



## NORTH END/WATERFRONT RESIDENTS' ASSOCIATION

P.O. Box 130319  
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July 6, 2009

Ian A. Bowles, Secretary  
EOEEA, Attn: MEPA Office  
Aisling Eglington, EOEEA No. 14411  
100 Cambridge Street, Suite 900  
Boston MA 02114

John F. Palmieri, Director  
Boston Redevelopment Authority  
Attn: Rodney Sinclair, Sr. Project Manager  
One City Hall Square, 9<sup>th</sup> Floor  
Boston, MA 02201-1007

Subject: Harbor Garage Redevelopment

Dear Secretary Bowles and Mr. Palmieri:

The North End/Waterfront Residents' Association (NEWRA) appreciates the opportunity to submit these comments on the Environmental Notification Form and Project Notification Form filed by The Chiofaro Company (the "Developer") for RHDC 70 East India, LLC, proposing redevelopment of the property at 70 East India Row (together, the "ENF/PNF"). The site is located in Boston's Downtown Waterfront District and is situated between the Rose Fitzgerald Kennedy Greenway, the commercial building at 255 State Street, the New England Aquarium and its Simons IMAX Theater, and the Harbor Towers residences.

The Project involves replacement of the existing 7-story, 1,475-space Harbor Garage with a 40-story office tower approximately 560 feet high and a 59-story residential and hotel tower approximately 690 feet high. A 770-foot "skyframe" that will connect the two towers is intended by the Developer to provide a sky-line visual and architectural link between the two buildings. The 1.5 million square-foot (sf) project consists of an 860,000-sf office tower, 220,000 square feet of luxury condominium space, and a 300,000-sf hotel with an additional 50,000 square feet of hotel function space and amenities. These elements will sit above a 70,000-sf retail podium that will connect the proposed towers. A new 1,400-space parking garage and service docks will be located below grade.

NEWRA is an association of more than 300 members who have primary residence in the North End and North End Waterfront districts, with membership extending to the residences at Harbor Towers and Rows Wharf. NEWRA has reviewed the redevelopment proposal as presented by the Developer in the ENF/PNF and as presented and discussed at the BRA public hearing held on May 12, 2009, and at the MEPA scoping session that was held on May 18, 2009. NEWRA also has representation on the BRA Impact Advisory Group. It is with the information we have collected through the above reviews, presentations and discussions that we offer the following comments, which our membership approved by vote on June 23, 2009.

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The project as proposed cannot be built without major changes to the Boston Zoning Code (Article 42A) or substitution of zoning with provisions and approvals pursuant to the Downtown Waterfront-Faneuil Hall Urban Renewal Plan. The project as proposed also cannot be built without major amendments to the City of Boston Municipal Harbor Plan (the "Harborpark District Plan" or the "MHP"). We take most seriously the Developer's proposal to revise these permanent waterfront development regulations. We believe the changes that the Developer will seek in order to allow the project to be constructed in its currently proposed form or a modified form will have profound and lasting adverse effects on the character of Boston's waterfront and on the public's enjoyment of the waterfront and its many existing amenities. Some of the existing amenities have been created at great public investment. In addition, relief from existing development requirements may have a significant adverse effect on the quality of residential life that exists in the immediate area.

**NEWRA strongly opposes the project proposed by the Developer in the ENF/PNF.**

- The project is too massive and totally out-of-scale for this waterfront site. We believe construction of a project this size in a tight and narrow band of the downtown waterfront will cause major disruption to existing public waterfront uses, including the Harborwalk and the extensive water transportation services at Long Wharf and Central Wharf; will greatly compromise the public's enjoyment of special and popular destinations and programming at the New England Aquarium, Simons IMAX Theater, Long Wharf Park and the Rose Fitzgerald Kennedy Greenway; and will cause significant construction impacts to the hundreds of residents now living in the immediate area. These impacts over the anticipated construction duration of six years will be intolerable.

The footprint of the proposed office tower will exacerbate the tightness of space and the visual and public access constraints that now exist between the existing Garage and IMAX Theater. Any project to replace the Garage should include a widening of this open space area. Furthermore, the proposed project's height will create a sense of even tighter restriction and will cast greater shadows on this area and on the adjacent harbor watershed. The great height of the towers and their close proximity, together with the existing elevation of the adjacent Harbor Towers building, will create a canyon wall effect close to the water's edge. These impacts warrant enforcement of the current height limits in Zoning and the MHP and mitigation of the potential impacts from any compliant height greater than the existing Garage. Any height greater than the existing Garage in this sensitive area must be fully vetted in the Article 80 and MEPA reviews.

