

Minutes - Board Meeting – 07/20/2022

Minutes of the meeting of the Board of Trustees of the Incorporated Village of Mineola held Wednesday, July 20, 2022 at Village Hall, 155 Washington Avenue, Mineola, New York 11501.

PRESENT: Mayor Paul A. Pereira
Trustee Paul S. Cusato
Trustee Janine Sartori
Trustee Jeffrey M. Clark
Trustee Donna M. Solosky

ALSO PRESENT: Village Attorney John P. Gibbons, Jr.
Village Clerk Bryan L. Rivera
Deputy Village Clerk Linda Pardo
Superintendent of Public Works Thomas J. Rini

Press Observer: None

Sunshine Observers: 12 Observers

Mayor Paul A. Pereira called the Public Hearing to order at 6:30 PM

A continuation of the Public Hearing of July 13, 2022 was held at 6:30 PM at the Village Hall, 155 Washington Avenue, Mineola, New York, 11501 in order to receive public comment upon the following:

APPLICATION OF SEARING GROUP LLC FOR A SPECIAL PERMIT PURSUANT TO CHAPTER 550 OF THE CODE OF THE INCORPORATED VILLAGE OF MINEOLA ENTITLED “ZONING”, SECTION 550-5.I FOR THE CONSTRUCTION OF A 6 STORY MULTIFAMILY BUILDING UPON THE PROPERTY KNOWN AS 101-105 SEARING AVENUE, MINEOLA, NEW YORK, KNOWN AND DESIGNATED ON THE NASSAU COUNTY LAND AND TAX MAP AS SECTION 9, BLOCK 419, 509 & 511.

The application was presented by Jack Martins, Alex Badalamenti and Kevin Walsh. Four speakers from the public addressed the Board.

Resolution No. 212-22

WHEREAS, the Board of Trustees of the Incorporated Village of Mineola intends to consider an application by Searing Group LLC for a development incentive bonus for a 54 unit multifamily residential development project known as “The Royal Blue Residential Development” located at 101 and 105 Searing Avenue, Village of Mineola, Nassau County, New York known and designated on the Nassau County Land and Tax Map as Section 9, Block 452, Lots 509, 511 and p/o 419 (hereinafter, the “Proposed Action”).

WHEREAS, the Board of Trustees proposes to declare itself Lead Agency for the purpose of the environmental review of the Proposed Action pursuant to the State Environmental Quality Review Act (hereinafter, “SEQRA”). The Applicant’s land use planner, VHB Engineering, Landscape Architecture and Geology, P.C, has prepared Part 1 of the Environmental Assessment Form (hereinafter, “EAF”) to assist the Board of Trustees in the evaluation of the Proposed Action.

NOW, BE IT HEREBY RESOLVED, that the Board of Trustees hereby issues a preliminary classification of the Proposed Action as an Unlisted Action under SEQRA; and

BE IT FURTHER RESOLVED, that the Board of Trustees hereby declares itself Lead Agency to conduct the environmental review of the Proposed Action.

Motioned by Trustee Paul S. Cusato

Seconded by Trustee Janine Sartori

Vote:

Yes

No

Abstain

Mayor Paul A. Pereira

Trustee Paul S. Cusato

Trustee Janine Sartori

Trustee Jeffrey M. Clark

Trustee Donna M. Solosky

Resolution No. 213-22

WHEREAS, the Incorporated Village of Mineola (hereafter “Village”) Board of Trustees has before it an application by Searing Group LLC for a development incentive bonus pursuant to Chapter 550 of the Code of the Incorporated Village of Mineola entitled “Zoning”, Section 550-5 entitled “General Regulations”, Subsection (I) entitled “Development incentive bonuses” to construct a 54 unit multifamily residential upon the property known as 101-105 Searing Avenue, Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 452, Lots 509, 511 and p/o 419 (hereinafter, the “Proposed Action”), and

WHEREAS, the Proposed Action is an Unlisted Action under the New York State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Board of Trustees has reviewed the provisions of SEQRA as related to the Proposed Action, including the review of the information contained in the SEQRA documentation consisting of a Parts 1, 2 and 3 of the Environmental Assessment Form and other information in the Record with respect to the Proposed Action; and

WHEREAS, the potential impacts and the magnitude and importance of potential impacts and benefits have been considered by the Board of Trustees and a recommendation for adoption of a Negative Declaration has been made as the Proposed Action will not have a significant adverse environmental impact.

NOW, THEREFORE, BE IT

RESOLVED, that the Proposed Action will not have a significant adverse impact on the environment; and

BE IT FURTHER RESOLVED, that the Board of Trustees hereby adopts the attached SEQRA Negative Declaration pursuant to the State Environmental Quality Review Act.

Motioned by Trustee Jeffrey M. Clark
Seconded by Trustee Donna M. Solosky

Village Clerk Bryan L. Rivera polled the Board:

Vote:

Yes

No

Abstain

Mayor Paul A. Pereira
Trustee Paul S. Cusato
Trustee Janine Sartori
Trustee Jeffrey M. Clark
Trustee Donna M. Solosky

Resolution No. 214-22

BOARD OF TRUSTEES
INCORPORATED VILLAGE OF MINEOLA

-----X

In the Matter of the Application of

SEARING GROUP LLC

DECISION

For a Special Use Permit pursuant to Chapter 550, Section 550-5(I) of the Code of the Incorporated Village of Mineola, to construct multifamily 54 residential unit apartment buildings upon the property located at 101 and 105 Searing Avenue Mineola, New York, known and designated on the Nassau County Land and Tax Map as Section 9, Block 452, Lots 509, 511 and p/o 419.

