

Downtown Waterfront District Municipal Harbor Plan & Greenway District Zoning Analysis

Chapter 91 and Municipal Harbor Plans

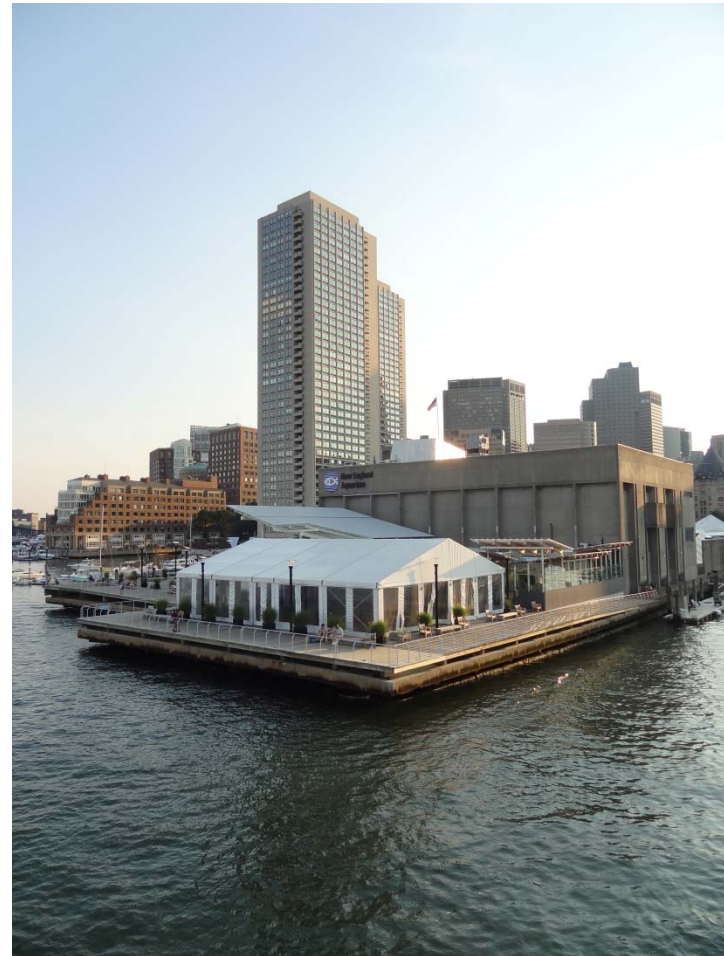


Presentation to the
Boston Municipal Harbor
Planning Advisory Committee
Jack Hart, Chair
April 24, 2013



Presentation Outline

- Chapter 91
 - Purpose
 - Background
 - Jurisdiction
 - Types of Uses
 - Nonwater dependent use standards
- Municipal Harbor Plans
 - Background
 - Downtown Waterfront
 - Substitute provisions & offsets
 - Amplifications
 - Special Public Destination Facilities
 - Process & timeline
- Next Steps



Chapter 91: Purpose

- Chapter 91, The Massachusetts Public Waterfront Act, was created in 1866 to regulate waterways of the Commonwealth
- Its purpose is to:
 - preserve and protect the rights of the public
 - establish a priority for water dependent uses
 - guarantee that private uses of tidelands and waterways serve a proper public purpose



Chapter 91: Background

- Originally focused on the public's right to navigation & commerce
- Over the last 30 years, Chapter 91 regulations have been expanded to:
 - include filled tidelands
 - promote a broad spectrum of water dependent activities
- Administered by the Department of Environmental Protection (DEP)



Chapter 91: Jurisdiction

- Includes inland Great Ponds (those over 10 acres) and many rivers
- ★ • Includes all flowed tidelands in coastal areas, up to 3 miles offshore
- ★★ • Includes many filled tidelands
- Does not effectively include “landlocked” tidelands
 - sufficiently inland from the water
 - generally, landward of first public way & more than 250 feet landward of Mean High Water



Chapter 91: Jurisdiction

- Boston has over 5,500 acres of filled tidelands (red), or about 9 square miles
- Much of this area is landlocked and does not require Chapter 91 approval



Chapter 91: Jurisdiction

Original land mass (clear):
not in Chapter 91 jurisdiction

Filled tidelands/landlocked (yellow):
no Chapter 91 approvals
required, though a public benefits
review may be needed

