

Village of Hastings on Hudson

Waterfront Rezoning Committee Meeting Minutes

Date: April 12, 2018

Time: 7:30 - 9:44 pm

Location: Hastings Public Library - Orr Room

Members Present:

Kate Starr, Richard Bass, Thomas Asher, Katey Stechel, Shannon Rooney, Meg Walker, Spencer Orkur, Morgen Fleisig

Minutes Prepared by: Sandra Nam Cioffi

Meeting called to order at 7:34pm

Chair's Welcome & Updates (Kate Starr)

-Apologies to the public as name plates or printed agendas are not available this evening.

1. Welcome to & Intro of Sandra Nam Cioffi

- a. Thank you to Katey for leading the search process.
- b. Sandra is a Landscape Architect, relatively new resident of HOH, and email has been added to WRC group email.
- c. Google drive set up by Sandra is a helpful tool for the WRC, and if there are any comments, committee members should feel free to submit suggestions and comments via email.

2. Hunter Studio - w/HoH students (update from Kate)

- a. Hunter is moving forward with this studio course with WRC's input.
- b. Kate is communicating with the school system and Hunter is excited to engage on this project.
- c. Interaction between HOH students and Hunter will be a net positive.
- d. Kate will have coffee with the Board member.
- e. Kate, Richard, and Sandra will be the main point of contacts and will keep the WRC abreast with communications.

3. Meeting with Tarrytown Village (background update from Spencer)

- a. A few Committee members met with the Drew Fixell, Mayor of the Village of Tarrytown, and Joan Raiselis, Co-Chair-Station Area Study, on April 10.
- b. Tarrytown went through a similar process as HOH, however, their directive was different; currently they are in the second phase of planning. 10 years ago they were in the same position as we (HOH) is today.
- c. During the meeting various types of zoning options were discussed: form-based vs mapping a district vs Euclidean vs Performance-based zoning (such as setting a list of criteria)
 - i. Feasibility of performance based zoning - In Tarrytown it is a city site rather than a privatized site.
- d. Tarrytown conducted a form-based zoning wherein the developer came to the Village with plans and kicked them back and forth many times (almost 2 years)

- i. For an 8-phase project, this back and forth occurred at every phase.
 - ii. Estimated ~200 units in Tarrytown; waterfront project was part of the negotiations with the developer - it was the Village's decision to do all the landscape work and take ownership of the park and maintain it. We (HOH) do not necessarily need to take this approach. Tarrytown made several agreements to turn a municipal building into a recreation building on site, and the developer provided for all the infrastructure work.
 - iii. The developer presented a site plan with massings, height caps, etc. that was form-based and then approved by the Village. Any changes in subsequent phases required approval on those amendments.
 - iv. There were times when the developer violated restrictions that were put in place. The dialogue and negotiations were not fully tracked, and there were suggestions for HOH to ensure these kinds of restrictions are firmly kept in place.
 - v. Red flags: open space - Tarrytown does have to maintain and pay for all open space; developer hid infrastructure problems such as covering sink holes. Mayor expressed that it is hard to enforce rules and regulations with the developer, but easier to get money up front from the developer. In order to comply, the city demanded money for the violations. This is something we (HOH) need to be clear about with developers up front.
 - vi. The town can simply refuse to issue a CofO (Certificate of Occupancy) if the developer constructs something that does not comply with the approved plans. Tarrytown instead traded these offences for other givebacks.
- e. Tarrytown has offered to have their Village attorney talk to our attorney; much of the petty litigation is wearing the Village of Tarrytown down.
 - i. Tarrytown advises us to make sure that every promise the developer makes to be in writing
- f. Tarrytown had a team in place through all the phases (prior to having zoning in place) - Village lawyer, economic committee, and waterfront planning group, and a very good engineer. The learning lesson is - have a good team in place very early on.
 - i. At HOH, whoever develops the property will pay for engineers, consultants and our legal structure, so that it is not only Linda (Village Attorney) who will be up against the developer.
- g. The fact that we have 3 property owners with potentially different agendas - our assumption is this site will need 2 vehicular approaches and a roadway that goes in between that connects all 3 sites. The 3 owners will have to unite in this process, and the WRC will need legal advice on how this should operate at a very early stage (prior to the developers getting aboard). We should begin to map everything and how to get onto the site.
- h. The biggest problem they have in Tarrytown is access - there is 1 bridge currently, and the 2nd in Sleepy Hollow which causes a lot of traffic.
- i. Joan at Tarrytown mentioned they received a state grant from RiverWalk and grant for a new comprehensive plan; Tarrytown worked with Metro North as well, and Joan is able to provide WRC with their contacts at Metro North (SNC to follow up)
- j. How were the zones created on the Tarrytown site?
 - i. Response: the developer came in with a Master Plan in 2002, they went through the SEQR process (back and forth negotiating the final site plan and what it should look

