

Approved 10/17/12

**City of Boston Conservation Commission  
Public Hearing Meeting Minutes**

Boston City Hall, Hearing Room 801  
Boston, Massachusetts, 02201

**September 5, 2012**

**Commissioners Present:** Charles Button – Chairman, Antonia Pollak, Jeanne McHallam, John Lewis, Vivien Li

**Commissioners Not Present:** John Sullivan, Stephen Kunian

**Staff Present:** Chris Busch, Executive Director

**6:00 PM**

**Notice of Intent from RTC New Street, LLC for waterfront improvements including the replacement of pile supported piers, installation of a steel bulkhead wall and utilities, site repaving and removal of debris, at 32 New Street, East Boston, Boston Inner Harbor (Designated Port Area, Land Under Ocean, Coastal Bank, Land Subject to Coastal Storm Flowage).**

Owner: RTC New Street, LLC

Representatives: Carlos Peña, PE, CLE Engineering; Scott Haggerty, BTT Marine Construction Co., LLC

Documents: Photos and plans submitted with the NOI

V. Li stated that BTT is a dues-paying member or her employer, The Boston Harbor Association. Representative C. Peña described the scope of the project as follows: 32 New Street is a commercial facility located on the East Boston waterfront. The project includes replacing 435 feet of existing timber and 350 feet of existing steel bulkhead (application states 290 lf). Replacement will utilize “king piles” and be directly seaward of existing bulkhead. In addition, the proponent plans to rebuild an existing 310 foot timber pier, a 330 foot wharf around the interior of the property, and an additional 210 foot pier. All are licensed structures to be replaced in the existing permitted footprints. There will be no changes in the configuration, number of piers or materials, other than the materials used for the bulkhead. The intent is to file one notice for all projects, and submit final plans to the BCC as they are completed.

C. Busch inquired about on-site stormwater management. There had been a filing before the commission earlier this year for on-site building demolition that made reference to installation of catch basins with the repaving of a portion of this site, and Mr. Busch wondered why that was not part of this NOI.

Mr. Peña explained that the owners intend to repave the existing paved area in the future once the drainage conditions of the site are assessed. C. Button noted a section in Exhibit B of the application that indicated repaving with no provisions for management of runoff. Mr. Busch noted that a condition under the existing demolition order requires maintenance of temporary site erosion and sediment controls until new stormwater infrastructure is permitted and installed.

Mr. Peña’s main concern is replacement of the bulkhead and (pervious) piers, and repaving is an afterthought.

Ms. Li noted that when the demolition order was granted, the proponent promised to bring a stormwater management plan to the BCC as part of the pier replacement NOI. The narrative does not contain such a plan.

Mr. Peña maintained that the proponent plans to keep temporary measures in place until a plan for the property is finalized. There is currently no specific use or tenant identified for the property, and therefore

building and drainage plans have not yet been developed. The proponent plans to return to the Commission once demolition is complete and new plans are formulated. The paved portion will remain as is until that time.

T. Pollak inquired about current tenancy and any temporary storage. There is currently a tenant on the land side of the property, as well as a tenant on an adjacent active pier. Boston Sailing Center boats are stored on site during the winter- otherwise no storage occurs. BTT's own boats may temporarily occupy the new docks, or another tenant will be found.

Ms. Li inquired as to whether the OOC should contain language regarding a notification period before work commences. C. Button indicated that it would not be necessary as a resubmittal is required for any new plans, which would include repaving.

Mr. Busch noted that condition #49 may need revising regarding sheet flow to address areas to be repaved. A statement noting that "erosion and sediment control measures shall be maintained until permitted stormwater infrastructure is installed" may also be added. In addition, no paving shall occur as part of this permit.