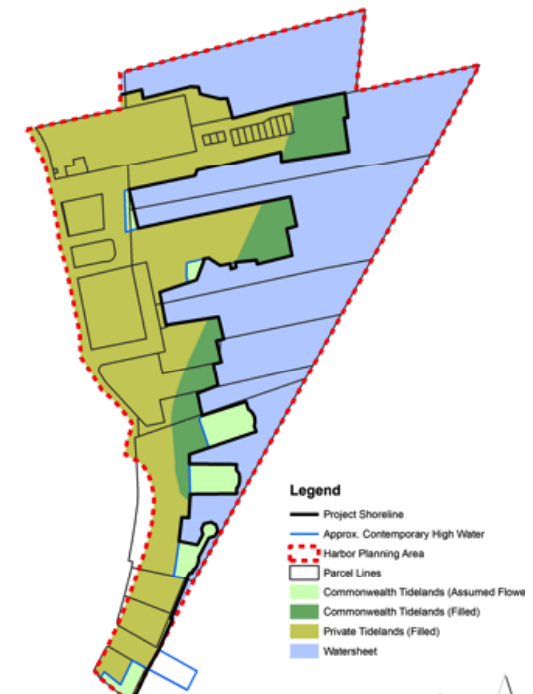
Filled tidelands (red):
Tidelands subject to Chapter 91
approvals



Chapter 91: Jurisdiction

Downtown Waterfront planning area

- 42 acres in size, all in Chapter 91 jurisdiction
- 21.9 acres within the project shoreline (non-watersheet)
- 20% of area within project shoreline is Commonwealth tidelands (higher standard for public benefits) & 80% is private tidelands



Chapter 91: Types of Uses

Water dependent

- In general, require direct access to tidal waters; examples include recreational boating, commercial fishing, water use withdrawals, aquariums, HARBORWALK, and shipping
- Encouraged by Chapter 91 regulations
- Presumed to have a proper public purpose
- Fewer restrictions on building dimensions and locations



Chapter 91: Types of Uses

Nonwater dependent uses

- May be located on waterfront property but do not rely on their close proximity to the water, e.g., retail, hotels, offices, restaurants, and residences
- If any portion of a project is deemed nonwater dependent, then the whole project is considered nonwater dependent
- Must provide greater benefits than detriments to the public's rights in waterways



Chapter 91: Nonwater dependent use standards

- Chapter 91 has numerical/dimensional standards for all nonwater dependent developments that apply uniformly in all coastal communities, unless an approved Municipal Harbor Plan includes substitute provisions



Chapter 91: Nonwater dependent use standards

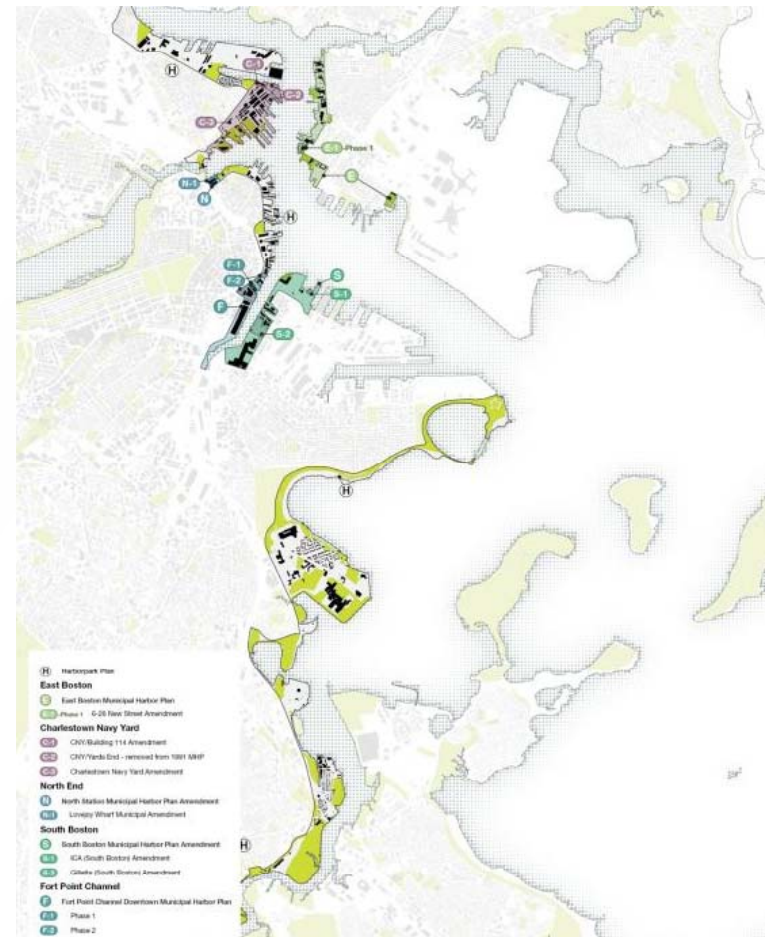
- **Building heights:** limited to 55 feet in height over or within 100 feet of the water, sloping up 1 foot vertically for every 2 feet further away from the project shoreline
- **Water Dependent Use Zones (WDUZs):** depends on the parcel/wharf width, up to 100 ft. from the project shoreline
- **Open space (2 standards):** generally 50% of the project site, including sidewalks and some roadway; may include the WDUZ; higher standard on Commonwealth tidelands
- **Facilities of Public Accommodation (FPAs):** required on ground level of all buildings on Commonwealth tidelands
- **Facilities of Private Tenancy (FPTs):** prohibited on the ground level within 100 feet of the project shoreline
- **HARBORWALK:** a minimum of 10 feet wide, clear to the sky (Boston minimum is 12 feet wide)
- **New Pile-Supported Structures:** imposes limitations and conditions for new structures over flowed tidelands



