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FILED WITH
APR 07 2022
VILLAGE CLERK

POUGHKEEPSIE OFFICE

109 MILL STREET
POUGHKEEPSIE, NEW YORK 12601
(845) 471-5535

PLEASE ADDRESS ALL REPLIES TO THE
PAWLING OFFICE

REGINA M. WEXLER
HEIDI M. LOIODICE
JENNA L. JONES
GAIL E. ASHLEY
PARALEGALS

April 7, 2022

Via Hand Delivery

Zoning Board of Appeals
Village of Pawling
9 Memorial Avenue
Pawling, New York 12564

Re: Heinchon Dairy, Inc. and Eastern Hay
Corporation with Village of Pawling
Our File No: 14907

Dear Board Members:

Please find enclosed a Zoning Board of Appeals Application for filing on behalf of our clients, Heinchon Dairy, Inc. and Eastern Hay Corporation.

If you have any questions, please do not hesitate to contact our office.

Sincerely,



Jeffrey Rothschild

/jlj
cc: Heinchon Dairy, Inc.
and Eastern Hay Corporation (via email)

2415

CAPPILLINO, ROTHSCHILD & EGAN LLP
DISBURSEMENT ACCOUNT
SEVEN BROAD ST PO BOX 890
PAWLING, NY 12564

DATE 4/7/2022 10-4/220

PAY
TO THE
ORDER OF

Village of Pawling
three hundred fifty and

\$ 350.00

00/100

DOLLARS

M&T Bank

FOR ac file # 14907 ZBA Application fee

⑈002615⑈ ⑆022000046⑆ 593065921⑈

Village of Pawling
9 Memorial Avenue
Pawling, New York 12564
Tel: (845) 855-1128
Fax: (845) 855-9317

Zoning Board of Appeals Application Instructions

All Paperwork must be received by application deadline to be on the ZBA Agenda. This includes, but is not limited to the following:

1. Completed and Signed Application by Property Owner or Letter of Authorization for Agent / Agency.
2. Type of Variance Form completed.
3. SEQOR Completed and Signed by Property Owner / Agent.
4. **Six (6) Copies of Signed & Stamped survey map to scale** showing the Precise Setbacks (both current & with proposed variance request), Road Frontage, and /or Acreage of Area, so an Accurate Variance May be Granted.
5. Applicant must mail out Notice of Variance request to neighbors within 200' of Property. (List of Names & Addresses will be supplied to you from the Zoning Department once you have submitted a complete application packet.)
 - Must be mailed out seven (7) days before hearing date.
 - Must contain name of applicant, location of parcel of land, brief description of identification of the proposal.
 - Must specify date, time, and place of the public hearing.
 - Sent out via United States Postal Service Certified or Registered Mail

Prior to or at the time of the public hearing, the applicant shall provide to the Zoning Department or ZBA a copy of the required notice, a list of all the owners to whom such notice was mailed and either an affidavit that the mailing was completed as required herein or copies of all mailing receipts.

**Village of Pawling
Zoning Board of Appeals
9 Memorial Avenue
Pawling, New York 12564
Tel: (845) 855-1128
Fax: (845) 855-9317**

FILED WITH
APR 07 2022
VILLAGE CLERK

Zoning Board of Appeals Application

Appeal #: _____
Fee Received: _____

Applicant Name: Heinchon Dairy, Inc. and Eastern Hay Corporation C/O Cappillino, Rothschild & Egan LLP

Mailing Address: Heinchon Dairy, Inc.: 112 East Main Street, Pawling, New York 12564
Eastern Hay Corporation: 485 NY-22 PO Box 374, Pawling, New York 12564

Phone Number(s): 845-855-5444

E-mail Address: jr@cappillino.com

Property Owner: Heinchon Dairy, Inc.

Property Street Address: 112 East Main Street, Pawling, New York 12564, Tax Parcel Numbers
7056-05-210817, 7056-05-219835, and 7056-05-226800

Zoning Ordinance Appealed: Village of Pawling Code Sections 98-10, 98-19, 98-45, 98-46
98-59 and 98-65. A requested interpretation is attached hereto pursuant to Village Code
98-68(G). Exhibits are attached to the requested interpretation.

Type of Appeal: () Area Variance () Interpretation () Use Variance
() Appeal decision of Code Enforcement Officer

A previous appeal (has) been made: Appeal: _____ Date: _____
Appeal: _____ Date: _____

Zoning Board of Appeals Application (cont'd)

Area Variance:

Appeal #: _____

Applicant Name: Heinchon Dairy, Inc. and Eastern Hay Corporation

Please respond to the following 1–5: (use extra sheets if needed)

- 1) That the granting of the Variance will not result in the undesirable change in character of the neighborhood or a detriment to nearby properties.

N/A

- 2) The benefit sought cannot be achieved by some other feasible method.

N/A

- 3) Is the Variance substantial?

N/A

- 4) Will there be an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

N/A

- 5) Was this difficulty self-created?

N/A

Village of Pawling ZBA Fee Schedule (adopted 09/03/2019)

Area Variance	\$350.00
Use Variance	\$450.00
Zoning Interpretation	\$350.00

Exhibits

The following exhibits are attached hereto and made a part thereof:

- Exhibit A: the Notice of Violation and Order to Remedy Same dated June 17, 2021;
- Exhibit B: the letter from Kenneth Stenger, Esq. to Johnathon Bardavid, Esq. dated June 28, 2021;
- Exhibit C: the letter from Johnathon Bardavid, Esq. to Kenneth Stenger, Esq. dated June 30, 2022; and
- Exhibit D: the letter from Edward Larkin to Chris Johnson dated February 17, 2022.
- Exhibit E: the letter from Ronald Gallagher to Chris Johnson dated June 19, 1996
- Exhibit F: the letter from Larry Tomasso to Chris Johnson dated July 23, 2008.
- Exhibit G: the application for site plan approval dated February 14, 2017
- Exhibit H: the application for special use permit dated March 8, 2017.
- Exhibit I: the SEQRA negative declaration adopted on May 23, 2017
- Exhibit J: the resolution determining significance dated May 23, 2017
- Exhibit K: the site plan resolution dated June 13, 2017
- Exhibit L: the special permit resolution dated June 13, 2017
- Exhibit M: the SEQRA negative declaration dated January 14, 2020
- Exhibit N: the certificate of occupancy for demolition of residence dated April 16, 2021.

Requested Interpretation

Heinchon Dairy, Inc. and Eastern Hay Corporation (the “Applicants”) respectfully appeal a determination issued by the Village Clerk on June 17, 2021 (the “Violation”) asserting that the Applicants are in violation of sections 98-10, 98-19, 98-45, 98-46 and 98-65 of the Code of the Village of Pawling (the “Village Code”).

The Applicants’ use of the property¹ located at 112 East Main Street and S. Main Street (the “Property”) is agricultural and therefore section 98-19, pertaining to uses of property being enclosed on all sides by a building does not apply. In fact, section 98-19 specifically exempts agricultural uses.

¹ The three Parcels included by reference in the June 17, 2021 letter from the Village include 7056-05-210817, 7056-05-219835 and 7056-05-226800.

The Applicants contend that Section 98-10 requires the requisite approvals from the local jurisdiction. See Exhibits E-N which illustrate that the Village of Pawling has reviewed the subject property as early as 1996 and extended through 2021. During this time, the Village has issued various correspondence, SEQRA decisions, resolutions of approval and Certificate of Occupancy Permits for the site and at no time did the Village of Pawling indicate that the site was non-compliant nor provided any indication that the use of the site did not meet the Village Code. Further, the purpose and timing of the Violation letter² in June of 2021 is unclear as the Village completed numerous on-site inspections of the subject property in April of 2021. Moreover, the Statement of Use attached to the February 14, 2017 Village of Pawling Planning Board Site Plan Application which was subsequently approved on June 13, 2017 states:

The subject property consists of three tax lots (7056-05-210817, 219835, and 226800) comprising a total of 5 .16 acres and is located on East Main Street and NYS Route 22 in the Village of Pawling. The site is also known as Lots 3, 4 and 5 of The Heinchon Dairy, Inc Subdivision, Filed Map 6604, filed 5/13/1983. The property is owned by Heinchon Dairy, Inc. The overall site is developed with a large hay barn, two residences and an outbuilding. The barn is leased to Eastern Hay, a hay supply company. The site is located primarily in the Village of Pawling B-2 Business zone and has been granted Agricultural status by the NYS Department of Agriculture & Markets.

It is proposed that the existing uses remain on the property.

The Applicants also contend that the Property is located in a B-2 district in which agricultural uses are permitted and that the use of the Property constitutes a farm operation, affording the Applicants protection under the New York State Right to Farm Laws (see New York Agriculture and Markets Law §§ 305-a and 308). Therefore, sections 98-45, 98-46 and 98-65

² Please note that the Applicant continues its objection over Chazen Engineering's involvement with the subject property given Chazen's potential conflict of interest that has been documented in two separate lawsuits against the Village.

which pertain to certificates of occupancy, special use permits and site plan approvals, respectively, are inapplicable.

Respectfully, the Applicants request that the ZBA render a determination that the Applicants' use of the Property is agricultural under the Village Code rendering the Property exempt from sections Village Code 98-10, 98-19, 98-45, 98-46 and 98-65.

Exhibit A

MAYOR
Lauri Taylor

TRUSTEES
John Burweger
Daniel Peters
Earl Slocum
Jerry Locascio

Exhibit A
Office of
Board of Trustees
Village of Pawling
9 Memorial Avenue
Pawling, New York
12564

CLERK
Jennifer Osborn

TREASURER
Elizabeth Shedd

Tel: (845) 855-1122
Fax: (845) 855-9317

Incorporated Feb. 9, 1893

NOTICE OF VIOLATION AND ORDER TO REMEDY SAME

June 17, 2021

To: Heinchon Dairy, Inc.
112 East Main Street
Pawling, NY 12564

Eastern Hay Corporation
485 Route 22
PO Box 372
Pawling, NY 12564

Location: E. 112 Main Street and S. Main Street, Tax Parcel Numbers 7056-05-210817, 7056-05-219835 and 7056-05-226800.

PLEASE TAKE NOTICE that, upon information and belief, the above referenced property is being used and/or occupied in violation of Sections 98-10, 98-19, 98-45, 98-46 and 98-65 of the Code of the Village of Pawling, copies of which are attached to this notice as Exhibit "A".

The property had previously been determined to be a "farm operation" as defined by NY AGRI & MKTS § 301 which was exempt from certain provisions in the Code of the Village of Pawling. However, upon information and belief, the current operations and use of the building and the property have changed such that they do not meet the definition of a "farm operation" and other provisions of the NY AGRI & MKTS § 301, *et seq.* Upon information and belief, the property is being used for the storage and sale of products that are not grown on land owned or leased by the owner and/or operator of the property. Specifically, a recent visual inspection of the property revealed over fifty (50) box trailers located on the property along with a large quantity of wood pallets and unidentifiable packaged products wrapped in white plastic. A review of google maps from 2013 to 2018 showed a gradual increase in the number of trailers from 8 in 2013 to 27 in 2018. The increase to 50 trailers is nearly double of that used in 2018.

A review of the website for Eastern Hay indicates that "[o]ur hay comes from sources in Canada, the western U.S., the Finger Lakes and local suppliers," which indicates that Eastern

Exhibit A

Hay is not producing the high quality hay that it purports to sell¹. The website also advertises a number of commercial products including Purina and Triple Crown premium horse feeds.

As such, compliance with the aforementioned sections of the Code of the Village of Pawling is required.

PLEASE TAKE FURTHER NOTICE that pursuant to Section 98-59 of the Code of the Village of Pawling after "the fifth day following written notice ... for each and every such violation, the owner, general agent or contractor of a building or premises or part thereof where such has been committed or shall exist, and the general agent ... or any other person who commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist, shall be subject to a fine of not more than two hundred and fifty dollars (\$250.00) or to imprisonment for not more than fifteen (15) days, or both, and in addition shall, pay all costs and expenses incurred by the Village in determining such violation. Each and every day that any such violation continues shall constitute a separate offense.


Jennifer Osborn
Village Clerk

¹ The Village is aware, upon information and belief, that the landowner leases additional properties in the Village and does harvest hay from those properties. However, based upon the quantity, quality and variety of hay advertised on the website, as well as the additional products, it is clear that the purchase and resale of commercial products makes up a large portion of the Eastern Hay business and is responsible for the large number of trailers on site.

Exhibit A

EXHIBIT A

§98-8. Zoning Map.

The boundaries of the districts are hereby established as shown on the Zoning Map, which accompanies and which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter.

§98-9. Interpretation of Boundaries.

