

MEMORANDUM**AUGUST 14, 2014**

TO: BOSTON REDEVELOPMENT AUTHORITY AND
BRIAN P. GOLDEN, ACTING DIRECTOR

FROM: ERICO LOPEZ, DIRECTOR OF DEVELOPMENTAL REVIEW & POLICY
JEFFREY M. HAMPTON, DIRECTOR OF ZONING

SUBJECT: PLANNED DEVELOPMENT AREA POLICY GUIDANCE FOR
DEVELOPERS

SUMMARY: This Memorandum requests that the Boston Redevelopment Authority adopt the Planned Development Area Policy Guidance for Developers as a general Boston Redevelopment Authority policy.

BACKGROUND

Section 3-1A.a of the Boston Zoning Code ("Code") authorizes the establishment of Planned Development Areas ("PDAs") as special purpose overlay districts. A PDA is an overlay to the existing underlying zoning designed to promote and accommodate large-scale, complex development where the underlying zoning may prohibit such development's uses and scale. The overlay provides for a greater flexibility of zoning, and additional controls for the development, as well as public benefits for the surrounding community and neighborhood that are not available through the underlying zoning.

As set forth in Section 3-1A.a. of the Code, a PDA may be established for an area containing not less than one acre, and the Boston Zoning Commission ("Zoning Commission") has received from the Boston Redevelopment Authority ("BRA") an approved development plan, or if the area contains not less than five acres and is not located in a residential zoning district, a master plan for the development of the PDA. Section 80C (Planned Development Area Review) establishes the requirements for PDA review and compliance, as well as uniform procedures for the administration of the requirements of Section 3-1A.a. of the Code.

Zoning relief is granted through the Zoning Commission's approval of the development plan or development master plan under Section 80C of the Code. Hence, the approved development plan or development master plan constitutes the zoning for the PDA site.

The current Code was adopted by the Zoning Commission on December 31, 1964. Prior to May 9, 1996 (adoption of Article 80, Development Review and Approval), there were forty-four (44) PDAs submitted to, and approved by, the City. In the past eighteen (18) years, there have been fifty-six (56) PDAs submitted, with fifty-three (53) approved during that time - an increase of over one hundred and fourteen percent (114%) per year. As a result of this increase, the BRA has developed this policy in order to preserve the integrity and original intent and purpose of the PDA mechanism.

PLANNED DEVELOPMENT AREA POLICY GUIDANCE FOR DEVELOPERS

PDA Requirements:

Through the City of Boston's re-zoning process, several of the Downtown, Neighborhood and Harborpark districts implemented specific PDA requirements to ensure that any proposed PDA development plan has certain limitations on dimensional requirements, as well as specific criteria for public benefits. When allowing a proposed PDA to move forward, no deviation shall be allowed to the PDA requirements in the underlying zoning.

Considerations for PDA Review and Approval:

Any change in the underlying zoning requirements - to establish areas where a PDA may be allowed or in areas where PDAs are allowed to be located with established PDA requirements in the underlying zoning - shall be undertaken through a two-step process with review and approval of relevant text and/or map amendments to the underlying zoning article occurring before a proposed PDA development plan or master plan is allowed to move forward for approval. The PDA development plan shall not, in any event, supersede the PDA requirements established in the underlying zoning.

A proposed PDA development plan must involve a large-scale, complex development and provide for numerous uses appropriate for the immediate area and surrounding neighborhood. Additionally, significant mitigation and public benefits for the immediate area and surrounding neighborhood must also be associated with a PDA development plan. Further, a proposed PDA development plan must also require significant zoning relief, as determined by BRA staff.

Where there is a difference in the PDA requirements for affordable housing in the underlying zoning and the Mayor's Executive Order relative to Inclusionary Development Policy, the greater requirement shall be used in determining the amount of affordable housing within a proposed PDA, as determined by BRA staff.

For PDA development plans, there is an exemption from the Development Impact Project ("DIP") payments required pursuant to Section 80B-7 of the Code for the first

one hundred thousand (100,000) square feet of development of DIP uses. Any and all development of DIP uses over and above said first one hundred thousand (100,000) square foot exemption must make the required DIP payments in accordance with Section 80B-7 of the Code.

Inappropriate PDA Purposes:

PDAs were not intended, nor should they be used, as a mechanism to avoid the Zoning Board of Appeal.

