

DRAFT

MINUTES OF A REGULAR MEETING OF THE HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION FOR THE VILLAGE OF MAMARONECK HELD DECEMBER 2, 2010 AT 6:00 P.M. IN THE PAVILION ROOM, MAMARONECK, NEW YORK

PRESENT: Mr. Carl Birman, Chairman
Ms. Laura Schneider
Mr. Jim Bilotta
Mr. Peter Jackson
Mr. Anthony Weiner
Mr. Bert Siegel
Mr. Cary Sleeper
Mr. Sven Hoeger, Environmental Consultant
Ms. Christie Derrico, Esq.
Mr. John Winter, Building Inspector
Mr. Keith Furey, Consulting Engineer

The meeting was called to order at 6:09 p.m.

OLD BUSINESS:

1. Mamaroneck Beach & Yacht Club – 555 S. Barry Avenue – Seasonal Housing and other renovations
Paul J. Noto. **Coastal Consistency Certification - Continuation**
2. John H. Lese – 208 West Boston Post Road – Construction of five (5) unit affordable housing building – John H. Lese, P.O. Box 577, Mamaroneck, NY 10543
3. Joan Sansone – 895 Port Drive – Replace destroyed 4' x 116' pier, reinstall ramp and floating docks and install anchor pilings – Hohn Hiltz, P.O. Box 47, Rowayton, CT 06853

MINUTES

September 15, 2010

October 20, 2010

November 17, 2010

Cc: Board of Trustees, Village Manager, Harbor Master, Applicants, Building Inspector

1. Mamaroneck Beach & Yacht Club – 555 S. Barry Avenue – Seasonal Housing and other renovations
Paul J. Noto. **Coastal Consistency Certification – Continuation**

Chairman Birman called the meeting to order at 6:09 p.m.

Chairman Birman made a motion to call for a resolution and announced the departure of the Commission to enter into Executive Session to deal with pending litigation for Mamaroneck Beach & Yacht Club regarding the stipulation which expired on November 30, 2010. Seconded by Mr. Bilotta and passed by a vote of 5 to 2 with Mr. Weiner voting nay and Mr. Jackson not voting.

The Commission entered into Executive session at 6:11 p.m. Upon the Commission's return, Chairman Birman called the meeting to order at 6:20 p.m.

Chairman Birman expressed his concern for Mr. Weiner's ongoing behavior with regard to recusals and un-recusals since there is a risk of litigation in the future and requested Mr. Weiner's cooperation in participating as a member of the public and not a voting member of the Commission. Mr. Weiner stated that he intends to participate as a voting member of the Commission this evening.

Atty. Derrico commented that counsel agreed with Chairman Birman's request.

Mr. Daniel S. Natchez presented himself to the Commission and stated that the application at hand is one of the most significant that has ever been presented to the Village. Mr. Natchez commented that the application is for Coastal Consistency.

Mr. Natchez commented that one of the fundamental principals of the LWRP is that you cannot replace any marine-dependent use for a non-marine-dependent use. While the LWRP recognizes that various interests can be balanced, it is unclear as to policy violations and that if a policy is violated, it should be determined to be not consistent. Mr. Natchez passed out the filed site plans as of last night, which indicates a marine-dependent use for boat storage in the winter and marina parking in the summer which is being reduced by over 58%. This is a violation of the LWRP since it is being replaced by a non-water-dependent use. Policies 1, 2 and 20 reflect this. Additionally, cabanas, which are a water-enhanced use, and are available to all members, are being replaced by seasonal residences. Therefore, over 40% of the cabanas are being reduced for the seasonal housing and for the entire project, over 50% of the cabanas are being reduced.

Mr. Natchez continued that the applicant has stated that the seawalls are being done, which are compatible with the LWRP as part of the project. It is important to understand in terms of the LWRP, and all of the various policies, that part of it is not necessarily the number of seasonal houses but the bulk, location and size of the buildings and the effect on the scenic vistas and the relation to the Otter Creek area.

Comments were encouraged, pro and con, by Chairman Birman.

Mr. Kass, attorney, presented himself to the Commission, and stated that he sent a letter dated December 1, 2010, regarding the very same issues which Mr. Natchez just spoke about and mentioned that the on page 2 it is pointed out the real problem is that this proposal is advancing water-enhanced uses, or residential units, at the expense of water-dependent uses.

