

**TOWN OF NEWBURGH PLANNING BOARD RESOLUTION AND  
NOTICE OF ADOPTION OF LEAD AGENCY FINDINGS STATEMENT  
PURSUANT TO SEQRA**

**MID HUDSON MARINA  
Town of Newburgh, New York**

Proposed Actions: Open Development Area Referral  
Zoning Text Amendment Referral  
Subdivision Approval  
Site Plan Approval

Lead Agency: Town of Newburgh Planning Board, Newburgh, New York

At a regular meeting of the Town of Newburgh Planning Board held on the \_\_\_\_ day of \_\_\_\_\_, 2012, at the Town Hall, 1496 Route 300, Newburgh, New York, the following resolution was moved by \_\_\_\_\_ seconded by \_\_\_\_\_.

WHEREAS, the applicant is the owner of property situated within the Industrial Business District (I) of the Town of Newburgh, such property being shown and designated as Section 121, Block 2, Lots 1 & 2 on the Tax Map of the Town of Newburgh; and

WHEREAS, the property described within is also part of the Marina Townhome Overlay District (MT) of the Town of Newburgh; and

WHEREAS, the attorney to the Planning Board of the Town of Newburgh outlined a procedure for requesting Zoning Text Revisions and the creation of an Open Development Area pursuant to NYS Town Law Section 280-a, dated September 13, 2011, and identifying the Planning Board of the Town of Newburgh as the lead agency for environmental review of past approvals of the project site; and

WHEREAS, the Town Board of the Town of Newburgh and the Town Planning Board of the Town of Newburgh received request of Zoning Text Revisions and Open Development Designation from Mid-Hudson Marina Corp. (the "applicant") in November, 2011 for the project site; and

WHEREAS, the Town Planning Board of the Town of Newburgh received a referral request from the Town Board of the Town of Newburgh dated December 30, 2011 referencing the request for zoning text revisions and open development designation, Mid-Hudson Marina, Oak Street, Town of Newburgh, NY; and

WHEREAS, the applicant will be further seeking site plan and subdivision approval for a 20 unit residential town home development and marina from the Planning Board of the Town of Newburgh; and

WHEREAS, access to the town homes and marina site is provided from River Road to Oak Street to the site; and

WHEREAS, the project site, through a previous owner and applicant, received an amended approval of the project site for a 263 boat slip marina and associated restaurant in the 1996/1997 year, commonly known as the “Anchorage On the Hudson”; and

WHEREAS, the project site, through a previous owner and applicant, received an approval of the project site for a 110 boat slip marina and 20 condominium residential site plan in the year 2006, known as the “Anchorage At Balmville”; and

WHEREAS, the applicant now proposes the expansion of the existing marina in two phases, the first phase to include the construction of the 20 town homes and marina with 24 boat slips, with the expansion of the marina to 104 boat slips upon further Planning Board of the Town of Newburgh approval,

WHEREAS, the Planning Board, in \_\_\_\_\_, 20\_\_\_, having determined that the action was an Unlisted Coordinated Action for purposes of SEQRA, and having duty coordinated Lead Agency designation with other involved agencies, assumed Lead Agency status for purposes of SEQRA review of the proposed action; and

WHEREAS, the Planning Board, in its capacity as lead agency for environmental impact review, issued a request for SEQRA comparison; and

WHEREAS, the applicant submitted a Full Environmental Assessment Form in November 2011; and

WHEREAS, the applicant submitted a SEQRA Comparison of the 1996/1997 approval, 2006 approval, and the currently proposed project in November 2011; and

WHEREAS, following initial review and discussion of the SEQRA Comparison and proposed town homes and marina site plan, referred herein to as the conceptual plan, with the Planning Board, the applicant determined that various aspects of the site plan and town home plan should be modified; and

WHEREAS, the Planning Board of the Town of Newburgh received the applicant’s revised SEQRA comparison on May \_\_, 2012; and

WHEREAS, the Planning Board of the Town of Newburgh subsequently received a modified conceptual plan on April 12, 2012; and

WHEREAS, the applicant's last revised conceptual plan dated May 5, 2012, included changes to: reduce the number of town homes from 24 to 20; provide a 20 feet wide, gravel emergency road to the abutting residential single family homes, ensure a separation distance of at least 80

feet from the neighboring above ground oil tanks, provide an emergency access and non-motorized boat launch access, and a marina slip count for the first phase of 24 slips; and

