



205 Magee Avenue



**WATERFRONT MAGEE, LLC
STAMFORD BOATWORKS
DEEP APPLICATION 20120737-KB**

PUBLIC HEARING

FEBRUARY 6, 2012

RECEIVED

FEB 06 2013

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS

Save Our Boatyard



Thank you Attorney Collette and DEEP staff for giving the public a chance to speak tonight.

My name is Maureen Boylan, the Founder of Save Our Boatyard, a grass-roots group of boating and non-boating citizens along the east coast who are calling for Building Land Technology Corp, better known as BLT, to rebuild a working boatyard and marina in the Stamford Harbor that it demolished last year.

Before anyone asks how the demolished boatyard relates to this application I'd like to point out that BLT is the parent company of both Waterfront Magee and Strand/BRC, the company that destroyed the boat yard at Harbor Point.

Carl Kuehner, the signer of the Magee Avenue application is a principal and controlling officers of these entities. Attorney Freeman is employed by and the general counsel for these entities.

DEEP Permit Application

- **Part III, Item 9:**

- Discuss the alternatives to the proposed project which were considered and indicate why they were rejected.

- **Instructions:**

- Provide an analysis demonstrating whether there are any feasible alternatives that would further reduce the proposed encroachment in public trust waters ... Alternatives may include but are not limited to:
 - **Alternative locations for the proposed work including the use or purchase of an alternate site**

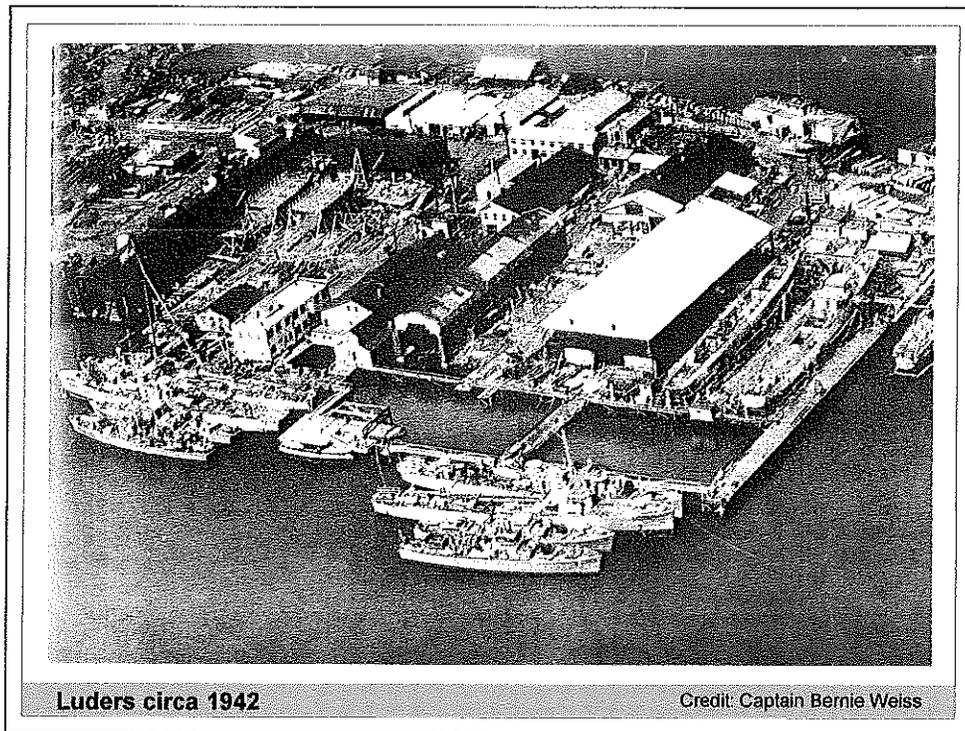
The other important connection between the former boatyard site and this application lies in Part III, Item number 9 of the permit application form, which asks the applicant to identify alternatives to the proposed project, **including the use or purchase of an alternate site.**



Up this narrow channel is the 3.5-acre site where the applicant proposes building a small boat yard next to a waste treatment plant.

On this 14-acre peninsula is the site of demolished boat yard.

It was Stamford's "last working boat yard".

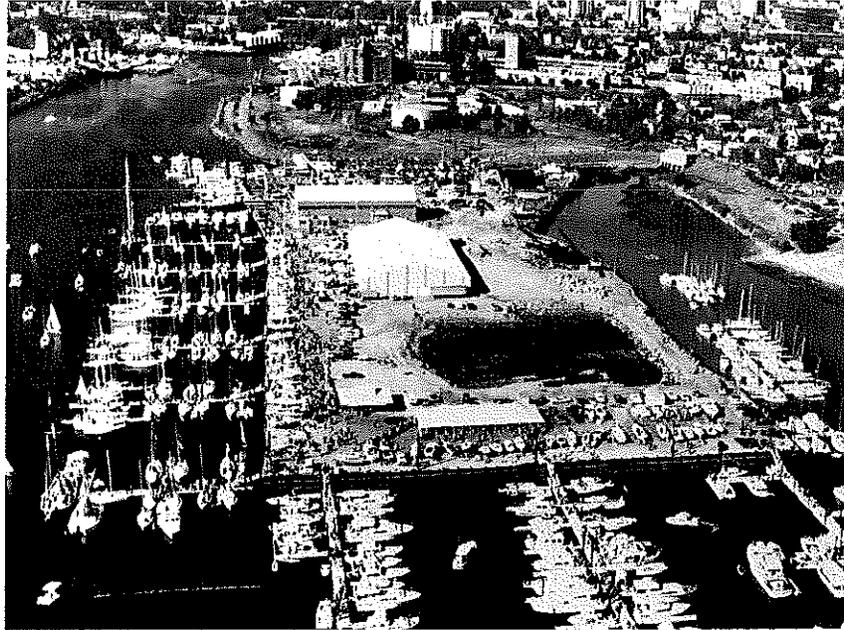


I'd like to take moment to provide a quick history on the site, which has supported Stamford's maritime industry for hundreds of years.

During WWII Luder's Ship Building Co. built and repaired vessels such as minesweepers, sub chasers, destroyers, and tugboats here.

In addition to Luder's, there were 8 other working boatyards in the harbor at this time. and with that as many as 700-800 jobs with the skill sets in the marine industry. Now there are no boatyards left due to pressure of developers!

A busy place! And certainly a water-dependent use of the property.



