



CHARLES RIVER

conservancy

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Attn: MEPA Office
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Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
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January 9, 2015

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Re: EF Education First III, Environmental Notification Form EEA No. 15293

Dear Secretary Beaton:

Thank you for the opportunity to comment on the Environmental Notification Form (ENF) for EF Education First III (EF III).

The Charles River Conservancy is a 501(c)3 non-profit that works to make the parklands along the Charles River more active, attractive, and accessible for all, from the Watertown Dam to the Boston Harbor. The CRC was founded in 2000, and has over 30,000 supporters and volunteers in the Greater Boston area; every year some 2,000 landscapers work with the Conservancy to help maintain and improve the parklands around the urban Charles. Since its founding, the Conservancy has also advocated for the return of swimming to the Charles River, and successfully held community swims in the Charles every year since 2013. One of the Conservancy's most prominent projects is the construction of the Lynch Family Skatepark underneath the Zakim Bridge ramps, on a former brownfield site neighboring the EF II Building. The original planned purpose of the EF III parcel was for basketball and tennis courts, which would have been an attractive parkland use, complementing the skatepark and opening up the area to public use.

The Charles River Basin is a historic common ground for the public. Although parcels of the basin were misused and neglected during environmentally ignorant decades of the mid-twentieth century, the Department of Conservation and Recreation (DCR), the Charles River Conservancy, and its partners have effectively begun the process of re-unifying this great linear park space, making it active, attractive, and accessible to the public once more. The expansion of the EF campus on this rejuvenated parkland has set a precedent of private purchase of public lands. The goal of the Conservancy in issuing these comments is to protect

the constituents of the historically, environmentally, and economically crucial Charles River. If the state chooses to trade this parkland, we ask it strictly follow the provisions laid out in Chapter 265 of the Acts of 2014, which authorizes the trade. **Most notable in these provisions is the payment of fair market value of the land, as determined by an independent appraisal, as well as fulfillment of the state's "no net loss" policy as a distinctly separate requirement.**

Chapter 265

Chapter 265 of the Acts of 2014 allows, but does not require, the transfer of Article 97 public trust land currently owned by the Commonwealth, to the proponent, EF Education First Inc., to construct an office/classroom building known as EF III.

Section 1 of Chapter 265 provides that "The conveyance [of this land] shall be at a purchase price equal to or greater than the full and fair market value of the fee interest as determined by an independent appraisal." The independent appraisal should be included in the DEIR. The DEIR should also make clear that this fair market value is entirely separate and apart from the requirement that this project meet EOEEA's Article 97 Land Disposition Policy. We urge the Commonwealth and the proponent to ensure that the entirety or the maximum possible amount of the fair market value of this land is paid to the Department of Conservation and Recreation.

Section 2 of Chapter 265 provides that a condition of this transfer is that "appropriate arrangements have been made for the replacement of the operations and maintenance facility for the department of conservation and recreation now located on the parcel." The proponent's ENF states that "through the sale of the project site and other mitigation commitments that may be made in connection with the project, there will be an opportunity to facilitate the construction of the new maintenance and operations facility..." (page 7). The proponent should clarify in greater detail how construction of the new facility will be accomplished in the DEIR, including how it will be funded. In this instance, an "opportunity for facilitation" is not enough to ensure that the Department of Conservation and Recreation will have a facility out of which to properly steward the parklands. Part of the arrangements for a new operations and maintenance facility outlined in the DEIR should include a study about space requirements for DCR, and whether the "Proposed Relocated DCR Maintenance Facility" (ENF, Figure 2) will provide enough land for a proper permanent facility. The permanent facility should allow room for growth, to accommodate changes in responsibilities or land use the DCR may face in the future.

Additionally, the proponent notes that "remediation of the stockpile on the 'DCR Open Space Area' and the relocation of the DCR facility are part of the CA/T mitigation" (ENF, page 3). Chapter 265 clearly states that the replacement of the operations and maintenance facility must be "appropriately arranged" as part of the planning for EF III, despite being a CA/T mitigation requirement. The proponent should clarify whether it is assuming these CA/T mitigation requirements for the Department of Conservation and Recreation, including the remediation of the stockpile..

