



21 March 2008

Mr. Ben Lynch
Program Chief
Waterways Regulation Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Waterways License Application
#W08-2254-N, Parcel E, 242 Northern
Avenue, South Boston

Dear Mr. Lynch:

The Boston Harbor Association is a non-profit, public interest organization founded in 1973 to promote a clean, alive, and accessible Boston Harbor. We have reviewed the Chapter 91 License application for the redevelopment of 242 Northern Avenue, South Boston.

For more than 75 years, the famed Jimmy's Harborside Restaurant occupied much of the site, with Jimbo's Fish Shanty, a lobster dealer, and Massport offices on the remainder of the parcel. The project proponent, Cresset Harborside LLC, proposes to redevelop the 65,000 sq. ft. site known as Parcel E within Massport's Commonwealth Flats Development Area. Plans call for the reconstruction of the wharf and the development of a four-story building with restaurants on the first two floors and offices on the top two floors; a two-story building with restaurant uses and seasonal seating on the deck and roof; kiosk building with outdoor cafe seating; and a new 570-foot long HarborWalk. A public landing to support transient dockage, water taxis, and charter fishing vessels is also proposed.

As we stated at the 3 March 2008 Chapter 91 hearing, The Boston Harbor Association strongly supports restaurant use at this site and the development of a new HarborWalk segment, with full perimeter access even though only point access is required in the Designated Port Area. Activation of the watersheet, in a manner

consistent with the Designated Port Area and with existing water-dependent industrial uses, is also supported. We highly commend the project proponent for proposing two separate buildings, allowing for two view corridors rather than one, to the Harbor.

Since the filing of the Environmental Notification Form, the proponent has made significant modifications to address some of the concerns expressed during the ENF comment period. A Parcel E Navigation Study was prepared in January, 2008 which studied the impact of the project on existing and future water dependent industrial uses. Based on that study, the proponent has decreased the size of the wharf proposed for the northwest corner of the parcel next to the Fish Pier and eliminated the 90" x 10" float running along its face; eliminated two finger floats and shortened the length of a third closest to the Fish Pier; and eliminated a finger float and two boat slips closest to the Wharf 8 docks. We commend the project proponent for making these modifications to address the concerns expressed during the ENF comment period by the maritime industrial users located at the Fish Pier in the Designated Port Area and by TBHA.

Remaining issues germane to the Chapter 91 Licensing process as identified in the ENF process and/or in the Secretary's Certificate include the following:

Development Consistent with the Designated Port Area (DPA) Designation:

I. Uses in DPA: It is still not clear from the Chapter 91 License application whether the proposed office uses on the third and fourth floor of the West Building are consistent with uses in a Designated Port Area located on a designated truck route.

We ask that the Chapter 91 License permit offices which are accessory to water-dependent industrial uses, e.g., back office space for the existing maritime industrial tenants (Jimbo's Fish Shanty, a lobster dealer, and Massport), back office space for seafood processors at the Fish Pier, back office space for charter fishing vessels, back office space for commercial fishing vessels and passenger vessels, or other similar maritime industrial businesses.

II. Designated Truck Routes in a Designated Port Area: The Chapter 91 License application indicates that the eight to ten

on-street parking spaces will be used for commercial loading, valet parking, and required handicap accessible parking, and will be actively managed by the licensee.

According to the filing, the proposed new development will increase restaurant usage from 31,700 sq. ft. to 44,006 sq. ft. and office uses will increase from 12,990 sq. ft. to 25,524 sq. ft. Given the significant increase in density, it is still not clear how the proposed project will handle delivery of goods and supplies to not one but several restaurants, daily trash removal from restaurant and office tenants, deliveries to office tenants, restaurant valet service, taxi drop off and pick up, and so on, without interfering with the designated truck route.

Many Boston Marine Industrial Park tenants often describe the designated truck route as the lifeline to their businesses. We urge that the Chapter 91 License require a detailed transportation analysis, or alternatively, funding by the project proponent to support an overall study of the designated truck route and access to and from the Boston Marine Industrial Park and the Fish Pier as requested by the tenants of the Marine Industrial Park. The analysis should also include a comparison of parking spaces typically required for back office space for DPA users vs. conventional office space users and provide a recommendation for accommodating vehicles related to these office uses.

We further request that the Chapter 91 License incorporate a requirement for an operations and enforcement plan to ensure that the operations of the proposed project do not adversely impact the designated truck route and truck users. To ensure that no adverse impacts occur to maritime industrial users and that the operations and enforcement plan is effective, we ask that a DEP review occur 12 months after the issuance of the first certificate of occupancy in the West Building and 12 months after the issuance of the first certificate of occupancy in the second building. At a minimum, all who comment during the public hearing and/or public comment period for this License should receive notice of each of the reviews.

