

11 July 2008

Ms. Leslie-Ann McGee
Director
MA Coastal Zone Management Program
251 Causeway Street, Suite 800
Boston, MA 02114

RE: Amendment to the East Boston Water-
Front District Municipal Harbor Plan

Dear Ms. McGee:

The Boston Harbor Association (TBHA), a non-profit, public interest organization founded in 1973 to promote a clean, alive, and accessible Boston Harbor, has been a long-standing, active member of the City of Boston's Municipal Harbor Plan Advisory Committee.

We write to support the goals of the recently-submitted Amendment to the East Boston Waterfront District Municipal Harbor Plan to revitalize and activate the East Boston waterfront. During the past two years, Boston Redevelopment Authority staff have worked diligently with the Committee in the development of the draft Amendment, and we applaud their hard work.

Much of the draft Amendment is designed to implement the 2000 East Boston Master Plan, which

has as one of its goals "full utilization of the East Boston Inner Harbor waterfront and Chelsea Creek corridor for industrial, maritime, commercial, residential, and recreational use" (page 10, 2000 East Boston Master Plan), and "recommends maintaining the maritime use and maritime port activities along the waterfront" (page 13, East Boston Waterfront District MHP Amendment, 2008).

The Environmental Secretary's 2002 Decision on the East Boston Waterfront District Municipal Harbor Plan addressed two specific parcels at the time, Hodge Boiler Works and Clippership Wharf. That Decision anticipated that following a Designated Port Area (DPA) Boundary Review, an amendment covering other East Boston waterfront parcels would be submitted.

The 2008 Amendment includes three parcels: 6-26 New Street; Boston East; and 125 Sumner Street. Before commenting on each of these specific parcels, we would note that current economic conditions may not allow the proposed mix of residential, retail, maritime industrial, and facilities of public accommodation to proceed immediately at this time. However, the East Boston planning process should be viewed as a long range planning effort, identifying a mix of uses necessary for a vibrant neighborhood. Thus, although there is currently a slowdown in housing demand, particularly for owner-occupied units, we would still urge that approval of the East Boston Municipal Harbor Plan Amendment recognize the need for additional new housing units

on the three project sites within the Amendment area. The same applies to facilities of public accommodation, community facilities, and retail uses, necessary for a vibrant, publicly accessible neighborhood, and to maritime industrial uses, likewise impacted in the short term by the slowdown in the national and regional economies. It is anticipated that each project site will seek an extended Chapter 91 license, with terms potentially 65 or 99 years, and we know that demand for these mix of uses will accelerate in the years to come.

I. 6-26 New Street

The East Boston Municipal Harbor Plan Amendment assumes that an existing 9-story building on site will be redeveloped with 148 one and two-bedroom residential units. An existing 5-story structure will be replaced by a new 6-story building, to contain either 62 residential units or approximately 106 hotel or extended stay units. A ground floor restaurant will occupy the new residential building, a new marina will be built in the non-DPA portion of the watersheet, a new two-story parking structure will be provided, and a 12-foot wide, 500 foot long HarborWalk will be built along the waterfront connecting with the HarborWalk segment at LoPresti Park.

In the April, 2003 Designation Decision for the East Boston Designated Port Area (DPA) issued by the Environmental Secretary and your office, the DPA designation was removed from all of the land area of the New Street site, while the watersheet

previously contained in the DPA was maintained under DPA designation.

The Designation Decision also incorporated a number of requirements, of which the most relevant for this Amendment include: a.) permanent vehicular access route from New or Sumner Street to the DPA and Water Dependent Use Zone; b.) development of nonwater-dependent facilities in a manner which prevent significant conflicts in operation between their uses and those of the nearby water-dependent facilities; c.) specific language in lease forms or deeds describing the prior existence of nearby water-dependent industrial uses as well as continued DPA designation of a portion of the watershed to accommodate maritime-industrial uses; and d.) construction of one of the following: permanent pile-supported pier in the DPA, installation of floating docks for marine industrial use, or restoration of the DPA portion of the site to allow for vessel berthing at the existing neighboring dock.

Substitution Provision: The proposed project requires a substitution for 1,200 sq. ft. of facilities of private tenancy where a facility of public accommodation would normally be required. The need for the substitution is to accommodate the southwest corner of the proposed new parking structure, a small portion of the northwest corner of the redeveloped existing building, and adjacent exterior space.