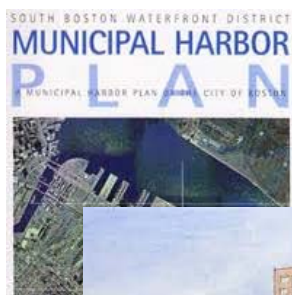
Municipal Harbor Plans: Background

Municipal Harbor Plans (MHPs) are voluntary, state-approved, & used for many purposes

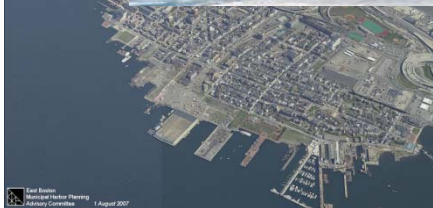
- Rely on input from the public & from an advisory committee
- Promote long-range waterfront planning goals
- Allow for Chapter 91 numerical/dimensional standards to be altered to implement community vision for waterfront
- Administered at state level by the Office of Coastal Zone Management (CZM)



Municipal Harbor Plans: Background



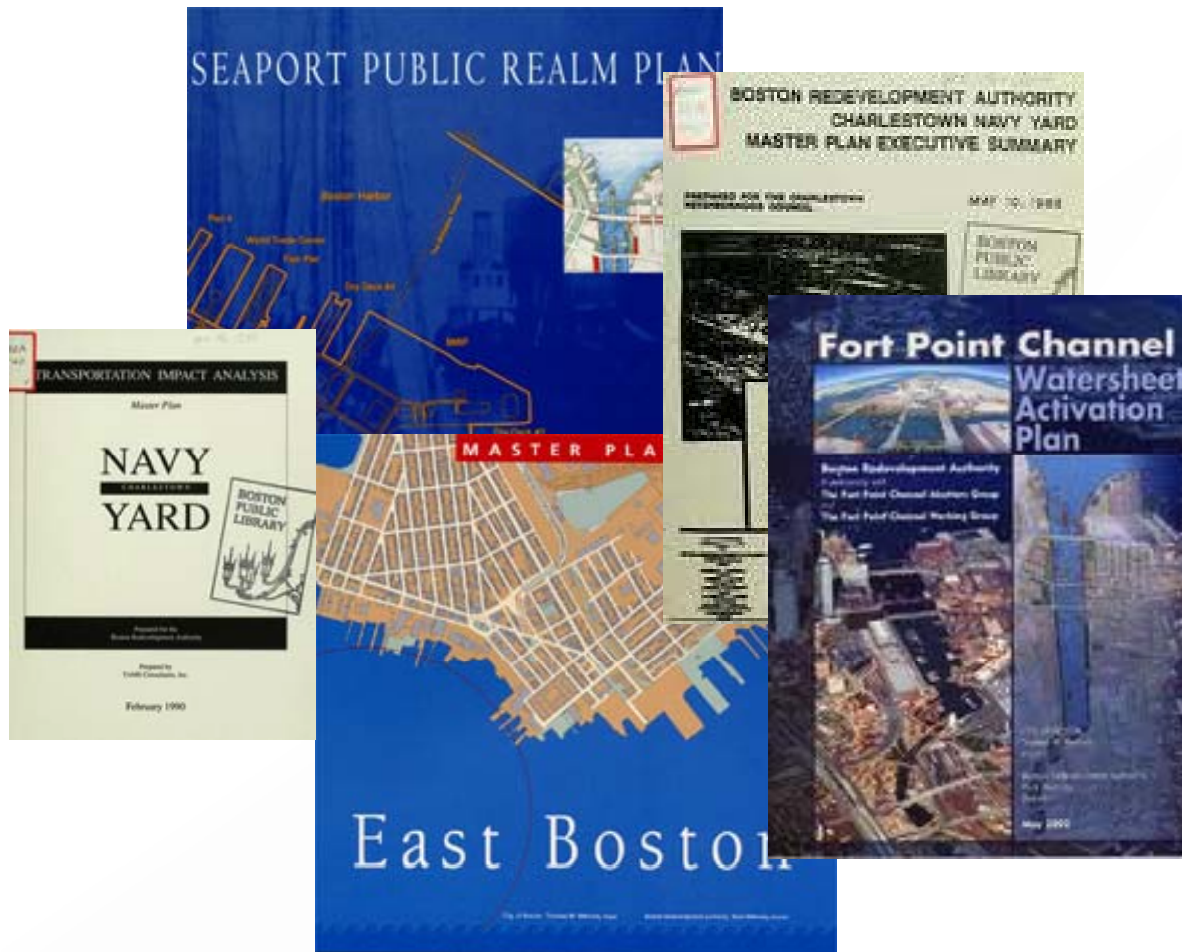
East Boston
Municipal Harbor
Amendment



- 1990: Harbor Park Plan MHP
- 1999: Amendment to the 1990 Harbor Park Plan MHP
- 1999: Amendment to the 1990 Harbor Park Plan MHP
- 2000: South Boston Waterfront District MHP
- 2001: Massport MOU, South Boston/Commonwealth Flats
- 2002: East Boston Municipal Harbor Plan
- 2002: Massport MOU, East Boston
- 2002: Fort Point Downtown Waterfront MHP, *Phase I*