- A. Boundaries indicated as approximately following the center line of streets, highways, alleys or utility/railroad right-of-way shall be construed to follow such center lines of the right-of-way.
- B. Boundaries indicated as approximately following Village limits shall be construed as following such Village limits.
- C. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- D. Boundaries indicated as approximately following the center lines of streets, rivers, ponds or other bodies of water shall be construed to follow such center lines.
- E. Boundaries indicated as parallel to or extensions of features indicated in §§ A-D above shall be so construed.
- F. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map or in other circumstances not covered in this subsection, the ZBA shall interpret district boundaries.

§98-10. Application of Regulations.

Except as otherwise provided herein:

- A. No building shall be erected and no existing building shall be moved, altered, rebuilt, added to or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all applicable regulations, requirements and restrictions specified in this chapter for the district in which such building or land is located.

B. No open space surrounding any building shall be encroached upon or reduced in any manner except in conformity with the regulations herein designated for the district in which such building or open space is located.

§98-11. General Supplementary Regulations.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided by the general supplementary regulations.

A. Lot for every building. Every building hereafter erected shall be located on a lot as herein defined, and there shall be not more than one (1) principal building on one (1) lot, except as specifically permitted elsewhere in this chapter.

B. Yard for every building. No part of a yard or other open space provided about any building or on any lot for the purpose of complying with the provisions of this chapter shall be included as any part of the yard or open space for any other building or any other lot.

C. Subdivision of a Lot. Where a lot is hereafter formed from part of another lot, the Subdivision Regulations must be complied with.

D. - New Section - LL #1 of 1998 (5-11-98)

**ARTICLE III
DISTRICT USE REGULATIONS**

§98-12. Table of Uses. *Amended LL #4 of 1998 (11-2-98) also schedule "A"*

The Table of Uses attached hereto and made a part hereof as Schedule "A" (located at the back of this zoning law) lists permitted uses for each district category. "P" means permitted, "S" means allowed only through granting of a special use permit. Further elaboration and limitation on uses appears in the Urban Regulations and elsewhere in this chapter.

**ARTICLE IV
AREA AND BULK REGULATIONS**

§98-13. Compliance with Urban Regulations.

A. The Urban Regulations (located at the back of this zoning law) set forth different Building Types allowed within the Village. Each given Building Type is only permitted in the district or districts specified for such Building Type. Where applicable, the Urban Regulations shall prevail over contrary provisions in the Bulk Schedule.

3. No balcony shall project into a required yard.
4. Fences or walls shall not be over six (6) feet in height. This requirement shall not apply to lot lines dividing a residence district from a business district, nor shall they apply when the written consent to a variance, signed by the owner or owners of the adjoining property, is filed with the application for a permit. These provisions shall not apply to hedge, privet, trees, or other shrubbery boundary.
5. Window or wall mounted air conditioners may project not more than twenty-four (24) inches into a required yard.

B. The provisions of this section shall apply to property subject to the Urban Regulations; provided however, that in such cases, any provisions in the Urban Regulations which conflict with this section shall prevail.

C. Existing setback. No proposed one-family dwelling need have a front yard of greater depth than the average setback of the existing dwellings located within three hundred (300) feet on each side of the proposed dwelling on the same side of the street and within the same block. Data supporting a request to take advantage of this provision shall be presented as part of the building permit application.

**ARTICLE VI
SUPPLEMENTARY REGULATIONS FOR NONRESIDENTIAL
DISTRICTS**

§98-19. Supplemental Regulations for B-1 and B-2 and II District.

A. All uses in the B-1, B-2 and II districts and all storage accessory thereto other than off-street parking shall be carried on in buildings fully enclosed on all sides, except as otherwise provided herein and, provided however, that this provision shall not apply to municipal parks and recreation areas, equipment storage and sales yard, outdoor cafe and table service, lumberyard, building material or sales yard, agricultural uses, outdoor recreational facility and commercial parking lots which are otherwise permitted (including by special use permit) as provided herein.

B. No use shall be maintained, established, altered, moved or expanded in the B-1, B-2 or II districts unless it complies with the performance standards set

forth in Article 98-20. Continued conformance with such standards shall be a requirement for the continuance of any certificate of occupancy.

C. All waste materials, including garbage and trash, shall be stored in an enclosed area until one (1) hour before pickup.

D. Without limiting the enforcement powers of the Building Inspector with respect to an existing use, in the case of a special permit or site plan application for establishment of a use which the Planning Board determines may violate this section, the Planning Board may require the applicant, at the applicant's own expense, to provide such evidence as the Planning Board deems necessary to determine whether the proposed use violates this provision. In making this determination, the Planning Board may seek expert advice, with the cost of such advice paid for in advance by the applicant as a condition of further consideration of the application.

§98-20. Performance Standards

A. Purposes: Consistent with the general purposes of this chapter, performance standards shall set specific controls on potentially objectionable external aspects of business and industrial uses so as to:

1. Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor or other atmospheric pollutant outside the building in which the use is conducted.
2. Control noise perceptible beyond the boundaries of the site of the use.
3. Prevent the discharge of untreated or insufficiently treated wastes into any watercourse.
4. Prevent the dissemination of vibration, heat or electromagnetic interference beyond the immediate site on which the use is located.
5. Prevent physical hazard by reason of fire, explosion, radiation or any similar cause.
6. Regulate and control the generation and flow of vehicular traffic so as to prevent hazardous conditions, traffic congestion and excessive noise in the streets.

**ARTICLE IX
CERTIFICATES OF OCCUPANCY**

§98-45. Certificate required.

It shall be unlawful, until a certificate of occupancy shall have been applied for and issued by the Building Inspector, to occupy or use any building hereafter erected, structurally altered or moved or the use of which has been substantially changed. It shall also be unlawful to occupy or use or make any substantial change in the use of any land until a certificate of occupancy shall have been duly issued by the Building Inspector.²

§98-46. Special permit required in certain cases prior to issuance of certificate.

No certificate of occupancy shall be issued for any use of a building or of land requiring a special permit from the Planning Board as specified in this chapter unless and until such special permit has been duly issued by said Board. Every certificate of occupancy for which a special permit has been issued or in connection with which a variance has been granted shall contain a detailed statement of such special permit or variance and of any conditions to which the same is subject.

§98-47. Applications; issuance of certificate.

Application for a certificate of occupancy, on a form furnished by the Building Inspector for a new building or for an existing building which has been altered, shall be made after the erection of such building, or part thereof, has been completed in conformity with the provisions of this chapter and, in the case of a new building, shall be accompanied by an accurate survey prepared by a licensed land surveyor showing the location of all buildings as built. Such certificate shall be issued within ten (10) days after receipt of said application, but only provided that all requirements of all applicable codes or ordinances in effect are complied with.

§98-48. Use of vacant land; change of use of nonconforming use.

If the proposed use is in conformity with the provisions of this chapter and of all other applicable laws and ordinances, a certificate of occupancy for the use of vacant land, or for a change of use of a nonconforming use, shall be issued by the Building Inspector within ten (10) days after receipt of a written application therefor.

² Editor's Note: As to issuance of certificates of occupancy under the State Building Construction Code, see Ch. 10, Building Construction.

**ARTICLE XI
POWERS AND DUTIES OF BUILDING INSPECTOR; PENALTIES**

§98-58. Powers and duties of Building Inspector.

- A. It shall be the duty of the Building Inspector to enforce the provisions of this chapter and of all rules, conditions and requirements adopted or specified pursuant thereto.**
- B. The Building Inspector, or his duly authorized assistant(s), shall have the right to enter any building or enter upon any land at any reasonable hour in the course of his duties.**
- C. The Building Inspector shall maintain files of all applications for building permits and plans submitted therewith and for certificates of occupancy and records of all building permits and certificates of occupancy issued, which files and records shall be open to public inspection.**
- D. The Building Inspector shall keep a record of every identifiable complaint of violation of any of the provisions of this chapter and of the action taken consequent on each such complaint, which records shall be public records.**
- E. The Building Inspector shall report to the Board of Trustees, at intervals of not greater than three (3) months, summarizing for the period since his last previous report all building permits and certificates of occupancy issued and all complaints of violations and the action taken by him consequent thereon.**

§98-59. Penalties for offenses.

- A. After the fifth day following written notice served by mail or by personal service by the Building Inspector or by the Village Clerk to the effect that a violation of any provisions of this chapter exists, for any and every such violation, the owner, general agent or contractor of a building or premises or part thereof where such has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist, shall be subject to a fine of not more than two hundred fifty dollars (\$250.00) or to imprisonment for not more than fifteen (15) days, or both, and, in addition, shall pay all costs and expenses incurred by the Village in determining such violation. Each and every day that any such violation continues shall constitute a separate offense.**

- B. Penalties shall be collected and violations of this chapter shall be prosecuted in the manner prescribed by law or ordinance effective in the Village.
- C. Nothing in this chapter shall prevent any property owner or resident of the Village, the Village itself, any board or agency of the Village or any person residing on or owning property within the Village from availing himself of any lawful remedy in preventing or abating any violation of any provision of this chapter.

**ARTICLE XII
PLANNING BOARD**

§98-60. Establishment.

The Planning Board heretofore established pursuant to the Village Law is hereby continued.

§98-61. Composition, Appointments and Terms.

- A. The Planning Board shall consist of five (5) members, including the Chairperson, appointed by the Mayor. All such appointments shall be for terms of five (5) years.
- B. No person who is a member of the Board of Trustees shall be eligible for membership on such Planning Board.

§98-62. Comprehensive Plan.

The Planning Board review and recommend updates to the Comprehensive Plan every five years; however, failure of the Planning Board to recommend updates to the Plan shall in no event invalidate any of the provisions of the current Comprehensive Plan or this Chapter..

§98-63. Powers.

The Planning Board is authorized and empowered to approve, approve with modifications or disapprove:

- A. Site plans in accordance with Article XIII of this Chapter.
- B. Plats showing lots, block or sites, with or without streets or highways.

- C. Preliminary and final subdivisions in accordance with the Subdivision Regulations.
- D. Changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the Dutchess County Clerk's office.

§98-64. Planning Board, Reports on Matters Referred to It.

The Board of Trustees may refer any matter or class of matters to the Planning Board before final action for a report to be submitted within a reasonable amount of time as fixed by the Board of Trustees.

**ARTICLE XIII
SITE PLAN APPROVAL**

§98-65. Site Plan Approval.

- A. Prior to the issuance of a Building Permit or Certificate of Occupancy in any district, the Building Inspector shall require the preparation of an application as specified in Section 10-6 of the Building Construction Local Law of the Village of Pawling Code.
- B. No Building Permit or Certificate of Occupancy shall be issued without site plan approval by the Planning Board in accordance with this section for the proposed use or changes in use of land, building and other structures for the following:
 - 1. Residential districts: all special use permits
 - 2. Business 1 District: principal uses, accessory uses and special permit uses except for interior alterations which do not involve a change in use (as defined herein);
 - 3. Business 2 District: principal uses (other than single family dwelling), accessory uses and special permit uses except for interior alterations which do not involve a change in use (as defined herein);
 - 4. Industrial 1 District: principal uses, accessory uses and special permit uses.

C. In any case where a site plan is required, the Building Inspector shall refer the applicant to the Planning Board for site plan review as provided in this Article.

D. Sketch Plan Conference. A sketch plan conference between the Planning Board and the applicant shall be held to discuss the whether site plan approval is required for the intended development or use for which the building permit or certificate of occupancy is sought.

The Planning Board shall make its determination as to whether site plan approval is required based upon review of the project's scope and the basic land use and design concept, as shown by a sketch plan drawn to scale and accompanying statements provided by the applicant and describing at a reasonable level of detail what is proposed. At the sketch plan conference, the Planning Board shall take one of three actions:

- 1. Determine that the project is not subject to site plan approval.**
- 2. Determine that the project does require site plan approval, and advise the applicant of site plan submission requirements in accordance with Part B of this Article.**
- 3. Require additional sketch plan information prior to making a determination regarding whether site plan approval is required.**

E. In order to assist the Planning Board in its determination, the applicant shall submit, as may be applicable, the further data discussed below, during the sketch plan discussion:

- 1. An area map keyed to the real property tax maps, showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, and easements within two hundred (200) feet of the boundaries thereof.**
- 2. A map of site topography, photographs of the site and buildings thereon, and any other similar descriptive data.**

F. Application for Site Plan Approval. An application for site plan approval shall be made in writing to the Planning Board and shall be accompanied by four (4) prints of a site plan which includes information drawn from the following checklist of items, as determined necessary by the Planning

Board at the time of the sketch plan conference, and which is provided on a drawing certified to by a licensed design professional:

1. Title of drawing, including name and address of applicant and person(s) responsible for the preparation of such drawing.
2. North arrow, scale and date.
3. Accurate boundaries of the property plotted to scale.
4. Existing watercourses and other significant natural features.
5. Grading and drainage plan, showing existing and proposed contours at an interval to be specified by the Planning Board at the sketch plan conference, with two (2) foot contour intervals and soils data generally required on that portion of a site proposed for development where general site grades exceed five percent or there may be susceptibility to erosion, flooding or ponding.
6. Location, proposed use and height of all existing and proposed buildings or structures and signs on the property, including floor plans, plans for exterior elevations, and architectural design details and features.
7. Location, design and construction materials of all parking, loading and service areas, with access and egress drives thereto.
8. Provision for pedestrian and handicapped access.
9. The location of outdoor storage and display areas, if any, and the anticipated items to be stored or displayed, their type, bulk, height and schedule of yearly use.
10. Location, design and construction materials of all existing and proposed site improvements, including drains, culverts, retaining walls and fences.
11. Description of the method of sewage disposal and the location, design and construction materials of such facilities.
12. Description of the method of securing water supply and the location, design and construction materials of such facilities.

