



FRIENDS OF THE
CHARLESTOWN
NAVY YARD

PO Box 290787 * Charlestown, MA* 02129-0124
info@friendscny.org * www.friendscny.org

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Bruce K. Carlisle, Acting Director
Coastal Zone Management
251 Causeway Street, Suite 800
Boston, MA 02114

Re: **Municipal Harbor Plan Amendments - Charlestown Navy Yard**

Dear Mr. Carlisle:

The Friends of the Charlestown Navy Yard (the "FCNY") is a non-profit, public interest organization that works to improve the quality of life for residents of and visitors to the Charlestown Navy Yard. The FCNY has 300 members who are Charlestown residents with representation from neighborhoods around Boston. We promote responsible development in the Navy Yard consistent with the historical character of the Navy Yard and its National Historic Landmark Designation. Consistent with our mission, the FCNY has reviewed the Waterfront Activation Study, the Water Dependent Use Management Plan, and the Facilities of Public Accommodation Study. Taken together, the above documents constitute the Boston Redevelopment Authority's proposed amendments to the Municipal Harbor Plan relating to the Navy Yard.

As a threshold matter, we applaud the introduction of some thoughtful planning in the Navy Yard, and while laudable and long overdue, we have concerns. Also, since Pier 5 is the next imminent Navy Yard development and the amendments themselves focus on the proposed project, several of our comments use Pier 5 as a reference point out of necessity. Our comments to the amendments follow.

The Amendments Violate Waterfront Protection Regulations

The parts of the amendments that pave the way for the privatization of Pier 5 the amendments violate waterfront regulations and the public trust doctrine. 301 CMR § 23.05(d) states in pertinent part that approval of a MHP must be based on a "demonstration by the municipality that the substitute provisions set forth in the plan will promote with comparable or greater effectiveness, the state tideland policy objectives" (emphasis added). The regulation goes on to state that any less restrictive portions of the MHP must offset adverse effects on water-related public interests. The amendments do not effectively provide the requisite offsets necessary to mitigate the known development plans for Pier 5 and certainly do not represent comparable or greater effectiveness of tideland policy. In sum, the amendments weaken the effectiveness of tideland policy.

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The amendments violate 310 CMR § 9.51(3) (a) which prohibits non-water dependent uses on flowed tidelands if such use results in significant privatization of the waterfront. The amendments pave the way for the proposed Pier 5 project that will significantly conflict with water dependent uses and is clearly a significant privatization of a water dependent use zone.

The Amendments Promote Privatization of the Charlestown Waterfront by Eliminating the MHP's SPDF Requirements

Section (c) of Requirement 8 of the MHP provides that in the three subdistricts covered by the Secretary's Decision (the Charlestown Navy Yard, the North End, and the Charlestown Gateway District), 20% of the interior space of waterfront property must be devoted to SPDF space. Section (c) provides, in pertinent part, as follows:

“(c) within the aggregate of the three subdistricts in question, at least one square foot of gross interior space must be devoted to special public destination facilities for every four square feet of such space licensed under M.G.L. c. 91 subsequent to the date of this Decision, for nonwater-dependent facilities of private tenancy in the following locations: 1) anywhere on pile-supported structures in flowed tidelands; and 2) at the ground level of buildings on filled tidelands within 100' of a project shoreline . . . this computation shall not take into account space that is devoted to special public destination facilities at present or which has been proposed in a license application submitted prior to the date of this Decision;”

According to this requirement, the Pier 5 proposal should provide at least 34,160 square feet of interior SPDF space. The amendments reduce this requirement to a mere 2,000 square feet, yet another important violation of waterfront regulations – it stands the public benefit analysis on its head as follows. The Chapter 91 Regulations are explicit in several places that development of the waterfront not be significantly private and must provide public benefits that clearly exceed private benefits and that private benefits must be incidental. By reducing SPDF space over flowed tidelands to facilitate the development of Pier 5, the amendments fail to meet the requirements of Chapter 91 that the waterfront development serve a public purpose and that private benefits be merely incidental. Case law has reinforced the proper public benefits analysis that the amendments ignore – See Opinion of the Justices to the Senate, 385 Mass. 895 (1981).

