

APPROVED 8-7-13

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

July 10, 2013

Commissioners Present: Charles Button, Stephen Kunian, John Lewis, Vivien Li, John Sullivan

Commissioners Not Present: Jeanne McHallam, Antonia Pollak,

Staff Present: Stephanie Krueel, Executive Secretary

6:08 PM Request for an Amended Order of Conditions for **DEP File No. 006-1291** from Boston Water and Sewer Commission for Repair and Replacement of Existing Storm Drain Outfall at an easement near Old Ironsides Way, Charlestown, Boston Harbor (LUO, Coastal Banks, Rocky Intertidal Shores, LSCSF)

Representative: Tom Daly, BWSC

J. Sullivan recused himself from the proceeding.

V. Li stated that BWSC and Fay, Spofford & Thorndike are dues paying members of her employer's organization, The Boston Harbor Association.

T. Daly described the project and existing conditions.

Ms. Li asked if there would be any impact to the Harborwalk. Mr. Daly replied that a portion of the Harborwalk would need to be cut through, and plating would be installed over the hole during the day with protective fencing installed around the trenches. The Harborwalk will be safe and open to the public at all times. The project will take approximately 1 month to six weeks to complete. It has designated funding, and work will start in November/December as per the Army Corp of Engineer Requirement to perform this work during the winter.

C. Button noted that final plans required a P.E. stamp.

Mr. Daly clarified that the pipe size would be 42", not 48" as erroneously stated in the NOI, to improve the flow velocity.

- **Motion made by S. Kunian and seconded by V. Li to issue the Amended Order of Conditions as written (4/0/0 6:15PM)**
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6:15 PM Request for Determination of Applicability from MassDOT for Rehabilitation of the Phillip G. Bowker Overpass (Charlesgate Interchange), Kenmore/Back Bay, Muddy River (Riverfront Area, Buffer to River Bank)

Representatives: Robert Bennett, MassDOT; Scott Carpenter and Paul Moyer, Gill Engineering

S. Krueel stated that the project meets the requirements for a Negative Determination.

R. Bennett explained the scope of the project, which will be bid out in late July and has Federal funding. Work will begin around November 1, 2013 and will last for two years.

S. Carpenter reviewed the project background and existing conditions. A separate study is being done to determine how to remove the Bowker overpass and bring the road back to grade. The current project is designed to buy time until the other study is complete and the new solution is implemented. Currently, the road is being patched at night on an emergency basis. The project includes erosion and sediment control measures, and very little impact will occur at the substructure level.

C. Button asked if measures will be put in place to collect falling debris. P. Moyer explained that a containment system for sand blasting will be utilized, and that no earthwork would be done as part of this project. Mr. Button noted that MassDOT would still have equipment in and near resource areas.

S. Kunian, who lives three blocks away, expressed his belief that the Muddy River is in fact a high quality stream in response to the section of the NOI that states that the "Muddy River, including the section that passes by Bowker Overpass, is not classified as a *High Quality Stream* by the Massachusetts Stream Continuity Working Group." He asked if an ongoing maintenance plan has been approved. He also asked if the emergency repairs that have been made are within the ConCom's jurisdiction and reminded the

representatives that MassDOT is required to come before the ConCom if this is the case. Although he is in favor of the project, he insists that the area under the bypass must be cleaned up because the current condition is unacceptable. He is not in favor of a Negative Determination, and would prefer for the applicant to submit a full NOI in order to see how conditions under the bypass will be improved.

V. Li, who also lives nearby, noted that it appears that work is currently being done in the area. She noted that this is a high-crime area; it is dangerous for pedestrians; and it is a haven for the homeless. She does not like the attitude that categorizing the Muddy River as “not a high quality waterway” conveys because it is inconsistent with the efforts of the Emerald Necklace Conservancy and the City of Boston’s Parks Department. She asked if any trees or vegetation would be removed. Mr. Carpenter confirmed that none would be removed. She asked if any lighting or additional patrols were planned for better security. Although this is a community issue, and not necessarily under the purview of the ConCom, she would like it to be addressed.