13. **Location of fire and other emergency zones, including the location of the nearest water supply for fire emergencies.**
 14. **Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.**
 15. **Location, size, design and construction materials of all proposed signage.**
 16. **Location and proposed development of all buffer areas, including indication of existing vegetative cover, both that which will be retained and that which will be removed.**
 17. **Location and design of all outdoor lighting facilities, including data regarding, when appropriate, lighting levels, both within the site and at the site's boundaries.**
 18. **Designation of the square footage of building areas proposed for retail sales, office use, warehousing, or other commercial activity.**
 19. **General landscaping plan and detailed planting schedule.**
 20. **Any other elements integral to a complete description of the proposed development, as determined necessary by the Planning Board, including the identification of any State, County or local permits and approvals required for the project's execution.**
 21. **Any proposed division of buildings into units of separate occupancy.**
- G. Planning Board review of Site Plan. The Planning Board's review of a site plan shall include, as appropriate, but is not limited to, the following:**
1. **Adequacy and arrangement of vehicular traffic access and circulation, including intersections, street widths, pavement surfaces, dividers, structures and traffic controls.**
 2. **Adequacy and arrangement of pedestrian traffic access and circulation, walkways, control of intersections with vehicular traffic, and overall pedestrian safety and convenience.**
 3. **Location, arrangement, appearance and sufficiency of offstreet parking and loading.**

4. **Location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting and signage.**
5. **Adequacy of stormwater and drainage facilities.**
6. **Adequacy of water supply and sewage disposal facilities. The Planning Board shall refer to criteria set forth by local, county and state agencies with jurisdiction over water supplies and sewer facilities.**
7. **Adequacy of fire lanes and other emergency zones and water supply for fire emergencies.**
8. **Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.**
9. **In the case of an apartment complex or other multiple family dwelling, the adequacy of usable open space for play areas and informal recreation.**
10. **Protection of adjacent and/or neighboring properties from noise, glare, unsightliness or other objectionable features or nuisances.**
11. **Special attention to the adequacy of structures, roadways, landscaping and other improvements, in areas susceptible to ponding, flooding or erosion.**
12. **Compatibility of building design with existing characteristics of the neighborhood.**
13. **Adequacy of the site plan's erosion and sediment control, stormwater management, wetlands and watercourse protection and steep slopes protection; in making this determination the Planning Board shall refer to the standards applicable in the Town of Pawling under its local laws as well as standards recommended by the New York State Department of Environmental Conservation, and the New York City Department of Environmental Protection.**
14. **Conformance with the Comprehensive Plan, including without limitation Appendix B: Architectural Guidelines and Appendix C: Landscape Guidelines.**

15. Conformance with the Urban Regulations, if applicable to the site plan.

H. Consultant Review. In its review, the Planning Board may consult with the Village Building Inspector, the Public Works Superintendent, other local and County officials, and its designated private consultants, in addition to the representatives of State agencies, including, but not limited to, the State Department of Transportation and the State Department of Environmental Conservation.

*L.1.1.02.009 I
F*

Architectural Conformance Review

Public Hearing. The Planning Board may conduct a public hearing on the application for site plan approval. The public hearing shall be held within sixty-two (62) days of the receipt of the completed application. The Planning Board shall mail notice of the hearing to the applicant at least ten (10) days before such hearing and shall give public notice of such hearing in a newspaper of general circulation in the Village at least five (5) days before the public hearing.

K J

Required Referral. At least ten (10) days before such hearing, the Planning Board shall mail notices thereof to the Dutchess County Planning Department, if required by section two hundred thirty-nine-m of the General Municipal Law which notice shall be accompanied by a full statement of the matter under consideration. In the event a public hearing is not required, the matter shall be referred to the Dutchess County Planning Department before final action is taken thereon, if required by section two hundred thirty-nine-m of the general municipal law.

L X

Planning Board Action on Site Plan. The Planning Board shall make a decision on the application within sixty-two (62) days after such hearing, or sixty-two (62) days after the day the completed application is received if no hearing has been held.³ The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Village Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.

³ Note the requirements of SEQOR with respect to a completed application. Sec 6 N.Y.C.R.R. 617.3(f).

M L. **Action by Resolution.** The Planning Board shall act by resolution to either approve, or disapprove, or approve with modifications the site plan application. A resolution of either approval or approval with modifications shall include an authorization to the Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the submission requirements stated therein.

N M. **Modifications.** If the Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, conformance with said modifications shall be considered a condition of approval.

O N. **Disapproval.** If the site plan is disapproved, the Planning Board's resolution shall state specific reasons for such decision. In such a case, the Planning Board may recommend resubmission of the site plan after further study and appropriate redesign.

P Ø. **Submission Requirements for Stamping.** After receiving site plan approval, with or without modifications, from the Planning Board, the applicant shall within six (6) months submit six (6) prints and one (1) reproducible mylar of the site plan to the Planning Board for stamping and signature by the Chairperson. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Board, except that it shall further incorporate any revisions or other modifications required by the Planning Board, and shall be accompanied by the following additional information:

1. Record of application for, and approval status of, all necessary permits from State, County and local officials.
2. Detailed sizing and material specification of all required improvements.
3. An estimated project construction schedule and, if a performance guarantee is to be provided by the applicant for all or some portion of the work, a detailed site improvements and cost estimate.

Upon stamping and signature by the Chairman, the Planning Board shall forward one (1) copy of the approved site plan to the Building Inspector and one (1) copy to the applicant. The Building Inspector may then issue a Building Permit or Certificate of Occupancy if the project conforms to all other applicable requirements, including the provisions of the New York State Uniform Fire prevention and Building Code.

- Q. The Planning Board is empowered (but not required) to grant preliminary and final site plan approval and, where applicable, special use permit approval, simultaneously.**
- R. Performance Guarantee. No Certificate of Occupancy shall be issued until all improvements shown on the approved site plan have been satisfactorily installed or a sufficient performance guarantee has been posted for improvements not yet completed. Such performance guarantee shall be posted in accordance with the procedure applicable to subdivisions. The amount and sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Village Attorney, the Building Inspector, other local officials, or its designated private consultants.**
- S. Inspection of Improvements. The Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with the Village's private consultants and other local officials and agencies, as may be appropriate on multi-family residential, institutional, commercial or light industrial projects.**
- T. Compliance with SEQR. The Planning Board shall comply with SEQR.**

**ARTICLE XIV
ZONING BOARD OF APPEALS**

§98-66. Continuation of Board; membership; powers and duties.

- A. The ZBA, heretofore duly appointed in conformity with the Village Law, is hereby continued with all powers and duties conferred by the Village Law.**
- B. The ZBA shall consist of five (5) members appointed by the Board of Trustees. The Board of Trustees shall also designate a chairman.**
- C. The ZBA shall have all the powers and duties prescribed by law and by this chapter, provided that nothing contained herein shall be deemed to limit any power of said Board that is conferred by law.**

§98-67. Use and Area Variances.

The ZBA is empowered to grant use variances and area variances and to reverse, affirm or modify certain orders, requirements, decisions, interpretations and

Exhibit B

Exhibit B



MAIN OFFICE
1136 Route 9
Wappingers Falls
New York 12590

(845) 298-2000
(845) 298-2842
info@sdglaw.com
sdglaw.com

Poughkeepsie Journal Building
85 Civic Center Plaza, Suite 100
Poughkeepsie, NY 12601

NEW YORK OFFICE
110 Spring Street, 10th Floor
New York, NY 10038

Kenneth M. Stenger
Stephen E. Diamond

Jessica J. Glass
Allan P. Roberts
PARTNER/EMERITUS

Mary Kate Ephraim
Joan F. Garrett**
Karen E. Hagstrom

A.J. Iuele
Ian C. Lindars

Meghan B. Mossey
Alexandria D. Weininger***

OF COUNSEL
Karen P. MacNish

PARALEGALS
Elizabeth Amicucci

Jennifer Arno
Robert Hug
Joseph Marrero
Jillian Medina

CLOSING COORDINATORS
Maria L. Jones
Sandra A. Turner

*ALSO ADMITTED IN FL & MA
**ALSO ADMITTED IN CT
***ALSO ADMITTED IN NJ

June 28, 2021

Jonathan M. Bardavid, Esq.
Daniels, Porco & Lusardi, LLP
102 Gleneida Avenue
Carmel, NY 10512

Re: *Heinchon Dairy w/ Village of Pawling*
SDG File No.: 40285.0006

Dear Mr. Bardavid:

I am in receipt of your settlement letter of June 17, 2021 and a Notice of Violation and Order to Remedy Same issues by the Village of Pawling over the signature of the Village Clerk.

This law firm will be representing Heinchon Dairy, Inc. before the Village in connection with these matters. Mr. Furst's law firm will represent Heinchon Dairy, Inc. in connection with the proceedings before the New York State Department of Agriculture and Markets.

In response to your offer, I provide you with a copy of the submission made to the New York State Department of Agriculture and Markets on behalf of Heinchon Dairy, Inc. on June 24, 2021.

Finally, I note that the Notice of Violation is not signed by the Building Inspector and/or Zoning Code Enforcement Officer. It is signed by the Village Clerk. Unless there is something particular to the Village's Code, which, of course, no one can see because it is not online, or otherwise publicly available, the Village Clerk does not have the authority to issue a Notice of Violation of the Zoning Code. Consequently, the Notice may be a nullity. More critically, it does not provide a basis for the filing of an appeal to the Village of Pawling Zoning Board of Appeals which will effect a stay of further Village proceedings in this matter in addition to the stay to which you have already semi-committed.

Exhibit B

What is happening here, and in other instances, is painfully obvious. Chris Johnson is forcing litigation that is questioning prior and current practices of the Village and the persons who work within its government. This action, by the Village, challenges a well-known use by Mr. Johnson. It targets Mr. Johnson's sole source of income at risk. I do not need a pencil to connect those dots.

Please get back to me with respect to the issue of the Village Clerk. Since it goes to the heart of the subject matter jurisdiction of the Village in this matter, it is a critical issue.

Thank you.

Very truly yours,

STENGER, DIAMOND & GLASS, LLP



KENNETH M. STENGER

kstenger@sdglaw.com

KMS/jm

Cc: Heinchon Dairy

Exhibit C

Exhibit C



DANIELS, PORCO AND LUSARDI, LLP

ATTORNEYS AT LAW

BARRISTER HALL
101 GLENEIDA AVENUE
CARMEL, NEW YORK 10512
T: (845) 225-8404 F: (845) 225-4262
WWW.DPLLAWYERS.COM

PAWLING OFFICE: 1 MEMORIAL AVENUE, P.O. BOX 668, PAWLING, NEW YORK 12564

June 30, 2021

VIA E-MAIL

Ken Stenger, Esq.
Stenger, Diamond & Glass, LLP.
1136 Route 9
Wappingers Falls, NY 12590

Re: Heinchon Dairy, Inc.

Dear Mr. Stenger:

As you know this office is counsel to the Village of Pawling. I write in response to your letter dated June 28, 2021.

At the outset your suggestion that the Village Clerk does not have authority to issue a Notice of Violation of the Village of Pawling Zoning Code is incorrect. Section 98-59 of the Code of the Village of Pawling, a copy of which was annexed to the Notice of Violation, dated June 17, 2021 (the "Violation") and is annexed to your letter to me, provides in relevant part:

After the fifth day following written notice served by mail or personal service by the Building Inspector or by the **Village Clerk** to the effect that a violation of any provisions of this chapter exists, for any and every such violation, the owner, general agent... and the general agent... or any person who commits, takes part or assists in such violation or who maintains any building or premises in which such violation shall exist, shall be subject to a fine of not more than two hundred and fifty dollars (\$250.00) or to imprisonment for not more than fifteen days, or both

Moreover, on or about February 3, 2021 the Village retained the Chazen Companies to assist the Village in the performance of the duties of Building Inspector and authorized the Village Clerk to execute all necessary documents. A copy of the minutes of the February 3, 2021 Board of Trustees Meeting is enclosed herewith. As such, the Notice the Violation issued to your client was duly issued and is not a nullity.