Marina America circa 1970

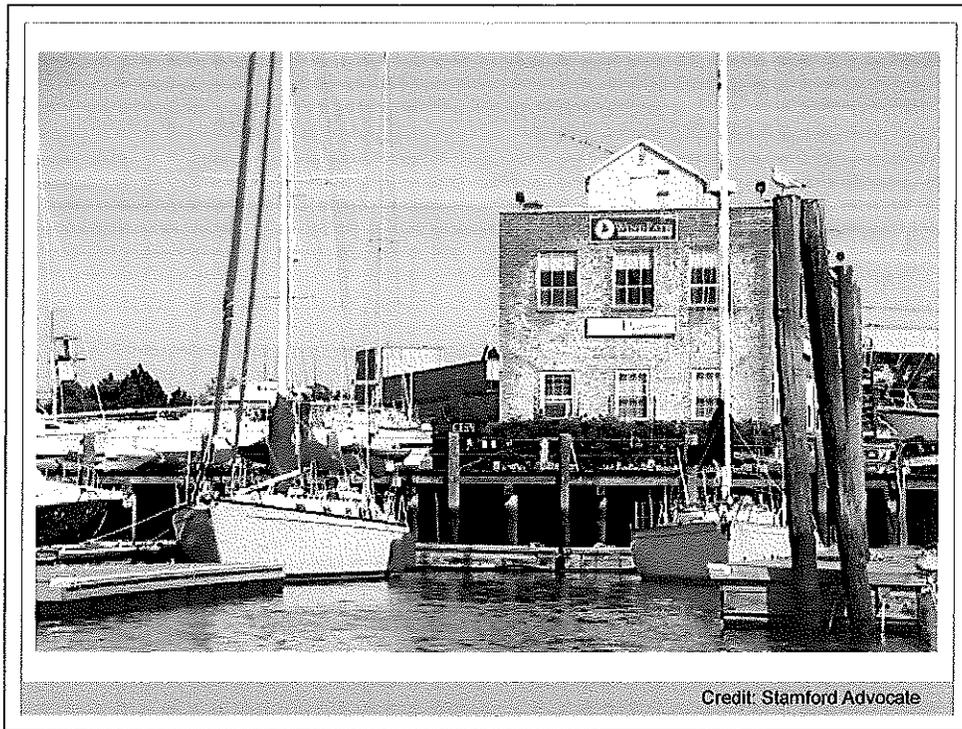
Credit: Captain Bernie Weiss

About 1970, the construction and repair projects of Luder's were replaced by Marina America servicing privately owned recreational vessels.

By this time most of property had been bulk-headed and backfilled and expanded to approximately 14 acres.

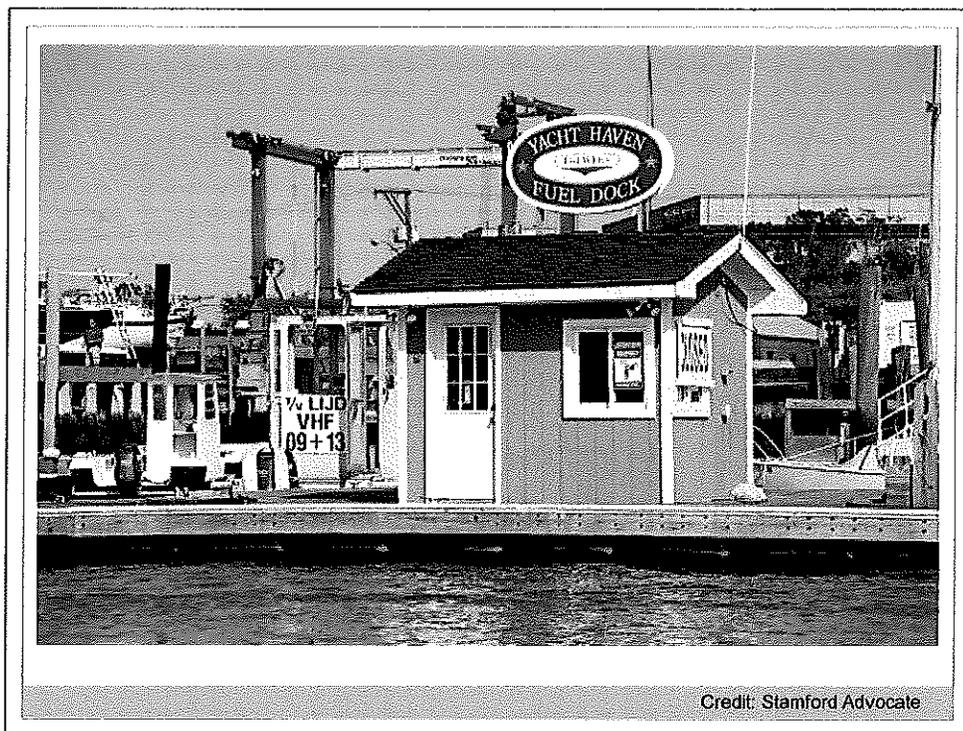


It was home to a marina and a full-service working boatyard, operated by Brewer's Yacht Haven, a well-known and experienced operator. It's location and the accessible deep water channel for large sailboats and yachts to be serviced, hauled and repaired made this facility an extreme part of water dependant usage. Not to mention the location for our marine and fire units should distressed vessels be in need of an emergency, this site was the most viable facility and affordable.



In addition, this building was home to Wind Path and Prestige Yacht Sales. This building was mysteriously burnt down due to asbestos!

There were 14 buildings listed on this site that provided services for the following, SOME of which will NOT be replaced at the 205 Magee Ave site: Prestige Yacht Sales, Wind Path, ZSails, BYH Yacht Sales
Fuel, wood working, fiber glass repair shop, sail repair shop, paint shop, machine shop, rigging shop, mechanical, winter storage for 420 boats low average, lifts, hauling and pump-out services. Gone are the showers, heads and storage bins for sailors equipment.



Credit: Stamford Advocate

This facility not only serviced the Stamford community but neighboring harbors in Greenwich, Darien, Norwalk, and boaters from Annapolis MD, to Newport, R.I.

According to one study done by the City of Stamford, Brewers was one of the largest pleasure craft boatyards and marinas on the entire East Coast.

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ENVIRONMENTAL PROTECTION

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David C. Eby
Commissioner

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Connecticut's Clean Marinas



Certified Facilities

Certified Connecticut Clean Marinas are recognized by the DEEP for their voluntary efforts to operate at standards implemented during the following:

27. Brewer Yacht Haven Marina, Stamford

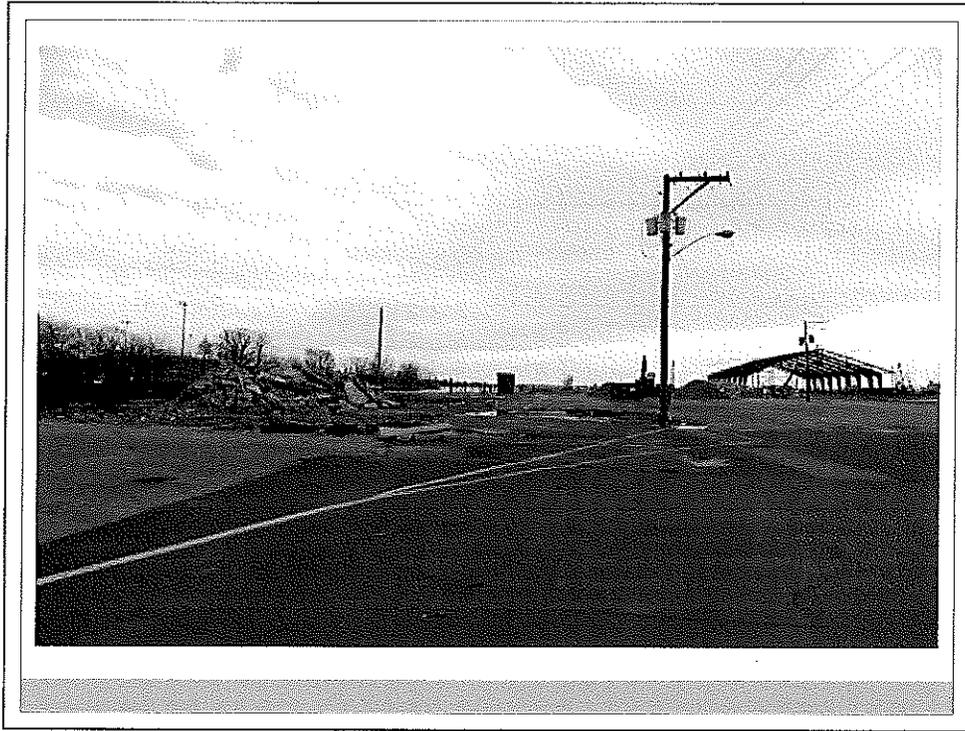
SH Lease Corp., d/b/a Brewer Yacht Haven Marina (BYHM), received Clean Marina certification on December 4, 2009. This facility is a full-service marina and boatyard that provides rental slip space and moorings, off-season boat storage, boat repair, maintenance and mechanical services, boating equipment sales, and pump-out services. Brewer Yacht Haven Marina also provides marina patron amenities such as showers and heads. The facility has a fuel service dock and nineteen (19) floating docks which provide approximately 630 boat slips.