Mr. Kass introduced Mr. David Helpern, architect, to discuss his thinking regarding the consistency of the plan. Mr. Helpern emphasized the fact that the plans have been studied and the project is far too dense. With regard to Policy #2, the entire idea of the plan of Mr. DeAngelis is to distribute buildings across the site. This is in opposition to the Stanford White concept of the estate and is in opposition to current thinking about plan and principals which is to cluster buildings and leave the landscape untouched. Untouched landscape preserves views and open spaces and water-dependent uses. Mr. Helpern suggested a building run across the front of the tennis courts which would have the least effect on water-dependent uses. The building would be behind the recreation building which Mr. DeAngelis is proposing. The views across the harbor are a cone of vision and Mr. DeAngelis' proposal would include the great lawn residence, the new recreation building, the beach residence and the yacht club residence.

Each residence, therefore, would compete with the castle. Mr. Helpern suggested that his proposal, which is less dense and of a lower height, would be a good neighbor to the castle and would enhance and preserve the original concept. Additionally, as proposed by Mr. DeAngelis, the screening of the properties by trees would obstruct the view from the buildings. Additionally, trees do not block buildings, according to Mr. Helpern.

The view from the Golub property would also be obstructed, according to Mr. Helpern, as proposed by Mr. DeAngelis.

Mr. Weiner explained that the LWRP and consistency does consider the visual impact of what is being proposed.

Mr. Helpern stated that on the site, as designed, the Great Lawn building blocks views from Otter Creek and is very much in view from across the harbor. The recreation building, if increased to three stories, would be the view from the harbor. A two story building would be less obtrusive. The proposed beach residence, over 200 ft. long, is a terrible obstruction and is absolutely the wrong thing to do for the site, according to Mr. Helpern, and he suggested clustering in the center of the site.

Mr. Bilotta questioned Mr. Helpern as to the clustering proposal and asked how the buildings would be concealed by trees. Mr. Helpern stated that he is not suggesting the usage of trees but that if you do try to conceal buildings with trees, there would be very few views left.

Mr. Kass, attorney, again presented himself to the Commission and introduced Mr. Golub, his client, who lives next door to the parcel in a building which is landmarked and has a development restriction on it and is open for visits from the public. Policy #25 and Policy #4D of the Management Plan do reflect a desire as part of the LWRP to preserve the sense of open space from the harbor, from the Sound and from neighboring properties and landmarks.

Mr. Kass stated that there are vistas surrounding the harbor which should be protected, and Mr. Golub's residence is a very important entrance point, and to convert it into a subdivision is the exact opposite, visually, of what the LWRP is intended to do.

Mr. Golub presented himself to the Commission and stated that he understands the members are trying to do the right thing for the community. Mr. Golub also stated that common sense is at risk of being thrown out the window since this entire proceeding has become so confused. Mr. Golub stated that the purpose of the LWRP is specifically, not have these types of condominiums built. Somehow, a nuance caused a big condominium unit to be attached to a small club. Therefore, Mr. Golub requested the Commission adhere to the LWRP and not build condos on the waterfront.

Mr. Golub acknowledged that there is a lot of potential money to be made with waterfront condos and stated he is not adverse to making money, however, this project, in his opinion, has gotten out of control with its size and scale.

Mr. Golub stated, in his opinion, the Mayor entered into a foolish agreement and negotiated away things which people have worked for, for many, many years.

Mr. Golub asked the Commission to deny the plan and invite the designers back with a project which is more in scale with the area.

Chairman Birman questioned Mr. Golub's statement that the LWRP was antithetical to development. Mr. Golub stated that while he understands the importance of development, the scale of the project is what he is objecting to.

Chairman Birman also differed with Mr. Golub's insinuation that the Commission has in any way lobbied or acted improperly outside of the meetings. Mr. Siegel requested these issues not be addressed this evening and that only the facts be dealt with.

Mr. Sleeper questioned that back in August, he believed that a group of citizens got together to decide what the plan should be with regard to the reduction in the number of units. Ms. Derrico stated that the negotiations have been going on for years, however, the substance of those negotiations is privileged. Mr. Weiner further elaborated on Mr. Sleepers question and asked if the reduction in the number of units was technical in nature based on an interpretation of law or was it based on a negotiation quid pro quo?

Mr. Golub stated that he was never approached by anyone in the Village regarding a negotiation.

Mr. Siegel stated he walked the site with Ms. Rosenshine who showed him there were boats stored along the fence in the winter which Mr. Siegel considered to be unsightly. Mr. Siegel stated that if the structure is built, the boats would no longer be visible. Additionally, Mr. Siegel stated the architects and Mr. Noto reminded him that the height of the building was reduced by 5 ft. to make it more pleasing to Mr. Golub and requested Mr. Golub's feeling toward these issues.

