pittsford Canalside Properties shall post a letter of credit to cover the construction of the site's infrastructure with recommendations of items by the Village Engineer in conjunction with input from the Village Planning Board. Approval and then posting of the letter of credit is required prior to the issuance of a building permit.

14. Pittsford Canalside Properties shall post a letter of credit in the amount of one-half (1/2) of one percent (1%) of the total project cost of thirty-million dollars (\$30,000,000.00) to cover the cost of artwork for the project. Proposed location of such artwork shall be submitted to the dedicated code enforcement official for approval and such artwork shall be subject to the approval of the Planning Board. Any exterior artwork

shall also be subject to Architectural Preservation and Review Board approval as well. It is expected that a majority of such artwork will be exterior and viewable by the public.

15. Pittsford Canalside Properties shall submit a complete set of the revised site plan within two (2) weeks of the date of the Final Site Plan Approval. It shall include all details and drawings including, but not limited to, a final Landscaping Plan, Grading Plan, Construction Erosion Plan, Utility Plan, Lighting Plan, Monroe Avenue Traffic Calming Plan, Profile Sheet, Detail Sheet(s), Offsite Southerland Street Plan and Pump Station Plan. Site notes #6 should be revised to indicate the following: the amount of open space provided should be revised to eliminate the sidewalks and any green space that is less than 200 sq ft in size.

16. A certified soils monitor shall be employed on-site throughout construction to report to the dedicated building inspector any environmental issues or discrepancies with the Site Management Plan. This qualified inspector shall be provided with primary responsibilities being to monitor all excavation in terms of the quality of the soil being removed and replaced in agreement with all related conditions set forth in the Site Management Plan.

17. The certified soils monitor shall confirm safe excavation procedures in accordance with OSHA requirements.

18. The certified soils monitor shall confirm proper and adequate soil placement and compaction.

19. The certified soils monitor shall certify observations and inform the dedicated code enforcement official regarding corrective actions taken as/when/if necessary with

findings reported to the dedicated code enforcement official at a frequency established with/by the dedicated code enforcement official.

20. In the event that no building permit has been issued for this project by 31 December 2015, this Final Site Plan Approval shall expire.

21. The restaurant building only footprint shall be as it was shown on Addendum #4 provided that what has been referred to as "Lobe A" of the restaurant will be as outlined in black and is that which is shown on addendum #4, and what has been referred to as "Lobe B" is outlined in red and is that which is shown on addendum #5. Foundation landscaping, in the manner it is provided for other buildings shall be added to "Lobe B" of the revised restaurant plan.

22. It should be noted that with regard to any of the lapse provision contained in paragraphs 1, 2, 3, 4 and 20 herein, the Planning Board, the Village Engineer and the dedicated code enforcement official will work collaboratively with Pittsford Canalside Properties and all other necessary entities to assist Pittsford Canalside Properties in meeting the required time frames. In the event that Pittsford Canalside Properties is unable to meet any required time frame, the Planning Board will take into account any exigencies and difficulties, which are outside of, Pittsford Canalside Properties control in deciding whether to extend such time frames upon application

Footnotes:

1. It should be noted that all required easements, for any related system, must be in-place prior to the issuance of a building permit for that system.

2. No building permit shall be issued until a completed Storm Water Pollution Prevention Plan (SWPPP) has been submitted, reviewed and approved by the Village Engineer.

Upon approval, the Village Engineer will submit a positive recommendation to the village board for execution of the required NYSDEC MS4 acceptance form that will then be returned to the developer for inclusion with the "Notice of Intent"(NOI) form that is then transmitted for processing by NYSDEC. Upon acceptance of this information by NYSDEC, a letter will be issued to the applicant and village to this effect. Upon receipt of this letter, the site is compliant with the statewide general permit.

3.The landscaping to be installed in the new median on Monroe Avenue shall be subject to Village Board of Trustee approval.

4.No Certificate of Occupancy shall be issued until all traffic calming measures required by the Special Permits for the Project shall have been completed.

5.No Certificate of Occupancy shall be issued until the improved water main required by the Special Permits has been installed.

6.The Pittsford Fire Department shall have the right to conduct safety drills as permitted by the Special Use Permits.

7.The hours of operation of the restaurant, outdoor entertainment for the restaurant, lighting for the restaurant, garbage and recycling for the restaurant and the control of odors emanating from the restaurant shall be as provided in the restaurant Special Use Permit.

