

**BOROUGH OF FENWICK
HARBOR MANAGEMENT PLAN
2010 PLAN ADDENDUM**

Prepared By:
**Borough of Fenwick
Harbor Management Commission**

Submitted To:
**Borough of Fenwick
Board of Warden and Burgesses**

September 2010

FOREWORD

This document contains the “Borough of Fenwick Harbor Management Plan 2010 Plan Addendum,” September 2010, prepared by the Fenwick Harbor Management Commission. The Plan Addendum contains amendments to the *Borough of Fenwick Harbor Management Plan* that was duly approved by the Connecticut Commissioners of Environmental Protection and Transportation in March 2005 and adopted by the Board of Warden and Burgesses on May 28, 2005.

Pursuant to Sec. 22a-113m of the Connecticut General Statutes, the Harbor Management Commission may propose amendments to the Harbor Management Plan at any time, and such amendments must be approved and adopted in the same manner by which the Plan was approved and adopted.

In accordance with the applicable statutes, the 2010 Plan Addendum has been reviewed by the U.S. Army Corps of Engineers; duly approved by the Connecticut Commissioners of Environmental Protection and Transportation in August 2010; and is hereby submitted by the Harbor Management Commission to the Fenwick Board of Warden and Burgesses for adoption.

The Harbor Management Commission looks forward to continuing to work in a coordinated manner with other agencies of the Borough, the various bureaus and departments of the Connecticut Department of Environmental Protection, including the Office of Long Island Sound Programs, and with other state and federal agencies to fulfill its responsibilities, set forth in the Borough’s Harbor Management Ordinance, for implementing the Borough’s Harbor Management Plan and otherwise serving the Borough and its citizens as an active steward of the Borough’s coastal resources and navigable waterways.

ACKNOWLEDGMENTS

The “Borough of Fenwick Harbor Management Plan 2010 Plan Addendum” was prepared by the Fenwick Harbor Management Commission with assistance from Borough officials, members of other Borough commissions, Fenwick residents, and other interested parties.

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Geoffrey Steadman of Westport, Connecticut, consultant to the Harbor Management Commission for preparation of the *Borough of Fenwick Harbor Management Plan*, assisted the Commission with preparation of the 2010 Plan Addendum, and prepared the final Plan Addendum document, as well as all draft documents. From the Connecticut Department of Environmental Protection’s Office of Long Island Sound Programs, Marcia Balint provided important guidance and advice to the Commission in the course of work on the 2010 Plan Addendum.

The support of all other Borough commissions with responsibilities affecting the Fenwick shoreline and Harbor Management Area, including the Planning and Zoning Commission, Historic Commission, and Park Commission, is greatly appreciated.

Special thanks are extended to the citizens of Fenwick who have expressed their concern for the conservation of the Borough’s vital shoreline resources and have supported the efforts of the Harbor Management Commission to plan for preservation of those resources.

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FENWICK HARBOR MANAGEMENT PLAN

2010 PLAN ADDENDUM

Introduction

The following proposed amendments to the Borough of Fenwick Harbor Management Plan (the Plan) have been prepared by the Fenwick Harbor Management Commission (the Commission) in accordance with authority provided by the Connecticut Harbor Management Act of 1984 (Secs. 22a-113k through 22a-113t of the Connecticut General Statutes) and the Borough's Harbor Management Ordinance. The amendments are in the form of policies that concern the Commission's review of proposals for water-access structures¹ such as docks, floats, and piers that would provide access to the Fenwick Harbor Management Area (HMA). The Commission's review is conducted in coordination with State and Federal agencies, including the Connecticut Department of Environmental Protection's Office of Long Island Sound Programs (DEP OLISP) and the U.S. Army Corps of Engineers.

