

**Joint Neighborhood Associations Shared Letter
2-1-2010**

0

Date: February 1, 2010

To: Andrew Grace
Senior Planner/Urban Designer
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

From: Sandra Silver, Ellis South End Neighborhood Association, Stuart Street AG Member
Janet Hurwitz, Neighborhood Association of Back Bay, Stuart Street AG Member
Dana Masterpolo, Bay Village Neighborhood Association, Stuart Street AG Member
Jo Campbell, Bay Village Neighborhood Association, Stuart Street AG Member

Re: **Stuart Street Study Area Zoning Recommendations.**

The attached comment letter is in response to the BRA's October 20, 2009, draft of Proposed Zoning Recommendations for the Stuart Street Study Area. It is a joint response from the Bay Village, Ellis and Back Bay neighborhood representatives who serve on the Stuart Street Planning Advisory Group and has been endorsed by the neighborhood groups that they represent.

The individual neighborhood groups are also preparing additional responses that will be forwarded to you before the March 1, 2010 deadline.

We look forward to continued discussion concerning these important issues.

Andrew Grace
Senior Planner/Urban Designer
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

February 1, 2010

Re: Stuart Street Study Area Zoning Recommendations

Dear Andrew:

The following recommendations are in response to the BRA's October 20, 2009 draft of Proposed Zoning Recommendations for the Stuart Street Study area. They are a culmination of several meetings between the Bay Village, Ellis and Back Bay neighborhood representatives who serve on the Stuart Street Planning Advisory Group (AG) as well as meetings within the neighborhood groups themselves. These recommendations should be considered interdependent, as each has been determined with the others in mind.

1. Divide the area into four zoning sub-districts*.

In the spirit of fostering a vibrant area that also respects the historic urban context and scale of the surrounding neighborhoods, the new zoning should avoid taking a "blanket" approach to the entire study area. In particular, the new zoning needs to provide a more appropriate architectural transition from adjacent low-rise historic neighborhoods to a maximum allowable height, as defined by the iconic old Hancock Tower. Therefore, the study area should continue to be divided into several zoning districts, each addressing its unique urban context.

- a. **South End Neighborhood District** (from Dartmouth St. and Columbus Ave; north along the centerline of Dartmouth St. to the southern border of Back Bay Station; east along the southern border of Back Bay Station to Clarendon St; south along the centerline of Clarendon St. to Columbus Ave; west along the centerline of Columbus Ave. to Dartmouth St).
 - Maintain the existing permanent zoning that is part of the South End Neighborhood Zoning District, i.e., exclude this area from new zoning.
- b. **"H" IPOD** (from Clarendon St. and Columbus Ave; east along the centerline of Columbus Ave. to Arlington St; west along the centerline of Stuart St. to Berkeley St.; south along the centerline of Berkeley St. to Stanhope St; southwest along the centerline of Stanhope St. to Clarendon St; south along the centerline of Clarendon St. to Columbus Ave.)
 - This area along Columbus Ave. should serve as a buffer to the abutting Bay Village and South End Neighborhoods. Zoning must be more in keeping with the current As-of-Right and Enhanced zoning, i.e., 80ft/6FAR and 100ft/7 FAR.
- c. **Bay Village District** (from Berkeley St. and Columbus Ave; east along the centerline of Columbus Ave. to Arlington St; south along the centerline of

Arlington St. to Cortes St; northwest along the centerline of Cortes St. to Berkeley St; north along the centerline of Berkeley St. to Columbus Ave.).

- This district could be modified from current zoning to allow an increased maximum height of 100 ft along Columbus Ave. (the height of the Castle Armory shed) and 65 ft along Arlington St. to step down to existing neighborhood context. The parcel, currently known as the Sawyer Parking lot, should fall within the zoned 65 ft height limit.

d. **K” IPOD** (bordering the South End Neighborhood District and “H” IPOD to the south; north along the centerline of Dartmouth St. from the southern border of Back Bay Station to St. James St; east along the centerline of St. James St. to Arlington St; south along the centerline of Arlington St. to Columbus Ave.)