Mr. Kunian expressed certainty that the applicant and the Parks Department could work out a viable solution. He inquired as to the cost of the project. Mr. Carpenter replied that the budget is \$10.8 million.

Mr. Moyer, who lives four blocks away himself, is aware of the issues. However, there is a very limited budget for structural repairs, even though these improvements are greatly needed. In fact, within this budget, two of the four ramps cannot be improved. Any money allocated toward restoration efforts would have to be taken away from structural repairs.

Mr. Kunian asked if two workers could spend a day cleaning up the river. He also stated that if the applicant did not come to the ConCom for future Emergency Certifications, the ConCom would issue an Enforcement Order against MassDOT. He would also like an ongoing maintenance plan to be approved by the ConCom.

Mr. Bennett explained that he had no idea that the areas in which the emergency work has been done were within the ConCom’s jurisdiction, and he would immediately discuss the issue with his supervisor.

Mr. Moyer maintained that the existing mess was not created by MassDOT’s activities. Mr. Kunian responded that the proponent should ensure the owner, which is likely to be DCR, cleans it up.

Ms. Li asked for clarification of Mr. Bennett’s title, which is Environmental Analyst. She went on to say that existing conditions are not environmentally sound, and it is unacceptable to refer to the Muddy River as a degraded waterway, as it is inconsistent with Governor Patrick’s vision for the river. She commended the applicant for looking at the long term regarding future plans for the overpass; however in the meantime improvements are needed. Mr. Kunian interjected that the Bowker overpass would not be taken down for at least 10-15 years.

Mr. Carpenter explained that the project will buy about 10 years of life for the structure, making further emergency repairs unnecessary.

J. Sullivan noted the presence of scuppers on the structure and asked where the stormwater runoff drains to. Mr. Carpenter believes it goes into catch basins with closed basins. Mr. Sullivan probed him, asking if he knew that for sure, since most bridges don’t have such a system. Mr. Sullivan underscored that the applicant should be concerned about sediment and phosphorus control at this location. Building a new deck requires installation of proper sediment traps. The runoff may in fact be going directly into the Muddy River. Mr. Sullivan could not determine from the submitted plans where the pipes lead. Any basins would need to be in accessible locations for maintenance performance. Stormwater needs to be addressed, and TMDL restoration, as per the Charles River Watershed Association’s recommendations, should be done.

Mr. Button asked if the proponent could show on sheet 20 of 24 where the scuppers lead to.

Mr. Kunian made a motion to deny the request for a Negative Determination. Mr. Button asked for clarification on the basis for denial. He wants to ensure that the applicant is only asked to perform activities under its control, and that the Commission is not telling MassDOT to clean up DCR’s property. Mr. Kunian remarked that MassDOT and DCR must work together.

Ms. Li directed the representatives to address Mr. Sullivan’s concerns.

Mr. Button suggested issuing a Conditional Negative Determination. Mr. Kunian would prefer to review an NOI. Ms. Li agreed with Mr. Kunian and asked the applicant if an NOI could be filed in a timely fashion.

Mr. Moyer responded that since work is planned to be advertised by the end of July, it would not be possible to submit an NOI in a timely fashion.

Mr. Kunian wondered if working with DCR would in fact be very difficult. Mr. Moyer noted that a Memorandum of Understanding between MassDOT and DCR exists for access to DCR's property. He noted that his crew would restore the project area to its original condition post construction. Mr. Button clarified that this would only be the area directly under the portions of the overpass that are part of this project.

Mr. Kunian withdrew his earlier motion and noted that he would be away on August 7th.

Mr. Button suggested that the Commission issue a Negative Determination with the condition that the applicant returns to the Commission on August 7th to clear up the remaining issues and provide a maintenance plan. Mr. Kunian also wants to ensure that DCR is involved.

Mr. Button noted that stamped plans are required prior to start of work.

