

**Comments of Brody Smith, Esq.
Cape Vincent Planning Board
March 13, 2024**

1. What is SEQR?

“SEQR establishes a process to systematically consider environmental factors early in the planning stages of actions that are directly undertaken, funded or approved by local, regional and state agencies. By incorporating environmental review early in the planning stages, projects can be modified as needed to avoid adverse impacts on the environment.” (SEQR Handbook, p. 3).

2. What is an Environmental Assessment Form (EAF)?

“An environmental assessment form (EAF) is a document developed specifically for SEQR that provides an organized approach to identifying and assessing the information needed by the lead agency as it makes its determination of significance.” (SEQR Handbook, p. 70).

3. Can the planning board request additional information after receiving Part 1 of the EAF?

“Yes. If an EAF provides insufficient information to make a well supported determination of significance, the lead agency may make a request for any additional information reasonably necessary to make its determination (617.6(b)(3)(ii)). The lead agency may also request technical assistance from the applicant in completion of Parts 2 and 3 of the EAF, but the final completed EAF is the responsibility of the lead agency.” (SEQR Handbook, p. 71).

4. Which factors must the planning board consider in making a legally sound determination of significance?

“In making a legally sound determination regarding significance, the lead agency must:

- Identify all relevant environmental impacts,
- Thoroughly analyze these potential impacts, and
- Provide a written explanation of its reasoning in concluding that the proposed action may cause, or will not cause, significant adverse environmental impacts (see 617.7).”

(SEQR Handbook, p. 77).

5. The Project should be classified as Type I.

Any project that involves the physical alteration of more than 2.5 acres located “substantially contiguous to any historic building, structure, facility, [or] site ... that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places.” We have consulted with the New York Office of Parks Recreation and Historic Preservation and confirmed that the Villa and Hickory Point Cottages are both eligible for listing on the State Register. A screen shot from the SHPO system identifying these parcels as eligible for listing is below.



Eligibility Recommendation: Eligible

HR-41 consists of three one-story seasonal cottages constructed ca. 1900. These small cabins have original exterior materials and reflect their use as seasonal cottages. It appears that the small cabins are still used for that purpose even today. As a group, the cottages reflect Carleton Island's popularity as a tourist site for visitors to the Thousand Islands region.

Eligibility Recommendation: Eligible

HR-43, Carleton Villa, is a unique dwelling that is sometimes referred to as one of the Thousand Island "castles." Although deteriorated, the property retains sufficient evidence of its exquisite design and construction to illustrate its unique architectural contributions. The property appears eligible for NRHP Criterion A (related to Thousand Islands tourism / resort history) and Criterion C (for its unique architectural style).

6. Why does it matter if the project is classified as Type I?

If an action is Type I, the Board must engage in a coordinated review. That means that the Board must begin by sending out “lead agency” letters and cannot take the next step until a lead agency is established.

7. The Project is likely to have a significant impact on historic and archeological resources.

As mentioned above, the Project includes making changes to a historic building and is adjacent to at least one other eligible structure.

It is well known that Carleton Island was settled by members of the Mohawk Tribe and was the site of significant events in early American history. Steps have been taken to preserve native remains elsewhere on the island. The Project would be built in close proximity to the site of a British Fort occupied by the Americans during the Revolutionary War, known as Fort Haldimand. The NYS Cultural Resources Information System lists this are likely containing important archeological resources.





- **Recommendation:** The Board should require the Applicant to provide a detailed plan so that the Board can evaluate whether the alteration of the Villa, a historic structure, will damage its historic value, and whether the additional of the campground is consistent with the aesthetic character of the surrounding historic structures.
- **Recommendation:** The Applicant must retain an expert to prepare an archeological survey before the SEQR process can be completed in order to assess the likely impact on archeological resources.
- **Recommendation:** The preservation of the character of the Villa is important. It is true that this structure is in a severe state of decay and the Applicant's desire to repair it is certainly welcome. However, given the historic nature of the structure, it is vital that the application include a description of the proposed alterations to the structure so that the Board can evaluate those impacts intelligently. The Applicant should address comments from SHPO before the Board make a SEQR determination of significance.