Mr. Golub responded that he has lived in the house for 18 years and has submitted photos of winter views and noted the views for residents are year round. This winter, Mr. Golub stated, boats were lined up parallel to the fence with very high shrink wrap for the first time in 18 years and were very unsightly. Mr. Golub stated that he cannot tell the Club not to store boats but it has never been this bad in the 18 years he lived there. Mr. Siegel pointed out that the boats would no longer be present in the winter if the seasonal housing is built. Mr. Golub felt that the unsightly boats were placed there intentionally in order for him to agree to the housing and their removal.

As far as the 5 ft. reduction in the pitch of the roof and the reduction in height of the building, Mr. Golub stated that he is happy that the situation is not going to be as bad as originally proposed, however, the sheer magnitude of the original plan was outrageous.

Mr. Jim Desmond, one of the original drafters of the law, stated that the vagueness of the word “seasonal housing” is causing all the problems. Originally, there was one club where people were allowed to occasionally stay overnight if they were unable to drive home or if they worked at the Club and in order not to make the room non-conforming, that term was placed in the language and the term is now being misinterpreted. It should have read “seasonal overnight stays.” It was never intended to be seasonal housing.

Mr. Paul Noto, representative for the applicant, stated that, for the record, a finding statement exists which the Planning Board adopted concluding SEQRA and no significant impacts were found. Also, in deference to Mr. Golub’s concerns, some changes were made to the project; 5 units were moved from the beach side to the great lawn, and the height was also reduced. When Mr. Golub purchased the house he was aware of the zoning which was in place and that this project was a possibility. The boats have always been stored against the fence and this project is under the FAR .15 and is a very restricted zone. Mr. Halpern’s suggested proposals were overwhelmingly rejected by the Planning Board. The finding statement found that there was no significant impact on the views, according to Mr. Noto and the buffering on the Golub side of the property is more than enough to screen his views. Mr. Noto feels that everything possible has been done to satisfy Mr. Golub.

Mr. Noto stated that the boat storage can be anywhere on the property, however, in regard to Policy #2, it specifically states that water-dependent use is a beach or a yacht club and the MB&Y is strictly a yacht club. By definition the club is a zoning compliant use. The finding statement and Building Inspector have found that everything proposed is an accessory use to the principal use as a Club. Therefore, everything proposed is consistent since it is part of the Club use. As an example, Mr. Noto referred to the tennis courts, which are 1.3 acres large of the 12.8 acre site, and stated that simply since they are consistent with the LWRP, it does not make the facility a tennis club. The proposed seasonal housing is .44 acres, a fraction of the size of the tennis courts, and therefore it is consistent. The seasonal housing takes a small portion of the property. Although it is controversial, the seasonal housing is a very small part of the whole and is an accessory to a zoning compliant permitted principal use, it is, in effect, consistent.

Mr. Noto enhanced his proposals for public access and added a few items to work with the Conservancy to allow for environmental academic outings on the Otter Creek side and tours will be allowed. The Village

sailing program will be sponsored to the children and bird watching will be allowed for two days as well as signage for the Conservancy and a bird stand will be installed. These public access items are unprecedented.

Mr. Bilotta questioned the size of the seasonal housing as being 4.4 acres and Ms. Liquori stated that 48% of the site is proposed for seasonal housing. Mr. Greg DiAngelis, addressed the Commission by stating the floor area of the buildings add up to a total number and approximately 48% of that floor area is proposed for seasonal housing.

Mr. Weiner asked if the square footage was now maxed out for building on the property and Mr. DiAngelis confirmed this and it was stated that nothing else could be built unless something was torn down.

Ms. Schneider requested what is being proposed for seasonal housing, how is it defined in terms of its use, how long people can stay and what the people's relationship is to the Club. Mr. Noto explained that the units will be owned by the Club, unlike condos which are owned individually, only members and guests can use the units between the beginning of April and the end of November at the discretion of the Club. The Village has the right to inspect the units to ensure there is no occupancy during the off months. The units cannot be sold and may only be utilized as the Club allows.

Mr. Noto explained to the Commission that an agreement will be made between the users of the units and the Club whereby the users waive any of their rights under the Landlord Tenant Law.

Mr. Schneider questioned if the same individuals could possibly stay in the units eight months per year and asked if this would be considered a de facto residence. Mr. Noto explained that this is a very good arrangement for those who wish to spend summers on the water in Mamaroneck. Ms. Schneider confirmed that the unit dweller's primary role is that of a Club member, not a "tenant."