- **Motion made by S. Kunian and seconded by V. Li to issue a Negative Determination of Applicability with the following conditions (4/0/0 6:55PM):**
 - **The applicant will ensure that site conditions are restored upon completion of construction.**
 - **The applicant will return to the Commission on August 7, 2013 to finalize clean-up plans, provide a stormwater plan, and confirm DCR involvement. At the next scheduled meeting of the Commission, the applicant will present a maintenance plan for the project area.**

6:55 PM Notice of Intent for DEP File No. 006-1350 from University Place Residences LLC c/o Corcoran Jennison Companies for Construction of a Mixed-Use 6-Story Building at 140-144 Mount Vernon Street, Dorchester, Old Harbor (LSCSF)

Representatives: Sarah Kelly and Jamie Fay, Fort Point Associates; Sean McReynolds, Corcoran Jennison; Jim White, HW Moore; Nicholas Kotsatos, DiMella Shaffer

V. Li stated that Corcoran Jennison, Fort Point Associates, and DiMella Shaffer are dues paying members of her employer's organization, The Boston Harbor Association.

S. McReynolds explained that the project site is almost entirely within Land Subject to Coastal Storm Flowage. The proposed development is consistent with the Columbia Point Master Plan. The proponent has been working with the BRA for the past two years, and the project is currently under Article 80 review. A Conditional Letter of Map Revision for filled land (CLOMR-F) has been issued by FEMA, and the project will be above base flood elevation (BFE). Mr. McReynolds described the project goals.

J. White reviewed the existing conditions plan. Currently the land is one-half foot below the BFE. There will be no mechanical equipment located in the underground garage- it will instead be on the first floor, which will be above the BFE. He described the unique storm drainage system, which is related to the MWRA Combined Sewer Overflow (CSO) tunnel. On-site stormwater is used to flush the tunnel, and MWRA wants the project to maintain its flow rate in order to continue to perform this function.

Ms. Li inquired about the ownership of the adjacent parking lot and clarified that the 76 underground parking spaces would be for University Place residents. Mr. McReynolds responded that Corcoran Jennison owns the parking lot to the west of the project. It will be maintained for use by Corcoran Jennison employees, residents, and guests until it is redeveloped.

C. Button noted that the property should be elevated to protect the new building from the risk of flooding. Ms. Krueel noted that she met with the representatives on July 1st and discussed flooding concerns. She had suggested that the proponent develop ways to adapt to future flooding. The representatives acknowledged potential for flooding, and agreed that the ultimate floor and garage ramp elevations could affect the current and future owners. They declined to take action to raise elevations.

Mr. Button noted that the NOI application package did not include a letter from MWRA acknowledging the stormwater situation and their request to have the runoff directed to their pipes. He brought attention to the abandoned BWSC easement indicated on the plans and stated that it needs to be addressed.

J. Sullivan refuted the claim that the easement is abandoned. It is an active easement, and could present a serious problem for the development. Mr. Sullivan sent a letter to the BRA on July 9, 2013 affirming that water service should in fact come from Mt. Vernon Street. The stormwater should be directed to the new BWSC 8X8 pipe. This situation will be more cost effective and more efficacious than using the MWRA configuration.

Mr. White explained that he had met numerous times with the MWRA, and the current plan was developed to accommodate them. Mr. Sullivan responded that Corcoran Jennison had declined the opportunity to obtain the BWSC easement in the past, so now it will be an issue.

Ms. Li inquired about the distance to the T station (500-600 feet), and reiterated that there are 184 rental units, 76 underground parking spaces, and 7 surface parking spaces. Since a Transit Oriented Development (TOD) shouldn't have a lot of parking, she wondered by the existing 107 surface parking spaces would still be available to tenants.

S. Kelly replied that the parking ratio for the project is 0.52 spaces/unit. The BTD recommended range is 0.75 to 1.75 spaces/unit. The existing parking is for use by nearby employees and visitors until it can be redeveloped. N. Kotsatos added that it is an ungated lot, and no one would be restricted from parking there. The building is envisioned as a TOD. It will contain 190 bike parking spaces on the first floor.

Ms. Li explained that greening is very important to Mayor Menino. Mr. McReynolds noted that the applicant is working with Liza Meyer at the Parks Commission. They are prevented by the building code from specifying a green roof on the building because the structural type (stick built on a podium) is not appropriate for such a roof. Instead, there will be lots of outdoor space as per the Columbia Point Master Plan. He also explained that 28 trees will be removed and 38 will be planted.

