

**VILLAGE OF CROTON ON HUDSON, NEW YORK**  
**PLANNING BOARD MEETING MINUTES – TUESDAY, November 22, 2011**

MEMBERS PRESENT:        Robert Luntz, Chairman  
                                  Mark Aarons  
                                  Fran Allen  
                                  Bruce Kauderer  
                                  Steven Krisky

ALSO PRESENT:            Daniel O'Connor, Village Engineer

**1. Call to Order**

Meeting called to order at 8:05 p.m. by Chairman Luntz.

**2. PUBLIC HEARING -- Adjournment**

- a) *Steel Style Properties, LLC -- 50 Half Moon Bay Drive (Sec. 78.16 Blk. 1 Lot 3) -- Application for an Amended Site Plan, Wetlands Activity Permit, and Steep Slopes permit for new single-family dwelling*

Chairman Luntz stated that although the public hearing for Steel Style Properties is adjourned until Tuesday, December 13<sup>th</sup>, the Planning Board received a memorandum from Marco Gennarelli, Superintendent of Department of Public Works regarding the dumpsters on the municipal parking lot near Half Moon Bay Marina. Mr. Gennarelli recommended that any approvals of the above-mentioned application include the installation of an enclosure for the existing garbage dumpsters and that the dumpsters be located off the parking lot surface.

It was noted that the issue of the dumpsters had been discussed and agreed upon at a previous meeting.

**3. NEW BUSINESS**

- a. *Referral from Village Board regarding recirculation of Local Law Introductory No. 3 of 2010 (Draft Law) to repeal Local Law No. 4 of 2009 and enact zoning code provisions to expand the Harmon/South Riverside Gateway area and to modify the regulations for that area to encourage commercial development by facilitating market rate mixed use of properties (the "Proposed Action").*

Mr. Jim Staudt, Village Attorney, was present. Chairman Luntz referred to the memorandum that Mr. Staudt had written on October 14, 2011 which summarized the intention of the revised proposed Local Law and the modifications to the Local Law in response to previously made comments.

The Planning Board reviewed the document as required by Section 230-180 of the Village Zoning code. As the criteria was reviewed, several issues were noted in particular: the reinstatement of the requirement for a Special permit of the Village Board for "mixed use," the granting of authority to the Village Board to increase the parking requirements, and the elimination of the prohibition of fast food restaurants. A memorandum from the Planning Board to the Village Board will be written by Chairman Luntz on the Planning Board's recommendations.

The Planning Board discussed at length the proposed requirement for a Special Permit to be issued by the Village Board for "mixed use." Mr. Kauderer stated that he believed the addition of a special permit is a serious flaw to the proposed law. He believes that reinstating the requirement for a Special Permit will add delay and uncertainty to the development process, add unnecessary expense, and discourage developers from doing business. He questioned how the Board, once the Board grants the first Special Permit, could deny subsequent permits? He would like to see the Village Board drop the Special Permit requirement. Chairman Luntz agreed and stated that it seemed like the Village Board was taking on the issue of site plan review-- a process that the Planning Board usually does.

There were some questions and follow-up discussion about the authority given to the Village Board to increase parking requirements upon review of specific applications. There was some discussion about whether parking requirements could be determined under site plan law rather than under Special Permit law thereby giving the Planning Board the power to raise the parking requirement.

Mr. Kauderer recommended that the Village Board take a closer look at the definition of fast food restaurants, although he acknowledged "fast food" is not an easy term to define. He believed however that eliminating restaurants with drive-through lanes is insufficient. Mr. Aarons questioned whether a municipality could limit a particular type of restaurant. The Village Attorney stated that zoning restrictions should be based on planning impacts and be reasonable, not arbitrary. The proposed law eliminates the prohibition of fast food restaurants because it is difficult to define (and is not currently defined in the Code) and instead prohibits restaurants with drive through lanes.

Chairman Luntz initiated a discussion regarding the review of the criteria in Section 230-180 Amendment procedure:

*A.1. a) Whether such change is consistent with the aims and principles embodied in the chapter as to the particular districts concerned.*

Chairman Luntz stated that the Planning Board believes that the proposed local law applies however the Planning Board is concerned about requiring the Village Board to issue a Special Permit.

Mr. Aarons noted, for the record, that from his perspective the proposed law adds more residential development than commercial/retail development in a C-2 district which is to

provide “mostly retail, service and professional businesses.” Chairman Luntz stated that the intention of the new proposed law is to create a mixed use environment that would have both of these components. Mr. Kauderer commented that the premise was that the village would get more commercial use by adding residential use through mixed use zoning.

*b) Which areas and establishments in the Village will be directly affected by such change and in what way will they be affected.*

Chairman Luntz stated that the Planning Board believes the proposed amendment would have a positive impact on the area.

