

Approved 10/17/12

**City of Boston Conservation Commission
Public Hearing Meeting Minutes**
Boston City Hall, Hearing Room 801
Boston, Massachusetts, 02201

September 19, 2012

Commissioners Present: Charles Button – Chairman, Antonia Pollak, John Lewis, Vivien Li, John Sullivan, Stephen Kunian

Commissioners Not Present: Jeanne McHallam

Staff Present: Stephanie Kruel, Executive Secretary, Chris Busch, BRA

6:05 PM

Update on Order of Conditions DEP File No. 006-1002 issued for the Clippership Wharf Redevelopment Project, at Sumner and Lewis Streets, East Boston, Boston Inner Harbor.

Owner: Noddle Island Limited Partnership
Representatives: Christopher Fleming, Winn Development
Documents: Photos and plans submitted with original NOI

V. Li stated that Winn Development is a dues-paying member of her employer, The Boston Harbor Association. The Clippership Wharf Redevelopment project was originally slated to be a 400 unit condominium development. As market conditions have changed, plans have been revised to instead build fewer units to be rented as apartments in the same building footprint with essentially the same site plan. While waiting to secure financing, the proponent seeks permission to make interim repairs to the deteriorating seawall at the project site. Construction is estimated to begin sometime next year.

There has been one formal extension granted for this project in 2007, and the permit is currently valid due to an action of state legislation that automatically extends certain permits. V. Li explained that TBHA recently sponsored cleanups in East Boston and they found the project site to be poorly maintained and trash-strewn. She inquired as to the proponent's maintenance Plan. The proponent stated that the site had in fact been cleaned up over the past three days, and that sidewalks and street lighting were installed in 2011 to extend Harborwalk. Currently a resident walks the site daily and reports back to the proponent regarding issues that need to be addressed, and there is a bi-annual cleanup performed by Winn Development. Ms. Li strongly requested that regular cleanup, including ongoing monthly maintenance, take place and the proponent agreed. C. Button requested a specific maintenance plan for the seawall, as the Commission needs to see plans in order to approve them. Mr. Fleming described seawall maintenance activities as including excavation, filter fabric, and resetting concrete blocks in order to stabilize the shoreline for the winter. Mr. Busch explained that this could be permitted administratively, as repairs are included in the existing Order of Conditions.

- **Motion made by J. Lewis and seconded by V. Li to request that the applicant clean the site immediately, and submit a maintenance plan and repair specs to the staff for administrative review, and to close the hearing (5/0/0, 6:23pm)**

6:25 PM

Update on Order of Conditions DEP File No. 006-1312 issued to Shipyard Quarter's Marina, 1 Pier 8, 13th Street, Charlestown, Boston Inner Harbor.

Owner: Martin Oliner, Shipyard Quarter's Marina
Representatives: Asher Hertzberg, Shipyard Quarter's Marina
Documents: Photos and plans submitted with original NOI

C. Busch explained that a permit was issued at the August 15, 2012 meeting for repair and replacement of piles. Issues of concern are that sections of the Harborwalk and waterside infrastructure are in disrepair, the party responsible for maintenance and repair, and the Commission had requested an update. A. Hertzberg stated that those responsibilities had been assumed by Parris Landing. S. Kunian insisted that M. Oliner remains responsible for maintenance of the Harborwalk, and asked if there was a pump-out facility on site. Mr. Hertzberg replied that there is. Mr. Hertzberg is the manager of the Marina itself and does not take responsibility for managing the Harborwalk. Mr. Kunian asked what Mr. Oliner was going to do and when. Mr. Hertzberg stated that the Marina has a contract with Parris Landing for maintenance and will now enforce that contract. V. Li conveyed her frustration that the representative who was at the previous meeting was not here tonight. Mr. Kunian declared that the applicant has two weeks in which to submit a repair and maintenance plan, and if such a plan was not submitted an enforcement hearing would be scheduled, which carries a fine of \$25,000 per day.

Sal LaMattina, City Council member, asserted that this has been an ongoing issue over the past six years since he has been in office. He agreed with the assertion that the owner was a slumlord and that the property was dangerous, and called for an enforcement hearing in two weeks' time. Mr. Kunian preferred to give the applicant the opportunity to first produce a repair/maintenance plan before escalating to the hearing.

Barbara Mackey of the Friends of the Charlestown Navy Yard (FCNY), requested an update on repairs from the engineer. Mr. Busch noted that the Commission does not have the authority to enforce an action, only to permit necessary work and repairs. Mr. Hertzberg indicated that he is applying for additional permits before work can begin. While the materials have been priced and/or ordered, he does not know the specifics.