III. Relationship to the Fish Pier and its Operations in the Designated Port Area: The approved Memorandum of Understanding between the Department of Environmental Protection and the

Massachusetts Port Authority governing this project site does not specifically provide for the proposed kiosk building nor the extensive decking over of the watersheet for non-DPA use at the corner next to the Fish Pier.

Before the kiosk building is allowed for non-water dependent, non-DPA activities, we strongly urge that a determination be made, with input from the fish processors at the Fish Pier, regarding whether this area is needed to support activities of the Fish Pier, e.g., additional space for truck movements to and from the Fish Pier, use of the watersheet by fishing fleets, commercial fishing charters, fishing boat repair and servicing, and/or similar DPA activities.

IV. Watersheet Activities in a DPA: Within a DPA, marinas are not permitted. The MOU between DEP and Massport recognized this. In most DPAs, transient recreational boating slips are not an allowed use, unless ancillary to a ship repair facility. In this specific location, the MOU allows transient recreational vessels to berth for less than 12 hours to access the restaurants on the water side, although the MOU states that "such facilities shall not interfere with the use and operations of any existing or proposed Water-dependent Industrial Uses proximate thereto" (Article 4.1.B of 15 March 2001 MOU).

We urge that the Chapter 91 License provide some slips for small commercial boat uses, in addition to the slips for recreational vessels as an ancillary use. The License should further ensure that the proposed configuration of the water-side structures not impede fishing vessels at the Fish Pier or commercial fishing charters located in the DPA, and that the shared Massport/City owned fairway which runs perpendicular to the east end of the Jimmy's face be kept open for access to excursion vessels (AC Cruise Lines) berthed at the inboard end of Wharf 8.

HarborWalk: We commend the project proponent for providing a 570 linear feet extension of the HarborWalk around the perimeter of the site, even though only point access is required in a Designated Port Area.

TBHA supports construction of a 12 feet wide HarborWalk on a new pile supported pier, with the walkway providing access to the new vessel floats on the Jimmy's water face. The project proponent proposes a 21-foot wide HarborWalk/outdoor seating area in the

DPA, except for the northeast end which appears to be significantly wider.

TBHA asks that the Chapter 91 License specifically limit the outdoor seating area to nine feet wide around the building as shown on Sheet 10 of 12 in the Chapter 91 License, with a 12 feet wide HarborWalk available for public use.

Furthermore, we request that the decked area shown as a continuation of D Street (horizontally-striped area beneath the words "concrete pavers" on Sheet 10 of Chapter 91 License) be reserved solely for public use and viewing of the Harbor, fireworks, Tall Ships, and so on, regardless of patronage. The Chapter 91 License should clearly indicate that this area is for general public use only with interpretive signage, display, and/or benches, and not for the private use of the restaurants/cafes.

The Chapter 91 License for this site should indicate rest rooms for the general public, regardless of patronage, in the kiosk and/or buildings, with clearly marked signage on the exterior of the buildings indicating that the rest rooms are available for the general public regardless of patronage. BRA-approved HarborWalk signage should be installed on the HarborWalk, as well as standard HarborWalk amenities such as benches, trash receptacles, lighting, interpretive signage and/or free binoculars.

Water Quality: As part of DEP permitting, we urge close attention to water quality issues, as the project is immediately adjacent to Boston Harbor with no set back (the HarborWalk is proposed to be built on piles over the watersheet). During the construction phase, extreme care must be taken to ensure that floating debris, construction materials, and chemicals do not enter Boston Harbor.

Following construction of the project, we urge best management practices at this location, including a snow removal plan to ensure that snow is not dumped into Boston Harbor.

Furthermore, in order to avoid marine debris entering Boston Harbor from this site, the Chapter 91 License should require a maintenance plan which incorporates at least twice-daily emptying of trash receptacles on the outside of the buildings next to

Boston Harbor between Memorial Day to Columbus Day, and at least weekly if not more frequent emptying of trash receptacles during the off-seasons. More frequent emptying of trash receptacles should be required if warranted.

Procedural Matter: The Department of Environmental Protection's public notice on the comment period for this project refers consistently to the project location as 224 Northern Avenue. The filings by the project proponent identifies the site as 242 Northern Avenue.

We assume that the Department's notification is merely a typographical error and does not require re-notice of the comment period with the correct address. The Chapter 91 License which is issued should incorporate the correct address, which we assume based on the proponent's filing is 242 Northern Avenue.

Thank you for your consideration of the above issues. We look forward to a timely resolution of the above so that this project can move forward.

Sincerely,

Vivien Li
Executive Director
The Boston Harbor Association