A proposed PDA shall not be the mechanism to approve any Institutional Uses as defined in Article 2A of the Code. Instead, such approval shall be done through the Institutional Master Plan process under Section 80D of the Code.

RECOMMENDATION

Based on the foregoing, BRA staff recommends that the Boston Redevelopment Authority adopt the Planned Development Area Policy Guidance for Developers as a general BRA policy.

An appropriate vote follows:

VOTED: That the Boston Redevelopment Authority adopt the Planned Development Area Policy Guidance for Developers as a general Boston Redevelopment Authority policy, as presented at this meeting on August 14, 2014.

BOSTON REDEVELOPMENT AUTHORITY
PLANNED DEVELOPMENT AREA POLICY

GUIDANCE FOR DEVELOPERS

This Planned Development Area ("PDA") policy addresses issues regarding the overall application and use of PDAs as a mechanism for development in the City of Boston and shall provide guidance to real estate developers seeking to utilize PDAs.

A. BACKGROUND

PDAs were established as a special purpose overlay district by the Boston Zoning Code (the "Code"). A PDA is an overlay to the existing underlying zoning designed to promote and accommodate large-scale, complex development where the underlying zoning may prohibit such development's uses and scale. The overlay provides for a greater flexibility of zoning, and additional controls for the development, as well as public benefits for the surrounding community and neighborhood that are not available through the underlying zoning.

B. THRESHOLD PDA REQUIREMENTS UNDER THE CODE (Section 3-1A.a.)

To initiate the PDA approval process a development must contain:

1. an area with no less than one acre of land, and the Boston Zoning Commission ("Zoning Commission") has received from the Boston Redevelopment Authority ("BRA") an approved development plan; or
2. an area with no less than five acres of land and is not located in a residential zoning district, and the Zoning Commission has received from the BRA a master plan for the development of the PDA.

Section 80C of the Code (Planned Development Area Review) establishes the requirements for PDA review and compliance, as well as uniform procedures for the administration of the requirements of Section 3-1A.a. of the Code.

Zoning relief is granted through the Zoning Commission's approval of the development plan or development master plan under Section 80C of the Code. Hence, the approved development plan or development master plan constitutes the zoning for the PDA site.

C. PDA POLICY GUIDANCE FOR DEVELOPERS

1. *Specific PDA Requirements in Certain Districts*

Several of the Downtown, Neighborhood and Harborpark districts contain specific PDA requirements to ensure that any proposed PDA development plan has certain limitations on dimensional requirements, as well as specific criteria for public benefits. In order to comply with these specific PDA requirements and the underlying zoning:

- a. **No provision of a PDA development plan shall be allowed to deviate from the PDA requirements in the underlying zoning.**

2. *Considerations for PDA Review and Approval*

A proposed PDA development plan must involve:

- a. **a large-scale, complex development and provide for numerous uses appropriate for the immediate area and surrounding neighborhood;**
- b. **significant mitigation and public benefits for the immediate area and surrounding neighborhood;**
- c. **significant zoning relief, as determined by BRA staff.**

3. *Exemption for Development Impact Project Payments*

For PDA development plans, there is an exemption from the Development Impact Project ("DIP") payments required pursuant to Section 80B-7 of the Code for the first one hundred thousand (100,000) square feet of development containing DIP uses (as defined in Section 80B-7.2(c) of the Code). Any and all development of DIP uses over and above said first one hundred thousand (100,000) square foot exemption must make the required DIP payments in accordance with Section 80B-7 of the Code.

- a. **Only one 100,000 square foot exemption shall be allowed per PDA.**

4. *Affordable Housing and Community Benefits*

In certain situations, there may be a difference in the PDA requirements for affordable housing in the underlying zoning and the Mayor's Executive Order relative to Inclusionary Development Policy. When this scenario occurs:

- a. **The developer shall comply with the requirement that provides the greater amount of affordable housing.**

5. *Inappropriate PDA Purposes*

- a. PDAs were not intended, nor should they be used, as a mechanism to avoid the Zoning Board of Appeal.
- b. A proposed PDA shall not be the mechanism to approve any Institutional Uses as defined in Article 2A of the Code (such approval shall be done through the Institutional Master Plan process under Section 80D of the Code).