8.The Project Regulating Plan requires that the project be completed within three (3) years of the issuance of the first building permit.

9.Release of funds from the posted letter of credit shall be approved by the Village Board upon recommendation by the Village Engineer.

10.Project shall comply with all applicable Federal, State, County and local requirements.

11. Acceptance of dedication of the sanitary pump station is by the Village Board.
12. Work within the Sutherland Street right of way requires a maintenance and protection plan covering this area of the project with acceptance/approval/permitting by the DPW Superintendent and Village Board.
13. Acceptance of the maintenance of the traffic calming improvement is by the Village Board.
14. The project is subject to the current Design and Construction Standards adopted by the Village of Pittsford.
15. The Planning Board has addressed the issue of building articulation so as to accommodate placement and arrangement of site plan elements required by site plan review and approval and conformity with the Regulating Plan. The Planning Board expects that in its review of the Project, the Architectural Preservation and Review Board (APRB) will require such other building scale and architectural articulation modifications as the APRB may deem appropriate and necessary.
16. Village approval signatures shall include the Village Engineer, the Chairperson of the Village Planning Board and the Mayor, depending upon the action being approved.

FINDINGS OF FACT

A. FINAL SITE PLAN CONFORMITY WITH APPROVED PRELIMINARY SITE PLAN

1. Less than six (6) months had elapsed between the Planning Board's Preliminary Site Plan Approval and PCP's application for Final Site Plan Approval.
2. There had been no change in the conditions relevant to the project from the time of Preliminary Site Plan Approval to Final Site Plan Application, therefore no

resubmission of a Preliminary Site Plan for further review and possible revision was required.

3. The Final Site Plan Application conformed to the approved Preliminary Site Plan in that, among other things:

- a. The number of buildings remained substantially the same.
- b. The location and arrangement of buildings remained substantially the same.
- c. The shape of the project buildings remained substantially the same.
- d. The size of the project buildings remained substantially the same.
- e. Coverage of the site by buildings and other impervious services remained substantially the same.
- f. The use of areas between buildings remained substantially the same.
- g. The location of streets, sidewalks, trees, tree lawns, landscaping, public realm lighting, public realm features along canal, driveways and entrances, active recreation areas, passive recreation areas and accessory structures remained substantially the same.
- h. The number and location of parking spaces remains substantially the same.

4. The approved Final Site Plan is consistent with and conforms to the approved Preliminary Site Plan. The Planning Board, with the assistance of the Village Engineer, Village Planning Consultant, and certified Code Enforcement Official of the Village of Pittsford, reviewed the approved Preliminary site plan and the approved Final Site Plan and determined that there were no significant or substantial changes between the approved Preliminary site plan and the approved Final Site Plan.

5. The Findings of Fact in support of Preliminary Site Plan Approval, as set forth in Exhibit “A” annexed hereto are fully incorporated by reference and are a part of these Findings of Fact in support of Final Site Plan Approval.

B. PRELIMINARY SITE PLAN CONDITIONS

6.R-5 Code Conformity:

a.210-19.1. The Final Site Plan indicates a project which provides:

- Pedestrian oriented neighborhoods.
- Expanded housing options.
- Utilization of vacant land.
- Commercial development with accessory amenities available to project residents and the public.
- Conformity with Village character.
- Driveways, streets and traffic which do not diminish the quality of life in the existing neighborhoods.
- The goals and objectives of the Erie Canal National Heritage Corridor and the Erie Canalway Preservation and Management Plan.
- New development which minimizes adverse effects on existing scenic views, natural features and existing residential neighborhoods and access to the Erie Canal Shoreline.

b.210-19.1.G: The quality of materials, construction and design for the project falls within the purview of the Village of Pittsford Architectural Preservation and Review Board (hereinafter “APRB”).

c.210-19.2: The use, as contemplated by Final Site Plan satisfies the requirements for multiple dwelling buildings, restaurants and limited recreational development along the canal and as determined by the Board of Trustees in Resolution 20 of 2012 which is annexed hereto as Exhibit "B":

- Access to and size of this site is adequate.
- The development is compatible with visual character of the Village.
- The development does not create a hazard to the health, safety and welfare.
- The development provides public access and amenities along the canal.
- The development provides for a density of development, which does not exceed a maximum of 25 units per acre.
- The development will not result in an increase of the generation of traffic that will be detrimental to the surrounding area.
- The development contains uniqueness in variation of building design.

