

MAYOR
MICHAEL A. PAVIA



**CITY OF STAMFORD, CONNECTICUT
HARBOR MANAGEMENT COMMISSION**

CHAIRMAN
RAYMOND L. REDNISS

VICE CHAIRMAN
JEFFERY SAUNDERS

PAUL ADELBERG

JACK CONDLIN

DR DAMIAN ORTELLI

STUART SOBEL

ROBERT STRADA

MICHAEL PENSIERO, ALTERNATE
ART RUFFLES, ALTERNATE

February 6, 2013

OFFICE OF LONG ISLAND SOUND PROGRAMS PUBLIC HEARING
CONCERNING AN APPLICATION BY WATERFRONT MAGEE, LLC
TO CONDUCT DREDGING AND PLACE FILL AND STRUCTURES
IN THE EAST BRANCH OF STAMFORD HARBOR

RECEIVED

FEB 06 2013

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS

REMARKS BY DR. DAMIAN ORTELLI
SECRETARY, STAMFORD HARBOR MANAGEMENT COMMISSION

My name is Dr. Damian Ortell. I am the Secretary of the Stamford Harbor Management Commission and appear here to speak on their behalf. Other members of the Commission are also present.

Pursuant to the Stamford Code of Ordinances and Connecticut General Statutes, it is the responsibility of the Commission to review all proposals affecting Stamford Harbor so that we may determine the consistency of those proposals with the City's Harbor Management Plan. The Plan was prepared by the Commission, adopted by the Stamford Board of Representatives, and approved by the State of Connecticut. It is the water and waterfront equivalent of Stamford's Master Plan for land-use. The Plan calls for beneficial use of the Harbor, protecting the Harbor's natural environment, and maintaining public safety for all users.

It's our job to transmit our findings and recommendations on any proposal to the appropriate regulatory agencies, including the Department of Energy and Environmental Protection (DEEP) and City agencies such as the Zoning Board. According to the General Statutes, a recommendation of a Harbor Management Commission is binding on any State official making a regulatory decision affecting the Harbor, unless that official can show cause why a different course of action should be taken.

The Harbor Management Plan contains a number of provisions to guide the Commission's review of submitted plans. During our December 18, 2012 meeting, the Commission determined, as part of the DEEP's pre-application process, that the presentation made and the project plans submitted by Waterfront Magee were inconsistent with the Stamford Harbor Management Plan. We also moved to inform the Office of Long Island Sound Programs that those plans, which involve dredging of intertidal areas that have not been dredged previously, are inconsistent with the Plan's policies that call for protecting and restoring intertidal resources. I have a copy of the letter which transmitted these findings and which I will submit for the record of tonight's hearing.

As with all proposals that come before the Commission, we informed the Office of Long Island Sound Programs that we reserve our right to re-evaluate the Waterfront Magee proposal at such time as the proposal may be modified or when additional information may become available. We are aware that additional information has already been submitted and that more will be forthcoming during, and perhaps after, this hearing.

At this time I'd like to summarize three basic issues and concerns that have been raised by members of the Harbor Management Commission.

First, the Commissioners are concerned that the application submitted to the Office of Long Island Sound Programs was incomplete and did not meet all of the standards established by the DEEP, and therefore should not have been processed.

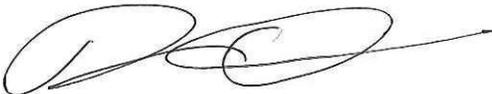
Second, the Applicant has asked the DEEP and the Commission to review the submission for dredging and filling of aquatic areas, and other construction work needed to develop a boatyard at 205 Magee Avenue, as a stand-alone proposal. The Commissioners are concerned that the proposal is being put forth as an alternative to re-establishing a boatyard on another property owned by the Applicant. This intent, although not stated in the Applicant's submission, has been expressed by the Applicant during public meetings and in printed statements. A review under those circumstances will be quite different than a review as a stand-alone project.