The proposed revision of the local law grants the authority to the Village Board to increase the parking requirements upon review of specific applications. Mr. Aarons stated that he had previously been concerned about parking primarily based on the “Harmon Zoning Amendments Traffic and Parking Impacts” analysis prepared by RBA but the revised law seems to have allowed more flexibility in parking.

*c) Indirect implications of such changes in its effect on other regulations.*

Mr. Aarons expressed concern with the mandate from Westchester County to build affordable housing in addition to the HUD mandate to build three bedroom units. Mr. Aarons stated that a discussion of the fair housing act should be conducted in an executive session with the Village Attorney. It was noted that the Planning Board would wait to hear if there were any other legal questions that arose before they moved for an executive session.

*d) Whether such proposed amendment is consistent with the aims of the Comprehensive Plan of the Village.*

Chairman Luntz stated that previously the Planning Board had looked at the Comprehensive Plan and several sections of the Comprehensive Plan which were consistent with the Harmon rezoning. The consensus was that these sections still apply and are consistent with the Harmon rezoning proposed law.

*2) Concerning a proposed amendment involving a change in the Zoning Map:*

*a) whether the uses permitted by the proposed change would be appropriate in the area concerned.*

Chairman Luntz stated that the Board needs to decide where they stand on the need for a Special Permit. He would like to hear more comments regarding this however he agrees with Mr. Kauderer that this change seems to be a disincentive, not an incentive for new commercial development.

*b) Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residence likely to be constructed as a result of such change.*

Mr. Aarons had some questions for Mr. Saccardi and Ms. Von Ohlsen regarding the numbers of students generated by new residential units. Mr. Saccardi and Ms. Von Ohlsen discussed some of the EAF Part 3 report that they had prepared and the methodology they used in determining the student numbers. Mr. Aarons wanted to know if there was any data from villages comparable to Croton.

*c) Whether the proposed change is in accord with any existing or proposed plans in the vicinity.*

The Planning Board noted this was the same as before.

*d) The effect of the proposed amendment upon the growth of the Village as envisaged by the Comprehensive Plan.*

Mr. Aarons would like to have seen a cataloging of existing spaces. He would like to know what commercial uses are in each lot and what is the residential use in each building, i.e. how many residences are in each building.

*e) Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Village and the probably effect thereof.*

The Planning Board agreed that that the proposed amendment will clearly increase zoned capacity of the Village but they did not believe it would have adverse impacts.

Ms. Roseann Schuyler, a lawyer and private citizen, discussed several issues regarding the proposed law. She expressed grave concerns that the provisions of the new law are illegal under the federal fair housing act and that the proposed law discriminates against families with children. She is concerned about the potentially devastating financial impact on the Village because of a potential lawsuit. Ms. Schuyler also expressed her personal abhorrence of discrimination and is against this proposed law which she believes to be discriminatory and that will have adverse impacts on the village.

Ms. Pat Moran, resident, questioned Ms. Bonnie Von Ohlsen of Saccardi & Schiff, about their calculation of the number of school aged children in their report. She stated that she also is opposed to the proposed law.

The Planning Board adjourned for an executive session with the Village Attorney for legal advice at 10:10 p.m. The Planning Board returned from executive session at 10:45 p.m.

Mr. Kauderer made a motion that the Planning Board recommend to the Village Board that the special permit requirement be removed from mixed use, seconded by Mr. Krisky, and carried by a vote of 4-0-1 (Mr. Aarons abstained).

Mr. Kauderer made a motion that the Planning Board recommend to Village Board that they remove the right to require additional parking and that this be left to the discretion of the Planning Board under the existing zoning code and law, seconded by Mr. Krisky and carried by a vote of 3-2 (Mr. Aarons and Ms. Allen voted no).

Mr. Kauderer made a motion to put back on the law a prohibition on fast food restaurants and have the Village Attorney try to define “fast food”. The vote was 1-4 against this motion.

Chairman Luntz will draft a memorandum and present it to the Planning Board for the next meeting.

#### **4. OLD BUSINESS**

*Adoption of additional actions to supplement the list of Type II actions contained in the New York State Environmental Quality Review Act (SEQRA) Regulations by the Planning Board, Zoning Board of Appeals, Police chief, and Village Engineer.*

Chairman Luntz reviewed the seven items in the draft resolution which would be exempt from SEQRA. The Village Engineer explained that once the Planning Board adopts this list, these actions would be incorporated into the Village Code. Mr. Kauderer stated that the Planning Board had discussed these Type II actions extensively, and nothing has changed. Chairman Luntz agreed that these actions were all reviewed previously. Mr. Kauderer made a motion for the Planning Board to adopt the list of Type II actions to supplement the list of Type II actions contained in the New York State SEQRA regulations, seconded by Mr. Krisky, and carried by a vote of 5-0, all in favor. **See attached resolution.**

- a. *Hudson National Golf Club – 40 Arrowcrest Drive (Sec. 67.15 Block 1 Lot 4) – Discussion of recommendation from Environmental & Turf Services (letter dated 11/8/11) for the reevaluation of the resampling response threshold (RT) exceedance criteria for nitrogen (N) and total phosphorous (TP).*

Ms. Allen stated that she would like to have this discussion postponed until LaJan Barnes from Environmental & Turf Services conducts the annual field audit on-site at Hudson National Golf Club.