like), once SEQR and site plan were approved, they built on top of it - with certain buildings and retail/commercial space, went through environmental review - then the 2008 economic crash happened.

- ii. Tarrytown learned a lot about the process and about the market at the time this all occurred.
 - 1. Original master plan was for 4-story single family homes - however, the developer had trouble selling them during the crash - then they went back and changed the plans and turned them into individual fee-simple townhouses. However, the developer quietly turned these into condos and reduced the assessed value of the units - though they agreed to do fee-simple, they ended up going to the state to make them condos. (HOH cannot do single family housing, because of the contamination and as outlined in the consent decree)
 - 2. Tarrytown wanted to upzone and put in micro residential units on a small portion of the site because the developer wanted to increase their own revenue and equity (most rent per sf) - whether or not this is affordable is in debate.
 - 3. Tarrytown development only added 4 children to the school system because it turns out that empty nesters moved in and most residential ended up turning into senior housing.
- iii. Tarrytown and Hastings have different markets so this turns out not to be an appropriate apples-to-apples comparison.
- k. If HOH zoning has a different mix of types of residential then there will be different housing setups
 - 1. The parking at Tarrytown ended up being 2.5 spaces per unit for the town homes
 - a. They moved it a bit off-site to comply to number of spaces, however, this did not work well.
 - 2. Tarrytown advises HOH makes the developer assign spaces for each sale
- l. Ferry service was deemed undesirable - perhaps because of the noise and of boats continuously docking.
- m. Did Tarrytown prepare their own Master Plan or have their own comprehensive plan?
 - i. They did not rezone - which to Tarrytown it was a bit advantageous; they had an economic development consultant who helped them create a plan; zoning cannot prescribe certain things, so having the developer come in late gave them the opportunity to negotiate more.
 - 1. Meg expresses this sounds to be a chaotic situation
 - 2. Morgen/Spencer respond that there was intermediary zoning where ground floor had to be retail and residential on top - so everyone (Tarrytown) agreed it was not desirable.
 - ii. Did they conduct community outreach?
 - 1. Yes, there was early engagement
 - 2. Tarrytown engaged Pace University to do the new site - essentially Tarrytown has learned that they would like to have proper zoning in place for the second phase.

3. Tarrytown found they didn't think the first phase was necessarily a bad process because it gave them the opportunity to negotiate for the rec building amongst others.
- iii. For the WRC/HOH to anticipate at this moment what will be marketable and what a developer will want to move forward with will be hard to determine; however, the Village will have most control through a form-based approval that is reacting to a plan.

