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March 28, 2015

Mr. Norman Cole
Land Use Bureau Chief
Stamford Government Center
888 Washington Blvd.
Stamford, CT 06901

Subject: Application 215-03-by The Strand/BRC Group, LLC to amend the Harbor Point General Development Plan

Dear Mr. Cole:

The Stamford Harbor Management Commission (SHMC) has reviewed the proposal submitted to the Zoning Board by The Strand/BRC Group, LLC (the Applicant) for amendment of the Harbor Point General Development Plan (GDP). The proposed amendment affects the 14-acre property within the GDP described as the "boatyard site" in the Stamford Harbor Management Plan, and would replace existing GDP Condition of Approval No. 7 calling in part for continued operation of the 14-acre boatyard as a working boatyard and full service marina with no reduction in any current capacity, facilities, uses or services unless specifically approved by the Zoning Board and any required state and federal authorities. The Applicant proposes to replace this requirement with a new condition that in part would allow for the full development of the 14-acre site while providing a marina and public access improvements.

As the Applicant's proposal affects property on, in, or contiguous to the Stamford Harbor Management Area, the proposal is subject to review by the SHMC to determine its consistency with the Stamford 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. Pursuant to the General Statutes, City Code, and Harbor Management Plan, a 2/3 vote of all members of the Zoning Board is needed to approve a proposal that has not received a favorable recommendation from the SHMC.

During its meeting on March 17, 2015, the SHMC approved a motion to transmit the following findings and comments to the Zoning Board and Applicant.

Findings:

The SHMC finds the Applicant's proposal would: 1) eliminate an existing development condition calling for continued operation of a working boatyard and full service marina on the boatyard site with no reduction in capacity, facilities, uses or services; and 2) replace that requirement with a provision that would allow full development of the site while providing only ancillary marina facilities and public access improvements. In addition, the SHMC finds that the Applicant has not demonstrated that viable replacement boatyard facilities and services of equal capacity and quality to the facilities and services required on the boatyard site will be provided by the Applicant elsewhere in the Stamford Harbor Management Area. Accordingly, the SHMC finds the Applicant's proposal is inconsistent with the recreational boating and water-dependent use policies of the Harbor Management Plan, including:

- Policy 5.1.1 stating that any future development that may affect existing marina and/or boatyard facilities should not result in a significant reduction of currently available boat slips and boat service facilities;
- Policy 5.1.2 calling for the authority and policies of the Connecticut Coastal Management Act and the Stamford Master Plan to be used to encourage and support the continued operation of water-dependent boat service facilities (including maintenance, repair, and storage facilities);
- Policy 5.1.3 calling for city planning and zoning requirements to be applied as necessary to protect and promote water-dependent uses such as private boating and yacht clubs and commercial marina and boatyard facilities; and
- Policy 7.2.1 calling for the city to continue to implement (through appropriate zoning and other regulations) the coastal area management policies established in the Stamford Master Plan to support and encourage the development and continued operation of water-dependent land uses on waterfront sites.

The Applicant's proposal also is inconsistent with the following recommendation (see page 7-5 in the Harbor Management Plan) specifically addressing recreational boating facilities in the west branch of Stamford Harbor.

3(a) *Water-Dependent Uses: The continued beneficial operation and enhancement of existing water-dependent uses, including Stamford port facilities and recreational boating facilities, in the west branch is encouraged and supported, consistent with all other*

applicable provisions of the Plan, Stamford Master Plan, Stamford Zoning Regulations, and the Connecticut Coastal Management Act.

The authority and provisions of the Plan, Master Plan, Zoning Regulations, and Connecticut Coastal Management Act should be applied to encourage and support the continued operation and enhancement of existing water-dependent uses; to encourage and support the development of appropriate new water-dependent uses; and to review any plans and proposals for new uses. With respect to waterfront properties adjoining the west branch, future development projects that may affect established water-dependent uses should not result in significant reduction of available recreational boating services, including, but not limited to, boat maintenance, repair, berthing, and storage facilities of local and/or regional significance. [Emphasis added.]

Comments:

1. The 2009 Stamford Harbor Management Plan adopted by the Stamford Board of Representatives and approved by the State of Connecticut attaches special significance to the boatyard site; describes how much of Stamford's reputation as a boating center in western Long Island Sound is due primarily to the boating services historically provided on this site; and establishes municipal provisions intended to maintain those services.
2. The Stamford Master Plan, amended by the Planning Board in 2014, also attaches special significance to the boatyard site. The Master Plan states that "Retention of uncompromised boatyard services and facilities on this property has been a goal of Stamford's master plans since the beginning of the city's coastal management program and should continue to be a top priority."
3. Of concern to the SHMC with respect to this proposal is the Notice of Zoning Violation - Order to Cease and Desist issued to the Applicant on July 16, 2012 by the City's Zoning Enforcement Officer for failure to comply with the above mentioned Condition of Approval No. 7, the same condition from which the Applicant hereby seeks release. The SHMC is aware that the Applicant's appeal of this Notice and Order to the Zoning Board of Appeals was denied, and that the Applicant is currently challenging the enforceability of Condition No. 7 in a pending legal proceeding before the Connecticut Superior Court.
4. In accordance with Policy 1.4.9 of the Harbor Management Plan directing the SHMC to consider if there is any enforcement action pending for violations of law at the site of a proposed action being reviewed by the SHMC, the SHMC believes that it is inappropriate to consider modification of Condition No. 7 until such time as the legality of the Applicant's actions that are the subject of the Cease and Desist Order have been adjudicated and the order complied with should it be upheld by the court.

5. The SHMC reserves its right to continue to review the Applicant's proposal and provide additional comments at such time as it may be modified, additional information is provided, or the proposal is the subject of a public hearing.

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

Respectfully submitted,



Dr. Damian Ortelli
Chairman, Stamford Harbor Management Commission

cc:

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
Harbor Commission Members