



Hudson Valley Office

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May 4, 2012

Mr. John Ewasutyn, Chairman
Town of Newburgh Planning Board
Town of Newburgh Town Hall
308 Gardnertown Road
Newburgh, New York 12550

*Re Mid Hudson Marina – Proposed 20 Townhouse & Marina Slip Concept Plan
Zoning Text Revision Petition
Town of Newburgh Project Number 10-19
TCC Project #80920.00*

Dear Chairman Ewasutyn:

We are transmitting this letter on behalf of our client, Mid Hudson Marina, to the Planning Board. This letter is intended to clarify zoning request changes. It is our understanding that the Planning Board will make a recommendation to the Town Board, based upon their request.

On December 30, 2011 the Town Board solicited a response from the Planning Board with regard to petition for zoning text revisions (See attached Exhibit A).. The original list of zoning requests focused primarily around the requirements of the Marina Overlay District. The original list of requested zoning text revisions is included and identified as Exhibit B.

The Town Board expressed interest in modifying the text for the mandatory number of boat slips of 100 to change to a permissive number of slips (Exhibit B, Amendment 2). Mid Hudson Marina has revised the Conceptual Plan to create an as of right layout for the 20 townhomes and marina rebuild project, assuming the requested zoning text revision is favorable. Therefore, at this time, we are modifying the requested zoning text revision to include only the text revision for the number of boat slips, as suggested by the Town Board of the Town of Newburgh.

We respectfully request that the Planning Board consider the proposed Mid Hudson Marina revised zoning text modification when responding to the Town Board's solicitation.

Should you have any questions, feel free to contact me at 845/486-1569.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Cronk", with a long horizontal flourish extending to the right.

George Cronk, P.E.
Project Manager

cc: Mid Hudson Marina, LLC (Electronic Only)
Mike Donnelly, Esq.
Bryant Cocks

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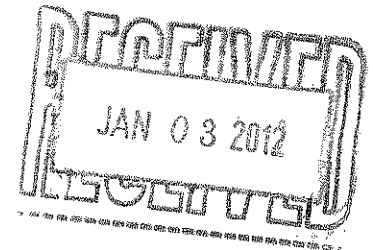
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December 30, 2011

BY HAND DELIVERY

John P. Ewasutyn, Planning Board Chairman
Town of Newburgh Planning Board
Town of Newburgh
308 Gardnertown Road
Newburgh, New York 12550



Re: Request for Zoning Text Revisions and Open Development Area Designation
Mid-Hudson Marina, Oak Street, Town of Newburgh, NY
OUR FILE NO. 800.1(B)() (2011)

Dear John:

Enclosed please find a copy of the letter dated November 18, 2011 with enclosures from George Cronk, P.E. on behalf of Mid-Hudson Marina, LLC, addressed to Supervisor Booth and you requesting, among other things, Zoning Code text revisions and an Open Development Area designation. The Town Board discussed the request at its December 28, 2011 work session. Prior to meeting with the applicant and proceeding further with more formal consideration of the request, the Town Board directed that the request be referred to the Planning Board for its review and comment, it being understood that the Planning Board will continue to conduct its SEQRA review. The Town Board's members also requested that I advise the Planning Board that they do **not** favor any of the requested Zoning Code text amendments, except for "Amendment Request 2" which would change the Code's language pertaining to 100 boat slips from mandatory to permissive.

Please consider this letter as such request for your Board's comments on the Zoning text revisions requested by the applicant. Should the Town Board decide to proceed to consider any amendment upon receipt of your comments and after meeting with the applicant, the proposed local law implementing the Zoning amendment and other related documents would of course be referred to your Board and to the Orange County Department of Planning for their formal reports, as well as

John P. Ewasutyn, Planning Board Chairman
December 30, 2011
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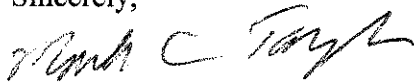
the Zoning Board of Appeals.

Please also consider this letter as the referral of the matter of the Open Development Area establishment request pursuant to the requirements of Town Law Section 280-a. The Town Board requests that the Planning Board provide not only your recommendation in this regard, but also any additional supporting information. The Town Board additionally requests that you advise of any proposed conditions and limitations the Planning Board intends to prescribe by general or special rule with respect to the proposed Open Development Area pursuant to Section 280-a.