The facility is located on approximately 14 acres of land located on a peninsula in Stamford Harbor, approximately one mile inland from Long Island Sound. Dustless sanders and tarps are required when debris-producing maintenance is conducted; all chemicals are stored under cover; and the use of pavement is limited in the yard. All dumpsters are kept covered and a pet waste station is provided.

Brewer's Stamford operation even received the DEEP's Clean Marinas Certification (as you can see here on the DEEP's own website)

The facility has a fuel service dock and 19 floating docks which provide approximately 630 boat slips on land and 260 in water slips.



Then, BLT cancelled Brewer's lease in 2011 and destroyed everything to the ground, all 14 buildings.



And it did so without notifying the local Zoning officials.

Cease and Desist



- Strand/BRC Group LLC (BLT) was ordered and directed:

"TO CEASE AND DESIST WHOLLY IN THESE VIOLATIONS BY SUBMISSION OF A COMPREHENSIVE SITE PLAN TO RE-ESTABLISH A WORKING BOATYARD/MARINA WITHIN 10 DAYS OF RECEIPT OF THIS NOTICE, HOWEVER DELIVERED"

In response, the City issued a Cease and Desist Order on July 16, 2012 calling for BLT to submit a comprehensive site plan for re-establishing the boatyard and marina. This is why we are here today to oppose the 205 Magee Ave application as an alternative to what we had previously as a working boatyard. BLT made a promise to the city's Zoning Board officials and the tax payers to develop, operate, and maintain a working boatyard at the 14 acre site and they lied, they broke their promise according to the GDP regulations and are in violation!

Cease and Desist



- **Demolition Violated**
 - Stamford Zoning Regulations
 - **Sec. 9-J-4-d addressing retention of water-dependent uses**
 - Connecticut General Statutes and the Coastal Management Act
 - **Section 22a-108 and as they relate to the retention of existing water-dependent uses**
 - General Development Plan for the property
 - **Stamford Land Records Vol. 14118, page 1, Map 14**

The Cease and Desist Order cites four serious violations of:

- Stamford Zoning Regulations
- The Connecticut Coastal Management Act and
- The General Development Plan for the site, which was agreed to by the owner, approved by the Zoning Board and filed in the land records

Cease and Desist



- **Filed in Stamford Land Records**
 - Vol. 10482, page 349
- **Imposed fines and sanctions set forth in the Coastal Management Act and other Ct. General statutes**
- **Remains Still in effect**
- **Omitted on Form H: Applicant Compliance Information**

The Order, which also is filed in the Stamford land records, imposes several fines and violations of the CAM Act as well which remains in effect today.

However, the applicant failed to include this violation with its compliance information on Form H of its permit application, which, according to the instruction sheet, requires that it also provide a record of violations and enforcement actions for principals and parent companies. This was not done.

General Development Plan

- **Mandates that the owner:**
 - “...insure the continued operation of the 14 acre boatyard as a working boatyard and full service marina
- **And that:**
 - “...there will be no reduction in current capacity, facilities, uses or services.”

The General Development plan, consistent with Zoning ordinances and the Coastal Management Act, calls for retaining a waterfront use that cannot be replicated elsewhere in Stamford today:

It requires the property owner to “insure the continued operation of the 14-acre boatyard as a working boatyard and full service marina”

It also says:

“there will be no reduction in current capacity, facilities, uses or services”

Applicant's Response

- An appeal, still pending
- No boatyard plans
- Application create a non-water dependent use, a commercial office building, on the site
- Attempt to replace one of the largest boatyards in the northeast with a small boat yard at 205 Magee Avenue


702_0013.MP3

In defiance of the Cease and Desist, which is still in effect, BLT did not present plans to the local Zoning Board to re-establish the required water dependent use. Instead, it announced that it planned to build an 850,000 square office building. It made a press announcement before even letting local officials or Boards know of its intent. Now the governor and the applicant say the boatyard can be replicated at Magee Avenue.

As a side note, none of the local Boards and commissions ... Planning, Zoning, Environmental Protection, Harbor Commission have yet reviewed or approved plans to the office building plans at the Brewer's site or a boatyard at Magee Avenue. They are awaiting a response to the Cease and Desist.

Reality



- Magee Avenue site is inconsistent with the Coastal Management Act, per Stamford's Harbor Management Commission
- Magee Avenue site does not meet the requirements to re-establish the boat yard and marina services at the previous 14 acre location
- Applicant failed to reveal the Cease and Desist Order violation on its compliance form
- Applicant failed to explain why it did not consider the Harbor Point peninsula as an alternative

Reject Application

- Applicant provided incomplete and misleading information
- The former Brewer's site presents a feasible and attractive alternative
 - Avoids the need to disturb recently remediated tidal wetlands
 - Avoids need to encroach on a City park at 205 Magee Avenue
 - Meets zoning and coastal management requirements

SAVE OUR BOATYARD!

I am requesting that the application be rejected because the applicant provided incomplete and misleading information.

The applicant owns another property that is better suited to the boat yard operation and mitigates the need to disturb the east channel and encroach on City property.

We at Save Our Boatyard object to destroying the city Park at 205 Magee Ave. and concur with the City's Zoning Dept. that calls for BLT to Re-Build the boatyard on the 14 acre peninsula.



INSTR # 2012019027
 VOL 10482 PG 349
 RECORDED 07/24/2012 01:48:46 PM
 DONNA M. LOGLISCI
 CITY & TOWN CLERK STAMFORD CT
 BLOCK

25, 87, 89, 96, 96

IN RE: Strand/BRC Group LLC : CITY OF STAMFORD
 100 Washington Blvd, Suite 200 : OFFICE OF ZONING ENFORCEMENT
 STAMFORD, CT 06902 : July 16, 2012

NOTICE OF ZONING VIOLATION - ORDER TO CEASE AND DESIST

TO: Strand/BRC Group LLC
 100 Washington Blvd, Suite 200
 STAMFORD, CT 06902

AS ZONING ENFORCEMENT OFFICER OF THE CITY OF STAMFORD I HEREBY NOTIFY YOU, AS FOLLOWS:

1. Section 6-40-19 of the City of Stamford Charter (1987) concerns zoning enforcement and provides that the Zoning Enforcement Officer shall enforce all planning and zoning ordinances and regulations.