The suggestion that the Notice of Violation somehow impairs your client's ability to avail himself of appeal rights pursuant to New York Village Law §7-712a and the Village Code is incorrect. As set forth above the Village Clerk is the administrative official designated to enforce the Zoning Code. Thus, your client remains free to file an appeal with the Zoning Board of Appeals and seek whatever relief or stay permitted by law.

Exhibit C



DANIELS, PORCO AND LUSARDI, LLP

ATTORNEYS AT LAW

BARRISTER HALL
102 GLENEIDA AVENUE
CARMEL, NEW YORK 10512
T: (845) 225-8404 F: (845) 225-4262
WWW.DPLLAWYERS.COM

PAWLING OFFICE: 1 MEMORIAL AVENUE, P.O. BOX 668, PAWLING, NEW YORK 12564

Notwithstanding and without waiver of same given that your client has sought review from the New York State Department of Agriculture and Markets the Village will hold the Violation in abeyance pending a resolution of the complaint and/or a formal determination from the Department.

The time period within which such abeyance remains in effect will be determined by the Village in its sole discretion and nothing contained herein shall be deemed a waiver of any rights or remedies afforded to the Village under all applicable laws, rules and regulations, including without limitation, any and all rights of appeal.

Lastly, any suggestion that the Village of Pawling is retaliating against your client is denied. The fact that your client has initiated litigation against the Village does not exempt him from compliance with the Zoning Code.

Please contact me if you wish to discuss this further.

Sincerely,

DANIELS, PORCO and LUSARDI, LLP

By:

A handwritten signature in cursive script, appearing to read 'Jonathan M. Bardavid'.

Jonathan M. Bardavid, Esq.

cc: Board of Trustees Village of Pawling

Exhibit D

Exhibit D

Village of Pawling Building Department
9 Memorial Avenue
Pawling, New York 12564
Tel. (845) 855-1128
Fax (845) 855-9317

February 17, 2022

K. Chris Johnson
P.O. Box 372
Pawling, NY 12564

Heinchon Dairy, Inc.
112 East Main Street
Pawling, NY 12564
~~7054-05-210817~~
Eastern Hay Corporation
485 Route 22
PO Box 374
Pawling, NY 12564

Dear Mr. Johnson

On June 17, 2021 the Village of Pawling issued a *Notice of Violation and Order to Remedy Same* for the Eastern Hay Corporation building and operations located at 485 NY-22 in the Village of Pawling. This notice of violation was based on our investigation of complaints regarding the number of trailers being stored on the property. A copy of this notice is attached to this letter as Exhibit "A".

In response to this notice of violation, your attorney wrote to the Village attorney denying that the violation existed. By letter dated June 30, 2021 from Jonathan Bardavid to your attorney you were advised that the Village agreed to keep the violation in abeyance for a time period determined by the Village in its sole discretion pending a determination by NYS Department of Agriculture and Markets ("Ag and Markets") as to whether your operations constituted a farm operation as defined by AML §301.

On or about June 24, 2021, Eastern Hay and Heinchon Dairy requested an independent review of its operations by Ag and Markets. By letter dated October 15, 2021, Ag and Markets notified Eastern Hay and Heinchon Dairy that your operations do not qualify as a Farm Operation and therefore are not eligible for an exemption from the Village zoning laws pursuant to AML §305-a. Indeed, Ag and Markets noted that the sales of "off-farm produced products are a majority of [your] sales."

Exhibit D

On February 1, 2022, in response to a Freedom of Information Request, the Village was provided with a copy of this October 15, 2021 letter from Ag and Markets.

The Village has determined that such abeyance be lifted effective February 22, 2022. Accordingly, the Notice of Violation dated June 17, 2021 ("Original Notice") is now in full force and effect.

As you were previously advised Village Law §98-59 provides as follows:

after the fifth day following written notice ... for each and every such violation, the owner, general agent or contractor of a building or premises or part thereof where such has been committed or shall exist, and the general agent ... or any other person who commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist, shall be subject to a fine of not more than two hundred and fifty dollars (\$250.00) or to imprisonment for not more than fifteen (15) days, or both, and in addition shall, pay all costs and expenses incurred by the Village in determining such violation. Each and every day that any such violation continues shall constitute a separate offense.

Based on the foregoing, as set forth in the Original Notice, the use and operation of the Premises remain in violation of Village of Pawling Code Sections 98-10, 98-19, 98-45, 98-46 and 98-65a.

Sincerely,

A handwritten signature in dark ink, appearing to read "E. Larkin", with a long horizontal flourish extending to the right.

Edward Larkin

Exhibit E

Exhibit E

Office
914-855-9442
Fax
914-855-9317

OFFICE OF THE BUILDING DEPARTMENT
VILLAGE OF PAWLING
9 MEMORIAL AVE

Administrator
Ronald Gallagher

Jun 19, 1996

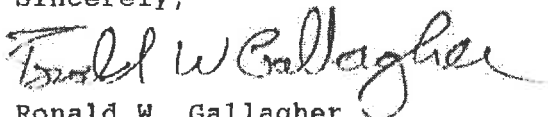
Mr. Chris Johnson
112 East Main Street
Pawling, New York 12564

Dear Mr. Johnson,

This letter is in reference to your request to have fill deposited on your property between East Main Street and Route 22. After reviewing the Code for the Village of Pawling there are no sections concerning the placement of fill on your site. I am granting you permission to have this material brought in from the road project on New York State Route 22 under the following conditions. If the material is to be stocked piled proper silt controls shall be in place so the material will not cause erosion. At this time the material can not be placed in the area that contains the standing water due to the possibility of siltation in the water course way where the water is drained off the property. The material can be later spread in this area when it dries up as long as it will not cause flooding problems on adjacent properties. If the material is to be spread in an area that does not contain standing water at the completion of the grading the earth would have to be seeded to prevent erosion.

If you have any questions please call me at 855-9442 or my pager at 487-0238.

Sincerely;



Ronald W. Gallagher
Code Enforcement Officer

Village of Pawling

Ronald Gallagher
CODE ENFORCEMENT OFFICER

(914) 855-9442
Pager 487-0238

9 Memorial Avenue
Pawling, NY 12564

Exhibit F

Exhibit F

*Village of Pawling
9 Memorial Avenue
Pawling, New York 12564*

Building Inspector/Code Enforcement
Larry J. Tomasso
Karl Pfister Jr.

Tel. (845) 855-1128

Fax (845) 855-9317

July 23, 2008

Mr. Chris Johnson
Heinchoon Deiry Inc
PO Box 372
Pawling, New York 12564

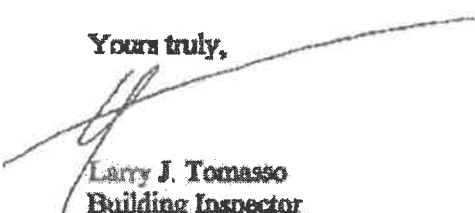
RE: Building Permit for Proposed Agricultural Building

Dear Mr. Johnson,

Section 101.2 of the New York State Uniform Fire Prevention and Building Code (Uniform Code) exempts agricultural buildings from the requirements of said code. Section 10-4a of the Code of the Village of Pawling only requires building permits for work which must conform with the Uniform Code. If your proposed structure conforms to the definition of "agricultural building" as defined in Section 202 of the Uniform Code, you may proceed with the construction of the building without a building permit.

Please be advised that if any portion of the proposed building does not conform to said definition, then a building permit will be required for the project.

Yours truly,



Larry J. Tomasso
Building Inspector

Exhibit G

Exhibit G

APPLICATION FOR SITE PLAN REVIEW
VILLAGE OF PAWLING PLANNING BOARD
VILLAGE HALL
9 MEMORIAL AVENUE
PAWLING, NY 12564
845-855-1128

Name of Applicant: 13th Step LLC, d/b/a Daryl's House

Address of Applicant: 130 New York State Route 22
Pawling, New York 12564

Telephone Number: _____

Location of Proposed Project Site: 112 East Main Street, Pawling, New York 12564

Tax Map Parcel #: 7056-05-210817, 219835 and 226800

Current Use of Site: Mixed (Commercial/Residential/Agricultural)

Proposed Use of Site: Mixed with parking for off-site use

Work to be Undertaken: _____ new project site, incl. new bldg. & site improvements
_____ modification to existing bldg.
 modification to existing developed site
_____ change of use of existing bldg. or site

Zoning Classification: B2

Owner of Property if not Applicant: Heinchon Dairy, Inc.

Address of Owner: Post Office Box 372
Pawling, New York 12564

Name of Agent: Zarecki & Associates, LLC (Engineer)
(Architect, Engineer) Sayegh Law (Attorney for Applicant)

Telephone Number of Agent: Engineer - 845-855-3771
Attorney - 845-228-4200

Exhibit G

The undersigned, having been advised by the Village of Pawling Building Inspector of the requirement for Site Plan Review and Approval, hereby requests site plan approval of the above identified site plan by the Village of Pawling Planning Board in accordance with Article XIII of the Zoning Law of the Village of Pawling. The undersigned acknowledges that the official date of this application is that of the next regularly scheduled meeting of the Planning Board, at which time a preliminary or final site plan in full accordance with the requirements of Article XIII of the Village of Pawling Zoning Law, a copy of this application form, the Environmental Assessment Form required to initiate compliance with the State Environmental Quality Review Act and receipt for payment of the application fee to the Village Clerk shall be presented in order to constitute a complete application. In order to be considered as an agenda item, the site plan, this application form and the Environmental Assessment Form must be received by the Planning Board office not less than fourteen calendar days prior to the regular scheduled Planning Board meeting.

In order to assist prospective applicant in complying with the site plan review and approval procedure, including noting the checklist format that data to be included in a particular site plan submission, the Village Planning Board holds consultations during regularly scheduled Planning Board meetings. The Planning Board meets the 2nd and 4th Wednesdays of each month at 7:00 PM at the Village Hall. Please call (845) 855-1128 regarding a specific appointment, if desired.

Application submitted by: Zarecki & Associates, LLC

Date: February 14, 2017

If applicant is not owner of the premises, proof of the applicant's right to act on behalf of the owner in this matter must be submitted.

Please note attachments:

Site Plan in accordance with Article XIII of the Village's Zoning Law

Environmental Assessment Form
(X) Short Form () Long Form

Receipt for site plan application fee - \$200

Authorization, if applicable, to act for owner

Other Data:

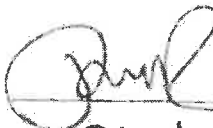

Patrick Ryan
General Manager
Daryl's House

Exhibit G

PARKING LOT FOR DARYL'S HOUSE at HEINCHON DAIRY, INC

STATEMENT OF USE

The subject property consists of three tax lots (7056-05-210817, 219835, and 226800) comprising a total of 5.16 acres and is located on East Main Street and NYS Route 22 in the Village of Pawling. The site is also known as Lots 3, 4 and 5 of The Heinchon Dairy, Inc Subdivision, Filed Map 6604, filed 5/13/1983. The property is owned by Heinchon Dairy, Inc. The overall site is developed with a large hay barn, two residences and an outbuilding. The barn is leased to Eastern Hay, a hay supply company. The site is located primarily in the Village of Pawling B-2 Business zone and has been granted Agricultural status by the NYS Department of Agriculture & Markets

It is proposed that the existing uses remain on the property. In addition, it is proposed to provide occasional parking for an off-site use. The off-site use is Daryl's House, a music venue/restaurant located at 130 NYS Route 22 (approximately 1.8 miles away) in the Town of Pawling. Parking is limited at the actual Daryl's House location, therefore it is proposed to provide off-site parking at the subject site. Specifically, it is proposed to augment/enhance the existing exterior work operations and parking areas to create a gravel/millings surface that will provide parking areas for approximately 300 vehicles as depicted on the proposed parking site plan. A shuttle service will transport patrons for the subject site to and from the Daryl's House site when larger concerts are scheduled.

