

VILLAGE OF MAMARONECK
HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION MEETING MINUTES
JULY 17, 2013 – 7:30 PM
169 MOUNT PLEASANT AVENUES, COURT ROOM, MAMARONECK, NY

Attendees:

PRESENT:

Chairman Nick Allison
Clark Neuringer
Kevin LaFollette
Cindy Goldstein
Jim Bilotta

Also Present: **Les Steinman, Counsel to the HCZMC**
Sven Hoeger, HCZM Environmental Consultant
Anthony Carr, Village Engineer
Susan Favate, Planning Board Consultant
Anna Georgiou, Counsel to the HCZMC

Absent: **Brian Glattstein**
Alice Pernick
Robert Galvin, AICP – Village Planner

CALL TO ORDER

The meeting of the HCZMC was called to order by Chairman Nick Allison at 7:30 P.M.

OLD BUSINESS

No Old Business

New Business

We will take this in order of 3B and 3A Mamaroneck Beach and Yacht Club first and then the Coordinated SEQRA review discussion of the Board of Trustees communication notice of the intent to be Lead Agency for PLL N- 2013.

Chairman Allison asked if there were any comments. The Chair noted that he thought that at one point they were to get some communication from the Planning Board on how the discussion ended or went. He understood from an e-mail from Mr. Galvin that the Planning Board were still discussing Findings for MBYC and had not closed out SEQRA.

Mr. Steinman stated that that was correct. The Planning Board at its last meeting closed the Public Hearing on the Amended Site Plan and the Wetlands Application. They did not begin any deliberations and the review of the issues was scheduled to begin tomorrow night. The Planning Board had to reschedule their regular meeting due to vacation concerns so they are scheduled to meet tomorrow night and on July 31. At those meetings, they will discuss the environmental determinations that they have to make. They are certainly anxious to receive from the Commission any comments you may have as an involved agency for the SEQRA process related to the changes that are currently proposed by MBYC and as they relate to your determination of consistency of the LWRP.

Chairman Allison asked if there was a clock ticking this evening on our discussion and what is the purpose of our discussion this evening?

Mr. Steinman commented that the primary purpose of the Board's discussion is to identify comments that you want to forward to the Lead Agency. You will hear the Applicant make a presentation on their Application for Consistency. As an Involved Agency, you must wait for the Lead Agency SEQRA determination before you can take any action. That has not yet happened. In terms of a clock ticking, I would suggest to you that the clock is on hold at this moment because the Lead Agency hasn't made their SEQRA determinations. The clock for this particular consistency application would begin once the Lead Agency makes its SEQRA findings and then there would be a 30 day period unless otherwise extended.

Chairman Allison asked if the 30 day period started tomorrow night

Mr. Steinman responded no, to his knowledge tomorrow night would just be the initial discussion of the SEQRA findings and determinations.

Chairman Allison asked when the next Planning Board meeting was

Mr. Steinman responded it would be July 31, 2013

Mr. Bilotta asked that potentially HCZM would have to do something in August. He commented that there is no scheduled meeting for HCZMC or Planning Board during this month.

Mr. Steinman's response was at this point I can't tell you when that time clock will start. There is that possibility and it's something that could be discussed with the applicant if you needed additional time but we are not there yet and we will keep the Commission informed as to the progress of the Planning Board's deliberations.

Chairman Allison asked Mr. Noto if he was ready to start

Mr. Noto responded yes and began his introduction to the Board. Before he started, he asked that one of the Board Members recues themselves from this hearing because we feel that that the individual cannot be objective or open minded. Mr. Noto handed out a copy of an e-mail that Ms. Lisa Rosenshein had received. The e-mail that was received was from Cindy Goldstein on September 30, 2010, Mr. Noto believed that in response to an e-mail from his client, Ms. Goldstein responded in her e-mail, "please remove my e-mail from your list, I am not interested in your rebuttal or anything the Mayor may have to say as I find that you cherry pick your facts and misstate others, your organization

is arrogant, aggressive and absolutely not to be trusted while chasing money for yourselves and your lawyers". While reading this, Mr. Noto indicated that he had the distinct impression that if in fact this is the same Cindy Goldstein that is on the Commission, I am sure that she will respond that she would be unable to be really fair, objective, open minded and provide us a fair hearing that we would like and are entitled to. Particularly painful is that she is critical of the Attorneys, in any event Mr. Chairman, I think this is clearly evidence of bias and we would suggest that Ms. Goldstein recues herself on this matter. (The e-mail in question has been attached to the end of these minutes.)

Mr. Steinman asked if he could intervene for a moment, not having any prior notice of this request like anyone else on this commission. He indicated that the date on this e-mail is almost 3 years old. He requested the opportunity to speak to Ms. Goldstein before she responded and if she wished to have advice of counsel.

Ms. Goldstein responded by agreeing to speak with counsel.

Mr. Steinman asked for a moment to confer one on one with Ms. Goldstein

Chairman Allison calls for a pause in the meeting (7:37 pm – 7:40 pm) and then asked Ms. Goldstein if she had any comments.

