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June 10, 2016

Via email to andrea.langhauser@state.ma.us
ben.lynch@state.ma.us

Ben Lynch
Program Chief
Waterways Regulation Program
Department of Environmental Protection
One Winter Street, 5th Floor
Boston, MA 02108

Re: Waterways License Application for 25 Atlantic Avenue Residences

Dear Mr. Lynch,

On behalf of Boston Harbor Now, thank you for the opportunity to comment on the Chapter 91 license application for the 25 Atlantic Avenue Residences submitted by J3 Design & Development, LLC on March 24, 2016. Boston Harbor Now, a new non-profit civic organization formed from the merger of The Boston Harbor Association and the Boston Harbor Island Alliance, brings more than six decades of waterfront, open space and recreational experience together to maximize recreational, cultural and social opportunities in and around Boston Harbor; promote an integrated water transportation system and foster mixed economic development that will be a model for climate change resiliency. Our specific comments follow.

Project Description

The 25 Atlantic Avenue Residences project site is located at the intersection of Commercial Street and Atlantic Avenue in the North End neighborhood of Boston. In accordance with the Waterways Regulations, although the project site is on filled tidelands and landward of the first public way it remains within 250 feet of the MHW and is therefore under Chapter 91 jurisdiction. The project is not located within the boundary of any City of Boston Municipal Harbor Plan and is not required to comply with standards regarding municipal harbor plans.

As presented, the entire parcel is 7,877 square feet and is made up of both private tidelands and Commonwealth tidelands. As described in the license application, the project is made up of a 4,525 SF parcel and 3,352 SF of publicly-owned sidewalk along Commercial Street and Atlantic Avenue. The

[42°21'32"N 71°3'26"W](#)

proposed projects includes a five story structure with six residential condominiums from levels two through five and ground-level parking for either eight or twelve vehicles (note: the license application and attachments differ on parking space count).

Lot Coverage & Open Space

The waterways regulations require that for a non-water dependent project at least one square foot of the project site at ground level be reserved as open space for every square foot of tideland area. 310 CMR 9.51(3)(d). Because this site is comprised entirely of filled tidelands, 50 percent of the site should remain as open space.

As described in the license application, the project is made up of a 4,525 SF privately-owned parcel and 3,352 SF¹ of publicly-owned sidewalk along Commercial Street and Atlantic Avenue. The project description does not include an explanation of why City-owned sidewalk is being included as part of the overall square footage calculation and it is unclear from the description if the property will be or has been transferred to the private developer. The project description is also silent about who will be responsible for maintaining the sidewalk--is this a private sidewalk to be maintained by the developer or will it continue to be the City's responsibility?

When the publicly-owned sidewalk is not included in the site calculations, the proposed building covers 100 percent of the lot. The application notes that the use of publicly-owned sidewalk is necessary to meet the Chapter 91 open space requirement. We interpret this to mean the site is too small to support the proposed structure.

We are concerned about the repeated use of existing public sidewalks in Chapter 91 and MHP calculations of lot coverage and open space requirements. We see that this is a de facto policy change to allow 100% lot coverage and development where it would otherwise not be allowed. We do not believe that Chapter 91 contemplates this level of development density, regardless of the off-site level of offsets provided. We ask DEP to clarify whether the use of existing public sidewalks and roads should be allowed in lot coverage calculations or not.

Climate Change

The license application does not mention any coastal flood preparedness strategies as part of their design. First, the application uses the FIRM map dated 7/9/2009 instead of the March 2016 update. The most recent update shows that the site is within the current FEMA 100-year flood zone (AE10), which requires compliance with Article 25 of the Zoning Code and may trigger other regulatory reviews. Recent data from the City of Boston's Climate Ready Boston project indicates that the flood risks for this site are likely to increase in the decades ahead.²

¹ Note: Page 5, lists the open space area as 3,985 SF; Sheet 3 Open Space Plan lists the total area as 3,940 SF.

² See:

https://d3n8a8pro7vhmx.cloudfront.net/greenovateboston/pages/1182/attachments/original/1464889728/5-16_UMass_-_ClimateReadyBOS_-_rev6.pdf?1464889728 for the findings of the CRB report prepared by scientists led by a team from UMB.

In sum, we urge you to consider the implications of using public property to satisfy CH. 91 open space requirements and the need for greater attention to the flood risks at this particular site. Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Wormser". The signature is fluid and cursive, with a long horizontal stroke at the end.

Julie Wormser
VP Policy

A handwritten signature in black ink, appearing to read "Jill Valdes Horwood". The signature is cursive and somewhat stylized, with a prominent horizontal stroke at the beginning.

Jill Valdes Horwood
Waterfront Policy Analyst