

URBAN WATERFRONT ACTION GROUP

March 16, 2005

MINUTES

Pier 34 South

Attendees

Bennett Blum	Mid Atlantic Co.	beanieblum@vzavenue.net
Bill Jenkins	Army Corps of Engineers	william.h.jenkins@usace.army.mil
Chris Linn	DVRPC	clinn@dvrpc.org
Christopher S. Andes	Marathon Engineers	chris.andes@marathonconsultants.com
Dan Martin	Marathon Engineers	dan.martin@marathonconsultants.com
Domenic Rocco	PADEP SERO	drocco@state.pa.us
Jamie Davis	EPA Region 3	davis.jamie@epa.gov
Larry Toth	PADEP CZM	latoth@state.pa.us
Louis A. Cincalrese	Delaware River Development Grp.	lcicalrese@lawworker.com
Paul Scally	Delaware River Basin Comm.	pscally@drbc.state.nj.us
Randy Brown	PADEP SERO	rabrown@state.pa.us
Richard Hluchan	Ballard Spahr	hluchan@ballardspahr.com
Stephen Park	US Coast Guard	spark@msogruphila.uscg.mil

1. The meeting was called to order at 10:15 a.m.
2. Chris Linn of DVRPC chaired the meeting. Members of the UWAG committee and the applicants introduced themselves.

Pier 34 South

3. Mr. Linn gave a brief overview of the project and introduced Dan Martin, Senior Environmental Scientist at Marathon Engineering, who presented the project to UWAG.
4. Mr. Martin provided a description of the Pier 34 South project. The project will be a 30 story residential condominium with a 4 or 5 story parking garage. The original project proposal specified driving pilings within the existing footprint of the pier and cantilevering them out beyond the footprint by 10 feet on either side. The current proposal requires driving the pilings 10 feet beyond the existing footprint of the pier. The extra 10 feet of width on either side of the current pier is needed to make the parking garage large enough to accommodate the number of vehicles projected for this project. Public access for the project will be provided along the whole length of the area leased by the Penn's Landing Corp. Permits were approved for another condominium project on Pier 34S in the early 90s. That project called for the construction of a 60 story residential tower.

Mr. Martin stated that they had contacted the National Marine Fisheries Service and the PA Fish & Boat Commission regarding fish study requirements. The two agencies informed them that performing fish studies during the coming year would not be representative of "actual" conditions in the Delaware due to the oil spill last fall. Instead, the agencies advised Mr. Martin that he could use the results of previous fish studies conducted for other projects in proximity to Pier 34S.

5. Mr. Jenkins inquired as to the condition of the existing pier and asked if it was supported on fill or piles. He also asked if the pier would be reduced in size. Mr. Martin stated that the current pier is entirely pile supported and that the pier will be reduced by 140 feet in length. However, a portion of this 140 feet is not visible in the aerial photograph because the end of the pier collapsed into the water in 2000.
6. Mr. Toth asked the applicant about their plans for public access. Mr. Hluchan stated that the current lease requires that public access be provided along the Delaware River. Mr. Toth asked if this requirement was in the "Act" that granted a submerged lands license to Philadelphia or if it was in the lease to Penn's Landing. The applicant thought this requirement was in the lease, but they weren't entirely sure if it was also in the Act.
7. Mr. Scally asked if living on the water was a necessary use? He also stated that the marina in the previous application was water dependent, but he explained that the residential structure by itself is not water dependent. Mr. Cicalese stated that there were no plans for a marina at this time, but pointed out that the drawings did show boats moored along the edge of the parking garage.