It is a principal goal of the Plan (duly approved by the Connecticut Commissioners of Environmental Protection and Transportation in March 2005 and adopted by the Fenwick Board of Warden and Burgesses on May 28, 2005) to preserve the existing character and beneficial quality of life associated with the Fenwick shoreline and HMA. The Plan encourages beneficial access to the HMA but makes clear that in those instances where the Plan's goals and policies for beneficial recreational use and access may conflict with the Plan's goal and policies for natural resource conservation and enhancement, the goal and policies for natural resource conservation and enhancement should receive priority. Further, it is a goal of the Plan to preserve the natural scenic quality associated with the Fenwick shoreline.

With regard to water-access structures, the Plan calls for careful planning, design, and review of all such structures to avoid any significant adverse impacts on beneficial uses and conditions on, in, or adjoining the HMA, including impacts on the existing scenic character of the shoreline. The Plan calls for minimizing the length and width of all water-access structures. Further, all water-access structures are to be consistent in scale, appearance, and materials with the existing scenic character of the Fenwick shoreline and should be designed to minimize visual impact.²

The purpose of the Plan amendments now being proposed is to strengthen the Commission's capability to guide the most desirable use and conservation of the HMA pursuant to Sec. 22a-113m of the

¹ For the purpose of these policies, the term "water-access structure" shall mean any dock, float, pier, or other structure, or combination thereof, constructed partly or wholly on, in, or contiguous to the Fenwick Harbor Management Area for the purpose of temporarily or permanently docking or mooring a vessel or otherwise providing physical and/or visual access to the HMA, including, but not limited to, access for swimming and/or fishing.

² When considering opportunities for minimizing the length and width of water access structures, the Commission recognizes the potential adverse environmental impacts that may be caused by solid-fill piers. The Plan does not encourage the construction of new solid-fill piers and recognizes that such structures may not be approvable by state and federal permitting agencies, even in areas where such structures historically existed.

General Statutes and Sec. 1 of the Harbor Management Ordinance. In addition to the proposed new policies that strengthen the existing procedures for reviewing proposals for water-access structures, the amendments include the identification of a specific “shoreline planning unit” along the Borough’s Long Island Sound shoreline within which, for the purpose of protecting the natural and traditional character of the HMA and shoreline, access to and from the HMA should be achieved only through nonstructural means. In other words, access to and from the HMA in the identified shoreline planning unit should be achieved without the construction and use of docks, floats, piers, pilings, and other fixed and floating structures.

The following policies are hereby proposed to supplement the Borough’s existing harbor management policies contained in Chapter Four of the duly approved and adopted Plan. Those existing policies remain in full effect unless expressly modified by any policy or policies set forth below and on the following pages. The proposed supplemental policies presented below are numbered for identification purposes and not to denote priority.

Proposed Supplemental Harbor Management Policies³

1. Preparation of application plans and surveys: The HMC recommends that application plans and surveys for specific types of water-access projects be prepared by licensed professional engineers and land surveyors in accordance with all duly established application requirements.

2. Compliance with DEP OLISP requirements: It is the responsibility of all applicants for DEP OLISP permits and other DEP OLISP authorizations to comply with all duly established application requirements, including, but not limited to, any requirements for submitting project plans and other information to the Commission, and otherwise properly conferring with the Commission prior to, and/or subsequent to, submitting an application to the DEP OLISP. Project plans and other information submitted by the applicant to the Commission must be deemed by the Commission to be sufficiently accurate, complete, and otherwise adequate for the purpose of the Commission’s review of that information.

3. Consideration of enforcement actions: When reviewing a proposed project for consistency with the Plan, the Commission should consider if there is any enforcement action pending with Borough, State, or Federal agencies for violations of environmental laws or other laws at the site of the proposed project and/or otherwise associated with the proposed project. The Commission may defer its review of a proposed project involving a pending enforcement action until such time as that action has been concluded. The Commission should provide recommendations to appropriate Borough, State, or Federal agencies concerning the correction of any unauthorized structures or other work in the HMA. Removal, if required, of any unauthorized structures or other work in the HMA should be in accordance with all applicable provisions of the Plan.

