

Notice of Submission of Request for Clarification Pursuant to 301 CMR 23.00.

In accordance with applicable regulations at 301 CMR 23.00, public notice is hereby given for the submission of the City of Boston's request for clarification on the lot coverage and open space substitution approved under the Secretary's 2000 Decision on the South Boston Waterfront District Municipal Harbor Plan. The City of Boston's request for clarification letter is attached.

Written comments on this request will be considered. Comments must be received by 4:30 p.m. on June 19, 2009 (30 days after publication of this notice in the Environmental Monitor). Comments should be addressed to:

Office of Coastal Zone Management
251 Causeway Street, Suite 800
Boston MA 02114
Attn: Brad Washburn

Notification Date: May 20, 2009

Boston Redevelopment Authority

Boston's Planning & Economic
Development Office

Thomas A. Menino, *Mayor*
Clarence J. Jones, *Chairman*
John F. Palmieri, *Director*

One City Hall Square
Boston, MA 02201-1007
Tel 617-722-4300
Fax 617-248-1937

May 15, 2009

Ian A. Bowles, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: South Boston Municipal Harbor Plan Lot Coverage and Open Space Substitution

Dear Secretary Bowles:

The Boston Redevelopment Authority ("BRA") seeks your clarification regarding the lot coverage and open space substitution under the South Boston Waterfront District Municipal Harbor Plan ("MHP) within the Fort Point Historic Subdistrict ("Subdistrict"). Specifically, we ask for your determination that open space requirements for any infill parcels within the Fort Point Historic Subdistrict – both north and south of Summer Street – can be achieved through an off-site aggregation program that requires a contribution plus an annual maintenance payment for every square foot that a project exceeds 50% lot coverage.

The MHP was submitted to the Secretary of Environmental Affairs in July 2000, and a decision was issued in December 2000 ("Secretary's Decision"). The South Boston MHP includes a series of substitute provisions with corresponding offsets that when implemented will create an inviting and active public waterfront environment. One substitute provision dealt with lot coverage and open space.

With the goal of preserving the existing historic late nineteenth and early twentieth century brick warehouse structures located in the Fort Point Neighborhood, the MHP provided a substitution for lot coverage and open space for vacant infill parcels, allowing up to 100% lot coverage on these parcels. The offset for the additional lot coverage was the contribution of \$75 for every square foot of lot coverage over 50% plus \$2 per square foot annually to the City's Fund for Parks and Recreation. The parcels are located in what the MHP defined as the "Fort Point Historic Subdistrict North," which is that portion of the Fort Point Historic Subdistrict located north of Summer Street.

It is unclear why the MHP divided the Fort Point Historic Subdistrict at Summer Street into "North" and "South" areas because the late nineteenth and early twentieth century brick warehouse structures that characterize the Subdistrict are found in both areas. In dividing the Fort Point Historic Subdistrict this way, the historic structures south of Summer Street appear to have been overlooked mistakenly.

To facilitate the goal of preserving the historic urban form of this distinct neighborhood, the MHP recognizes vacant infill parcels in the Fort Point Historic Subdistrict and provides a substitute provision for lot coverage and open space. The MHP also appears to have overlooked possible infill development on the existing historic warehouse building parcels. Therefore, we are asking for

clarification on the application of the lot coverage and open space substitution for infill development on vacant and existing historic structures both north and south of Summer Street.

2000 South Boston Municipal Harbor Plan: Fort Point Historic Subdistrict

The 1999 Public Realm Plan, which served as the planning context for the MHP, describes the Subdistricts that were carried over into the MHP. The Fort Point Historic Subdistrict, which is the subject of this discussion, is shown as Attachment A and described on page 27 of the MHP as a subdistrict which “will include mixed-use office, institutional, live-work spaces and loft residential uses, with ground floor public and retail uses. The new “Wormwood” neighborhood, located in the southern portion of this subdistrict, will be residential with supporting retail services.”