- The height limit for any new development within the “K” IPOD area should reinforce and preserve the iconic skyline defined by the original Hancock building and should be no taller, including mechanicals, than the shoulder of original Hancock Building, or 356 feet. Rather than an arbitrary height of 400 feet currently proposed by the BRA, we hope that using the shoulder of the Hancock building will present an historic standard that will be used as a future rationale to discourage variances for additional height.
- As-of-Right: 150ft/ FAR10
Enhanced: 356 ft/FAR15

***(A map of the 4 sub-districts can be found at the end of this document)**

2. Allow no exemptions within the Stuart Street zoning district

No exemptions shall be allowed for Planned Development Areas (PDA), Institutional Master Plans (IMP), U-Districts, or other zoning exemptions.

3. Tiers proposed by the BRA should be changed to “As-of-Right” and “Enhanced”

The terms “Base Zoning” and “Tower Zoning” should be replaced with “As of Right” and “Enhanced” respectively to be consistent with the existing established zoning process.

- a. Changing “Base“ and “Tower” zoning to “As-of-Right” and “Enhanced” is intended to ensure that the existing process outlined in Article 27D for the IPOD Districts will continue to include approval by the Board of Appeal for projects requesting “Enhanced” building heights and FAR’s.
- b. Any new permanent zoning document should mirror such a process.

4. Ensure the preservation of historic buildings

All new development in the study area must preserve buildings that meet National Register criteria for individual listing at the time of the PNF filing under Article 80, (or buildings designated as Category I, II, or III by the Landmarks Commission).

- a. These buildings should be preserved and adaptively reused as significant contributors to the complex urban fabric that makes Boston a unique city, without fundamentally altering the inherent characteristics (e.g., scale, proportion and richness of detail) that have earned them this status, as stated in Article 27D,

Downtown Interim Planning Overlay District. These buildings cannot be demolished.

- b. Any proposed project involving such a building in the area should have no more than a 2 story addition added to the top, located and detailed so that it is appropriate to the scale and detailing of the existing structure. (A precedent for controlling rooftop additions currently exists for ‘H’ IPOD Enhanced zoning)
- c. The decision that a particular proposal meets this required level of “respect” must be ratified by both the Boston Landmarks Commission, in a public meeting, and the Boston Civic Design Commission, in a public meeting, prior to approval.
- d. This requirement would be applicable to all new development for both As-of-Right and Enhanced zoning.

5. Minimize impacts of new development on traffic and parking

Encourage use of public transportation and other alternative methods, develop a live/work area with an enhanced pedestrian environment, and discourage new vehicular traffic both within the area and in the adjacent neighborhoods.

- a. **Traffic studies.** Any new development must include a baseline traffic study to accurately assess current conditions and predict future conditions given the proposed commercial and residential scenarios within the study area. This study shall be conducted by a source independent of the developer and shall also include other approved projects not yet built within the study area or in adjacent areas. Any traffic study must include the surrounding area bordered by Storrow Drive to the north, Harrison Ave to the south, Massachusetts Ave to the west and Albany Street to the east. Should the study demonstrate that the proposed development would contribute to increased traffic such that existing intersections will score below their existing rating, a list of mitigating options must be identified with the BTM, and efforts should be taken to implement those found to be the best mitigating options. In no instance shall the existing intersections score below a “D” rating [as described in the Transportation Research Board’s (TRB) National Highway Research Program (NCHRP) Report 616: Multimodal Level of Service (MLOS) Analysis for Urban Streets]
- b. **Parking ratios.** Parking ratios should be lower for commercial development and hotels. Maximum ratios more compatible with this goal are:
0.75 per dwelling unit (as currently recommended by the BRA)
0.25 per 1,000 sq ft of commercial development
0.25 per hotel key
Consistent with the Parking ban currently in place, no commercial parking shall be allowed within parking structures or on open lots.
- c. The BRA recommendations are not based on an assessment of the impacts of the proposed density and height scenarios on the traffic in the surrounding neighborhoods (as originally stated as one of the purposes of the study). Heights, densities and parking ratios will have to be adjusted according once these studies are done and they show a negative impact.
- d. The above parking and traffic requirements shall be enforced for both As- of-Right and Enhanced zoning.

6. Ensure no negative environmental impacts

- a. **Shadow.** Shadow impact criteria for Copley Square and the Commonwealth Avenue Mall shall comply with the current regulations as set forth in “An Act Protecting the Boston Public Garden.” 1992.
- b. **Wind.** Existing base wind conditions documented at pedestrian levels throughout the study area need to be determined. New development must demonstrate no negative impact on existing conditions at any location or time of day. The studies shall include a radius of 2,000 feet around the project (similar to what was required for the Clarendon Project) and any public plazas in the vicinity. They should be conducted by a source independent of the developer. Should wind conditions worsen at any pedestrian level location after development is completed, the developer shall implement measures to mitigate the negative effect(s).
- c. **Groundwater.** Groundwater conservation must be included in new zoning regulations as stated in the proposal
- d. Shadow, wind and groundwater requirements shall be enforced for both As-of-Right and Enhanced zoning.