- **Motion made by T. Pollak and seconded by V. Li to issue an Order of Conditions as amended for the project and close the hearing (5/0/0, 6:10pm)**

### **6:15 PM**

#### **Notice of Intent from Boston Boat Basin LLC, for the relocation of existing piles and floats and installation of new piles and floats at Boston Yacht Haven, 87 Commercial Wharf, North End, Boston Inner Harbor (Land Under Ocean).**

Owner: Boston Boat Basin LLC dba Boston Yacht Haven

Representatives: Charles Legasse, Boston Yacht Haven; Jamie Fay and Richard Jabba, Fort Point Associates

Documents: Photos and plans submitted with the NOI

V. Li stated that Boston Yacht Haven (BYH) and Fort Point Associates are dues-paying members or her employer, The Boston Harbor Association.

C. Busch clarified that the proponent had submitted a withdrawal of their earlier request to amend an existing order of conditions (006-1244) for removal/replacement of piles and dock structures, then filed this new NOI.

The proponent further explained that they are re-filing under a different process for the same work previously described to the Commission in December 2011. The project consists of reconfiguring some of the floats at the outer end of BYH, which was approved under Chapter 91 in October 2011. Work includes pulling existing steel pipe piles, replacing relocated floats, and driving new steel pipe piles. There will be no net increase in piles, which will be in the same general area, at slightly different locations, and floats will be equal to or less than those originally approved.

Ms. Li inquired about recent unusual accidents on the watersheet close to this area, and wondered about potential navigational issues. The proponent described two accidents involving vessels that lost control in the fairway and collided with boats docked at BYH. These were not navigational issues, but mechanical/operator issues. The area at BYH that is being reconfigured is not along the fairway and does not affect the fairway.

The proponent had a question regarding OOC #47, which references the position of dumpsters (no more than 20 feet from the watersheet). The proponent is not certain of the location of the existing dumpster and wanted to confirm that it does not have to be moved. T. Pollak suggested revising the condition to require that the dumpster remain in the existing location, or not less than 15 feet from the waterfront.

Ms. Pollak then inquired about progress on Harborwalk. The proponent maintained that Harborwalk is not germane to this filing. He noted that there are conversations with abutters and things are going in a positive direction, and the parties are trying to work together. Ms. Li proposed adding a condition similar to

conditions that the Commission has added to OOCs for similar properties, which would require the applicant to provide an easement to allow construction of Harborwalk as specified in the MDEP July 14, 2004 minor project modification related to projects on the Commercial Wharf. The proponent maintained that it is beyond the authority of the Commission to make such a requirement for a Harborwalk abutter's property, and the subject will appropriately be addressed by DEP under Chapter 91 regulations, which has the authority to require public access.

- **Motion made by V. Li and seconded by T. Pollak to issue an Order of Conditions as amended for the project (2/3/0). Not passed.**

The proponent expressed good faith in ongoing discussions. Mr. Button inquired whether the proponent may be amenable to grant a 4-foot easement with 4-foot overhang. The proponent explained there is an existing proposal for an even wider Harbor Walk.

Ms. Li further explained that the proposed amendment would not require construction, only an easement of unspecified width, which would not constitute a burden and has been accomplished on other nearby sites.

Ms. Pollak expressed interest in including general language that references DEP's authority to require public access. Mr. Busch asked the proponent to confirm that the only way for the project to move forward would be for the owner to provide an easement on his property. The proponent disagreed and noted that Chapter 91 provides for other methods of addressing public use of the wharf. The proponent offered to return to the Commission with an update and reiterated that neighbors on Commercial Wharf are looking forward and trying to find solutions to their problems.

Ms. Li offered a new amendment that states that the applicant will comply with all Chapter 91 directives and requirements issued by DEP and provide an update before the end of the year to the Commission. The proponent agreed that he would comply with the law, but noted that it is currently unknown what DEP will require, and thus could not support such an amendment.

Mr. Button suggested that the Commission and the proponent should work together in good faith. The proponent agreed to continue negotiations with DEP and abutters regarding construction of Harborwalk on the south side of the Commercial Wharf and report to the Commission by the end of the year on progress.