2. Article V, Section 16A of the Zoning Regulations of the City of Stamford concerns "Administration and Enforcement". It provides:

It shall be the duty of the Zoning Enforcement Officer, as authorized in Section 558 of the City charter (1977) to enforce the provisions of these Regulations and make such orders and decisions as may be necessary to carry out the intent thereof.

3. Article V, Section 16B of the Zoning Regulations concerns "Enforcement and Penalties". It provides:

The Zoning Enforcement Officer, as authorized, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair or conversion of any building or structure, or the unlawful use of land, to restrain, correct or abate such violations, to prevent occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises. Whenever such acts shall be in contradiction to the provisions of these Regulations, penalties shall be as provided by the General Statutes.

4. Section 8-12 of the Connecticut General Statutes concerns the procedure to be followed in the event of a zoning violation. It provides:

Submitted by M. Boylan 7/16/12

If any building or structure has been erected, constructed, altered, converted or maintained or any building, structure or land has been used, in violation of any provision of this chapter or of any bylaw, ordinance, rule or regulation made under the authority conferred hereby, any official having jurisdiction, in addition to other remedies, may institute an action or proceeding to prevent such unlawful erection, construction, alteration, conversion, maintenance or use or to restrain, correct or abate such violation or to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

5. Section 9-J-4-d of the Stamford Zoning Regulations states that if a site contains a viable water dependent use that such use shall be retained. This ordinance mirrors similar language in the Connecticut Coastal Management Act.

6. Section 22a-108 of the Connecticut General Statutes concerns the procedure to be followed in the event of a violation of the Coastal Management Act. It provides in part:

Violations. Any activity within the coastal boundary not exempt from coastal site plan review pursuant to subsection (b) of section 22a-109, which occurs without having received a lawful approval ... or which violates the terms or conditions of such approval, shall be deemed a public nuisance. Municipalities shall have the authority to exercise all enforcement remedies legally available to them for the abatement of such nuisances including, but not limited to, those under Section 8-12.

7. Strand/BRC Group LLC is the record owner of the premises located at Dyke Lane and at the foot of Washington Blvd as described in Ex. A (deed recorded June 25, 2005 in the Stamford Land Records at Vol 8121 pages 39-47), and also referred to as the 14 acre boatyard, in Stamford, Connecticut, and hereinafter referred to as the "premises". The premises are in a flood plain and were occupied by a boatyard known as Brewer's Yacht Haven Boatyard and Marina. The boatyard was the last in Stamford and likely the largest - and one of only a few remaining -- in the Northeast. It had lifts for hauling boats, full repair service and winter storage.

8. The aforesaid premises are located within the municipal coastal area boundary, which requires approval of a Coastal Site Plan review by the Stamford Zoning Board, as well as the South End Redevelopment District-South (SRD-S). Both require an application for Coastal Site Plan Review before any alterations to the property, including the disturbance, removal or deposition of any soils is undertaken.

9. Strand/BRC Group LLC does business with an address at 100 Washington Blvd, Suite 200, Stamford, CT 06902.

10. The Stamford Zoning Board approved an application by a predecessor in title to Strand/BRC Group LLC for a General Development Plan (GDP) which was recorded on the Stamford Land Records (Vol. 14118 Page 0001; Map No. 14118). Condition #7 of the approved GDP states as follows:

Phase I Final plan submittal shall include conceptual plans to improve and insure the continued operation of the 14 acre boatyard as a working boatyard and full service marina. Unless specifically approved by the Zoning Board and any required state and federal authorities, there will be no reduction in any current capacity, facilities, uses or services, insuring the continued operation of this important water dependent use for so long as the balance of the SRD-S Zoning Tract derives any benefits of the General Development Plan approval, as may be amended.

11. The premises are located in the South End Redevelopment South District (SRD-S). This design district seeks to give highest priority and preference to water-dependent uses and to the protection and encouragement of existing and new water-dependent uses. It was enacted to protect the Brewer's Yacht Haven Boatyard and Marina and to promote new public access opportunities.

12. The General Development Plan for Harbor Point, initially approved on June 25, 2007 (Appl. 206-57) and amended on June 2, 2008 (Appl. 208-05), authorizes a total development of 3,000 residential units and 512,000 square feet of commercial use on each of nineteen numbered development blocks (C1 – C8, S1 – S4 and P1 – P6). The boatyard property is shown as an unnumbered parcel and labeled "Maintain Existing Boat Storage Operations".

13. The 14 acre boatyard property was included within the SRD-S zone to establish additional development value of 700 +/- residential units coupled with the requirement that all of this development value be transferred to other non-flood prone sites within the Harbor Point development, to remove all redevelopment incentive and to preserve the existing boatyard and marina operations.

14. Strand/BRC Group LLC purchased the 14 acre boatyard with knowledge of zoning regulation 9-J-4-d and Condition #7 of the GDP that requires the maintenance of the boatyard.

15. Strand/BRC Group LLC in mid December 2011 secured a demolition permit and proceeded to remove all ten (10) buildings from the boatyard property, substantially completing demolition by January 23, 2012.

16. Strand/BRC Group LLC has terminated the boatyard use and dismantled the physical infrastructure necessary to conduct such use, without notice to the Zoning Board of the intent to re-establish the boatyard.

17. The Zoning Board by resolution dated January 23, 2012, ordered Strand/BRC Group LLC to cease all construction activities on the boatyard property and to perform no alterations to the property, including removal or deposition of any soils, until the Zoning Board has received and approved an application pursuant to Section 9-J-4-d of the SRD-S regulations and an application for Coastal Site Plan Review, and to submit a plan to "reestablish a working boatyard/marina", as required by the Harbor Point zoning approval.

18. On March 5, 2012 Strand/BRC Group LLC stated that it would submit a comprehensive site plan to re-establish a working boatyard/marina within one hundred twenty (120) days (July 3, 2012).

19. On March 9, 2012 Strand/BRC Group LLC submitted a Coastal Site Plan Review application (CSPR-909) to establish an interim boatyard facility for a 2.2 acre portion of the original boatyard property to be maintained and operated until such time as plans are approved for a comprehensive full service boatyard/marina on the property. CSPR-909 was subsequently approved by the Zoning Board on April 2, 2012 pursuant to a public hearing.

20. On May 21, 2012, the Zoning Board by resolution again restated the same preambles as in January 23, 2012 and stated that the Harbor Point development, absent an approved comprehensive site plan to reestablish the mandated comprehensive full service boatyard/marina, continues to be out of compliance with the approved General Development Plan (Condition #7), and stated that the Zoning Board would request a Cease and Desist Order be issued to ensure compliance with the approved General Development Plan (Condition #7), if a comprehensive site plan for a full service boatyard/marina is not filed with the Zoning Board by June 29, 2012.

21. At its meeting on July 3, 2012, the Zoning Board noted that no comprehensive site plan for a full service boatyard/marina was filed with the Zoning Board by June 29, 2012.

22. The violations of Section 8-12, Zoning Regulation Section 9-J-4-d of the SRD-S regulation, the Coastal Management Act, and Condition #7 of the GDP approved on June 25, 2007 and amended on June 2, 2008 (Appl. 208-05, which required that the 14 acre boatyard would be continued as a working boatyard and full-sized marina) are as follows:

Termination of the lease of the boatyard operator, Yacht Haven West by October 31, 2011

Demolition and removal of all ten (10) buildings from the boatyard property, removing the boatyard and its facilities by January 23, 2012

Conducting the demolition and removal of these structures without a Coastal Site Plan Review application or permit.

