

April 10, 2024

VIA HAND DELIVERY

Mr. Frank Giaquinto, Chair
Town of Cape Vincent Planning Board
1964 NYS Route 12E
Cape Vincent, NY 13618

Re: *The Application of Carleton Villa, LLC*

Dear Mr. Giaquinto:

We represent the Friends of Carleton Island and submit this letter in opposition to the application of Ron Clapp (the “Applicant”) to construct a “glamping resort” (the “Project”) on a 6.9 acre lot (the “Property”) located on Carleton Island. Pursuant to the State Environmental Quality Review Act (“SEQR”) the Board should issue a positive declaration. A positive declaration is a determination by the Board that the Project may result in one or more significant environmental impacts and so will require the preparation of an Environmental Impact Statement (“EIS”) before any further review of the Project by either the Planning Board or the Zoning Board of Appeals may occur.

It is clear that multiple significant environmental impacts may occur as a result of the Project proceeding. Two key characteristics of possible impacts that should be considered in determining significance are “magnitude” and “importance.” Magnitude assesses factors such as severity, size, or extent of an impact. Importance relates to how many people are going to be impacted or affected by the project; the geographic scope of the project; duration and probability of occurrence of each impact; and any additional social or environmental consequences if the project proceeds (or doesn’t proceed).

1. Impact on Land

A positive declaration should be issued because the Project will require the physical alteration of approximately 7 acres of land in a very sensitive area adjacent to the St. Lawrence River and in close proximity to existing residential uses. 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 using the questions below provided by Part 2 of the FEAF.

- a) “The proposed action may involve construction on land where depth to water table is less than 3 feet.” Part 1 of the FEAF states that the average depth to bedrock is only 2 feet (E.2.d). Where construction will take place on lands having shallow depth to water table, a large impact is likely.
- b) “The proposed action may involve construction on slopes of 15% or greater.” Part 1 of the FEAF states that the Project will be constructed on some land with slopes of 15% or greater (E.2.f). Construction on steep slopes (greater than 15%) can result in adverse impacts including land slippage, erosion, changes to stormwater runoff quantity and location, visual impacts, and safety issues. Upstream and downstream habitats and resources can be affected by the removal of vegetation, erosion and sedimentation. Unstable soils can cause landslides or slippage after construction, creating ecological damage as well as unsafe conditions. Construction on steep slopes can change the pattern of runoff and the quantity of runoff, thus impacting soil stability and down slope areas.
- c) “The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.” Part 1 of the FEAF states that the Project will include construction on land where the average depth to bedrock is only 2.5 feet and in areas where there are bedrock outcroppings on the surface (E.2.a and E.2.b). Proposed projects in locations with soils highly susceptible to erosion or extensive areas of shallow or exposed bedrock, where land disturbance to those areas are large or unavoidable, can result in moderate to large impacts related to water runoff.
- d) Excavation: N/A
- e) “The proposed action may involve construction that continues for more than one year or in multiple phases.” Part 1 of the FEAF states that the Project will be built in at least two phases and may continue until 2029 (D.1.e). Construction that occurs over multiple phases, over many years, will always be presumed to result in large impacts.
- f) “The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal.” Part 1 of the FEAF states that the Project will disturb more than one acre of land, create new impervious surfaces and involve the use of pesticides (D.2.e and D.2.q). Large impacts are likely to occur where the Project will involve steep slopes, the removal of large areas of

vegetation and the discharge of stormwater onto neighboring properties and surface waters. The Applicant has also decided to start clearing the land now without any permission from the Town.



g) “The proposed action is, or may be, located within a Coastal Erosion hazard area.” Part 1 of the FEA confirms that the project is located in a coastal area (B.1.i). The removal of vegetation and the creation of impervious surfaces in coastal areas are presumed to create large impacts.

- **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.

2. Impact on Geological Features: N/A

3. Impacts on Surface Water

A positive declaration should be issued because 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 and site clearing activities. We are uncertain as whether a shoreline permit was obtained from DEC before this work was initiated.

The Project includes dredging of the bays, the installation of an artificial beach, four docks and a large floating platform. In addition, the shoreline will be cleared and altered. It is obvious that a significant impact on the St. Lawrence River is likely due to the Project. Specific issues flagged in Part 2 of the FEA are included below:

- The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body (Part 2, 3.d).
- The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments (Part 2, 3.e).
- The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies (Part 2, 3.h).
- The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action (Part 2, 3.i). The proposed action may involve the application of pesticides or herbicides in or around any water body (Part 2, 3.j).
- **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 FEA 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.

