



October 13, 2015

Secretary Matthew A. Beaton
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Attn: Alex Strycky, MEPA Office

Re: Lewis Wharf Project

Dear Secretary Beaton,

On behalf of The Boston Harbor Association, thank you for the opportunity to comment on the MEPA Environmental Notification Form (ENF) for the Lewis Wharf Project, submitted by JW Capital Partners, LLC on September 15, 2015. After reading the ENF, making several site visits, attending public hearings and meeting with project proponents and others, our comments follow.

Project Location and Summary. Lewis Wharf is located across from the intersection between Atlantic Avenue and Commercial Street in Boston's North End neighborhood. Lewis Wharf and adjacent Sargent's Wharf represent two of the three remaining wharves (the third being the Coast Guard Station) in the North End containing significant open space and street views of the harbor.

The Lewis Wharf Project proposal includes a five-story, 277-room luxury hotel, 2.87 acres of public open space, 1,800 feet of HarborWalk, first floor facilities of public accommodation, indoor space for the existing Boston Sailing Center split between the street front and the waterfront, an expanded marina and a new water taxi dock.

Relevance to Chapter 91. The project site currently sits on both filled and flowed tidelands, falling within Chapter 91 licensing jurisdiction of the Massachusetts Department of Environmental Protection. Most of the above-grade portion of the proposed project lies seaward of the historic low water mark and is therefore considered Commonwealth tidelands. The hotel component of the project is not considered a water-dependent use and should therefore be reviewed as a non-water dependent project.

Relevance to new FEMA maps and Article 25. The recently revised Preliminary FEMA maps for Boston (July 9, 2015) set the 100-year flood zone elevation at 14 feet above mid-tide (NAVD88), or 20.46' Boston City Base datum (ENF 3.2.7). It is our understanding that these maps will be formally adopted in March of 2016. As described in the ENF, Lewis Wharf currently lies approximately four feet below this level. We believe that the base floor elevation will need to be elevated to 22.46' BCB (i.e., two feet higher than the new "100-year" flood) to comply with FEMA regulations. In the current proposal, hotel structures are elevated by 4 feet, while the HarborWalk remains at the current Lewis Wharf grade level.

According to City of Boston Zoning Code Article 25, Flood Hazard Districts, the proposed project lies within a "velocity zone" (V zone), an area subject to both flooding and significant wave action. Under a V zone designation, any new structure shall be located landward of the reach of mean high tide. (Flood Hazard Districts Article Section 25.5) The project is proposed to sit on reconfigured pilings seaward of mean high tide and will fall within the velocity zone; it is our understanding that it will therefore require either a variance from Article 25 requirements, or engineering solutions that remove the site from V-zone designation, and thereby eliminate the need for a variance.

The core issue at hand is one of "building in harm's way." The updated FEMA maps on which the V zone regulations rely are required by law to only consider retrospective data rather than projections of future flooding. In light of the speed and uncertainty of increases in climate change-related storms and sea level rise, we believe that the City's granting a variance would set an unwanted precedent especially since the City is actively working to become better prepared for coastal flooding.

Our concern is that even should such a variance be approved, the hotel buildings could be vulnerable to damage from extreme storms. Therefore, any necessary controls should be established if the project proceeds in this location. With projected sea level rise of 1-2 feet by 2050 and 3-6 feet by 2100, the probability of incurring severe damage from storms (as well as flooding during astronomical high tides and possibly at some point twice-daily high tides) will be increased significantly – during the lifespan of the proposed structures. The project proponent has not addressed how these challenges will be resolved.

From a climate change perspective, it would be better practice to build any new buildings away from the water's edge with an open space buffer to decrease storm energy. Proponents should consider designs that ensure that no damage would occur if storm flooding exceeds 20.46' BCB by several feet.

Relevance to the 1991 Harborpark Plan. There is much debate as to the extent to which a 1991 Gunwyn proposal on the same site is relevant to this proposal. Others will resolve that legal debate. Our comments focus on the requirements of the 1991 Harborpark Plan.