By copy of this letter, I am also forwarding the request to Grace Gardone, Chairman of the Zoning Board of Appeals, so that the Zoning Board of Appeals may also have the opportunity to review the request and provide comments to the Town Board.

Should you have any questions in this regard, please do not hesitate to contact me.

Sincerely,



Mark C. Taylor, Attorney for the Town

MCT/sel
Enclosure

cc: Hon. Wayne C. Booth, Supervisor *(via e-mail)*
Town Board Members *(via e-mail)*
Hon. Andrew Zarutskie, Town Clerk (by hand)
Grace Cardone, Zoning Board of Appeals Chairman (by hand)
Planning Board Members *(via e-mail)*
James Osborne, Town Engineer *(via e-mail)*
Gerald Canfield, Code Compliance Supervisor *(via e-mail)*
Michael Donnelly, Planning Board Attorney *(via e-mail)*
David Donovan, Zoning Board of Appeals Attorney *(via e-mail)*
George Cronk, P.E., The Chazen Companies
David Smith, VHB *(informational - via e-mail)*

EXHIBIT 'B'

LIST OF REQUESTED TOWN OF NEWBURGH CODE MODIFICATIONS

Amendment Request 1:

Section 185-34(A)(3)(a) – Street access to the site shall be adequate for the intended level of use and shall not involve traffic of a type or intensity that would cause a detrimental effect of the character of the area.

Add the following:

“Access to the property is to be by an existing State, County or Town highway or with approval of the Town Board, by right of way or easement.”

Amendment Request 2:

Section 185-34(B)(3)(a) – The marina must contain at least 100 boat slips and no more than 150 boat slips;

Modify the following;

“The marina may contain 100 boat slips/ moorings and no more than 150 boat slips/moorings.”

Add the following:

“Boat slips and/or moorings may be built in phases, as approved by the Planning Board. The Planning Board has the right to waive the required amount of boat slips/moorings at anytime during the review process.”

Amendment Request 3:

Section 185-34(B)(3)(c) – No more than 20 townhome units shall be permitted and shall be subject to site plan approval by the Planning Board together with the marina to which they are accessory;

Modify the following:

“20 townhome units” to be replaced with “24 townhome units”

Amendment Request 4:

Section 185-34(B)(3)(e) – Townhomes accessory to a principal marina use shall be subject to the same bulk requirements as those specified for marinas as set forth in the Table of Use and Bulk Requirements, R-1 District – Schedule 3 and the Table of Use and Bulk Requirements, I District – Schedule 9, as the case may be, for the underlying district;

Add the following:

“The Planning Board has discretion to waive or amend yard requirements”

Amendment Request 5:

Section 185-34(B)(3)(g) – Notwithstanding any greater minimum buffer requirement imposed by this chapter between uses in the I District and residential districts, the minimum buffer requirement between townhomes accessory to marinas in the I and MT Districts and adjacent residential uses and districts shall be 40 feet, and no buffer shall be required between the marina use and the accessory townhomes on the site;

Add the following:

“The Planning Board has the discretion to eliminate or reduce buffer requirements.

Amendment Request 6:

Add the following:

Section 185-34(D) “The primary use must start construction within five years of final site plan approval whether granted with or without conditions. Accessory uses may be constructed in advance of the primary use as a condition of site plan approval, provided adequate securities are put in place with the Town to ensure that the primary use can be completed as approved by the Planning Board. Security can take the form of a letter of credit, security bond or other agreed upon measures between the applicant and Planning Board.”

Amendment Request 7:

Section 185-25(C)(3) – The distance between the rear of a principal building and any other principal building shall not be less than 75 feet nor less than twice the height of the taller building.

Add the following:

“For Townhomes accessory to a principal marina use, the distance between the rear of a principal building use and any other building shall not be less than 25 feet. The distance between any accessory building use and any other building shall not be less than 25 feet”.

Amendment Request 8:

Section 185-25(C)(4) - The distance between the side of a principal building and the side of any other principal building shall be not less than the height of the taller of the two buildings.

Add the following:

“For Townhomes accessory to a principal marina use, the distance between the side of a principal use or accessory use building and the side of any other building shall not be less than 20 feet.”