- **Motion made by T. Pollak and seconded by J. Lewis to issue an Order of Conditions as amended for the project and close the hearing (5/0/0, 6:25pm)**

### **6:30 PM**

#### **Notice of Intent from Boston Harbor Shipyard and Marina, LLC for repairs to the fender pile system at Pier 2, 256 Marginal Street, East Boston, Boston Inner Harbor (Land Under Ocean).**

Owner: Massachusetts Port Authority

Representatives: Richard Jabba and Jamie Fay, Fort Point Associates, Inc.; Joseph Sugar and Don Noonan, Coastal Marine Management, LLC

Documents: Photos and plans submitted with the NOI

V. Li stated that Coastal Marine Management, LLC and Fort Point Associates are dues-paying members or her employer, The Boston Harbor Association.

The proponent described that the intention of the project at Pier 2 is to improve the fendering system by installing 8 pilings and their supports, and rubber fenders. This is a maintenance operation for a maritime industrial use.

V. Li inquired as to when Pier 1 might be rehabbed, which would trigger fund for maritime uses. The proponent explained that development on Pier 1 is currently on hold.

C. Busch described recent complaint received by the Mayor's office regarding a gate in the shipyard that was locked. He wondered if signage could be improved to let the public know about hours of access. The proponent described the path of access along Harborwalk and other areas of the property. There is only one lockable pedestrian gate at the back of the shipyard (locked dusk till dawn). The nearby restaurant has access to the 24-hour security guard who can lock and unlock the gate. This seems to have been an isolated case. The proponent agreed to install appropriate signage at the pedestrian gate notifying the public as to access to the shipyard, which will be added to the conditions.

The proponent noted that conditions #43 and #45 are not applicable to this location.

- **Motion made by J. Lewis and seconded by T. Pollak to issue an Order of Conditions as amended for the project and close the hearing (5/0/0, 6:55pm)**

**6:55 PM** *Updates and General Business:*

**Request for Certificate of Compliance for Order of Conditions DEP File No. 006-1248 from CSREFI Independence Wharf Boston Inc., for the installation of a pile supported timber float dock, aluminum ramp and fixed platform, at 470 Atlantic Avenue, Boston, Fort Point Channel.**

C. Busch has the engineer's sign off and stamp and visited the site, which appears to be in compliance. He recommended issuance of a COO.

- **Motion made by V. Li and seconded by J. Lewis to issue the Certificate of Compliance (voted 5/0/0, 7:10pm).**

**Request for Certificate of Compliance for Order of Conditions DEP File No. 006-1287 from Mary Frances Milburn for the reconstruction of a two family home, 1825-1827 River Street, Hyde Park, Mother Brook.**

C. Busch briefly described the project and noted that the engineer of record had signed off. He recommended issuance of a COO.

- **Motion made by J. Lewis and seconded by T. Pollak to to issue the Certificate of Compliance (voted 5/0/0, 7:13).**

**Request for Emergency Certification from Massachusetts Department of Conservation and Recreation.**

C. Busch received a request for emergency certification from Mass DCR regarding the bridge dock deck at Herter Park in Brighton. It is currently closed to public access due to failed deck members and pile caps. DCR would like to replace these as soon as possible in anticipation of The Head of the Charles Regatta. Due to the time frame and limited scope of work Mr. Busch recommended issuance of an Emergency Certification with standard containment conditions.

- **Motion made by J. McHallam and Seconded by V. Li to issue an Emergency Certification (voted 5/0/0).**

**MassDOT letter**

C. Busch presented a draft letter to Secretary Davey of MassDOT. A similar letter was previously sent to request a senior staff member to attend a commission meeting and the meeting date had been omitted. V. Li suggested the letter be altered to request attendance within 45 days. T. Pollak suggested verbiage intended to urge MassDot to move ahead with the project. The letter will also be sent to additional departments.

Respectfully submitted,

Stephanie Krueel  
Executive Secretary