Section 3 of Chapter 265 provides that a condition of this transfer is an open space agreement with the City of Cambridge, "dedicating a portion of the parcel as public open space ... provided further, that to ensure a no-net loss of lands for natural resource and public open space purposes, EF Education First, Inc. shall negotiate a memorandum of understanding with the DCR, conveying land,

providing funding or providing public recreational opportunities for conservation and recreation.” The open space agreement conscripted by Section 3 will be based on a similar agreement drawn up during development of EF’s building at 8 Education Street (ENF, page 4). The open space agreement from the development of 8 Education Street (between the City of Cambridge, MassDOT and DCAMM) should be included in the DEIR, as well as drafts of the open space agreement and the MOU with DCR for the EF III parcel.

Article 97 Requirements

As noted in Section 3 of Chapter 265, the EF III parcel falls under the jurisdiction of EOEEA’s Article 97 Land Disposition Policy, commonly referred to as the Commonwealth’s “no net loss” policy. The proponent repeatedly states that it will comply with Article 97 policy, but is does not detail how this will be accomplished (ENF, pages 3, 4, 7).

Section 3 also states that the proponent’s MOU with DCR may include “the conveyance of land, providing funding or providing public recreational opportunities for conservation and recreation.” It should be made clear in both the MOU and in the DEIR that **the monetary value of land conveyance, funding, or recreational opportunities provided to the DCR to fulfill the requirements of Article 97 are entirely separate and apart from the fair market value of the parcel** as determined by an independent appraisal.

In the DEIR, the proponent should clearly discuss how the “no net loss” policy will be fulfilled for the 1.69 acres on which the Project Site will be located. It should be clearly disclosed that the remaining 1.83 acres in the 3.52 acre Zoning Parcel, noted in the ENF (page 3) as “DCR Open Space Area”, is already considered Article 97 lands, and dedicating these 1.83 acres as public open space does not meet the “no net loss” requirement.

At a meeting between Conservancy and EF representatives on December 15, 2014, there was discussion of EF taking on the responsibility and/or cost of maintenance of North Point Park. The cost and operational aspects of this responsibility, as well as its fulfillment of the Article 97 policy requirements, should be analyzed in full detail in the DEIR.

Chapter 91 License

The EF III parcel also falls under the jurisdiction of Chapter 91, The Massachusetts Public Waterfront Act, which states that “No structures or fill for nonwater dependent uses of tidelands ... may be licensed unless a written determination by the department is made following a public hearing that said structures or fill shall serve a proper public purpose and that said purpose shall provide a greater public benefit than public detriment to the rights of the public in said lands” (G.L. c.91, §18).

It is clear that an office/classroom building is a nonwater dependent use of tidelands. The proponent states that it will comply with Chapter 91 requirements, but is unable to detail how this will be accomplished (ENF, page 7). In the DEIR, the proponent should clearly discuss how it will meet Chapter 91 requirements. To do this, the public benefit of this project should be fully detailed, including the 27,500 sf of proposed ground floor facilities open to the public. The ground floor use should include public bathrooms and possibly other space that is beneficial for uses of the Lynch

Family Skatepark (such as storage or a shop for skateboard parts, etc.) and/or for public meetings by DCR and other area stakeholders.

We agree with the proponent that the “gap between the residential uses to the north and the office, education, and park uses to the south” should be activated for public enjoyment (ENF, page 5). We also agree that the east-west bike path through the Project Area is an important public benefit that the proponent should provide. In the DEIR, the proponent should include detailed plans about how the outdoor activation, including the bike path, will be accomplished. We believe that the 36,700 sf/0.84 acre of “publicly accessible open space with a combination of hardscape and landscape forms” (ENF, page 5) will fail to serve entirely as outdoor activation, as this area will be primarily be used for access to the building for both cars and pedestrians.

Compounded Development Impact

Due to the rapid expansion of the EF Education First campus, we urge the EOEEA to consider the impacts of this campus as a whole, rather than piecemeal, as the proponent has presented it.

