



November 28, 2017

New Jersey Department of Environmental Protection
Division of Land Use Regulation
P.O. Box 420, Mail Code 501-02A
501 East State Street
Trenton, N.J. 08625

Attn: Patricia Cluelow, Application support

RE: NJDEP Waterfront Development Permit Application by Port Imperial Ferry Corp. d/b/a NY Waterway for Block 259, Lot 1; 901 Sinatra Drive, City of Hoboken, Hudson County; NJDEP file No.: 0905-05-004.1.

Dear Ms. Cluelow:

The Board of Trustees of The Maxwell Place Condominium Association submits this letter in opposition to the above referenced waterfront development permit application, including the request for a provisional permit.

The Department should not issue a provisional permit to the applicant. N.J.A.C. 7:7-20.1 limits the issuance of a provisional permit to those situations where construction prior to the completion of the full permit review process is "necessary to meet the regulatory or funding requirements of a Federal or State agency." The application provides no information to justify the Department making such a finding. There is no documentation in the application of any Federal or State regulatory requirement applicable to the beginning of construction. Nor is there any information in the application regarding any financial requirement of Federal or State financial requirement applicable to the project of the timing of the construction.

In the entire application process, the only information remotely relevant to the provisional permit request is the information in the cover letter to the application and the letter from NY Waterway. The cover letter alleges that the applicant "receives funding from NJ Transit to assist in meeting the overall transportation requirements in the New York Metropolitan Region ... and because the use of the Union Dry Dock property is to remain the same, i.e. the maintenance and upkeep of commercial vessels, the issuance of a provisional permit is appropriate." The NY Waterway letter alleges that "NJ Transit provides financial support for the NY Waterway's ferry operations ... [and] [t]he current State of New Jersey transportation budget includes funds for this project to be used to purchase and improve this facility."

Those assertions do not meet the requirements of N.J.A.C. 7:7-20.1 and are, in part, inaccurate. The applicant has not indicated that conducting construction while the permit application is under review is **necessary** for any funding **requirement** of a State agency. There is no basis to consider NJ Transit as a State agency under the regulation. Even if it were, the applicant has not provided any NJ Transit requirement that it commence construction while the application is pending. The fact that "NY Waterways is in need of relocating its maintenance facilities immediately" might show that construction is necessary for the applicant's business needs, but does not justify a provisional permit under the Department's regulation.

The assertion that the use of the Union Dry Dock property is to remain the same is not accurate. The proposed use by the applicant will change significantly. Since 1976 until very recently the Union Dry Dock & Repair Company had at the property two dry dock slips with few vessels and a small work crew that generated little vehicular and marine traffic. The applicant proposes to greatly increase the use with storage of 20 ferries and refueling of many more, with storage of huge quantities of diesel fuel, repairing of ferries and possibly the parking of shuttle bus ferries. The intensity of the use will increase by more than an order of magnitude.

We also think that the Department should know that it appears that the applicant has begun work on the project even before the Department has issued a provisional permit. The enclosed photo, taken on November 22, 2017 (below) shows activity at the property apparently as part of the project described in the permit application. The Department should determine whether the applicant is, in fact, moving forward as if it already had a provisional permit. If so, the Department should stop the work immediately.

The City of Hoboken has worked diligently over the last 25 years to clean up and transform the city's waterfront from a former industrial site to an environmentally safe place of beauty and recreation for residents of Hoboken and visitors. This request from NY Waterway in partnership with NJ Transit would jeopardize all of the progress made toward a contiguous waterfront park system and intentionally disregards a 2012 agreement made by NJ Transit to not pursue the Union Dry Dock property for this use case. See the attached November 21, 2017 letter from the Mayor of Hoboken to NJ Transit. In 2012 NJ Transit clearly stated they "look forward to continuing to work with you (Hoboken Mayor Zimmer) as we continue to advance efficient, environmentally sound transit options for your residents and all the citizens of NJ." This proposal is anything but environmentally sound creating untold environmental and quality of life issues for Hoboken.