d.210-19.3

- Proposed buildings do not exceed 4½ stories.
- 50% or less of the buildings exceed 3½ stories.
- Maximum building sections do not exceed 150 feet.
- Accessory structures do not encroach on the public realm.

e.210-19.4

- The development conforms to the regulating plan. See findings in support of Preliminary Site Plan Approval annexed hereto as Exhibit “A”.
- Primary facades of buildings are oriented towards public streets.
- Buildings have been positioned to create an orderly and interesting diverse edge to the public realm of the street. The requirement of an interesting and diverse architectural edge to the public realm of the street will be dealt with by the APRB.
- The buildings have been articulated in such a way as to avoid a monolithic repetitive appearance to the extent possible.
- Sub-paragraphs 210-19.4.c.(2)(b), (c) and (d), D., E., F., G., (with regard to the multiple entrance issue), I., J., K., L., M. and N. are within the purview of the APRB.
- Building entrances are connected by sidewalks to the Village’s public sidewalk system.

f.210-19.5

- The project development is consistent with the Comprehensive plan and the LWRP. See Findings of Fact in support of preliminary site plan annexed hereto as Exhibit “A” and findings set forth below with regard to the Local Waterfront Revitalization Program.

- The project demonstrates groupings and orientation patterns consistent with the Village context and historical design traditions. See Board of Trustee Resolution #20 of 2012, annexed hereto as Exhibit “B”.
- There are no gated or access restricted drives.
- Resolution #20 of 2012 granted a variance of 210-19.5.e.(1).
- The project meets the requirements of sub-paragraphs 210-19.5.E.(2), (4), (5), and (6). The naming of streets has been reserved to the Board of Trustees.
- The project received a variance for 210-19.5.F.(1).
- Sub-paragraphs 210-19.5.F.(3), (4) and (5) have been met.
- Sub-paragraphs 210-19.5.H.(1), (2) and (3) were dealt with by the Board of Trustees in Resolution #20 of 2012, which is attached hereto as Exhibit “B”.
- The requirements of sub-paragraph 210-19.5.(4), I., and J. have been met.
- The project received a variance with regard to sub-paragraph 210-19.5.K.

7.Review by Village Engineer and Planning Consultant: The approved preliminary site plan and Final Site Plan Application were reviewed by the Village Engineer and Planning Consultant. The Village Engineer and Planning Consultant suggested modifications and those modifications were incorporated in the approved Final Site Plan. See spreadsheet of action items

required by consultants and involved agencies annexed hereto as Exhibit “C” and Final Site Plan conditions and footnotes hereinabove.

8. Other Involved Agency Reviews:

a. The other involved agencies having approval authority for this project are Monroe County Water Authority, Monroe County Department of Health, Monroe County Pure Waters, New York State Department of Transportation, New York State Canal Authority and New York State Department of Environmental Conservation.

b. In most cases, approvals by these agencies require, as a preliminary condition, Final Site Plan Approval, and, in those cases where Final Site Plan Approval is not such a condition, those agencies approvals are unrelated to and not required for Final Site Plan Approval. Approvals from the Monroe County Health Department require final site approval from the PB, approval from the Village Engineer, and formwork approval for sanitary sewers from the local government authority; NYSDEC requires approval of the project’s Stormwater Pollution Prevention Plan (SWPPP) by the Village Engineer and the Village Trustees’ approval of the MS4 Acceptance Form, NYS Canal Authority requires approval from NYSDEC, and NYSDOT permit approval requires approval of landscape maintenance responsibilities from the Village. See spreadsheet of Westport Crossing at 75 Monroe Avenue required agency permits annexed hereto as Exhibit “D”.

c. New York State Department of Transportation and the New York State Canal Corporation made suggested modifications during the Final Site Plan review process and those modifications were incorporated in the Final Site Plan approved by the Planning Board. See Exhibit "C".

9. Fire Marshall Review: The Fire Marshall reviewed the preliminary site plan for compliance with the Fire Code and made requested modifications which were incorporated in the Final Site Plan approved by the Planning Board. See Exhibit "C" annexed hereto.

10. Village Traffic Engineer Review: SRF Associates, the Village Traffic Engineer, reviewed the preliminary site plan and made suggested modifications which modifications were incorporated in the Final Site Plan approved by the Planning Board. See Exhibit "C" annexed hereto.

