

February 8, 2013

Kenneth M. Collette
Adjudication Officer
Environmental Protection – Office of Adjudications
79 Elm Street
Hartford, CT 06106-5127

Re: Application/Permit 201207377- KB
Waterfront Magee, LLC, Stamford Boat Works

Dear Mr. Collette:

I would like to expand on the points that I made at the February 6, 2013 hearing regarding the insufficiency of Application/Permit 201207377-KB for a project at 205 Magee Avenue and my request to reject the application. I would like to enter the attached audio clip and information below into the public record:

Violation of DEEP regulations; No Proof of Rights to City Land or Local Consent of Project

- **Application does not conform to Section 22a-39-5.2 of DEEP regulations:** The Letter of Intent, according to the City of Stamford’s Corporation Counsel Joseph Capalbo, grants no rights, providing further testament to the misrepresentation of those rights by the applicant.

Attached to this email is a very brief **audio clip of Mr. Capalbo** speaking last week to the Land Use Committee of the Stamford Board of Representative, which questioned the mayor’s authority to issue the LOI and the intent of the LOI. Mr. Capalbo contends that the intent was to begin the local zoning/land use approval process, not to grant land rights.

Section 22a-39-5.2 (b) of DEEP regulations, “Information required on applications”, requires “written consent to the proposed activity set forth in the application” by the owner if applicant is not the owner of the property. The 205 Magee Avenue application does not conform to regulations or meet the conditions of the Dec. 14 Notice of Insufficiency.

- **Proof of rights to City land:** The only acceptable proof of the transfer of land rights are a resolution adopted by the Stamford Board of Representatives (or a public referendum) and a legally binding agreement filed in the Land Records.
- **No proof of Mayor’s authority:** The letter of intent (LOI) submitted by Mr. Freeman provided no proof of the Mayor’s authority to sign it or to negotiate the matter on behalf of the City. This should be a pre-requisite for determining the legality of it.
- **Riparian/littoral rights:** The **entire** area where the applicant proposes dredging, filling and constructing docks, gangways, and a boat lift is part of approximately 4.8 acres of City-owned park land/open space that **includes 1.51 acres of riparian/littoral area**.

Any potential transfer of property rights would also have to address the City’s littoral/riparian rights, not just the small land area associated with/next to the boat lift well that Attorney Freeman pointed to in his presentation.

According to the City charter the transfer of these areas and rights would have to be accompanied by the creation of comparable waterfront park space (in size and value) elsewhere in the City. This is just one of the many hurdles that must be overcome before any rights to the City's land and riparian/littoral area transferred to the applicant.

- **WPCA approval:** The riparian/littoral area where the floating docks and gangways will be placed north of the applicant's property are associated with the City's Water Pollution Control Authority (WPCA) property. The proposed project would encroach on the waterfront area of the WPCA, whose Board has not approved the proposed use.
- **Does not meet Zoning requirements:** In that a portion of the land is open space/park land and the local Zoning approval process for the project has not even begun, the applicant cannot claim that it meets zoning requirements or that it has received the City's concurrence to perform the proposed work (per John Freeman's Dec. 13 and Dec. 20th emails to DEEP.)

Permitting process violates DEEP regulations

- The permitting process has violated the DEEP's own permitting guidelines and regulations:
 - The applicant never fulfilled the requirements of its Notice of Insufficiency (NOI) and thus the permit should have been denied, not allowed to proceed to the Technical Review and Tentative Determination phases. The application has not yet been issued the requisite "Notice of Sufficiency".
 - On January 17th, the applicant submitted a toxicity report that was requested in the Dec.13 NOI. This submission both falls outside the requisite 30 days to respond to the NOI and did not receive the subsequent "Technical Review" by DEEP staff.
 - The hearing process did not fall within the requirements of **Section 22a-39-5.6.e of DEEP regulations:**
 - *All public hearings shall commence not sooner than 30 days nor later than 60 days after the receipt of a complete application.*

Aside from the false, misleading and incomplete information provided by the applicant, the entire process for considering this application to-date has violated the DEEP's own permitting standards, guidelines, and regulations.

I hope that these factors will weigh heavily on the hearing officer's final opinion.

I hereby reaffirm my request to reject application/permit 201207377-KB

Sincerely,

Cynthia Reeder
(submitted electronically without signature)