Ms. Allen made a motion to table this item on the agenda until the next meeting, seconded by Mr. Kauderer, and carried by a vote of 5-0, all in favor.

#### **4. APPROVAL OF MINUTES**

Mr. Krisky made a motion to approve the minutes of Tuesday, October 25, 2011, seconded by Mr. Kauderer, and carried by a vote of 5 – 0, all in favor.

**5. ADJOURMENT**

There being no further business to come before the board, the meeting was duly adjourned at 11:10 p.m.

Respectfully submitted,

Ronnie Rose  
Planning Board Secretary

A RESOLUTION TO ADOPT A LIST OF TYPE II ACTIONS  
TO SUPPLEMENT THE LIST OF TYPE II ACTIONS CONTAINED  
IN THE NEW YORK STATE SEQRA REGULATIONS

WHEREAS, actions subject to review under the State Environmental Quality Review Act (SEQRA) and its implementing regulations fall into one of three categories: Type I, which are more likely to have significant adverse environmental impacts; Type II, which have been determined to not have a significant adverse environmental impact; and Unlisted, which are actions that are not Type I or Type II; and

WHEREAS, under Section 617.5 of the SEQRA regulations, an agency may adopt its own list of Type II actions to supplement actions designated by the State Department of Environmental Conservation as Type II; and

WHEREAS, the Village Board, Planning Board, Zoning Board of Appeals, Village Engineer, and Police Chief have proposed adopting Type II lists to supplement actions designated by the State Department of Environmental Conservation (the "Proposed Action") and;

WHEREAS, pursuant to Section 617.5, the Planning Board proposed and discussed its own supplemental list of Type II actions at its July 26, 2011 meeting and transmitted a memorandum on July 27, 2011 to the lead agency indicating the Board's recommendation that its supplemental list of Type II actions be adopted and;

WHEREAS, on July 11, 2011, the Waterfront Advisory Committee issued its preliminary recommendation of consistency of the Proposed Action; and

WHEREAS, on October 17, 2011 the Village Board determined that the Proposed Action will not have a significant adverse impact on the environment and, pursuant to SEQRA, adopted and issued the Negative Declaration (Notice of Determination of Non-Significance); and

WHEREAS, at its meeting on October 27, 2011 the Waterfront Advisory Committee concluded that the Proposed Action is consistent with the LWRP policy standards and conditions, and, on November 1<sup>st</sup>, the WAC rendered its written recommendation of consistency and transmitted such recommendation to the Village Board; and

WHEREAS, a Public Hearing to consider the Draft Law was held and closed on November 7, 2011 by the Village Board and

WHEREAS, on November 7, 2011, the Village Board determined that the Proposed Action is consistent with the LWRP and its policy standards and conditions,

NOW, THEREFORE, BE IT RESOLVED that the Planning Board hereby adopts the following list of Type II actions to supplement the list of Type II actions contained in 6NYCRR Section 617.5(c):

1. Sign Permit issued under Chapter 230 of the Village Code.
  
2. Granting of Site Plan or Minor Site Plan Approval (including the allowable waiving of any requirements) for the construction or expansion of a primary or accessory/appurtenant, structure or facility involving less than 4,000 square feet of gross floor area and less than 10,000 square feet of land disturbance and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave

transmission facilities nor other structures related to radio, television, telephone or data transmission/reception.

3. Granting an extension of the expiration date for a site plan or minor site plan.
4. The Granting of Minor Site Plan Approval (including the allowable waiving of any requirements), not requiring a Wetland or Steep Slope permit, for the construction or expansion of a single-family, or a two-family residence on an existing lot including provision of necessary utility connections and the installation, maintenance and/or upgrade of a drinking water well and a septic system.
5. The approval of a Storm Water Pollution Prevention Plan under Chapter 196 of the Village Code in connection with any Type II action.
6. The approval of a Tree Removal Permit under Chapter 208 of the Village Code in connection with any Type II action.
7. The approval of an Excavation and Filling Permit under Chapter 120 of the Village Code in connection with any Type II action.

Now, by a motion made by Mr. Kauderer and seconded by Mr. Krisky, the Planning Board voted to adopt this resolution.

Vote: 5 – 0, all in favor.

11/22/11