The violations of height, massing and open space are severe. The Developer proposes heights up to five and a half times the allowed height of 155 feet and approximately twice the height of the highest buildings in the adjacent waterfront area (Harbor Towers), with similar violation of floor-area-ratio. The massing of the project also results in a severe shortfall in the amount of open space that would be provided at ground level, in violation of the Zoning Code for the Harborpark District and state regulations. The Developer proposes to increase at-grade open space by 4,000 square feet over the nonexistent open space currently on the garage site. This amounts to a mere 7% of the 57,346 square feet of the redevelopment parcel, far short of the

50% open space requirement for new construction that is necessary to prevent dense development from compromising the public's attraction to, and use and enjoyment of, the waterfront.

We are concerned that any allowed deviation from the height, density, open space and setback requirements and limits in existing Zoning and state regulations may set a terrible precedent for other redevelopment projects in the Downtown Waterfront and North End Waterfront districts. Precedent should be avoided as it can carry weight and be used against future regulatory decisions.

We are also concerned that the plans may include proposed acquisition of a strip of BRA-owned land between the existing garage footprint and the water's edge, which the Developer may be proposing to build within. If so, this may in effect reduce the amount of public open space on the harbor side of the project. We ask that any planned acquisition or use of land by the project or a revised project beyond the limits of the existing Harbor Garage's private ownership be identified, mapped and measured, and evaluated against existing city and state regulations.

- The project will not contribute to, but will compromise and potentially supplant, the character of the public, commercial and residential setting that has been created along this stretch of Boston's waterfront over the past 30 years. The area is one of the most popular and heavily used waterfront sites in Boston, bringing city residents and thousands of visitors a year to the historic Long Wharf, Aquarium and Boston Harbor and to sites beyond the harbor on the many water transportation vessels that leave from Long Wharf, Central Wharf and Rowes Wharf. A great amount of public funds have been spent in the immediate area on parkland, cultural uses and water transportation facilities, and public agency approvals over many years have sought to open or maintain the area for public waterfront access.

The area is first and foremost a harbor-based public recreational resource. While the area is characterized by water transportation facilities and historical, cultural and recreational resources, there exists a lower level of commercial and residential accommodation that provides public amenities and a 24-hour population without significant conflict or other impact. The Developer instead proposes a dense urban setting both in form and use that is more familiar in the Financial District and the Prudential Center. The plan calls for a high level of commercial office space in a tower that will overwhelm the existing area features and stand between the city and its waterfront while contributing to inactivity and a sense of isolation when the offices are closed. The amount of residential units in the second tower may impose heavy burdens on this narrow strip of the waterfront and result in competition with free and safe public access. Furthermore, shadow, loss of light, loss of sky, and other effects of the height and massing of the proposed project would make this part of the waterfront and the adjacent Greenway less attractive, less comfortable and less enjoyable for existing residents and the public at-large.

- Contrary to the Developer's stated goal, the project will not create new waterfront views, waterfront access or connections between the Greenway and the waterfront. The two proposed towers and proposed building platform will create a higher and more massive barrier than the

existing Garage. Any project proposed at this site must provide significant waterfront amenities, including enhancements to public access and visual connections from land to water.

- The existing Harbor Garage provides a public amenity that will be lost with the project. The plan calls for greatly reducing the amount of parking available to the general public while potentially increasing the public demand for parking in the area if the project's goal of attracting more people to the site is realized. The benefits of the existing Garage to the public and to existing public uses along and near the waterfront, as well as the impacts of the proposed loss of public parking, should be assessed in detail. Increases in parking demand due to planned public and private projects nearby, plans to remove public parking at other sites, programming of the Greenway, and other plans to bring more people to the waterfront and the Greenway should be measured and evaluated against the proposed demolition of the Garage.

The Developer proposes a new, below ground garage that will be primarily ancillary to the proposed office space. We understand the need to control the number of vehicle trips, with incentives and disincentives that include limiting available parking. But we also understand, from the Boston Transportation Department, that commercial office use is most amenable to the incentives such as transit pass subsidies, adjustment to other modes of commuting, and other adaptations to low levels of parking. Ancillary office parking demand and associated vehicle trips should be greatly reduced by significantly reducing the office space of the project and by limiting the available spaces ancillary to the remaining office use. This may allow an increase in the day-time, publicly available spaces provided by the project.

- The project will mostly privatize this area of the Harborpark District. The existing garage use is a public accommodation. Most of the space of the much larger, proposed project is devoted to private uses. The mix of public and private uses should be changed to significantly increase public accommodation over the currently proposed level.