Mr. Weiner confirmed that Club membership can be obtained by simply sending in a check. Mr. Noto agreed but stated that there is a membership process which includes interviews and credit checks. Mr. Randy Rooter, Manager of Beach Point Yacht Club, described its membership process. Generally, an applicant must be recommended by a member, with a seconding member and an application process takes place, as does a membership interview and a lunch takes place with the members. The Committee makes a recommendation to the Board and the membership is alerted to the potential new member and gives feedback to the Board. The members own the Club.

Mr. Weiner stated that MB&YC calls itself a Club however a limited number of individuals can do whatever they want. The point being, while there is a great deal of talk about the members of the Club, the members are really just users. Mr. Noto defended the Club's existence.

Mr. Sleeper requested what the assessed value of the property is and will be upon completion of the project. Mr. Noto stated that the Town of Rye currently values it at \$5 million and it would have to be appraised prior to a new assessed value being placed on it.

Mr. Weiner asked Mr. Sleeper what the market value would be if all of the units in question were sold as condos. Mr. Sleeper did not want to answer this question.

Mr. Bilotta requested what was proposed as cluster housing to the Planning Board and questioned why it was denied. Mr. Noto explained that Mr. Helpern had attended several meeting and submitted several alternatives. All of which took the housing away from the Golub side of the property and clustered them in the center of the property which accommodated Mr. Golub but he Planning Board found that the view from the water straight back to Otter Creek would be blocked and secondly if the buildings were in the center of the property they would be less functional. Mr. Noto referred to Mr. Bilotta to the findings and the issue was the views and the finding statement should be referred to for a thorough explanation.

Mr. Bilotta questioned whether there were more units in the original proposal and why it was changed. Mr. Noto confirmed that originally, 12 units were proposed in the existing Clubhouse, and it was changed through negotiation since units would have to be reduced and those units were less desirable and they would not be as valuable as free-standing units and FEMA would not allow them to surpass the 50% threshold and if you try to improve your property in the B zone the entire building would need to be brought up to compliance.

Ms. Schneider raised the question of Policies 7 and especially 7A, critical environmental areas and those surrounding the Club which make it unique to the area, there has been discussion at making different arrangements for the seasonal housing by spreading it around the property and also what was presented to the Planning Board and what was discussed. Of concern, Ms. Schneider brought up the issue of habitat as it relates to the spread out option.

Mr. Noto stated that it was discussed with the Planning Board and the current plan has no significant impact on the habitat. The Otter Creek area will be undisturbed, there will be additional plantings and at Otter Creek and a seawall is being prepared.

Chairman Birman reminded the group the Mr. Hoeger was in attendance with an update. Mr. Hoeger stated that he has met with the applicant and discussed improvements to the sediment erosion control plan, their stormwater quality plan and their parking lot at Otter Creek and particularly discussed protection of the wild areas. Additionally, Mr. Hoeger stated that the spirit of the LWRP was to protect the sensitive areas and he feels that his voice was heard and improvements have been made to the plan.

Ms. Schneider addressed Mr. Hoeger with respect to run off from parking lots from the fluids from the parked cars which could impact the habitat and the aspect of disturbance to close-by areas which have been recognized as environmentally sensitive and the issue of a proposed wider buffer zone for those areas. Additionally, Ms. Schneider noted that wildlife and habitat corridors are more successful when human use is compacted.

Mr. Hoeger responded that the LWRP is very specific with the preservation of wildlife and habitat. To that affect, the water quality issue was addressed by Mr. Hoeger. The existing water discharge is going right into the water body of the harbor without any filtering. Now, however, the applicant is including a specific unit which catches sediments and oily substances. Nutrients were also addressed and more infiltration is being sought. These are substantial improvement of the existing conditions. As far as the parking lot at Otter Creek is

concerned, right not the area is protected by fragmitas which absorbs nutrients and pollutants and a suggestion was made to increase the protection with a trench or berm. The applicant may discuss this problem with the DEC.

Ms. Schneider confirmed with Mr. Hoeger that the plan for the parking lot was to remain gravel.

Mr. Noto confirmed with the Building Inspector that the accessory uses are accessory and Mr. DiAngelis clarified Mr. Bilotta's question regarding the 48% floor coverage. Mr. DiAngelis stated that the floor area within the free-standing seasonal residence is about 31% and if all of the seasonal residences are taken into account the number is increased. However, he is not sure where the 48% is coming from.