-----X

NAME OF APPLICANT: Searing Group LLC

SUBJECT PROPERTY: Section 9, Block 452, Lots 509, 511 and p/o 419

STREET LOCATION: 101 and 105 Searing Avenue, Mineola, New York

ZONING DISTRICT:	“R-5” District
RELIEF REQUESTED:	Application For a Special Use Permit pursuant to Chapter 550, Section 550-5(I)
PUBLICATION & POSTING:	All in accordance with applicable laws, rules and regulations.
DATE OF HEARINGS:	July 20, 2022
APPEARANCES:	Jack Martins, Esq., Applicant’s Attorney Kevin Walsh, VHB Engineering Alex Badalamenti, BLD Architecture

Searing Group LLC (hereinafter, “Applicant”) appeared before this Board pursuant to Chapter 550, Section 550-5(I) of the Municipal Code of the Incorporated Village of Mineola for a special use permit to construct a multifamily residential apartment building with 54 units upon the property located at 101 and 105 Searing Avenue, Mineola, New York (known and designated on the Nassau County Land and Tax Map as Section 9, Block 452, Lots 509, 511 and p/o 419) (hereinafter, the “Property”). The proposed building rises six stories (54 parking spaces on the ground level with 5 stories of residential apartments above) and measures a total height of 69 feet, 2 inches. Forty-six (46) of the apartment units are one-bedroom units and the remaining eight (8) units are two-bedroom. The smallest unit in the building will be 875 square feet and two-thirds of the units will be greater than 1,000 square feet. Applicant is providing twenty-eight (28) dedicated parking spaces off-site in a gated area that is card activated solely for use by tenants of the building as depicted on plans submitted to the Building Department and exhibited at the public hearing.

Applicant seeks relaxation of the Village’s Zoning regulations with respect to building height, front yard setback, side yard setback, lot coverage percentage, minimum unit size and parking. Applicant was entitled to seek relief before the Zoning Board of Appeals for area variances. In the alternative, Applicant was able to seek the same relief from the Board of Trustees pursuant to Chapter 50, Section 550-5(I) under the Village’s development incentive bonus law. This latter course was elected by Applicant.

Applicant made an Application to the Board of Trustees for the required relief pursuant to the Village’s development incentive bonus law and presented its Application on July 20, 2022. The Board of Trustees declared itself lead agency pursuant to SEQRA and determined that the Application was an Unlisted Action. An expanded Environmental Assessment Form was prepared

by the Applicant. The expanded Environmental Assessment Form contained the following: site and surrounding area photographs; site plan package, Village Sewer and Water correspondence; excerpts from the Village of Mineola Comprehensive Master Plan; demographic analysis; traffic impact study; rendering of elevations; architectural plans and correspondence with community service/utility providers. The Board of Trustees, after careful review of all relevant documents and testimony, issued a Negative Declaration under SEQRA. This Board also assumed jurisdiction over site plan and architectural review.

A referral of the Application was made to the Nassau County Planning Commission. The Nassau County Planning Commission, by Resolution No. 10487-22, adopted June 16, 2022, recommended that the Village Board of Trustees take whatever action it deemed appropriate.

Thus, now before this Board is a proposal to construct a six-story multifamily residential apartment building on the south side of Searing Avenue containing a total of 54 units (48 market rental units and 6 affordable housing units).

In this connection, the Applicant seeks, under the Village's Development Incentive Bonus Law, the relaxation of the Village's zoning laws in several ways:

1. Building height;
2. Building setbacks;
3. Lot coverage percentage;
4. Minimum unit size; and
5. Parking.

Applicant also seeks site plan approval for the revised site layout of the building and architectural approval for the building design.

In consideration of the Board's approval of this special use permit, the Applicant has offered the following public amenities:

1. Streetscape improvements along Applicant's street frontage on Searing Avenue.
2. Ten percent (10%) of the number of apartments constructed (6 units) of affordable housing units distributed randomly throughout the building with interior finishes to match market units.
3. A Host Community Benefit Agreement acceptable to the Board of Trustees.

4. A monetary contribution to the Village in lieu of further public amenities in the amount of \$450,000.00 to be disbursed in the following manner:
 - a. One-third payable upon the issuance of a building permit;
 - b. One-third payable eighteen months following the issuance of a building permit; and
 - c. One-third payable upon the issuance of either a Temporary or Final Certificate of Occupancy.

FINDINGS

The Project as is proposed was contemplated by the Village's Master Plan. It will contribute to the vibrancy and the economic stability of the Village's Downtown and, as a transit-oriented development, it qualifies as a smart growth component of Mineola's Downtown Revitalization.

Implementation of the proposed action will not create a material conflict with the community's current plans or goals. In fact, the overall theme of the Village of Mineola's Comprehensive Master Plan is to build upon Mineola's strong sense of community among its residents and envisions the Village as an even more desirable, safe and attractive place to live and work.

The recommendations in the Comprehensive Master Plan seek to realize the Village's full potential, and the proposed residential rental buildings have been designed to help to achieve these goals. The proposed project incorporates a use that will contribute to and strengthen the Village in its downtown area.

DECISION

Based upon the above findings, it is hereby determined that the granting of the Application requesting a special use permit pursuant to Section 550-5(I) of the Village Code for development incentive bonuses according to which the Applicant offers certain community benefits and amenities and payment in lieu thereof in exchange for the Board of Trustees granting relief from certain zoning code regulations shall advance the Village's specific physical, cultural and social policies in accordance with the Village's Comprehensive Master Plan and in coordination with

community planning mechanisms and land use techniques. Further, it is hereby determined that the special use permit will provide a desirable facility to the area, will promote the revitalization of the Village's Downtown and will not be incongruous to the neighborhood by reason of excessive traffic.

IT IS THEREFORE RESOLVED, as follows:

- 1) The Application for a special use permit to construct and maintain a six-story multifamily residential apartment buildings containing a total of 54 units (48 market rental units and 6 affordable units) upon the Property is **GRANTED**.
- 2) The request to provide 54 on-site parking spaces and 28 off-site parking spaces is **GRANTED**.
- 3) The offer made by the Applicant to provide development incentive payments in the amount of Four Hundred Fifty Thousand (\$450,000.00) Dollars to the Village in lieu of further public amenities is **ACCEPTED**.
- 4) The offer made by the Applicant to provide a Host Community Benefit Agreement in the form attached to this Decision as Exhibit A is **ACCEPTED**.
- 5) The offer made by the Applicant to provide streetscape improvements along Applicant's street frontage on Searing Avenue in accordance with Village requirements is **ACCEPTED**.
- 6) Final site plan approval for the Project is hereby **GRANTED**.
- 7) Architectural approval for the Project is hereby **GRANTED**.