Failure to submit a comprehensive site plan to re-establish a working boatyard/marina within the time limit of June 29, 2012.

23. You, Strand/BRC Group LLC, are therefore ordered and directed by me as Zoning Enforcement Officer of the City of Stamford, pursuant to the powers vested in my office by the statutes of the State of Connecticut and the charter, laws and ordinances of the City of Stamford, **TO CEASE AND DESIST WHOLLY IN THESE VIOLATIONS BY SUBMISSION OF A COMPREHENSIVE SITE PLAN TO RE-ESTABLISH A WORKING BOATYARD/MARINA WITHIN 10 DAYS OF RECEIPT OF THIS NOTICE, HOWEVER DELIVERED.**

24. Your failure or refusal to comply immediately with the aforesaid order will render you liable for the fines, penalties and sanctions set forth in Section 8-12 of the Connecticut General Statutes which include but are not limited to:

- a. A court issued injunction prohibiting you from continuing the aforesaid violation.
- b. A fine of \$250 per day for your willful violation hereof.
- c. A civil penalty of \$2,500 should your violation continue for more than 10 days from the date of this order.
- d. Attorney's fees and costs incurred in bringing an action against you for willful violation of the law and this order. You may also be liable for other damages available under Connecticut law.

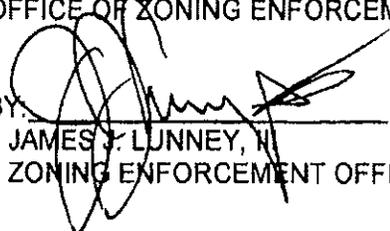
25. Your failure or refusal to comply immediately with the aforesaid order will render you liable for the fines, penalties and sanctions set forth in Coastal Area Management Act, and in particular, Section 22a-108 and 22a-106a of the Connecticut General Statutes, which include but are not limited to:

- a. A court issued injunction prohibiting you from continuing the aforesaid violation.
- b. A fine of \$1000 per each offense, and each day's continuance thereof shall be deemed to be a separate and distinct offense.
- c. Attorney's fees and costs incurred in bringing an action against you for violation of the law and this order. You may also be liable for other damages available under Connecticut law.

26. You are put on notice that a copy of this Cease and Desist order will be placed on the Stamford Land Records and sent to applicable federal and state agencies that are involved in pending applications concerning the premises.

Dated this 16th day of July, 2012.

THE CITY OF STAMFORD
OFFICE OF ZONING ENFORCEMENT

BY: 
JAMES J. LUNNEY, II
ZONING ENFORCEMENT OFFICER

25

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OWNERS RECORDS SECTION TOWN CLERK STAMFORD CT

DEED

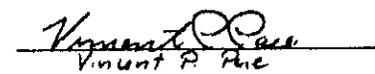
THE CONNECTICUT LIGHT AND POWER COMPANY, a specially chartered Connecticut corporation with offices in Berlin, Connecticut, WESTERN MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with offices in Springfield, Massachusetts, and HOLYOKE WATER POWER COMPANY, a Massachusetts corporation with offices in Springfield, Massachusetts (collectively the "Grantors"), for the consideration of a valuable sum in Dollars received to their full satisfaction from THE STRAND/BRC GROUP, LLC, a Connecticut limited liability company with offices at c/o Arthur Collins Sr., 2001 West Main Street, Suite 175, Stamford, CT 06902 (the "Grantee"), do give, grant, bargain, sell and convey without covenants of title to THE STRAND/BRC GROUP, LLC, its successors and assigns forever, the two parcels of land and appurtenant rights that are located in the City of Stamford, County of Fairfield and State of Connecticut, as described in Schedule A attached hereto and made a part hereof, subject to those matters as listed in Schedule B attached hereto and made a part hereof.

TO HAVE AND TO HOLD the same unto the said Grantee and its successors and assigns forever.

IN WITNESS WHEREOF, THE CONNECTICUT LIGHT AND POWER COMPANY, WESTERN MASSACHUSETTS ELECTRIC COMPANY, and HOLYOKE WATER POWER COMPANY, acting herein by Roger C. Zaklukiewicz, their Vice President - Transmission Technical Support, hereunto duly authorized, have caused their names be signed this 20th day of June, 2005.

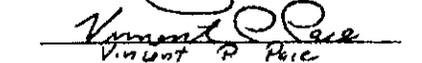
Signed and delivered in the presence of:

THE CONNECTICUT LIGHT AND POWER COMPANY


Robert S. Baine

Vincent P. Rice

By Roger C. Zaklukiewicz
Roger C. Zaklukiewicz
Its Vice President - Transmission
Technical Support

WESTERN MASSACHUSETTS ELECTRIC COMPANY


Robert S. Baine

Vincent P. Rice

By Roger C. Zaklukiewicz
Roger C. Zaklukiewicz
Its Vice President - Transmission
Technical Support

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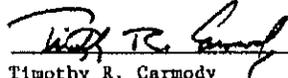
STATE OF CONNECTICUT)

) ss: Berlin

June 20, 2005

COUNTY OF HARTFORD)

Personally appeared Roger C. Zaklukiewicz as Vice President - Transmission Technical Support of HOLYOKE WATER POWER COMPANY, signer of the foregoing instrument, and acknowledged the same to be the free act and deed of said corporation, and his free act and deed as such Vice President - Transmission Technical Support, before me.



Timothy R. Carmody
Commissioner of the Superior Court
Notary Public

My Commission Expires: _____

{W1359354;2}

- 3 -

~~Book 8121 / Page 41~~

~~Page 9 of 9~~

Schedule A

First Parcel

South Parcel (14 Acres)
Stamford, Connecticut

All that certain piece or parcel of land, together with the buildings and improvements thereon, situated off Dyke Lane in the City of Stamford, County of Fairfield and State of Connecticut, being more particularly bounded and described as follows:

Beginning at a point on the southerly line of land now or formerly of Ponus Yacht Club, Inc. at its intersection with the easterly side of the twenty-five (25) foot Right-of-Way described in Book 363, Page 281 and depicted on Map 932 of the Stamford Land Records (SLR) said point being the following seven (7) courses from the intersection of the westerly side of Dyke Lane with the northerly side of land now or formerly of the City of Stamford and commonly known as "Bateman Way;"

running along said City of Stamford S 59° 28' 56" W a distance of 16.55 feet;

S 79° 37' 06" W a distance of 48.00 feet;

S 59° 28' 56" W a distance of 164.15 feet;

S 69° 49' 00" W a distance of 33.43 feet;

S 20° 33' 54" E a distance of 82.90 feet to the northerly side of land now or formerly of Ponus Yacht Club, Inc.;

running thence along said Ponus Yacht Club, Inc. S 69° 26' 06" W a distance of 218.00 feet to the aforesaid easterly side of the twenty-five (25) foot Right-of-Way;

running thence along said Right-of-Way S 19° 34' 54" E a distance of 99.57 feet to the Point of Beginning;

running thence along said southerly side of Ponus Yacht Club, Inc. and along waters of Stamford Harbor-Long Island Sound, each in part, N 69° 10' 48" E a distance of 118.54 feet and S 20° 48' 47" E a distance of 2.27 feet and N 69° 28' 26" E a distance of 58.585 feet to the northeasterly corner of a bulkhead;

running thence along said bulkhead the following six (6) courses:

S 14° 11' 03" E a distance of 74.686 feet;

S 04° 57' 51" W a distance of 76.606 feet;

S 01° 29' 36" W a distance of 66.654 feet;

{W1359354;2}

- 4 -

~~Book 6124/Page 42~~

~~Page 4 of 9~~

State of Connecticut

SS: Stamford July 16, 2012

County of Fairfield

Then and there, by virtue hereof, the Original,
Notice of Zoning Violation – Order to Cease and Desist

I made service on the with named
Strand / BRC Group, LLC

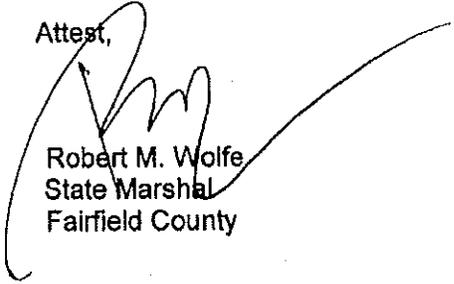
On July 16, 2012, I made service on **Strand / BRC Group, LLC** by leaving a true and attested copy of the Original Notice of Zoning Violation – Order to Cease and Desist, with my doings thereon endorsed,

In the hands of,
David Waters, Strand / BRC Group, LLC, 100 Washington Blvd., Suite 200, Stamford, CT

One such Copy for each of the within named.
The within and foregoing is the Original Notice of Zoning Violation – Order to Cease and Desist, with my doings thereon endorsed.

Process	30.00
Travel	4.00
Copies	14.00
Endors	.80
Serv.	0.20
Sec.	0.00
Post	<u>0.00</u>
Total	49.00

Attest,



Robert M. Wolfe
State Marshal
Fairfield County



INSTR # 2012019027
 VOL 10482 PG 349
 RECORDED 07/24/2012 01:48:46 PM
 DONNA M LOGLISCI
 CITY & TOWN CLERK STAMFORD CT
 BLOCK

25, 87, 89, 96, 96

IN RE: Strand/BRC Group LLC : CITY OF STAMFORD
 100 Washington Blvd, Suite 200 : OFFICE OF ZONING ENFORCEMENT
 STAMFORD, CT 06902 : July 16, 2012

NOTICE OF ZONING VIOLATION - ORDER TO CEASE AND DESIST

TO: Strand/BRC Group LLC
 100 Washington Blvd, Suite 200
 STAMFORD, CT 06902

AS ZONING ENFORCEMENT OFFICER OF THE CITY OF STAMFORD I HEREBY NOTIFY YOU, AS FOLLOWS:

1. Section 6-40-19 of the City of Stamford Charter (1987) concerns zoning enforcement and provides that the Zoning Enforcement Officer shall enforce all planning and zoning ordinances and regulations.

2. Article V, Section 16A of the Zoning Regulations of the City of Stamford concerns "Administration and Enforcement". It provides:

It shall be the duty of the Zoning Enforcement Officer, as authorized in Section 558 of the City charter (1977) to enforce the provisions of these Regulations and make such orders and decisions as may be necessary to carry out the intent thereof.

3. Article V, Section 16B of the Zoning Regulations concerns "Enforcement and Penalties". It provides:

The Zoning Enforcement Officer, as authorized, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair or conversion of any building or structure, or the unlawful use of land, to restrain, correct or abate such violations, to prevent occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises. Whenever such acts shall be in contradiction to the provisions of these Regulations, penalties shall be as provided by the General Statutes.

4. Section 8-12 of the Connecticut General Statutes concerns the procedure to be followed in the event of a zoning violation. It provides:

If any building or structure has been erected, constructed, altered, converted or maintained or any building, structure or land has been used, in violation of any provision of this chapter or of any bylaw, ordinance, rule or regulation made under the authority conferred hereby, any official having jurisdiction, in addition to other remedies, may institute an action or proceeding to prevent such unlawful erection, construction, alteration, conversion, maintenance or use or to restrain, correct or abate such violation or to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

5. Section 9-J-4-d of the Stamford Zoning Regulations states that if a site contains a viable water dependent use that such use shall be retained. This ordinance mirrors similar language in the Connecticut Coastal Management Act.

6. Section 22a-108 of the Connecticut General Statutes concerns the procedure to be followed in the event of a violation of the Coastal Management Act. It provides in part:

Violations. Any activity within the coastal boundary not exempt from coastal site plan review pursuant to subsection (b) of section 22a-109, which occurs without having received a lawful approval ... or which violates the terms or conditions of such approval, shall be deemed a public nuisance.

Municipalities shall have the authority to exercise all enforcement remedies legally available to them for the abatement of such nuisances including, but not limited to, those under Section 8-12.

7. Strand/BRC Group LLC is the record owner of the premises located at Dyke Lane and at the foot of Washington Blvd as described in Ex. A (deed recorded June 25, 2005 in the Stamford Land Records at Vol 8121 pages 39-47), and also referred to as the 14 acre boatyard, in Stamford, Connecticut, and hereinafter referred to as the "premises". The premises are in a flood plain and were occupied by a boatyard known as Brewer's Yacht Haven Boatyard and Marina. The boatyard was the last in Stamford and likely the largest - and one of only a few remaining -- in the Northeast. It had lifts for hauling boats, full repair service and winter storage.

8. The aforesaid premises are located within the municipal coastal area boundary, which requires approval of a Coastal Site Plan review by the Stamford Zoning Board, as well as the South End Redevelopment District-South (SRD-S). Both require an application for Coastal Site Plan Review before any alterations to the property, including the disturbance, removal or deposition of any soils is undertaken.

9. Strand/BRC Group LLC does business with an address at 100 Washington Blvd, Suite 200, Stamford, CT 06902.

10. The Stamford Zoning Board approved an application by a predecessor in title to Strand/BRC Group LLC for a General Development Plan (GDP) which was recorded on the Stamford Land Records (Vol. 14118 Page 0001; Map No. 14118). Condition #7 of the approved GDP states as follows:

Phase I Final plan submittal shall include conceptual plans to improve and insure the continued operation of the 14 acre boatyard as a working boatyard and full service marina. Unless specifically approved by the Zoning Board and any required state and federal authorities, there will be no reduction in any current capacity, facilities, uses or services, insuring the continued operation of this important water dependent use for so long as the balance of the SRD-S Zoning Tract derives any benefits of the General Development Plan approval, as may be amended.

11. The premises are located in the South End Redevelopment South District (SRD-S). This design district seeks to give highest priority and preference to water-dependent uses and to the protection and encouragement of existing and new water-dependent uses. It was enacted to protect the Brewer's Yacht Haven Boatyard and Marina and to promote new public access opportunities.

12. The General Development Plan for Harbor Point, initially approved on June 25, 2007 (Appl. 206-57) and amended on June 2, 2008 (Appl. 208-05), authorizes a total development of 3,000 residential units and 512,000 square feet of commercial use on each of nineteen numbered development blocks (C1 – C8, S1 – S4 and P1 – P6). The boatyard property is shown as an unnumbered parcel and labeled "Maintain Existing Boat Storage Operations".

