

REC'D AT PZC  
 Regular Meeting  Public Hearing  
 Special Meeting

# Cedar Island Marina Inc.®

"THE FAMILY BOATING RESORT"

JUL - 5 2016 P.O. BOX 181 CLINTON, CT 06413 860-669-8681 FAX 860-669-4157

by Julia DeStefano

February 19, 2016

Honorable members of the Clinton Planning and Zoning Commission:

We are responding to the correspondence of Mr. Brian Thompson, Director of CT DEEP OLISP, dated January 14, 2016. The Director notes in his letter that CT law defines "water dependent uses" as uses that cannot be located inland, have direct access to the water, and suggests that M Zoned sites be reserved for uses "including but not limited to: Marinas, recreational and commercial fishing and boating facilities, waterfront dock and port facilities..."

We do understand and appreciate the purpose of creating an M Zone. With that said, there are properties that have been zoned M that do not have the opportunity to utilize the "Marine" aspect. Because of the examples described below we strongly believe that DEEP is trying to suggest regulations based on a broad state philosophy and is not identifying or trying to fix issues that are site specific to properties in Clinton, which this Commission is much more qualified to regulate in regards to planning and zoning.

One example is the property we own at the western end of our marina that we have discussed at length during the meetings. In the past we made major efforts to develop this site as a marina and history has clearly shown that DEEP will not allow waterfront access on our site as any waterfront access to this site will require some dredging of the intertidal mudflat adjacent to this site. Is the Director now suggesting that we re-apply to dredge a portion of the intertidal flat to obtain water access? We would think not as the regulations preventing impacts to this resource are much stricter than when we last applied for this activity in the late 1980's. At that time DEP (now DEEP) staff, including Commissioner Art Roque and Deputy Jane Stahl had acknowledged that our site would be very difficult to develop for marine use. If the Director feels that current policy would now allow dredging a portion of the intertidal mudflat, we and the Town of Clinton deserve to hear that.

Using the example of our property, we will try and examine if potential water-dependent uses would be feasible:

- 1.) Marinas – Tried to expand marina, got rejected by DEEP for the reason we were not allowed to dredge intertidal mudflats. Took them to court and lost. Regulations today have become stricter.
- 2.) Recreational Activities (Kayaking, Canoeing, Swimming, Paddleboarding) – This also requires dredging or walking out over the mudflats during low tide, which is dangerous. The Town has very good staging points for this from the Town marina, launch ramp, and multiple beaches. Using our site for this would add no value and be dangerous.
- 3.) Commercial Fishing – Requires dredging and a marina.
- 4.) Boat Building / Industrial Activities / Heavy Commercial – This would have a much greater impact on the Clinton waterfront than our proposal and would never be accepted or preferred. One of the best qualities of Clinton Harbor is that it is a quaint area, not burdened with industrial and heavy commercial activity.
- 5.) Boat Storage – This is feasible in a logistical sense, but not in a business sense. At full capacity, we are able to have adequate boat storage in our existing boat yard; we do not need or have the demand for more capacity.

AR 16-026  
Exhibit B  
Submitted at 7/5/2016

Since our application is to amend the whole Marine district and not just our one site, we do feel that it is worth showing other examples of properties burdened by this law, where our amendments would provide some possibility of utilization that could benefit the property owners and the Town. Please note there may be many more properties impacted, but these are two we know of. 70 Riverside Dr is located at the entrance to Clinton Yacht Haven. It is 2.47 acres of nice property, but it is landlocked and has no waterfront access. However, it is located in the M Zone. Likewise, 49 Riverside Dr sits at the entrance to Riverside Basin Marina. It is 1.77 acres of landlocked property with a non-conforming house.

The Director states in his letter, "... By proposing that residential uses coexist with water-dependent uses, the new zoning regulation would allow for the displacement of existing and future water-dependent uses..." By stating that careful development will "displace" water-dependent uses, DEEP is showing that they do not recognize the unique situation of many of our properties within the M Zone. Our property has been regulated out of the ability to have any fair water dependent use. In addition there are two other good properties located in the M Zone that have never had the ability to have water-dependent uses and because of the zoning regulations we have never seen an application for anything on these properties since the house on 49 Riverside Dr was built decades ago before the M Zone was created. Our amendments would not allow CICD (what the Director referred to as "condominium") development on these properties (min of 10 acres required), but it could give them an opportunity to build mixed use, which could drive business to the waterfront in addition to providing minimal housing.

We would also like to point out that when the Director wrote this letter, he did not have the benefit of the revisions we made that state, "10.3.7 Water Dependent Uses: If the proposed development is in the Marine District, all prior public water-dependent uses shall be protected and access maintained consistent with the standards in the CT Coastal Management Act (CCMA)". Therefore, the current proposed amendments would prohibit activity that did not protect existing water-dependent uses.

The Director states that, "Many waterfront-dependent uses function as industrial type uses with noise and activity that are incompatible with residential uses". Our marina is located in a residential neighborhood and contrary to the Director's assessment; we have always had a good relationship with our neighbors. Many of these residences are closer to our existing marina than the site we are proposing a change for. Some of our neighbors spoke in favor of this proposal (and against our previous efforts to develop expand our marina) because they realize that a marine use development would have greater impacts on the neighborhood.

We hope this commission will realize that the Director's letter is 100% negative and provides no direction for any realistic alternatives for the use of some of the undeveloped M Zone sites that are currently burdened by the lack of a usable permitted use.

It is significantly unfortunate that the Director does not see the many potential benefits to the Public and the Town of Clinton which include, but are not limited to:

- 1.) Alternative uses of a large site that has a long history of being rejected by DEEP as suitable for marine use other than as a dredge disposal site.
- 2.) Use of sites that are landlocked and have no water access, but are still located in an M Zone.
- 3.) Increased tax revenue for the Town.
- 4.) Guaranteed public access, both parking and pedestrian, to a waterfront site that is currently 100% private with no right of public access.
- 5.) A platform and/or walkway where the public will be able to clearly view the waterfront. The elevated view of this area is in many ways prettier than anywhere else in the harbor. Right now no one besides our employees (we post no trespassing signs for liability purposes) can legally enjoy the benefit of this. It is unfortunate for the public that the Director has interpreted that these types of benefits of public access "provisions should only apply outside the M Zone".

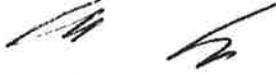
The proposed amendments to the zoning regulations do not prevent undeveloped M Zone properties from being developed for marine use. They also provide for the protection of all existing marine water-dependent uses and future water-dependent uses. However, our amendments provide the Commission with the flexibility to allow other uses where marine uses are not feasible. These amendments do not provide for the ability of an M Zoned applicant to apply for these uses as a matter of legal right. They only provide an applicant with the right to apply

as a matter of special exception, subject to commission and public review (including the Director, his staff, and a plethora of other regulatory agencies), for an alternative use that could benefit the public and the Town of Clinton.

Please provide an M Zone applicant with the right to make a proposal. If the specific proposal does not conform to the standards of the Zoning Regulations (which includes conformance with the CCMA, Health Dept(s) and public scrutiny) you should reject it at that time.

Thank you for the opportunity to comment on these issues

Very Cordially,



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cc: DEEP OLISP Director Brian Thompson  
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