7. Encourage a mixed use live/work area by encouraging residential uses

- a. New zoning should encourage a mixed use of retail, service, office and residential to achieve the goal of establishing a vibrant area both day and night. This should be the primary goal of rezoning this area
- b. In order to ensure new retail development in the study area, the BRA’s October 2009 Draft of Proposed Zoning recommends 70% ground floor retail use, however, there is no requirement for a residential percentage. To ensure there will be a balance of uses in the area that includes new residential development, the BRA shall require a minimum percentage of residential gross square feet throughout the study area. This is particularly important given the number of parcels identified as development sites by the BRA, which are owned by commercial entities whose priorities may be to build only office space.

8. Require affordable housing to be located on site and require an increase in affordable housing for Enhanced zoning.

- a. Any affordable housing units resulting from new development in the Study area must be located on the project site they are associated with.
- b. Enhanced zoning residential projects or mixed use projects with a residential component, located within the “K” sub district, must be required (not a choice from a list of three public benefits as proposed in the October BRA draft) to increase affordable housing by 2.5% over existing requirements.

9. Enhance the public realm/pedestrian experience and compliment existing urban form

- a. Requirements should be consistent with the July 1, 2009 version of the BRA's DRAFT Zoning Recommendations
 - i. **Street Wall Requirement.** Any new development shall infill at least 85% of the street frontage. (The October Draft Recommendations decreased the infill to 65-85%, which is not adequate to create a viable street wall)
 - ii. **Transparency.** Maintain 65% transparency of ground floor street walls (The October Draft Recommendations reduced transparency to 50% - 65%)
 - iii. **Publicly Accessible Space.** New development with a street frontage that is 200 feet or longer must contain a publicly accessible through-block connection. (This should be required, with no "Alternative Options Allowed")
- b. Additional requirements that will enhance the public realm/pedestrian experience:
 - i. **Curb Cuts.** Curb cuts shall be limited to one per city block to enhance the pedestrian experience.
 - ii. **Set backs along Dartmouth Street Corridor.** In order to respect the existing visual corridor along Dartmouth Street, any project surface above the As-of-Right height must include a set back of at least 40 ft.
 - iii. **Spacing between buildings.** In order to assure that new development in what is now the "K" IPOD zone does not create a wall of buildings, no surface above the As-of-Right height should be closer than 80 feet to any exterior surface of any other building.

10. Regulations and associated language need to be clearly stated

Many components of the October BRA Draft proposed zoning are 'recommendations' rather than 'requirements'. This is a result of the use of the words "should" rather than the words "shall" or "must," or "Alternative Options Allowed" instead of "Required." For example, in the Wind section the text reads "Buildings **should** be designed to avoid excessive and uncomfortable down drafts on pedestrians." rather than "shall." Clarifying the language will make the requirements clear to an applicant as well as provide certainty that the overall goals, are achieved.

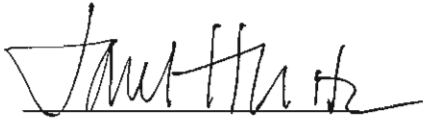
11. Public review process

All projects shall be required to go through the entire Article 80 review process, including a Draft and Final Environmental Impact Report. Any public review body set up as part of the process should be included in the review of the project for all aspects of the schematic development, environmental studies and final design.

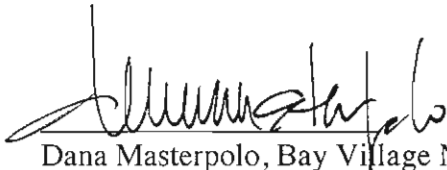
Respectfully submitted,



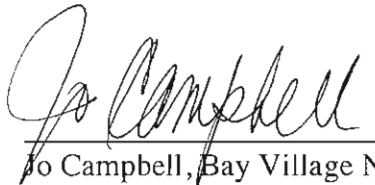
Sandra Silver, Ellis South End Neighborhood Association, Stuart Street Planning AG Member