8. Impacts on Land

The Project will require the physical alteration of approximately 7 acres of land. The Applicant must obtain a SPDES general construction permit in order to disturb such a

large acreage. In addition, the Applicant has not provided a storm water pollution prevention plan (SWPPP). The Applicant must provide a SWPPP to this Board before it can evaluate the impact of construction on the river and the land due to stormwater runoff and erosion. The alteration of so much land in such a sensitive area must be carefully studied.

- **Recommendation:** The Board should require the Applicant to apply for a SPDES permit.
- **Recommendation:** The Board should require the Applicant to prepare a SWPPP and provide it to the Town's engineer to review before making a SEQR determination.

9. Impacts on Surface Water

The Project is likely to impact the St. Lawrence River due to its proximity to North and South Bay on Carleton Island. The Applicant has already begun construction of a ramp to facilitate site work. We are uncertain as to whether a shoreline permit was obtained from DEC before this work was initiated. The Project includes the installation of an artificial beach, four docks and a large floating platform. In addition, the shoreline will be cleared and altered. The Applicant must obtain multiple permits from the DEC in connection with these proposed Project features.

- **Recommendation:** The Board should seek comment from the DEC on the proposed shoreline features and should require the Applicant to submit a report from an expert stating what the likely impacts of these improvements will be on the river and shoreline. The Town Engineer should review any information submitted by the Applicant on this subject.
- **Recommendation:** The Applicant states in the Addendum to the FEAF that it does not have complete information on wetlands and surface water features. The Applicant should be required to provide a report from a licensed wetlands expert stating whether the site contains either state or federal wetlands and whether the Project will include construction within a floodplain.

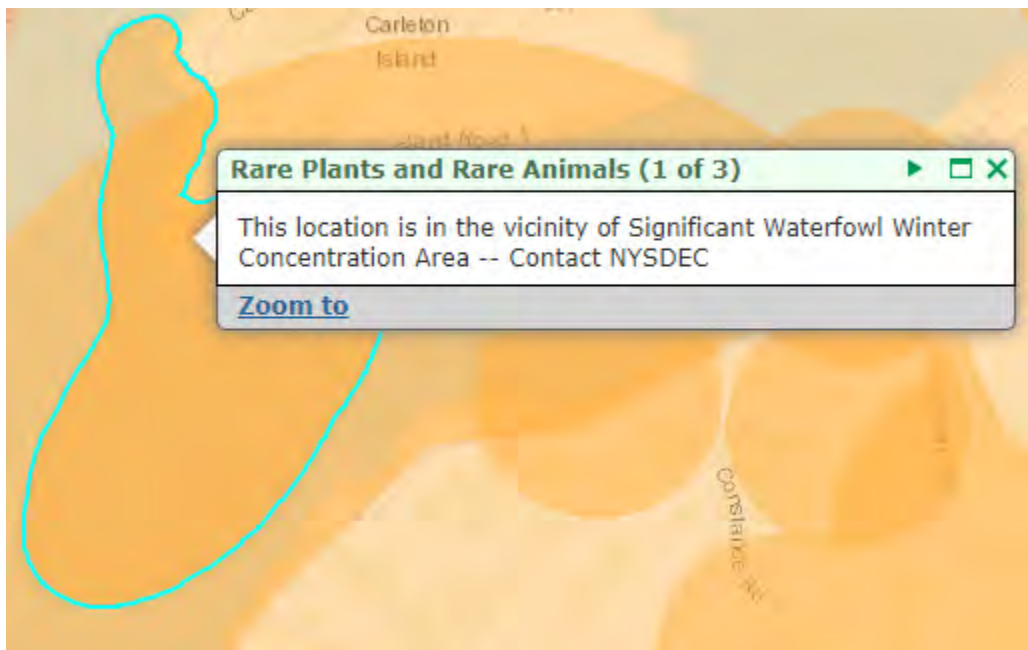
10. Visual Impacts

This location is a pristine island in the St. Lawrence River that must be protected. The Applicant should be required to prepare visual simulations of the Project both from the perspective of the water, as well as neighboring properties. Historic resources will also be impacted by the Project including the site of a historic fort and the Villa. The Applicant should be required to produce visual simulations from a variety of vantage points so that the Board can better evaluate the likely visual impact on historic resources as well.