Ms. Li stated that the tree replacement ratio should be 2:1 to help reach the Climate Action Plan's goal of 100,000 additional trees. Mr. McReynolds replied that the Parks Commission wants more open space (grassy field). Ms. Li replied that a ball field would be great. Mr. Kotsatos noted that the area will be large enough for a multi-purpose field for activities such as Frisbee. Ms. Li pointed out that such activities don't preclude the presence of trees. Mr. McReynolds agreed to present Ms. Li's concerns to the Parks Commission, and confirmed that the courtyard will be open to the public.

Ed Lambert from UMass Boston stated that he was not in opposition to the project, but was in attendance to observe the meeting and notify the Commission that there are issues related to shared utilities, easements, parking, etc. that still need to be worked out. Mary Kate McSally from the UMass Building Authority echoed his sentiments.

Mr. Kunian excused himself from the proceeding at 7:25pm.

Ms. Li suggested that due to the proximity to transit, the proponent try to reduce the number of existing surface parking spaces available to the residents.

The proponent confirmed for Mr. Button that funding for the project has been secured.

- **Motion made by V. Li and seconded J. Lewis by to issue the Order of Conditions with the following amendments (4/0/0 7:30PM):**
 - **The applicant shall consider planting trees to replace those removed at a 2 to 1 ratio, or as directed by the Parks Department.**
 - **The applicant shall consider reducing the amount of parking available to tenants in the existing surface parking lot to the west of the project site.**

7:30 PM Notice of Intent for **DEP File No. 006-1351** from Lewis Wharf LP for Harborwalk Improvements at 45 Lewis Wharf, Boston Inner Harbor (LUO, Fish Run, LSCSF)

Representatives: Richard Jabba & Jamie Fay, Fort Point Associates; Philip DeNormandie, property owner

Ms. Li stated that Fort Point Associates is a dues-paying member of her employer's organization, the Boston Harbor Association.

R. Jabba described the project location and the extension of the existing Harborwalk. The project includes adding 200 linear feet to the Harborwalk on the South Pier, removing and reorganizing parking spaces in the process. A few spaces will also be removed from the North Pier.

C. Button asked why the existing dilapidated piles will not be pulled. Mr. Jabba replied that they are within 20 feet of the existing seawall, and removal could destabilize the bank.

V. Li asked the proponent why he is embarking on this project. P. DeNormandie replied that this is part of a parking reorganization as well as work for the Chapter 91 license.

Ms. Li asked if the work was related to future development proposed at the site. Mr. DeNormandie replied that it is not.

J. Fay explained further that development plans have not gelled, and that there is nothing right now to provide a solid basis for redevelopment. DEP had granted a temporary Chapter 91 license, and for a permanent license DEP asked for a continuous Harborwalk. Mr DeNormandie added that a development plan will eventually be brought to the Commission, but that as of now the changes are unknown.

Ms. Li countered that the quality of the Harborwalk does not seem permanent. She asked if this should be considered an interim Harborwalk. Mr. DeNormandie replied that it is an interim solution, but he doesn't know how long it will be in place- perhaps 5-10 years. This probably won't be the permanent location of the Harborwalk.

Ms. Li asked if new wayfinding signage, interpretive signage, telescopes, Adirondack chairs, and regular maintenance are part of the project. The representatives confirmed that all of these, with the exception of the telescopes, are part of the project.

J. Sullivan asked if this project includes parking lot paving, catch basins, and/or water quality improvements. Mr. DeNormandie replied that the north side would be re-paved, but that existing catch basins, which vary in type, are currently working well and are maintained regularly. Mr. Sullivan asked if there are adequate sediment capture facilities. He noted that the Commission needs to see plans with outlets shown. He also inquired about sewer pipe ownership under the lot, which seems to be unclaimed. Mr. DeNormandie stated that all paving over that pipe has already been done, and he doesn't know who owns it. It is only utilized by the granite building. Any new development on the site would need a new stormwater system.

J. Lewis inquired about a past NOI regarding a hotel. Mr. DeNormandie replied that the NOI was submitted by a former owner, and that the project is off the table.

