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July 30, 2015

Mr. Tom Mills
Chair, Stamford Zoning Board
Stamford Government Center
888 Washington Boulevard
Stamford, Connecticut 06904-2152

Subject: Consultant Reports Concerning Water-Dependent Use of Stamford Harbor

Dear Mr. Mills:

On behalf of the Stamford Harbor Management Commission (SHMC), I am writing to express some concerns regarding the following reports prepared for the Zoning Board in the course of the Board's ongoing review of several inter-related applications affecting the Stamford Harbor Management Area (SHMA).

- (1) "Comparable Evaluation of Yacht Haven Boatyard and Multiple Marine Development Sites," July 10, 2015. Prepared by Bermello, Ajamil & Partners Architects, Inc. (Comparable Evaluation Report)
- (2) "Preliminary Peer Review, Stamford Connecticut, Marine Market Study and Needs Analysis," July 12, 2015. Prepared by Pamela Lenzion, MarineTec Management & Consulting Company, LLC. (Preliminary Peer Review Report)
- (3) "Stamford Marine Market Study and Needs Analysis," July 23, 2015. Prepared by Integra Realty Resources. (Market Study and Needs Analysis Report)

The reports as submitted do not appear responsive to the South End Redevelopment District, South (SRD-S) zoning requirements for retention of water-dependent uses. As a result, the Commission is concerned that implementation of the water-dependent use policies of the Stamford Harbor Management Plan, achieved in significant part in conjunction with the Stamford Zoning Regulations, including the SRD-S provisions, will be negatively affected.

The now purported inter-related applications—Zoning Board applications 215-02, 215-03, 215-04, 215-05, 215-06, and 215-07—affect property on, in, or contiguous to the SHMA, including: the 14-acre peninsula at Bateman Way described as the “boatyard site” in the Harbor Management Plan; properties adjoining the West Branch of Stamford Harbor at Southfield Avenue; and a parcel near the East Branch of Stamford Harbor at Magee Avenue. Among other things, the applicants are proposing to move water-dependent uses historically operated on the boatyard site to multiple locations.

The applications are subject to review by the SHMC to determine their consistency with the Harbor Management Plan. The requirements of this review are specified in Sec. 22a-113p of the Connecticut General Statutes, Sec. 6-62 of the Stamford Code of Ordinances, and the Harbor Management Plan.

Previously, the SHMC provided comments to the Zoning Board concerning applications that were presented as independent of each other, and informed the Board that the SHMC reserves its right to continue to review the applications and provide additional comments at such time as they may be modified, additional information is provided, or they are the subject of a public hearing.

During its meeting on July 21, 2015, the SHMC discussed the Comparable Evaluation Report, Preliminary Peer Review Report, and requirements of the SRD-S zoning regulations with Land-Use Bureau Chief Norman Cole. In addition, the SHMC was made aware of and considered a recent confidentiality agreement between the applicants and the consultant retained by the Zoning Board to conduct a peer review of the applicants’ “market study and needs analysis” required by paragraph 4.d.4 of the SRD-S regulations. Following that discussion, it was the sense of the SHMC to transmit some initial comments to the Zoning Board, with the understanding that we will provide more detailed comments during the Board’s public hearing process.

While the SRD-S regulation calls for retention of water-dependent uses, including uses on the boatyard site, those uses may be modified provided the applicant makes certain demonstrations and provides specific information to the Zoning Board as specified in the SRD-S regulation.

Pursuant to Sec. 4.d.2 of the SRD-S regulation, the applicant must “demonstrate to the satisfaction of the [Zoning] Board that the modification of such [water-dependent] use is warranted under pertinent sections of the Connecticut Coastal Area Management Act; any such claim to be supported by full disclosure of all pertinent information including, but not limited to, financial data regarding the water-dependent use.”

The SHMC is concerned that the confidentiality agreement recently effectuated between the applicants and consultant retained by the Zoning Board appears contrary to Sec. 4.d.2 of the SRD-S regulation and, as a result, may significantly compromise the integrity of the resulting peer review.

Pursuant to Sec. 4.d.4 of the SRD-S regulation, the applicant must submit “a professionally-prepared market study and needs analyses of the site’s potential to support a water-dependent use under the existing zoning.” In this instance, the ‘site’ to be addressed should be the 14-acre boatyard site with respect to which the owner, in 2011, demolished the only remaining water-dependent facility of its kind in the SHMA without proper approvals and in violation of requirements imposed by the Zoning Board.

The SHMC is concerned that the applicants’ Market Study and Needs Analysis Report submitted to the Zoning Board does not address the boatyard site’s potential to support water-dependent use under the existing zoning and therefore is not responsive to Sec. 4.d.4 of the SRD-S regulation.

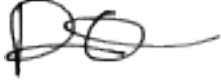
Further, while the SHMC recognizes that changed circumstances and conditions may affect interpretation of the zoning regulations, the SHMC does not believe the unanticipated and unlawful demolition of water-dependent uses on the boatyard site should be accepted as a condition that would excuse an applicant from complying with the requirements of the SRD-S regulation. In other words, the requirements should not be relaxed as a result of an applicant’s own unlawful act.

In light of these concerns, the SHMC recommends that the Zoning Board re-evaluate the adequacy and responsiveness of the consultant reports and address any deficiencies before proceeding any further with review of the submitted applications. In this regard, the Zoning Board should consider rejecting the submitted Market Study and Needs Analysis Report as wholly inadequate under the SRD-S regulation.

Thank you for your attention to these concerns. The SHMC looks forward to discussing this matter in more detail with the Zoning Board and Land-Use Bureau so that we may continue the most effective and coordinated review of these substantial proposals that will affect the character of the Stamford waterfront for many years.

If you have any questions or require any additional information at this time, please contact me at (315) 651-0070 or dortelli@stamfordct.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Ortelli', with a long horizontal flourish extending to the right.

Dr. Damian Ortelli
Chairman, Stamford Harbor Management Commission

cc:

Mr. Norman Cole, Stamford Land-Use Bureau Chief
Mr. Frank Fedeli, Stamford Office of Operations
Mr. John Freeman, Attorney, Harbor Point Development
Ms. Kristal Kallenberg, CT DEEP Office of Long Island Sound Programs
Mr. Griffith Trow, Chairman, SHMC Application Review Committee
Planning Board Members
Zoning Board Members