WHEREAS, the applicant's agreed to continue to carry forward the mitigation measures included in the 1996/1997 marina/subdivision plans and approval as appropriate to the project site outlined in the conceptual plan; and

WHEREAS, the applicant has provided a suggested traffic peak trip generation condition and limitation of the property to be included with the Open Development Area referral to the Town Board of the Town of Newburgh; and

WHEREAS, the Planning Board, upon concluding its review of the proposed actions, has determined that there are numerous mitigation measures which will be implemented in the course of final subdivision and site plan review for the residential town homes and marina uses proposed as part of this action; and

WHEREAS, the proposed residential use and the existing marina uses are allowed by the Zoning District regulations in effect for the property; and

WHEREAS, the Planning Board has given due consideration to the Full Environmental Assessment Form submitted, and the SEQRA Comparison prepared for the Mid Hudson Marina project, as well as the existing zoning and character of development in the I District with the MT overlay district and neighboring properties, and the comments received from other involved agencies;

NOW THEREFORE BE IT DETERMINED that the Planning Board does make the following findings pursuant to NYS SEQRA regulations:

1. That full consideration has been given to the SEQRA Comparison for the Mid Hudson Marina project; and
2. That all requirements of NYS SEQRA regulations have been met; and
3. That consistent with social, economic and other essential considerations, from among the reasonable alternatives considered this action is the one which minimizes or avoids adverse environmental effects to the maximum extent practicable, including the effects disclosed in the Environmental Impact Statement prepared for the Mid Hudson Marina project; and
4. That consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects discussed in the Anchorage on the Hudson Environmental Impact Statement process will be minimized or avoided by incorporating as conditions to the decisions of the Planning Board those mitigation measures which were identified as practicable to the extent such measures are not already incorporated in the project plan; and

5. Alternative conceptual plans were provided for review, discussion, and comments; and
6. The action, together with the mitigation measures proposed by the applicant, minimizes or avoids the potentially significant adverse environmental impacts identified during the 1996/1997 approvals, to the maximum extent practicable; and
7. That the following specific findings and determinations are applicable to the areas of environmental concern discussed below:

## **TRANSPORTATION**

### *Potential Impacts*

The currently proposed project includes a reduction in the number of slips from 110 to 24 boat slips for phase 1 of the project and the total number of boat slips to be 104 upon the completion of phase 2 of the marina expansion. The boat ramp will be used for non-motorized and/or emergency use only, and the truck/trailer parking area have been eliminated, resulting in a reduction in traffic. The currently proposed project is expected to result in less impact in comparison to the 2006 Anchorage at Balmville project due to the slight reduction in the number of boat slips and the elimination of the non-emergency boat ramp and truck/trailer parking area. All mitigation measures required for the original approval that are applicable to the currently proposed project will be utilized.

### *Traffic Mitigation Required as a Result of Mid Hudson Marina*

- River Road, Oak Street & Lower River Road Intersection-Install "Stop" signs and pavement markings.
- Lower River Road-Provide pavement repair, resurfacing, drainage improvements, minor widening and pavement markings between River Road and the site.
- Railroad crossing-If any alterations are proposed, the existing at-grade rail crossing will require improvements as determined by CSX and as per the New York State Manual of Uniform Traffic Control Devices.
- Emergency access gate – Installation of a emergency access connection to the adjacent Anchor Drive.
- Maintenance of the widened emergency access road will be provided and maintained by the town homes home owner association.

## **NOISE**

### *Potential Impacts*

The potential impacts related to noise for the currently proposed project are expected to be primarily short term impacts related to the construction of the townhouses and related structures. Although noise related to activities at the marina could occur during seasonal

operations, with the elimination of the non emergency boat ramp use and truck/trailer parking area, impacts associated with noise from the marina are expected to be less.