Ms. Li referred to page 11 of 12, section 6.0 of the maintenance plan regarding trash and debris removal. She noted that between Memorial and Labor Day there is increased activity on the wharf, therefore there needs to be increased maintenance. She also inquired about snow removal. The representatives replied that snow on the new wooden deck would be shoveled into the Harbor. Mr. Fay claimed that since the area is not paved, it is okay to shovel the snow into the water. Ms. Li replied that the practice is inconsistent with DEP regulations.

R.D.Maciolek, a member of the Board of Trustees of the Lewis Wharf Condominiums, noted that the Board of Trustees has not yet formulated an opinion, and he had originally intended to ask for a continuance at this hearing, but understands that is unlikely that it would be. He is not opposed to the Harborwalk, and in fact welcomes public access to the property. He noted that the existing green painted timber decking appears to remain on the plan. He believes there are deteriorating pilings under the proposed Harborwalk. There is no regular maintenance in this area, and this jeopardizes the safety of the users of the Harborwalk and the longevity of the work that is going into it. He is also concerned about the stability of the seawalls, and believes there is infiltration into the sewer line. He also noted trash needs to be removed daily. He hopes the OOC addresses these. Issues.

Mr. DeNormandie explained that Lewis Wharf is open to the public because he, not the Condo Association, owns the open spaces. The seawall has been reinforced, the south pier has been rebuilt, and the Harborwalk is in good condition. The seawall wasn't made to keep sea water out, but rather to retain the material behind it: It is still tidal. The pilings are very secure, having been installed by the coastguard. The seawall has passed all periodic inspections.

Mr. Lewis observed that Mr. Maciolek and Mr. DeNormandie disagree about the condition of the Harborwalk.

Ms. Li asserted that there are timber sections of the Harborwalk elsewhere, and Mr. Lewis and Ms. Krueel confirmed that the surface is in good condition. Ms. Li asked if a Chapter 91 license is needed for the project. Mr. Fay responded that the application has been submitted, and the license should be issued by

the end of the summer. Construction will take three months. Assuming the Chapter 91 license is granted, the Harborwalk will be open in the Spring of 2014.

Leo Buk Lhu stated that he likes the freeform Harborwalk design, whose width varies between 12' and 32' by section. When he asked if creosote piles are still allowed, several people commented that no new creosote piles are allowed, but existing ones may remain in place.

Ms. Krueel asked Mr. Maciolek if he could submit his comments in writing.

Mr. DeNormandie expressed concern about condition #57, since he may have to close the Harborwalk if work is done from land. Mr. Button replied that safety is the first concern.

- **Motion made by J. Lewis and seconded by V. Li to issue the Order of Conditions with the following amendments (4/0/0, 8:05pm):**
 - **Snow from landside areas shall not be plowed or otherwise deposited into the waters of Boston Harbor as per Massachusetts DEP's Snow Removal Guidance Policy. Snow must be stockpiled on paved surfaces that direct melted snow water to catch basins. Deicing material and sand shall be stored and contained in areas that will not allow for their migration into wetland resource areas. Prior to April 1st, all sand and salt from winter application must be removed from the site. This shall be a perpetual maintenance condition that shall not expire upon issuance of a Certificate of Compliance.**
 - **The applicant shall submit plans to the Commission for all drainage facilities, indicating the location and size of all catch basins.**
 - **The applicant shall conduct maintenance activities for all site facilities on, at a minimum, an annual basis. All necessary repairs shall be made within one calendar year of identification.**
 - **Trash receptacles shall be emptied, and any trash on the site shall be removed daily from Memorial Day to Columbus Day, and at least weekly during all other months**

8:05 PM Notice of Intent from National Development for a Childcare Center and Harbor Walk Improvements at 105 Constitution Road, Charlestown, Boston Harbor (LSCSF)

Representatives: Sherry Clancy & Jerome Kyllingstad, National Development; Theo Kindermans, Stantec

V. Li stated that National Development is a dues-paying member of her employer's organization, the Boston Harbor Association.

