



Memo

To: Harbor and Coastal Zone Management Commission
From: Greg Cutler, AICP- Village Planner
CC: Mayor and Board of Trustees, Dan Sarnoff- Acting Village Manager, Robert Spolzino-Village Attorney, Krista Halpin- Land Use Attorney
Date: 11/9/2018
Re: PLL-O 2018 Consistency

At the October HCMZC meeting a preliminary review of PLL-O (food service law) was conducted and several comments were generated and subsequently summarized in the October 19 memorandum from Cindy Goldstein, Chair. This memorandum is intended to provide additional material to inform an advisory consistency determination.

1) AN ANALYSIS OF THE IMPACT OF PLL ON THE MARINE RECREATION AND C-1 ZONES.

Marine Recreation

There is no impact on the Marine Recreation zone. The law does not amend any language relating to the Marine Recreation zone. The law does change the term “restaurant” to “food service establishment” in section 342-36(B)(5) which applies to restricted accessory uses in the General Marine Commercial District. Since the terms have been used interchangeably it is not anticipated that there will be any negative environmental impacts as a result of this amendment. It should also be noted that all uses permitted in the C-1 zone are permitted in the MC-2 zone, which includes restaurants (Mamaroneck Diner and Dunkin Donuts on the Boston Post Road are in the MC-2 zone). Below is an excerpt of the proposed changes (only including the condition that is being amended):

342-36(B) B. Permitted accessory uses. The following accessory uses are permitted in MC-1 General Marine - Commercial Districts only in conjunction with a permitted principal use:

- (5) Restricted accessory uses. Restricted accessory uses include a clubhouse (which may include a ~~restaurant~~ **food service establishment**), a pool and the sale of ice, food and beverages for

consumption on and off premises by boaters and their guests, provided that these uses meet the following conditions:

- (f) All restricted accessory uses, including their required parking areas, shall not constitute more than 20% of the total land area of the zoning lot. The building coverage of a clubhouse shall not constitute more than 5% of the gross land area of the zoning lot. A ~~restaurant~~ **food service establishment**, if provided, shall not exceed a total gross square footage, including the required kitchen area, of 2,500 square feet.

C-1 General Commercial

Below is an excerpt from the Narrative of the Proposed Action, which is part of the EAF:

The existing code contains definitions for *food service establishment*, *restaurant*, *fast food*, *delicatessen*, and *carry-out* but the only one listed as a Permitted Use is a restaurant. Furthermore, the term restaurant currently excludes *fast food*, *delicatessen*, and *carry-out* making it appear that these are not permitted anywhere in the Village. However, under the current code *restaurants* in the C-1 and C-2 are subject to a special permit that has additional requirements that would only apply to *fast food*, *delicatessen*, and *carry-out*. Due to this ambiguity the Village and the Zoning Board of Appeals have been granting special permits and building permits to these uses in all zones that have *restaurants* listed as a Permitted Use (which includes the C-1, C-2, MC-2, and M-1 Zoning Districts). Since the proposed action will not result in a change in practice (aside from limiting the size of fast food which is discussed below) it is not anticipated to cause any significant adverse environmental impacts.

In addition to the above it is noted that the only net change from the current practice as it relates to the C-1 zone (and subsequently the C-2 and MC-2 zones by code reference) is that fast food restaurants will be limited to 3,000 square feet. This will result in further limiting the potential impact such establishments may have.

2) A COPY OF THE MEMO DISCUSSED AT YOUR (BOARD OF TRUSTEES) MEETING REGARDING THE INTENT OF THE ORIGINAL 1996 LAW

There is no memo that discusses the intent of the original 1996 law. There was however a discussion of the intent of that law. To that end, it is understood that the purpose of the 1996 law was to define certain types of food service establishments in order to create the buffer requirements in the downtown. At the time the buffer requirement was put in place there was concern among members of the public and the Board of Trustees that there was a rapid proliferation of these types of food service establishments and they were having a negative impact on Mamaroneck Avenue in terms of litter. Initially the Board of Trustees placed a moratorium on fast food establishments due to a “problem with garbage and litter

in the Central Business District”¹. Subsequently, after study by the Village’s former planning consultant, the Board of Trustees passed the law current law. Regrettably, the definitions that were prepared and adopted inadvertently made the code ambiguous by stating that fast food, delicatessens, and carry-out establishments were not “restaurants,” which is the only type of food service establishment listed as a permitted use. In reviewing the available documentation, there is no evidence that this was the intent of the 1996 amendments. Extracts of minutes from multiple Board of Trustees meetings in the early and mid-1990s are annexed to this memorandum.

With respect the proposed local law recommending the elimination of the distance requirement it is noted in the narrative of the proposed action that nearly every establishment on Mamaroneck Avenue in the C-2 district physically violates the requirement and there have been no known negative impacts that have resulted due to the existing arrangement. At present there is no major litter problem noted on the avenue and it is conceivable that changes in business and consumer waste disposal habits, recent streetscape improvements, and trash collection improvements have, to an extent, ameliorated the trash problem.

