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December 12, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Parcel E
PROJECT MUNICIPALITY : Boston
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 14124
PROJECT PROPONENT : Cresset Harbor LLC
DATE NOTICED IN MONITOR : November 12, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of the redevelopment of 242 Northern Avenue in South Boston. It includes the demolition of the wharf and buildings located on it, reconstruction and expansion of the wharf and construction of three buildings. Proposed development includes a four-story building containing a restaurant on two floors (including the ground floor) and offices on upper floors, a two-story building containing a restaurant on both floors and a one-story kiosk building containing a café. All of the restaurants will have indoor and outdoor seating. The ENF indicates that the restaurants will serve as Facilities of Public Accommodation (FPA). The project includes construction of a 570-foot extension of the Harborwalk around the perimeter of the wharf and a public boat landing to support transient dockage for water taxi, charter fishing and recreational vessels. Water and

wastewater service will be provided via connections to the municipal system. The development will include approximately 8 to 10 on-street parking spaces. The remaining parking demand will be met through valet service and shared parking.

The 65,000 square foot (sf) parcel, owned by the Massachusetts Port Authority (Massport), is composed entirely of Commonwealth tidelands. It is located on the waterfront within the Seaport District and within the South Boston Designated Port Area (DPA). It is also known as Parcel E within the Commonwealth Flats Development Area (CFDA) (EEA #11882). It is bounded by the Fish Pier to the northwest, Boston Harbor to the northeast, Boston Marine Industrial Park (BMIP) to the southeast and Northern Avenue to the southwest. CFDA Parcels G and J (Park Lane Seaport Apartments) are located directly across Northern Avenue. Commercial and fishing vessels actively use both parcels adjacent to the Project Site, the Boston Fish Pier and the EDIC/Boston Marine Industrial Park. The site previously contained several structures, including the former Jimmy's Harborside Restaurant, Jimbo's Fish Shanty, a lobster dealer and office space, and consisted entirely of impervious surfaces. The buildings and the wharf have been demolished.

Permits and Jurisdiction

The project is undergoing MEPA review pursuant to Section 11.03 (3)(b)(5) because it requires a state permit and consists of new or existing unlicensed non-water dependent use of waterways or tidelands. The project requires a Chapter 91 License and a Sewer Connection Permit from the Department of Environmental Protection (MassDEP). It may be subject to federal consistency review by Coastal Zone Management (CZM) and will require review by the Massachusetts Historical Commission (MHC). Also, the project is voluntarily undergoing Article 80 project review by the Boston Redevelopment Authority (BRA).

Because the proponent is seeking a land transfer (in the form of a ground lease) from a state agency for the project site, under MEPA regulations there is broad scope jurisdiction, extending to all aspects of the project that may have significant environmental impacts. These include tidelands/waterways, coastal resources/drainage, wastewater and traffic/transportation.

Summary of Potential Environmental Impacts and Mitigation

The ENF indicates that potential environmental impacts associated with the project include new alteration of .04 acres of land, generation of approximately 1,139 average daily vehicle trips (adt), demand of 88,026 gallons per day (GPD) of water use and generation of 80,024 gpd of wastewater. Efforts to avoid, minimize and mitigate impacts include redevelopment of an underutilized site, design of a building that is certifiable by the Leadership in Energy and Environmental Design (LEED) program, a stormwater management system consistent with the MassDEP Stormwater Management Policy, creation of a 24-foot wide Harbor Walk along the perimeter of the project, creation of a public landing for commercial and recreational boats and creation of two view corridors to the harbor. In addition, the site's close proximity to public transit (including water transit) will minimize the generation of vehicle trips.

Tidelands/Waterways

As noted previously, the project site is composed entirely of previously authorized filled and flowed Commonwealth tidelands located in the South Boston DPA. The ENF indicates that the parcel is subject to a Memorandum of Understanding between the MassDEP and Massport dated March 15, 2001 (the "MOU"). Comments from MassDEP indicate that the c.91 permit application will be reviewed as a Non Water-Dependent Use Project since it consists of a mixture of nonwater-dependent (restaurant and office use) and water-dependent uses (the public use and enjoyment of the waterfront; transient dockage for recreational and commercial vessels; and the conveyance of storm water).

The MOU is included in the ENF as an attachment. It indicates, and comments from state agencies concur, that Article 4 of the MOU allows the construction of a new commercial restaurant facility on Parcel E provided that the following requirements are met: the footprint of the proposed development "exclusive of the public pedestrian walkway or Harborwalk or transient vessel piers or floats constructed appurtenant thereto" cannot exceed the footprint of the existing structure; the height of the development cannot exceed 55 feet; the development will preserve a view corridor; and the proposed uses cannot interfere with the use and operations of any existing or proposed water-dependent industrial use.

The ENF indicates that the proposed buildings will not exceed the footprint of the existing structures and that the buildings will not exceed 55 feet. In addition, it indicates that the project will provide a generous view corridor from D Street and a view corridor from Harborview Lane Way.

