

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

May 29, 2018

In the Matter of
University of Massachusetts – Boston

OADR Docket Nos. WET-2016-033,
WET 2016-034
Boston, MA

RECOMMENDED FINAL DECISION

These consolidated appeals were brought by 10 Residents of Boston, the Harbor Point Community Task Force, and Corcoran Jennison Company, Inc. (an abutter) (collectively, “Petitioners”), concerning the real property at 200 Mount Vernon Street, Boston, Massachusetts (“the Property”). The Petitioners challenge the Superseding Order of Conditions (“SOC”) that the Department’s Northeast Regional Office issued to the Applicant, the University of Massachusetts - Boston. The SOC was issued pursuant to the Wetlands Regulations and Wetlands Act, 310 CMR 10.00 and G.L. c. 131 § 40, respectively. The affected Resource Area at the site is Land Subject to Coastal Storm Flowage, which is presently impervious. The site is also within the Buffer Zone to Coastal Bank.

In sum, the proposed project consisted of creating temporary surface parking in the same location as the Bayside Exposition Center (“Center”) building and installing associated stormwater drainage improvements. The Center was demolished after receiving Emergency Certification from the Boston Conservation Commission because of safety concerns.

The issues that were identified for adjudication in this appeal are the following:

1. Do Corcoran and the Task Force have standing as aggrieved parties to bring this appeal?
2. As a redevelopment project under 310 CMR 10.05(6)(k)7, does the project comply with Stormwater Management Standards 1, 3, 4, and 6 to the maximum extent practicable?
3. Does the project comply with 310 CMR 10.05(6)(o)?

After the Pre-Hearing Conference, the appeal was stayed at the parties' request for a substantial period of time because the Applicant decided to cancel the construction project but desired to leave outstanding permits in place while the demolition component was being completed. Later, the Applicant and the Petitioners represented that a joint agreement to dismiss the appeals had been reached, but the parties had not secured all necessary signatures on the settlement documents. More recently, the Petitioners represented that they were unable to obtain all necessary signatures, and requested that the stay be extended, which I allowed.

Presently pending is the Applicant's motion to dismiss for mootness. The mootness grounds are that the demolition has been completed under the Emergency Certification, the Applicant has permanently canceled the project, and the Notice of Intent has been withdrawn. DEP assented to the motion. The Petitioners informed the Applicant that they would not consent, without providing any rationale, but they failed to oppose the motion to dismiss.

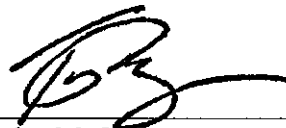
For all the above reasons demonstrating the absence of a justiciable issue and the absence of any opposition to the motion to dismiss, I find that the appeal is moot. See Matter of Wilkinson Excavating, Inc., Docket No. 2010-064, Recommended Final Decision (March 8,

2011), adopted by Final Decision (April 5, 2011). I therefore recommend that the appeal be dismissed and the SOC vacated.

NOTICE- RECOMMENDED FINAL DECISION

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for his Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(d), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's Final Decision is subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in his sole discretion, directs otherwise.

A handwritten signature in black ink, appearing to be 'T. Jones', written over a horizontal line.

Timothy M. Jones
Presiding Officer

SERVICE LIST

In The Matters Of:

University of Massachusetts, Boston

Docket Nos. WET-2016-033
WET-2016-034

File No. 006-1433
Boston

Representative

Party

Ralph A. Child
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
One Financial Center
Boston, MA 02111
RChild@mintz.com

APPLICANT
University of Massachusetts, Boston

Nathaniel Stevens
McGregor & Legere
15 Court Square, Suite 500
Boston, MA 02108
nstevens@mcgregorlaw.com

PETITIONERS
10 Residents, Harbor Point Community
Task Force, Inc., & Corcoran Jennison
Company, Inc.

Dana Muldoon
Mass DEP Office of General Counsel
One Winter Street
Boston, MA 02108
Dana.Muldoon@state.ma.us

DEPARTMENT

Cc:
Rachel Freed
MassDEP Northeast Regional Office
205B Lowell Street
Wilmington, MA 01887
Rachel.Freed@state.ma.us

DEPARTMENT

Boston Conservation Commission
Boston City Hall – Room 709
Boston, MA 02207

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