11. Remediation Of Drainage:

a. The Final Site Plan Application provides for proper remediation of the drainage of ground water from Village lands adjacent to the subject parcel on the railroad side of such parcel. See condition #3 of Final Site Plan Approval as more fully set forth above.

b. The Planning Board, at its March 16, 2014 meeting, passed a Resolution acknowledging that PCP had met the requirements of Final Site Plan condition #3 in agreeing to a plan for the remediation of drainage which plan was acceptable to the Village Engineer.

C. PRELIMINARY AND FINAL SITE PLAN CONFORMITY WITH ARTICLE XVII OF THE ZONING CODE OF THE VILLAGE OF PITTSFORD:

12.210-84 Site Plan Conformity

- a. In or about February of 2013 the building inspector of the Village of Pittsford certified PCP's Preliminary Site Plan as complete.
- b. There was no appeal or challenge to that determination and the time for such challenge or appeal has passed.
- c. The Preliminary Site Plan and Final Site Plan contain the following elements as required by Village Code §210-84:
 - The requirements of 210-84.A.(3)(a) have been met, see Preliminary Site Plan sheet 2240-03.
 - The requirements of 210-84.A.(3)(b) have been met, see Preliminary Site Plan sheet 2240-03.
 - The requirements of 210-84.A.(3)(c) have been met, see Preliminary Site Plan sheets 2240-06 & 07.
 - The requirements of 210-84.A.(3)(d) have been met, see Preliminary Site Plan sheets 2240-04 & 05.
 - The requirements of 210-84.A.(3)(e) have been met, see Preliminary Site Plan sheets 2240-03.
 - The requirements of 210-84.A.(3)(f) have been met, see Preliminary Site Plan sheets 2240-08 & 09.
 - The requirements of 210-84.A.(3)(g) have been met, see Preliminary Site Plan sheets 2240-06 & 07.
 - The requirements of 210-84.A.(3)(h) have been met, see Preliminary Site Plan sheets 2240-08 & 09.

- The requirements of 210-84.A.(3)(i) have been met, see Preliminary Site Plan sheets 2240-08 & 09.
- The requirements of 210-84.A.(3)(j) have been met, see Preliminary Site Plan sheets 2240-10 & 11 and the Engineer's Report, Dated January 2013 prepared by BME Associates and submitted with the preliminary site plan application on February 6, 2013.
- The requirements of 210-84.A.(3)(k) have been met, see Preliminary Site Plan sheets 2240-10 & 11.
- The requirements of 210-84.A.(3)(l) have been met, see Preliminary Site Plan sheets 2240-10 & 11.
- The requirements of 210-84.A.(3)(m) have been met, see Preliminary Site Plan sheets 2240-06 & 07.
- The requirements of 210-84.A.(3)(n) have been met, see Preliminary Site Plan sheets 2240-06 & 07.
- The requirements of 210-84.A.(3)(o) have been met, see Preliminary Site Plan sheets 2240-06 & 07.
- The requirements of 210-84.A.(3)(p) have been met, see Preliminary Site Plan sheets 2240-06 & 07.
- The requirements of 210-84.A.(3)(q) have been met, see Preliminary Site Plan sheets 2240-04 & 05.
- The requirements of 210-84.A.(3)(r) have been met, see Preliminary Site Plan sheets 2240-04 & 05

- The requirements of 210-84.A.(3)(s) have been met, see Preliminary Site Plan sheets 2240-06 & 07 and the applicant's letter of intent that accompanied the preliminary site plan application dated February 6, 2013.
- The requirements of 210-84.A.(3)(t) have been met, see Preliminary Site Plan sheets 2240-06, 07, 11 & 12.
- The requirements of 210-84.A.(3)(u) have been met, see Preliminary Site Plan sheets 2240-06 & 07 and the applicant's letter of intent that accompanied the preliminary site plan application dated February 6, 2013
- The requirements of 210-84.A.(3)(v) have been met, see Preliminary Site Plan sheets 2240-11 & 12.
- The requirements of 210-84.A.(3)(w) have been met, see Preliminary Site Plan sheets 2240-03
- The requirements of 210-84.A.(3)(x) have been met, see Preliminary Site Plan sheets 2240-06 & 07.
- The requirements of 210-84.A.(3)(y) have been met, see Preliminary Site Plan sheets 2240-06 & 07, the applicant's letter of intent that accompanied the preliminary site plan application dated February 6, 2013, and the SEQRA negative declaration filed by the Village of Pittsford dated December 20, 2012.