After a five-year planning process, the City of Boston released the Harborpark Plan “to ensure that new development on the harbor is managed in a way that protects the waterfront’s unique resources while ensuring that all residents have access to benefits created by waterfront revitalization” (pg. 2). Portions of this plan were formally adopted by the Secretary of Environmental Affairs (now Energy and Environmental Affairs) in 1991. In the absence of a more recent municipal harbor plan for the North End, this remains the most recent planning overlay governing Lewis Wharf.

That said, the socioeconomic and environmental context has significantly changed over the past 27 years. First, in 1991 there was essentially no acknowledgement of the risk of coastal flooding due to climate change and corresponding related extreme weather and sea level rise. More significantly, there were no regulatory or permitting requirements reflecting sea level rise and climate change.

Second, the socio-economic context surrounding Lewis Wharf has changed, with much more residential development, leading to substantially more neighborhood opposition to this project than to the 1991 Gunwyn proposal of a similar size. Finally, since much of Boston’s downtown waterfront has been redeveloped since 1991, Lewis and adjacent Sargent’s Wharves represent two rare opportunities for high quality public open space that visually connect the street and the harbor. For these reasons, we believe that the Lewis Wharf Project needs to go well beyond the 1991 standards. We have provided specific comments below.

Chapter 91-related requirements. Projects falling within the Chapter 91 jurisdiction must preserve any and all rights held by the Commonwealth in trust for the public as well as any public rights of access associated with such rights. These rights include:

- Maintenance and enhancement of key visual sight lines,
- Adequate open space design and programming to encourage public use,
- Preservation of water related public rights,
- Protection of existing and future water-dependent uses, and
- Activation of Commonwealth Tidelands for public use.

Key visual sight lines.

Protection of unobstructed views will promote the public’s use and enjoyment of the waterfront in accordance with the Chapter 91 regulations. Lewis Wharf lies in the

section of the North End waterfront away from significant open space (Christopher Columbus Park and the Rose Kennedy Greenway to the south and Langone Park to the north).

From the primary public way, Atlantic Avenue, the proposed project hotel buildings and connector significantly reduce existing views to the harbor on both sides of Lewis Wharf. The proposed sailing pavilion on Atlantic between Lewis Wharf and Sargent's Wharf further blocks the only remaining view to the harbor. For this project to conform with the spirit and intent of Chapter 91 to keep the waterfront as a public benefit, it will need to be significantly scaled down and reconfigured.

Open Space and programming to encourage public use

Preservation of water-related public rights

We favor a robust public access plan that maximizes public use of the water's edge. We commend the proposal for exceeding the 50% required amount of public open space (2.87 acres) but believe that the ultimate design of the open space should provide significantly more public benefits than as presented in the ENF. (see *ENF Fig. 2-2, 3-47*)

Other recent waterfront projects, such as Pier 4 in the Seaport District and Clippership Wharf in East Boston, provide engaging, interesting access to the water. Project proponents have expressed a willingness to participate in a public charrette process to optimize the site's open space resources and we hope that such a process would have beneficial results.

In an area such as the North End with high visitation but limited opportunities for public waterfront uses, the HarborWalk needs to be integrated with adjacent facilities of public accommodation in order to optimize public access. Opportunities for public access along the HarborWalk should be appropriately integrated with the character and context of the neighborhood. Installation of public art, appropriately-scaled cultural events and other less-intensive measures to activate Lewis Wharf will attract public interest and increase awareness of and access to the HarborWalk. At the same time such public attractions must be planned and located to minimize impacts on abutting residential neighbors.

Separating the HarborWalk from the rest of the hotel grounds with a four-foot wall makes the overall open space less flexible, integrated and accessible to the public. Perhaps instead the difference in grade could be spanned through terracing that would also serve as public seating (See *ENF 3-48*).