- 2002: Amendment to South Boston Waterfront District MHP
- 2003: Fort Point Downtown Waterfront MHP, *Phase II*
- 2006: Lovejoy Wharf Municipal Harbor Plan Amendment
- 2007: Charlestown Navy Yard Waterfront Activation Plan
- 2007: Charlestown Navy Yard Watersheet Management Plan
- 2007: Amendment to South Boston Waterfront District MHP
- 2008: Amendment to the East Boston MHP

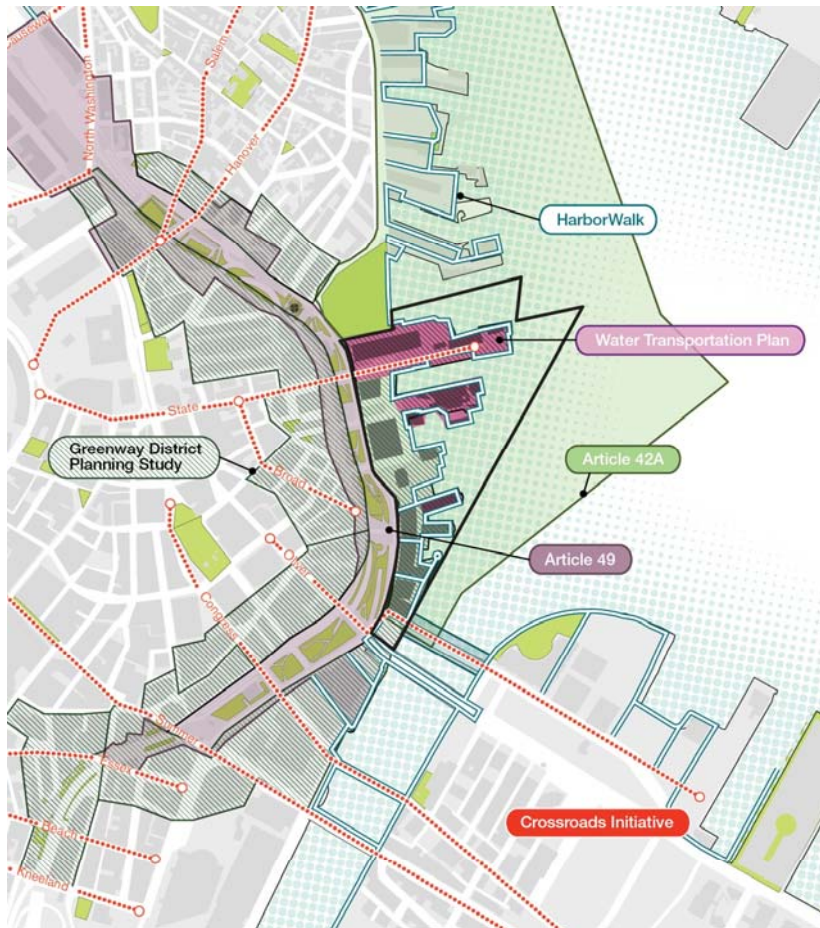


Municipal Harbor Plans: Background



Boston has used a series of master plans and public realm plans to inform and guide the MHP process

Municipal Harbor Plans: Downtown Waterfront



- The BRA combined the MHP with greenway zoning and a public realm plan, integrating several planning efforts
- Each is a separate process but will relate directly to the other
- Watersheet activation and climate adaptation also included
- The Downtown Waterfront Municipal Harbor Planning area is clearly defined but also relates to other adjacent neighborhoods