Mr. Kass addressed the Commission and stated that he wished to respond to several topics. Yes, the seasonal residences are a permitted accessory uses and Mr. Desmond accurately reflected the intentions of the times. However, the issue of permitted accessory uses now becomes the beginning of the inquiry and the question of how they are used and configured and in what intensity are they cited on the site in terms of the LWRP is the issue.

Mr. Kass stated that the Commission's inquiry focuses on whether the water dependent uses are being given priority compared to the water enhanced uses. The water enhanced uses are uses which take on increased value because you can see the water. The policy of the LWRP is to see the primacy to water dependent uses and water enhanced uses are none but never at the expense of water dependent uses.

According to Mr. Kass, with respect to FEMA, the idea of fully renovating the Sanford White building is not off limits. As a result, the reason for the seasonal residences must be looked at since it seems that the reason for them is to help pay for the renovations of the Sanford White building.

In terms of the bird watching, Mr. Kass stated that the issue raised is not where you stand but what happens to the habitat. Mr. Jackson questioned whether these issues were addressed in SEQRA. Mr. Kass stated they had not and stated that the SEQRA findings with regard to Otter Creek were, in his opinion, a sham. What was not addressed by the environmental consultant was the permeability of the soil and the fact that there is a very high water table, which could cause pollutants to make their way into Otter Creek, according to Mr. Kass.

Mr. Kass mentioned the discussion regarding membership in the club and reminded the Commission that not only are members going to be using the facility, but guests will as well and this could become a weekend high turnover facility or it may become second homes for out-of-towners. This is not what the LWRP is about, according to Mr. Kass.

Mr. Kass advised the Commission that the reference of the proposed building resembling a Howard Johnson's came from the Chairman of the BAR.

Ms. Derrico stated that the BAR approved the project with regard to seasonal residences but requested two revisions in the back of the parcel in order to make it more aesthetically pleasing. One regarded the shacks where the elevators are, they approved the boat master's unit and asked for a similar change to the building on Otter Creek to match what was done for the unit for the season residence. Ms. Kass stated that statement was

false, the meeting was adjourned and their next meeting in on December 7th and the BAR deferred a vote and stated they liked the Club Master's house which is two stories. Chairman Birman discouraged the dialogue between Mr. Kass and Ms. Derrico. Ms. Derrico stated she would send Mr. Kass the resolution.

Chairman Birman questioned Mr. Kass as to cutting back on boat storage and Chairman Birman stated he felt this was a business decision.

Mr. Weiner stated that the LWRP specifically talks about a marine dependent use and if they are storing less boats and doing less boats, then they are not enhancing, they are decreasing a marine dependent use. Therefore, it is a business decision but is a business decision with what else they do and this what is being figured out here.

Mr. Kass stated that Mr. Helpern did submit alternative plans and requested they be viewed. Mr. Sleeper stated that the Commission has a plan before them and did not want another. Mr. Kass identified this plan as a feasible alternative to the original plan.

Ms. Lois Fenton, 721 Shore Acres Drive, Mamaroneck, NY stated that she finds it offensive that everyone sounds as though this is Mr. Golub is the only objecting resident. Ms. Fenton is a 48 year resident and no one who cares about the waterfront in the community is happy with what is going on.

Ms. Lisa Liquori clarified the figure of 48% residential floor area for the proposed project and stated this number was derived from not only the proposed seasonal residences in the free standing buildings but, also, from the residences in the main clubhouse as well as the existing residences on the site. Ms. Liquori, therefore, came up with 32% being the seasonal residences in the free standing and when combined with the main clubhouse and the existing residences, the 48% number is what you come up with.

Mr. Jackson made a motion to close the public hearing, and was seconded by Mr. Birman.

Discussion ensued regarding the issue of actually closing the public hearing since Mr. Natchez requested to be heard one more time. Upon discussion of the Commission, it was decided to allow Mr. Natchez to be heard prior to closing the public hearing.

Mr. Natchez stated that with regard to the plan in front of the Commission, and the characterization that the Planning Board did not have a problem with this plan, Mr. Natchez stated that this was untrue. Actually, the Planning Board stated that this was the applicant's plan and two Planning Board members were concerned and wanted to see alternative plans, however, the applicant insisted that the plan in question was their plan and they did not want to go into other things.