Ms. Goldstein responded that she did. She stated that this e-mail was from (3) years ago and it was not commenting on the actual plan. It was commenting in response to an e-mail from Ms. Rosenshein. Ms. Goldstein indicated that there was no question in her mind that she could be absolutely clear minded and impartial in regards to this application.

Mr. Noto responded, "OK, we're good". He then said he will go through the background from 2010. He then introduced Gregg DeAngelis, Architect, Jennifer Grey from Keene & Bean, Co-Counsel, Ms. Sleicher from OCC and Lisa Rosenshein from Mamaroneck Beach & Yacht . Mr. Noto went into the background of the 2010 settlement with the Village. Part of that settlement was that we filed an application for site plan approval with the Planning Board for Seasonal Residential units and other improvements at the club. The plan went through a review process that included at the time 23 Residential Seasonal Units, 1,400 square foot Yacht Master Building, 4,000 sq. foot Recreation Building and other Club House Improvements. The Planning Board issued Environmental findings on that site plan under SEQRA and the HCZMC issued a determination of Consistency. That 2010 site plan was litigated by SAPOA and one neighbor and it has held up construction. In order to expedite that process and address some of the issues raised in the litigations, an amended site plan was filed in January of 2013. The Planning Board has held many public hearings on this application. The June 26, 2013 Public Hearing was closed for further public comment, however, the Planning Board will receive comments from involved agencies under SEQRA until they decide they will close that comment period as well. The Planning Board has not yet acted on our application. I make that point because as Mr. Steinman has pointed out there is really no actions for you to take tonight since the Planning Board has not completed its SEQRA review. What the Planning Board may or may not approve may be different from what you see tonight which was one of the reasons we adjourned from the last meeting. Mr. Noto indicated that the plans presented to the Commission this evening may change before you have the opportunity to vote.

Mr. Noto explained that an Environmental Narrative was submitted with this amended proposal. This narrative included a comparison of the two plans: the 2010 plan and the 2013 plan. The 2013 plan

makes four changes. We have reduced the number of seasonal residences from 23 to 18 by eliminating one level of units on the Beach side residential building which also lowers the height of the building. We increased the Yacht Master Building to 3,800 square feet, reduced the height of the recreation building to 2 stories from 3 stories, accomplished by increasing the square footage by 800 square feet, and reconfigured the parking to conform to the parking requirements in the code. Overall the 2013 plan is smaller, has fewer seasonal units, improves the recreational amenities of the club, and, of course, Mr. Noto made the point that if the 2010 plan which was larger and denser was consistent, then we believe the current 2013 plan would also be consistent. The only issue before you is consistency with the LWRP. The Planning Board is handling site plan issues; the Zoning Board is hearing an appeal on Zoning Compliance. In your LWRP, the Board of Trustees has made a determination when they adopted it, that Beach and Yacht Clubs are water dependent uses. As a Beach & Yacht Club, MBYC is, by definition, a water dependent use.

Mr. Bilotta asked if our Attorney agrees with Mr. Noto in that the Board is only looking at the changes or the whole package.

Mr. Steinman responded that this Board determined that the 2010 plan was consistent and so the focus should be on the changes to that plan and how it affects the determination of consistency.

Mr. Gregg DeAngelis, Architect for MB&Y, indicated that he would go through the four basic changes. He mentioned that just to clarify the drawings in front of the Commission, these are the latest that have been submitted and reviewed with the Planning Board.

The Chair asked Mr. DeAngelis about the change in the Yacht Master's building.

Mr. DeAngelis responded that there are some changes in the ridge line, which are reflected in the packages you have. Mr. DeAngelis then went into a description of the changes that were made. To go through the four changes starting from Otter Creek to the Marina and Long Island Sound, one of the changes on the site is that it is a smaller property; the applicant is not including a parcel of land adjacent to Otter Creek. In order to do that, they had to reconfigure some of the parking and also to comply with a Zoning Board decision. They were able to find several other spaces throughout the site.

Mr. LaFollette asked if those were existing structures or part of the proposed plan on the diagram Mr. DeAngelis was using.

Mr. DeAngelis responded that it is the proposed plan.

Mr. LaFollette asked to have the color code explained.

Mr. DeAngelis explained the color code.

Mr. LaFollette questioned what is new and what is existing.

Mr. DeAngelis went into detail of what was new and what was existing. The first change being parking, he pointed out that there is still room for parking at Otter Creek just not as many spaces are available, they have reconfigured some of the parking areas, they have added some permeable pavers to the area called the Great Lawn. This gets them to the parking spaces they need and to the portion

of at least 50% of paved spaces vs. other gravel and grass type spaces. He then explained the type of buildings on the site, both new and existing.

Mr. Steinman, explained to the Commission members that Mr. DeAngelis has explained these plans numerous times to the Planning Board which has a greater familiarity with the project. When Mr. DeAngelis states that there is a new Seasonal Residence Building, Mr. Steinman had pointed out to him that the Seasonal Residence Building was part of the 2010 approved plans. Therefore, it was not new in the sense of being shown for the first time as a change in 2013. Mr. Steinman indicated that he suggested to Mr. Noto that Mr. DeAngelis be careful about his terminology so that this Commission doesn't get confused as to what was approved in 2010 and what is new in 2013.