4. Meeting w/John Nolan (background update from Shannon)

- a. Various types of zoning plans were discussed with the Land Use Law Center (LULC) - a.k.a. John Nolan - they have precedents to share with the WRC such as Land Development Code (LDC), Planned Unit Development (PUD), Form-Based Code, and Target-Area Plan from other projects.
- b. WRC asks if they have the expertise to help us appropriately? Morgen says, yes, they are setting the groundwork for us and will help the WRC to develop an RFP; they will help us more with the planning process and help us facilitate the conversations with the landowners/developers
 - i. Meg recommends the Board also talk to LULC at Pace University so that they understand the process here at HOH and the various processes previously implemented in the Hudson Valley (i.e. what has worked or not worked). When Meg heard that a developer was potentially already getting on board, it alerted her to think that we need to know what the strategy is to work with the developer as soon as possible. John and his team teach communities which types of land use tools to use for their desired outcomes. They know the laws well and what works for various communities - for the price of his work it is of real value and he has the experience to help set us up for the goals we want to achieve.
 - ii. WRC suggests to look at a target area and develop a strategy (in matrix form), meet with communities and develop a scorecard for the community workshops - essentially come up with everything to help everyone make sense of the process and better understand how to re-engage the community.
- c. One possibility with involving a planner - since we have potentially 3 developers - is to lay out specific guidance to go in a certain direction so that the developers start to develop a plan, not a zoning code necessarily, to then give to the land owners so they can begin to think about going in some direction. This way when the developer does actually start, it will not totally be out of character. For example:
 - i. Develop a plan
 - ii. Receive proposals from developers (react to each)
 - iii. Have a zoning code from this process
 1. Before any rezoning - some type of plan will be necessary (currently there is a comp plan and language in the comp plan that moves us in the right direction); John Nolan spoke about moving on from this point with a target area plan (which is like a regulatory plan) and then the Village could zone after this process. This kind of process would entail a back and forth with the developer.
 - iv. There could be clean up of the site during these phases

- d. Kate asks for more clarity on these two phases of planning, essentially who is doing what scope of work. Shannon responded by saying John Nolon will provide an outline for the process to create an RFP, therefore, the WRC can table the work on the RFP until then.
 - i. Budget - \$20,000 for Land Use Law Center - and the top line of their scope is read aloud by Shannon.
 - 1. LULC will help set up the WRC to get us to the RFP while guiding the WRC's overall 2-year planning strategy.
 - ii. WRC tasks remain as follows:
 - 1. Finish the matrix comparing previous plans (SNC is currently working on this and will distribute to the WRC for review and comment)
 - 2. Develop a list stakeholders
 - 3. Determine the subcommittees/working groups within the WRC
 - 4. Appoint a liaison from the Board of Trustees to communicate directly with the landowners so that the WRC has a direct line of communication (SNC to follow up with Peter Swiderski to have formal delegation of authority or any other insight and parameters to put around that) - this will also make sure there is 1 voice and no one else to cross-communicate.
 - 5. Clarify the funds of the remediation and our total budget (SNC to help follow up); thus far WRC is aware of \$20K for John Nolon's team with the Land Use Law Center and \$250K for next phase. There will most likely be other expenses so Kate would like there to be further clarity on this topic.
 - 6. Environmental attorney, Land Use attorney - developer negotiation agreements - this could be another level of attorney fees we'll need to anticipate and understand what will be required.
 - 7. SNC to map out our resource base and contacts (who is doing what, so we have a big picture of resources)
 - a. Mark at BP, for instance, would be a potential good contact however, it would require a lot of money for his time.
 - 8. John Nolon to give us a revised draft of the scope of work and schedule of their deliverable. The schedule of their deliverable should actually come from the WRC and during the meeting it was agreed upon by all to appoint a subcommittee at this meeting to begin to outline this process of work:
 - a. Volunteers for subcommittee:
 - i. Shannon, Meg, Morgen, and Tom (see below for related tasks)
 - b. The WRC will see the draft of the final contract before it is sent to the LULC
 - c. Morgen feels there are two directions we should come at this - work backwards from the end goal which is the final presentation to committee and penultimate presentation (end of Feb 2020)
 - d. WRC should have a description/outline for the community engagement strategy with Nolon's group.

