

**NORDIC AQUAFARMS PERMIT APPLICATIONS**  
**MOTION TO DISMISS/STAY, AS AMENDED ON JULY 20, 2020, SUBMITTED BY**  
**KIM ERVIN TUCKER, LEGAL COUNSEL**  
**PLANNING BOARD MEETING REVIEW - AUGUST 12, 2020 BOARD MEETING**  
Memo prepared by Wayne Marshall, Director, Code & Planning

The upcoming August 12 Board meeting includes an agenda topic that involves the Board's review of a Motion filed by Kim Ervin Tucker, Counsel for Intervenor Mabee and Grace and the Lobstering Representatives and Interested and Aggrieved Party Friends of the Harriet L. Hartley Conservation Area, in which she requests that the Planning Board Dismiss/Stay (As Amended) its review of the Nordic Aquafarms Permit applications now pending before the Board. Attorney Tucker filed the original motion on July 14, 2020, and filed an amended motion on July 20, 2020. The Board's review of this request will focus on the July 20 Amended Motion.

The Board's review will occur in accordance with terms of the Fourth Procedural Order dated July 17, 2020 that was adopted by the Board at its meeting of July 15, 2020. Our Department distributed this Order to all Parties in Interest and the Applicant by both email and surface mail. Pursuant to this Order, the Board is to consider the written information submitted by Attorney Tucker, and written responses to Ms. Tucker's Motion submitted by Parties-in-Interest and the Applicant. The Board will not be conducting a public hearing at its August 12 meeting at which it accepts oral testimony on this Motion.

Our Department previously provided all Board members an electronic and printed copy of the original July 14 Motion to Dismiss/Stay submitted by Attorney Tucker. The Board should essentially disregard this filing, and should focus its attention on the July 20 amended Motion to Dismiss/Stay filed by Attorney Tucker. William Kelly, City Attorney, has reviewed all information submitted by Attorney Tucker and the respective Parties-in-Interest and has provided a memorandum dated August 4 in which he offers his perspective of the specific requests in Attorney Tucker's amended Motion. Bill can further discuss his legal opinion with the Board at your August 12 meeting.

This packet includes a significant amount of information on the Motion to Dismiss/Stay, including the following. All of this information also is available of the City website, reference planning and codes, Nordic Aquafarms Permit Applications, Tucker Motion to Dismiss/Stay - August 12, 2020 Board Meeting.

Information from the City

- a) Fourth Procedural Order adopted by the Board
- b) Memorandum dated August 4, 2020 from City Attorney Kelly to the Planning Board
- c) Memorandum dated August 7, 2020 from Wayne Marshall to the Planning Board

Motion to Dismiss/Stay from Attorney Tucker

- a) BPB Notice of Filing, Amended Motion to Stay - Dismiss, RE Tomasino 7-20-20 FINAL
- b) BPB Amended Motion for Stay - Dismiss, Tomasino 7-20-20 FINAL
- c) 7-14-20 Order Denying Stay - Dismissing 80B Rejection Tomasino Stay Rule
- d) 7-14-20 Order Dismissing 80B - Denying 80B Stay

- e) BPL Motion to Stay 7-20-20 Final
- f) BPL Notice of Filing Additional Exhibits to amended Stay-Dismissal Motion 7-31-20 Final
- g) BPL Notice of Filing Amended Stay-Dismiss Motion 7-2-20 Final
- h) Motion of Stay, Exhibit 1
- i) Motion to Stay, Exhibit 2
- j) Motion to Stay, Exhibit 3
- k) Motion to Stay, Exhibit 4
- l) Motion to Stay, Exhibit 5
- m) Motion to Stay, Exhibit 6
- n) Motion to Stay, Exhibit 7
- o) Motion to Stay, Exhibit 8
- p) Motion to Stay, Exhibit 9
- q) Motion to Stay, Exhibit 10
- r) Motion to Stay, Exhibit 11
- s) Motion to Stay, Exhibit 12
- t) Motion to Stay, Exhibit 13
- u) Motion to Stay, Exhibit 14
- v) Motion to Stay, Exhibit 15
- w) 2020-07-17, JBT to BEP with Exhibit A
- x) Dorsky Nordic Plan of 7-24-20, 2563
- y) Excerpts from Jim Dorsky file produced by NAF on 7-27-20
- z) 7-14-20 email from Tucker to Wayne Marshall and Wayne Marshall response

Submissions by Parties in Interest

- a) Email dated July 17, 2020 from Atty Joanne Tourangeau on behalf of Nordic, including an attached Decision from the Superior Court on the Motion to Dismiss - Stay.
- b) July 27, 2020 Ltr from Atty Tourangeau on behalf of Nordic and the Attached Superior Court Decision on the motion to dismiss - stay.
- c) July 30, 2020 Email from Atty Tourangeau and the attached Twentieth Procedural Order from the BEP in which the BEP rejects the Motion to dismiss - stay.
- d) Letter dated July 25, 2020 from the Friends of Harriet Hartley Conservation Area (Note - The Friends are not a Party in Interest, however, several of the persons associated with the Friends are identified by the Board as a Party-in Interest). Also includes email to Wayne Marshall transmitting this letter.

Submissions from the General Public

- a) We have included a list of all persons who submitted public comment to the Board on this matter, 69 persons, as well as all comments that were submitted.
- b) An email comment from Paul Bernacki, Monroe, to the Dept of Conservation regarding the Nordic application.