NEWRA urges the BRA and the Secretary to determine that the project as proposed cannot be approved and should not continue through the Article 80 and MEPA reviews, because it is fundamentally in noncompliance with the Zoning Code, the MHP, and Chapter 91 Regulations, is contrary to city and state waterfront development goals and design guidelines, and is incompatible with the historical, cultural and recreational resources in the immediate area. The project should be withdrawn and revised to bring it into compliance and conformance, and alternatives for impact assessment should be derived from the revised plan.

NEWRA urges the Secretary and/or the BRA to require the following for this or any project proposed for the Harbor Garage site.

1. Preparation of a combined Project Impact Report and Environmental Impact Report, in separately issued draft and final forms, responding to all of the issues and concerns that are raised in these and other public comments.

2. Approval of any necessary MHP amendment prior to submission of the Final EIR. We ask that the Secretary not accept a Final EIR until the MHP amendment process is complete and an amendment is approved by the Secretary. MEPA review should not close, and a certificate on a final EIR should not be issued until there is assurance that the public trust is protected. We ask that the Secretary plan to include in the Certificate on the draft EIR direction to the City of Boston and the Developer on the requirements for development, presentation and review of the draft MHP Amendment. The reviews, deliberations and findings of the Harbor Advisory Committee should be available to the public to help assess whether the final EIR is adequate.
3. Inclusion in the DEIR/DPIR of a comprehensive evaluation of alternatives that:
  - a. measures and evaluates the public benefits and impacts of the existing Harbor Garage;
  - b. includes an alternative that complies with the existing Zoning Code and MHP, including open space requirements;
  - c. conforms and expands upon the existing water-based, cultural, open space and low-level, low-impact commercial and residential uses that characterize the existing waterfront area;
  - d. conforms to the scale of the existing building envelope; and
  - e. considers off-site improvements or joint projects, such as relocation of the Simons IMAX Theater or reconfigurations of other existing structures, to help compensate for impacts and for MHP non-compliance.
4. A full public process conducted throughout - not at or near the end of - the Article 80 and MEPA reviews to fully evaluate the impacts and potential benefits of revisions to the Boston Zoning Code and the MHP in the same manner and broader planning framework that were used by the City in the late 1980's and early 1990's, as required (then and now) by state regulations, for establishing development requirements on the waterfront and any substitutions for Chapter 91 regulation requirements. To this end, we request that the DEIR and DPIR be scoped to include broader planning evaluations that address and fully evaluate any proposed changes to existing zoning and MHP requirements and consider the broader waterfront environment surrounding the project site.

We ask the Secretary and the BRA to relieve us and the broader public of the burden of many months or years of effort and anguish to attempt to effectuate major changes to the Harbor Garage Redevelopment project to bring it into compliance and reason. We find ourselves once again preparing to fight a MHP amendment and Zoning changes proposed in piecemeal fashion for a developer's single project. We value the regulations just as they are - as they were intended by the citizens, neighborhood groups, and state and local elected officials who worked hard to create them two decades ago. The purpose, benefits and goals of the current permanent zoning regulations and the MHP, clearly stated in the MHP, have not changed and should not be changed.

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In closing, we thank the Developer, the BRA and the MEPA Office for extending the public comment period on the ENF/PNF and for beginning to hold public meetings, including IAG meetings, early in the review process. Because of the importance of the site to the public-at-large and because any impacts of the project will be felt by many, we ask that open public meetings similar to the meeting held at the Marriott Long Wharf Hotel on May 12, 2009, be held and publicly noticed at key points in the project review process, including during the public comment periods on the draft and final impact review documents.

Yours truly,

A handwritten signature in black ink that reads "Mark Paul". The signature is written in a cursive, slightly slanted style.

Mark Paul, President

cc: Governor Deval Patrick  
Mayor Thomas M. Menino  
State Senator Anthony Petrucci  
State Representative Aaron Michlewitz  
Councilor Salvatore LaMattina  
Council President Michael Ross  
At-Large Councilors John R. Connolly, Michael Flaherty, Stephen J. Murphy and  
Sam Yoon  
Jeffrey B. Mullan, Executive Director, Massachusetts Turnpike Authority  
Laurie Bert, Commissioner, Department of Environmental Protection  
Karl Haglund, Department of Conservation and Recreation  
James W. Hunt, Chief, Boston Environmental & Energy Services  
Antonia Pollak, Commissioner, Boston Parks and Recreation Department  
Bryan Glascock, Director, Boston Environment Department  
Nancy Brennan, Executive Director, Rose Fitzgerald Kennedy Greenway Conservancy