The main site is currently serviced by a NYSDOT-approved curb cut on NYS Route 22 and two curb cuts on East Main Street. There are separate access points on East Main Street and parking areas utilized by each of the existing residences. The parking lot, when used for Daryl's House events, will include parking attendants, shuttle service and traffic control provided by the Dutchess County Sheriff's office (as needed). Music events that will require this parking area will be periodic in nature, generally Wednesday-Sunday, 4 p.m. - 11 p.m. The parking and operations will be coordinated with the existing Eastern Hay business so that parking for Eastern Hay employees will not coincide with the parking for use by Daryl's House events.

The proposed parking areas as shown on the proposed parking layout are generally within the existing developed/utilized areas of the site with additional enhancements to provide for the vehicle parking as shown on the Site Plan. Traffic circulation for events will be arranged such that most patrons will utilize the existing signaled intersection at NYS Route 22 and East Main Street/Quaker Hill Road (south of the site). The shuttle bus will enter the site on East Main Street and exit on Route 22 to travel southbound to the Daryl's House site.

Exhibit H

Exhibit H

**APPLICATION FOR SPECIAL USE PERMIT
VILLAGE OF PAWLING PLANNING BOARD**

Village Hall
9 MEMORIAL AVENUE
PAWLING, NEW YORK, 12564
(845) 855-1122

Date March 8, 2017

Name of Applicant: 13th Step LLC/dba Daryl's House

Address of Applicant: 130 New York State Route 22
Pawling, New York 12564

Telephone Number: _____

Project Name: Parking lot for Daryl's House at Heinchon Dairy, Inc.

Address: 112 East Main Street
Pawling, New York 12564

Telephone Number: 814-289-1441

Current Use of Site: Agricultural (Hay Supply Company)

Tax Map Parcel No.: 7056-05-210817, 219835 and 226800

Zoning Classification: B2 - Business 2 District
Zarecki & Associates, LLC

Contact Person & Phone Curt Johnson 945-855-3771

Application Fee &
Date Paid: Submitted with Site Plan Application

Board Appearance Dates: _____

BOARD APPROVAL DATE: _____

Chairman's Signature: _____

Exhibit I

Exhibit I

617.7

State Environmental Quality Review (SEQRA)

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Date of Adoption: May 23, 2017

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Planning Board of the Village of Pawling, as Lead Agency, has determined that the proposed action described below will not have a significant adverse impact on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: 13th Step LLC, d/b/a Daryl's House

SEQR Status: Type 1
Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action:

Provide periodic and temporary parking for approximately 296 vehicles generally within the existing parking and operations areas which are used by and for Eastern Hay Corp.

Location:

485 Route 22, Pawling, NY, Dutchess County. The site's tax parcel numbers are: 7056-05-210817, 219835 and 226800.

Required Permits and Approvals

1. ^{Wase} Town of Pawling Planning Board Special Permit & Site Plan Approval

Exhibit I

Reasons Supporting This Determination:

The Lead Agency has considered, and hereby issues a determination, concerning the following:

1. The Proposed action will not involve construction on or physical alteration of, the land surface of the proposed site
2. The proposed action will not result in the modification or destruction of, or inhibit access to any unique or unusual land forms on the site.
3. The proposed action will not affect any wetlands or surface water bodies.
4. The proposed action will not result in any new or additional use of ground water and will not have the potential to introduce contaminants to ground water or an aquifer.
5. The proposed action will not result in the development of land subject to flooding.
6. The proposed action will not include a state regulated air emission source.
7. The proposed action will not result in a loss of flora or fauna. Although the Applicant has agreed to clean up the underbrush along the property line common to the Kane House, the applicant is adding a significant amount of landscaping for screening as part of the project.
8. The proposed action will not impact agricultural resources.
9. The proposed action is not in sharp contrast to the current land use patterns between the proposed project and a scenic or aesthetic resource (non-noted).
10. The proposed action will occur adjacent to the Kane House however there exists significant vegetation between the two parcels. Further the Kane House periodically also uses the subject property for overflow parking for their events.
11. The proposed action will not result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.
12. The proposed action will not be located within or adjacent to a Critical Environmental Area (CEA).
13. The proposed action will not result in a change to existing transportation systems. The proposed action will result in periodic and temporary additional vehicles on the nearby roadway network. The applicant has proposed a system using valet parking and shuttle busses to transport patrons and ensure proper traffic circulation within the site and onto the local roadway network.
14. The proposed action would not result in a major change in the use of either the quantity or type of energy.
15. The proposed action will not result in an increase in noise or odors or outdoor lighting. The proposed temporary and periodic use of the lot for parking of vehicles may result in short term additional vehicle lights along the property lines and neighboring properties. As such, the Applicant has agreed to provide additional screening in the form of landscaping and solid barriers (along driveway openings) to prevent impacts to neighboring properties.

Exhibit I

16. The proposed action will not have an impact on human health from exposure to new or existing sources of contaminants.
17. The proposed action is consistent with adopted land use plans.
18. The proposed action is consistent with the community character.
19. The proposed action would not result in the creation of material demand for other actions that would result in one of the above consequences.
20. The proposed action would not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.
21. When analyzed with two or more related actions, the proposed action would not have a significant impact on the environment and when considered cumulatively, would not meet one or more of the criteria under 6.NYCRR 617.7.

For Further Information:

Mary Heubel, Planning Board Secretary
Village of Pawling Planning Board
9 Memorial Avenue
Pawling, New York 12564
Tele: 845-855-1128

This Negative Declaration was authorized:

At a Meeting of the Lead Agency held on May 23, 2017.

Documents Reviewed:

Part I EAF (prepared by the Applicant's representative) dated: May 9, 2017.
Part II EAF (prepared by the Village of Pawling Planning Board) dated: May 3, 2017.
Part III EAF (prepared by the Village of Pawling Planning Board) dated: May 2, 2017.
Site Plan drawing prepared by Zarecki & Associates LLC, dated May 7, 2017.

Exhibit I

A Copy of this Notice Filed with:

Village of Pawling Planning Board (Lead Agency)
Village of Pawling Clerk (Mayor's Office)
Dutchess County Planning Department
New York State Department of Transportation
Any person who has requested a copy
Applicant

A copy of this Notice will be published in the:

Environmental Notice Bulletin
625 Broadway
Rm. 538
Albany, NY 12233-1750

Exhibit J

Village of Pawling Planning Board

9 Memorial Avenue

Pawling, New York 12564

Tele: 845-855-1128

RESOLUTION DETERMINING SIGNIFICANCE

13th Step LLC, d/b/a Daryl's House

Date: May 23, 2017.

Resolution #: 01

Motion: by Herald Lascio

Seconded: by Sean D'Ellymphe

WHEREAS, the applicant, 13th Step LLC, d/b/a Daryl's House, has submitted an application for Special Permit and Site Plan approval to permit temporary and periodic parking on the property located at 485 Route 22 Pawling NY, 7056-05-210817, 219835 and 226800,

WHEREAS, the project area is located on three (3) parcels collectively comprising 5.16 (+/-) acres and is located in the B2 Zoning District; and

WHEREAS, the project is depicted on a site plan entitled "Parking Space Plan prepared for Heinchon Dairy" prepared by Zarecki & Associates dated May 19, 2017 (the "site plan"); and

WHEREAS, general commercial uses are permitted with site plan review in the District; and

WHEREAS, the applicant has submitted a Full Environmental Assessment Form ("EAF") dated May 9, 2017, pursuant to the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, on May 9, 2017 the Planning Board classified the action as a Type I action in accordance with the New York State Environmental Quality Review Act ("SEQRA") and declared its intent to serve as lead agency, to which no other agency has objected; and

WHEREAS, the Planning Board has reviewed the EAF provided and all available information concerning the potential impacts of the proposed project and found that the Planning Board has sufficient information on which to base a determination of significance; and

Exhibit J

WHEREAS, the Planning Board has considered the criteria contained in 6 NYCRR 617.7 and thoroughly analyzed all identified relevant areas of environmental concern;

NOW THEREFORE, BE IT RESOLVED, the Planning Board is confirmed as the Lead Agency for this coordinated review, that the only other involved agency is NYS DOT, who has jurisdiction over the highway work permit that applicant will require, and for the reasons set forth in Parts 1, 2 and 3 of the EAF and the attached Notice of Determination of Non-Significance, the Planning Board hereby adopts a Negative Declaration, finding that the project as proposed will not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement will not be prepared; and

BE IT FURTHER RESOLVED, that the Planning Board hereby directs the secretary to the Planning Board to send the attached Notice of Determination of Non-Significance to the Environmental Notice Bulletin for publication and to make all other required filings.

Dated: May 23, 2017

Resolution Moved By Member Herald Forascio

Second By Member Sean Dalrymple

Roll Call vote:

Michael Hogan	aye
Sean Dalrymple	aye
Herald Forascio	aye
William Foscatto	absent
Michael Conroy	absent

Exhibit K

Exhibit K

Village of Pawling Planning Board

9 Memorial Avenue

Pawling, New York 12564

Tele: 845-855-1128

FILED WITH

AUG 14 2017

VILLAGE CLERK

SITE PLAN RESOLUTION

13th Step LLC, d/b/a Daryl's House

Date: June 13, 2017.

Resolution #: 01

Motion: by William Fosco

Seconded: by Sean D'Amico

WHEREAS, the applicant, **13th Step LLC, d/b/a Daryl's House**, has submitted an application for Special Permit and Site Plan approval to permit temporary and periodic parking on the property located at Heinchon Dairy (hereinafter "Owner") 485 Route 22 Pawling NY, 7056-05-210817, 219835 and 226800,

WHEREAS, the project area is located on three (3) parcels collectively comprising 5.16 (+/-) acres and is located in the B2 Zoning District; and

WHEREAS, the project is depicted on a site plan entitled "Parking Space Plan prepared for Heinchon Dairy" prepared by Zarecki & Associates dated July 7, 2017(the "site plan"); and

WHEREAS, commercial parking and agricultural uses are permitted in the District; and

WHEREAS, the applicant has submitted a Full Environmental Assessment Form ("EAF") dated May 9, 2017 (Part 1) and May 23, 2017 (Part 2), pursuant to the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, on May 9, 2017 the Planning Board classified the action as a Type I action in accordance with the New York State Environmental Quality Review Act ("SEQRA") and declared its intent to serve as lead agency, to which no other agency has objected; and

Exhibit K

WHEREAS, on June 13, 2017, the Planning Board adopted a Negative Declaration, finding that the project as proposed will not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement will not be prepared; and

WHEREAS, the Planning Board is in receipt of an amended Site Plan dated July 7, 2017 prepared by Zarecki Associates which addresses the concerns and items raised by the Planning Board, the Public and the Consultants; and

WHEREAS, the Planning Board has determined that the project application is complete; and

WHEREAS, the Planning Board approved the special use permit for the proposed parking use before this resolution on this date;

NOW THEREFORE BE IT RESOLVED, that the Planning Board hereby grants Site Plan Approval for the project based on the following findings:

1. The parking area use is permitted in the B-2 zoning district, and as such is not in conflict with the Village of Pawling Comprehensive Plan enacted as Local Law 4 of the year 1994;
2. The parking areas shown on the approved site plan are readily accessible for fire and police protection;
3. The parking areas depicted on the approved site plan do not include permanent structures to be placed on the site, and the proposed use of the parking area will be primarily for the applicant's benefit. The maximum capacity of vehicles permitted on the parking areas shown on the approved site plan is 296 total, which the planning board finds will fill and empty gradually during evening hours based on the shuttle and/or bus service provided. The location of the parking area outlet onto Route 22 at an existing curb cut, with appropriate signage is determined to be a safe and non-invasive outlet which will not burden the village streets;
4. The absence of permanent structures being added to the parking areas and the addition of landscaping will not have the effect of discouraging appropriate use and development of adjacent land and buildings;
5. The approved site plan is designed to mitigate conditions arising from use of the parking areas such as light glare from vehicles and temporary lights. Exterior lighting will be temporary and must be removed when the parking areas are not in use and during daylight hours. The addition of buffers surrounding the site will mitigate noise. No vibrations and fumes are anticipated from the parking use as the vehicles will be parked and engines off for hours except when arriving and exiting. Most general commercial uses permitted in the zoning district require parking and traffic so the proposed parking use by applicant is not unusual in that respect;

Exhibit K

6. The parking areas and entrance and exit are adequate for the capacity of 296 vehicles, with suitable screening from adjoining residential uses, and laid out for maximum safety.
7. The parking use complies with the zoning law and in particular the non-residential supplementary regulation in article VI.
 - A. The planning board may require such additional conditions and safeguards to the site plan permit as may be necessary to assure continual conformance to all applicable standards and requirements. See Appendix Exhibit A appended to this Resolution
 - B. The building inspector shall not issue permits until receipt of the written permit approval from the planning board.
 - C. There are no existing violations of record on the property covered by the approved site plan.
 - D. The application was referred to Dutchess County Dept. of Development and Planning and their approval has been received.