- The requirements of 210-84.A(4)(a) have been met, see the applicant's Preliminary Site Plan application dated February 6, 2013.
- The requirements of 210-84.A(4)(b) have been met, see the applicant's Preliminary Site Plan application dated February 6, 2013.
- The requirements of 210-84.A(4)(a) have been met, see Preliminary Site Plan sheets 2240-06 & 07 and see the applicant's Preliminary Site Plan application dated February 6, 2013.
- The requirements of 210-84.A.(5) have been met, see Preliminary Site Plan sheet 2240-03, 06 & 07.
- The requirements of 210-84.A(6) have been met, see the applicant's Preliminary Site Plan application dated February 6, 2013.

13.210-86 Site Plan Conformity

- a. In October 2013, the certified Code Enforcement Official of the Village of Pittsford certified the Final Site Plan Application as complete.
- b. That determination was appealed to the ZBA by FOPV and the certification of completeness determination by the CEO was affirmed by the ZBA.
- c. That ZBA affirmance remains unchallenged and the time for an Article 78 challenge to that affirmance has passed.
- d. Adequate storm water drainage based upon a ten (10) year rainfall frequency is provided. See Final Site Plan sheets 2240-04F-07F and the

Engineer's Report prepared by BME Associates, dated September 2013, and last revised March 26, 2015.

- e.No drainage district has been created for this project.
- f.Storage and accumulation of refuse is provided only on inside areas. See Final Site Plan sheet 2240-02F & 03F .
- g.Alternate access for emergency vehicles has been provided in Final Site Plan. See Final Site Plan sheet 2240-01F .
- h.Suitable landscaping, vegetation species of appropriate and maturity in order to screen this use from surrounding similar uses both visually and acoustically have been provided. See Final Site Plan sheet 2240-12F & 13F and Final Site Plan conditions.
- i.The landscaping plan has been prepared and stamped by a licensed landscape architect. See Final Site Plan sheet 2240-12F & 13F .
- j.Landscaping equal to a minimum of one (1%) percent of the total project cost has been provided. See Final Site Plan sheet 2240-12F & 13F .
- k.Project artwork in public areas will have a minimum cost of one half (1/2) of one (1%) percent of the total project cost has been provided. See Final Site Plan Approval conditions.
- l.The requirements of §210-86.F.(1) have been met. See Final Site Plan sheet 2240 – 02F & 03F, note #6.
- m.Final site plan does not provide for any living units as any part of any basement.

n. The requirements of §210-86.F.(3) have been met. See Final Site Plan sheet 2240 – 02F & 03F .

o. The requirements of §210-86.F.(4) have been met. See Final Site Plan sheet 2240-02F & 03F .

p. The requirements of §210-86.F.(5) have been met. See Final Site Plan sheet 2240- 02F & 03F .

q. The requirements of §210-86.F.(6) have been met. See Final Site Plan sheet 2240-02F & 03F .

D.FINAL SITE PLAN CONFORMITY WITH REGULATING PLAN AND SPECIAL PERMIT RESOLUTION.

14. The approved Final Site Plan is in reasonable compliance with and only varies to a reasonable extent from the regulating plan and Resolution #20 of 2012 granting the special permits for the project. No significant or substantial changes exist between the approved preliminary site plan and the approved Final Site Plan. Therefore, the findings issued in support of the preliminary site plan that demonstrate the conformity of the preliminary site plan with the regulating plan also support the finding that the Final Site Plan is in conformity with the regulating plan and Resolution #20 of 2012. See Exhibit “A” annexed hereto.

15. Maximum building heights and maximum permitted mix of building story sections and the orientation of the Final Site Plan comply with that which are permitted in the regulating plan and Resolution #20 of 2012. See Final Site Plan sheet 2240-02F. The maximum building heights is 30’ for 2-story buildings, 41’ for 3-story buildings, and 52’ for 4-story buildings, all measured to the eave as defined in Resolution #20 of 2012. The

maximum percentage of buildings at a 4-story height is 28% of the total building length per the regulating plan and Resolution #20 of 2012.

16.The total square footage of the primary buildings (residential buildings and restaurant) is 75,917 square feet on the approved Final Site Plan, reduction from 84,258 square feet on the regulating plan. The total length of primary building facade along the canal frontage, the primary viewshed for the Project, is 1,057 linear feet. The density of the Project is 24.4 units per acre. The density of the project is in compliance with the Village Code and approved pursuant to Resolution #20 of 2012.