*Noise Mitigation Required as a Result of Mid Hudson Marina*

- The applicant has agreed, and the Board will require, that no public address system, amplified music or outdoor concerts will be allowed.
- The Board will require the applicant provide appropriate assurance that on-site management and/or security staff responsible for marina operations will enforce compliance.
- The Board will require that the applicant utilize a slip lease agreement that incorporates the mitigation measures identified. The basic boat slip lease agreement is included in the 1996/1997 FEIS as Appendix D. That agreement contains language regarding operational practices to eliminate or reduce noise generated by marina users and operations, such as minimized engine idling, enforcing speed limits on boats as they transit marina facilities, prohibition on playing of radios/stereos and parties on-board moored boats, that will be enforced by the on-site marina management and security staff.
- The Board will require that the applicant will prohibit jet skis and similar personal watercraft from being rented, serviced or launched at Mid Hudson Marina in accordance with and as proposed by the previous applicant in the 1996/1997 FEIS.
- As a condition of site plan approval, the Board will limit construction activities to daylight hours between 7:00a.m. and 5:30p.m. Monday through Saturday for the marina project and daylight hours between 7:00a.m. and 7:00p.m. Monday through Saturday for the subdivision project.
- The Board finds that more than half of the site will remain wooded to help reduce any noise prior to reaching adjoining residential areas.
- The site amenities for the marina were to be for the use of the residents and boat slip lessees only, not accessible to the general public.

## **GEOLOGY AND TOPOGRAPHY**

### **Potential Impacts -Geology and Topography**

The Mid Hudson Marina project development area is located in the same area of the site as the 2006 project, and was also designed to follow the natural topography to the greatest extent practicable. The layout has been revised to provide a landscaped buffer along the northern portion of the site, resulting in a greater setback from the property line. Impacts from slope failure at the adjacent subdivision could be a potential concern as with the 2006 plan.

#### *Geology and Topography Mitigation Required as a Result of Mid Hudson Marina*

- The Board will require that the site plan incorporate the proposed alignment of the roadways as prescribed in the conceptual plan.
- Compliance with all conditions of approval, including subdivision plan notes, covenants and restrictions, and mitigation measures, will be required as a condition of issuance of building permits and certificates of occupancy for residences on the subdivision lots.

## **SOILS**

### **Potential Impacts- Soils**

Potential impacts related to soils are not generally an issue for the currently proposed project given the general flatness of this portion of the site, and the redesigned layout that provides a 40 foot landscaped buffer along the northern property line.

#### *Soils Mitigation Required as a Result of Mid Hudson Marina*

- A detailed erosion and sedimentation control plan will be developed by the applicant to minimize any storm water-related impacts of the project on the Hudson River, prior to approval of the subdivision plan and the site plan.
- The Board will require the construction phasing plan to be implemented so as to minimize the amount of clearing and grading in progress at any given time. Phased implementation will also enhance the effective operation of the erosion and sedimentation control features.

## **WATER RESOURCES**

### **Potential Impacts- Water Resources**

Potential impacts resulting from the currently proposed project are expected to be similar to those anticipated for the 2006 proposed AAB project, except that the amount of water usage is expected to be slightly less due to the reduction in the number of boat slips from 110 to 104, after completion of phase 2.

### *Water Resources Mitigation Required as a Result of Mid Hudson Marina*

- The proposed project will be served by a community well and septic system. The project thus will not place any demand on municipal water and sewage systems.
- As a condition of site plan approval, the Board will require that the applicant provide the proposed sanitary pump-out facility for the use of marina renters and other recreational boaters, and that the operator of the marina incorporate a condition in all slip rental agreements that requires tenants of the marina to use the pump-out facility for disposal of sanitary waste.
- As a condition of subdivision and site plan approval, the Board will require that the applicant implement the proposed storm water management program in accordance with Town of Newburgh and NYSDEC regulations, so as to effectively avoid or mitigate any impacts associated with erosion and runoff associated with the project.
- As a condition of site plan approval, the Board will require that the applicant provide all treatment determined by the Health Department to be necessary to ensure that any public (community) water supplies shown on the marina site plan comply with applicable standards and requirements for public water supplies.

### **TERRESTRIAL ECOLOGY**

#### **Impacts -Terrestrial Ecology**

Potential impacts associated with the currently proposed Mid Hudson Marina project are significantly less than those resulting from the 2006 proposed project. Temporary impacts may occur to vegetation during grading for the construction of the townhouse units; however, most of the site is generally open and sparsely vegetated. The currently proposed project include elimination of the full use boat ramp and truck/trailer parking area as well as a revised layout to provide a landscape buffer along the northern property line, resulting in more green space.

