

GOULD, LARSON, BENNET, MCDONNELL & QUILLIAM, P.C.

ATTORNEYS AT LAW
30 PLAINS ROAD
ESSEX, CONNECTICUT 06426
www.gould-larson.com

JOHN S. BENNET
KENNETH J. MCDONNELL*
*Board Certified Trial Lawyer
PAIGE S. QUILLIAM

TELEPHONE
(860) 767-9055
(860) 388-4655

FACSIMILE
(860) 767-2742

October 20, 2020

JAMES H. GOULD (1911-1985)
JOHN E. LARSON (1924-2016)

Jeffrey Going, Chair
Harbor Management Commission
Essex Town Hall
29 West Avenue
Essex CT 06426

Re: Intervention in Harbor Management Commission
proceedings covering the Application of Bombaci Family
LLC for commercial development at Great Meadow Road

Dear Chairman Going,

Please be advised that I represent William F. Carlson of 145 River Road, Essex, Connecticut and Louise B. Madsen of 143 River Road. Mr. Carlson occupies the property located immediately to the north of the subject Bombaci Family LLC property and Ms. Madsen's abuts the subject to the west.

This letter constitutes a verified pleading, pursuant to CGS §22a-19 by which Mr. Carlson and Ms. Madsen are intervening as parties in the presently pending matter.

The proceeding before the Harbor Management Commission and the proposal under consideration submitted by Bombaci Family LLC involves conduct which Mr. Carlson and Ms. Madsen believe has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the State.

This intervention specifically implicates an issue within the Harbor Management Commission's jurisdiction. We would note the following, specific, factual allegations demonstrating unreasonable *pollution*, impairment or destruction of the public trust in the air, water or other natural resources as follows:

1. The proposal purports to establish a commercial marine construction operation on land which is of a sensitive environmental nature. The parcel subject to this plan is a portion of the Great Meadows, all of which is otherwise in the Town of Essex Conservation Zone and is noted even in the Harbor Management Plan as an area "...covered by soils listed as having moderate or severe limitations for development....thus the concern for this area for pollution, not only of ground water but also ultimately by seepage into adjacent shallow coves as well" *Essex Harbor Management Plan, November 3, 1987, Section I, Existing Conditions, (B)2. Soils*. The Great Meadows waterfront is noted in the Harbor Management Plan to be characterized by fragile soil types. *Essex Harbor Management Plan, November 3, 1987, Section II, Conclusions and Analysis (A)*.

2. The Great Meadow area and the area of this project is noted for frequency and duration of flooding and submerged species in the area have been recognized by the Harbor Management Report as considered rare in the State of Connecticut. *Essex Harbor Management Plan, November 3, 1987, Section I, Existing Conditions (B)3. Vegetations.*

3. The proposal, as presented, purports to allow for trucks and heavy equipment to access the subject property, be parked on the property and to be utilized at the riverside site bringing with it the potential for vehicle pollutants, damage to the underlying wetlands and soils and the vegetation on the site and adjacent conservation areas.

4. The Harbor Management Plan notes that the land surface of the Great Meadows has increased due to eutrophication, which is accelerating due to development along the shoreline. *Essex Harbor Management Plan, November 3, 1987, Section I, Existing Conditions (C)1. Shoreline Changes.* This commercial development will only exacerbate and accelerate that condition.

5. The Great Meadows area is noted, in your Harbor Management Plan, as being a unique, pendant river bar effected by both saline water on the river side and fresh water on the cove side. Indeed, your Plan notes that the Great Meadows comprises 10% of such wetlands on the Connecticut River. The commercial/industrial development in such a unique and fragile area is not consistent with the Harbor Management Plan and bring the likelihood for unreasonable jeopardy to, and destruction of, these unique wetlands. *Essex Harbor Management Plan, November 3, 1987, Section I, Existing Conditions (C)3 Wetlands.*

6. The land areas of the Great Meadows are noted, particularly in the Harbor Management Plan as an environmentally sensitive area. *Essex Harbor Management Plan, November 3, 1987, Section II, Conclusions and Analysis (E).* The Harbor Management Plan notes, particularly, the danger of hazards resulting from changing ownership followed by more intensive development, as is proposed in the instant application. *Essex Harbor Management Plan, November 3, 1987, Section II, Conclusions and Analysis (F).*

7. The proposal for a substantial commercial development in the nature of a dock construction facility is contrary to the recognized "naturalistic" nature of the Connecticut River waterfront in Essex, which will be lost if the commercial development proceeds. *Essex Harbor Management Plan, November 3, 1987, Section I, Existing Conditions (C) 4 Characteristics of Coastal Area.*