BE IT FURTHER RESOLVED that section 98-19 B provides that the applicant is required to comply with Performance Standards found at section 98-20 of the zoning law.

Section 98-20:

- B. Noise. Noise from the parking area shown on the approved site plan is not expected to exceed ambient noise from Route 22 and village streets. Amplified noise on the site is not permitted. Shuttles and/or buses on the site will not be permitted to idle except while loading or unloading. If complaints are received the building inspector may perform testing and commence enforcement of this standard.
- C. Vibration. No vibrations are anticipated.
- D. Smoke and dust. No smoke is anticipated. The gravel on the parking area will mitigate wind driven dust, and dust from vehicles. If complaints are received the building inspector may perform testing and commence enforcement of this standard.
- E. Odors. None anticipated.
- F. Toxic or noxious matter. None anticipated.
- G. Radioactive. None.
- H. Electromagnetic. None.

Exhibit K

I. Fire and explosion. The parking use does not present a substantial risk of fire or explosion. If there is a car fire, the Pawling Fire Department is minutes away and the sheriff's substation is on Memorial Avenue.

J. Heat. None.

K. Solid waste. Small amounts of litter may be expected and applicant's parking lot attendants must police the parking area every day the lot is open for applicant's use and dispose of the waste.

L. Vehicular traffic. The maximum number of vehicle trips generated on a day when the parking area reaches 296 vehicle capacity is 592, exclusive of the shuttle bus trips. The parking area will be operated only a maximum of 10 hours per day, yielding a vehicle trip rate of 59.2 per hour. Such a rate is not expected to create unusual traffic hazards or congestion on the state highway and local streets, or interference with air quality standards. The building inspector may perform testing and commence enforcement of this standard in the event hazards, congestion or emissions become a source of concern;

BE IT FURTHER RESOLVED:

The planning board hereby makes the following findings pursuant to Article VIII C(1) of the zoning law as amended by Local Law No. 1 of 1991:

- a. Adequacy and arrangement of vehicular traffic access and circulation is satisfactory.
- b. Pedestrian traffic access and circulation is adequate.
- c. Off-street parking is satisfactory in arrangement and appearance.
- d. Location, arrangement size and design of lighting and signage is adequate.
- e. Stormwater drainage facilities not required.
- f. Water and sewer service not required.
- g. Fire access is adequate.
- h. Type and arrangement of landscaping to buffer visibility and noise of from parking area is satisfactory, including retention of existing vegetation.
- i. The site plan design mitigates glare and noise and unsightliness of the tractor and trailer trucks by moving the trucks off the parking area during use of the lot by the Applicant to the extent whenever possible, and using temporary, portable lights and screening.
- j. No permanent structures being approved, parking area to be covered with gravel.
- k. No disabled parking spaces are required for use by the Applicant
- l. No architectural review is required.

NOTE: THE APPLICANT SHALL WITHIN 6 MONTHS SUBMIT 6 PRINTS AND 1 PDF OF THE SITE PLAN FOR STAMPING AND SIGNING BY THE CHAIRMAN (APPLICANT WILL ALSO PROVIDE A PDF OF THE SIGNED SITE PLAN). THE CHAIRMAN IS AUTHORIZED TO SIGN AND STAMP THE SITE PLAN IF IT HAS INCORPORATED ALL

Exhibit K

CONDITIONS AND REQUIREMENTS IMPOSED BY THE PLANNING BOARD,
TOGETHER WITH PROOF OF APPROVAL STATUS OF ALL NECESSARY PERMITS
FROM STATE, COUNTY AND LOCAL OFFICIALS, AS REQUIRED BY Local Law 1 of
1991 section D(2).

[REFERENCE TO THE APPROVED SITE PLAN IS TO EXHIBIT B ANNEXED HERETO]

Additional terms and conditions stated in this resolution and Exhibit A therein must be
incorporated into an updated final site plan and notes for signature of the chairman.

Dated: June 13, 2017

Resolution Moved By Member

William Foscatò

Second By Member

Sean Dalrymple

Roll Call vote:

Michael Hogan	aye
Sean Dalrymple	aye
Michael Cenny	aye
Gerald Locascio	aye
William Foscatò	aye

Exhibit K

EXHIBIT A

ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO THE SITE PLAN

APPLICANT: 13TH STEP, LLC DBA DARYL'S HOUSE

1. The "hours of operation" are from 3:00pm through 12:00am with a grace period of ½ hour before and after the stated hours of operation. Any changes must be approved by the planning board.
2. The most northerly entrance on Main Street will not be used for the parking use and will be appropriately closed with barricades during all events. The middle entrance on Main St. will be only be used for shuttle and/or buses entering the facility, with exiting allowed only for emergency situations. All other exiting of site will be at the Route 22 exit/entrance.
3. Applicant and property owner are required as a condition of this permit to comply with the attached site plan (and all amendments of the site plan required by planning board) as a condition of this special use permit.
4. Continuing compliance with the performance standards at section 98-20 of zoning law is required.
5. Shuttles and/or buses shall not be parked on the parking area except during hours of operation and will not be permanently stored on the site. Bus pick-up and drop off should be located in order to minimize the shining of lights on residential housing. If less than the full parking area will be used, to the extend possible, truck trailers will be moved to the lower, northern parking area so that parking is principally used on the southern parking area
6. Shuttle and bus idling must be minimized to avoid conflict with adjacent residents and performance standards. This includes locating bus pick-up and drop off in the southerly/upper portion of the parking area.
7. Only temporary, portable lights that shine downward can be used and must be removed from parking areas when not in use. "Not in use" shall mean outside of the hours of operation and relative grace period on days the parking area and shuttle service are operating.
8. Overnight parking of cars (other than cars parked for use by the Property Owner), shuttles and/or buses is not permitted.
9. Applicant is responsible for policing the parking area and removing litter at the end of each day the parking area is operating for its use or at times when the Planning Board permits. The use of the parking area for the Daryl's House patrons includes the use of a bus and/or shuttle service to move patrons to and from the Daryl's House venue on Route 22, and the use of onsite attendants and signage to direct traffic to appropriate parking areas.
10. Permit does not take effect until the escrow is fully funded.

Exhibit K

This approval is not intended to supercede any approval which may be required by the Town of Pawling relative to the current and separate application before the Town of Pawling for 13th Step, LLC.

11. ~~Owner may arrange with village officials and John Kane House officers for local parking on the parking area for special occasions.~~
12. No amplified noise/music permitted.
13. Site plan to show 110 linear feet of 6 foot high/ 8 foot wide vinyl stockade fence along the northerly property line to the Route 22 end of the parking lot to mitigate headlight glare.
14. Site plan to show movable, freestanding fence sections to be moved into the existing driveway opening during events to close off the north parking lot from the shared driveway. These fence sections to be removed when the parking area is not in use by Applicant's patrons, as this area may be used by property owner's trucks for farm-related vehicle passage. The fence sections will be 6 feet high and 8 feet wide vinyl with side posts and legs.
15. Site plan to show a note stating that the 3 lots comprising the parking area are under single ownership, and as such the residences and barn on the 3 lots comprising the site have reciprocal rights of access over the existing driveway of Heinchon Dairy. The special use permit and site plan will be revocable should any of the lots on the site plan be conveyed and so are not all under single ownership, unless reciprocal easements are provided to preserve the access rights shown on the site plan. This clause shall not serve to merge the respective lots.
16. Site plan to show a note that the temporary, movable lighting shall be directed downwards to reduce glare off-site, as necessary for specific events.
17. Site plan to show a note stating that it is preferred that the property owner park its tractor-trailers on the North/lower parking area to the extent possible so patron parking would primarily be on the South/upper lot which is farther from the homes near the North property line. Where the South/upper lot is inadequate for all patron parking, applicant's patrons may use the North/lower parking area for overflow during applicant's events. Applicant and Owner of property must coordinate events and the ongoing agricultural use. Applicant and owner have agreed that this site plan and special permit will permit each to have use of their property without conflict between the agricultural use of the Owner and the parking requirements of the Applicant.

Exhibit K

EXHIBIT B

APPROVED SITE PLAN

Exhibit L

Exhibit L

Village of Pawling Planning Board

9 Memorial Avenue
Pawling, New York 12564
Tele: 845-855-1128

FILED WITH
AUG 14 2017
VILLAGE CLERK

SPECIAL PERMIT RESOLUTION

13th Step LLC, d/b/a Daryl's House

Date: June 13, 2017.

Resolution #: 02

Motion: by Gerald Locascio

Seconded: by Michael Curmy

WHEREAS, the applicant, **13th Step LLC, d/b/a Daryl's House**, has submitted an application for Special Permit and Site Plan approval to permit temporary and periodic parking on the property located at Heinchon Dairy (hereinafter "Owner") 485 Route 22 Pawling NY, 7056-05-210817, 219835 and 226800,

WHEREAS, the project area is located on three (3) parcels collectively comprising 5.16 (+/-) acres and is located in the B2 Zoning District; and

WHEREAS, the project is depicted on a site plan entitled "Parking Space Plan prepared for Heinchon Dairy" prepared by Zarecki & Associates dated July 17, 2017 (the "site plan"); and

WHEREAS, commercial parking and agricultural uses are permitted in the District; and

WHEREAS, the applicant has submitted a Full Environmental Assessment Form ("EAF") dated May 9, 2017 (Part 1) and May 23, 2017 (Part 2), pursuant to the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, on May 9, 2017 the Planning Board classified the action as a Type I action in accordance with the New York State Environmental Quality Review Act ("SEQRA") and declared its intent to serve as lead agency, to which no other agency objected; and

WHEREAS, the Planning Board held a properly noticed Public Hearing for the project; and

Exhibit L

WHEREAS, on June 13, 2017, the Planning Board adopted a Negative Declaration, finding that the project as proposed will not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement will not be prepared; and

WHEREAS, the amended Site Plan dated July 7, 2017 prepared by Zarecki Associates addresses the concerns and items raised by the Planning Board, the Public and the Consultants; and

WHEREAS, the Planning Board has determined that the application is complete;

NOW THEREFORE BE IT RESOLVED that the Planning Board hereby grants Special Permit Approval for the project, based on the following findings made pursuant to section 98-74 A of the zoning law of the Village of Pawling:

1. The parking area use is permitted in the B-2 zoning district, and as such is not in conflict with the Village of Pawling Comprehensive Plan enacted as Local Law 4 of the year 1994;
2. The parking areas shown on the approved site plan are readily accessible for fire and police protection;
3. The parking areas depicted on the approved site plan do not include permanent structures to be placed on the site, and the proposed use of the parking area will be primarily for the applicant's benefit. The maximum capacity of vehicles permitted on the parking areas shown on the approved site plan is 296 total, which the planning board finds will fill and empty gradually during evening hours based on the shuttle and/or bus service provided. The location of the parking area outlet onto Route 22 at an existing curb cut, with appropriate signage is determined to be a safe and non-invasive outlet which will not burden the village streets;
4. The absence of permanent structures being added to the parking areas and the addition of landscaping will not have the effect of discouraging appropriate use and development of adjacent land and buildings;
5. The approved site plan is designed to mitigate conditions arising from use of the parking areas such as light glare from vehicles and temporary lights. Exterior lighting will be temporary and must be removed when the parking areas are not in use and during daylight hours. The addition of buffers surrounding the site will mitigate noise. No vibrations and fumes are anticipated from the parking use as the vehicles will be parked and engines off for hours except when arriving and exiting. Most general commercial uses permitted in the zoning district require parking and traffic so the proposed parking use by applicant is not unusual in that respect;
6. The parking areas and entrance and exit are adequate for the capacity of 296 vehicles, with suitable screening from adjoining residential uses, and laid out for maximum safety.

Exhibit L

7. The parking use complies with the zoning law and in particular the non-residential supplementary regulation in article VI.
 - A. The planning board may require such additional conditions and safeguards to the Special Use Permit as may be necessary to assure continual conformance to all applicable standards and requirements. See Appendix Exhibit A appended to this Resolution
 - B. The building inspector shall not issue permits until receipt of the written permit approval from the planning board.
 - C. There are no existing violations of record on the property covered by the approved site plan.
 - D. The application was referred to Dutchess County Dept. of Development and Planning and their approval has been received.

BE IT FURTHER RESOLVED that section 98-19 B provides that the applicant is required to comply with Performance Standards found at section 98-20 of the zoning law.