ALL OF THESE ENUMERATED GRANTS AND APPROVALS ARE CONDITIONED UPON THE FOLLOWING:

- 1) The payment by the Applicant to the Village for development incentive bonuses awarded in the amount of Four Hundred Fifty Thousand (\$450,000.00) Dollars to be paid as follows:
 - a) One-third payable upon the issuance of a building permit;
 - b) One-third payable eighteen months following the issuance of a building permit; and
 - c) One-third payable upon the issuance of either a Temporary or Final Certificate of Occupancy.
- 2) The failure of the Applicant to make any of the listed payments on the date due shall result in an automatic acceleration of all other outstanding payments. The failure to make a

required payment shall authorize the Village, in addition to all other legal remedies, to place the outstanding accelerated payment amount on the tax bill for the Property and such shall be a lien upon the Property. The election of any remedy shall not preclude the Village from pursuing any other legal remedy.

- 3) Compliance with the Long Island Workforce Housing Law, including the provision of 6 units of affordable housing of a quality and location within the building equal to that of the market rate units.
- 4) Applicant shall cause all refuse to be removed from the premises by a private carter at Applicant's expense through the rear of the Property. All refuse shall be stored indoors until pick-up. All waste pick-ups shall take place on Monday through Friday (no weekend pick-ups) between the hours of 7:00 a.m. and 3:00 p.m. only. In addition, no waste pick-ups can occur when Little League games are scheduled to be played. The private carter shall utilize the ingress and egress as depicted in Exhibit B to this Decision as it relates to traffic flow from Willis Avenue. Applicant shall provide the Village with an indemnification agreement in the form attached to this Decision as Exhibit C with respect to the use of the Village property, including the Village's parking field, traversed by the private carter for refuse pick-up.
- 5) Streetscape improvements on Searing Avenue in front of the Property in accordance with Village requirements.
- 6) Each unit shall be assigned one designated parking space for which no fee shall be charged. Landlord shall not offer a discount to any tenant who elects not to retain his/her assigned parking space.
- 7) The residents and/or visitors to the Property utilizing the 28 off-site parking space gated area shall enter and exit the gated parking area from Willis Avenue only as depicted in Exhibit B (the same ingress and egress path utilized by the Property's private carter as set forth in Paragraph 4 above).
- 8) Applicant shall, prior to the issuance of a certificate of occupancy for the Project, deliver to the Village a perpetual and unobstructed easement over and across the property known as 136 Willis Avenue, Mineola, New York (the "subservient lot"). The purpose of the easement is to allow unfettered access to any and all municipal services running through

the subservient lot including, but not limited to, water and sewer pipes and connections. The maintenance of the easement area shall be the sole responsibility of the Applicant, its successors and assigns and any transferee of the Property. The maintenance obligation shall also include all repairs and replacements of the improvements including, but not limited to, water connections from the water corporation stop valve and any amenities within the easement area in accordance with Village requirements. Applicant shall be required to provide liability insurance covering the easement in the minimum amount of One Million (\$1,000,000.00) Dollars and shall name the Village as an additional insured and certificate holder on the policy. The policy shall additionally provide that written notice to the Village must be given not less than sixty (60) days prior to cancellation. The terms and conditions of the easement and the maintenance obligations of Applicant, its successors and assigns, will be incorporated in a written instrument to be drafted by Applicant (the "Easement with Covenants") in a form acceptable to the Village Attorney, which instrument shall be recorded by the Applicant in the Office of the Nassau County Clerk. Applicant acknowledges and accepts the full responsibility of all municipal services running from the water corporation stop valve through the subservient lot and the Village's parking field to the Property. The Village's responsibility for all such all municipal services running through the subservient lot and the Village's parking field to the Property shall terminate at the water corporation stop valve on Willis Avenue, Mineola, New York.

- 9) Applicant shall, prior to the issuance of a certificate of occupancy for the Project, deposit with the Village the sum of Fifty Thousand (\$50,000.00) Dollars to insure the maintenance of the easement property and the improvements and amenities as set forth in this Decision, which sum may be used by the Village to provide maintenance of the said easement property, improvements and amenities in the event that Applicant or any successor, assigns or transferee shall, after thirty (30) days written notice to cure delivered by the Village, fail to correct a condition complained of. Additionally, any further funds expended by the Village for the maintenance of the easement, improvements or other amenities located therein shall be paid to the Village within ten (10) days of written demand therefor and the failure of Applicant, its successor and assigns to make such payment shall entitle the Village to declare such sum to be a lien upon the Property and to assess same against the

Property as additional real estate taxes. The amount of the deposit as stated above shall in no way be deemed to place a limitation or cap upon the obligations of Applicant with respect to its obligations hereunder. The amount of Fifty Thousand (\$50,000.00) Dollars shall remain on deposit at all times and shall be replenished upon demand in the event that any of the funds shall have been utilized by the Village in accordance with this Decision. In addition to the above obligations, Applicant shall be required to post with the Village a performance bond for the project in an amount to be determined by the Village Superintendent of Buildings for the public improvements associated with this project.

- 10) Applicant shall repair any damage to any Village roads caused by Applicant during the course of construction in accordance with Village requirements.
- 11) Applicant shall comply with the Village's Stormwater Management Plan and in the event that its construction activities shall cause the redirection of underground water flow such that it impacts any adjoining property, Applicant shall be responsible for remedying such condition.
- 12) The Applicant shall be required to execute and deliver to the Village a Host Community Benefit Agreement in a form acceptable to the Board of Trustees (See Exhibit A).
- 13) Applicant shall acknowledge that the conditions set forth in this Decision are reasonable, fair and equitable. In the event that any legal action or proceeding shall be instituted by the Village in order to enforce any condition herein, the Village shall be entitled to an award of attorney's fees in the event that it shall prevail in any such action or proceeding. All terms, conditions and obligations contained in this Decision shall be binding upon the Applicant, its heirs, successors and assigns.
- 14) The representations made by Applicant on the record in this proceeding have been deemed material to this Application and have been relied upon by the Board of Trustees in its deliberations and decisions. Said representations are deemed to be part of the conditions of this special use permit.
- 15) Violation of a condition set forth in this Decision shall be deemed a violation of the Mineola Municipal Code and shall subject the owner or occupant of the premises to all penalties set forth in the Mineola Municipal Code.