Janet Hurwitz, Neighborhood Association of Back Bay, Stuart Street Planning AG Member



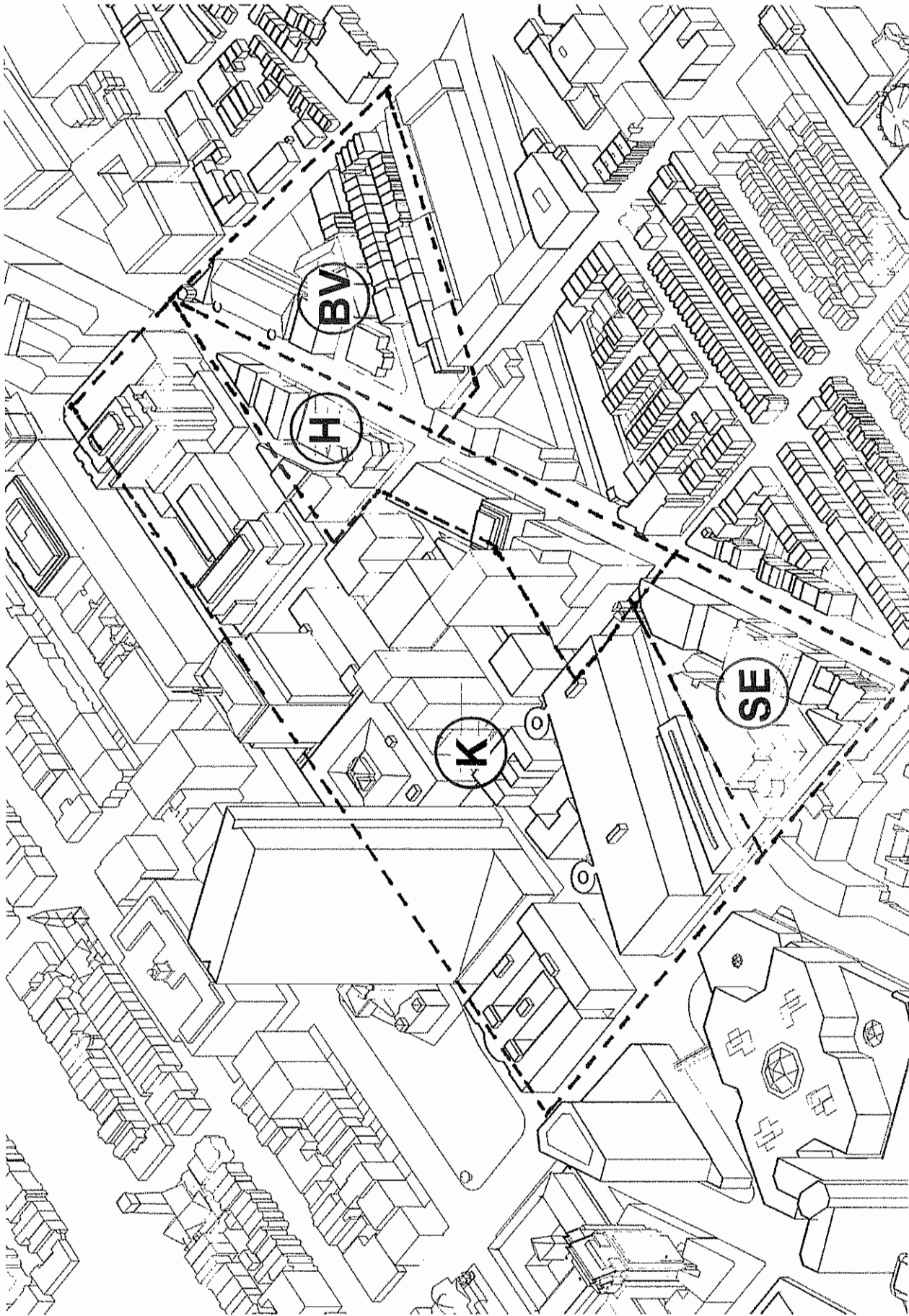
Dana Masterpolo, Bay Village Neighborhood Association, Stuart Street Planning AG Member