8. The Harbor Management Plan notes important conservation issues. In particular, the report notes much of the waterfront of Essex along the Connecticut River has been designated as open space or conservation lands and warns the impact of intensive activity radiating out on the generally fragile ecosystem which fringes the river itself. Particularly, the Plan notes the aesthetics of the river front which is considered "highly pleasing visually, both Essex's waterfront and inland areas are valued by the townspeople and visitors alike." The Plan suggests that the aesthetic of the waterfront "must be considered to be of major importance. In this context, the heavy use of the water areas poses at least the potential for damage to the aesthetic aspects of the river and must be

considered in this light.” *Essex Harbor Management Plan, November 3, 1987, Section III, Issue Identification (A)4(a)*. Commercial/industrial use in this sensitive area is inconsistent with the Harbor Management Plan and will jeopardize the riverine scene, a recognized important natural resource. Connecticut General Statutes §22a-93(15)f is consistent with this position. The statute defines “adverse impacts on coastal resources” to “include but are not limited to...degrading visual quality through significant alteration of the natural features of vistas and viewpoints...”. In this regard, the Harbor Management Plan is consistent with Connecticut General Statutes. The proposal before the Commission is inconsistent with both the Harbor Management and Connecticut General Statutes regarding coastal resources. In this last regard, the Harbor Management Plan notes that public interest involves the protection of sensitive ecological assets and public access to the water both visually as well as physically. *Essex Harbor Management Plan, November 3, 1987, Section III, Issue Identification (B) Study Area, 1(a)*.

9. The proposal will have the effect of disturbing a sensitive wildlife area. Construction equipment and loading and off loading of materials will be dangerous to the wildlife in the Great Meadows, which is known for its abundant bird life and other wildlife. The importance of wildlife protection is noted in the Harbor Management Plan. *Essex Harbor Management Plan, November 3, 1987, Section III, Issue Identification (B) Study Area B, 3(a)*.

10. The Harbor Management Plan notes the importance of wetlands preservation. Indeed, the report notes that “an area including such a large amount of critical wetlands as the Essex waterfront requires special attention.” *Essex Harbor Management Plan, November 3, 1987, Section III, Issue Identification (A & B)*.

At the June 27, 2019 Special Meeting of the Harbor Management Commission, Edward Bombaci was permitted to make a presentation regarding his proposal at which he indicated that a dock on the location had been used as a shad fishing dock, which he intended to restore. At that time, he also indicated that he would use the dock as a “wade point to unload barges”. No specification is revealed in the Minutes, however, this suggests a further jeopardy to the mainstream of the Connecticut River and the plant and animal life in the area. There is no historic evidence of a commercial enterprise of any kind, let alone the extensive construction and utilization for heavy commercial construction purposes suggested by the present application. Mr. Carlson and Ms. Madsen, abutting property owners and occupants for 22 and 19 years respectively, have never seen any such activity on the site. The Bombaci Family LLC proposal presently before the Harbor Management Commission presents the possibility for significant damage to this environmentally sensitive area, the wildlife in the area, the aquatic plant and animal life and will jeopardize the aesthetic river scene. All of these elements are highlighted to as significant considerations or issues in the Essex Harbor Management Plan. The proposal is, therefore, inconsistent with the Harbor Management Plan in all these respects.

The Harbor Management Plan also identifies as one of its goals, the strong coordination between zoning authorities of the town. *Essex Harbor Management Plan, November 3, 1987, Section IV, Harbor Management Goals (J)*. The Plan also highlights the goal of maintaining the value of critical wildlife habitats by encouraging zoning to restrict development of these areas. *Essex Harbor Management Plan, November 3, 1987, Section IV, Harbor Management Goals (N)*. In this regard,

it should be noted that the subject property is zoned River Road Residential. Commercial activity is not a permitted use in this zone. In addition to the environmental inconsistencies of this proposal with the Harbor Management Plan, the proposal is inconsistent with the specific goals set forth in the Harbor Management Plan. Based on the Application submitted for a marine construction business and Mr. Bombaci's presentation to this Commission on June 27, 2019, their plan is for a commercial operation at which barges would be loaded and unloaded with construction material. Not only does this present jeopardy to the natural resources of the river and adjacent land, but presents the image of construction vehicles hauling unknown, undesignated materials up and down River Road and on the Great Meadow Road, overburdening that easement and hauling construction material through residential communities.

Based on these factual allegations and the issues raised herein, Mr. Carlson seeks Intervenor status as of right. He has verified the allegations of this pleading.

Very truly yours,


John S. Bennet
Ext. 210
Bennet@gould-larson.com

JSB/lm

VERIFICATION

We, William F. Carlson and Louise B. Madsen, are over 18 years of age and believe in the Obligation of an Oath. I have read the preceding Application to Intervene and it is true and correct to the best of my knowledge and belief.



William F. Carlson



Louise B. Madsen

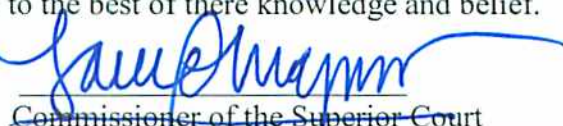
STATE OF CONNECTICUT)

) ss: Essex

October 20, 2020

COUNTY OF MIDDLESEX)

Personally appeared before me, the undersigned officer, William F. Carlson and Louise B. Madsen, signers of the foregoing Verification certificate, who were sworn and made solemn oath that the facts stated therein are true and correct to the best of their knowledge and belief.



Commissioner of the Superior Court
Notary Public

Laura Maynard Notary Public, State of Connecticut My Commission Expires November 30, 2020