The proposed footprint of EF III is very similar to EF II and EF I, which neighbor the EF III parcel. EF II was only completed in October of 2014. If the proponent were proposing the construction of EF II and EF III at the same time, the compounded impacts of these two major construction projects would need to be considered.

Despite the fact that EF III was proposed upon completion of EF II, the impact of constructing EF II so recently cannot be ignored; When it comes time for construction of EF III, the ecosystem and nearby waterway will still be recovering from the noise, erosion, and soil compaction from heavy equipment, among numerous other environmental disruptions, created by the construction of EF II. For this reason, the EOEEA should take into consideration the greater impact these major construction projects create when combined.

Site Plan

The proposed site plan should be fully flushed out in the DEIR, including how the site plan will respond to the historic and current site conditions. A comprehensive analysis of the site context, showing how the project will connect to the neighborhood open space system and the natural hydrology of the site, should also be included in the DEIR. Currently, the DCR Open Space (ENF, Figure 2) does not appear to have any relation to the adjoining open spaces in the area and fails to provide a more direct connection with the parklands along the Charles River, while the private corporate space proposed fragments the parkland. The proponent should provide alternative siting of the proposed building in order to better serve the connection and activation of the neighboring parklands.

Stormwater Management

The DEIR should include details regarding both existing and proposed stormwater infrastructure. It should include detail on the MassDOT system overflow connection, overflow volumes, and how this fits in with the project’s compliance with the TMDL.

The Conservancy's Swimmable Charles Initiative has brought over 300 people into the waters of the Charles with successful community swims in 2013 and 2014, with four more swims planned for 2015. Because of its history of above-average water quality, the Conservancy is considering the New Basin as a possible location to host future swims and potentially locate a permanent swim facility. For this reason, the Conservancy is deeply invested in keeping additional stormwater runoff and CSO discharges out of the waters of the New Basin.

Current site drainage should be fully characterized in the DEIR, with calculations and whether drainage will directly discharge to the Charles River or to the Cambridge or MWRA sewer systems. Any new flows in the MWRA system have the potential to increase treated CSO discharges to the Inner Harbor and possibly also to increase untreated CSO discharges at CSO outfalls in the area. Every effort should be made to keep stormwater on site, including from the adjacent planned open space area, and to prevent it from discharging into the combined system.

Stormwater management should aim to maximize infiltration, slow runoff, maximize the use of vegetation, capture rooftop runoff for irrigation, and minimize sediment and nutrient loading. Low Impact Design (LID) techniques, such as rain gardens and bio-retention areas, should be incorporated into the site design.

Parking

On page 5 of the ENF, 75,000 sf of proposed above-grade parking is proposed, but nowhere in the ENF is the location of this parking facility identified. The proponent should include the exact location of planned parking in the DEIR, as well as plans to minimize runoff from this paved area. The proponent should also include in the DEIR an analysis of the need and benefits of including parking for DCR vehicles in this parking area, as well as what impact these parking spaces would have on the proponent's plans, the surrounding area, and the Department of Conservation and Recreation, specifically in regards to the space requirements needed for the new operations and maintenance facility.

Conclusion

We are aware that the approval of Chapter 265 of the Acts of 2014 will almost inevitably lead to the construction of a new office/classroom building for EF Education First, Inc. As parkland advocates, we hope that the involved public agencies will work to maximize the benefits in this area for parkland users, as urban parklands are so scarce, yet so essential, for urban livability. Thank you again for the opportunity to comment.

Sincerely,



Renata von Tscharnner
President

CC:

State Senator Sal DiDomenico
State Representative Jay Livingstone
State Representative Dan Ryan
State Representative Timothy Toomey

DCR Commissioner Jack Murray
DCR Director of Planning Joe Orfant
DCR Director of External Affairs and Partnerships Conrad Crawford
DCR Urban Planner and Historian Karl Haglund

MassDEP Commissioner Martin Suuberg
MassDEP Waterways/Chapter 91 Program Chief Ben Lynch

Boston Environmental Chief Austin Blackmon

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