



## STAFF REPORT

Application: PZC-19-010 (Zone Change)  
PZC-19-011 (Special Permit)  
Application Type: Zone Change – R-2 to C  
Special Permit – Assembly Hall in C Zone  
Location: 49 Oakum Dock Road  
Map 02/ Block 9A/ Lot 4  
Date: September 4, 2019

### Facts of the Property:

- Located in the R-2 Zone
- 4.96 Acres
- Current Use is Non-Conforming Marina

### Considerations:

- Property is subject to a Public Water Supply Easement, held by the Town of East Hampton.
- Property is bound to the north and east by R-2 Zone. The western boundary abuts the Town of Portland and its B-1 Designated Business Zone.
- The property had been zoned Industrial in the past, but has been R-2 since the September 15, 1990 Regulation and Map update.
- Although a road was built connecting the main St. Clements Cast property and the marina property, the only access to the property within East Hampton is through Oakum Dock Road, which is a narrow, residential street.

### Staff Comments:

The application before you consists of two applications: one for a Zone Change and another for a Special Permit for an assembly hall. While the applications can be heard together, the Commission cannot act on the Special Permit unless and until the Zone Change is acted upon. In this Staff Report, I address both applications as they are being heard together.

### 1990 Zone Change/ History of Parcel

Please see my Memorandum dated September 4, 2019 regarding the history of the zoning of this parcel. It is well established in many letters from prior Town Staff to Father Doherty that the property was in the R-2 Zone. Copies of letters indicating such are entered into the record.

Attorney Harris' letter refers to this application being a continuation of the use "*previously established at the location as both a "passive" marina use and as an assembly hall.*" It is important to note that there was never an approval for an assembly hall of any kind. Prior to Roncalli ownership, the marina consisted of the boat basin, several storage and repair buildings, and an office. The Industrial zone has not historically allowed for assembly halls. Approving a Zone Change to Commercial now will allow for the application for Special Permit for an assembly hall to move forward, while allowing the marina to continue to operate as a legal non-conforming use on the property.

### **Access/ Safety**

The applicant has proposed using its main entrance to the St. Clements Castle directly on Route 66 in order to access the marina facility. This main entrance provides for two-way traffic to and from both the castle and the marina. A copy of the easement agreement as well as a map of the easement area allowing for access through the Portland parcel is on file and in your packet for your review. Sight lines along Route 66 are good. The Local Traffic Authority for the Town of Portland provided comments to us in the form of an email which is included in the file and your packet. The applicant has proposed that the gate on Oakum Dock Road will be locked at all times and a key code to open the gate will be provided to first responders. They've indicated that this gate will be open only during emergencies and for facility staff members to move among the marina facility and the other properties owned by Roncalli affiliates for maintenance purposes.

An interdepartmental referral form completed by Police Chief Dennis Woessner is included in the file and in your packets and recommends several conditions with regards to safety, including using the main access road to Route 66 in the Town of Portland and keeping the gate locked.

*Staff recommends that if approved, the gate closure, keypad, and access through the main property be made a condition of approval.*

### **Noise**

The applicant has stated that it intends to comply with CT DEEP Title 22a-Section 22a-Part 69, Control of Noise. The DEEP has created regulations for the control of noise, which are on file and in your packet. The property, if changed to Commercial, would be considered to be in Noise Zone B (Commercial). According to Section 22a-69-3.5(b) "No person in a Class B Noise Zone shall emit noise" exceeding 55dBA during the day or 45dBA at night to a Class A Noise Zone (Residential). Daytime hours are from 7:00am to 10:00pm. Nighttime hours are from 10:00pm to 7:00am.

According to Section 22a-69-4(g) contiguous parcels under the same ownership as indicated by public land records may be considered within the same zone as the subject parcel. The three abutting parcels in East Hampton are not currently under the same ownership as indicated by public land records.

The Lower Connecticut River Valley Regional Planning Committee has reviewed the application and provided comments which are part of the record and in your packet for your review.