Jo Campbell, Bay Village Neighborhood Association, Stuart Street Planning AG Member

cc: Thomas M. Menino, Mayor of Boston
Michael P. Ross, Boston City Councilor
Bill Linehan, Boston City Councilor
Felix Arroyo, Boston City Councilor
John R. Connolly, Boston City Councilor
Stephen J. Murphy, Boston City Councilor
Ayanna Pressley, Boston City Councilor
Sonia Chang-Diaz, State Senator
Aaron Michlewitz, State Representative
Byron Rushing, State Representative
Martha M. Walz, State Representative

Stuart Street Planning Advisory Group Members:
Meg Mainzer-Cohen, Back Bay Association
Joanne Bragg, Liberty Mutual Group
Nathaniel Margolis, John Hancock
Ted Pietras, South End Business Alliance



STUART STREET PLANNING AREA - EXISTING CONDITIONS WITH EXISTING ZONING

K sub district in IPOD	As of Right	Enhanced	BV Bay Village Neighborhood District, permanent zoning
H sub district in IPOD	125ft / 8 FAR	155ft / 10FAR	SE South End Neighborhood District, permanent zoning
	80ft / 6 FAR	100ft / 7FAR	

**Joint Neighborhood Associations AMENDMENT
3-1-2010**

Andrew Grace
Senior Planner/Urban Designer
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

March 1, 2010

Re: Stuart Street Study Area Zoning Recommendations

Addendum to February 1, 2010 Letter

Dear Andrew:

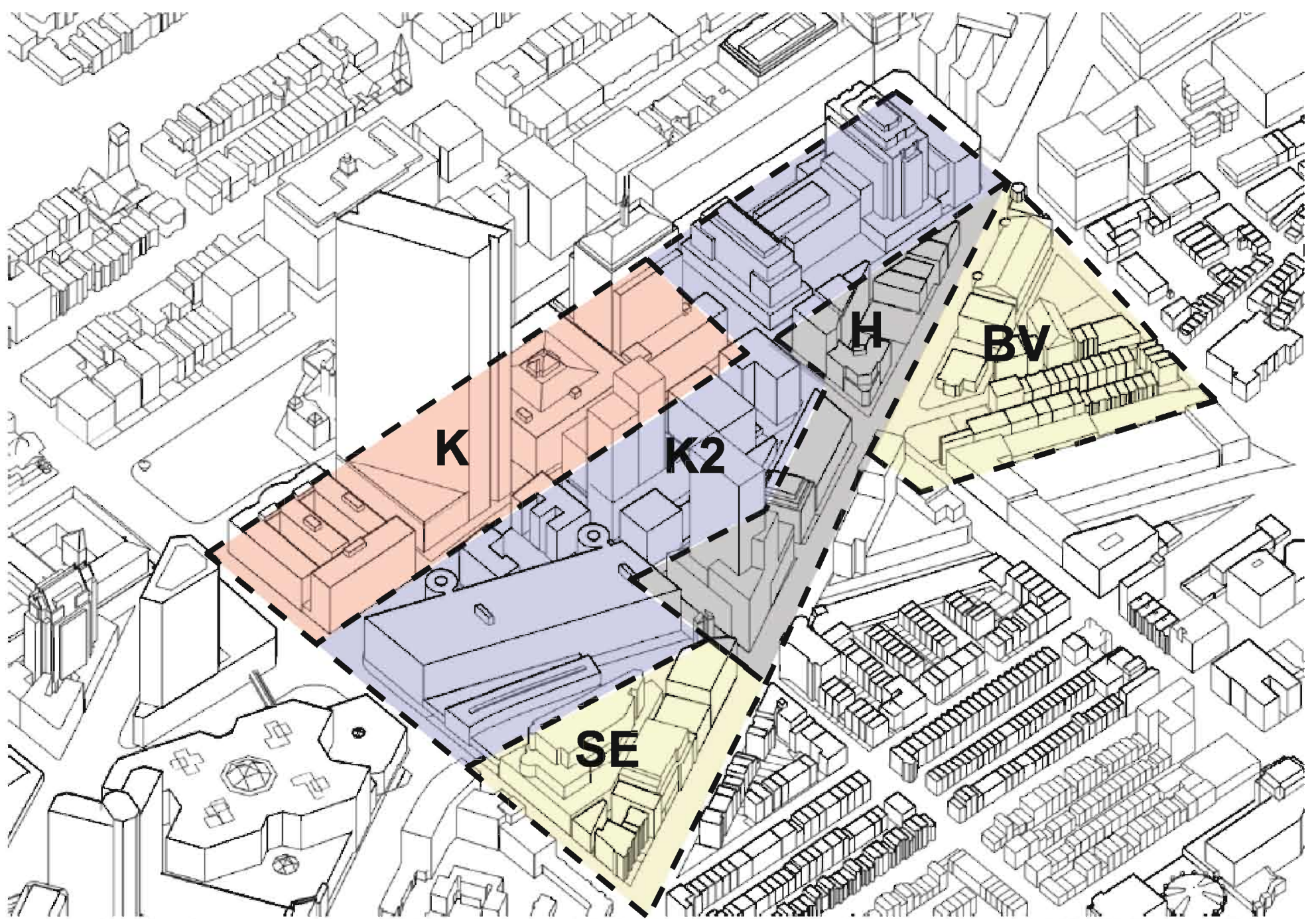
We would like to revise Paragraph 1.d. in our February 1, 2010 letter to say:

- d. **“K” IPOD and “K2” IPOD** (bordering the South End Neighborhood District and “H” IPOD to the south; north along the centerline of Dartmouth St. from the southern border of Back Bay Station to St. James St; east along the centerline of St. James St. to Arlington St; south along the centerline of Arlington St. to Columbus Ave.)
- This area should be divided into two zones. The area bordering Copley Square and the area to the south. Defined as “K” and “K2” IPOD. These zones are consistent with the BRA locations for proposed Development Opportunities within the area.
 - The “K” IPOD is an area bordered by St. James Avenue and Berkeley, Stuart and Dartmouth Streets. This area should maintain its existing zoning in order to provide an appropriate edge to Copley Square and the Back Bay business and residential areas to the North. It will also help ensure that any new building heights will maintain important view corridors to Trinity Church and along Copley Square.
 - As-of-Right: 125ft/ FAR 8
 - Enhanced: 155ft/FAR10
 - The height limit for any new development within the “K2” IPOD area should reinforce and preserve the iconic skyline defined by the original Hancock building and should be no taller, including mechanicals, than the shoulder of original Hancock Building, or 356 feet. Rather than an arbitrary height of 400 feet currently proposed by the BRA, we hope that using the shoulder of the Hancock building will present an historic standard that will be used as a future rationale to discourage variances for additional height.
 - As-of-Right: 150ft/ FAR10
 - Enhanced: 356 ft/FAR15

***(A map of the 5 sub-districts can be found at the end of this document)**

Thank you for making this change to our original letter,

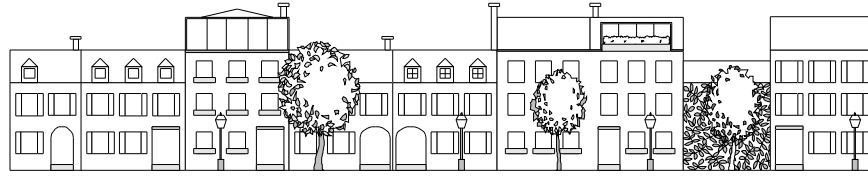
Sandra Silver,	Ellis South End Neighborhood Association, Stuart Street Planning AG Member
Janet Hurwitz,	Back Bay Neighborhood Association, Stuart Street Planning AG Member
Dana Masterpolo,	Bay Village Neighborhood Association, Stuart Street Planning AG Member
Jo Campbell,	Bay Village Neighborhood Association, Stuart Street Planning AG Member



STUART STREET PLANNING AREA - EXISTING CONDITIONS WITH PROPOSED ZONING

	As of Right	Enhanced	
K sub district	125ft / 8 FAR	155ft / 10 FAR	BV Bay Village Neighborhood District, permanent zoning
H sub district	80ft / 6 FAR	100ft / 7 FAR	SE South End Neighborhood District, permanent zoning
K2 sub district	150ft / 10 FAR	356ft / 15 FAR	

Bay Village Neighborhood Association
3-1-2010



BAY VILLAGE NEIGHBORHOOD ASSOCIATION, INC.

March 1, 2010

Andrew Grace
Senior Planner/Urban Designer
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

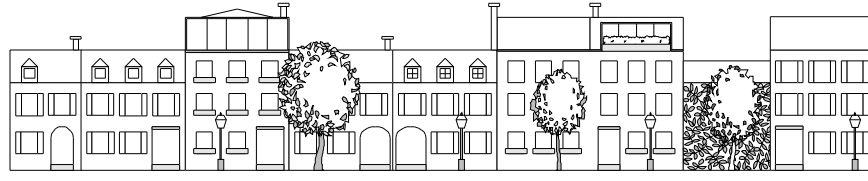
Re: Stuart Street Study Area Zoning recommendations

Dear Mr. Grace:

I'm writing regarding the February 1, 2010 Stuart Street Study Area Zoning recommendations letter signed by representatives of Ellis South End Neighborhood Association, the Neighborhood Association of the Back Bay, and the Bay Village Neighborhood Association.