17.Location and number of parking spaces comply with regulating plan and special use permit. See Final Site Plan sheet 2240-02F, site note #5

18.There are public realm features adjacent to the canal. See Final Site Plan sheets 2240-02F and 2240-03F. The approved final site plan contains 69,260 feet of open space for passive and active recreation purposes (see note #6 on Final Site Plan), in excess of the 66,800 square feet required by the Village Code.

19.The traffic calming measures which are within the purview of the Planning Board and which are required as a predicate to the issuance of a certificate of occupancy are set forth on Final Site Plan sheet 2240-16F, Final Monroe Avenue Traffic Calming Plan.

20.The completion of the Brownfield Remedial Measures and the acceptance of a Site Management Plan are conditions of Final Site Plan Approval.

21.As a condition to Final Site Plan Approval PCP is required to grant the Pittsford Fire Department the right to conduct safety drills within the existing buildings on the project site.

22. The new water main and sanitary sewer system required for the project are set forth on sheets 2240-04(F) and 2240-05(F), final utility plan; sheet 2240-08(F), final pump station plan; sheet 2240-09(F), final off site Sutherland Street plan; sheets 2240-17(F) and 2240-18(F), final profile sheets in 2240-19(F), 2240-20 (F), 2240-21(F), 2240-22(F) and 2240-22.1(F), final detail sheets.

23. Final Site Plan requires the installation of protective screens in the approved sanitary sewer system.

24. Restaurant Special Permit conditions 3, 4 and 6 are satisfied in the Final Site Plan. See restaurant lighting sheet 2240-14(F), final lighting plan; sheet 2240-02(F), restaurant garbage location.

25. The requirements of the 15th whereas paragraph of Resolution #20 of 2012, in so far as they are pertinent and relevant to Planning Board action, have been satisfied in Final Site Plan. See Final Site Plan sheets 2240-02F, 03F, 12F & 13F.

26. The requirements and variations permitted by the 18th whereas paragraph of Resolution #20 of 2012 have been met and Final Site Plan. See Final Site Plan sheets 2240-02F, 03F, 14F & 15F.

E. PITTSFORD VILLAGE CODE CHAPTER 121

27. The R-5 provisions of the Village Code override separate compliance with the local Waterfront Revitalization Program for R-5 Special Permit Applications. As Special Counsel for the Board of Trustees of the Village of Pittsford previously stated in response to an action challenging an early aspect of this project: “§210-19.1(J) specifically states: ‘New development shall maintain and enhance the public’s access to the Erie Canal shoreline in conformance with the principles articulated in the Village of Pittsford Local

Waterfront Revitalization Program (LWRP).’(emphasis added) In adopting this provision the Village did not incorporate compliance with the procedures of LWRP, thus making it clear that compliance with the R-5 provisions themselves properly addressed compliance with the LWRP.” [affirmation of Karl Essler (dated October 16, 2013) at paragraph 22, attached hereto as Exhibit “E”]. Similarly Pittsford Village Code §210-19.5.A requires that any Special Permit granted in the R-5 district shall be in conformity with the Village of Pittsford Local Waterfront Revitalization Program.

28. That the Trustees intended that the R-5 provisions of the Pittsford Village Code override separate compliance with the Local Waterfront Revitalization Program is demonstrated by condition one of the multiple dwelling Special Permit granted by the Trustees by Resolution #20 of 2012. That condition requires that the Special Permit is subject to Final Site Plan Approval by the Planning Board in accordance with Article XVII and 210-19.5 of the Village Code and a Certificate of Approval by the Architectural Preservation and Review Board, in accordance with Article XIV of the Village Code. There is no requirement that the Special Permit is subject to a Pittsford Village Code Chapter 121 Planning Board consistency determination.

29. In making their determinations with respect to this project, both the Board of Trustees and the Planning Board determined that the project maintains and enhances the public’s access to the Erie Canal Shoreline and that the project was in conformity with the principles articulated in the LWRP. See Board of Trustees SEQRA Negative Declaration, Section 2 of the 13th whereas paragraph of Resolution 20 of 2012 and paragraph 26 of the findings adopted by the Planning Board in support of its Preliminary Site Plan approval, annexed hereto as Exhibit “A”.