- e. There needs to be a clear understanding of what the LULC led community engagement will be versus another consultant-led community engagement process will look like.
- f. WRC members entered the meeting with the LULC believing it was an initial meeting, however learned quickly that there was already a rough agreement laid out with the Trustees; with minor modifications their scope of work will help the WRC take next steps. Kate requests that the LULC provide clear deliverable with timing included and how their work will fit in with our broader objective.
 - i. Setting up an agenda for the next 3 months. We need a work plan.
 - ii. This subcommittee can start to figure out the timeline and strategy for the community engagement
 - 1. Katey understands these meetings are not huge community engagement meetings, but rather smaller focused groups with stakeholders, meanwhile, Shannon recalls Jessica (John Nolon's colleague) saying that the written language in their scope of work is broad enough and sounds like it could easily include the larger community. In summary, Kate advises we get a better sense of who is involved during this "community engagement," who are the stakeholders, and the goal of these meetings.
 - iii. There is group consensus that there should be at least two meetings focused with just the stakeholders, but perhaps an additional two meetings are open to the community so that everyone is aware of what is going on.
 - iv. For Nolon's team: WRC needs to determine who these stakeholders should be.
 - 1. Currently there is a good list started from the comprehensive plan:
 - a. Fran Fobel, Village Manager
Susan Maggiotto, Deputy Village Manager
Mike Gunther, Superintendent of Public Works
Dave Bloomer, Chief of Police
Angela Witkowski, Director of Planning
Sue Feir, Library Director
Raf Zaratzian, Deputy Treasurer/Tech Director
Ana Hiraldo-Gomez from the Westchester County Department of GIS
Ron Gagliari, Fire Chief
Patty Speranza, Planning Board Chair
Peter Swiderski, then Trustee and incoming Mayor
Mayor Lee Kinnally, the outgoing Village mayor
 - 2. Missing from this list are the following groups:
 - a. Parks, school district, DEC, dept of state, MTA

3. SNC to gather the list of stakeholders from the WRC
9. Richard will provide Sandra with a copy of the 1984 plan to add to the matrix planning, which contains the Environmental Impact Statement

8:51 Presentation on the Consent Decree (led by Meg)

1. Meg passes out Presentation on the Consent Decree (on Village website) which was approved some time around or after January 2016, a signed copy is to be confirmed and located.
2. Background: there was a lawsuit brought in the late 90s by Riverkeeper, at which point the Village joined in on this lawsuit, which was ultimately settled in 2003.
 - a. Because of various discoveries on site, reviewing test results, the effects of Superstorm Sandy and other factors (mostly because of the cleanup), it became clear the Riverkeeper and Village would need to revisit the consent decree
 - b. One of the biggest findings during testing and working with DEC on what kind of remediation would be required, they determined two separate cleanups (offshore and onshore)
 - c. With the knowledge that the PCB's would need to be encapsulated, when it was determined that there would be work required out into the river, and involve further cleanup - this is what led to the negotiated settlement with AR (a.k.a. Atlantic Richfield - even though BP bought AR).
 - d. The NW corner - how the shoreline will be treated- are key changes to the consent decree.
 - i. NW corner to be bulkheaded
 - ii. Did not want bulkheaded so there was no access - therefore the Village asked for a floating dock.
 - iii. Setback was established in 2003 (100' setback, 60' setback from coves) - we argued we should be able to put in some small structures in 100' setback such as kiosks
 - iv. Trail/esplanade - 30' wide swath that would belong to the Village
 - v. Boat ramp or kayak launch of some sort in the cove
 - vi. Because of lessons from Superstorm Sandy, the site needs to be built up. There are already places where it is 9 or 10' high, so no need to make ARCO put a 10' cap, but back then the Village wanted 14'. ARCO said no, so we agreed to 11' but it didn't preclude a future developer from building up to 14' (14 is where people are safely establishing the limit, and at the time it was generally the delta between 100' flood delta)
 - vii. Buildings cannot exceed 65' - last remarked upon by Riverkeeper - however, we would be allowed to zone below it if desired (WRC can bring this down), we can have articulation of heights with viewshed
 1. Does this include mechanical? It is not in there, so we will have to define this
 2. WRC should compare zoning notions to the Village's current building code.
Someone to be responsible to investigate this.
 - viii. No-single family DETACHed homes - it seems that they did not want a property owner to have a yard. (this is actually prohibited by the "restricted residential" designation by the DEC and the subsequent environmental easement in place after the cleanup.)
 - ix. Dedicated Park land - what does the shoreline look like on this plan?
 1. NW corner will be dedicated as public land (2 acres)
 2. Esplanade the length of the site, dedicated as public land 2.5 acres
 - e. Key Questions coming out of the consent decree by the WRC:
 - i. How much do we want to own after learning about Tarrytown?