8. Mr. Jenkins asked if there would be any mooring piles or floating docks, to which Mr. Martin replied “no.”
9. Mr. Scally asked if there were any CSOs in the area. Mr. Martin responded that he didn’t think so and that the closest one was located to the south of the project.
10. Mr. Toth asked if there were any plans for Pier 35. Mr. Cicalese said that there were no plans for Pier 35 at this time.
11. Mr. Scally asked if the project would have any impacts on the adjacent heliport. Mr. Cicalese state that the project would not impact the heliport because helicopters are required to take off and land out over the river.
12. I be built on a filled finger pier. The eastern edge of the pier is supported by piles. The site where the condominium will be built (Pier 40 N) is referred to in previous legal documents that removed navigational servitude as the “National Sugar House.” More recently, the pier was used for restaurants and parking. Currently, it is not used for anything. The proposed condo structure is a 30-story 170 unit residential development. The parking garage is toward Penn St. on the landward side. The tower is on the water size. A plaza is planned for the end of the pier near the water. The structure will be built on piles – engineers estimate it will require 320 piles. Because of city zoning the structure needs to be shifted to the south towards waterfront square – at least 50 feet away from the pier to the north. Therefore, approx. 24 additional feet of the bed of the river will need to be occupied with piles and a deck will need to be placed on those piles.
13. Mr. Martin explained that at the federal level navigational servitude had been removed by federal law. At the state level, the pier is not included in any legislation that issued the 99 year lease for Penn’s Landing. According to Mr. Martin, the project will require a 404 permit and a Section 10 permit for the Corps of Engineers. On the city level, no zoning variances should be required to build the building as proposed.
14. In response to a question from Mr. Scally, Mr. Martin stated that they would drive pilings through the existing fill and that an additional area of the river measuring approx. 24 x 300 feet would be occupied by pilings.
15. Mr. Seymour asked what was to the south of Pier 40 – answer: Waterfront Square.
16. Mr. Toth asked if the plaza on the pier was going to be open to the public. Mr. Schleicher said the plaza was intended to be for the use of the tenants, but Mr. Martin said that wasn’t fully decided yet.
17. Mr. Rocco reported a number of concerns on behalf of the Commonwealth. Many of these same issues were raised in regard to past projects that were similar. Mr. Rocco stated that a variety of issues are raised when utilizing piers for residential use. The major issue is submerged lands. The regulations don’t make accommodations for residential uses in the bed of the river. However, the Department is re-evaluating how they look at these projects.

Public access is a key issue for all projects along the waterfront. When anything goes in the river, the state will be looking for mitigation. When old industrial piers were issued permits in the past, they were never intended for residential use. The 105 regs do not allow residential uses on submerged lands – this is a major hurdle. Mr. Rocco stated that all these pier projects have similar problems/issues. Mr. Rocco directed the applicant to look at the comments made on the Pier 28 project.

18. Mr. Martin asked why they were directed to get CZM approval on the Pier 28 project. Mr. Toth explained that what this means is that the Corps of Engineers cannot issue a permit until CZM determines that the project is consistent with the state's Coastal Zone Management program.
19. Mr. Martin asked if the piles will require a benthic study. Mr. Rocco stated they could use an existing study as long as it is from the same area.
20. Mr. Rocco told the applicant to look at Pier 25 as a reference case. He stated that DEP may make policy changes in the coming months and that DEP may need to be compensated for development on public land. There needs to be mitigation when piles are driven.
21. In response to a question from Mr. Toth, Mr. Rocco said that different kinds of mitigation can be acceptable, depending upon the individual circumstances.
22. Mr. Rocco emphasized that the state's concerns do not change even if the developer tweaks the project so that fewer pilings are driven.
23. Mr. Schleicher stated that the city is looking for residential development in this area. Mr. Rocco responded that they will meet with the City Planning Commission.
24. Mr. Rocco stated that Chapter 105 is due for a re-write.
25. Some confusion was expressed over whether or not navigational servitude had been removed. Mr. Martin explained the legislation he thought had effectively removed navigational servitude – this was accomplished through "59J". 59J explicitly identifies Pier 40 North. Mr. Toth explained that navigational servitude allows the federal government to ask you to remove a structure.
26. Mr. Jenkins stated that the status of navigational servitude does not change the Section 404 and 10 permitting process.
27. Mr. Rocco concluded by reiterating two primary issues: water dependency and proper purpose. Mr. Rocco also stated that the applicant would need to go through an alternatives analysis if pilings are driven – including upland alternatives.