30. The project is consistent with the LWRP policies identified in Section 121-5.G of the Village Code governing Local Waterfront consistency as more fully explained and described in Sections III and V of the Local Waterfront Revitalization Program-Town and Village of Pittsford, specifically Sections 121-5.G (1), (2), (5), (6), (7), (8), (9), (10), (11), (12), & (13); the remaining items in Section 121-5.G are not applicable to the land being considered for development. The Preliminary and Final Site Plans, the submitted Engineer's Report, the Preliminary Site Plan application materials, Parts I, II & III of the Environmental Assessment Form, the SEQRA Negative Declaration, Resolution #20 of 2012, and the record of proceedings before the Board of Trustees, Planning Board and Zoning Board of Appeals, which are incorporated herein by reference, all contain the information that supports the project's compliance with those items in Section 121-5.G:

- a. The requirements of 121-5.G(1) have been met. To the greatest extent possible, the proposed development at 75 Monroe Avenue enhances community character, preserves open space, makes sufficient use of infrastructure, makes beneficial use of the water front location and minimizes adverse effects of this development as well as providing amenities for residents and visitors and being a guide to future development, so that it compliments and does not compete with the village historic character. See Sections 2, 4 & 5 of the 13th Whereas paragraph of Resolution #20 of 2012 along with Preliminary Plan Sheets 2240-04 & 05.
- b. The requirements of 121-5.G(2) have been met. This project provides a new water dependent use in a suitable location and in close

proximity to multiple water-enhanced uses. See Preliminary Plan Sheets 2240-04 & 2240-05.

- c. The requirements of 121-5.G.(3) are not applicable as no agricultural lands exist on the site.
- d. The requirements of 121-5.G.(4) are not applicable as marine resources are not prevalent per the SEQRA process.
- e. The requirements of 121-5.G.(5) have been met. As a result of being involved in the New York State Brownfield program, this project will help restore ecological resources. See the SEQRA negative declaration filed by the lead agency.
- f. The requirements of 121-5.G.(6) have been met. As a result of being involved in the New York State Brownfield program, this project will protect and improve water resources. See the Engineer's Report, Parts I-III of the EAF, the project's SWPPP and Final Plan Sheets 2240-06F, 07F, 10F & 11F.
- g. The requirements of 121-5.G.(7) have been met. As a result of the remediation required by the New York State Brownfield program, this project will protect natural resources from flooding and erosion. See the Engineer's Report, Parts I – III of the EAF, the project's SWPPP and Final Plan Sheets 2240-06F, 07F, 10F & 11F.
- h. The requirements of 121-5.G.(8) have been met. As a result of being involved in the New York State Brownfield Remediation program, this

project will protect and improve air quality in the LWRP area. See Parts I – III of the EAF.

i. The requirements of 121-5.G.(9) have been met. As a result of being involved in the New York State Brownfield program, this project will improve environmental degradation in the LWRP area. See Parts I – III of the EAF.

j. The requirements of 121-5.G.(10) have been met. This project provides public access to and recreational use of the Erie Canal. See the regulating plan, Preliminary Plan Sheets 2240-04 & 05, and Final Plan Sheets 2240-02F & 03F.

k. The requirements of 121-5.G.(11) have been met. The construction of this project permitted by the Brownfield Remediation will eliminate a pre-existing visual and physical pollutant and help preserve historic resources in the LWRP area. See the 12th, 13th, 14th & 15th Whereas paragraphs of Resolution #20 of 2012.

l. The requirements of 121-5.G.(12) have been met. See sections 2 & 3 of the 13th Whereas paragraph of Resolution #20 of 2012.

m. The requirements of 121-5.G.(13) have been met. As a result of the Brownfield Remediation, this project is in line with Village protective measures for environmental resource preservation. See Parts I – III of the EAF and the SEQRA negative declaration, dated August 9, 2012.

n. The requirements of 121-5.G.(14) have been met. This project will not involve any dredging or disposal of dredge spoil materials. See the

11th Whereas paragraph of Resolution #20 of 2012 and Parts I – III of the EAF.

o.The requirements of 121-5.G.(15) are not applicable as no dredging of material is required as part of the proposed action.

F.GENERAL MUNICIPAL LAW §239-M REFERRAL: This project was referred to the Monroe County Development and Review Committee prior to Preliminary Site Plan Approval and prior to Final Site Plan Approval. In connection with such referral, please see December 16, 2013 Project Review Report received from the Monroe County Development and Review Committee and January 9, 2014 Project Review Report annexed hereto as Exhibit “F”. The suggestions in the reports were incorporated in the Final Site Plan for this project.