Municipal Harbor Plans: Downtown Waterfront

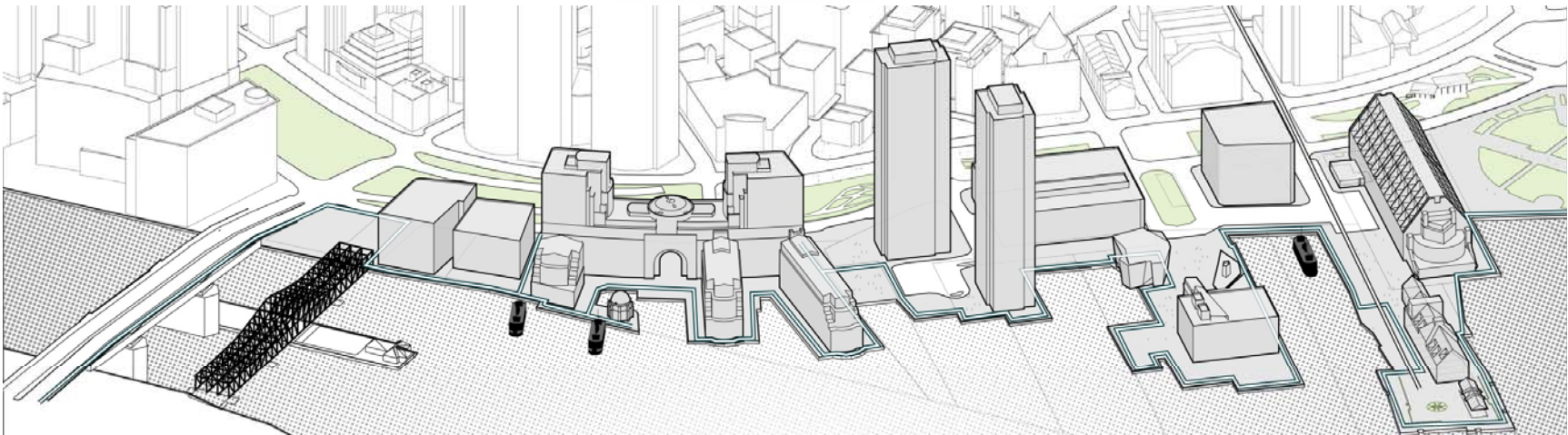
- Public process is well underway
- Kick-off meeting, a charrette, and walking tours of the Downtown Waterfront planning area were held in March, 2013
- Input from a variety of sources



Municipal Harbor Plans: Downtown Waterfront

Characteristics

- One of the most activated, varied waterfronts in the Commonwealth
- Multiple water dependent uses – ferries, commuter boats, marinas
- Mostly developed with extensive ground level public facilities
- Popular public destination – New England Aquarium, others
- Significant public open space
- Generally a well developed HARBORWALK