This application is incompatible with the new residential and commercial development taking place along Hoboken's waterfront. The proposed use is prohibited by local zoning laws and is in violation of the State's Coastal Zone Management (CZM) Regulations. The Department's Commissioner noted in a challenge to another permit in Hoboken in the *In re Shipyard Associates LP Waterfront Development Permit and Water Quality Certificate No.: 0905-07-0001.2 WFD 110001* that the current municipal zoning in Hoboken recognizes that there has been a significant decline in traditional waterfront uses in the area, and encourages alternative uses on the waterfront, such as residential developments. The Commissioner also observed that water-dependent uses such as ports, terminals for passenger or cargo movement, and maritime activities "are no longer compatible with the existing land use pattern and thus are not viable at this location." The Department should recognize those same factors here to prevent the significant expansion of water-dependent uses that are no longer compatible with the existing land use pattern in the area.

We urge you to immediately reject this irresponsible permit application. We endorse and adopt the comments contained in the letter of November 27, 2017 by the Fund for a Better Waterfront, and Hoboken City Council President Giattino and City Council Second Ward representative Fisher.

As a community, we ask the NJDEP to:

1. Deny the application and hold an open public process to discuss additional locations for NY Waterway to house their ferry and bus maintenance facility. We recognize the value of the ferry system to all NJ commuters but request a thorough examination of alternate sites and transparency in the process. It is our understanding Bayonne's industrial waterfront has actively sought NY Waterway for years and, in addition, there are other locations owned by NJ Transit that are more appropriate and affordable.

2. Respect the current use cases of the Hoboken Waterfront in vicinity of 901 Sinatra Drive, Block 259, Lot 1. Enjoyed by both residents and visitors there is currently a popular fishing pier, a skateboard park actively used by children of all ages, a kid's playground and swings, a large grass lawn and a boat house including a natural sand beach to allow for free activities including kayaking. It is an understatement to say a ferry refueling, repair and storage operation of up to 20 ferries would be environmentally unsound and could destroy the opportunity for visitors and residents to fish, kayak or enjoy the public waterfront. In addition, 20 ferries coming and going (using tier 1 diesel fuel) and storage of large amounts of fuel would be vastly different than the current use by Union Dry Dock and creates the risk of new environmental hazards. Castle Point Park, just south of the Site, features two popular public fishing spots, including a public fishing pier several hundred feet from the Site. There are American Shad, Striped Bass, Blueback Herring, Atlantic Sturgeon, Shortnose Sturgeon, American Eel, Atlantic Menhaden, Red Hake, Tautog and Green Crab among others. [Some of] these migratory finfish are listed as "species of concern" in N.J.A.C. 7:7E-3.5. The proposed use will involve heavy ferry traffic to and from UDD, in prime fishing areas and finfish migratory pathways of the Hudson River. The constant, daily ferry traffic to this location, with the polluting diesel fumes, potential for fuel spills and strong wakes are likely to be seriously disruptive to fish, underwater vegetation and other wildlife. The applicant must provide a detailed description of how increased ferry traffic to and from the Site will impact these resources. N.J.A.C. 7:7-9.4, -9.5, -16.2.
3. Honor the commitment of the Hudson River Waterfront Walkway. (*7:7E-3.48 Hudson River Waterfront Area*) CZM regulations require the construction of the Hudson River Waterfront Walkway for the 18 mile stretch between the Bayonne and George Washington Bridges. In Hoboken, this state-mandated public walkway has been nearly completed for the entire 1.5 mile length of its waterfront. The only piece missing is the 8 acre Union Dry Dock site. Approval of this permit destroys the opportunity to complete the vision.
4. Honor the 2012 NJ Transit decision to not pursue this proposal. New Jersey Transit Executive Director James Weinstein soundly rejected NY Waterway's 2012 proposal in writing to Hoboken Mayor Zimmer "this is to confirm that New Jersey Transit is no longer exploring the acquisition of the Union Dry Dock property nor does the agency anticipate doing so in the future."

If you have any questions, please feel free to reach me at the email address or cell phone number below.

As a final matter, we note that the applicant did not correctly send notice of the application to the Maxwell Place Condominium Association. The applicant sent the notice to PT Maxwell LLC C/O Mgnt Office, 1100 Maxwell Lane, Hoboken, NJ. That incorrect information delayed Maxwell Place Condominium Association from getting the notice. We request that any future notices or information concerning the application be sent to the Maxwell Place Condominium Association at 1100 Maxwell Lane, C/o Management Office, Hoboken, NJ 07030. As we remain interested in, and very concerned regarding, the permit application, we ask that the Department advise us about any decision the Department makes on the permit application and the request for a provisional permit.

Sincerely,

Leslie Florio
President
Maxwell Place Board of Trustees

Cc: Dennis Contois, Hudson County Section Chief
James Cannon, US Army Corp. of Engineers