Section 98-20:

- B. Noise. Noise from the parking area shown on the approved site plan is not expected to exceed ambient noise from Route 22 and village streets. Amplified noise on the site is not permitted. Shuttles and/or buses on the site will not be permitted to idle except while loading or unloading. If complaints are received the building inspector may perform testing and commence enforcement of this standard.
- C. Vibration. No vibrations are anticipated.
- D. Smoke and dust. No smoke is anticipated. The gravel on the parking area will mitigate wind driven dust, and dust from vehicles. If complaints are received the building inspector may perform testing and commence enforcement of this standard.
- E. Odors. None anticipated.
- F. Toxic or noxious matter. None anticipated.
- G. Radioactive. None.
- H. Electromagnetic. None.
- I. Fire and explosion. The parking use does not present a substantial risk of fire or explosion. If there is a car fire, the Pawling Fire Department is minutes away and the sheriff's substation is on Memorial Avenue.
- J. Heat. None.

Exhibit L

K. Solid waste. Small amounts of litter may be expected and applicant's parking lot attendants must police the parking area every day the lot is open for applicant's use and dispose of the waste.

L. Vehicular traffic. The maximum number of vehicle trips generated on a day when the parking area reaches 296 vehicle capacity is 592, exclusive of the shuttle bus trips. The parking area will be operated only a maximum of 10 hours per day, yielding a vehicle trip rate of 59.20 per hour. Such a rate is not expected to create unusual traffic hazards or congestion on the state highway and local streets, or interference with air quality standards. The building inspector may perform testing and commence enforcement of this standard in the event hazards, congestion or emissions become a source of concern.

[REFERENCE TO THE APPROVED SITE PLAN IS TO EXHIBIT B ANNEXED HERETO]

Dated: June 13, 2017

Resolution Moved By Member Herald Locascio

Second By Member Michael Cerny

Roll Call vote:

Michael Krogan	aye
Sean Dalrymple	aye
Michael Cerny	aye
Herald Locascio	aye
William Foscat	aye

Exhibit L

EXHIBIT A

ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO THE SPECIAL PERMIT PURSUANT TO SECTION 98-74B OF THE ZONING LAW

APPLICANT: 13TH STEP, LLC DBA DARYL'S HOUSE

1. The "hours of operation" are from 3:00pm through 12:00am with a grace period of ½ hour before and after the stated hours of operation. Any changes must be approved by the planning board.
2. The most northerly entrance on Main Street will not be used for the parking use and will be appropriately closed with barricades during all events. The middle entrance on Main St. will be only be used for shuttle buses entering the facility, with exiting allowed only for emergency situations. All other exiting of site will be at the Route 22 exit/entrance.
3. Applicant and property owner are required as a condition of this permit to comply with the attached site plan (and all amendments of the site plan required by planning board) as a condition of this special use permit.
4. Continuing compliance with the performance standards at section 98-20 of zoning law is required.
5. Shuttles and/or buses shall not be parked on the parking area except during hours of operation and will not be permanently stored on site. Bus pick-up and drop off should be located in order to minimize the shining of lights on residential housing. If less than the full parking area will be used, to the extent possible truck trailers will be moved to the lower, northern parking area so that parking is principally used on the southern parking area.
6. Shuttle and/or bus idling must be minimized to avoid conflict with adjacent residents and performance standards. This includes locating bus pick-up and drop off in the southerly/upper portion of the parking area.
7. Only temporary, portable lights that shine downward can be used and must be removed from parking areas when not in use. "Not in use" shall mean outside of the hours of operation and relative grace period on days the parking area and shuttle service are operating.
8. Overnight parking of cars (other than cars parked for use by the Property Owner), shuttles and/or buses is not permitted.
9. Applicant is responsible for policing the parking area and removing litter at the end of each day the parking area is operating for its use or at times when the Planning Board permits. The use of the parking area for the Daryl's House patrons includes the use of a bus and/or shuttle service to move patrons to and from the Daryl's House venue on Route 22, and the use of onsite attendants and signage to direct traffic to appropriate parking areas.
10. Permit does not take effect until the escrow is fully funded. This approval is not intended to supercede any approval which may be required by the Town of Pawling relative to the current and separate application before the Town of Pawling for 13th Step, LLC.
11. Owner may arrange with village officials and John Kane House officers for local parking on the parking area for special occasions.

Exhibit L

12. **No amplified noise/music permitted.**
13. **Site plan to show 110 linear feet of 6 foot high/ 8 foot wide vinyl stockade fence along the northerly property line to the Route 22 end of the parking lot to mitigate headlight glare.**
14. **Site plan to show movable, freestanding fence sections to be moved into the existing driveway opening during events to close off the north parking lot from the shared driveway. These fence sections to be removed when the parking area is not in use by Applicant's patrons, as this area may be used by property owner's trucks for farm-related vehicle passage. The fence sections will be 6 feet high and 8 feet wide vinyl with side posts and legs.**
15. **Site plan to show a note stating that the 3 lots comprising the parking area are under single ownership, and as such the residences and barn on the 3 lots comprising the site have reciprocal rights of access over the existing driveway of Heinchon Dairy. The special use permit and site plan will be revocable should any of the lots on the site plan be conveyed and so are not all under single ownership, unless reciprocal easements are provided to preserve the access rights shown on the site plan. This clause shall not serve to merge the respective lots.**
16. **Site plan to show a note that the temporary, movable lighting shall be directed downwards to reduce glare off-site, as necessary for specific events.**
17. **Site plan to show a note stating that it is preferred that the property owner park its tractor-trailers on the North/lower parking area to the extent possible so patron parking would primarily be on the South/upper lot which is farther from the homes near the North property line. Where the South/upper lot is inadequate for all patron parking, applicant's patrons may use the North/lower parking area for overflow during applicant's events. Applicant and Owner of property must coordinate events and the ongoing agricultural use. Applicant and owner have agreed that this site plan and special permit will permit each to have use of their property without conflict between the agricultural use of the Owner and the parking requirements of the Applicant.**

Exhibit L

EXHIBIT B
APPROVED SITE PLAN

Exhibit M

Exhibit M

At a Meeting of the Village of Pawling Planning Board held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the 14th day of January, 2020, at 7:00 PM

RESOLUTION OF THE PLANNING BOARD OF THE VILLAGE OF PAWLING

Identifier: Negative Declaration for Heinchon Place

The meeting was called to order by the Chairman

The following Resolution was proposed by Member Lou Musella, who moved its adoption, and seconded by Member Adam Muroski.

WHEREAS, the Village of Pawling Planning Board (“Board”) has received an application from the owner of Heinchon property on East Main Street in the Village for site plan and special permit; and

WHEREAS, the Applicant filed an Environmental Assessment Long Form (“EAF”) and the Board deems the application a Type 1 Action pursuant to 6 NYCRR Part 617 and ordered that the SEQRA environmental review would be coordinated with other involved agencies;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Village determines that the action before it will not create any significant negative environmental impacts as defined in 6 NYCRR Part 617, based on the record before the Board and the EAF.; and

BE IT FURTHER RESOLVED that with respect to the water supply, the Planning Board requires and the Applicant has agreed that the permits to be issued by the Board and the Building Inspector shall be subject to the condition that no certificate of occupancy shall be issued for any part of the Project to be known as Heinchon Place until such time as the Village has completed the purchase of property near Lakeside Drive and has constructed wells that are approved for use as an expanded water supply for the Village, have been approved by NYS Department of Environmental Conservation and NYS Department of Health and Heinchon Place is permitted by

Exhibit M

the Village to connect to the Village water distribution system and to commence receiving water from the said Village water system when the new wells are placed online; and the Applicant has executed a written instrument in the form and content acceptable to the attorney for the Village and accepted by the Planning Board to memorialize such condition and to indemnify and hold the Village harmless for claims and liabilities arising from the issuance of the permits by the Planning Board and the issuance of any certificate of occupancy.

This negative declaration is based on the EAF and the proceedings of the Planning Board evaluating the content of the EAF and approving same, and is affirmed by the Notice of Determination of Non-Significance annexed hereto.

The question of the foregoing Resolution was duly put to a vote, the Planning Board voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mike Cerny, Acting Chairman	<u>X</u>	—	—
Lou Musella, Member	<u>X</u>	—	—
Robert Pfister, Member	<u>X</u>	—	—
Adam Muroski, Member	<u>X</u>	—	—
Scott Nickerson, Member	—	—	<u>X</u>
TOTAL	<u>4</u>	—	<u>1</u>

STATE OF NEW YORK)
) ss.:
 COUNTY OF DUTCHESS)

This is to certify that I, the undersigned secretary to the Planning Board of the Village of Pawling, have compared the foregoing resolution with the original resolution and minutes now on file in the office of said Village Clerk, which was adopted by Planning Board of the Village of Pawling on the 14th day of January, 2020, and that the same is a true and correct copy of said original resolution and of the whole thereof.


 Jen Strehle, Secretary

Exhibit M

EXHIBIT A

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Exhibit M

**State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The **VILLAGE OF PAWLING PLANNING BOARD**, as lead agency, has determined that the proposed action described below will not have a significant environmental impact and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Heinchon Place

SEQR Status: Type 1
Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action:

The project area was the subject of a Site Plan and Special Permit review (Type 1 Action) by the Village of Pawling Planning Board in 2017 for the construction of a 296 Parking Lot. The Planning Board completed a SEQRA review and granted a Negative Declaration on June 13, 2017 and on granted a Special Permit and Site Plan approval for the 296 space parking lot on June 13, 2017.

The current project is an application for Amended Site Plan and Special Permit Approval for the removal of three of the four existing structures. The existing agricultural / commercial building (Eastern Hay office) will remain and be improved to support additional commercial/retail uses. The proposed application also seeks to construct three (3) new buildings and associated parking and landscaped areas.

Building	Use	Approx. Square Footage	Permit/Special Permit
1	Multi-Family Residential	55,816	Special Permit
2	Multi-Family Residential	49,732	Special Permit
3	Retail	2,500	Retail – Special Permit
	Restaurant	5000	Restaurant – Special Permit
	Office	4753	Office – Permitted
4	Hotel	24,000	Special Permit

The project area is comprised of three parcels (1) 7056-05-210817 being 0.68 acres, (2) 7056-05-219835 being 3.31 acres, and (3) 7056-05-226800 being 1.15 acres. All parcels in the project area are within the B-2 Zoning District.

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Access

Access to the existing and proposed project will be from three of the four existing ingress/egress locations on Main Street and NYS Route 22. One of the existing ingress/egress will be closed.

Parking

The center has been designed to provide individual parking areas for each of the buildings while providing a detailed network of pedestrian connectivity/pathways within the parking lots to make the center feel as if it is one center and not individual buildings. The main access will be from (the existing) NYS Route 22 and two (existing) access points from East Main Street. The buildings themselves are designed to provide screening of the parking areas and create a visual interest from the roads. New sidewalks are proposed within the center and along Main Street. A total of 181 spaces are proposed as part of this project.

The Village of Pawling Planning Board has been designated Lead Agency for the current project under consideration.

Location:

E. 112 Main Street and S. Main Street, Tax Parcel Numbers 7056-05-210817, 7056-05-219835 and 7056-05-226800.

Required Permits and Approvals:

1. Site Plan – Village of Pawling Planning Board
2. Special Permit Approval – Village of Pawling Planning Board
3. Area Variances – Village of Pawling ZBA
(Side Yard Variance, Max Lot Coverage, Max Density)
4. NYSDEC and Village of Pawling – Stormwater Pollution Prevention Plan/SPDES Permit
5. Village of Pawling Water/Sewer Department approvals

Documents and Comments Reviewed and Considered by the Lead Agency:

The applicant submitted application materials to the Village of Pawling Planning Board including the following:

1. Combined Application form for Amended Site Plan and Special Permit dated 06.13.19 and Amended on 08.27.19.
2. Amended Project Summary dated 10.29.19.
3. Full Part I and Part II EAF dated 06.13.19 and Amended on 08.27.19.
4. Amended Part II EAF dated 10.29.19 and Draft Part III EAF 10.29.19.

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5. Traffic Impact Study prepared by JMC dated 08.28.19 and amended Traffic Study prepared by JMC dated 10.17.19
6. Site Plan prepared by LRC Group dated 06.14.19 and amended on 08.27.19 and further amended on 10.29.19.
7. Elevation of the Residential Structures prepared by Liscum McCormack VanVorhis.
8. Amended Elevations prepared by Sun Homes dated 10.29.19 and Additional Elevations dated 12.04.19
9. Correspondence from NYSDEC dated 09.27.19.
10. Correspondence from NYS OPRHP dated 06.24.19.
11. Amended SWPPP prepared by LRC Group dated 10.29.19 and further amended on 11.16.19.
12. Correspondence from the Village Planning Board Consultants include Berger Engineering and Maser Engineering.