Chapter 91 requires clear, prominent HarborWalk signage that indicates that it is a public walkway and points out any associated FPAs, parks, restrooms and other public amenities. We ask that the project go beyond the standard blue HarborWalk signs and also provide wayfinding and interpretive signs such as are found on Atlantic Wharf, Fan Pier and Battery Wharf that help visitors locate nearby attractions and provide a sense of history and place.

Protection of existing and future water-dependent uses

The Lewis Wharf Project is required to support the continued operation of the Boston Sailing Center as a pre-existing water-dependent use. The continuation of existing water-dependent uses is best accomplished by avoiding dislocation of operators who are presently engaged in such use, especially those of long standing tenancy. Currently the center operates from a Louisiana riverboat moored on the northwest side of the wharf and makes use of a number of marina slips. (ENF 3-45)

Under the proposed project the Boston Sailing Center would receive an approximately 3,100 gross-square-foot pavilion for operation and retail space on Atlantic Avenue and an additional 725 square feet in the north building of the hotel.

We are concerned about the continued viability of the Boston Sailing Center under this new configuration. Project proponents need to work closely with them to find a mutually-agreeable, permanent, waterfront location for their facilities and operations closer to their assigned slips as well as to ensure continued operations of the center during the construction phase of the development.

“Projects subject to Ch 91 regulations shall not significantly interfere with the public rights of navigation which exist in all waterways.” (310 CMR §9.35(2)). The proposed 130-slip marina (77 of which would be new slips) must not interfere with established navigation along and beside the shipping channel by extending substantially beyond the projection of existing structures adjacent to the site (310 CMR §9.35(2)(a)(1)(d-e)) and pre-existing marina boundaries. The eastward limit of the marina floats slips needs to be moved landward so they extend no further seaward than those on adjacent Commercial Wharf to allow for continuity of the existing channel safety navigation zone and to avoid setting an undesirable precedent.

As noted above, Lewis Wharf will be increasingly vulnerable to onshore storm surges, swells and waves that occur during coastal storm events. Proponents need to ensure that the final layout of the proposed marina adequately manages its risk of dock and vessel damage during extreme weather events in addition to the gradual increase in sea level expected over the next several decades.

The marina should include transient public slips as well as a touch-and-go dock to maximize public benefits of the expanded marina. In addition to public restrooms, visiting mariner facilities such as showers and laundry should be considered, possibly in conjunction with the Boston Sailing Center facilities to amplify the water-dependent uses.

It is unclear from the ENF whether recreational fishing opportunities will be considered on the property. There are several locations along the waterfront that currently allow recreational fishing by the public as an added water-based public benefit. We ask that proponents consider including as part of the proposed marina a fish cleaning station and bait machine similar to the station recently created on Pier 4.

We encourage proponents to include a management plan for all on-site facilities offering water-related public benefits and ensure that the quantity and quality of such benefits include but are not limited to site activation, signage, maintenance, hours and rules of operation, organizational arrangements, and other open plans appropriate for the site.

Activation of Commonwealth tidelands for public use

A hotel is, by Chapter 91 definition, a non-water dependent use. As such, it is required to promote public use and enjoyment of the land to a degree that is fully commensurate with the proprietary rights and ensure that private advantages of use *are not primary but merely incidental to the achievement of public purposes* [emphasis added]. Under Chapter 91, the project must attract and maintain substantial public activity on the site on a year-round basis via water-related public benefits appropriate to the site given its nature and location.

As the Lewis Wharf Project is now configured, we believe significant work will be necessary to meet this requirement. That is, the private advantages of use are not “merely incidental to the achievement of public purposes.” We see this as the most challenging issue for this project, and one that needs considerable rethinking in order for the project to be successful. We look forward to the Proponent addressing these issues fully in the MEPA DEIR and the BRA DPIR for this project.

Again, thank you for the opportunity to comment.

Sincerely,



Jill Valdes Horwood
Waterfront Policy Analyst



Julie Wormser
Executive Director