Also, in terms of the Commission's findings, in addition to Policies 7 and 7A, which are critical to Otter Creek, Policies 1, 2, 4 and 20 become the most critical since you cannot take away a water-dependent use for a non-water-enhanced use if there is a reasonable alternative, and Mr. Natchez stated that many reasonable alternatives have been suggested. The applicant has repeatedly stated that this was their position. Mr. Natchez stated that the Commission's review is solely in relation to the LWRP and the Planning Board's decisions are not relevant to the Commission's findings. Mr. Natchez stated that any SEQRA findings made by the Planning

Board are not relevant to the Commission's findings in relation to the LWRP and that is very clear in the LWRP as set forth in it.

Mr. Jackson asked Mr. Natchez that, if the Commission were to take an alternate position to the actual SEQRA findings, that that would not be inconsistent with the findings of SEQRA. Mr. Natchez explained that if the Commission made a decision that there is a violation of the LWRP policies that differs from what the Planning Board has said in their findings on SEQRA, you findings on the LWRP take precedence and are not subject to dictation by the Planning Board.

Mr. Jackson stated that he agreed with Mr. Natchez but that he did have issue: That in the environmental impact of a project under the LWRP or under Zoning, the purpose of SEQRA is to unify all of the issues.

Mr. Jackson asked Mr. Natchez if he was suggesting that the Commission can now say that they don't care if the Planning Board is the lead agency and has made a SEQRA determination, we are going to find an environmental impact in the project.

Mr. Weiner stated that the purpose of the HCZM in terms of the LWRP is only to determine consistency with the policies of the LWRP. SEQRA is completely independent. The confusion exists since the Commission is the Coastal Zone and Harbor Commission, therefore both processes are being done by the HCZM. The entire process has been done backwards, according to Mr. Weiner. Normally, the first thing that is supposed to be done on any application is to determine consistency. Therefore, the Commission is not bound by the SEQRA determination, since, technically, that finding does not exist for the Commission's deliberations.

Mr. Natchez stated the in regard to the DEIS alternatives E & F, alternatives were suggested where building could be moved away and not be in bulk and suggested the question is no the number of seasonal residences, it is the bulk and sensitivity to the LWRP policy which the Commission needs to decide.

Ms. Schneider stated that she believed that Steve Rensler was going to be present this evening and stated that the process of SEQRA is independent of what the Commission is doing in terms of determining consistency with the LWRP.

A vote was taken of the Commission to close the public hearing and was passed unanimously.

Chairman Birman made a motion for the Commission to take a five minute break at 8:30 p.m.. Seconded by Mr. Siegel and passed unanimously.

The Commission returned to the room at 8:37 p.m.

**RESOLUTIONS
MAMARONECK BEACH & YACHT CLUB**

- 1) Mr. Weiner made a motion to vote that the project is not consistent based on the motion which was presented in a document by Mr. Siegel. Seconded by Mr. Siegel.

The vote was taken as follows:

Mr. Sleeper – Against the motion
Mr. Siegel – For the motion
Chairman Birman – Against the motion
Mr. Wiener – For the motion
Mr. Bilotta – Against the motion
Mr. Jackson – Against the motion
Ms. Schneider – For the motion

By a vote of 4 Against and 3 For, the motion failed.

- 2) Mr. Sleeper put forth the following resolution,

Whereas, The Mamaroneck Beach and Yacht Club has made an application dated October 8, 2010 to the HCZM for a Coastal Consistency Certification pertaining to Mamaroneck Beach & Yacht Club's application for seasonal housing and other improvements and/or renovations,

That at the October 20, 2010 meeting a public hearing date was set for November 17, 2010,

That a meeting was held on November 17, 2010 and that a continuation of said hearing was held on December 2, 2010 and,

Whereas, the Planning Board deemed the application a Type I action under SECRA and that the Planning Board issued and approved findings at its meeting on November 29, 2010 which has been considered by the Commission and,

Whereas, Chapter 240-26, Subsection B of the Mamaroneck Village Code states actions directly undertaken by local agencies and actions approved by local agencies within the coastal area shall be consistent to the maximum extent practicable with the applicable coastal policies set forth in the Village of Mamaroneck local waterfront revitalization program as adopted on November 13, 1984 and amended from time to time so as to achieve a balance between the protection of natural

resources and the need to accommodate the needs of population growth and economic development, and

Whereas, Chapter 240-30, Subsection B of the Mamaroneck Village Code states the Certificate shall state the action will not substantially hinder the achievement of any of the policies set forth in the Village of Mamaroneck local waterfront revitalization program and whenever practicable will advance one or more of such policies, and