*Staff recommends requesting that the applicant have a professional sound engineer report to the Commission whether or not it is plausible to adhere to DEEP regulations regarding noise for the intended use, especially considering topography, location of building, and presence of surface water (Connecticut River).*

*Staff recommends that if approved, the Commission should add adherence to the DEEP noise regulations as a condition of approval.*

*Staff recommends that if approved, the Commission should include hours of operation, hours of outside events, and hours of amplified outdoor sound as conditions of approval.*

### **Municipal Public Water Easement Agreement**

As has been noted at previous meetings, the existing marina facility exists on the property known as 49 Oakum Dock Road as a legal non-conforming use in the R-2 zone. All uses that could reasonably

be expected at a Marina can continue to be carried out on the property legally. However, Paragraph 5 of the Public Water Supply Easement Agreement between the Town of East Hampton and St. Clements Marina, LLC (Grantor) contains some restrictions that the Commission should be aware of:

The Grantor “*shall not construct or install any buildings structures, improvements, or other thing, or install or place any materials or equipment or other item, on, under, or above the easement area.*” In short, St. Clements Marina cannot do anything but minimal maintenance to the grounds within the Easement Area. This application appears to abide by that restriction.

The Grantor “*shall not construct or install any building, structures, improvements, or other thing, or install or place any materials or equipment or other item, on, under, or above that portion of the Premises located outside the Easement Area but within*” the protective sanitary easement area except as permitted in the easement agreement. Allowed construction within the protective radius includes upgrades, maintenance, and reconfiguration of the marina facility. Specific allowed structures are included in the language. Also allowed in this area are structures and improvements accessory and incidental to maintaining and beautifying the grounds. A list of examples of such structures is in the agreement. Again, the current application appears to abide by this restriction.

The Grantor “*shall not, and shall not permit any other person to, conduct commercial marina uses of the Premises that include the storage of boats or other equipment or machinery, conduct boat maintenance (including painting) or repair operations or activities, or store sell or dispense of fuel or hazardous materials or substances, on or at the Premises...*” These uses are restricted on the property. In short, it appears that the easement limits the marina operation to boat slip rentals and the storage of boats limited to the owner or a tenant and their immediate family members.

Included with this report is the “Public Water Supply Easement Agreement” and the “Protective Sanitary Easement” map received by the Town Clerk on April 9, 2010.

The Connecticut Department of Public Health has reviewed the Site Plan and has offered comments. A letter from Richard Iozzo to WPCA Director Scott Clayton is included in the file and in your packets.

An interdepartmental referral form with comments from Scott Clayton, Public Utilities Administrator is included. In summary, his comments pertain to the restricted area and the prohibited uses.

As of the time of writing this staff report, no comments have been received from the Chatham Health District.

*Staff recommends consideration of the language found within the State POCD concerning public water supplies (found on page 4 of this staff report).*

### **Consistency with POCD**

The Plan of Conservation and Development recommends considering “*modest expansions of existing commercial and industrial zones where appropriate due to available utilities, traffic capacity, and adequate buffers against incompatible uses and important resources. That said, any expansions should be consistent with the State POCD and existing land uses. Any expansions should be reflected in the Future Land Use Plan in Chapter 6*” (page 65). The future land use plan (attached to this memo) identifies this parcel as open space/undevelopable (likely due to its location partially in a

flood zone) surrounded by low density residential. However, it is important to consider the industrial history of this parcel.

The existing State POCD does not include this area as a conservation area. The 2013 State Plan of Conservation and Development Locational Guide Map (still in effect until the 2018 Plan is adopted) indicates that a portion of the the property lies within a Priority Funding Area, meeting 1 – 2 criteria for growth. This designation comes from the fact that the property lies within a Census Block that meets one to two criteria for growth, not necessarily that the property itself meets the criteria. The portion of the property within the flood zone lies within a Balanced Priority Funding Area. The designation of a Balanced Priority Funding Area means that “*a state sponsored growth-related project (e.g., business expansion) proposed in a Balanced Priority Funding Area that is also characterized as a Drinking Water Supply Watershed would need to consider the integrity of the drinking water supply in determining the consistency of its proposed action.*”

*Staff recommends careful consideration of the East Hampton Plan of Conservation and Development and the 2013 State of Connecticut Plan of Conservation and Development.*

### **Utilities**

This property is not currently served by municipal water or sewer. It is however served by natural gas and it is included in the future sewer service area as defined in the East Hampton POCD.