The Amendments Relocate SPDF Space to Undevelopable Interior Navy Yard Buildings

The Plan will not provide significant interior SPDF space to enable the public to enjoy the waterfront of the Yard on a year-round basis. In fact, the amendments make a mockery of the term “SPDF interior space” by relocation of MHP mandated SPDF space from Pier 5 to the interior of the Navy Yard to the Ropewalk and Chain Forge Buildings.¹ The City has ceased all funding for the Ropewalk, and the Chain Forge is a rundown, decrepit and environmentally challenged building. Please see Attachment 1 for pictures of the Navy Yard's “new SPDF space” in comparison with its rightful place along the waterfront. The pictures clearly demonstrate what can only be characterized as a cynical attempt to render the Navy Yard's SPDF space requirements meaningless and facilitate privatization of the Charlestown Waterfront.

The Amendments will Permanently Sever the HarborWalk and Violate 310 CMR § 51 (1)

The amendments tout the proposed addition of new HarborWalk along the perimeter of Pier 5 while the current Charlestown HarborWalk is in a state of disrepair that makes it the embarrassment of the Harbor. To make matters worse, the amendments allow for a significant influx of new vehicular traffic onto a pile-supported structure sitting on flowed tidelands.

¹ Ironically, the bulk of the Navy Yard's SPDF space lies in an area which DEP has historically declined to regulate pursuant to Chapter 91 as areas too distant from the waterfront to be meaningful waterfront areas - another example of the wholesale modification and dilution of Chapter 91 through the Municipal Harbor Plan process and certainly a violation of the waterfront regulations.

The Pier 5 proposal poses an extraordinary safety threat to pedestrians, bicyclists and others who use the HarborWalk. This results from the Pier 5 plan to provide valet service with a drop-off at mid-pier in the center of the proposed building. The Pier 5 DEIR contemplates that users of the Project (residents, guests, restaurant, hotel, retail, community center, and marina) will drive across the HarborWalk to drop their cars with valets, who will then drive the vehicles back across the HarborWalk in order to park the cars in the Flagship Wharf garage. Valets would retrieve the vehicles from the Flagship Wharf garage and deliver them across the HarborWalk to the center of the Pier when requested.

This operation means that there are two trips for every vehicle per day crossing over HarborWalk. The Trip Generation data in the DEIR cites the generation of over 3,200 unadjusted vehicle trips/day over HarborWalk. If the traffic consultant is correct in its assumptions that some of this traffic will be non-vehicle trips (pedestrian, ferry, bike, etc.), then the very conservative “adjusted vehicle traffic” is still a staggering 1,364 vehicle trips crossing the HarborWalk per day. With minimal activity between midnight and 6:00 a.m., this means that between 6:00 a.m. and midnight, a vehicle will cross the HarborWalk every 45 seconds. This does not take into account what is sure to be a steady stream of parked taxis, contractor vehicles, deliveries and other vehicles that accompany such mixed use developments to cause further conflict.

Such congestion violates 310 CMR §9.51(1) that is intended to prevent non-water dependent facilities of private tenancy from conflicting with water dependent facilities, such as the HarborWalk. One need only look at the new Intercontinental project’s vehicle/pedestrian conflict on Atlantic Avenue to realize that the proposed pedestrian cues are ineffective in resolving such conflict. FCNY strongly urges that no vehicles be permitted to drive across the HarborWalk in this critical area.

Proposed Implementation of the Amendments is Insufficient to Further the Purpose of the MHP

For the laudable parts of the amendments, an effective implementation plan that forgoes aspiration and relies on solid commitments is key. Unfortunately, such solid commitments are lacking in the amendments. Where the proposed contributions of \$1.85m are to come from are vague. This vagueness leads to community doubts that such funds will ever be available and if so, where the funds will be allocated.²

The implementation of the MHP should be concurrent with and should not be subsequent to further Navy Yard development. This concurrency is mandated by the waterfront regulations. For too long the Charlestown community has waited in vain for MHP implementation. To our knowledge, no portion of the 1991 MHP has been implemented and once a project surfaced which was subject to such implementation, amendments were proposed to avoid such implementation. Even what should be easily achieved is not. Witness the shameful condition of the Navy Yard HarborWalk. It is without a doubt the most deteriorated piece of the HarborWalk in Boston due to years of neglect by the Pier 5 developer who had responsibility of such maintenance until recently when much of that responsibility was transferred to unaware first-time home buyers in the Navy Yard who are now burdened by his decades of non-compliance with even the simplest maintenance requirements. No wonder that to the community the MHP has been merely words on paper that pose little if any obstacles to waterfront privatization and overreaching developers.