Third, the Commissioners are concerned with the speed at which the Waterfront Magee proposal is being processed by the Office of Long Island Sound Programs. The application was received by OLISP on December 4, 2012, a notice of tentative approval was issued on January 6, 2013, a public hearing is being held tonight, February 6th, and it has been announced that public comments will only be accepted until February 13th. Members of the Commission are concerned that this accelerated schedule does not allow sufficient time for proper review of the proposal, including consideration of the public comments from tonight's public hearing. The next regularly scheduled meeting of the Commission will be on February 19, after the comment period is scheduled to close.

In conclusion, I wish to inform the Hearing Officer that the Commission is hereby making a formal request for an extension of the comment period of at least ten days so that we may properly review the application in light of the additional information submitted to OLISP after our initial review, together with that which has been presented here tonight. Please understand that in conducting reviews of proposed projects, we strive for fairness and consistency, and strongly believe that every applicant should be held to the same standards.

Thank you for the opportunity to speak.

Respectfully submitted,



Dr. Damian Ortelli, Secretary
Stamford Harbor Management Commission



ATTACHMENT E: HARBOR MANAGEMENT COMMISSION DEP PERMIT CONSULTATION FORM

You need to complete and submit this form only if your town has a Harbor Management Commission.

To the applicant- Prior to the submission of your permit application to the Connecticut Department of Environmental Protection- Office of Long Island Sound Programs (DEP- OLISP), please complete Part I and submit this form to your local harbor management commission (contact the town for the appropriate contact person) with a location map of your site and project plans. Once the commission returns the completed form to you, please submit it along with your permit application to the DEP.

Part I: To be completed by APPLICANT

1. List applicant information.

Name: **Waterfront Magee, LLC**

Mailing Address: **100 Washington Blvd., Suite 200**

City/Town: **Stamford**

State: **CT**

Zip Code: **06902**

Business Phone: **203.644.1588**

ext.

Fax:

Contact Person: **John Freeman**

Title: **General Counsel**

Email: **JFreeman@Harborpt.com**

2. List engineer/surveyor/agent information.

Name:

Mailing Address:

City/Town:

State:

Zip Code:

Business Phone:

ext.

Fax:

Contact Person:

Title:

Service Provided:

3. Site Location:

Street Address or Location Description: **205 Magee Avenue**

City/Town: **Stamford**

State: **CT**

Zip Code: **06902**

Tax Assessor's Reference: **Map 134**

Block 25

Lot A

4. Are plans attached? Yes No If Yes, provide date of plans: **11/2/12**

5. Provide or attach a brief, but thorough description of the project: **See Application Report.**

Part II: To be completed by HARBOR MANAGEMENT COMMISSION

This consultation form is required to be submitted as part of an application for a Structures, Dredging & Fill permit (section 22a-361 CGS) and/or Tidal Wetlands permit (section 22a-32 CGS) to the DEP- OLISP. The application has not yet been submitted to the DEP. Please review the enclosed materials and determine whether the project is consistent or inconsistent with your local Harbor Management Plan. You may also provide comments or recommendations regarding the proposal. Should you have any questions regarding this process, please call DEP-OLISP at (860) 424-3034 to speak with the analyst assigned to the town in which the work is proposed. Please return the completed form to the applicant.

HARBOR MANAGEMENT COMMISSION DETERMINATION:

Check one of the following:

- The Commission has determined that the work as described in Part I of this form and attachments is **CONSISTENT** with the harbor management plan.
- The Commission has determined that the work as described in Part I of this form and attachments is **INCONSISTENT** with the following section of the harbor management plan:

COMMENTS/RECOMMENDATIONS (or check here if attached:):



Signature of Commission Representative

12/20/12

Date

Dr. Damiano Ortelli

Print Name of Commission Representative

Secretary

Title

MAYOR
MICHAEL A. PAVIA



CITY OF STAMFORD, CONNECTICUT
HARBOR MANAGEMENT COMMISSION

CHAIRMAN
RAYMOND L. REDNISS

VICE CHAIRMAN
JEFFERY SAUNDERS

PAUL ADELBERG

JACK CONDLIN

DR DAMIAN ORTELLI

STUART SOBEL

ROBERT STRADA

MICHAEL PENSIERO, ALTERNATE
ART RUFFLES, ALTERNATE

December 20, 2012

John Freeman, Esquire
Waterfront Magee, LLC
100 Washington Boulevard, Suite 200
Stamford, Connecticut 06902