- ii. How is it deeded? What did it codify?
- iii. Real park land - never discussed where it would be
- iv. Water Tower
 - 1. Village has to come up with a plan for storage and what happens of it
 - 2. Demolition of 52 is assumed a part of the consent decree
- v. Quarry Park
 - 1. Consent decree sets aside \$1.3 million to restore and reopen quarry park and it allows the Village to go ahead and implement this
- f. Funds determined in the Consent Decree
 - i. \$1.4 million trust fund for waterfront projects - which are projects related to the river and also essentially the WRC's slush fund
 - ii. \$50K to preserve and present the history
- g. Other Clauses or questions:
 - i. Where did the \$250K come from for our planning process?
 - ii. The \$40,000 is not limited, it seems like more money can be put into this fund for professional services. (WRC to clarify this amount and what this is for)
 - iii. SNC to ask Peter Swiderski, once \$250K is taken out, how much is left for other consultants and engineers?
 - iv. Trenches for Utilities
 - 1. Morgen said in Tarrytown the developer capped the trenches, so we should be militant about the elevation of the cap and whether we allow developers to put down piles and whether we allow the piles to go through the cap or not
 - a. Tarrytown is all slab on grade and their Riverwalk is on piles
 - v. AR responsible for maintaining bulkheads, sloped shoreline, and cap for 100 years and keeping up the plantings and bulkheads in NW corner and where they build bulkheads.
 - vi. Village is responsible for maintaining planting and maintaining open spaces of dedicated parkland
 - vii. What is the floor? What is the minimum required by DEC?
- h. Spencer is looking to talk to people at Brooklyn Bridge Park who deal with the decomposing piles at that site
- i. The Presentation on the Consent Decree plan should also be included in the matrix (SNC to add to the matrix)

Site Visits/Other Sites (Richard and Kate)

- 3. Sunday April 22, 2018, trip to Jersey City
 - a. Meet at 10:00 am at HOH train station -trip to Jersey City
 - b. Members of the WRC who can attend will RSVP to Richard
 - c. Visit will mainly be of Jersey City and a few developments in that area, including any along the drive along the waterfront over GW bridge
- 4. Kate and SNC to organize visit to Brooklyn Navy Yard - still determining at time, etc
- 5. Tom will be leading a trip to Hunter's Point South Waterfront by Weiss/Francetti
- 6. Spencer is looking into Brooklyn Bridge Park's financing of the condos, and reaching out to that group

7. SNC to start a common document so the WRC can add data, precedent places, and images for reference

Follow-up

1. Working group with Pace
2. List of consultants - start a list on the working document
3. Visit Sleepy Hollow to see what they did at their waterfront redevelopment
 - a. Tarrytown mentioned it was handled very differently there; there were cross law-suits (between Tarrytown and Sleepy Hollow) on the impacts to each other that were mainly traffic related.
 - b. Meg will reach out to mayor of Sleepy Hollow
 - c. ULI recently did a case study (called an advisory panel) on Sleepy Hollow - regarding the Village park, but it is not integrated into the development, someone sent Meg the Advisory Panel