In discussing development guidelines, and substitutions and offsets, the MHP treats the Subdistrict as having two areas, with Summer Street as the divider between “North” and “South.” The description of the Fort Point Historic Subdistrict North on page 211 of the MHP focuses on the historic late nineteenth and early twentieth century warehouse structures:

Fort Point Historic Subdistrict North refers to that portion of the subdistrict located between new Northern Avenue and Summer Street. The predominant building form is late nineteenth and early twentieth century brick warehouse structures that range from 75 to 125 feet in height. A portion of this area, encompassing 98 industrial, commercial and civic buildings and five bridges, has been determined eligible for listing on National Register of Historic Places. These structures have a certain massiveness and density. Much of the Fort Point Historic waterfront could not be constructed today under the Waterways Regulations. Nonetheless, the subdistrict has an important identity that should be maintained and reflected in new development projects. There are few likely development sites in this portion of the subdistrict. As with the Inner Harbor Subdistrict, implementing the Public Realm Plan will require substitutions from the Waterways Regulations.

The MHP provides that “the existing historic neighborhood is very dense, with building faces meeting the sidewalk on all four sides of the building.” The MHP states that maintaining the feel of the historic urban fabric in this neighborhood is of paramount importance, and the lot coverage limit under the Waterways Regulations of 50% is not in keeping with the existing historic fabric.

To address this inconsistency, the MHP includes a substitute provision for lot coverage and open space for infill parcels in the Fort Point Historic Subdistrict North allowing greater than 50% lot coverage. The offset for the greater lot coverage is a one-time contribution of \$75 for every square foot over 50% lot coverage plus \$2 per square foot annually for maintenance. This system is employed to aggregate required open space into larger, more useful spaces than strict adherence to the Waterways Regulations would create.

The MHP calls attention to the special nature of this historic area and thus the substitution for lot coverage and open space on page 232:

The northern portion of this subdistrict is one of the few areas of the South Boston Waterfront for which we believe that an increase in the lot coverage percentage is

appropriate. In the southern, unbuilt portion of this subdistrict, and in the vast majority of the sites in the Inner Harbor, the 50% requirement is maintained.

This statement, referring to the southern portion of the Subdistrict as “unbuilt”, suggests that the MHP mistakenly assumed that there are no historic late nineteenth and early twentieth century warehouse structures in the southern portion of the Fort Point Historic Subdistrict. Likewise, the description of the Fort Point Historic Subdistrict on page 209 of the MHP focuses on vacant land in the southern portion of the Subdistrict:

The Fort Point Historic Subdistrict is bounded by new Northern Avenue to the north, West Service Road and the Massport Haul Road to the east, the Fort Point Industrial District to the south and Fort Point Channel to the west. It contains approximately 74.1 acres of land, approximately 39% of which is subject to Chapter 91 jurisdiction. See Figure 11-1. The area contains late nineteenth and early twentieth century ornamental brick warehouses owned by the Boston Wharf Company and large tracks of vacant land in the southern portion of the subdistrict. Much of the vacant land currently is used for staging by the Central Artery/Tunnel Project.

However, in addition to the infill parcels located in the Fort Point Historic Subdistrict North, the MHP recognizes a vacant infill parcel in the Fort Point Historic Subdistrict South at 60 Necco Court. The same lot coverage and open space substitution of allowing greater than 50% lot coverage is proposed for this parcel to enable the redevelopment of the infill parcel. The vacant parcel is likened to the Barking Crab parcel because of its small footprint, which is unlikely to be redeveloped under the existing Waterways Regulations. The relatively small parcel would, under the Waterways Regulations, yield an insignificant amount of useable open space.

The MHP explains on page 233 that the goal of the substitution is precisely to prevent this sort of result:

This lot coverage substitution and corresponding offset meet the regulatory standard for approval. The flexible lot coverage substitution developed for infill development in this district will continue to ensure that buildings for nonwater-dependent purposes will be relatively condensed in footprint, while also helping to create the necessary conditions for redevelopment to be feasible in the area. By permitting, in effect, an aggregation of the open space requirement, the offsetting measure will provide residents and visitors with a more significant public open space than the regulatory provision.

Moreover, this excerpt illustrates that the MHP assumes that infill development in the Subdistrict is limited to the vacant infill parcels addressed in the MHP. Working with this assumption, the MHP addresses these vacant infill parcels and provides a lot coverage and open space substitution that will allow appropriate infill on these parcels. However, the MHP overlooks infill development that could occur on the existing historic late nineteenth century and early twentieth century warehouse building parcels. This potential infill to existing historic buildings, which is further discussed in a section below, could include the filling of light wells to make redevelopment of buildings viable, handicapped accessible, and otherwise bring them up to code.