The proponent has proposed to provide an additional 1,200 sq. ft. of facilities of public accommodation (FPA) near the proposed ground-floor restaurant in the new residential building and by LoPresti Park (Figure 7-1 of the Amendment). We support this substitution provision, particularly any effort to use this FPA space for LoPresti Park users.

While the proposed height of the building within jurisdiction is 69 feet within 100 feet landward of the high water mark (Chapter 91 standards allow 55 feet within this zone), the Amendment indicates that wind and shadow impacts will have no significant adverse impacts, but rather an overall reduction in net new shadow, and that no offsetting benefit is required.

In the event that any changes to the project occur from what is submitted in the Amendment, we urge careful review to ensure that there is no change to the overall reduction in net new shadow. If there is a change which alters the overall reduction in net new shadow, we ask that CZM require additional offsetting public benefits.

We ask that approval of the Amendment be contingent upon the modification of Figure 7-1 in the Amendment submission as follows: 1.) the word "cantilevered" be deleted regarding the new HarborWalk; and 2.) the facility in the DPA watersheet identified as "water taxi services" and the text of the Amendment on pages 39 and 40 describing such should be modified so that the

wording is consistent with the DPA Designation Decision for this site.

Chapter 91 Process: During the public comment process for the project's proposed extended term Chapter 91 license, TBHA will comment further on the required setback of the marina from the federal navigational channel. We will also comment on such issues as public rest rooms for the general public in the FPAs, regardless of patronage; HarborWalk amenities such as interpretive signage and free binoculars, consistent with requirements for other waterfront projects being built in the 21st century; basic HarborWalk furniture required on all HarborWalk segments; support for water transportation; support for recreational fishing opportunities next to LoPresti Park; and financial support of the planning process for LoPresti Park.

Preservation of the DPA Area: During the Amendment and Chapter 91 approval processes, we urge state regulators to incorporate the DPA requirements as articulated in the DPA Boundary Change Decision into all additional permits and decisions issued. This will ensure that the property owner, tenants, residential owners, and marina users are aware of the DPA requirements at the New Street site.

II. Boston East

The 14.2 acre Boston East site, currently owned by the City of Boston at 102-148 Border Street, is slated to be developed by Trinity Financial, designated developer following a public selection

process. The entire vacant site is located within Chapter 91 jurisdiction, and because it is owned by the City of Boston, is entirely Commonwealth tidelands.

Upon completion of a DPA Boundary Review process, the two Designated Port Area zones, located on the north and south portions of the site, were consolidated into one DPA zone in the southern portion of the site. This allows for more suitable parcels for development of maritime as well as residential uses in two distinct zones. The residential units will be owner not rental units, as specified in the agreement between the designated developer and the City of Boston's Department of Neighborhood Development (DND).

In the non-DPA portion of the site, a seven-story residential building with 196 owner residential units and 141 parking spaces; facilities of public accommodation including a community art gallery to be named for the East Boston clippership builder Donald McKay and artist live/work spaces; exterior interpretive signage and displays including a public maritime interpretive area; new public open space areas; and a new HarborWalk along the waterfront on the west side are proposed.

In the DPA portion of the site, basic site improvements will be made to allow for a 30,000 sq. ft. future maritime industrial user.

Substitution Provisions: A number of substitution provisions are proposed for the proposed project.

A. Reconfigured water dependent use zone- Under Chapter 91 regulations, the set back for non-water dependent uses (known as water dependent use zone) is 100 feet or 25% of the weighted average distance from the present high water mark to the landward lot line of the property, not less than 25 feet.

The Amendment proposes a 25 feet water dependent use zone rather than the required 53 feet water dependent use zone, with the residential buildings as designed extending into the water dependent use zone. The proposed offset is to allocate wider setbacks in different areas of the site.

At The Boston Harbor Association's November, 2007 Harbor Use Committee meeting, it was strongly suggested that the project look not only at the view corridors towards Boston Harbor, but also parallel to the shoreline. Rather than extending the two buildings outward towards the Harbor away from Border Street, TBHA requests that the proponent pull the buildings back consistent with the required water dependent use zone to create a horizontal view corridor in line with existing buildings on adjacent parcels.