4. Findings and recommendations of the Harbor Management Commission: Findings and recommendations of the Commission concerning applications submitted to State and/or Federal agen-

³ The proposed harbor management policies should not be construed as altering any duly established regulatory procedures, requirements, and schedules of the DEP OLISP or other responsible State agency, including, but not limited to, the responsible agency’s requirements for soliciting and receiving public comments, including comments from the Fenwick Harbor Management Commission.

cies for authorization to place temporary or permanent water-access structures in the Fenwick HMA and/or conduct other work in or affecting the HMA should be carefully considered by those agencies, including, but not limited to: a) the Commission's findings concerning the consistency of the proposed activities with the Plan and any other applicable Borough requirements; and b) the Commission's recommendations, pursuant to the Plan and/or the Connecticut Coastal Management Act (CCMA), for any special terms and conditions to avoid or otherwise mitigate any significant adverse impacts that would otherwise be associated with construction, use, and maintenance of approved projects. Such recommendations should be consistent with the Plan and/or the CCMA. Pursuant to Section 22a-113n of the Connecticut General Statutes, a recommendation of the Plan with respect to a proposed project shall be binding on any official of the State when making regulatory decisions or undertaking or sponsoring development affecting the HMA, unless such official shows cause why a different action should be taken. With regard to applications submitted to or prepared by Federal agencies such as the U.S. Army Corps of Engineers and reviewed by the Commission, it is recognized that recommendations of the Plan are not binding on Federal agency decisions.

5. Avoidance of adverse impacts: Existing and potential adverse impacts on coastal resources, including, but not limited to, aesthetic resources⁴; on public navigation, including navigation by hand-paddled craft such as canoes and kayaks; and on natural and traditional scenic values⁵ should be reduced and/or avoided through all feasible means, including, but not limited to, application of professional design and siting measures; maintenance or removal of derelict, abandoned, or deteriorated structures affecting the real property on, in, or contiguous to the HMA; and avoidance of water-access structures in undisturbed shoreline areas with significant natural resource value, including scenic value.

6. Protecting and enhancing aesthetic resources and scenic values: It is recognized that the aesthetic resources and the natural and traditional scenic values of the HMA contribute significantly to the community character and quality of life in Fenwick. Accordingly, the aesthetic resources and scenic quality, including scenic vistas, associated with the HMA should be protected and, to the extent feasible, enhanced.

6(a) Design and review of development proposals: Design and review of development proposals affecting the HMA, including proposals for water-access structures, should take into consideration potential acute and cumulative impacts on aesthetic resources

⁴ For the purpose of these harbor management policies, the term "aesthetic resources" shall mean the aesthetic coastal resources described in the Connecticut Coastal Management Act and which, pursuant to the CCMA, are to be protected from adverse impacts that include, but are not limited to, actions that would degrade visual quality through significant alteration of the natural features of vistas and view points. (See the landscape protection and visual impacts materials included in Attachment A of the Fenwick Harbor Management Plan 2010 Plan Addendum.)

⁵ For the purpose of these harbor management policies, the term "scenic values" shall mean the scenic values associated with the Fenwick HMA and lower Connecticut River area and recognized in Section 25-102a of the Connecticut General Statutes as contributing to public enjoyment, inspiration, and scientific study and to the natural and traditional riverway scene, and which therefore should be preserved in the public interest.

and scenic values and the capacity of the natural and built environment to support the proposed development without the occurrence of significantly adverse visual impacts.

- 6(b) Case-by-case review: Determination of potential impacts on aesthetic resources and scenic values that would be caused by new development affecting the HMA should be carried out through the case-by-case review of individual development proposals by the Commission, acting in coordination with other Borough, State, and Federal agencies.
- 6(c) Consideration of public views: When considering potential impacts on aesthetic resources and scenic values that would be caused by new development affecting the HMA, consideration should be given to the potential adverse impacts on public observation, enjoyment, and appreciation of the HMA and shoreline from public waterfront areas, including public roads, and from the surface water of the HMA.
- 6(d) Minimizing visual intrusion: Existing and potential adverse visual impacts should be reduced and/or avoided through all feasible means, including, but not limited to, application of professional design and siting measures; maintenance or removal of derelict, abandoned, or deteriorated structures affecting the real property on, in, or contiguous to the HMA; and avoidance of water-access structures in undisturbed shoreline areas with significant natural resource value, including scenic value.

