

**CITY OF NORWALK
HARBOR MANAGEMENT COMMISSION
APPLICATION REVIEW COMMITTEE
SPECIAL MEETING
JUNE 25, 2020**

ATTENDANCE: Dr. John Pinto, Committee Chair; Alan Kibbe, Chris MacDonnell, John Romano

OTHERS: John Crespo, Tony Mobilia, Jeffrey Mangels, Dennis Santella, Geoff Steadman, Consultant; Steve Bartush, Shellfish Commission; Joe Schnierlein, Water Quality; Atty. Elizabeth Suchy, Carmody Torrance Sandak & Hennessey, LLP; Brian Baker, Planning and Zoning; Dean Martin Anchor Engineering.

This meeting was conducted by Zoom/Teleconference.
The public was able to listen to this meeting by calling a conference line.

CALL TO ORDER

Dr. Pinto called the Application Review Committee meeting to order at 5:03 p.m. A quorum was present.

1. 310 Wilson Ave., CAM Revised Plan Application and application for a Special Permit, WEB construction, LLC. The applicant proposes to re-develop a currently vacant property as a contractors' yard for outdoor material storage located on a "previously disturbed" and developed area. The property is served by City sewer and water. Storage of materials will comply with FEMA minimum flood elevations. A new on-site storm water retention system consisting of a catch basin and oil separator is proposed and is accompanied by other utilities and landscaping. The revised plans incorporate comments from Norwalk Zoning staff and John Gaucher of DEEP. All proposed work/activity is landward of the coastal jurisdiction line (CJL). The following revisions have been made: removal of a 20' block wall to be replaced with a low curb and additional filter fabric. Previous landscaping and fence with privacy slats will remain based on discussion with John Gaucher at DEEP.

Atty. Suchy explained that the change that was made to the application was a result of comments from Mr. Gaucher at DEEP even though the area involved is located outside of the DEEP's jurisdiction. There is no activity or plans for the area in DEEP's jurisdiction. The 20-foot high wall will be removed and replaced with a 8 inch high curb. There will be a fence to protect the materials from migrating to the neighboring site or onto tidal wetlands.

Mr. Steadman asked if there had been a public hearing date had been set. Atty. Suchy said that the hearing was scheduled for July 15th.

Mr. Steadman said that Atty. Suchy had stated that Mr. Gaucher's comments did not involve the area under DEEP's jurisdiction. Mr. Steadman said that he understood that Mr. Gaucher was authorized to comment on the application as part of the CAM review. The existing wall constituted a mandatory referral to his office for comments.

Atty. Suchy said that her comment was that the activity was located outside of the jurisdictional line, which means the activity is outside of the area for review. However, the applicant did respond to Mr. Gaucher's comments. The application was sent to Mr. Gaucher by the Harbor Management Commission and in light of this, Atty. Suchy said the applicant had responded and adjusted the plan accordingly. The wall was deemed to be a structure that was inappropriate, resulting in its reduction to a curb.

Mr. Steadman asked if the engineers were confident that the curb would be sufficient to contain the run-off from the area. Atty. Suchy replied that Mr. Dean Martin had reviewed it and also noted that there was filter fabric around it along with a 15-foot access way between the area and the wall. The edge of the processed materials is not immediately adjacent to the wetlands.

Dr. Pinto asked Mr. Steadman if the issue had to do with flood plain hazard zones and the certification of a flood zone. Atty. Suchy said that she believed that the changes do address the certification requirements.

Mr. Romano asked about the issue of filter fabric there which could result in a collection of water in the area that should go through a leaching system and a curtain drain. Atty. Suchy said that there had been a discussion about having filter fabric along the length of the wall, but no mention of any additional drainage for storm water. The proposed changes have been already reviewed.

Discussion followed about possibly have a rain garden or additional mitigation measures to prevent heavy metals from leaching into the creek. Atty. Suchy said that she did not recall discussion about additional filtering measures. Mr. Steadman said his understanding was that the applicant would provide additional information about how the storm water would be discharged from the site into the wetland area. He pointed out that there was a second round of discussion which Atty. Suchy was not involved with and this was when the concerns were mentioned.