Comments from the City of Boston Environment Department and CLF also express concern with the increased coverage of the watershed. The Environment Department indicates that an alternative should be considered that eliminates any additional coverage of the watershed and maintains the Harbor Walk by increasing the height of the 2-story building. In addition, CLF comments assert that, because the project consists "entirely of uses other than water-dependent industrial uses," it is governed by Chapter 91 and the Waterways Regulations, not the MOU.

I have received several comment letters from users of the adjacent Fish Pier. These letters express concern that the proposed project will negatively impact operations at the Fish Pier by decreasing docking and navigational area and will create conflicts between the site and commercial fishing operations. In addition, these commentors express concern with the impacts the project may have on the designated truck route and area parking supply.

Comments from City Councilor Michael Flaherty, Save the Harbor/Save the Bay and The Boston Harbor Association express support for the project and its potential to improve public access, enjoyment and use of the waterfront while spurring economic development in the Seaport District. While supporting the development plan in concept, some of these comments seek further clarification regarding specific aspects of the development (e.g. vehicular traffic and impacts to Fish Pier and its activities of extending the site to the northwest).

Comments from MassDEP indicate that consent from the landowner will be required to construct the section of Harborwalk that extends over the shared property line with the Boston EDIC.

In addition, MassDEP comments indicate that the permit application should include specific legislative authorization for the former wharf and buildings on Parcel E and a table clearly articulating the square footage of the project site, the former building, watersheet and each proposed structure and floor area of use.

Massport has agreed to update, and provide to MassDEP, the 2003 watersheet study for the CFDA Area to ensure that the proposed public landing can be designed and operated to provide sufficient turning and maneuvering for these vessels. At the November 29, 2007 site visit, Massport agreed to provide the study in draft form so the existing commercial operators can review and comment on the draft recommendations during the c.91 license application review process. In addition, Massport agreed to provide to MassDEP a status report for completion of commitments related to CFDA environmental review and permitting.

The issues raised that are specific to redevelopment of this site can be adequately addressed through the City's review process and through the c.91 licensing process. An important element of this permitting process will be balancing the needs of the water dependent industrial uses with the public rights to the waterfront. I am confident that MassDEP, with Massport's support, can adequately address concerns raised on this project. I will forward the comment letters received on the ENF to the proponent, Massport and MassDEP and expect that these issues will be further evaluated and addressed during review and permitting of this project.

Coastal Resources/Drainage

The proponent should consider comments from MassDEP, the Division of Marine Fisheries (DMF), the Boston Water and Sewer Commission (BWSC) and the Boston Environment Department as it further develops and refines the stormwater management system for this project. In addition, comments from DMF indicate that no in-water, silt-producing activities should be allowed from February 15 through June 30 of any year for protection of winter flounder spawning and juvenile development and anadromous foraging habitat. In addition, DMF offers assistance through its Clean Vessel Act pump-out program to provide information to marina users on the location and availability of pump-outs.

Wastewater

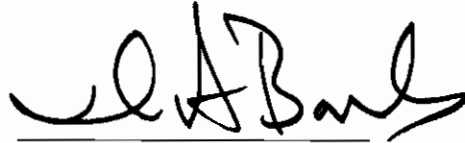
Comments from MassDEP and the Boston Water and Sewer Commission (BWSC) indicate that the proponent will need to identify adequate measures to remove extraneous clean water (infiltration/inflow (I/I)) from the system to mitigate the impacts of increased wastewater. Mitigation should be provided on a 4:1 ratio for I/I removal to new wastewater flow added. Based on the projected generation of 80,024 gpd, the proponent will need to commit to the removal of approximately 320,096 gpd of I/I. MWRA comments also note that neither stormwater nor groundwater should be discharged to the sanitary sewer system.

Conclusion

I have determined that the ENF has sufficiently defined the nature and general elements of the project and has proposed measures to avoid and mitigate environmental impacts. Although significant issues, such as the impact of the design on navigation around the Fish Pier, need to be resolved, I am satisfied that outstanding issues can be adequately addressed during the permitting and review process. The project does not require any further MEPA review.

December 12, 2007

Date



Ian A. Bowles

Comments received:

12/3/07	Coastal Zone Management
12/6/07	Division of Marine Fisheries
12/4/07	Department of Environmental Protection/Northeast Regional Office (DEP/NERO)
12/4/07	Massachusetts Water Resources Authority (MWRA)
12/4/07	Boston Water and Sewer Commission
12/7/07	City of Boston/Environment Department
12/11/07	City Councilor Michael F. Flaherty
12/7/07	Conservation Law Foundation
12/3/07	Tory Bramante, Atlantic Coast Seafood Inc.
11/30/07	Frank Patania, Santa Rita II Inc, Santa Rita III Inc, SammyJo Fishing LLC and Ideal Seafood Inc.
12/2/07	Sal Patania, Jr., Ideal Seafood Inc.
12/3/07	Save the Harbor/Save the Bay
11/30/07	Seaport Apartments, LLC
12/6/07	The Boston Harbor Association
12/3/07	Gerard Tirrell, Tirrell Services and Tirrell Seafood

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