All of the terms, conditions and obligations contained in this Decision shall be binding upon the Applicant, its heirs, successors and assigns.

This constitutes the Decision of the Board of Trustees. Applicant shall, within ten (10) days of the date of filing of this Decision, consent in writing to the conditions contained herein. Failure to so consent shall render this Decision null and void.

Dated: Mineola, New York
July 20, 2022

EXHIBIT

A

INCORPORATED VILLAGE OF MINEOLA

AND

SEARING GROUP, LLC

HOST COMMUNITY BENEFITS AGREEMENT

DATED: September __, 2022

HOST COMMUNITY BENEFITS AGREEMENT

THIS HOST COMMUNITY BENEFITS AGREEMENT dated September __, 2022 (the “Agreement”) by and between the Incorporated Village of Mineola (the “Village”), a municipal corporation organized and existing under the laws of the State of New York and Searing Group, LLC, a limited liability company organized and existing under the laws of the State of New York, having a principal place of business at 101 and 105 Searing Avenue, Mineola, New York 11501 (the “Company”);

WHEREAS, Company, in compliance with required approvals, intends to construct a residential apartment development within the Incorporated Village of Mineola (the “Project”);

WHEREAS, Company appeared on July 20, 2022, pursuant to published notices, before the Village Board of Trustees for a Special Use Permit for the construction of a residential apartment development consisting of fifty-four (54) apartment units on Searing Avenue in the Village of Mineola, New York; and

WHEREAS, the Village Board of Trustees granted Company the requested Special Use Permit by Decision, dated July 20, 2022, and filed in the Office of the Village Clerk on September __, 2022; and

WHEREAS, Company intends to apply to the Nassau County Industrial Development Agency (the “Agency”) for certain financial assistance inclusive of a proposed Payment in Lieu of Tax Agreement between the Agency and Company; and

WHEREAS, Company has agreed to make certain payments to the Village in the amounts and in the manner provided in this Agreement, which payments, together with the findings and determinations of the relevant regulatory authorities, establish the public benefit of the Project, particularly as it impacts the Village and its residents;

NOW THEREFORE, IN CONSIDERATION OF THE MATTERS ABOVE RECITED AND SET FORTH BELOW, THE PARTIES HERETO FORMALLY COVENANT AND AGREE AS FOLLOWS:

REPRESENTATIONS AND WARRANTIES

SECTION 1.0 REPRESENTATIONS AND WARRANTIES BY THE VILLAGE

The Village hereby represents, warrants and covenants as follows:

A. Status: The Village is a municipal corporation of the State of New York, is validly existing under the laws of the State of New York and has the authority to enter into this Agreement and the transaction contemplated herein and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement. As used in this Agreement, the term “Village” shall include only the municipal corporation known as the Incorporated Village of Mineola, managed and controlled by its elected officials, the Mayor and the Village Board of Trustees, and not the appointed agencies, boards or other bodies associated with the Village that are not directly governed by the Mayor and Village Board of Trustees.

B. Authorization: Consistent with the provisions of Village Law, the Village Board has duly authorized the execution, delivery and performance of this Agreement and the consummation of the transaction herein contemplated.

C. Conflicts: The Village is not prohibited from entering into this Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement by any order, judgment, decree, law, ordinance, rule or regulation, or any agreement or instrument to which the Village is a party or by which the Village is bound.

SECTION 1.1. REPRESENTATIONS AND WARRANTIES BY COMPANY

A. Status: Company is a limited liability company duly organized and validly existing under the laws of the State of New York with the power to enter into this Agreement and the transaction contemplated herein and to carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement, and by proper action of its members, has been duly authorized to execute, deliver and perform

this Agreement. While Company's organizational structure may change and Company may remove members and add new members subsequent to execution of this Agreement, no such change shall affect such authorization.

B. Authorization: By proper action of its members or managers, Company has been duly authorized to execute, deliver, and perform this Agreement and the consummation of the transaction contemplated herein.

C. Conflicts: Company is not prohibited from entering into this Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, nor from the execution, delivery, and performance of this Agreement, nor from the consummation of the transaction contemplated herein. The fulfillment of and compliance with the provisions of this Agreement will not conflict with or violate or constitute a breach of or a default under the terms, conditions or provisions of its organization documents or any other restriction, law, rule, regulation or order of any court or governmental authority, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Company is a party or by which Company or any of its property is bound, and neither Company's entering into this Agreement nor Company's discharging and performing its obligations and covenants hereunder will be in conflict with or result in a breach of or constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of Company under the terms of any of the foregoing, and this Agreement is the legal, valid and binding obligation of Company enforceable in accordance with its terms.

D. Governmental Consents: No consent, approval or authorization of, or filing, registration or qualification with any governmental or public authority on the part of Company is required as a condition to the execution, delivery or performance of this Agreement by Company or as a condition to the validity of this Agreement.

COVENANTS AND AGREEMENTS

SECTION 2.0

GUARANTEED HOST COMMUNITY BENEFIT PAYMENTS

A. Agreement to Make Payments. Company agrees that it shall make guaranteed annual payments to the Village in the amounts hereinafter provided. The parties agree that the obligation of Company to make the guaranteed payments hereunder shall be in addition to the Payments In Lieu Of Taxes (PILOT) to be made by Company to the Agency and shall constitute a separate and binding obligation by Company to the Village.

B. Amount of Guaranteed Host Community Benefit Payments. Annual guaranteed payments shall be paid by Company to the Village commencing in the first year in which a Payment In Lieu of Taxes shall be made to the Agency, as follows:

Annual payments by the Company to the Village shall be made pursuant to the following formula:

Assessed value of the Project Property x 100% of applicable Village tax rate (the "Otherwise Applicable Village Taxes") – amount of Payment in Lieu of Taxes delivered to the Agency for the benefit of the Village in that calendar year. For the purpose of this Host Community Benefits Agreement, the Company reserves its right to challenge the Assessed Valuation in a tax certiorari proceeding venued in the Supreme Court of the State of New York, County of Nassau.

C. Time of Payments. Company agrees to pay the annual amounts due to the Village under Section 2.0(B) within thirty (30) days after the Village provides an invoice to the Company indicating the then-current Otherwise Applicable Village Taxes, the amount of then-current PILOT payments received by the Village from the Agency, and the amount of the difference between them. Guaranteed Host Community Benefit Payments shall be due in all years in which the PILOT is applicable.