S. Clancy described the project as a change of tenancy to a day care facility. The overall project consists of two parts. The first pertains to the existing building, of which the first floor is 6-8" above base flood elevation (BFE). The doors will be retrofitted to be flood-proof, the mechanical equipment is all on the roof, and there is no basement. There will be two stormwater infiltration areas, and the impervious surface will be reduced by 2,300 sf. The second part of the project is the overlook area, where binoculars will be installed.

Ms. Li asked about tree replacement. Ms. Clancy explained that 13 trees will be removed and 12 new trees will be planted. Ms. Li noted that 26 new trees are needed, and she suggested that if more trees can't be accommodated on-site, they could be donated for planting off-site. She observed that some parking areas would be replaced with play areas, and wondered if the play areas would be available to the public outside of business hours. Ms. Clancy responded that the gates would be on a time lock, opening after the facility closes and locking again at sunset.

Ms. Li suggested that MassPort adopt a policy that if the tenant leaves, the play areas would be open to the public from sunrise to sunset. Ms. Clancy noted that any change of use would require an amendment to the Chapter 91 permit, and open space would be addressed at that time.

J. Sullivan inquired about sheet flow depicted on plan 301. T. Kindermans explained that the entire area is paved now and all stormwater flows directly off the pavement. The project calls for part of the area to be pervious pavement and exposed timber. Mr. Sullivan pointed out that none of that information is on the plan, so there is no way for anyone reviewing it to know that. Ms. Clancy replied that these are

preliminary plans. The final plans will include this information, will be stamped by the P.E., and will be submitted to ConCom staff.

- **Motion made by J. Lewis and seconded by V. Li to issue the Order of Conditions with the following amendments (4/0/0 8:20PM):**
 - **The applicant shall seek opportunities to increase the tree replacement ratio on or off site.**
 - **Consistent with the applicant's Chapter 91 license, the play area shall be open to the public during non-business hours, and signage indicating this shall be posted.**
 - **If there is a change in tenancy or a vacancy, the applicant shall come before the Commission to discuss use of the on-site open space by the public.**

8:20 PM Notice of Intent for DEP File No. 006-1349 from the Boston Redevelopment Authority for Construction of a City Park at 1st Street, Parcel 5, Charlestown Navy Yard, Boston Inner Harbor (Buffer to Coastal Resource Area)

Representatives: Cheri Ruane, Weston & Sampson; Steve Healy, BRA

V. Li stated that Weston & Sampson and the BRA are dues-paying members of her employer's organization, the Boston Harbor Association.

C. Ruane described the project. The land is owned by the Boston Redevelopment Authority. The project will be implemented in two phases, with the Harborwalk portion first. There will also be a 10-space parking lot.

C. Button asked how the public will be kept off of the greened area on the wharf. Ms. Ruane replied that there would be both fencing and railings.

Ms. Li inquired about the ratio of hardscape to softscape. Ms. Ruane replied that the wharf itself is concrete, but will be covered by earth. Within the triangle of urban fill, the ratio is approximately 60:40 pervious to impervious ground cover. The 68 trees to be planted will be Tupelo, Red Maple, and Honey Locust.

Ms. Li asked if this project is funded at a cost of \$1.7 M. Ms. Ruane replied that it is funded, construction will begin as soon as all approvals are obtained, and construction will last 16-20 weeks. It will take approximately 8 weeks to complete the boardwalk area. No Chapter 91 license is required for this project.

- **Motion made by V. Li and seconded by J. Lewis to issue the Order of Conditions as written (4/0/0 8:33 PM)**

8:35 PM Updates and General Business

- Request for Withdrawal of Notice of Intent for **DEP File No. 006-1341** from the Boston Children's Museum for Construction of a Pile Supported Pulpit and Floating Dock at 308 Congress Street, Fort Point Channel (Land Under Ocean).
- Certificates of Compliance approved for
 - **DEP File No. 006-1321** 6 & 10 Thrush Street
 - **DEP File No. 006-1329** 470 Atlantic Ave

8:40 PM Local Wetlands Ordinance Public Listening Session: Minutes issued separately.

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- **Motion made by V. Li to adjourn the meeting (4/0/0 9:15PM).**

Respectfully submitted,

Stephanie Krueel

Executive Secretary