4. Impacts on Groundwater

The Project has the potential to create a significant impact on the environment due to ground water contamination (Part 2, 4.a, 4.d, 4.g). 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.

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 on a relatively small site. 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 so that the Board can evaluate impacts as the lead agency for SEQR review. Failure to provide a complete plan for these systems to this Board must result in a positive declaration.

- **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.

5. Impact on Flooding

A positive declaration should be issued because the Project will result in development on lands subject to flooding. Part 1 of the FEAF states that the Project will be located in floodplains and designated floodways (E.2.i, E.2.j, E.2.k). The following are examples of large impacts provided by the NYSDEC workbook:

“It is likely that one or more moderate to large impacts could occur under one or more of these circumstances:

- Grading, fill, or land clearing takes place in the floodway.
- Construction of any kind of permeable surface is planned in the floodway.
- Construction of any structure that impedes or changes drainage patterns or water flow is planned in the floodway.
- Construction of piers, weirs, docks, retaining walls, and other features that reach from land to water are planned in the floodway.
- Riparian vegetation that grows from the water or bank edge (sometimes called stream side or lake side vegetation) is removed.”

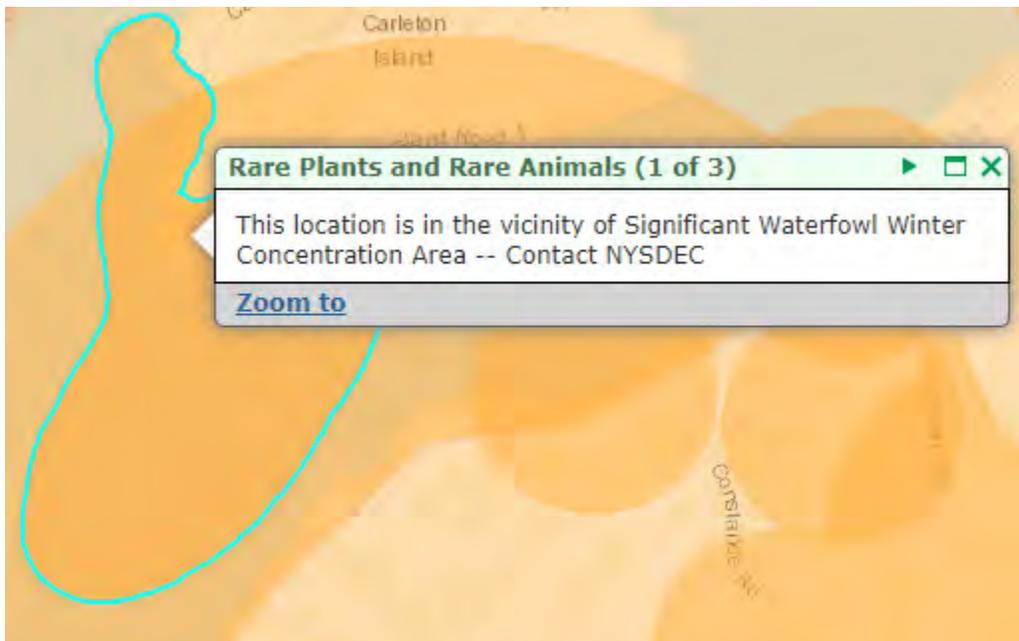
All of the above impacts are part of the Project. An EIS is clearly required to evaluate the obvious significant impacts that will result from development in an area that floods.

6. Impact on Air

The Project may result in a significant impact on the environment due to construction related air emissions. Part 1 of the FEAFF states that excavators, steer skids, dump trucks and gas generators will be utilized for construction (D.2.f).

7. Impacts on Plants and Animals.

The Project will result in significant impacts on plants and animals – that is already happening. The Addendum of the FEAFF 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 FEAF.

8. Impacts on Agriculture – N/A

9. Impacts on Aesthetic Resources

A positive declaration should be issued because the Project would create visual impacts that are obviously in sharp contrast to current land use patterns. 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.

10. Historic and Archeological Resources

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 area as 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

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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.

11. 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.

12. 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.

Sincerely,

BOND, SCHOENECK & KING, PLLC



Brody D. Smith, Esq.

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Member