SECTION 2.1

LATE PAYMENTS

If Company shall fail to make any payment required by this Agreement when due and such delinquency shall continue beyond fifteen (15) days after written notice from the Village to the Company, the

amount overdue shall accrue interest at an annual rate of interest equal to the Prime Rate plus two (2) percentage points or the maximum rate permitted by applicable law, whichever is less, which shall be immediately due and payable from Company to the Village. Company's obligation to make the payment so in default shall continue until such payment has been made in full. "Prime Rate" shall mean, for any date, the fluctuating rate of interest that is equal to the highest rate published from time to time in the Money Rates section of the Wall Street Journal as the Prime Rate for such day.

SECTION 3.0 CONSIDERATION

In consideration of Company's payments to the Village under this Agreement, and in light of the extensive regulatory review and approvals undertaken and received relative to the Project; the public benefit of the Project; and the Village's familiarity with the impact of the Project upon the Village and its residents, the Village agrees to the following:

- A. To provide written support of the Project and the proposed Payment in Lieu of Taxes Agreement to the Agency; and
- B. To refrain and forbear from challenging, in any administrative or judicial tribunal, any of the agreements, permits or certificates relating to the construction, financing and operation of the Project including, but not limited to, the Payment in Lieu of Taxes Agreement.

EVENT OF DEFAULT

SECTION 4.0 EVENT OF COMPANY DEFAULT

Any one or more of the following events, following applicable notice, grace and cure periods, shall constitute an event of default ("Event of Default") by Company under this Agreement:

(A) A failure by Company to pay when due any amount due and payable pursuant to this Agreement, continued for a period of thirty (30) days after written notice is sent by the Village or its representative stating that such payment is due and payable;

(B) A failure by Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed hereunder and continuance of such failure for a period of thirty (30) days after written notice is sent specifying the nature of such failure or, if such failure is capable of cure but cannot be cured within such thirty (30) day period, the failure of Company to proceed with reasonable diligence after receipt of said notice to cure the same or the failure of Company to continue with reasonable diligence its efforts to cure the same;

(C) Any warranty, representation or other statement by or on behalf of Company contained in this Agreement shall prove to have been false or incorrect in any material respect as of the effective date of this Agreement and, if such matter is curable, it has not been cured within thirty (30) days after the receipt of written notice thereof by Company from the Village.

SECTION 5.0 REMEDIES UPON COMPANY DEFAULT

(A) Upon an Event of Default as set forth in Section 4.0 herein, the Village may take whatever action at law or in equity appears necessary or desirable to collect the amount then in default or to enforce the performance and obligations, agreements, and covenants of Company under this Agreement. The Village may also notify the Agency of Company's Event of Default.

(B) Each Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action accrues.

(C) Company irrevocably submits to the jurisdiction of any New York State court sitting in Nassau County over any action or proceeding arising out of or relating to this Agreement, and Company hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such New York State court. Company irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Company at its address set forth below.

Company agrees that a final non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Company further waives any objection to venue in such county and any objection to an action or proceeding in such county on the basis of forum non conveniens. Company further agrees that any action or proceeding brought against the Village shall be brought only in a New York State court sitting in Nassau County.

Nothing in this Section shall affect the right of the Village to serve legal process in any other manner permitted by law or affect the right of Village to bring any action or proceeding against Company or its property in the courts of any other jurisdictions.

SECTION 5.1 PAYMENT OF ATTORNEYS' FEES AND EXPENSES

If, following an Event of Default by the Company, the Village should undertake efforts or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of Company herein contained, Company shall be liable to the Village for the amount due hereunder, together with late payment interest due thereon, reasonable attorneys' fees and disbursements, and all other reasonable expenses, costs and disbursements incurred by the Village in connection with such efforts, provided that the Village shall have prevailed.

SECTION 5.2 REMEDIES UPON VILLAGE DEFAULT

(A) General. In the event that the Village shall fail to observe and perform any of the covenants, conditions or agreements on its part to be observed and performed under Sections 1.0 and 3.0 hereunder (each such event being referred to as a "Village Default") and the continuance of such failure for a period of thirty (30) days after the Village's receipt of notice specifying the nature of such failure and requesting that it be remedied, Company may take whatever action at law or in equity as may be necessary or desirable to enforce the performance and observance of such obligations, agreements and covenants of the Village under this Agreement.

(B) Separate Suits. Each such Village Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises.

(C) If, following an Event of Default by the Village, the Company should undertake efforts or incur other expenses for the successful enforcement of performance or observance of any obligation, covenant or agreement on the part of the Village herein contained, the Village shall be liable to Company for reasonable attorneys' fees and disbursements, and all other reasonable expenses, costs and disbursements incurred by Company in connection with such efforts, provided that the Company shall have prevailed.

SECTION 6.0 REMEDIES; WAIVER AND NOTICE

(A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Village or Company is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Company default or Village default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Village or Company to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Agreement.

(D) No Waiver. In the event any provision contained in this Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.

MISCELLANEOUS

SECTION 7.0 AMENDMENTS

This Agreement may not be amended, changed, modified, altered or terminated except by writing executed by the parties hereto.

SECTION 8.0 NOTICES

(A) General. All notices, certificates or other communications hereunder shall be in writing and sent via overnight mail delivery.

(B) Addresses. The addresses to which notices, certificates and other communications hereunder by the Village or Company shall be sent are as follows:

To the Village:

Incorporated Village of Mineola
155 Washington Avenue
Mineola, New York 11501
Attention: Village Clerk

with a copy to:

Spellman Gibbons Polizzi Truncale & Trentacoste, LLP
229 Seventh Street, Suite 100
Garden City, New York 11530

To Company:

Searing Group, LLC
101-105 Searing Avenue
Mineola, New York 11501

with a copy to:

Jack M. Martins, Esq.
Harris Beach. PLLC
333 Earle Ovington Boulevard, Suite 901
Uniondale, New York 11553

(C) Change of Address. The Village, Company or a mortgagee, may by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 9.0 BINDING EFFECT

This Agreement shall inure to the benefit of, and shall be binding upon, the Village, Company, and their respective successors and assigns.