Municipal Harbor Plans: Downtown Waterfront

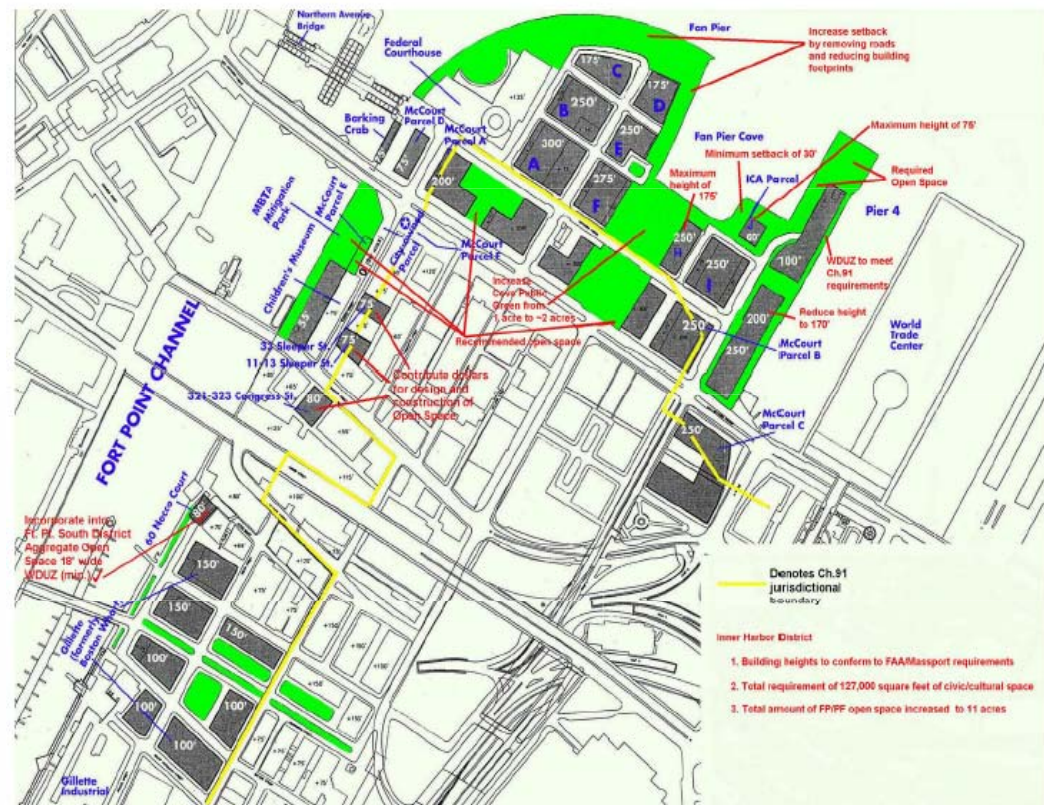
Developing the MHP

- Strategy depends on the vision, goals, and objectives developed through the public process
- Use broad tools of the MHP process to shape the area and implement through Chapter 91 licenses & city reviews
- Opportunities exist for creative approaches and solutions



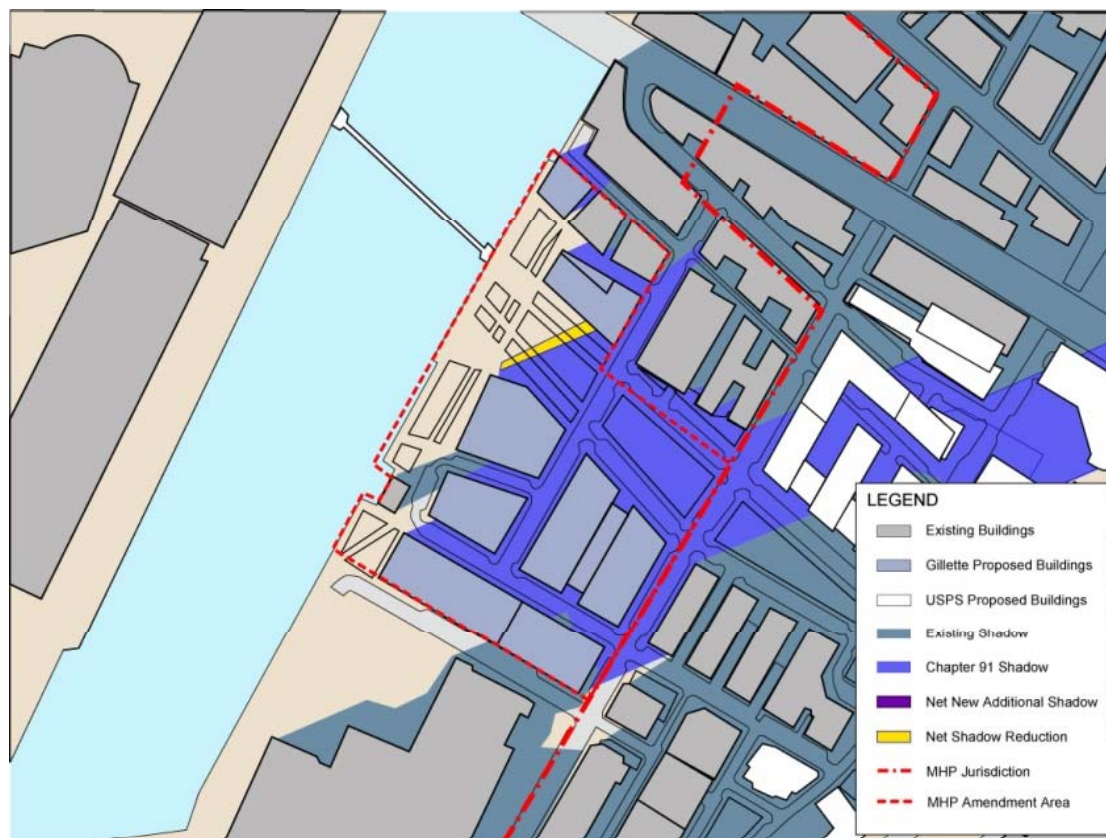
Municipal Harbor Plans: Substitute provisions & offsets

- Approved substitute provisions replace Chapter 91 standards for non-water dependent projects
- Impacts of substitute provisions must be offset to:
 - create a user-friendly pedestrian environment
 - activate the waterfront to an equal or greater degree than under Chapter 91