- **Recommendation:** The Board should require the Applicant to prepare building elevations and visual simulations in order to assess visual impacts on neighboring properties and historic resources.

11. Impacts on Plants and Animals

The Addendum of the FEA submitted by the Applicant states that the site may contain two endangered species: (a) the Bald Eagle; and (b) the Indiana Bat. In addition, the NYSDEC Environmental resource mapper identifies three separate rare animal/plant communities of concern at this location including its status as a significant waterfowl concentration area. The Applicant should be required to retain a biologist to provide a report studying the potential impact of the development on these natural resources.



- **Recommendation:** The Board should require the Applicant to prepare a report from a qualified biologist to assess how the Project may impact the waterfowl concentration area designated by DEC.
- **Recommendation:** The Applicant must provide a report from a biologist assessing whether the development of the Property will impact the two endangered species identified by the Applicant in the FEA.

12. Groundwater Impacts

Groundwater impacts are likely because the Project does not contain adequate space to accommodate a septic system large enough to service the bathhouse and Villa. The Applicant currently states that it will rely on a septic system to service the site. It does not appear as though there is nearly enough space to accommodate such a large

system. This Board must have a complete picture of what the plan will be before it can act.

The Applicant will be required to obtain drinking water from wells and to dispose of sewage from both the Villa and bathhouse through a new sewage treatment system. The New York State Department of Health will ultimately have to sign off on the adequacy of those systems. However, the required systems must be fully designed and included on the site plan before the Board can make a SEQR determination of significance. No approvals should be issued until a complete plan is presented.

- **Recommendation:** The Applicant must provide an expert report providing information about what the design of the sewage treatment system will entail and where it will be located. The Town Engineer should be given the opportunity to review the information provided by the Applicant and advise the Board.

13. Parking and Traffic

The Applicant has not thought through the impact of additional boat traffic required to operate this business. No parking plans have been provided explaining where customers and employees will park on the mainland. The plans on this issue are incomplete.

- **Recommendation:** The Applicant must provide a parking plan before the SEQR review may proceed any further.

14. Character, Noise and Light

The proposed density and intensity of use of the development and its close proximity to the shoreline seriously threaten the environment and the use and enjoyment of neighboring properties. It is certainly not in keeping with the traditional character of Carleton Island.

- **Recommendation:** The Applicant should be required to provide a photometric study, landscaping plan and drainage plan so that the Board can evaluate those impacts.
- **Recommendation:** The Applicant must prepare a noise study and mitigation plan that complies with DEC program policy “Assessing and Mitigating Noise Impacts” for the both the construction and operational phases of the Project. The Town Engineer should be given the opportunity to review and comment on the noise mitigation plan.

Assessing and Mitigating Noise Impacts



New York State
Department of Environmental Conservation

PROGRAM POLICY		Department ID: DEP-00-1	Program ID: n/a
Issuing Authority: Environmental Conservation Law Articles 3, 8, 23, 27		Originating Unit: Division of Environmental Permits	
Name: Jeffrey Sama		Office/Division: Environmental Permits	
Title: Director		Unit:	
Signature: <u>JS/</u> Date: 10/6/00		Phone: (518) 402-9167	
Issuance Date: October 6, 2000 Revised: February 2, 2001		Latest Review Date (Office Use):	

Abstract: Facility operations regulated by the Department of Environmental Conservation located in close proximity to other land uses can produce sound that creates significant noise impacts for proximal sound receptors. This policy and guidance presents noise impact assessment methods, examines the circumstances under which sound creates significant noise impacts, and identifies avoidance and mitigative measures to reduce or eliminate noise impacts.

Related References: See references pages 27 and 28.

I. PURPOSE

This policy is intended to provide direction to the staff of the Department of Environmental Conservation for the evaluation of sound levels and characteristics (such as pitch and duration) generated from proposed or existing facilities. This guidance also serves to identify when noise levels may cause a significant environmental impact and gives methods for noise impact assessment, avoidance, and reduction measures. These methods can serve as a reference to applicants preparing environmental assessments in support of an application for a permit. Additionally, this guidance explains the Department's regulatory authority for undertaking noise evaluations and for imposing conditions for noise mitigation measures in the agency's approval