Mr. DeAngelis discussed the second change which is in the area of the Recreation Building. A (3) Story Recreation building was approved in this location in 2010. It was a 2 story building but because of Flood Zone Regulations, it became a (3) Story. We had to raise it a full floor above the grade, but at that time we were able to re-map some of the flood zones and that area is now affected by the change in Flood Plain regulations. It did not remove the Recreation building from being in the V Zone but it did provide a certain small area close to the Harbor in the A Zone. The advantage of that is that we have been able to add toilets, which is part of the new amended 2013 proposal. There will be men & women toilets at ground level in the A Zone. There will be some flood provisions, which we will be working out with the Village Engineer and the Building Inspector. This allowed us to raise the building up and knock out (2) Cabanas that had second floor toilets, not ADA compliant toilets. This allowed us to put new ADA toilets on the first floor

The main change was the reduction of the Beach Seasonal Residence from (3) stories in 2010 to (2) stories in this 2013 plan. There are (6) units now on one level above grade, there are cabanas underneath and parking underneath, and a lower sloped roof. This building is now a full story lower than what it was in 2010. By removing the full floor, we were able to gain square footage to be used in the Recreation building and some for a larger Yacht building to better serve the members.

Azure Dee Sleicher P. E., representative from the OCC, spoke of the correspondence that the Commission had from Mr. Michael Ludwig of her office dated June 5, 2013 where there is a detailed discussion of the LWRP Policies and our opinion that the proposed changes to the site plan are consistent to those applicable policies. The general policies are those related to water dependent uses, the club is inherently a water dependent use. The siting of water dependent features adjacent to Coastal Waters is what we have done in the Yacht Master Building, which is specifically used for boating activities. This will also strengthen the economic base of the club and water dependent uses will enhance the membership. I would say the most significant policy is Policy 7 & 7A with respect to coastal fish and wildlife habitat. The proposed site plan changes from 2010 to 2013 reduce the scope for the proposed project, and do not have any significant impacts on fish and wildlife habitat.

Chairman Allison in response asked that you are saying that the overall reduction in size of the overall plan not the reduction of parking along the Otter Creek area is what further enhances the plan as far as policies 7 & 7A is concerned?

Ms. Sleicher responded that since there were no significant impacts found when the plans were larger in scope, it would only make sense that since there has been a reduction in scope there would not be any additional impacts. With all of proposed improvements being on the upland, significant fish & wildlife impacts have just not been found. Every building will be FEMA compliant in its Flood Zone

and, therefore, consistent with those policies while overall enhancing the overall water dependency nature of this club.

Ms. Goldstein asked to explain the use of the existing Boat House now and with the new plan, will it be the same use?

Mr. DeAngelis explained that the Boat House has locker rooms, bathrooms, and a day care facility on the second floor.

Ms. Goldstein replied that the name, Boat House, is a slight misnomer since by building the Seasonal Residences where you are putting them, you are actually cutting off access to the water whereas currently there are cabanas in that area.

Mr. DeAngelis said that the Boat House is just a term and to his knowledge no boats were ever stored there

Ms. Lisa Rosenshein stated it is used for showers for the boaters.

Mr. DeAngelis showed renderings of the Club.

The Chair requested more information on the Flood map changes.

Mr. DeAngelis responded that it was a process at Ocean & Coastal. Ocean & Coastal was able to work with FEMA to do a letter map revision (LOMA) that went to the Trustees and was approved. With that map revision, it opened up more of an AE Zone closer to the Harbor.

The Chair asked what the difference between the AE & VE Zones was.

Mr. DeAngelis responded that a VE is a velocity zone and an AE is a less severe zone.

Mr. Neuringer asked under the current FEMA data points that were revised what is the flood plain elevation that you need to be above for the Recreation building compared to average grade around the building and what were ceiling heights

Mr. DeAngelis indicated that the VE Flood Zone is 7' above grade and ceilings are about 10 -12' feet.

Ms. Goldstein asked when the flood zones changed; were they before or after hurricane Sandy

Mr. DeAngelis responded it began before but was not finalized until February.

The Chair inquired about the toilets & ADA compliance and are they an issue due to the flood zone or because they are not ADA compliant.

Mr. DeAngelis stated that people would want to have the facilities on ground level. There are existing toilets in the cabanas which are not ADA compliant but in the overall improvement of the facility, it would be better to make the change. He indicated that flood backflow protection in case of a flood will need to be supplied.

Mr. LaFollette asked how many facilities are there now and how many will be added in terms of toilets?

Mr. DeAngelis responded that he will get the total number to the Commission.

The Commission had questions about the Beach Residential Building height and dimensions whether or not it is a 2 story or 3 story and what dictates a story and the parking of cars in that zone.

Mr. DeAngelis explained the height of the building, the reason for shape of roof line and that the attic is a non-habitable space.

Mr. Bilotta asked whether or not cars are allowed to stay under the building because if people are not there and there is a storm, who will move their cars? Will they leave their cars if they went down south?