SECTION 10.0 SEVERABILITY

If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 11.0 COUNTERPARTS

This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 12.0 APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 13.0 COMPLETE AGREEMENT

Unless supplemented or otherwise amended in writing by the Village and Company in accordance with the laws of the State of New York, this Agreement constitutes the parties' entire agreement with respect to the subject matter set forth herein, and no other agreements, written or unwritten, implied or express, will be deemed effective.

SECTION 14.0 RIGHTS OF MORTGAGEE

Company and every permitted successor and assign of Company is hereby given the right by the Village in addition to any other rights herein granted, without the Village's prior consent but upon written notice to the Village, to grant security interests in Company's interests hereunder and, in connection with or separate from mortgages, grant assignments of Company's interest in this Agreement as collateral security to or for the benefit of holders of indebtedness of Company. Notwithstanding any provision herein to the contrary, no amendment, modification or voluntary termination of this Agreement shall be effective as to any Mortgagee or its successors or assigns unless agreed to in writing by such Mortgagee or its successors and assigns if required by mortgage documents. If Company and/or Company's permitted successors and assigns shall grant such a Mortgage as herein provided, and if any such Mortgagee shall send to the Village written notice of such Mortgage specifying the name and address of the Mortgagee, the Village agrees that so long as any such Mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by such Mortgagee, the following provisions shall apply:

(a) The Village shall, upon occurrence of any Event of Default hereunder, simultaneously serve a copy of notice thereof upon each of Company and such Mortgagee, and no such notice to Company shall be effective unless and until a copy of such notice is served upon each such Mortgagee. The Village shall accept performance by or at the instigation of any such Mortgagee as if the same had been done by Company.

(b) As to monetary defaults, the Mortgagee shall have an additional thirty (30) days after the end of Company's cure period during which it may cure such default and the same shall not become an Event of Default until the expiration of such additional cure period.

SECTION 15.0 THIRD PARTY BENEFICIARIES

Nothing herein is intended to be for, or to inure to, the benefit of any Person other than the parties hereto and the Mortgagees, who are intended to be the sole third-party beneficiaries hereof.

IN WITNESS WHEREOF, the Village and Company have made this Agreement to be executed in their respective names by their duly authorized officers, all on the date first above written.

INCORPORATED VILLAGE OF MINEOLA

SEARING GROUP, LLC

By: Paul A. Pereira, Mayor

By:

ACKNOWLEDGMENTS

State of New York)
) ss.:
County of Nassau)

On the ____ day of _____ in the year 2022, before me, the undersigned, personally appeared Paul A. Pereira, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

State of New York)
) ss.:
County of Nassau)

On the ____ day of _____ the year 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT

B

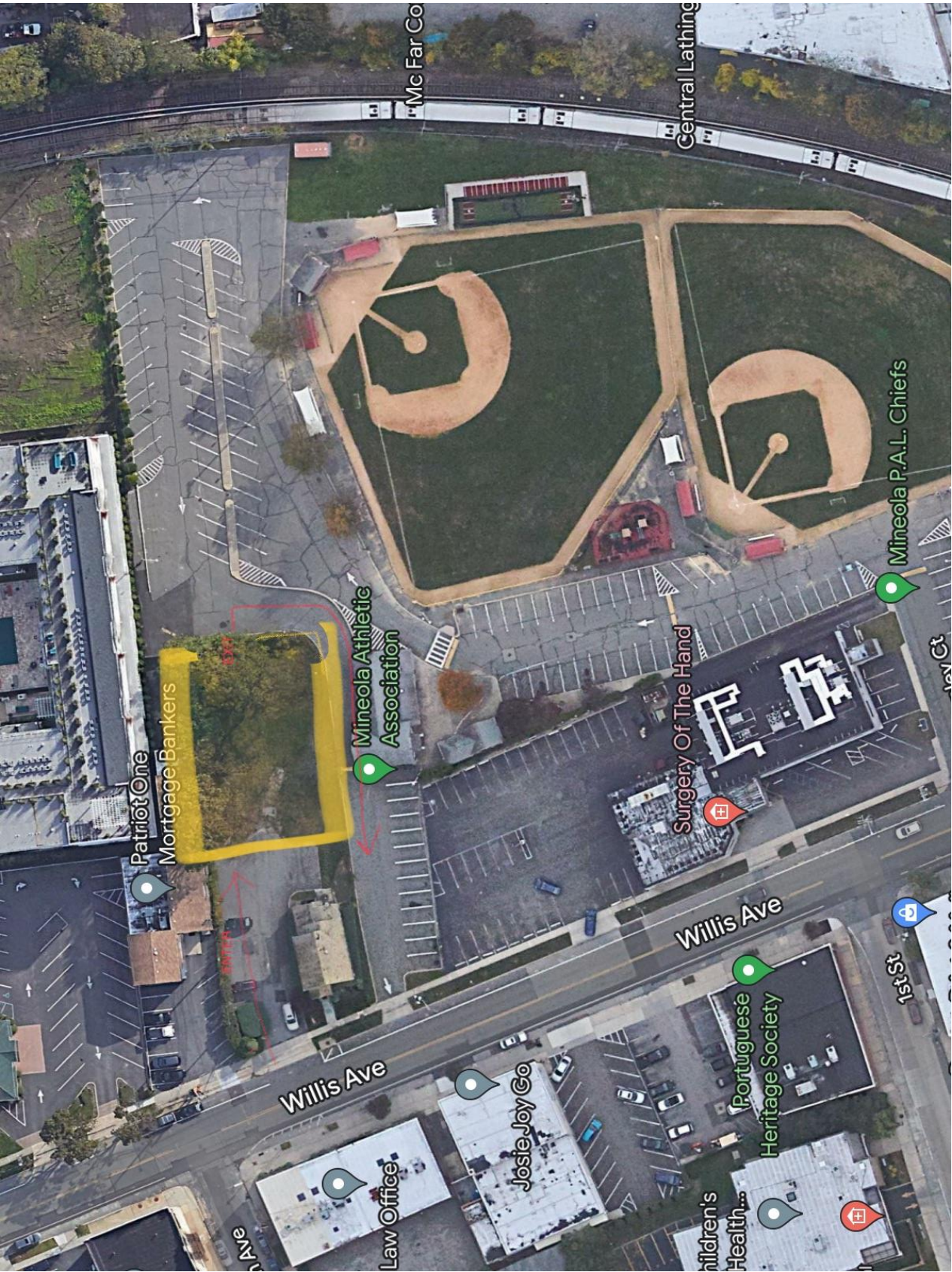


EXHIBIT C

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT PURSUANT TO BOARD OF TRUSTEES DECISION,
DATED JULY 20, 2022, IN APPLICATION ENTITLED REGARDING THE "IN THE MATTER OF THE
APPLICATION OF SEARING GROUP LLC"

