



Are you on board?

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August 3, 2020

Via email: susan.you@state.ma.us

MassDEP Waterways Regulation Program
Attention: Susan You
One Winter Street, 5th floor
Boston, MA 02108

Re: Gillette South Boston Manufacturing Center
Chapter 91 License Application, W20-5696

Dear Ms. You,

On behalf of Boston Harbor Now, thank you for the opportunity to comment on the license application for the Gillette South Boston Manufacturing Center.

There are two aspects to this license application, which does not seek authorization for any new fill, structures or uses. The first is the request to formally consolidate the 33 different DEP Waterways Licenses that have been issued for the various fill, structures, and uses that exist on the current Gillette campus. The applicant "seeks authorization for the structures and uses for the manufacturing facility under a single extended-term water-dependent Chapter 91 License, thereby allowing eligible future projects to be authorized under Maintenance and Minor Modifications pursuant to 310 CMR 9.22 and Amendments pursuant to 310 CMR 9.24." Second, the application also presents a rebuttal of the MassGIS Presumptive Line of Chapter 91 jurisdiction to establish a portion of the campus as landlocked tidelands.

A member of our team participated in the public hearings on this application on May 7th and July 14th, and we submit the following comments based on the license application and those public hearings.

Project Site

As referenced in the license application, the project site is made up of eight parcels and includes approximately 25.60 acres, most of which is historically filled tidelands along the east side of the Fort Point Channel. It also includes 46,364 sf of water-sheet.

Special Conditions

The license application seeks consolidation of 33 existing licenses that have been issued for fill, structures, and uses at the Gillette campus over more than 100 years. As noted in Section 5.3 of the application, these include no term licenses, term licenses including Special Conditions compliance and relief, and non-Gillette licenses. The application further suggests that not all of these Special Conditions will be incorporated into the new license.

While not all of the Special Conditions were listed in the license application, many of them require the creation, operation, and maintenance of open space on the campus, including the Harborwalk, the creation of a floating dock and associated parking, and a small triangular park between the bridge, Foundry Street, and Dorchester Avenue. As an organization committed to the creation and maintenance of accessible waterfront spaces including the Harborwalk, we are supportive of ensuring continued public access along the waterfront and beyond. We also want to be sure that they will continue to exist and be improved as circumstances warrant. If the Department were to grant the extended term license, we would ask that all of the Special Conditions persist in the new license, particularly those that reference these types of publicly accessible open spaces and amenities.

The continued application of the numerous Special Conditions that have been negotiated for the different parcels is further complicated by the RDA portion of this application. In the event that the Department concludes that certain parcels are no longer subject to Chapter 91 jurisdiction, we would encourage the Department to include the conditions associated with those parcels to be incorporated into the new license. No loss of open space or public access should result from this new license application.

In addition, the waterfront portion of the campus is anticipated to include a berm that is planned to provide continuous protection to the Fort Point neighborhood from coastal flooding along the channel. We trust that the planning, design, and construction of this protection will in no way be adversely impacted by the issuance of a new license for the site and that implementation will proceed with an eye towards maximizing the open space and access, as well as flood protection that it will provide.

Water-dependent use classification

The license application seeks authorization of the entire project site as a water-dependent use. While it is clear that the facilities that make direct use of the water from the Fort Point Channel (the pump house and manufacturing facility) should continue to be characterized as water-dependent, it is unclear that the entire project site is appropriately classified as such. Before issuing a new water-dependent license for the entire project site, DEP should analyze the percentage of the site that is devoted to water-dependent use and the portion of the site that should be considered an accessory thereto pursuant to 310 CMR 9.12(3). A new water-dependent use license for the entire site should only be issued if the results of this analysis warrant such a conclusion under the regulations.

Extended term

As noted previously, the site is currently subject to a variety of licenses with different expiration dates. The current application seeks an extended term of 99 years for the entire project site. As advocates for waterfront open space and climate resilience measures, we are concerned about this term length. Given that there is no project being proposed, and therefore no financing being sought, it is unclear that an extended term license is appropriate in this case. Should a specific proposal or ownership change warrant an extension, the extended term license could be requested at that time.

Additionally, we are concerned that the length of the license term may have adverse consequences for ensuring resilience of the public access portions of the site in the future. The Climate Ready Boston report estimates 4-8 inches of sea-level rise is likely by 2030 and up to 1.5 feet by 2050. The Boston Planning and Development Agency is using a reference rate of 40 inches of sea-level rise by 2070. Although this license request is not proposing any new work that would require elevation changes to ensure its long-term viability, such an extended term may mean that the resilience of the site will not be revisited during this time. Although we do not believe that an extended term license is appropriate in this case, if the Department concludes that a 99-year license term is appropriate, we would ask that the conditions of the new license include some opportunity for periodic review of the site's resilience and the continued availability of the public access portions of the site, particularly if existing open spaces begin to flood regularly.

Thank you for your consideration of these comments. I would be happy to speak further with the MassDEP Waterways division if there are additional questions.

Sincerely,



Aaron Toffler
Policy Director
Boston Harbor Now