Mr. Noto responded that they will not be storing cars there, we do not want the liability.

Chairman Allison asked what happens if someone leaves their car and there is a storm and water rises and the car can then crash into the building.

Mr. DeAngelis responded by saying that the area is in an AE zone which is not a velocity zone. FEMA regulations do allow you to park in these areas.

Mr. Bilotta asked what buildings had their square footage changed

Mr. DeAngelis responded that the Recreation building was just under 4,000 sq. ft and it will be increased by 800 sq. feet, the Beach Seasonal Housing was approximately 16,443 and now down to 11,518. The Yacht Club Building went from just under 1,400 sq. feet to 3,800 sq. feet which is an increase in the footprint.

Mr. Bilotta questioned Ms. Sleicher from the OCC on how she can make the statement that the changes don't have any impact yet you've doubled the size of a building on the waterfront. The reduction in Seasonal Housing was all above grade which has no impact on the environment where this one might.

Mr. Neuringer points out that from 2010 to 2013 the multipurpose room has increased in size by 190%

Mr. Noto explained that was exactly what is being discussed in Planning. The club has new leadership and the programming has changed. Quite frankly, the emphasis, as you can see from this, has gone away from the Seasonal Housing aspect and back into the Yachting. We are a Yacht Club and are encouraging more Yacht Club Members who will take full advantage of our amenities. The Club's leadership made a determination to provide more space for Yacht Club activities.

Mr. Neuringer points out the increase in the amount of people that would be able to be in the larger building, and that it is a significant change from 2010 to 2013

Chairman Allison asked what the issue was.

Mr. Neuringer replies that Ms. Sleicher from the OCC stated that there was no change and no impact and my thesis is that if you are increasing square footage by 190% and increasing potential occupancy and intensity of use by 150%, then that suggests to me there probably is an impact. One should not brush it off and suggest that there are no impacts. We have already acknowledged and agreed that this is a change that is new and now we would like to understand to what extent does it create potential impacts.

Mr. Noto's response was, that there is a difference of 89 people at full occupancy.

The conversation goes back and forth regarding increased use and possible impacts.

Chairman Allison asked Ms. Sleicher, when you said there would be a reduced impact as far as Policy 7 and 7a, you meant overall square footage in the case of this building.

Ms. Sleicher responded that there was an overall reduction in the site.

Chairman Allison asked Sven Hoeger his opinion

Mr. Hoeger responded with regard to the extra facilities that he thought that there was minimal environmental impact.

Chairman Allison asked if this discussion related to the Commission's role as an involved agency under SEQRA.

Mr. Steinman responded yes. The Commission is an involved agency, and he thought that it is perfectly appropriate to refer to the Planning Board your concerns as articulated by Mr. Neuringer regarding potential site plan impact of the increased size of the Dock Masters Building.

Mr. Neuringer – as an involved agency we were to make our notes, comments, & concerns known based on this conversation and perhaps others as we get into it, I would suggest that there be a strong consideration that this Commission make the recommendation to the Planning Board that they should consider a supplementary EEIS due to the significant changes that have been made.

Kevin LaFollette asked how are we to insure that there are processes that people do vacate the seasonal housing.

Mr. Noto responded that in the 2010 resolution there is an enforcement mechanism. The Building Department will be on top of that. We can't have people there after November 30th.

Chairman Allison asks for any other comments and asked Mr. Hoeger to make an assessment.

Sven Hoeger stated that he feels especially with regards to Policy 33 & 7 there are some minor mistakes in the plans which I don't think should have happened, also I don't think the erosion sediment control plan is rigorous enough to withstand a storm during construction or winds. I don't feel that they are putting enough emphasis on the sediment plan as they should.

Gregg DeAngelis responded by saying that there was a large effort in the 2010 plan.

Mr. Hoeger responded by saying that was due to his urging and he sees that some of his comments are still not included on this plan. I don't think that the problems are insurmountable; they just have to be corrected.

Mr. Neuringer stated that we don't have adequate time to prepare documents and submit them to the Planning Board as part of the SEQRA process before tomorrow night.

Chairman Allison responded do we have to do it by tomorrow night.

Mr. Neuringer suggested that they can advise the Planning Board to start their deliberations with the hearing having been closed. We have been told that the Planning Board will begin their deliberations tomorrow evening. That presents a unique circumstance how will we be able to formulate our concerns, document them, draft something and get it to the Planning Board before tomorrow night.

Susan Favate responded by saying that she does not think that that is expected of the Commission. The Planning Board is just beginning their deliberations of SEQRA as well as site plan. SEQRA has to be completed before you all can make a consistency determination.

Mr. Neuringer asked if we can have an understanding or an agreement that they won't conclude their process and their deliberations tomorrow night so that we have until the 31st.

Mr. Steinman responded by saying no one could give them that guarantee but the way it is scheduled it's not intended that anything will be concluded tomorrow night.

Mr. Neuringer asked if Counsel could speak with the Planning Board on the Commission's behalf that the Commission would like to provide comments to them.