#### *Terrestrial Resource Mitigation Required as a Result of Mid Hudson Marina*

- As a condition of site plan approval, the Planning Board will require the applicant, to limit and restrict, to the greatest extent possible, clearing and construction of roads so as to avoid the breeding season for bird species possibly to be breeding on the project site.

### **AQUATIC ECOLOGY**

#### **Potential Impacts- Aquatic Ecology**

As in previous proposals, the project has been designed so that no increase in sedimentation will occur and there will be no appreciable changes to the bottom type or topography. With the 2006 proposed project, the marina was reduced in size from 263 boat slips to 110 boat slips. The currently proposed project includes a slight total reduction of 104 boat slips. The currently

proposed project also includes elimination of the truck/trailer parking area, which minimizes the amount of motor boat activity from nonmember usage.

#### *Aquatic Ecology Mitigation Required as a Result of Mid Hudson Marina*

- As a condition of site plan approval, requiring that the applicant construct the permanent decking and boardwalk (approximately 79% of the over-water structures)
- for the marina as proposed, so as to ensure that the portions of those structures above the water surface will be sufficiently high (11 ft above mean low water) to maximize incidental solar radiation and reduce darkness for benthic habitats.
- As a condition of site plan approval, the applicant will be required to schedule in- water construction to take place during times scheduled by DEC and other state and federal agencies with jurisdiction over Hudson River waters so as to avoid impacts on fish spawning and early life stages. The applicant will utilize pile-driving and bulkhead installation methods that will reduce sedimentation and noise to the maximum extent practicable per request of the Planning Board as set forth in the 1996/1997 FEIS.

### **WETLANDS, THREATENED/ENDANGERED SPECIES, SIGNIFICANT HABITAT**

#### **Potential Impacts- Wetlands, Species, Habitats**

Due to the project site frontage on and near the Hudson River, a potential area of concern included impact on coastal wetlands, significant aquatic and terrestrial habitats, and rare or endangered species.

#### *Wetlands, Species, Habitats Mitigation Required as a Result of Mid Hudson Marina*

- In order to ensure that the site plan for the marina minimizes the potential for adverse impact on the wetland cove and the associated waterfowl habitats, the Board will require the implementation of the erosion control and storm water discharge plan incorporated in the site plan and subdivision plan.
- No dredging that would disrupt benthos and cause extensive turbidity;
- Stormwater management and erosion control to reduce runoff effects and improve the existing situation;
- Provision of pump-out facilities for marina residents and other recreational boaters to reduce unauthorized septage releases;
- All work within the marina will be performed from shore and/or construction barges;
- The floating docks will be assembled off site and installed by cranes; the pump-out storage tank will be installed on shore; and construction will be scheduled to comply with any restrictions required under NYSDEC and USACOE permits.



## **SITE PLAN**

### **Potential Impacts- Site Plan**

The currently proposed project will meet the requirements of the Marina Overlay District for the residential buildings and total boat slip counts. During the review of the conceptual plan, the ability to increase the secondary emergency access driveway functionality from 8 feet in width to 20 feet in width was provided. The Site Plan will need to create and maintain a pedestrian corridor along the residential parcel for potential future river walkway creation or expansion(s), as the Town sees appropriate.

#### *Site Plan Mitigation Required as a Result of Mid Hudson Marina*

- With respect to the marina support building and town homes, the applicant will be required to provide an adequate water supply for building sprinklers and hydrants for fire-fighting purposes, which may be a main yard pump with standby power to supply water from the river or a storage tank supplied by the marina well with sufficient fire pumping capability.
- The residential homes will need to maintain an 80 feet minimum separation from the adjacent properties above ground oil tanks.
- The residential homes HOA will be required to maintain the 20 feet wide emergency access lane and proposed pedestrian hard scape features, as approved in the site plan.

## **CULTURAL AND VISUAL RESOURCES**

### **Potential Impacts- Cultural and Visual Resources**

As with the 2006 proposed project, the currently proposed project development results in a contrast from what presently exists on the site, which is a relatively open area with an older building and several small outbuildings.

#### *Cultural and Visual Resources Mitigation Required as a Result of Mid Hudson Marina*

- The change of use from a restaurant with larger parking areas and reduced total number of boat slips will provide mitigation through total reduction of development.

The question of the adoption of the foregoing resolution was duly put to a vote which resulted as follows:

#### **LIST EACH BOARD MEMBER AND RESPECTIVE VOTE**

The resolution was thereupon duly adopted.