The Planning Board initiated the environmental review of the project on July 9, 2019 by declaring its intent to be Lead Agency in a coordinated SEQR process. The Planning Board considered the applications, materials, comments and discussion at regular meetings on June 13, 2019, August 27, 2019, September 11, 2019, October 8, 2019, November 5, 2019, and December 10, 2019, January 14, 2020 and a Joint Village ZBA/Planning Board meeting on September 24, 2019.

A duly notice public hearing was opened and closed on December 10, 2019. Written and oral comments were received from the Town Planning Board's consulting engineer and planner (Berger Engineering), consulting traffic engineer (Maser Engineering); Dutchess County Department of Planning; NYS Department of Environmental Conservation; NYS Office of Parks, Recreation and Historic Preservation; and members of the public.

The Lead Agency has compared the proposed action against the previously approved project to assess the relative severity of potential environmental impacts of the Amended Site Plan and has determined that for the reasons set forth herein a Draft Environmental Impact Statement will not be required.

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Reasons Supporting This Determination:

1. Impact on Land (Part II EAF # 1) – Slopes of 15% or greater

Although Construction will occur on land that is at or greater than 15% the area constituting this grade change is limited to the area to the west and south of the hotel, totalling approximately 9,000 square feet. The Applicant has provided a Grading Plan, Erosion and Sediment Control Plan and Details, and a Stormwater Pollution Prevention Plan all of which have been reviewed and determined acceptable by the Village Engineer.

Accordingly, any potential adverse impacts to the land associated with the project would be avoided.

Impact on Land (Part II EAF # 1) – Erosion & Storm Water

The Amended Site Plan will require the preparation of a Stormwater Pollution Prevention Plan (SWPPP). Proposed stormwater management design for the project directs site runoff to on-site systems for collection and treatment prior to discharge. Stormwater management and erosion controls would be in conformance with requirements of the current NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, NYSDEC Stormwater Management Design Manual, and NYS Standards and Specifications for Erosion and Sediment Control.

The implementation of the stormwater and erosion/sediment control plans to be completed during amended site plan review in conformance with statutory requirements would provide the protections required for downstream landowners and surface waters without the need for specific mitigation as a condition of approval. Thus, the protections cover both the period during construction and after construction.

Accordingly, any potential adverse impacts of the Amended Site Plan related to storm water runoff would be avoided.

2. Impact on Surface Water (Part II EAF #3) & Plants and Animals (Part II EAF # 7)

The NYSDEC provided correspondence dated September 27, 2019 which indicated that there are no waterbodies onsite, the project site is not within a NYS protected wetland, the project does not contain a federally regulated wetland, and the proposed project is not likely to have any significant impacts on bog turtles or their habitat and no further review regarding bog turtles at this site is necessary.

Accordingly, any potential adverse impacts of the Amended Site Plan related to surface water or plants and animals would be avoided.

3. Impact on Groundwater (Part II EAF #4) - Water Supply and Sewage Disposal

Water supply for the additional units will be available from the VILLAGE OF PAWLING. The Village of Pawling has required that the project can connect to the existing Water System only after the new Village of Pawling water supply wells are installed and operational which is expected to occur in the Winter of 2020.

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Sanitary sewage treatment for the project is adequate and available from the VILLAGE OF PAWLING Sewer District. Connection from the site to the sewage treatment system would include proposed installation individual lateral connections to the existing sewer main in Main Street.

Accordingly, any potential adverse impacts to municipal water supply and sewage treatment facilities associated with the project would be avoided.

4. Impact on Agricultural Resources (Part II EAF # 8)

Although the project area is within an Agricultural District and sells Agricultural Products, the project area does not support the actual production of Agricultural materials and therefore there is no material impact.

Accordingly, any potential adverse impacts to Agricultural Resources associated with the project would be avoided.

5. Impact on Aesthetic Resources (Part II EAF # 9)

Pawling Commons, a similar project is located approximately 1000 feet to the northwest towards the Village center. The project includes existing retail and office uses and has received approval for the construction of a four story (permitted) structure and will completed will provide 53 multi-family residential units. This project is similarly bounded by residential properties on three sides. Further, properties to the north of the project area, also in the B-2 District contain retail and office uses in buildings that are also of similar height.

The project sponsor has developed elevations that are compatible and complimentary to the existing residential and multi family residential structures in the immediate area and is complimentary to the adjacent Kane House as the project proposes an agrarian type of architecture with a color palette that resembles the adjacent historic structure.

Accordingly, any potential adverse impacts to Aesthetic Resources associated with the project would be avoided.

6. Impact on Historic and Archaeological Resources (Part I EAF # 10)

The project area is adjacent to the Kane House which is listed on the National Register. The Applicant has provided correspondence from the New York State Office of Parks Recreation and Historic Preservation dated June 24, 2019 which indicated that the project will have no impact to the Kane House.

Further, the Village of Pawling has conducted a review of the project, the landscaping and the architecture of the project and determines that the project has sufficient screening between the project and the adjoining Kane House and that the architecture proposed is complimentary to the Kane House.

Accordingly, construction of the project would have no impact on cultural resources listed or eligible for listing on the state or federal lists of historic places.

7. Impact on Traffic – (Part II EAF # 13)

Access to the proposed project will be from three of the four existing current ingress/egress locations on Main Street and NYS Route 22. One of the existing ingress/egress will be closed. Further, the Applicant has provided an extensive Traffic Impact Study prepared by JMC dated August 28, 2019, an

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amended Traffic Study prepared by JMC dated October 10, 2019 and a Site Plan and Truck Turning Plan prepared by LRC Engineering which have been reviewed by the Village of Pawling Traffic Consultant Dr. Phil Grealy, P.E. of Maser Engineering. In a letter dated November 1, 2019, Dr. Grealy has determined that the Traffic Study provided by the Applicant is complete and notes that the design of the project implemented his office's suggested design components and as such, the plan addresses all SEQRA requirements.

Accordingly, any potential adverse impacts to Traffic associated with the project would be avoided.

8. Consistency with Community Plans & Community Character (Part II EAF # 17 & 18)

The project has incorporated design components which reflect the design of the residential and multi-family residential structures in the surrounding area. Further, the Planning Board has noted the following:

1. Several of the residential structures along East Main Street are multi-family uses (rental apartments).
2. The house immediately north of the project area at 98 E Main Street is a 2.5 story structure.
3. The house immediately adjacent to the property (north) at 104 E Main Street is a 2.5 story multi-family structure (apartments)
4. The house immediately adjacent to the property (north) at 106 E Main Street is a 2.5 story multi-family structure (apartments).
5. The structure immediately adjacent to the property (north) at 19 Heinchoh Lane is a multi-story structure containing multi-family units (apartments).
6. The structure immediately adjacent to the property (south) 120-124 Main Street (Kane House) is a 2.5 story structure
7. Properties to the immediate north on Route 22, also support a mix of retail and office uses.
8. The Pawling Commons project is located approximately 1000 feet to the northwest towards the Village center and currently contains similar office and retail uses. Further, this project is similarly bounded on 3 sides by properties in the residential zoning district and residential houses. Finally, the project has received approval from the Planning Board for the construction of a four story (permitted height) structure and conversion of a one-story structure to a four-story structure to contain 53 residential multi-family apartments.

The proposed project uses and massing are not unlike the surrounding uses and buildings in the immediate vicinity of the project area.

Moreover, the project is consistent with the Local Land Use Plans and Zoning Regulations.

Uses – all uses are either permitted or specially permitted uses. The inclusion of a use in the zoning law as a special use permit is tantamount to a legislative finding that the permitted use is in harmony with the community's general zoning plan and will not adversely affect the neighborhood. Also, note that the Applicant has outlined responses to and conformance with all Special Permit Criteria.

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- A. Multi-Family Residential - Special Permitted Use (Section 98-74)
- B. Retail - Special Permitted Use. (See Section 98-74 and 98-76E)
- C. Restaurant - Special Permitted Use (See Section 98-74)
- D. Office - Permitted Use
- E. Hotel - Special Permitted Use (See Section 98-74)

1. Bulk Requirements (Schedule C) / Type VI Urban Regulations:

- A. The project meets or exceeds the requirements listed in Schedule C and the Type VI Urban Regulations with the exception of an area variance for the maximum density, maximum coverage and a side yard setback. It is noted that the existing Site Plan approval for the project includes 296 parking spaces which totals 71% coverage of the lot and included parking spaces which were located approximately ten feet (10') from the property line adjacent to the Kane House.

Finally, The, project is wholly consistent with the Village Comprehensive Plan. The Village Comprehensive Plan makes specific reference to the proposed project area when it explicitly discussed commercial development at the subject property in Section 7.2 on pages 47-50. The Comp Plan states the following (emphasis added):

Potential commercial development in the village is constrained by many factors. Two factors are that very little of Route 22 is zoned for commercial use, and the commercial zoning only exists on the west side of the highway. Within this zoned area, there are two large uses. The Heinchoh Dairy (Parcel A on Figure 8) has substantial highway frontage. This site may have development potential, but is currently (minimally) active as a dairy. Immediately to its north is a State Highway Maintenance yard (Parcel B), also with substantial frontage. The present unavailability of these parcels could be a factor constraining Pawling's economic development and tax base. New commercial ventures on Route 22 in the village should add to the economic and employment base without competing with the smaller stores and services in the downtown. The evils of strip development must also be avoided.

The charming downtown is the home of many active businesses. However, its stability and growth are constrained by a lack of highway visibility.

Therefore, the Comprehensive Plan encouraged the development of the subject parcel for commercial use.

The Project Sponsor provided an amended Landscape Plan and Lighting Plan which addressed the need for screening on the property lines where vehicles would be parked, thereby minimizing the impact of vehicle lights at night onto adjoining neighbors.

Accordingly, any potential adverse impacts to the Community Plans associated with the project would be avoided.

8. Other Potential Impacts

In addition to the discussion of impacts in sections 1 – 7 above the Lead Agency has also considered, and hereby issues a determination, concerning the following:

- 1. The proposed action would not result in a substantial adverse change in existing air quality, ground water quality or quantity, or noise levels; a substantial increase in solid waste production; a substantial increase in potential for flooding or leaching problems.

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2. The proposed action would not result in the impairment or the environmental characteristics of a Critical Environmental Area.
3. The proposed action would not create a material conflict with the community's current plans or goals as officially approved or adopted.
4. The proposed activity would not impair the character or quality of important aesthetic resources.
5. The proposed action would not result in a major change in the use of either the quantity or type of energy.
6. The proposed action would not create a hazard to human health.
7. The proposed activity would not result in a substantial change in the use, or intensity of use, of land devoted to agricultural, open space, or recreational use.
8. The proposed action would not result in the creation of material demand for other actions that would result in one of the above consequences.
9. The proposed action would not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.
10. When analyzed with two or more related actions, the proposed action would not have a significant impact on the environment and when considered cumulatively, would not meet one or more of the criteria under 6 NYCRR 617.7.

For Further Information:

Chairman Michael Cerny
 Village of Pawling Planning Board
 160 Charles Colman Blvd.
 Pawling NY 12564
 Tele: 845-855-1122

THIS NEGATIVE DECLARATION WAS AUTHORIZED AT A MEETING OF THE LEAD AGENCY HELD ON JANUARY 14, 2020.

Motion: Lou Musella

Seconded: Adam Muroski

Roll Call Vote:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mike Cerny, Acting Chairman	<u>X</u>	—	—
Lou Musella, Member	<u>X</u>	—	—
Robert Pfister, Member	<u>X</u>	—	—
Adam Muroski, Member	<u>X</u>	—	—
Scott Nickerson, Member	—	—	<u>X</u>
TOTAL	<u>4</u>	—	<u>1</u>

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A copy of this Type I Negative Declaration must be filed with:

The Mayor of the Village of Pawling

The Village of Pawling Planning Board

The Village of Pawling Zoning Board of Appeals

The New York State Department of Environmental Conservation

The Village of Pawling Water/Sewer Department

NYS DOT

NYS DEP

Any person who has requested a copy

Applicant

Notice of the Type I Negative Declaration will also be published in the DEC's Environmental Notice Bulletin (ENB) and sent to the ENB via e-mail (enb@dec.ny.gov) or regular mail (ENB, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-1750)

Exhibit N

VILLAGE OF PAWLING, NEW YORK
CERTIFICATE OF OCCUPANCY

Certificate of Occupancy is hereby granted to

Heinchon Dairy Inc

**property situated at 112 E Main St
In the Village of Pawling, Tax Map Grid Number 7056-05-210817-0000
Dutchess County, State of New York**

Demolition of Residence

in accordance with Permit Number 2021-006

issued under the Village of Pawling Building Code.

April 16, 2021
Date

Jennifer Cohen
Building Inspector