Mr. Steinman responded that the Planning Board is very aware of your interest in making that communication and he would explain to them the timeframe between meetings was too short for the Commission to provide their comments but hopefully it can be done in advance of the 31st.

Chairman Allison asked if the commission can make an outline of what we are trying to communicate to the Planning Board.

Mr. Neuringer responded yes and we should but there may be public comments before we start our conversation.

Chairman Allison asked if there were any other questions from the Commission before public comments were taken.

The Commission had no further questions or comments.

Chairman Allison asked for public comments.

Ms. Debra Cohen, Counsel to the Shore Acres Property SAPOA, spoke regarding the task before the Commission regarding the changes between 2010 and 2013 and asked that they not be overly narrow in the changes to be made to the Yacht Club building with the additional cars and parking issues going over the Otter Creek Bridge. There has been great discussion over the Otter Creek NY State owned

parcel of land which will still be used for overflow parking. You've also had talks about the toilets tonight, and your concern is of contaminating sensitive coastal areas with extra people using the toilets, it's not a joke when you're talking about a site that is perhaps the most sensitive coastal site in the Village. There is only (1) sewage pipe that takes sewage off of that site and the pipe flows under Otter Creek. The pipe is 90 years old. We've asked the Planning Board that before any approvals are done that a complete and accurate evaluation be completed on the condition of that pipe. It is our understanding that the pipe is owned by and is the responsibility of the applicant. We believe that the Planning Board is leaning towards deferring those tests until after site plan approval and making it a condition of the building permit being issued. SAPOA's concern and belief is any environmental review whether or not you follow what we believe is the proper procedure, which is to have a SEIS done, given the changes to the project. SAPOA is of the opinion that a Supplemental impact study should be done. Ms. Cohen in her closing expressed her disapproval of how the recusal of a Board Member was handled. She stated that the appropriate way it should be done is that in the advance of the meeting a written request and layout the basis as to why the recusal of the member would be appropriate so that counsel for the Board can review it and can investigate the concerns of the person so that a truly thoughtful analyses can be done and a proper decision can be made. It is a little disheartening to see an issue as important as recusal be used as a tactic to try and intimidate an outcome or to move someone off the Board I just found it somewhat unsettling.

Ms. Susan Favate responded to the Chairman that she would like to shed some light on the sewer issue. The Planning Board has discussed that issue and I think that Mr. Carr, the Village Engineer, could comment on the guidance that he provided the Planning Board so that you all have the same information as the Planning Board.

Mr. Carr responded that the applicant has been instructed that before any approvals are issued, there will need to be an evaluation of the existing sanitary sewer force main that exits the site and travels under Otter Creek to Alda Rd. This will need to be inspected and evaluated for structural integrity and overall general assessment and to see the working condition of that pipe. We haven't been notified of any issues with the pipe per se and again I hear a lot of people saying that the pipe is 90 years old. We have sanitary maps that date back to 1939, 74 years ago, that don't show that force main there. I don't know how old the force main is and I can't possibly see without the opinion of another professional engineer that they can determine that the pipe is 90 years old.

Mr. Neuringer asked Mr. Carr that you mentioned that prior to any approval being given there is a scope of work that the applicant must undertake

Mr. Carr replied yes, the applicant is required to pressure test and camera inspect the existing force main.

Mr. Neuringer asked Mr. Carr that prior to any approval being given, specifically does that mean final site plan approval?

Mr. Carr responded, after site plan approval process. No building permits will be issued beforehand. The applicant has agreed but, I find it hard to believe, that unless I see a map generated from somebody that specifically shows that force main is 90 years old, typically force mains are build with PVC or plastic construction and PVC was very rarely used in the 1920's and 30's and didn't become widely use until the 1950's, 60's.

Mr. Neuringer responded, you say that the maps you studied showed that the pipe was back in the 30's

Mr. Carr responded 1939.

Mr. Neuringer asked Mr. Carr if it mattered to him if the pipe was 74 years or 90 years old. In terms of its location, shouldn't it be checked no matter what.

Mr. Carr responded that it should be checked and that is why we advised the applicant. He just wanted to clarify that the term 90 years is not correct.

Chairman Allison asked Mr. Carr to explain what a force main is.

Mr. Carr explained that it is any kind of pipe that works under pressure.

Mr. Steinman asked Mr. Carr to correct him if he's wrong but the point he was trying to make was that the map from 1939 did not show this particular main so we don't know exactly how old this pipe is.

Kevin LaFollette asked Mr. Carr is there just one pipe leaving this property.

Mr. Carr responded yes, it goes under Otter Creek. The applicant's engineer popped the manhole on Alda Rd. where the force main connects into and verified that it is a six inch force main. It's the only pipe leaving the facility.

Chairman Allison asked if the pipe is restricted to only this site

Mr. Carr responded yes

Mr. Bilotta asked who determines if a 6" force main is sufficient for what's proposed

Mr. Carr responded, the applicant's engineer has provided calculations of the onsite sanitary sewer and will be reinstalling a new pump to accommodate the new flow.