The undersigned agrees to defend, indemnify and hold the Incorporated Village of Mineola (the "Village") and their officers, employees and agents, harmless from and against any and all liabilities, claims, losses, costs, expenses (including, without limitation, attorneys' fees and disbursements) and damages of any kind, including injury to and/or death of any person(s) or damage to property, arising out of or in connection with any acts, negligence or omissions with respect to the use of the property owned by the Incorporated Village of Mineola, including the Village's parking field, used by Searing Group LLC, its successors and/or assign, including any transferees, in connection with refuse pick-up by the private carter engaged by Searing Group LLC. The undersigned shall, upon the Village's demand and at the Village's direction, promptly and diligently defend, at the undersigned's own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against the Village for which the undersigned is responsible under this Agreement and, further to the undersigned's indemnification obligations, the undersigned shall pay and satisfy any judgment, degree, loss or settlement in connection therewith. The undersigned shall and shall cause its/his/her Agents to, cooperate with the Village in connection with the investigation, defense or prosecution of any action, suit or proceeding in connection with this Agreement, including acts or omissions of the undersigned and or an Agent of the undersigned in connection with this Agreement.

Print Address: 101 and 105 Searing Avenue, Mineola, New York

Owner Name: Searing Group LLC

By: _____ Date: _____

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

On the _____ day of _____ in the year _____ before me personally came _____ to me personally known, who, being by me duly sworn, did dispose and say that he or she resides at _____ and that he or she executed the above instrument.

NOTARY PUBLIC _____

Motioned by Trustee Janine Sartori
Seconded by Trustee Paul S. Cusato

Village Clerk Bryan L. Rivera polled the Board:

Vote:

Yes

No

Abstain

Mayor Paul A. Pereira
Trustee Paul S. Cusato
Trustee Janine Sartori
Trustee Jeffrey M. Clark
Trustee Donna M. Solosky

Mayor Paul A. Pereira requested a motion to close the public hearing at 8:47 PM.

Motioned by Trustee Donna S. Solosky
Seconded by Trustee Jeffrey M. Clark

Vote:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Paul A. Pereira		
Trustee Paul S. Cusato		
Trustee Janine Sartori		
Trustee Jeffrey M. Clark		
Trustee Donna M. Solosky		

SEQRA NEGATIVE DECLARATION

<i>Lead Agency:</i>	Village of Mineola, Board of Trustees
<i>Address:</i>	155 Washington Avenue Mineola, New York 11550
<i>Date:</i>	July 20, 2022

This notice is issued pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law. The Village of Mineola Board of Trustees, as lead agency, has determined, subsequent to review of the Environmental Assessment Form (Parts 1, 2 and 3), consideration of other relevant factors, and review of 6 NYCRR Part 617, that the proposed action described below will not have a potential significant adverse effect on the environment.

<i>Title of Action:</i>	A 54 unit multifamily residential development project known as “The Royal Blue Residential Development”.
<i>SEQRA Status:</i>	Unlisted Action
<i>Location:</i>	101 and 105 Searing Avenue, Village of Mineola, Nassau County, New York known and designated on the Nassau County Land and Tax Map as Section 9, Block 452, Lots 509, 511 and p/o 419.
<i>Description of Action:</i>	The Proposed Action involves an application for approval under the Village’s Development Incentive Bonus legislation (§ 550.5[I] of the Village Code), site plan approval, and relaxation of certain dimensional requirements, as well as other approvals to permit the development of a 0.59±-acre property located at 101 and 105 Searing Avenue, in the Village of Mineola, Nassau County, New York (the “residential lot”). The purpose of the proposed action is to develop the residential lot with a 54 unit multifamily residential development. In conformance with the

Village Code. the applicant is providing community benefits and amenities in accordance with Village requirements in terms acceptable to both the applicant and the Village.

Reasons Supporting This Determination:

1. The proposed action has been evaluated in accordance with the Criteria for Determining Significance as contained in SEQRA 6NYCRR Part 617.7 (c), and has been evaluated through review of the following materials:

- Building Permit Application;
- Notice of Disapproval, dated June 8, 2021;
- Architectural Site Plans and Elevations for the proposed Multi-Family Building, dated May 5, 2022, prepared by BLD Architecture;
- Part 1 - Full Environmental Assessment Form with Attachments, dated May 11, 2022, prepared by VHB Engineering, Landscape Architecture and Geology, P.C;
- Expanded Environmental Assessment Form with Appendix, dated May 2022, prepared by VHB Engineering, Landscape Architecture and Geology, P.C, including:
 - Appendix A – Part 1 – Full Environmental Assessment Form;
 - Appendix B – Site Plan Package;
 - Appendix C – Site and Surrounding Area Photographs;
 - Appendix D – Village of Mineola Sewer and Water Correspondence;
 - Appendix E – Architectural Plans;
 - Appendix F – Correspondence with Community Service/Utility Providers; and
 - Appendix G - Traffic Impact and Parking Analysis Report, dated May 2022, prepared by VHB Engineering, Landscape Architecture and Geology, P.C.
- Nassau County Planning Commission Resolution No.10487-22, adopted June 16, 2022.