Secretary's Decision on the South Boston Waterfront District MHP

The Secretary's Decision also differentiates the North and South portions of the Subdistrict, when they actually have the same pattern of development. On page 10, the Fort Point Historic South and the Fort Point Industrial Subdistricts are grouped together and described as being "marked by the 1.5 million sf manufacturing facility of the Gillette Company." The Fort Point Historic Subdistrict North is described as containing "the superb architectural ensemble of the Boston Wharf Company warehouse." As in the MHP, the descriptions overlook that this ensemble exists both North and South of Summer Street. It is only the Fort Point Industrial Subdistrict that is marked by the Gillette facility.

Recognizing that the City's request for the substitute provision was based on the historic character of the built environment, the Secretary approved the substitution for lot coverage and the implementation of an off-site aggregation program for the provision of open space. The Secretary was "persuaded that strict application of the 50% lot coverage standard in the Waterways Regulations would not further the public's interests and that it would not provide meaningful open space."

When addressing the Fort Point Historic Subdistrict South, the Secretary incorporated 60 Necco Court, which was purchased by The Gillette Company after the MHP was submitted to the Secretary for review, into the larger adjacent vacant land also owned by Gillette. The Secretary explains that the proposed lot coverage and open space substitution is unnecessary since all of the land is under one ownership and thus open space can be aggregated under one license. This remains the case today, as the land owned by the Gillette Company will maintain and exceed the 50% open space requirement, as shown in the South Boston MHP Amendment. As directed by the Secretary, the land owned by Gillette (including the historic brick warehouse sites at 40 and 50 Necco Court and the vacant infill lot addressed by the Secretary at 60 Necco Court) will take advantage of aggregating open space and will not be subject to the substitution that is the subject of this clarification.

An open space aggregation program relies on parcels being held under a single ownership and a single Chapter 91 license. Since the Secretary's Decision, the collection of historic late nineteenth and early twentieth century warehouse buildings that were formerly owned by the Boston Wharf Company have been sold to various property owners.

100 Acres Master Plan and Planned Development Area #69

Since 2000, several planning efforts in the Fort Point Historic Subdistrict have taken place. As described in the Secretary's Decision, further master planning has been completed for the Fort Point Historic Subdistrict and the Fort Point Industrial Subdistrict. The results of the master planning process for this area are contained in the 100 Acres Master Plan and the amendment to the MHP that the BRA has submitted to the Secretary concurrently with this letter.

The 100 Acres Master Plan planning area is generally bounded by the Fort Point Channel, the Haul Road, Summer Street and West First Street, as shown on Attachment B. The planning area includes the historic late nineteenth and early twentieth century ornamental brick warehouse buildings located south of Summer Street in the Fort Point Historic Subdistrict and recognizes the importance of preserving and reusing the existing historic buildings.

The 100 Acres Master Planning Process led to the adoption of zoning for the area, codified in Planned Development Area #69 ("PDA #69"). With a goal of preserving the late nineteenth and early twentieth century ornamental brick warehouse buildings, PDA #69 provides for infill development on these sites. Infill on the existing historic building sites is specifically allowed in the form of infill extensions to a single Existing Building (e.g., the filling in of lightwells, or an extension to the lot line), extensions joining an Existing Building to one or more other detached buildings, and rooftop additions. The guidelines for infill development are described on page 9 of PDA #69.

The projects included in the 100 Acres Master Plan and PDA #69 will create approximately 6.9 acres of new and expanded open spaces and recreational fields within the area. These open spaces will be constructed primarily on land owned by the private landowners within the planning area. Private landowners will contribute to a sinking fund for the construction of the new public spaces, and be responsible for the care and maintenance of the new open space as well.

Fort Point Channel Landmark District

In the last year, the City adopted a new Landmark District for the Fort Point Channel. The Fort Point Channel Landmark District ("FPCLD") is Boston's largest, most cohesive and most significant collection of late nineteenth and early twentieth century loft buildings. The purpose of landmark district designation is to enrich and enhance the unique industrial heritage of the Fort Point Channel neighborhood expressed in its architectural form, architectural details, structures, street pattern and streetscapes.