Mr. Natchez gave his opinion on the pipe that runs under Otter Creek. He also stated that the Commission has a problem with getting their questions and recommendations to the Planning Board. He feels that the applicant has simplified the changes that they have made from 2010 to 2013 site plan. Mr. Natchez stated that the Commission did not have the plans in a timely fashion. Mr. Natchez suggested that the Commission communicate to the Planning Board that they will go through the plans but you are not going to meet tomorrow night or two weeks from tonight to meet their timetable and there are significant issues for you to review. I think you need to do your due diligence and perform your functions correctly and take the time to do it right and provide the information correctly.

Chairman Allison thanked Mr. Natchez and stated that for the record this application was on our agenda in June and we got our packet the week before. One of the things we asked the Planning Board was to keep us abreast of any changes so that we didn't have to read the entire packet again. We can only track the changes that have been discussed and believes that the only changes that have

been on there since we received the packet in June are the changes to the Yacht Club / Dock Master Building.

Mr. Natchez responded to the Chair indicating that at your last meeting you were advised that the request was to take it off your agenda because there was consideration to changes and the fact that you couldn't get to it was because of request of the applicant and the advice of your consultant.

Chairman Allison responded that intent was not to argue with Mr. Natchez but to clarify when the packets were received

Mr. Neuringer asked the applicant since January 2013 and June 4, 2013 have there been any changes to the site plan

Mr. DeAngelis answered that there have been some changes due to discussion with the Planning Board in order to reduce the encroachment towards the sound, marina and seawall. He pointed out these changes.

Mr. Hoeger commented on the changes along Otter Creek and the sensitive area in that location. There were previously intense discussions regarding the water quality in that area and the runoff from parking. The previous application provided a buffer preventing runoff. Now that the parcel has been taken off the plan and the club still intends to use the parcel this area becomes a concern unless a condition can be made that the applicant puts up a chain link fence to prevent that.

Mr. Victor Tafur, 409 Bleaker Avenue, addressed the Commission He had three comments to make and explained that his interest was to make sure that SEQRA is followed properly, that LWRP consistency reviews for the LWRP are also properly done and the project is built in the proper way. He asked the Commission to keep in mind that the footprint is larger. Please keep in mind the parking at Otter Creek. Last point what is the action that you are providing consistency for? I believe it is the amended site plan.

Mr. Neuringer responded that he feels that the applicant is in agreement.

Gabriella Cohen, 491 S. Barry Avenue, had a comment that three weeks ago there were 8 greyhound buses that went by my house over Otter Creek. She brought this up so that I hope it motivates you to feel comfortable with your consistency report.

Chairman Allison asked for any other comments.

Nora Lucas addressed the Commission with a plea to do their best and to push for a Supplemental EIS.

Chairman Allison addressed what items should be on a bullet list to bring back to the Planning Board. These included a review of the parking situation along Otter Creek, and a Supplemental Environmental Impact Statement.

Mr. Neuringer asked to go over process and procedure, He felt that we are in a bind and not meeting again until September.

Chairman Allison responded by added that an emergency meeting can be called if required.

Mr. Steinman explained the process with bullet points and the Planning Board and their needs.

Ms. Goldstein asked if an emergency meeting could be set up at this time and cancelled if necessary.

Chairman Allison felt that the Commission can come up with a list for the Planning Board.

Susan Favate asked the Chair what other points to add to the list.

Chairman Allison responded, the issue of sewage removal from the site.

Mr. LaFollette asked if parking covered the NY State owned lot and would like to know what Sven has to say about making sure if the applicant needs to install some vegetation that will prevent parking and absorb any runoff.

Mr. Bilotta asked for clarification first of all whether or not they plan on using the lot for parking

Mr. LaFollette responded yes.

Mr. Neuringer asked if we could have the lot in question fenced off.

Chairman Allison asked the applicant if they plan on using the Otter Creek lot.

Mr. Noto responded by saying yes to the extent that they can as we have for the past 50 years. Overflow parking would be less than 10 times a year. There is a provision in the 2010 resolution that addressed that issue, if the building inspector deems it excessive or problematic, he can then direct us to find other parking. There is a DEC consent decree that governs how that parcel is addressed we had to do planting and certain things for the DEC. That DEC decree remains in effect and it acknowledges that the parcel is used for parking. There is a dispute and an action in Supreme Court with the State resolving that issue of ownership.

Chairman Allison responded by asking how they continue to justify continuing to use it if there is a dispute about ownership and there are environmental issues. How will you address that?

Mr. Noto responded that the environmental issues were addressed in the DEC consent decree where we had to do certain things. We are in compliance with that decree and that is not an issue. The issue is whether or not our deed to the property, currently we have a deed that we say it's our property, we have a title report, and we have title insurance. The NYS OGS wrote a letter stating they may have an interest in it. We have a disagreement and we have brought an action into court to resolve the disagreement. The State has not said that we cannot use it so, at this point, we have as much right to use it as anybody else and will continue to use it only for overflow parking.

Chairman Allison asked Mr. Noto what would happen if the State comes back and says you can't use it.

Mr. Noto responded that they would have to put it on site.

Mr. Steinman responded by saying that the 2010 approval which is also the basis of a 2010 consistency determination by this board included parking on the Otter Creek parcel.