Chestnut Street Dock

28. Mr. Cernick explained that the Schuylkill River Development Corporation (SRDC) is interested in redeveloping the tidal Schuylkill River to improve the ecological health and physical beauty of the area, open it up for increased public access, and energize it culturally and economically. They have a long term goal to extend the Schuylkill River Trail to Fort Mifflin – an additional seven miles. Mr. Cernick stated that they have plans to construct two docks: one at Bartram’s Garden and one at the foot of Chestnut Street. Their design team includes Urban Engineers. The dock would be owned by the Fairmount Park Commission and managed by SRDC. Mr. Cernick stated that this stretch of the river is very much underused. The river is now cut off to the public due to the past 100 years of industrial development. SRDC’s goal is to open the tidal river back up to the public.
29. Mr. Musil stated that the dock would be 10 x 35 or 45 feet and would float up and down on 3 guide piles. Three garbage barrier piles would also be constructed. A 40-foot gangway would come down to the river. The dock would be ADA compliant.
30. Mr. Jenkins inquired as to the purpose of the dock. Mr. Musil responded that the dock would be used for a series of historical tours along the tidal Schuylkill. Mr. Jenkins asked if the dock could be used by recreational boaters. Mr. Cernick said that they would like the dock to be used by rec boaters because one of their goals is to generate activity and excitement on the river. This is compatible with their goal to program more activities in Schuylkill River Park.
31. Mr. Toth asked if dredging would be required. Mr. Cernick stated that the river is approx. 18 feet deep and no dredging would be required.
32. Mr. Seymour asked if the dock would be locked or open and if the public could wander out onto the dock. Mr. Cernick said he didn’t know the answer because there are safety issues involved.
33. Mr. Rocco asked if there was any way to extend SRDC’s mission to the Delaware River. Mr. Cernick said they would consider it when they finish their current work on the Schuylkill. Mr. Cernick stated that the river is now a barrier between Center City and West Philadelphia and that they want to transform the river so that it *connects* the two sides together. They also want to make the bridges over Market St. and JFK Boulevard more pedestrian friendly.
34. Mr. Rocco stated that DEP had already issued a permit for all of Schuylkill River Park that may have also included provisions for a dock (or possibly only a boat ramp). Mr. Rocco stated that a submerged lands license may not yet have been obtained, but it would be required for a dock of this size. Mr. Rocco explained to Mr. Toth that the permit issued for the Bartram’s Garden dock was for an entirely separate project on the other side of the river.
35. Mr. Scally stated that the mooring of boats overnight may raise security issues. Mr. Cernick stated that he didn’t expect boats to moor overnight
36. Mr. Cernick remarked that in a perfect world they would be bidding out the Bartram’s dock in the very near future and if the Chestnut Street dock were to be approved, they would like to

bid it out soon after the Bartram's dock. With one dock there is really no place to go – that is why it is critical to have two docks, so that you can make a round-trip.

37. Mr. Jenkins stated that the only major issue for the Corps would be the status of their maintained navigational channel. There is a possibility that the entire channel may have been officially de-authorized in the stretch of the river in question.
38. Mr. Rocco asked if SRDC new of the plans for the South St. bridge. Mr. Cernick stated that the project is moving along and that the plan is to keep the river piers, build a new deck and improve the pedestrian experience on the Bridge. This is somewhat complex because the bridge is long and goes over a number of obstacles. Construction is slated to begin in 2007 and end in 2008. The project will cost the city over \$60 million – the most expensive bridge they've ever designed and built. The connection from the new bridge to the Schuylkill River Trail is one of the key features of this project.
39. Mr. Toth asked if there would be a railing around the dock. Mr. Cernick responded that there would not be a railing around the dock because that would limit its use by boats.
40. Mr. Cernick asked if they were now in a position to file for a permit. Mr. Rocco responded affirmatively and asked if the permittee would be Fairmount Parks Commission. Mr. Cernick said he thought the applicant for the permit would be SRDC. Mr. Rocco said that they should then have some sort of an agreement with FPC.
41. Mr. Toth asked whether they needed to file for a new permit or just amend the existing one. Mr. Rocco responded that that depended upon whether or not the Fairmount Parks Commission was the permittee. If FPC was the permittee, they could just amend the existing permit and get a submerged lands license, if not, they would have to file for a new permit.
42. Mr. Cernick asked how they could find out more info about the existing permit. Mr. Rocco replied that they could get the file from his office.
43. The meeting adjourned at 11:50.