Whereas, pursuant to the public hearings held in regard to this matter at which extensive public comment, both pro and con, was made, and

Whereas, the Commission reviewed the entire record in this matter including but not limited to the documents listed in the annexed exhibit hereto and made a part hereof, listing 51 documents, and

Whereas, the Commission has considered and evaluated the impact of proposed action for consistency purposes, and

Whereas, HCZM takes notice of the voluminous public record, including records and attendance, both pros and cons,

Whereas, parking for spaces located within the 100 feet local buffer zone of the Otter Creek wetlands is not consistent with the LWRP, specifically with regard to Policies # 7, #7A and #44, however,

Whereas, no feasible alternative exists and the applicant has been working with the Village of Mamaroneck during the stipulation time period to modify the actions taken by the applicant to minimize all adverse affects as recommended by our Environmental Consultant, Sven Hoeger, and

Whereas, the action will advance one or more other coastal policies, including but not limited to Policy #21, specifically, beach clubs are recognized as a water dependent use, and

Whereas, if the action will substantially hinder the achievement of any policy, the Certificate shall state the following four requirements are satisfied:

Whereas, HCZM takes notice of the voluminous public record, including records and attendance, both pros and cons,

Whereas, parking for spaces located within the 100 feet local buffer zone of the Otter Creek wetlands is not consistent with the LWRP, specifically with regard to Policies # 7, #7A and #44, however,

Whereas, no feasible alternative exists and the applicant has been working with the Village of Mamaroneck during the stipulation time period to modify the actions taken by the applicant to minimize all adverse affects as recommended by our Environmental Consultant, Sven Hoeger, and

Whereas, the action will advance one or more other coastal policies, including but not limited to Policy #21, specifically, beach clubs are recognized as a water dependent use, and

Whereas, it will result in an overriding public benefit to the Village of Mamaroneck, and

Whereas, the application is deemed consistent to the maximum extent practicable.

Now, therefore, be it resolved that the Commission, after conducting its thorough review and after conferring with the Village employees and consultants has completed its review and evaluation of the proposed project and hereby has determined that the proposed project is consistent with Village of Mamaroneck's LWRP.

Seconded by Chairman Birman with the vote as follows:

Mr. Sleeper – Aye
Mr. Siegel – Ney
Chairman Birman – Aye
Mr. Wiener – Ney
Mr. Bilotta – Aye

Mr. Jackson – Aye – there has been a SEQRA finding in this manner and there has been a significant number of environmental impact studies done and there have been many alternatives put forth and looked at. He is not overly thrilled with the plan but all of the parties have tried to work together and have done the best they could under the circumstances.

Ms. Schneider – Ney with an explanation regarding concern for the safeguards and sensitivity of the habitat adjacent to the property. Also, she feels that the housing is residential, rather than seasonal and alternatives should have been reviewed.

OLD BUSINESS

2. John H. Lese – 208 West Boston Post Road – Construction of five (5) unit affordable housing building – John H. Lese, P.O. Box 577, Mamaroneck, NY 10543

Chairman Birman stated that it is his understanding, pursuant to Village Code 240-22 that the public hearing was properly scheduled for this matter at the October meeting, and he does not think that anything was done afoul in regard to Village Code 240-22.

Mr. Weiner stated that he believes what needs to be done tonight is to vote to schedule a public hearing and notice such hearing so that the public can come and comment on this application. Mr. Weiner did note that since the Commission was going to be meeting in another 12 days, he felt that, by law, it is required that a motion be made to schedule a public hearing.

Ms. Derrico confirmed that no motion was made to schedule a public hearing.

Chairman Birman questioned the necessity of a formal vote to schedule a public hearing at the prior meeting.

Chairman Birman called for a motion to open the public hearing, made by Mr. Bilotta and seconded by Mr. Siegel, and passed, with Mr. Weiner opposing for the reasons previously stated.

Mr. John Lese presented himself to the Commission and explained that the project is a small 5,000 sq. ft. site on the Boston Post Road opposite the treatment plant, 50 ft. west of Mt. Pleasant. The project will consist of one affordable and three working force units and one market rate unit in one building. It will have parking in the back. Mr. Rudy Petrucelli, the environmental site planner, developed a site plan which was sent to Mr. Furey for review and it was agreed that the plan meets all of the requirements.

Mr. Furey confirmed to the Commission that the proposed project provides for both water quality and water quantity controls from the off site run off. Mr. Furey and Mr. Petrucelli reviewed the project for conformity which it does. Mr. Furey stated that he sent the Commission an e-mail dated November 17th to this affect.