Atty. Suchy said the applicant did provide a brief memo from Anchor Engineering about the general permit process and requirements were. She said that she would recommend

that Anchor Engineering to keep the Commission advised of the status. Mr. Romano said that the concern was regarding arsenic possibly leaching into the wetlands.

Dr. Pinto asked if the Industrial Storm Water General Permit has been issued. Atty. Suchy said that it had not. Discussion followed about the details regarding the letter to the Conservation Committee.

An aerial view of the proposed site was displayed on screen. Atty. Suchy apologized for the fact that the engineer, Mr. Martin, was not available to discuss the details of the drainage plan. She read the portion of the previously submitted report to the Commissioners.

Mr. Steadman asked if the conditions of approval would include the maintenance of the storm water run-off and ongoing monitoring of the effluent and whether those would be attached by the Zoning Commission or by the DEEP general permit. Atty. Suchy said that as part of the original November 21, 2019 application filing, there was operational maintenance plan which included a number of requirements and obligations imposed upon the operator from the Zoning Commission if approved for a Special Permit. The operational maintenance plan has not been changed at all. There also was a drainage report dated March 6, 2020 submitted to the Commission. Both of these plans were submitted prior to the proposed changes to the wall.

Mr. Steadman said that the Harbor Commission wanted to reserve their right to comment on the material submitted to DEEP. He wished to reiterate the comments that were made at the last meeting regarding perpetual maintenance and monitoring of the effluent. Discussion followed about protecting the wetlands and aquatic area from runoff.

Atty. Suchy informed the Committee members that all the plans were currently being reviewed by Mr. Tom Little of DPW and the questions that Mr. Steadman was raising were the ones that Mr. Little will be looking at. She added that she would advise Anchor Engineering that when they apply for the DEEP permit that they should forward a copy of that to Dr. Pinto.

Mr. Steadman pointed out that making a finding that this is consistent with the Harbor Management Plan as opposed to having no objection to it would indicate that the Harbor Commission felt it was an improvement to the storm water management in this area. Discussion followed.

Mr. Dean Martin joined the meeting and gave a brief overview of the rainwater management. He noted that the plan had the water filtering through rock along the surface of the storage yard area. There have been comments from DPW about requiring additional water filtration. This is being prepared right now and will include additional retention and filtration.

Mr. Bartush had a question regarding the details of the system, which Mr. Martin answered for him. A site plan of the proposed project was displayed on screen.

Mr. Steadman had some questions about the wall. Mr. Martin explained that the 20-foot height had been to allow the operator to cover the piles and had nothing to do with storm water management.

The discussion moved to the fact that the site was basically flat and would have to be pitched to allow water drainage. There will be standard catch basins with filter fabric under the grate. That would require maintenance. This will be added to the operation and maintenance plan, along with the silt fence maintenance. Discussion followed about the details involving the millings and test bores. Mr. Macdonnell asked that the report from the test pilling that was done for the drainage be shared with the Commission. Mr. Martin said that it would be.

Mr. Steadman asked if the City had approved a recent moratorium on contractor's yards. Mr. Martin said that this application had been submitted before the moratorium had been approved.

Mr. Steadman expressed concerns about the contractor's yard being right next to the wetlands.

Mr. McDonnell pointed out that the comments appear to be based on environmental concerns and he was not sure that DPW would address that level of impact. He said that DPW's concerns were based on the quantity of flow and not about particulate matter. Dr. Pinto said that the certification for industrial waste water had a list of various substances. Mr. Steadman asked Dr. Pinto to check with DEEP about this.

The discussion moved to the approval process and the certificate timeline requirements.

Mr. Steadman listed the various concerns expressed in a previous letter as follows:

The proposed site improvements should be carefully reviewed by the engineering division to assess the adequacy of the proposed Flood plain fill and grading to meet FEMA requirements. The proposed storm water infiltration, retention and discharge plants to avoid impact on tidal wetlands in Village Creek.

There are also concerns about run off of heavy metals from newly crushed stone and as a result a requirement for appropriate sampling and testing of the runoff should be included in any storm water management plant that may be considered for the property.

As a condition of approval of any storm water management system, the Zoning Board should require the owner or operator to operate or to maintain the system in accordance with regularly scheduled maintenance procedures and to properly dispose of all accumulated residue and debris.

The Commission reserves its right to review the submittal that the applicant is providing to DEEP for compliance with the Storm Water Management General Permit And to make any appropriate recommendations In the course of that registration.