3) AN ANALYSIS SHOWING MORE SPECIFICALLY WHERE FOOD SERVICE ESTABLISHMENT MAY BE LOCATED AND PROXIMITY TO CRITICAL ENVIRONMENTAL AREAS.

Please see the maps at the end of this memorandum.

4) AN ANALYSIS OF THE POLICIES IDENTIFIED IN THE CAF ESPECIALLY REGARDING FLOOD ZONES AND ADJACENT TO WATERWAYS AND WATER BODIES.

Please see the attached coastal narrative. There is no net change in permitted uses and therefore there will be no net change, positive or negative, in terms of impacts on flood zones, waterways or water bodies, or in terms of litter and commercial pollution.

5) A COPY OF THE CRITERIA USED BY THE PLANNING BOARD WHEN COMMENTING TO THE BOARD OF TRUSTEES (WHEN PREPARED)

¹ Statement of Mayor Lanza from the regular meeting of the Board of Trustees on 1/22/1996. See attached minutes.

It is unclear what “when prepared” refers to. Below please find the criteria from [342-96](#) for the Planning Board review of a “proposed amendment to the text of the chapter” (zoning):

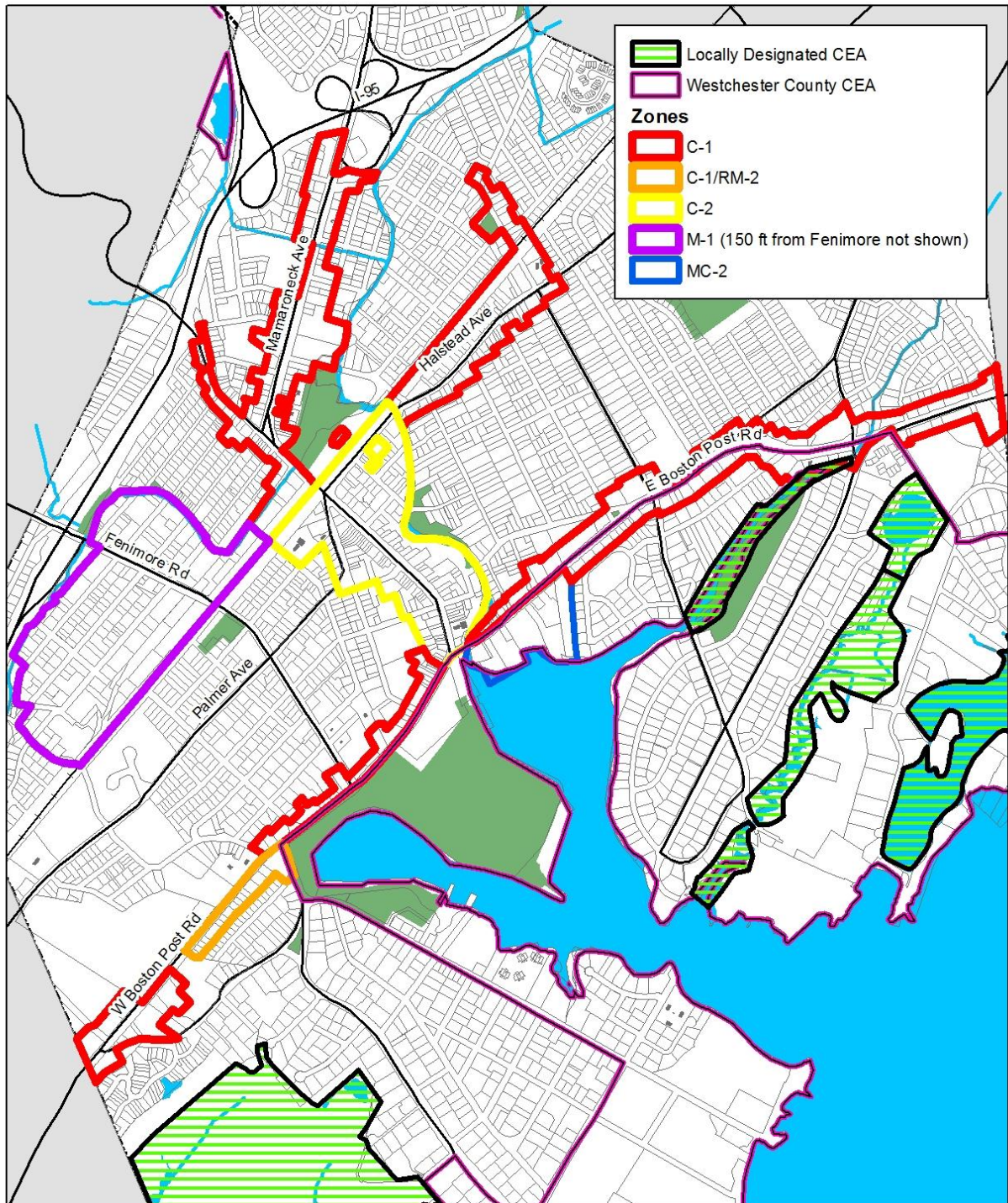
(1) Whether such proposed amendment is consistent with the Master Plan of the Village, as it may exist from time to time.