B. Facilities of Public Accommodation (FPA)- Under Chapter 91 regulations, 75% of the ground floor shall be for facilities of public accommodation (27,600 sq. ft.) and 25% (9,160 sq. ft.) for upper floor accessory services.

Pages 64-66, Table 7.2, and Figure 7-3 of the Amendment proposes only 25% of the ground floor for facilities of public accommodation (8,653 sq. ft.), compared to the required 75% (27,600 sq. ft.) of the ground floor. Proposed uses include civic and cultural facilities such as artist/live work space open at least two times a year to the public, gallery space provided free of charge with public rest rooms, community room, or teaching area. Approximately 2,500 sq. ft. of the open area within the proposed archway of the building facing Border Street, to be animated by historic exhibits and interpretive displays to draw people to the site, is proposed as a facility of public accommodation.

As discussed at TBHA's November, 2007 Harbor Use Committee meeting and subsequently noted in TBHA's 5 December 2007 comment letter on the project's Environmental Notification Form, The Boston Harbor Association believes that additional facilities of public accommodation should be required on this site which is Commonwealth tidelands. It was also noted that, as proposed, no facilities of public accommodation were planned on the north portion of the site and that a six-foot high fence on the north side (Figure 7-3 of Amendment) appeared to reinforce a more "private" feel to this part of the site. At the meeting, it was suggested that additional FPAs be provided on the north side of the site. We also request that the six-foot high fence on the northern side of the site be removed to allow full public access to the HarborWalk, open spaces, and the FPAs on the site. Because an undeveloped industrial site in the Designated Port

Area currently abuts the Boston East site, the project proponent believes that, for safety reasons, some type of barrier may be necessary to keep visitors from continuing on to the abutting site. Safety issues can be accommodated with a temporary, three feet high fence which does not obstruct views to the harbor and which will be removed immediately upon development of the adjacent industrial site, rather than a permanent six feet fence as shown in Figure 7-3 of the Amendment.

Potential other facilities of public accommodation were identified in the Boston Redevelopment Authority's 2000 East Boston Master Plan and cited in the BRA's East Boston Municipal Harbor Plan Amendment. The 2000 East Boston Master Plan called for the creation of a permanent museum in East Boston that "could include exhibits that interpret East Boston's history and development summarized in four basic themes" of American Revolution, Maritime, Immigration, and Transportation (page 29, BRA's East Boston Master Plan), and the Master Plan identified Boston East as an optional location for the historic and interpretive museum.

The 2008 Amendment to the East Boston Municipal Harbor Plan indicates: "In March 2004, the City of Boston's Department of Neighborhood Development (DND) began a series of community meetings focused on the redevelopment of the Boston East site. The community expressed their preference for a range of uses in this location, including green space, an East Boston heritage and ship building museum,

parking, an eco-tourism destination, Harborwalk extension, harbor patrol, water taxi, restoration of the marine railway, beach, cruise ship dock, large yacht slips, boat repair, artist live/work/gallery space, mini-offices and mixed use" (page 28). At one time, too, Boston East was proposed as a possible location for the Shining Sea Shipyard Museum.

Since the project proponent anticipates asking for an extended term Chapter 91 license (either 65 or 99 years), facilities of public accommodation should include needed public facilities to support the extensive new developments and new residents anticipated along the East Boston waterfront. Community centers, library kiosk, senior citizen centers, day care facilities, intergenerational facilities, police and/or fire public safety facilities, schools, religious facilities, health facilities/clinics, and similar community facilities are no doubt needed along the East Boston waterfront with the thousands of new residents anticipated at Pier 1, Clippership Wharf, Hodge Boiler Works, New Street, Sumner Street, and at Boston East.

Consistent with the discussion at TBHA's Harbor Use Committee meeting, more up-to-date information beyond 2004 and 2005 market data from a BRA-commissioned report should also be provided regarding current and future retail uses along the East Boston waterfront, taking into account that subsequent to 2005, the enhanced MBTA station and roadway improvements at Maverick and Airport

stations (including a new, additional headhouse at Maverick next to the waterfront), the new segments of the East Boston Greenway, Massport's recently-opened Navy Fuel Pier Airport buffer area, and the anticipated Piers Park II (hopefully completed when the Boston East project opens) will bring more workers, residents, and visitors to East Boston's waterfront.