The MHP Does Not Live Up to its Own Requirements

According to the amendments’ own language, the MHP is supposed to: maximize public access to and activity along the waterfront while preserving the Navy Yard’s original form and character; improve and expand an open space network; that the MHP should address and define the SPDF requirement to be concurrent with the development of residential uses over flowed tidelands. Based on

² For instance, it was reported throughout the community that the Pier 5 developer had pledged a contribution of \$1m to Courageous Sailing in return for their support for the project (i.e., dropping objections that the facilities of private tenancy would interfere with the ability of young sailors to dock at Pier 4). The \$1.85m appears to include this contribution, thus it appears that the developer will be exempt from an implementation commitment to finance the important and laudable parts of the amendments, leaving a much smaller amount for the story loops, signage, lighting, wayfinding and continued maintenance of such.

the above discussion (i.e., relocation of SPDF space, flawed and subsequent implementation, etc.), it is clear that the MHP not only violates the waterfront regulations, but violative of itself.

BRA Studies Are Fundamentally Flawed

Without going in too much detail, the various studies commissioned by the BRA to demonstrate an alleged glut of FPA space use methodology that is suspect (i.e., the time frame used is so expansive that a crystal ball might as well been used as a predictor tool) and represents a self-fulfilling prophecy in the name of privatizing the waterfront. What is ironic is the BRA's focus on attempting to demonstrate that a diminishment of waterfront public space is necessary, while at the same time rushing headlong to insure the Parcel 4 construction of 224 condominiums (Harborview Point). The Parcel 4 condominiums have barely sold and are rumored to be imminently converted to rental units. Perhaps the BRA should focus more on the detrimental effects of unhindered privatization of the waterfront rather than discredit public waterfront opportunities. Not all waterfront parcels need to be developed. East Boston has the beautiful Piers Park, the North End the waterfront ball fields and Christopher Columbus Park. Perhaps an innovative approach would yield something similar for Charlestown and aid in creating the Harbor's own "Emerald Necklace."

Other Issues

The FCNY believes that a stronger waterfront transportation system needs to be developed in the Harbor and hopes that future iterations of the amendments enhance and enlarge what is already in the amendments. We believe that a thriving water transit system will stimulate FPA space in ways that the BRA has ignored.

The FCNY is disappointed that the BRA has apparently given up on attracting a major anchor to the Yard. It is this lack of vision that creates the self-fulfilling prophecy mentioned above. The FCNY has suggested several ideas over the past few years (i.e., Bunker Hill Community College, a Maritime Park, a waterfront park, relocation of a museum, concert bandstand and environmental interpretative center demonstrating the benefits of tidal and wind power as well as the Harbor cleanup, etc.) that have fallen on deaf ears. The FCNY believes that this is not a development problem, but a planning problem. The planning problem is certainly not because of a lack of planning talent at the BRA – the laudable parts of the amendments are first rate. It appears that the BRA's institutional role as developer and planner promotes development at the expense of planning.

Conclusion

The amendments state: "The Waterfront Activation Plan must acknowledge that an overall conceptual framework must be established that allows for the creation of varied public destinations ... to support a vibrant waterfront." At this late date in the redevelopment of the Navy Yard, it is disappointing that it is accepted that the protection of the public's tidelands is merely in the conceptual stage. Conceptual frameworks may have been appropriate in the 1970's and 1980's, not now.

The Commonwealth has a proud tradition since 1641 of being the first entity in America (the then Massachusetts Bay Colony) to codify the public trust doctrine. The amendments, instead of guaranteeing public access to Commonwealth tidelands, guarantee a privatization of the waterfront that will be irreversible. The FCNY looks forward to continued dialogue as an opportunity to produce the best planning document possible for the Charlestown community. As one of the authors of the amendments said, "every plan needs input to be a better plan." We concur.

Sincerely,

Michael Parker
Chairperson

Marion Dancy
President

cc: Congressman Michael Capuano
Gov. Deval Patrick
Rep. Eugene O'Flaherty
Mayor Thomas M. Menino
Paul McCann, BRA
Councilor Salvatore LaMattina
Councilor Michael Flaherty
Councilor Felix D. Arroyo
Councilor Stephen J. Murphy
Councilor Sam Yoon
Ian A. Bowles, EOEEA

Attachment 1



**View from original SPDF location on Pier 5 –
on the waterfront**



**Views from proposed new SPDF location
(Ropewalk) from 3 vantage points –
where is the waterfront?**



**Views from proposed new SPDF location
(Chain Forge) from 3 vantage points –
where is the waterfront?**