7. Establishment of shoreline planning units: For the purpose of planning for the most desirable use of the HMA for recreational and other purposes, the Commission may identify discrete “shoreline planning units” on, in, or contiguous to the HMA. Designation of such units, for inclusion in the Plan, should be based on the Commission’s review of existing shoreline conditions, natural features, current and potential water and waterfront uses, harbor management issues, and any other pertinent considerations. The Commission may formulate recommendations, including guidelines and recommendations for the planning, design, and review of proposed docks, floats, piers, and other water-access structures in each identified unit. It is recognized that proposals for construction of water-access structures may be subject to special restrictions and/or review criteria in one or more shoreline planning units in the HMA due to the presence of fragile and sensitive coastal resources, natural and traditional scenic values, and public navigation in those management units. Further, it is recognized that reasonable access to the HMA in particularly valuable and sensitive coastal resource areas, including, but not limited to, aesthetic resource areas, should be achieved through non-structural means, without the construction and use of any docks, floats, piers, pilings, or other fixed and floating structures.

8. Repair of damaged structures: Repair of damaged, duly authorized water-access structures should not cause or result in any significant adverse impacts on navigation, public safety, coastal resources, and/or natural and traditional scenic values in the HMA nor result in any increase in the originally permitted length and width of the structures. Pursuant to DEP OLISP requirements, including, but not limited to, requirements pursuant to sections 22a-28 through 22a-35 and sections 22a-359 through 22a-363f, inclusive, of the Connecticut General Statutes, repair of damage to a duly authorized water-access structure may require a new authorization from the DEP OLISP, and the

application for that authorization shall be subject to review by the Commission in accordance with these policies and other relevant provisions of the Plan

9. “Fenwick Proper Shore” Planning Unit. This planning unit is established by the Commission to include that part of the Fenwick shoreline bounded on the east by the west side of the Fenwick pier and a Borough-owned freshwater wetland (known as the “Fenwick West” Wetland) on the west. (See the attached Figure 1.) Between the Borough pier and wetland, a distance of about 1,800 linear feet along the shoreline, there are 14 waterfront homes, a concrete seawall, and a natural beach marked by several wooden and stone groins (one groin is capped with concrete). The groins are believed to predate the hurricane of 1938. Along this entire length of shoreline there are currently no pile-supported piers providing boating access to Long Island Sound by the waterfront property owners. (See Figure 1.)

Priority harbor management objectives include: (a) preservation of the natural and traditional scenic values of the Long Island Sound shoreline; and (b) preservation of the shoreline’s natural coastal resources, including, but not limited to, beach and aesthetic resources, which provide ecological functions and public recreational values of special interest and much local significance. It is recognized that, given the existing natural character of the beach and shoreline, placement of any water-access structures in this planning unit would alter the existing shoreline character and may establish precedent for other structures to be considered in an existing natural beach area. It is also recognized that currently and historically there have been no permanent water-access structures in this planning unit and that the property owners have traditionally and historically gained access to Long Island Sound, including access to near shore boat moorings, by means of dinghies and other small craft launched from the beach.

Further, it is recognized that: (a) significant scenic vistas of the beach and shoreline in this planning unit are enjoyed from public areas, including, but not limited to, the existing public waterfront walkway, Fenwick pier, and the public trust area seaward of the Mean High Water line; and (b) Borough residents and others regularly walk along the beach in this planning unit from which they enjoy scenic views of the Sound and shoreline. Accordingly, no docks, floats, piers, pilings, or other fixed and floating structures should be constructed in this planning unit. Any access to and from the HMA in this planning unit should be achieved only through nonstructural means, including, but not limited to, the use of dinghies and other hand-carried craft that may be launched from the beach.

Effective November 30, 2010