



Fort Point Associates, Inc.

Urban Planning Environmental Consulting Project Permitting

A TETRA TECH COMPANY

MEMORANDUM

TO: Daniel Padien, DEP Waterways Program
FROM: Jamie Fay, Fort Point Associates, Inc.
DATE: December 11, 2023
RE: East Boston Shipyard and Marina Chapter 91 Applicability

This memorandum has been prepared in response to your letter to the Boston Harbor Shipyard and Marina (the “Proponent”) dated November 27, 2023 and addressing Chapter 91 applicability to the existing and potential activities at the East Boston Shipyard and Marina (the “Shipyard”).

Summary:

Existing and planned structures and uses within the Shipyard are subject to review in part through the applicability of the DEP Chapter 91 regulations (310 CMR 9.00) and in part by the Memorandum of Understanding (“MOU”) between the Massachusetts Port Authority (“Massport”) and the Department of Environmental Protection (“DEP”) dated February 15, 2002.

The MOU is the exclusive framework under Chapter 91 and M.G.L. c. 21A for regulation of structures and uses in the “Project Area” as defined in the MOU. The Project Area within the Shipyard includes the Marina and Pier 5 areas as delineated in the exhibit to the MOU. See Exhibit A attached.

All existing and future activities inside or outside of the Project Area consisting solely of Water Dependent Industrial Uses (“WDIU”) and accessory uses are not subject to Chapter 91 licensing pursuant to 310 CMR 9.03(3) and Section 2.2 (A) of the MOU.

The existing marina is not subject to licensing pursuant to the MOU at Section 2.2 (B), provided there is no unauthorized change of use or structural alteration since October 4, 1990.

Water-dependent uses and accessory uses thereto and including fuel docks, and pump out facilities within the Project Area outside the Designated Port Area (“DPA”) are not subject to licensing pursuant to MOU Section 2.2 (F).

Within the portion of the DPA in the Project Area, the marina and all uses and structures accessory to the marina, including, but not limited to, parking, interior roadways, yacht clubhouses, showers, sanitary and pump-out facilities, marine-oriented retail facilities, bait shops, chandleries, boat sales and repair facilities and off-season boat storage areas and facilities are not subject to licensing pursuant to MOU Section 2.2 (F).

The nonwater-dependent uses and structures within Chapter 91 jurisdiction in the Shipyard inside and outside of the Project Area are subject to licensing by DEP.

Accordingly, the following Investment Plan elements will not require licensing:

- Filling the existing graving dock, closing off the graving dock with a riprap wall, construction of new 300-ton Travel Lift piers adjacent to Pier 3, Building #17 demolition, reconstruction and repairs to existing seawalls in the graving dock area along Pier 4 and Pier 5;
- Construction of a new high bay boat repair facility on the existing uplands.
- Construction of replacement Travel Lift piers for 75-ton Travel Lift on the site of the exiting Travel Lift pier;
- Construction of a one or two-story addition on the southeast corner of Building #36 for WDIU;
- Construction of a new support building east of Building #11 for WDIU;
- Construction of a new infill office or shop building outside the DPA between Building #12 and Building #16 for WDIU;
- Maintenance/repair of the existing marina and construction of new accessory use buildings;
- 150-slip expansion of the existing marina outside the DPA;
- Boat storage and marina parking anywhere in the Shipyard; and
- Potential Massport maintenance facility.

The following Investment Plan elements will require Chapter 91 licensing as a nonwater-dependent use project;

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- Construction of the “container village”



Massachusetts Port Authority
 Business Development Department
 August 2001



— Project Area

- - - East Boston Shipyard

Exhibit A
 East Boston Piers, MA