2. The proposed action is not expected to cause any significant adverse environmental impacts on the surrounding area. The existing conditions and considerations within the Zoning District are briefly described below:

- i. The Proposed Action would be consistent with other recently completed multifamily residential buildings within the area immediately surrounding the Subject Property, and throughout the Village as a whole.
- ii. Long Island severely lacks multifamily housing options and has failed to meet the current and anticipated housing demands. The lack of housing options underscores the necessity to build higher-density and affordable housing options.
- iii. Under existing conditions, the Subject Property is vacant and underutilized. The Proposed Action would improve the Subject Property with a modern development that aligns with current needs for diversified housing options near the LIRR station and walkable commercial corridors.
- iv. The construction of the proposed residential multifamily building will further the objectives of the comprehensive plan of the Village. The overall theme of

the *Comprehensive Master Plan for the Village of Mineola* (November 2005) (*Comprehensive Master Plan*), prepared by the Mineola Community Planning Committee with Phillips Preiss Shapiro Associates, Inc. is to build upon Mineola's strong sense of community among its residents. The *Comprehensive Master Plan* envisions the Village as an even more desirable, safe and attractive place to live and work and the *Comprehensive Master Plan's* strategy is to protect what is best about Mineola while tapping the Village's potential.

- v. The reinvigoration of the vacant, underutilized property and the addition of 54 households would add to the economic growth of Mineola and its surrounding neighborhoods.
- vi. The proposed project is an opportunity to continue to bring a positive improvement to the Mineola community, including Searing Avenue, while simultaneously offering Long Island families diversified housing options and shrinking the gap between housing demand and availability. Diversifying housing options would help young families and older residents remain in the place they have called home for years.
- vii. The Proposed Action will not result in negative impacts on a significant habitat area; It will not cause substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impact to natural resources.
- viii. The Proposed Action will not cause impairment of the character or quality of important historical, archaeological, architectural, or aesthetic resources.
- ix. The Proposed Action will not cause a major change in the use of either the quantity or type of energy resources consumed.
- x. The Proposed Action will not cause a change or significant adverse impact to agricultural lands, open space or recreational resources.

3. The Board of Trustees finds that the documentation prepared is complete in addressing potential adverse environmental impacts related to the proposed action and no significant adverse environmental impacts have been identified. As a result, a Negative Declaration is determined to be appropriate for this Proposed Action.

For Further Information Contact:

Bryan L. Rivera, Village Clerk
Incorporated Village of Mineola
155 Washington Avenue
Mineola, New York 11501
(516) 746-0750

Mayor Paul A. Pereira called the Work Session to order at 8:52 PM.

PRESENT: Mayor Paul A. Pereira
Trustee Paul S. Cusato
Trustee Janine Sartori
Trustee Jeffrey M. Clark
Trustee Donna M. Solosky

ALSO PRESENT: Village Attorney John P. Gibbons, Jr.
Village Clerk Bryan L. Rivera
Deputy Village Clerk Linda Pardo
Superintendent of Public Works Thomas J. Rini

Press Observer: None

Sunshine Observers: None

Resolution No. 215-22

Resolved to approve bills and payroll.

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Jeffrey M. Clark

Vote:		
<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Paul A. Pereira		
Trustee Paul S. Cusato		
Trustee Janine Sartori		
Trustee Jeffrey M. Clark		
Trustee Donna M. Solosky		

Resolution No. 216-22

Resolved to approve a request by Assemblyman Edward Ra and the New York Blood Services Center for the use of the Village Hall Community Center auditorium and a general purpose room to host a blood drive Tuesday, August 30, 2022 from 11:00 AM to 9:00 PM.

Motioned by Trustee Janine Sartori
Seconded by Trustee Jeffrey M. Clark

Vote:		
<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Paul A. Pereira		
Trustee Paul S. Cusato		
Trustee Janine Sartori		
Trustee Jeffrey M. Clark		
Trustee Donna M. Solosky		

Resolution No. 217-22

Resolved to authorize the Clerk of the Justice Court to attend the 2022 NYS Association of Magistrates Court Clerks Annual Training Conference October 16-19, 2022 in Albany, New York.

Motioned by Trustee Jeffrey M. Clark
Seconded by Trustee Paul S. Cusato

Vote:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Paul A. Pereira		
Trustee Paul S. Cusato		
Trustee Janine Sartori		
Trustee Jeffrey M. Clark		
Trustee Donna M. Solosky		

Resolution No. 218-22

Resolved to approve the membership of the following candidate as recommended by the Mineola Fire Department:

Michael Yokaitis Company 1

Motioned by Trustee Paul S. Cusato
Seconded by Trustee Jeffrey M. Clark

Vote:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Mayor Paul A. Pereira		
Trustee Paul S. Cusato		
Trustee Janine Sartori		
Trustee Jeffrey M. Clark		
Trustee Donna M. Solosky		

Resolution No. 219-22

Resolved to authorize the award Item #1 of the contract for the Granular Activated Carbon (GAC) Pre-Purchase Contract for the Well #4 - 1,4 Dioxane and PFAS Treatment Project Hall to the lowest responsible bidder.

Contractor: Calgon Carbon Corporation
Cost: \$411,947.00
Funding Source: Project Bond Funding, EFC WIIA Grant Funding and/or
2022/2023 Water Fund Budget and/or the Water Fund Unreserved Fund Balance

Motioned by Trustee Donna M. Solosky
Seconded by Trustee Janine Sartori

Vote:

Yes

No

Abstain

Mayor Paul A. Pereira
Trustee Paul S. Cusato
Trustee Janine Sartori
Trustee Jeffrey M. Clark
Trustee Donna M. Solosky

Resolution No. 220-22

Resolved to authorize Reconciliation Change Order No. 6 to the Sanitary Sewer Main Replacement Project.

Vendor: Bancker Construction Corp.
Amount: -\$415,382.65 to close out all remaining allowance balances and any unused unit price items.

Motioned by Trustee Janine Sartori
Seconded by Trustee Paul S. Cusato

Vote:

Yes

No

Abstain

Mayor Paul A. Pereira
Trustee Paul S. Cusato
Trustee Janine Sartori
Trustee Jeffrey M. Clark
Trustee Donna M. Solosky

Resolution No. 221-22

Resolved to authorize the hiring of additional seasonal employees for the John S. DaVanzo Community Pool and the Summer Recreation Program.

LIFEGUARDS

Massaro, William	\$15.00
Plunkett, Collin	\$15.00

PUMPHOUSE

Sartori, Luigi	\$11.00
----------------	---------

CAMP COUNSELORS

Sartori, Anthony	\$10.00
Frey, Nicholas	\$10.00

Motioned by Trustee Janine Sartori
Seconded by Trustee Donna M. Solosky