(2) Whether such change is consistent with the aims and principles embodied in the chapter as to the particular district or districts concerned.

(3) Which areas and establishments of the Village will be directly affected by such change and in what way they will be affected.

(4) The indirect implications of such change in its effect on other regulations.

Applicable Zoning Districts & Critical Environmental Areas



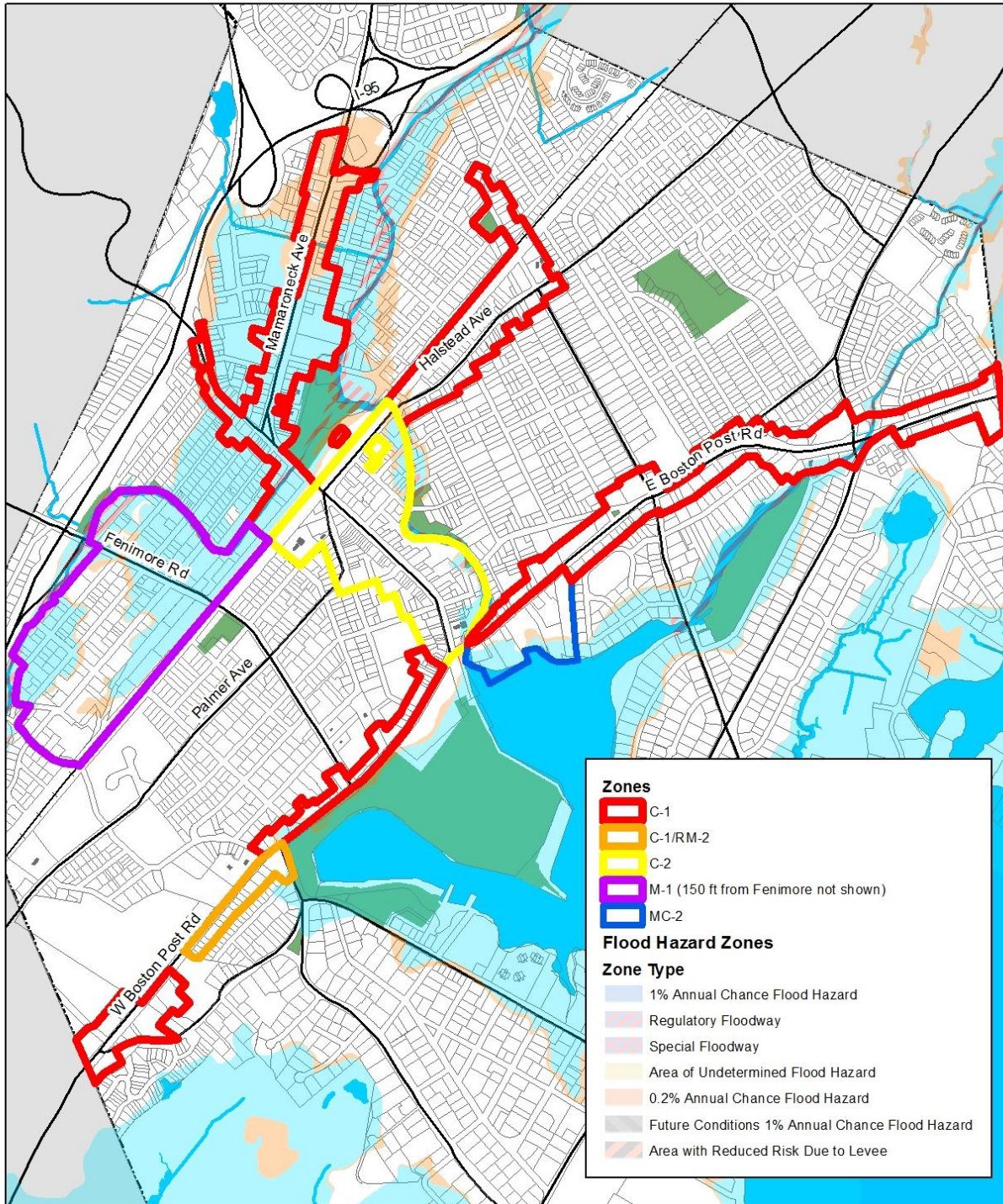
Sources: Westchester County GIS,
Planning Department

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Applicable Zoning Districts & Special Flood Hazard Area



Sources: Westchester County GIS,
Planning Department

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