13. The 14 acre boatyard property was included within the SRD-S zone to establish additional development value of 700 +/- residential units coupled with the requirement that all of this development value be transferred to other non-flood prone sites within the Harbor Point development, to remove all redevelopment incentive and to preserve the existing boatyard and marina operations.

14. Strand/BRC Group LLC purchased the 14 acre boatyard with knowledge of zoning regulation 9-J-4-d and Condition #7 of the GDP that requires the maintenance of the boatyard.

15. Strand/BRC Group LLC in mid December 2011 secured a demolition permit and proceeded to remove all ten (10) buildings from the boatyard property, substantially completing demolition by January 23, 2012.

16. Strand/BRC Group LLC has terminated the boatyard use and dismantled the physical infrastructure necessary to conduct such use, without notice to the Zoning Board of the intent to re-establish the boatyard.

17. The Zoning Board by resolution dated January 23, 2012, ordered Strand/BRC Group LLC to cease all construction activities on the boatyard property and to perform no alterations to the property, including removal or deposition of any soils, until the Zoning Board has received and approved an application pursuant to Section 9-J-4-d of the SRD-S regulations and an application for Coastal Site Plan Review, and to submit a plan to "reestablish a working boatyard/marina", as required by the Harbor Point zoning approval.

18. On March 5, 2012 Strand/BRC Group LLC stated that it would submit a comprehensive site plan to re-establish a working boatyard/marina within one hundred twenty (120) days (July 3, 2012).

19. On March 9, 2012 Strand/BRC Group LLC submitted a Coastal Site Plan Review application (CSPR-909) to establish an interim boatyard facility for a 2.2 acre portion of the original boatyard property to be maintained and operated until such time as plans are approved for a comprehensive full service boatyard/marina on the property. CSPR-909 was subsequently approved by the Zoning Board on April 2, 2012 pursuant to a public hearing.

20. On May 21, 2012, the Zoning Board by resolution again restated the same preambles as in January 23, 2012 and stated that the Harbor Point development, absent an approved comprehensive site plan to reestablish the mandated comprehensive full service boatyard/marina, continues to be out of compliance with the approved General Development Plan (Condition #7), and stated that the Zoning Board would request a Cease and Desist Order be issued to ensure compliance with the approved General Development Plan (Condition #7), if a comprehensive site plan for a full service boatyard/marina is not filed with the Zoning Board by June 29, 2012.

21. At its meeting on July 3, 2012, the Zoning Board noted that no comprehensive site plan for a full service boatyard/marina was filed with the Zoning Board by June 29, 2012.

22. The violations of Section 8-12, Zoning Regulation Section 9-J-4-d of the SRD-S regulation, the Coastal Management Act, and Condition #7 of the GDP approved on June 25, 2007 and amended on June 2, 2008 (Appl. 208-05, which required that the 14 acre boatyard would be continued as a working boatyard and full-sized marina) are as follows:

Termination of the lease of the boatyard operator, Yacht Haven West by October 31, 2011

Demolition and removal of all ten (10) buildings from the boatyard property, removing the boatyard and its facilities by January 23, 2012

Conducting the demolition and removal of these structures without a Coastal Site Plan Review application or permit.

Failure to submit a comprehensive site plan to re-establish a working boatyard/marina within the time limit of June 29, 2012.

23. You, Strand/BRC Group LLC, are therefore ordered and directed by me as Zoning Enforcement Officer of the City of Stamford, pursuant to the powers vested in my office by the statutes of the State of Connecticut and the charter, laws and ordinances of the City of Stamford, **TO CEASE AND DESIST WHOLLY IN THESE VIOLATIONS BY SUBMISSION OF A COMPREHENSIVE SITE PLAN TO RE-ESTABLISH A WORKING BOATYARD/MARINA WITHIN 10 DAYS OF RECEIPT OF THIS NOTICE, HOWEVER DELIVERED.**

24. Your failure or refusal to comply immediately with the aforesaid order will render you liable for the fines, penalties and sanctions set forth in Section 8-12 of the Connecticut General Statutes which include but are not limited to:

- a. A court issued injunction prohibiting you from continuing the aforesaid violation.
- b. A fine of \$250 per day for your willful violation hereof.
- c. A civil penalty of \$2,500 should your violation continue for more than 10 days from the date of this order.
- d. Attorney's fees and costs incurred in bringing an action against you for willful violation of the law and this order. You may also be liable for other damages available under Connecticut law.

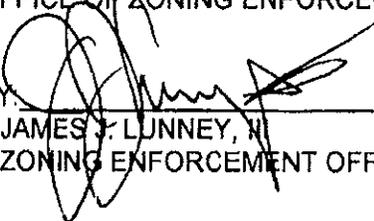
25. Your failure or refusal to comply immediately with the aforesaid order will render you liable for the fines, penalties and sanctions set forth in Coastal Area Management Act, and in particular, Section 22a-108 and 22a-106a of the Connecticut General Statutes, which include but are not limited to:

- a. A court issued injunction prohibiting you from continuing the aforesaid violation.
- b. A fine of \$1000 per each offense, and each day's continuance thereof shall be deemed to be a separate and distinct offense.
- c. Attorney's fees and costs incurred in bringing an action against you for violation of the law and this order. You may also be liable for other damages available under Connecticut law.

26. You are put on notice that a copy of this Cease and Desist order will be placed on the Stamford Land Records and sent to applicable federal and state agencies that are involved in pending applications concerning the premises.

Dated this 16th day of July, 2012.

THE CITY OF STAMFORD
OFFICE OF ZONING ENFORCEMENT

BY: 
JAMES J. LUNNEY, II
ZONING ENFORCEMENT OFFICER

25

INST. # 20050416292 VOL. 01842 P. 6 DEED REC. 08/22/2005 09:56:47 AM
DEED
DONNA M. LOSUISI, CLERK - TOWN CLERK - STAMFORD, CT

DEED

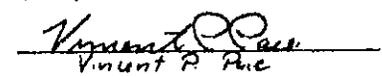
THE CONNECTICUT LIGHT AND POWER COMPANY, a specially chartered Connecticut corporation with offices in Berlin, Connecticut, WESTERN MASSACHUSETTS ELECTRIC COMPANY, a Massachusetts corporation with offices in Springfield, Massachusetts, and HOLYOKE WATER POWER COMPANY, a Massachusetts corporation with offices in Springfield, Massachusetts (collectively the "Grantors"), for the consideration of a valuable sum in Dollars received to their full satisfaction from THE STRAND/BRC GROUP, LLC, a Connecticut limited liability company with offices at c/o Arthur Collins Sr., 2001 West Main Street, Suite 175, Stamford, CT 06902 (the "Grantee"), do give, grant, bargain, sell and convey without covenants of title to THE STRAND/BRC GROUP, LLC, its successors and assigns forever, the two parcels of land and appurtenant rights that are located in the City of Stamford, County of Fairfield and State of Connecticut, as described in Schedule A attached hereto and made a part hereof, subject to those matters as listed in Schedule B attached hereto and made a part hereof.

TO HAVE AND TO HOLD the same unto the said Grantee and its successors and assigns forever.

IN WITNESS WHEREOF, THE CONNECTICUT LIGHT AND POWER COMPANY, WESTERN MASSACHUSETTS ELECTRIC COMPANY, and HOLYOKE WATER POWER COMPANY, acting herein by Roger C. Zaklukiewicz, their Vice President - Transmission Technical Support, hereunto duly authorized, have caused their names be signed this 20th day of June, 2005.