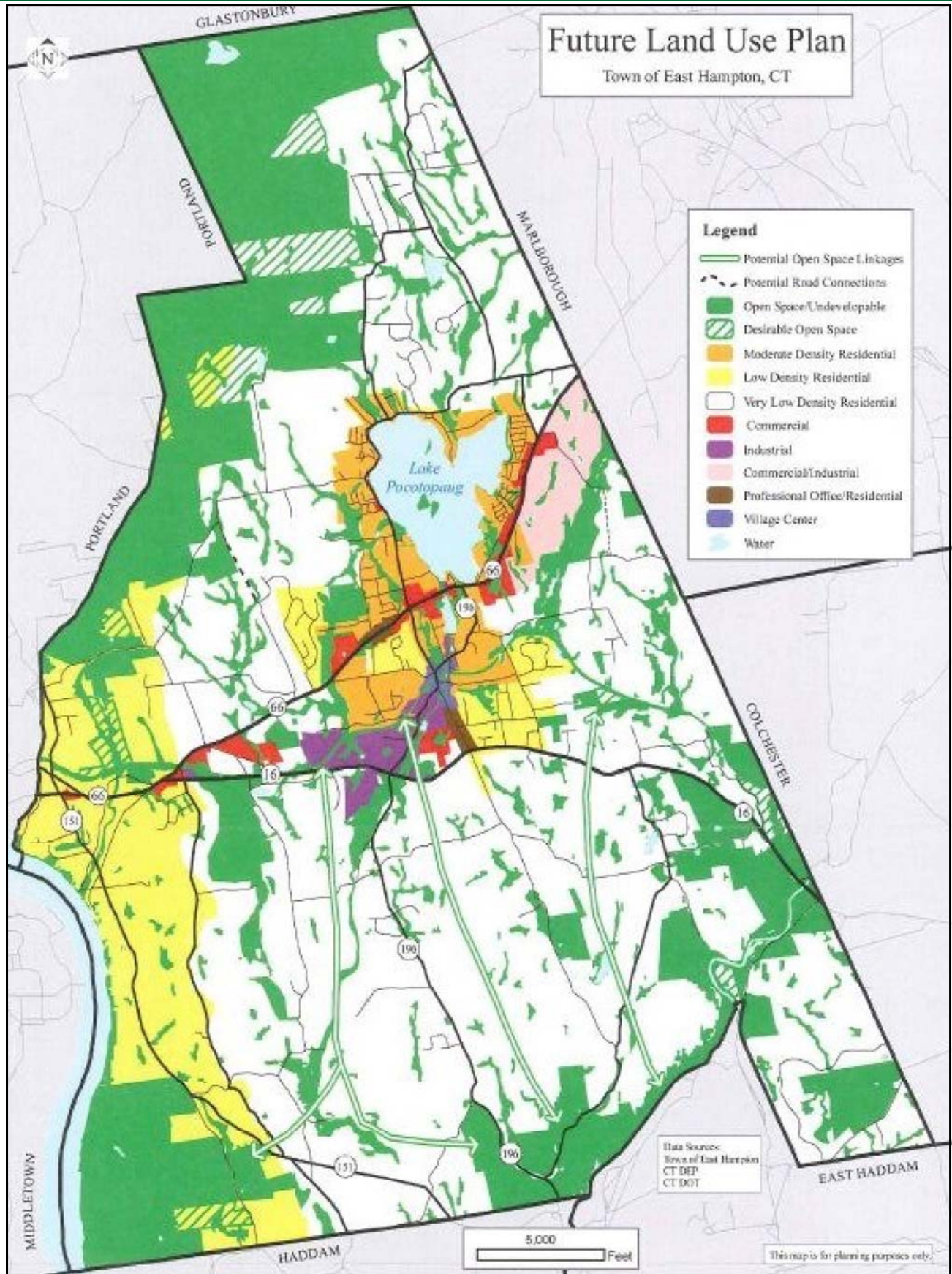
### **Site Plan Compliance**

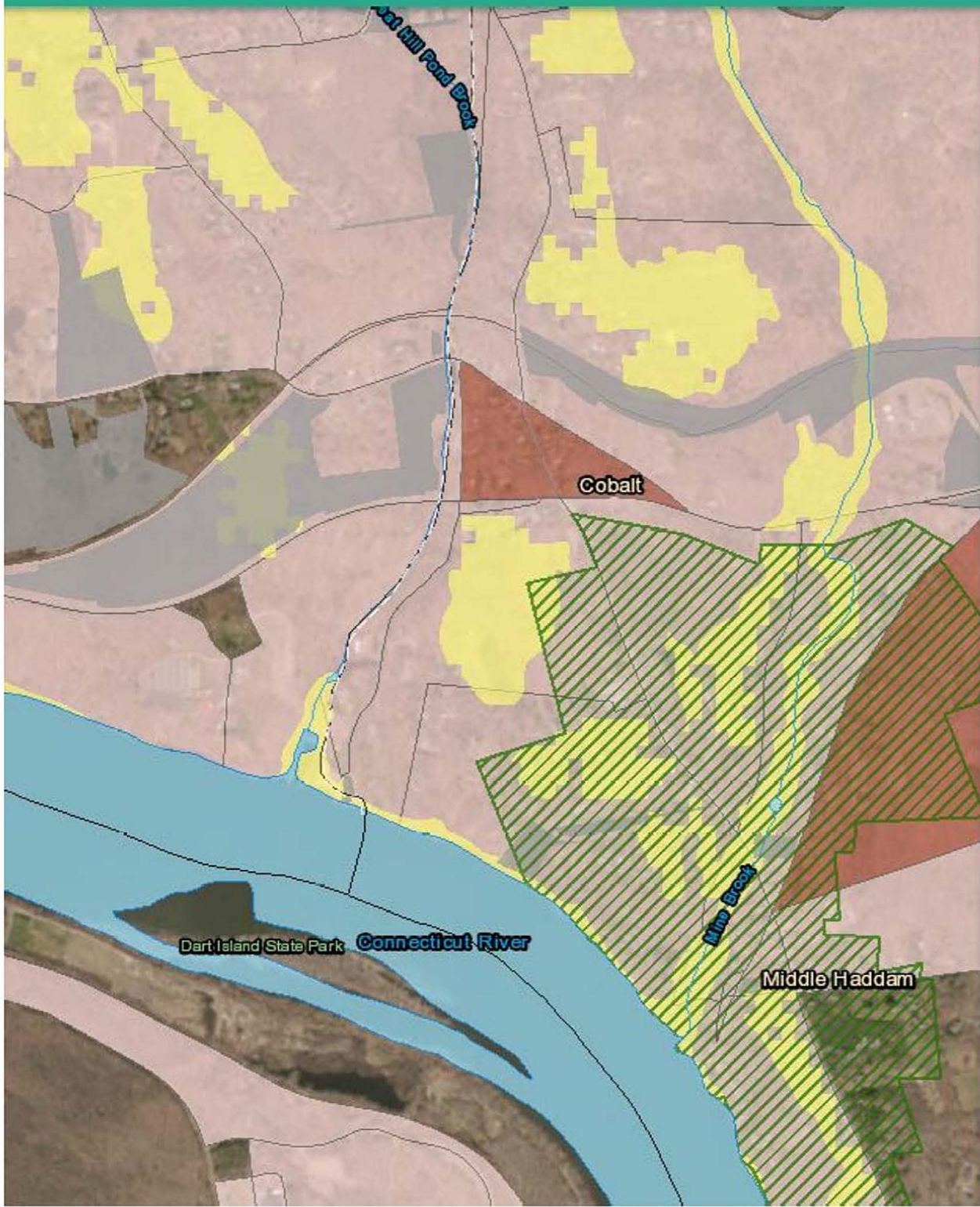
A Site Plan dated January 15, 2018 and revised to August 28, 2019 is included with this application. East Hampton Zoning Regulations require at least a 15 foot vegetated buffer (Sec. 5.2.E) along any property line where the Commercial Zone abuts a Residential Zone. If the Zone Change is approved, this buffer requirement goes into effect along the northern and eastern property boundaries. The regulations allow the buffer to be on either side of zone line, as long as the property is under the same ownership as the Commercial parcel. The site plan shows a sufficient buffer along the eastern line, but in the road right-of-way. The buffer strip along the northern property line does not appear to meet the 15 foot requirement.

The parking shown is compliant with the current and proposed uses of the property.

Lighting specifications are included with the application and appear to be compliant with the Zoning Regulations.

*Staff recommends consideration of the buffer requirement.*





**Legend**

**More Data**

- Towns
- Water lines
- Water polygon
- Local Historic Districts
- Protected Lands
- Village PFA

**Balanced PFA**

- Balanced PFA

**Priority Funding Areas**

- Priority Funding Areas
- 1-2 Criteria
- 3-4 Criteria
- 5 Criteria