The Bay Village Neighborhood Association has been following the progress of the Stuart Street Planning Study for almost two years, and has been working closely with those Advisory Group members representing our neighborhood. **The BVNA is in unanimous support of the comments 1-11 (attached for your reference) developed in concert with the Neighborhood Association of Back Bay and the Ellis South End Neighborhood Association.** We feel strongly that these comments reflect not only the best interest of Bay Village, but also of Boston as a whole.

In light of the recent announcement of Liberty Mutual's proposed project site within the study area, we are uncertain how the Study will continue - and to what end. Our neighborhood has worked hard to improve upon the BRA's draft recommendations and did so in anticipation of the process moving continuing in good faith and in such a way that our concerns would be not only listened to, but also incorporated into the output as a joint effort between the Advisory Group and the BRA. We are disappointed that the BRA is issuing a press release and moving forward with Liberty Mutual's plans while the study is not yet complete.



BAY VILLAGE NEIGHBORHOOD ASSOCIATION, INC.

We anticipate that at future meetings the BRA and the Advisory Group will plan how to use the attached recommendations and other neighborhood comments as a basis for any regulatory changes in the study area. It is my hope that the BRA continues this study as a public process with appropriate transparency and accountability to all impacted residents.

Sincerely,

Brian Boisvert
President

brian_boisvert@yahoo.com
+1 (617) 542-8283

Andrew Grace
Senior Planner/Urban Designer
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

February 1, 2010

Re: Stuart Street Study Area Zoning Recommendations

Dear Andrew:

The following recommendations are in response to the BRA's October 20, 2009 draft of Proposed Zoning Recommendations for the Stuart Street Study area. They are a culmination of several meetings between the Bay Village, Ellis and Back Bay neighborhood representatives who serve on the Stuart Street Planning Advisory Group (AG) as well as meetings within the neighborhood groups themselves. These recommendations should be considered interdependent, as each has been determined with the others in mind.

1. Divide the area into four zoning sub-districts*.

In the spirit of fostering a vibrant area that also respects the historic urban context and scale of the surrounding neighborhoods, the new zoning should avoid taking a "blanket" approach to the entire study area. In particular, the new zoning needs to provide a more appropriate architectural transition from adjacent low-rise historic neighborhoods to a maximum allowable height, as defined by the iconic old Hancock Tower. Therefore, the study area should continue to be divided into several zoning districts, each addressing its unique urban context.

- a. **South End Neighborhood District** (from Dartmouth St. and Columbus Ave; north along the centerline of Dartmouth St. to the southern border of Back Bay Station; east along the southern border of Back Bay Station to Clarendon St; south along the centerline of Clarendon St. to Columbus Ave; west along the centerline of Columbus Ave. to Dartmouth St).
 - Maintain the existing permanent zoning that is part of the South End Neighborhood Zoning District, i.e., exclude this area from new zoning.
- b. **"H" IPOD** (from Clarendon St. and Columbus Ave; east along the centerline of Columbus Ave. to Arlington St; west along the centerline of Stuart St. to Berkeley St.; south along the centerline of Berkeley St. to Stanhope St; southwest along the centerline of Stanhope St. to Clarendon St; south along the centerline of Clarendon St. to Columbus Ave.)
 - This area along Columbus Ave. should serve as a buffer to the abutting Bay Village and South End Neighborhoods. Zoning must be more in keeping with the current As-of-Right and Enhanced zoning, i.e., 80ft/6FAR and 100ft/7 FAR.
- c. **Bay Village District** (from Berkeley St. and Columbus Ave; east along the centerline of Columbus Ave. to Arlington St; south along the centerline of

Arlington St. to Cortes St; northwest along the centerline of Cortes St. to Berkeley St; north along the centerline of Berkeley St. to Columbus Ave.).