Chairman Allison responded by asking if that was before there was an issue.

Mr. Steinman responded by saying the ownership at that point wasn't an issue. There have been several instances of boards who have been invited to get involved in trying to adjudicate the different rights of property owners and they have been advised not to get in the middle of that. I would advise this Commission to avoid it as well. The Boards are not set up to adjudicate those property rights. The Planning Board will have to address that issue with respect what happens if they lose the right to park on the Otter Creek parcel for overflow.

Mr. Natchez got up to speak regarding his concerns of the overflow parking on Otter Creek. The overflow parking is being used more than the applicant stated. He stated that there are three areas of overflow parking and the Commission should be aware of that.

Chairman Allison asked Mrs. Favate if she has the list of items.

Mrs. Favate responded that she has the general parking situation along Otter Creek clarification, which she thought that you just got from Mr. Noto that they intend to use it for overflow parking, the issue of landscaping to prevent runoff which is what Sven was discussing. All of that is encompassed in the issue of parking along Otter Creek.

Chairman Allison asked the Commission if everyone agreed.

Commission members responded yes.

Mrs. Favate continued her list with the potential for request for Supplemental EIS.

Chairman Allison asked the Commission if everyone agreed.

Commission members responded yes.

Mrs. Favate continued with the issue of sewage removal from the site i.e. the pipe going under Otter Creek.

Mrs. Goldstein stated that she has concern with the toilet location being closer to the water in the new plan and I think with flooding conditions that's an issue.

The Chair responded by asking how she would like to present it to the Planning Board?

Ms. Goldstein replied that they are concerned about sewage on the entire site. Particular the pipe running under Otter Creek and also the location of the new cabana toilets near the harbor.

Chairman Allison stated that it seems that they will be making (4) specific points to the board. He indicated that the process now will be to document and circulate them by e-mail. Is there any need for that to be posted anywhere publicly, can it be subject of FOIL?

Mr. Neuringer asked if while going through their notes, could they add on to the list.

Mr. Steinman responded yes.

Mr. Bilotta asked if they could make changes.

Mr. Steinman responded that hopefully they will be drafted and we will try to get everything you said here tonight. They will be gotten on the list with minor suggestions for changes and then it will be formalized. If we get into a situation in which there is a lot of additional information provided and it's not necessarily a consensus, then we will be looking at another meeting.

Mr. Neuringer asked if this would be in the form of a memo from us to the Planning Board.

Mr. Steinman responded yes.

Conversation over who will be writing the memo and the attachment of the memo from Mr. Hoeger. Susan Favate will create the memo but Mr. Steinman and Ms. Georgiou will help.

Chairman Allison would like to discuss the time restraints due to the concern of having something constructed before the 31st to the Planning Board and he did not want to bounce a memo around for a long amount of time.

Mr. Steinman responded that there should be a quick turnaround.

Chairman Allison stated that if I or any member feels that it is getting too involved, we can call for a new public meeting if necessary. The Chair closed this discussion indicating that there was another item on the agenda. The Commission took a 5 minute break.

Chairman Allison began with the next item on the agenda which was Item 3A - Coordinated SEQRA Review: Board of Trustees Communication – "Notice of Intent to be Lead Agency" for PLL-N-2013 – Local law related to providing authority to ZBA for fees in lieu of parking. HCZM will need to determine consistency after BOT assumes Lead Agency status and closes out SEQRA. HE Chair then asked Mrs. Georgiou, Counsel to HCZMC, what the Commission needs to do. He did not think that the Commission was able to determine consistency this evening.

Mrs. Georgiou responded no this is simply a notice to be designated Lead Agency by the Board of Trustees on proposed legislation. These are two what I would characterize rather minor revisions to the zoning code involving fees to be paid in lieu of parking. She offered to go through the local law if the Commission would like.

Mr. Neuringer responded the issue that we've been notified that it's the Board of Trustees that is declaring their intent to be Lead Agency and we have to either indicate no we would like to be Lead Agency or basically that's fine.

Ms. Georgiou responded that he was correct and we have had these notices served before and again it is what she characterized as minor changes to the zoning code. What it is basically saying is that when the Zoning Board of Appeals issues a variance pertaining to the required number of parking spaces in a commercial or manufacturing district, there has to be a condition that there is going to be

an addition of payment in lieu of providing spaces and that formula of payment is already in the law. But you're not finding consistency tonight; you are basically saying you have no objections to the Board of Trustees assuming Lead Agency and that is all.

Mr. LaFollette asked if Ms. Georgiou can explain what it is, I don't understand what you're asking us to be Lead Agency on.

Ms. Georgiou responded that you are not asking to be Lead Agency the Board of Trustees is. There is one and a half sentence change to the zoning code which asks that fees be paid in lieu of providing parking and specifically it is authorizing the Zoning Board that when they grant variances pertaining to providing the required number of parking spaces and the applicant can't provide the spaces in a commercial or manufacturing district when that happens and the Zoning Board grants the variances there is condition to that approval that they must require payment for the space.

Chairman Allison asks the Commission if they have any objection of the Board of Trustees being Lead Agency on this.