From a procedural point of view, it is not clear whether the open space within the archway of the building satisfies the Chapter 91 requirements for ground floor facilities of public accommodation, or whether it should be considered part of the open space calculations.

C. Increased Height- An increased height of 85 feet is proposed in place of the standard 55 feet within 100 feet landward of the high water mark. The Amendment indicates that there will be net new shadow created as a result of the additional height.

The suggested offset for the impact of net new shadow is to provide an additional 2,201 sq. ft. of open space to offset approximately 4,202 sq. ft. of net new shadow. According to the Amendment (page 68), the additional open space "will include paved access, amenities such as benches and special landscape features, and a bocce court." To offset the impact of net new shadow on Commonwealth tidelands, we ask that the additional open space include such HarborWalk amenities as an additional

interpretive feature, an additional free binocular for public enjoyment, or a play structure.

Chapter 91 Process: During the public comment process for the project's proposed extended term Chapter 91 license, TBHA will comment further on issues such as the need for public rest rooms in all FPAs for general public use, regardless of patronage; HarborWalk amenities such as interpretive signage and free binoculars, and HarborWalk furniture; and a maintenance and operations plan for all public areas.

Preservation of the Designated Port Area: As specified in the agreement between the designated developer and DND, and consistent with the MA Coastal Zone Management Program's 2007 approval of the re-configuration of the DPA at Boston East, 30,000 sq. ft. will be provided for a DPA maritime industrial use on the DPA portion of the site. We believe that there may be opportunities for alternative energy facilities (similar to the wind turbine blade testing facility at Moran Terminal on the Charlestown waterfront), as well as more traditional maritime industrial uses for this site, and would ask that a roadway be provided on the northern side of the marine facility so that supplies and equipment can access the facility. For safety reasons, it is not realistic for an public open space area to be located where trucks may be entering or exiting the marine facility.

In addition, within Designated Port Areas, only point access is required, not full perimeter

HarborWalk access. For safety reasons, and to ensure that the greatest number and mix of maritime industrial tenants consider this site, we ask that only HarborWalk point access be permitted within the DPA portion of the site. Full perimeter access is not required, given the nature of DPA activities which may occur at this site. Depending upon the eventual maritime industrial tenant, if full perimeter access can be accommodated safely, we would obviously support such access.

Consistent with the requirements imposed on the New Street project above, notice to all owners and tenants regarding the Designated Port Area abutting their units and related impacts should be required. Since the residential units are owned rather than rentals as specified in the documents between the designated developer and DND, language should be included in all deeds recorded with the Registry of Deeds as well as in any rental leases between owner and renter.

III. 125 Sumner Street

In March, 2008, for the first time in the two-year planning process, 125 Sumner Street was added to the Amendment to the East Boston Waterfront District Municipal Harbor Plan. At the request of a Municipal Harbor Plan Advisory Committee member, a site visit was made to the site and a specific presentation was made to the Advisory Committee.

At the presentation regarding the site, Boston Housing Authority officials indicated that the

property is currently used for housing of BHA residents. Redevelopment of the site will allow for additional housing, improvements to the streetscape, and the potential of connecting the site to the water's edge.

No planning has been done for the site, and the Boston Housing Authority is just beginning discussions with its tenants.

Substitute Provision: The Amendment proposes 25% of the ground floor for civic and cultural facilities, including but not limited to artist live/work space open at least two times per year to the general public, gallery space, community room, or teaching area. This is in place of 75% of the ground floor for facilities of public accommodation as required under Chapter 91 standards.

No documentation is provided as to the need for the substitute provision. Given the fact that this site is Commonwealth tidelands, little to no planning has been done to date regarding this site, including with BHA residents, we believe that it is premature for approval of a substitute provision at this time.

In closing, The Boston Harbor Association is highly supportive of the revitalization of East Boston's waterfront. We look forward to a timely approval of the Amendment to the East Boston Municipal Harbor Plan, subject to the issues outlined above.

Thank you for your consideration.

Sincerely,

Vivien Li
Executive Director
The Boston Harbor Association