9:26 Public comment (Kate)

1. First Public Speaker, name unannounced

- a. Building that is 65' is not built on logs, but rather steel pipes filled with concrete. This was the building you should have saved; it was the newest building.
- b. Hope the WRC hears what the Village people want to see down there (at the waterfront)
 - i. Kate responded that we did speak about this earlier in the evening.
- c. Uhlich property and Mobil property might be owned by same individual - Was the developer of Ananconda picked yet? Meg responds, that one has not been chosen and bids are being submitted by April 20th.
- d. Any restoration done here and developer are going to outfox us every minute of the time, because they are only in it to make a lot of money.
 - i. Kate responds that the WRC is appreciative and aware of community views and trying to figure out the right way to do everything and the right time to do so.

2. Jean Hamerman, liaison with the Conservation Committee, Deputy of Creative Land Recycling

- a. In the West Coast they provide the vision to action community engagement model, which helps to put everything into visual context.
- b. Jean mentioned that Roux provided the Shoreline Advisory and for Mobil, and that there are some baseliners from the committee report as well
 - i. Kate responded by saying we are creating a matrix representing the last 15-20 years to keep things relevant and fresh
- c. Exxon Mobil and Uhlich
 - i. Groundwater = 3rd remedial site, still being remediated with the pump house
- d. Tarrytown was able to get some public state funds (Empire State Development) - WRC to put this on the agenda for the outreach committee
 - i. Meg responds that the Village has a grant writer and that the Village Manager receives alerts about these sorts of opportunities as they come up; WRC should ask to be alerted (SNC to take action) so that we are aware of grants to take advantage of such as for bike paths etc.
 - ii. Jean can look at what is available as well.

- e. Tom asks Jean if they can provide the visual tools; Jean responds that they do bring in the renderings and financial analysis at a cost.
- f. Jean to send the WRC (via SNC) a list of consultants
 - i. WRC to put in place a Community Engagement Subcommittee so we can focus to this end (but we will need to understand our budget better so we know how many consultants can be brought on board)

3. Steven Seibert

- a. Meet with John Nolon for years and Steven was usually on the other side of John's opinions.
- b. BP did not wear hazmat suits, so there is this rumor that everything is a lie.
- c. Even if land now is industrial and if we keep things the way they are, we would have a more economically and culturally diverse community. Hastings is increasingly not the place he wants to be - too white, too rich - so we need to shape the future. If the land is zoned for industrial use, then maybe we maintain this use to diversify this community and create the community that we want. Use our power to take control of the future. BP spent a lot on remediation, but they made a lot of money on buying the site, so we don't owe it to them to let them get out of town easily. So let's develop a waterfront we want.
- d. One concern is regarding stakeholders - they are already committed to the development process without listening to the community voices, we have predisposition towards development.
 - i. WRC responds to Steven that the community has had many meetings, and this is just an outgrowth of that process.
 - ii. Morgen asked this same question (for Steven) to John Nolon about whether or not we have the right to keep it zoned the way it is. The response from John was that BP as owner also has the right to then turn around a reasonable court of law and say it's not a reasonable use to make money from - so they they can say to the community then you have to pay for it and step up.
 - iii. Rich added that as part of the process is to get ahead of the property owners. We cannot administratively stop someone from using their property. So we can be proactive (which is the charge of the WRC) or wait for someone to implement their own vision. We don't have the right or the Village doesn't have the power to do nothing.
 - iv. Meg further adds that the WRC is talking about early strategy sessions to conduct early planning processes. When we get to the community process, there will be significant community engagement.
- e. Steven finishes by saying we (HOH) pride ourselves on a different kind of community. Please think creatively about how we can shape the waterfront for the benefit of the Village. For Steven, it does not include bringing in more people like himself (meaning Caucasian), so if the waterfront is the means to do this, then we should not let this opportunity pass us.

Meeting Adjourns at 9:44 pm.