Commission members responded no.

All in Favor

Ayes: Mr. Bilotta, Ms. Goldstein, Mr. LaFollette, Mr. Neuringer, and Mr. Allison
Nays: None
Abstain: None
Absent: Mr. Brian Glattstein and Ms. Alice Pernick

Chairman Allison asked for the approval of the minutes for June 19, 2013 has everyone had the chance to review the minutes?

Commission responded yes.

All in Favor

Ayes: Mr. Bilotta, Ms. Goldstein, Mr. LaFollette, Mr. Neuringer and Mr. Allison
Nays: None
Abstain: None
Absent: Mr. Brian Glattstein and Ms. Alice Pernick

Chair Allison asked if he had a motion to close the hearing

Mr. LaFollette responded that he would like to make his first official motion. He indicated that it was his first consistency determination with respect to the Mamaroneck Beach & Yacht Club and he would like to request that the Commission engage the New York Department of State to help us determine consistency due to the project's overall scope. He believed that, in general, it would help the Village and this Commission.

Mr. Bilotta asked what branch of NY State, DOS.

Mr. LaFollette responded that would be fine.

On motion of Mr. LaFollette, second by Mr. Neuringer.

Chair Allison replied all in Favor.

Ayes: Mr. Bilotta, Ms. Goldstein, Mr. Neuringer, Mr. Allison and Mr. LaFollette

Nays: None

Abstain: None

Absent: Mr. Brian Glattstein and Ms. Alice Pernick

Chair Allison asked Mr. LaFollette to contact New York State DOS.

Chair Allison asked for a motion to close the hearing.

ADJOURNMENT

**On motion of _Mr. Bilotta_____, seconded by __Mr. Lafollette_____, the
meeting was adjourned at __10:30_____ P.M.**

VOTE:

Ayes: Mr. Bilotta, Ms. Goldstein, Mr. Neuringer, Mr. LaFollette and Mr. Allison

Nays: None

Abstain: None

Absent: Mr. Brian Glattstein and Ms. Alice Pernick

Minutes prepared by

Kathy Guadagnolo

(See attached e-mail from Cindy Goldstein noted in the minutes.)

Lisa Rosensthein

From: Cindy Goldstein [cgg333@verizon.net]
Sent: Thursday, September 30, 2010 1:08 PM
To: 'Lisa Rosensthein'
Subject: RE: Letter Regarding Mamaroneck Beach & Yacht Club

Please remove my email from your list. I am not interested in your rebuttal (nor anything the Mayor has to say) as I find that you cherry pick your facts and misstate others. Your organization is arrogant, aggressive and absolutely not to be trusted while chasing money for yourself and your lawyers.

From: Lisa Rosensthein [mailto:rosenshein@verizon.net]
Sent: Wednesday, September 29, 2010 7:37 PM
To: rosenshein@verizon.net
Subject: Letter Regarding Mamaroneck Beach & Yacht Club

Dear Resident,

You have been receiving a barrage of emails from Mr. Dan Natchez that are inaccurate, exaggerated, misrepresentative, full of false statements and is libelous. Accordingly we wish to correct them.

1. Seven separate court decisions in favor of the club's plans confirm that the proposed renovations are in conformance with the Village zoning code. We refer you to the Mayor's memorandum on the Village's website which addresses the Village's perspective on this matter.
2. Mr Natchez's artwork is not representative of any of our plans. We have filed over 500 pages of documents, drawings and elevations over the last 6 years prepared by licensed professionals, planners and architects and submitted to professionals for review. Yet, when Mr Natchez chooses to publicly write about his perceptions he sends out his own drawings that are wrong.
3. For instance, the Seasonal Residences which are set back from the beach by approximately 100' are not a Chinese wall, but rather three separate buildings with open spaces, varying roof heights, and are designed to fit in with our existing buildings as designed by Stanford White, a noted architect, in 1888. He does not take into account any landscaping - existing or to be planted. The overall buildings are not 46' high as Mr Natchez shows.
4. Our plans are totally zoning compliant; in fact the zoning code says that the seasonal residences are specifically permitted. They have been reviewed by the Village's professionals - and will continue to be through out the Site Application Process.
5. The Club's plans are consistent with the LWRP. The LWRP promotes waterfront usage and encourages the growth of the clubs to grow and flourish.
6. The SEQR process and review began in 2006 and all documents and plans have been available for public review since. The Settlement Agreement is on the Village website and the Environmental Narrative submitted to the Village is also available for review by everyone.
7. The future Marina shown on our site plan since 2006 is not part of the settlement, is not being considered for present development, and may never get built. It is included in the SEQR process for future consideration. If we choose to pursue the Marina we will file for approvals and thorough review with all appropriate local and state agencies.
8. The Club has absolutely no outstanding violations and has obtained all necessary permits. In fact, Mr Natchez was the Club's waterfront consultant for many years and was instrumental in obtaining all the permits for the existing Breakwater, and dock facility. He was dismissed for cause for misappropriating escrow funds relating to dredging. Thus it is obvious that Mr Natchez has a personal vendetta against the club.