Mr. Steadman noted that DEEP does not have a standard set back for tidal wetlands for this sort of development. He repeated his concern regarding reserving the right to make additional comments.

Dr. Pinto said that the Application Review had made a previous statement and had no problem moving forward.

Mr. Steadman said that he would be cautious about having a contractor's yard close to the tidal wetlands as it could be perceived as being consistent with the Harbor Management Plan.

**** MR. MCDONNELL MOVED TO EXPRESS NO OBJECTION AT THIS TIME WITH THE FOLLOWING CAVEATS:**

THE PROPOSED SITE IMPROVEMENTS SHOULD BE CAREFULLY REVIEWED BY THE ENGINEERING DIVISION TO ASSESS THE ADEQUACY OF THE PROPOSED FLOOD PLAIN FILL AND GRADING TO MEET FEMA REQUIREMENTS. THE PROPOSED STORM WATER INFILTRATION, RETENTION AND DISCHARGE PLANTS TO AVOID IMPACT ON TIDAL WETLANDS IN VILLAGE CREEK.

THERE ARE ALSO CONCERNS ABOUT RUN OFF OF HEAVY METALS FROM NEWLY CRUSHED STONE AND AS A RESULT A REQUIREMENT FOR APPROPRIATE SAMPLING AND TESTING OF THE RUNOFF SHOULD BE INCLUDED IN ANY STORM WATER MANAGEMENT PLANT THAT MAY BE CONSIDERED FOR THE PROPERTY.

AS A CONDITION OF APPROVAL OF ANY STORM WATER MANAGEMENT SYSTEM, THE ZONING BOARD SHOULD REQUIRE THE OWNER OR OPERATOR TO OPERATE OR TO MAINTAIN THE

SYSTEM IN ACCORDANCE WITH REGULARLY SCHEDULED MAINTENANCE PROCEDURES AND TO PROPERLY DISPOSE OF ALL ACCUMULATED RESIDUE AND DEBRIS.

THE COMMISSION RESERVES ITS RIGHT TO REVIEW THE SUBMITTAL THAT THE APPLICANT IS PROVIDING TO DEEP FOR COMPLIANCE WITH THE STORM WATER MANAGEMENT GENERAL PERMIT AND TO MAKE ANY APPROPRIATE RECOMMENDATIONS IN THE COURSE OF THAT REGISTRATION.

**** MR. KIBBE SECONDED.**

Atty. Suchy said that she would forward any additional information that comes in and will ask the engineer to forward the DEEP information to the Commission. Dr. Pinto said that he would share any information with the Commission.

**** THE MOTION PASSED UNANIMOUSLY.**

2. DOT Walk Bridge Construction Proposal. Update to include and utilize Manresa Island as a staging and storage area.

3. DOT's plans on relocation of Maritime Aquarium and Seaport Association excursion vessels. Discussion of latest video docking demonstration held June 17th at the Walk Bridge Construction site.

Dr. Pinto said that he asked the DOT to attend the meeting to discuss the modifications that they had made regarding Manresa Island and the positioning of the vessels between the bridges. The Commission had a number of questions about both issues.

**** DR. PINTO MOVED TO TRANSMIT THE FOLLOWING REQUEST THAT THE DEEP FOR THE FOLLOWING REASONS AS DISCUSSED AT THE NORWALK HARBOR MANAGEMENT MEETING ON JUNE 25TH TAKE NO ACTION ON THE DOT'S SUBSTANTIALLY REVISED PERMIT APPLICATION FOR REPLACEMENT OF THE WALK BRIDGE UNTIL SUCH TIME AS:**

THE DOT DESCRIBES THE REVISIONS TO THE NORWALK HARBOR MANAGEMENT COMMISSION AND THE NORWALK SHELLFISH COMMISSION DURING THE PUBLIC MEETING OR MEETINGS FOR THAT PURPOSE; HEARS AND DISCUSSES QUESTIONS FROM THE TWO COMMISSIONS AND DEEP CONSIDERS TIMELY, WRITTEN COMMENTS PROVIDED TO DEEP AND THE DOT BY THE NORWALK HARBOR MANAGEMENT COMMISSION AND THE

NORWALK SHELLFISH COMMISSION. THIS IS ALL IN PREPARATION FOR THE APPLICATION THAT THE DOT PLANS TO SUBMIT TO THE DEEP ON JUNE 26, 2020. WE HAVE NOT HAD A CHANCE TO REVIEW THAT APPLICATION NOR HAVE THEY DISCUSSED THE PLANS WITH US IN ANY SATISFACTION.