Richard Mulligan of the BRA expressed extreme frustration that there had been no action related to this matter in years. He receives daily complaints about the Marina, which he deems an abomination, and has previously met with their attorneys to no avail. Mr. Kunian then requested that the proponent provide a report within two days on when permits are expected and when work would begin and end.

Lois Siegelman of FCNY, who has been involved with bringing complaints against the derelict Marina from the beginning, has pictures of the Marina actively and passively being destroyed. She went on to describe the negligence in more detail. Mr. Hertzberg claimed that the owner responded to the described problems on their own, and maintained his inability to control what others do on his property to damage it.

Marian Darcy of the FCNY and the Charlestown Neighborhood Council (CNC), who has been a resident of Pier 7 for 26 years, attested to the severe negligence. She indicated that Parris Landing was only responsible for a portion of the Harborwalk, which did not include piers 6 and 8, and that Mr. Oliner was in fact also responsible for a portion of the waterfront between piers 7 and 8. Ms. Pollak requested that the BRA provide an updated ownership map. She informed the proponent that if there were no results presented at the October 17th Commission meeting, punitive actions would be taken.

- **Motion made by J. Lewis and seconded by T. Pollak to request that the applicant provide a progress report on permitted work within two days, and return before the Commission on October 17, 2012 with a response to a staff inspection and planned repair schedule, and to close the hearing (5/0/0, 6:55pm)**

6:57 PM

Request for Determination of Applicability from RIT Trust as to whether a proposed development site is subject to the jurisdiction of the Massachusetts Wetlands Protection Act, 991 Morrissey Boulevard, Dorchester. *Continued from the August 15, 2012 Public Hearing*

Owner: RIT Trust

Representatives: Tim Johnson, Architect; Sean Hardy, Neponset Valley Survey; William Commuty

Documents: Photos and plans submitted with the RDA

C. Busch explained that at the previous hearing the proponent was asked to have a wetlands scientist review the property to determine whether or not it was an isolated land subject to flooding (ILSF). The Commission had questions regarding the relationship of the property to the watershed, and all information received by staff from the proponent was forwarded electronically to the Commission. J. Sullivan was not in receipt of this information prior to the hearing.

S. Hardy confirmed that the soil at the subject property is low-grade fill, and does not meet the ILSF definition. Mr. Hardy and Mr. Sullivan discussed technical calculations. Mr. Busch noted that the lack of fauna associated with an ILSF reinforces the finding that the property is not an ILSF. The Commission concurred, and issued a Negative Determination.

- **Motion made by J. Sullivan and seconded by T. Pollak to confirm a Negative Determination and close the hearing (5/0/0, 7:09pm)**

7:10 PM

Request to amend Order of Conditions DEP File No. 006-1298 from the Massachusetts Port Authority for repairs to a pier fender system at the Black Falcon Cruise Terminal involving the removal and replacement of timber piles, One Black Falcon Avenue, South Boston, Reserved Channel (Designated Port Area, Land Under Ocean).

Owner: Massachusetts Port Authority

Representatives: Jim Stolecki, MassPort

Documents: Photos and plans submitted with original NOI

V. Li stated that MassPort is a dues-paying member or her employer, The Boston Harbor Association. This is an amendment to an existing order due to summer damage. An Emergency Certification was issued, and additional repairs to the fender system were needed. Mr. Stolecki reported that those repairs had been completed, but more repair work may need to be done in October, the terminal's busiest season. Work on the original permit has also been completed. The proponent does not anticipate having to remove piles, but wants the ability to make repairs quickly. The Commission offered to issue permits administratively as needed in October in response to a request for an Emergency Cert at that time. The Commission cannot issue permits for unspecified work. If a long term plan is needed it would be an amendment to the original filing. Ms. Li inquired as to the accessibility of a sitting area on the property. Mr. Stolecki replied that the sitting area is available to and currently utilized by the public. J. Lewis inquired about potential installation of a previously discussed "No Wake" sign.

7:20 PM General Business

Request for Certificate of Compliance for Order of Conditions DEP File No. 006-0557 from the Massachusetts Port Authority for fender system repairs at Pier 1, Marginal Street, East Boston.

Request for Certificate of Compliance for Order of Conditions DEP File No. 006-0775 from the Massachusetts Port Authority for pile system repairs at Pier 1, Marginal Street, East Boston.

The above requests were considered simultaneously. Both requests were filed in the mid to late 1990's and no action was taken at that time. All documents are signed and stamped by the engineer, and this paperwork is needed to clear title.

- **Motion made by S. Kunian and seconded by V. Li to issue Certificates of Compliance for both projects (voted 5/0/0, 7:22pm).**
- **Motion made by V. Li and seconded by S. Kunian to adjourn the meeting (voted 5/0/0, 7:23pm).**

Respectfully submitted,

Stephanie Krueel

Executive Secretary