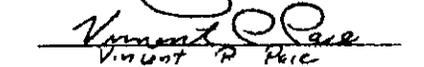
Signed and delivered in the presence of:

THE CONNECTICUT LIGHT AND POWER COMPANY


Robert S. Bourne

Vincent R. Rice

By Roger C. Zaklukiewicz
Roger C. Zaklukiewicz
Its Vice President - Transmission
Technical Support

WESTERN MASSACHUSETTS ELECTRIC COMPANY

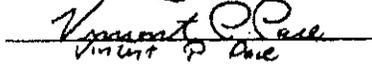

Robert S. Bourne

Vincent R. Rice

By Roger C. Zaklukiewicz
Roger C. Zaklukiewicz
Its Vice President - Transmission
Technical Support

{W1359354:2}

A

HOLYOKE WATER POWER COMPANY


Robert J. Rosone

Vincent P. Case

By 
Roger C. Zaklukiewicz
Its Vice President - Transmission
Technical Support

STATE OF CONNECTICUT)

) ss: Berlin

June 20, 2005

COUNTY OF HARTFORD)

Personally appeared Roger C. Zaklukiewicz as Vice President - Transmission Technical Support of THE CONNECTICUT LIGHT AND POWER COMPANY, signer of the foregoing instrument, and acknowledged the same to be the free act and deed of said corporation, and his free act and deed as such Vice President - Transmission Technical Support, before me.


Timothy R. Carmody
Commissioner of the Superior Court
~~Notary Public~~
~~My Commission Expires:~~ _____

STATE OF CONNECTICUT)

) ss: Berlin

June 20, 2005

COUNTY OF HARTFORD)

Personally appeared Roger C. Zaklukiewicz as Vice President - Transmission Technical Support of WESTERN MASSACHUSETTS ELECTRIC COMPANY, signer of the foregoing instrument, and acknowledged the same to be the free act and deed of said corporation, and his free act and deed as such Vice President - Transmission Technical Support, before me.


Timothy R. Carmody
Commissioner of the Superior Court
~~Notary Public~~
~~My Commission Expires:~~ _____

(W1359354:2)

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~~Book 8124 / Page 40~~

~~Page 2 of 9~~

Schedule A

First Parcel

South Parcel (14 Acres)
Stamford, Connecticut

All that certain piece or parcel of land, together with the buildings and improvements thereon, situated off Dyke Lane in the City of Stamford, County of Fairfield and State of Connecticut, being more particularly bounded and described as follows:

Beginning at a point on the southerly line of land now or formerly of Ponus Yacht Club, Inc. at its intersection with the easterly side of the twenty-five (25) foot Right-of-Way described in Book 363, Page 281 and depicted on Map 932 of the Stamford Land Records (SLR) said point being the following seven (7) courses from the intersection of the westerly side of Dyke Lane with the northerly side of land now or formerly of the City of Stamford and commonly known as "Baleman Way;"

running along said City of Stamford S 59° 28' 56" W a distance of 16.55 feet;

S 79° 37' 06" W a distance of 48.00 feet;

S 59° 28' 56" W a distance of 164.15 feet;

S 69° 49' 00" W a distance of 33.43 feet;

S 20° 33' 54" E a distance of 82.90 feet to the northerly side of land now or formerly of Ponus Yacht Club, Inc.;

running thence along said Ponus Yacht Club, Inc. S 69° 26' 06" W a distance of 218.00 feet to the aforesaid easterly side of the twenty-five (25) foot Right-of-Way;

running thence along said Right-of-Way S 19° 34' 54" E a distance of 99.57 feet to the Point of Beginning;

running thence along said southerly side of Ponus Yacht Club, Inc. and along waters of Stamford Harbor-Long Island Sound, each in part, N 69° 10' 48" E a distance of 118.54 feet and S 20° 48' 47" E a distance of 2.27 feet and N 69° 28' 26" E a distance of 58.585 feet to the northeasterly corner of a bulkhead;

running thence along said bulkhead the following six (6) courses:

S 14° 11' 03" E a distance of 74.686 feet;

S 04° 57' 51" W a distance of 76.606 feet;

S 01° 29' 36" W a distance of 66.654 feet;

[W1359354;2]

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~~Book 8124 / Page 42~~

~~Page 4 of 9~~

State of Connecticut

SS: Stamford July 16, 2012

County of Fairfield

Then and there, by virtue hereof, the Original,
Notice of Zoning Violation – Order to Cease and Desist

I made service on the with named
Strand / BRC Group, LLC

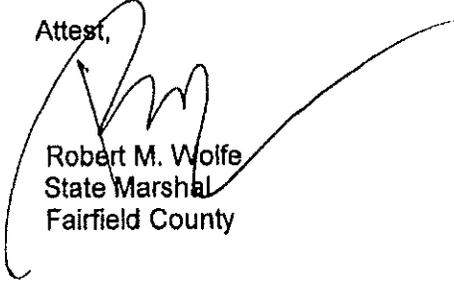
On July 16, 2012, I made service on **Strand / BRC Group, LLC** by leaving a true and attested copy of the Original Notice of Zoning Violation – Order to Cease and Desist, with my doings thereon endorsed,

In the hands of,
David Waters, Strand / BRC Group, LLC, 100 Washington Blvd., Suite 200, Stamford, CT

One such Copy for each of the within named.
The within and foregoing is the Original Notice of Zoning Violation – Order to Cease and Desist, with my doings thereon endorsed.

Process	30.00
Travel	4.00
Copies	14.00
Endors	.80
Serv.	0.20
Sec.	0.00
Post	<u>0.00</u>
Total	49.00

Attest,



Robert M. Wolfe
State Marshal
Fairfield County



79 Elm Street • Hartford, CT 06106-5127

www.ct.gov/deep

Affirmative Action/Equal Opportunity Employer

January 8, 2013

Mr. Grant W. Westerson, Chairman
Connecticut Boating Advisory Council
C/O Boating Division
P.O. Box 280
Old Lyme, CT 06371-0280

Dear Mr. Westerson:

Thank you for your letter to Commissioner Esty dated December 6, 2012 regarding future development plans for the Stamford waterfront. Specifically, your letter advocates for continued water dependent use of the 14-acre site upon which the former Brewer Yacht Haven West marina had been operating.

While the development plan for the site has not been finalized, remediation of historical contamination of the site is moving forward. We trust that you agree that remediation of this parcel is in the best interest of the citizens of Stamford and certainly for Long Island Sound and its natural resources.

Water-dependent uses of coastal property, particularly marinas, have long been vital to Connecticut's economy, maritime heritage and public enjoyment of Long Island Sound. Please let me assure you we are committed to continued support for water-dependent uses. We must also acknowledge that events of the past several years have fundamentally changed the paradigm of economic development for our state and our urban centers in particular. We need to be open to innovative development solutions that encourage both water dependent uses, including meaningful public access, and overall economic growth.

I would look forward to engaging with you in a discussion of these issues at a statewide level. My assistant, Juliet Bryan-Powell, may have already reached out to you to arrange a meeting. If you have questions, or to confirm a meeting date, please contact Juliet at (860) 424-3060 or by email at juliet.bryan-powell@ct.gov.

Yours truly,

A handwritten signature in black ink, appearing to read "Macky McCleary".

Macky McCleary
Deputy Commissioner

MM/BT