Municipal Harbor Plans: Substitute provisions & offsets

- Determining appropriate substitute provisions and offsets is a complex and dynamic part of many MHPs
 - there are precedents to provide guidance, but each area is different
 - new approaches to substitute provisions and offsets may be developed in each MHP



South Boston MHP Amendment
Shadow Study

5 pm October 23



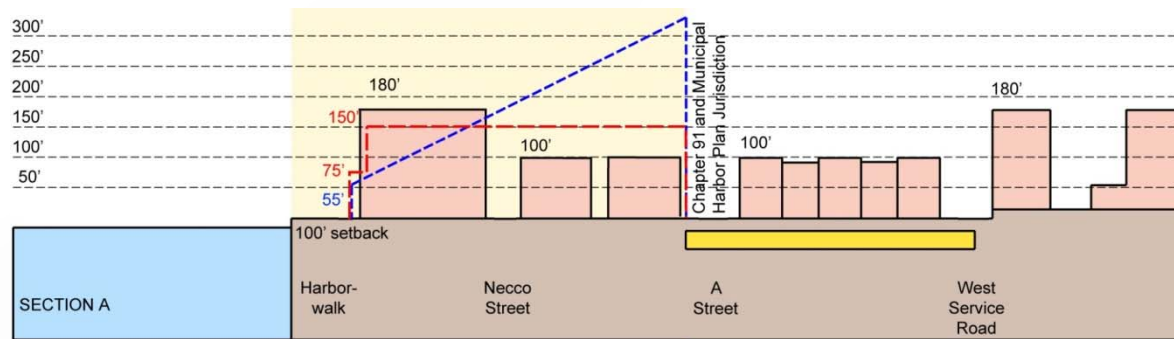
Municipal Harbor Plans: Substitute provisions & offsets



Chapter 91 compliant: Harborview



Substitute provisions & offsets: Atlantic Wharf



Fort Point Channel: Chapter 91 allowed height (blue line), MHP Amendment height (pink buildings)

Municipal Harbor Plans: Substitute provisions & offsets

Substitute provisions, combined with offsets, must meet approval standards

- Avoid loss of open water for nonwater dependent projects
- Avoid privatization
- Avoid conflicts with water dependent activities
- Provide sufficient open space for water dependent activities
- Modest-sized buildings with condensed footprints
- Year-round destinations
- Public purposes primary, private use secondary



Municipal Harbor Plans: Amplifications

Amplification of Chapter 91 discretionary provisions

- Provide more detail to achieve community planning goals for waterfront
- Examples could include provisions to:
 - minimize potential conflicts among water dependent uses
 - Encourage additional water dependent uses
 - Designate particular site design elements, e.g., specific areas for public art

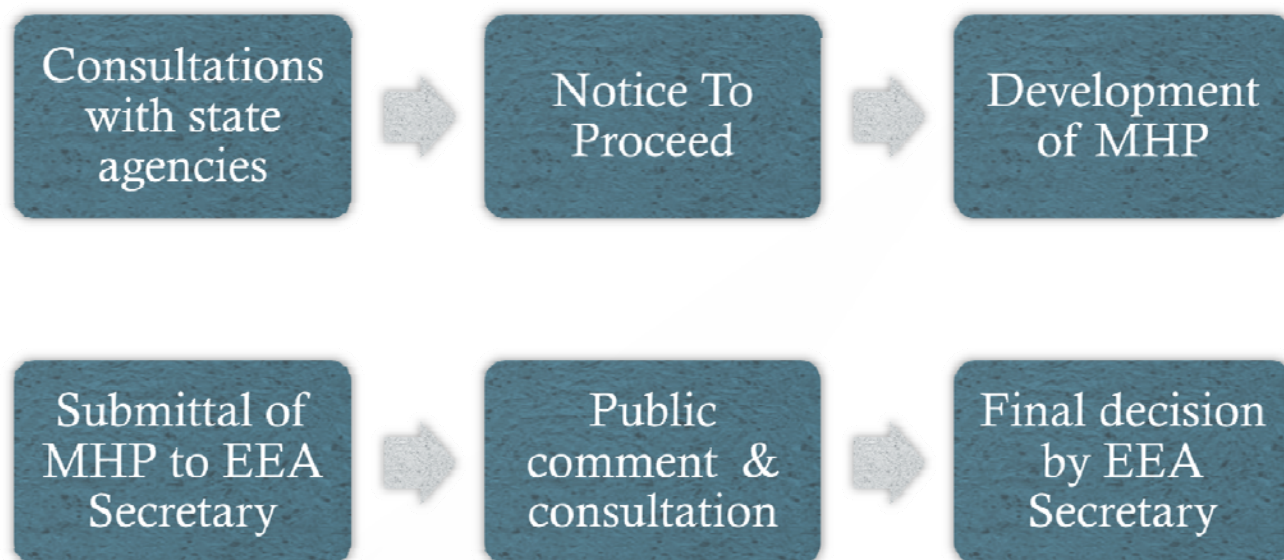


Municipal Harbor Plans: Special Public Destination Facilities (SPDFs)

