

# Village of Mamaroneck



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TO: Mayor Murphy and the Board of Trustees  
Daniel Sarnoff, Acting Village Manager  
Greg Cutler, Village Planner

FROM: Robert A. Spolzino, Esq.

RE: Proposed Local Laws T and V of 2018

DATE: November 21, 2018

Trustee Lucas has raised a question with respect to the SEQRA classification of Proposed Local Laws T and V of 2018. I concur with Greg Cutler's assessment that the proposed local laws do not involve a "change in use" affecting more than 25 acres that would make it a Type I action, since they change development regulations, but not the permissible uses themselves.

In *Matter of Sullivan Farms IV, LLC*, 134 A.D.3d 1275 (3d Dep't 2015), the Appellate Division, Third Department, held that a local law which changed the methodology for calculating the number of allowable building lots in a cluster subdivision was not a Type I action even though the change affected the entire town, the area of which exceeded 25 acres. The court stated:

With regard to the adoption of the local laws, the Board of Trustees correctly designated them as "unlisted" actions because, instead of changing the allowable uses within a zoning district, they only amended the procedures to be employed in assessing proposed subdivisions and cluster developments [citations omitted].

154 A.D.3d at 1279.

*Bonacker Property LLC v. Village of East Hampton Board of Trustees*, 2016 WL 6561607, \*5 (Supreme Court, Suffolk County, 2016), reached the same conclusion with respect to a local law that changed the manner in which gross floor area was calculated.

There is some authority to the contrary. In *Matter of Plattsburgh Boat Basin v. City of Plattsburgh*, 50 Misc.3d 271 (Sup. Ct., Clinton County, 2015), the court held that a local law

which introduced new requirements mooring permits affecting 920 acres of shoreline in the town constituted a Type I action because it effected a “change of use.”

*Matter of Sullivan Farms*, having been decided by the Appellate Division, Third Department, is controlling.