The Boston Landmarks Commission has adopted specific standards and criteria adopted for the FPCLD in order to achieve the goals of the district, which include: preserving buildings and groups of buildings that create a strong sense of character and architectural cohesiveness in the district; supporting the adaptive reuse and rehabilitation of historic buildings; protecting and enhancing the unique character of public view corridors, parks, open space and streetscapes; encouraging new construction and in-fill development that respects the scale, character and architectural and visual integrity of existing and potentially historic buildings; and allowing for contemporary interpretations of the urban heritage of the FPCLD.

The boundary of the FPCLD includes the entire neighborhood of existing historic warehouse structures, spanning across both the North and South areas of the Fort Point Historic Subdistrict identified in the MHP. The boundaries of the FPCLD also generally conform to an area listed on the National Register of Historic Places in 2004, which also does not treat Summer Street as a boundary, but instead include buildings to north and south of it. The exact boundaries of the District are shown as Attachment C.

Lot Coverage and Open Space Substitution

Both North and South sections of the Fort Point Historic Subdistrict contain the historic late nineteenth and early twentieth century ornamental brick warehouse buildings, and the division of the Subdistrict as described in the MHP creates an inaccurate differentiation between North and South.

The MHP plans for future infill development in the Fort Point Historic Subdistrict by recognizing vacant infill parcels and providing a substitute provision for lot coverage and open space. However, the MHP currently overlooks infill development that could occur on parcels improved with *existing* historic late nineteenth century and early twentieth century warehouse buildings.

However, the open space goals for development on vacant parcels in the Subdistrict are the same for infill on existing historic structures. In neither case, would the public interest be served by strict adherence to the Waterways Regulations for lot coverage and open space. Strict application of these regulations for infill development on existing historic sites will not provide the quantity nor quality of open space that will provide appropriate public benefit. In contrast, the aggregation of open space required for infill development on these sites will allow development of larger, more appropriate open space that will benefit the entire district.

Located both north and south of Summer Street, the collection of historic buildings forms a cohesive district, which should receive the same appropriate substitutions that will preserve its character. Therefore, the BRA asks for your clarification that the lot coverage and open space substitution under the MHP to allow greater than 50% lot coverage applies to infill development on the historic late nineteenth and early twentieth century ornamental brick warehouse building sites located in the Fort Point Historic Subdistrict, both north and south of Summer Street.

The substitute provision approved by the Secretary allows for less than 50% of the project site (and potentially 0%) to be reserved as open space for water-dependent activity and public access. Through the MHP, open space requirements can be met through an off-site aggregation program that requires a one time contribution of \$75 per square foot plus \$2 per square foot annually for every square foot that a project exceeds 50% lot coverage.

Since offsets must be located within reasonable proximity of the locus of adverse effects, the Secretary's Decision specifically identifies the locations where funds are to be used to create open space including Children's Wharf Park and Parcel E. Should the Secretary agree with our request that the substitution and offset provision applies to all of the existing historic warehouse buildings in the Fort Point Historic Subdistrict (with the exception of the parcels owned by The Gillette Company) offsets should also be directed to the implementation of open space objectives in the 100 Acres Master Plan area, possibly in advance of new development. Further discussion is needed on the appropriate cost per square foot for the offset, with consideration given to comparables from recent park construction, including Fan Pier Green and the Rose Kennedy Greenway.

I look forward to your response on this matter and if you have any questions or require additional information, please feel free to contact me at 617.918.4323.

Very truly yours,



Richard E. McGuinness
Deputy Director for Waterfront Planning

cc:

Bruce Carlisle, Coastal Zone Management
Brad Washburn, Coastal Zone Management
Ben Lynch, Department of Environmental Protection
Mary Griffin, Department of Fisheries, Wildlife and Environmental Law Enforcement
Richard Sullivan, Department of Conservation and Recreation
Jim Doolin, Massachusetts Port Authority
Bryan Glascock, City of Boston Environment Department
Phillip Terenzi, Boston Harbormaster
Therese Murray, Senate President, Massachusetts State Senate
John A. Hart, Massachusetts State Senate
Brian P. Wallace, Massachusetts House of Representatives
Michael P. Ross, Council President, Boston City Council
Bill Linehan, Boston City Council