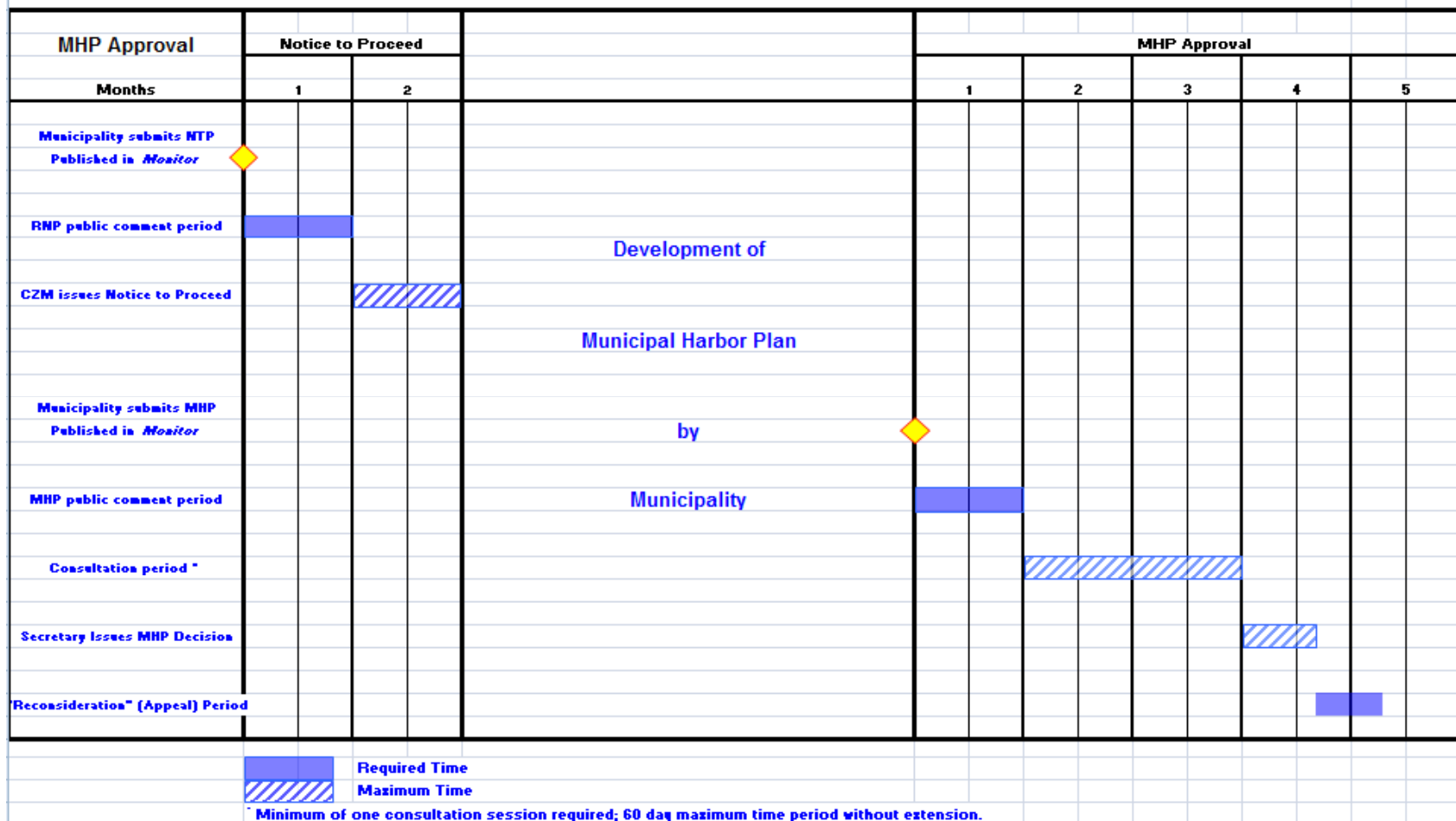
- FPA's that enhance the destination value of the waterfront by serving significant community needs, attracting a broad range of people, or providing innovative amenities for public use
- SPDFs have been used in MHPs as a primary way to mitigate for potential negative impacts to the pedestrian environment



Municipal Harbor Plans: process & timeline



Municipal Harbor Plan: process & time line



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Chapter 91 and Municipal Harbor Plans



- Questions
- Next Steps

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