THE DOT HAS INFORMED THE NORWALK HARBOR MANAGEMENT COMMISSION AND THE NORWALK SHELLFISH COMMISSION THAT DOT HAS SUBSTANTIALLY AMENDED THE PREVIOUSLY SUBMITTED APPLICATION FOR REPLACEMENT OF THE WALK BRIDGE. AMONG THE CHANGES INCLUDED IN THE REVISED APPLICATION ARE PLANS TO UTILIZE A PORTION OF MANRESA ISLAND AS A PROJECT STAGING AREA. A VIRTUAL PUBLIC MEETING WAS HELD ON JUNE 16, 2020 TO DISCUSS THESE PLANS AND THE DOT INFORMED THE PUBLIC THAT PUBLIC COMMENTS WOULD BE ACCEPTED UNTIL JULY 3, 2020.

THE NORWALK HARBOR MANAGEMENT COMMISSION AND THE NORWALK SHELLFISH COMMISSION SUBMITTED QUESTIONS DURING THAT PUBLIC MEETING. THOSE QUESTIONS HAVE NOT BEEN RESPONDED TO ALONG WITH THE FACT THAT THEY ARE MOVING FORWARD WITH THEIR APPLICATION ON JUNE 26, 2020 BEFORE THE CLOSURE OF THE ANNOUNCED PUBLIC COMMENT PERIOD AND POSSIBLY WITHOUT CONSIDERING THE PUBLIC COMMENTS SUBMITTED.

ON JUNE 17TH, THE DOT CONDUCTED A DOCKING AND MANEUVERABILITY EXERCISE INVOLVING THE NORWALK MARITIME AQUARIUM AND THE NORWALK SEAPORT ASSOCIATION VESSELS IN SUPPORT OF THE DOT'S PROPOSED VESSEL RELOCATION PLANS. NO ADDITIONAL INFORMATION CONCERNING THIS EXERCISE HAS SINCE BEEN PROVIDED TO THE NORWALK HARBOR MANAGEMENT COMMISSION AND THE HARBOR MASTER. PREVIOUSLY, NORWALK HARBOR MANAGEMENT COMMISSION AND THE HARBOR MASTER REQUESTED THAT A PROFESSIONAL RISK ASSESSMENT BE CONDUCTED TO DEFINE AND ASSESS THE RISK INVOLVED IN THE PROPOSED VESSEL OPERATIONS, IDENTIFY HAZARDS AND DEVELOP, IF POSSIBLE, MITIGATING ACTIONS TO REDUCE THE ACKNOWLEDGE RISK, WHICH THEY HAVE NOT DONE.

ON JUNE 25, 2020, THE DOT INFORMED THE NORWALK HARBOR MANAGEMENT COMMISSION AND THE NORWALK SHELLFISH

COMMISSION THAT A REVISED PERMIT APPLICATION WOULD BE SUBMITTED TO THE DEEP ON JUNE 26, 2020 AND THAT THE DOT WAS PREPARED TO MAKE PRESENTATION TO THE TWO COMMISSIONS DURING OR ABOUT THE FIRST WEEK IN AUGUST.

FOR THESE REASONS AND THE FAILURE OF THE DOT TO RESPOND TO THE COMMISSION'S QUESTIONS, CONCERNS AND ISSUES.

**** MR. ROMANO SECONDED.**

****THE MOTION PASSED UNANIMOUSLY.**

**** MR. ROMANO MOVED TO HAVE THE HARBOR MANAGEMENT COMMISSION APPROVE THE REQUEST THAT THE DEEP FOR THE FOLLOWING REASONS AS DISCUSSED AT THE PLAN REVIEW COMMITTEE MEETING.**

**** MR. MOBILIA SECONDED.**

****THE MOTION PASSED UNANIMOUSLY.**

ADJOURNMENT.

Dr. Pinto adjourned the Application Review Committee meeting at 6:07 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Services