Subject: Application submitted by Waterfront Magee, LLC for work in the Stamford Harbor Management Area

Dear Attorney Freeman:

The Stamford Harbor Management Commission (SHMC) has reviewed an application report submitted by Waterfront Magee, LLC (the applicant) concerning the proposed project at 205 Magee Avenue that would involve dredging, filling of aquatic areas, and placement of in-water structures in the East Branch of Stamford Harbor. Our review was conducted for the purpose of preliminarily determining the consistency of the submitted plans with the Stamford Harbor Management Plan.

The plans were submitted in accordance with the coastal permitting process and requirements of the Connecticut Department of Energy and Environmental Protection's Office of Long Island Sound Programs (OLISP). It is a requirement that applications submitted to the OLISP include a completed "Harbor Management Commission Consultation Form"

The SHMC considered the proposal during its meeting of December 18, 2012 at which time the following chronology was considered:

1. The application report was submitted on or about November 9, 2012 along with a request that the SHMC complete and sign the required "Harbor Management Commission Consultation Form."
2. The SHMC considered the applicant's proposal during its November 20, 2012 meeting at which time several issues concerning the proposal were discussed. As a result of the unresolved nature of those issues and the complexity of the proposal, the SHMC could not **take** action on the proposal and, therefore, did not complete or sign the "Harbor Management Commission Consultation Form."
3. Following its November 20 meeting, the SHMC informed the OLISP that the SHMC was not able to determine, during that meeting, the consistency of the applicant's proposal with the Harbor Management Plan. In addition, the SHMC informed the OLISP that it would continue to consider the applicant's proposal during the SHMC's December 18, 2012 meeting at which time it would attempt to render a determination. This information was transmitted to the OLISP in a letter dated November 26, 2012. A copy of that letter was provided to the applicant.
4. On or about December 4, 2012, the applicant filed an application with the OLISP for an OLISP Permit to dredge, fill aquatic areas, and place in-water structures as shown on the plans provided by the

applicant to the SHMC. That application was filed without inclusion of a completed and signed "Harbor Management Commission Consultation Form."

5. On December 18, 2012, the SHMC learned that the applicant's application has been preliminarily reviewed by the OLISP and deemed insufficient for processing because it does not contain specific information identified by the OLISP.

The SHMC continued to consider the applicant's proposal during the SHMC's meeting of December 18, 2012. Following significant discussion, the SHMC approved a motion to find the applicant's project plans as submitted to the SHMC inconsistent with the Stamford Harbor Management Plan, and to specifically inform the OLISP that the plans, which involve dredging of intertidal areas that have not been dredged previously, are inconsistent with Harbor Management Plan policies for protecting and restoring intertidal resources. Those policies include:

The ecological values of intertidal resources, including values related to fish and wildlife habitat, nutrient productivity, water quality functions, and floodwater storage and buffer, should be protected. (Policy 4.4.1 on page 6-27)

Consistent with city, state, and federal regulations, new boat basins, navigation channels, turning basins, fairways, and mooring/anchorage areas should not be dredged in viable and productive intertidal resource areas, including any significant shellfish resource areas that may be designated by the Stamford Shellfish Commission, unless adverse impacts have been avoided or otherwise mitigated to the greatest extent possible. (Policy 4.4.2 on page 6-27)

As with all proposals that come before the SHMC, please be advised that the SHMC reserves its right to re-evaluate the applicant's proposal and its consistency with the Harbor Management Plan at such time as it may be modified or when additional information concerning the proposal may become available.

Respectfully submitted,



Dr. Damian Ortelli, Secretary

cc: Ms. Kristen Bellantuono, OLISP; Jack Condlin, Application Review Committee; Frank Fedeli, Stamford Office of Operations; Ms. Diane Ray, U.S. Army Corps of Engineers; Mr. Brian Thompson, OLISP