Mr. Lese requested the Board's approval for consistency.

Mr. Weiner questioned how the units were being set up.

Mr. Lese explained that it will be one tudor style building and on the BPR side will be two duplexes, and on the inside will be two duplexes. There will be a first and second floors. Above the first floor units will be a simplex. In the front will be three stories and in the back there will be two stories, since the site slopes up. They will be 400 sq. ft. on each floor for a total of 800 sq. ft. per unit. The cost will be approximately \$300,000 before subsidies.

Chairman Birman called for a motion to close the public hearing, the motion was made by Mr. Siegel, seconded by Mr. Bilotta and passed with Mr. Weiner abstaining for reasons stated above.

Chairman Birman read excerpts of the draft consistency resolution for the project. Mr. Jackson made a motion to accept the resolution, seconded by Mr. Siegel and passed with Mr. Weiner abstaining for reasons stated above.

3. Joan Sansone – 895 Port Drive – Replace destroyed 4' x 116' pier, reinstall ramp and floating docks and install anchor pilings – Hohn Hilts, P.O. Box 47, Rowayton, CT 06853

Chairman Birman called for a motion to open the public hearing.

Mr. Weiner stated his belief that this hearing was not properly noticed.

Mr. Jackson made a motion to open the public hearing, seconded by Mr. Bilotta, and passed with Mr. Weiner opposing.

Mr. Sandy Lichtenstein, attorney, representing Ms. Sansone, presented himself to the Commission. Mr. Lichtenstein explained that a dock extended approximately 100 feet out into the water for many years both prior to the acquisition of the property by the applicant and since their purchase. However, in March last year, during the storm, the docks from Beach Point broke loose and smashed into the Sansone pier. The pier was removed per the suggestion of Mr. John Winter, and therefore, the entire approval process must be met in order to rebuild the dock.

Mr. Lichtenstein presented a letter which was received from Beach Point which stated they are in support of the replacement dock.

Mr. John Hilts, engineer, presented himself to the Board, and explained that the pier ramp and floating dock were destroyed by the March storm and stated that an engineering study was done with a recommendation for the pier replacement. The only changes which will be made to the new dock is that pilings will be added to secure the floating docks at the applicants property.

Mr. Hoeger expressed his pleasure that pilings were being used rather than anchors.

Mr. Jackson questioned the "L" dock configuration and Mr. Hilts stated that that "L" dock previously existed. Mr. Hilts presented a permit for Mr. Jackson's viewing which confirmed this fact.

Mr. Weiner brought up the following procedural issue: The applicant has appropriately gotten their permits and consistency reviews from the Department of State, however, this information was received on June 10th and a letter was supposedly send to the Village shortly thereafter requested approval or denial for this application. Mr. Weiner stated he has not such record of this letter and plus, their application is stamped 10/27/10. The applications are supposed to come in at the same time and Mr. Weiner asked where the letter was. The idea between a DOS consistency review and the Commissions review are supposed to be simultaneously.

Mr. Hilts defended the applicant's intentions to follow the procedures properly.

Mr. Jackson made a motion to close the public hearing, seconded by Mr. Birman and passed.

Chairman Birman stated that the application is a Type II Agency.

Mr. Jackson made a motion that pursuant to the State Environmental Quality Review Act, the Commission declares itself the Lead Agency and in view of the application before them and consistent with the public hearing this application is declared a Type II Action and no further action is needed, seconded by Mr. Sleeper and passed, with Mr. Weiner abstaining.

Mr. Jackson made a motion that this action is consistent with the LWRP and the fact that it was a pre-existing structure and there is no significant impact identified by the applicant and is adjacent to a perimeter permit of Beach Point Yacht, it is therefore consistent with the LWRP, seconded by Mr. Sleeper and passed, with Mr. Weiner abstaining.

Mr. Jackson made a motion that the Board, pursuant to the application, grant a structures permit for the applicant, Sansone, and that it is consistent with the LWRP and that the Board is the issuing body, seconded by Mr. Bilotta and passed with Mr. Weiner abstaining.

Approval of Minutes:

September 15, 2010: Chairman Birman noted that on Page 3 the line “Be and Hereby” should be eliminated.

A motion was made by Mr. Sleeper to accept the September 15 and October 20, 2010 minutes, seconded by Mr. Siegel, with Mr. Jackson abstaining since he was not present at the meetings.

Mr. Siegel made a motion to adjourn the Regular Meeting.