- This district could be modified from current zoning to allow an increased maximum height of 100 ft along Columbus Ave. (the height of the Castle Armory shed) and 65 ft along Arlington St. to step down to existing neighborhood context. The parcel, currently known as the Sawyer Parking lot, should fall within the zoned 65 ft height limit.
- d. **K” IPOD** (bordering the South End Neighborhood District and “H” IPOD to the south; north along the centerline of Dartmouth St. from the southern border of Back Bay Station to St. James St; east along the centerline of St. James St. to Arlington St; south along the centerline of Arlington St. to Columbus Ave.)
- The height limit for any new development within the “K” IPOD area should reinforce and preserve the iconic skyline defined by the original Hancock building and should be no taller, including mechanicals, than the shoulder of original Hancock Building, or 356 feet. Rather than an arbitrary height of 400 feet currently proposed by the BRA, we hope that using the shoulder of the Hancock building will present an historic standard that will be used as a future rationale to discourage variances for additional height.
 - As-of-Right: 150ft/ FAR10
Enhanced: 356 ft/FAR15

***(A map of the 4 sub-districts can be found at the end of this document)**

2. Allow no exemptions within the Stuart Street zoning district

No exemptions shall be allowed for Planned Development Areas (PDA), Institutional Master Plans (IMP), U-Districts, or other zoning exemptions.

3. Tiers proposed by the BRA should be changed to “As-of-Right” and “Enhanced”

The terms “Base Zoning” and “Tower Zoning” should be replaced with “As of Right” and “Enhanced” respectively to be consistent with the existing established zoning process.

- a. Changing “Base“ and “Tower” zoning to “As-of-Right” and “Enhanced” is intended to ensure that the existing process outlined in Article 27D for the IPOD Districts will continue to include approval by the Board of Appeal for projects requesting “Enhanced” building heights and FAR’s.
- b. Any new permanent zoning document should mirror such a process.

4. Ensure the preservation of historic buildings

All new development in the study area must preserve buildings that meet National Register criteria for individual listing at the time of the PNF filing under Article 80, (or buildings designated as Category I, II, or III by the Landmarks Commission).

- a. These buildings should be preserved and adaptively reused as significant contributors to the complex urban fabric that makes Boston a unique city, without fundamentally altering the inherent characteristics (e.g., scale, proportion and richness of detail) that have earned them this status, as stated in Article 27D,

Downtown Interim Planning Overlay District. These buildings cannot be demolished.

- b. Any proposed project involving such a building in the area should have no more than a 2 story addition added to the top, located and detailed so that it is appropriate to the scale and detailing of the existing structure. (A precedent for controlling rooftop additions currently exists for ‘H’ IPOD Enhanced zoning)
- c. The decision that a particular proposal meets this required level of “respect” must be ratified by both the Boston Landmarks Commission, in a public meeting, and the Boston Civic Design Commission, in a public meeting, prior to approval.
- d. This requirement would be applicable to all new development for both As-of-Right and Enhanced zoning.

5. Minimize impacts of new development on traffic and parking

Encourage use of public transportation and other alternative methods, develop a live/work area with an enhanced pedestrian environment, and discourage new vehicular traffic both within the area and in the adjacent neighborhoods.

- a. **Traffic studies.** Any new development must include a baseline traffic study to accurately assess current conditions and predict future conditions given the proposed commercial and residential scenarios within the study area. This study shall be conducted by a source independent of the developer and shall also include other approved projects not yet built within the study area or in adjacent areas. Any traffic study must include the surrounding area bordered by Storrow Drive to the north, Harrison Ave to the south, Massachusetts Ave to the west and Albany Street to the east. Should the study demonstrate that the proposed development would contribute to increased traffic such that existing intersections will score below their existing rating, a list of mitigating options must be identified with the BTM, and efforts should be taken to implement those found to be the best mitigating options. In no instance shall the existing intersections score below a “D” rating [as described in the Transportation Research Board’s (TRB) National Highway Research Program (NCHRP) Report 616: Multimodal Level of Service (MLOS) Analysis for Urban Streets]
- b. **Parking ratios.** Parking ratios should be lower for commercial development and hotels. Maximum ratios more compatible with this goal are:
0.75 per dwelling unit (as currently recommended by the BRA)
0.25 per 1,000 sq ft of commercial development
0.25 per hotel key
Consistent with the Parking ban currently in place, no commercial parking shall be allowed within parking structures or on open lots.
- c. The BRA recommendations are not based on an assessment of the impacts of the proposed density and height scenarios on the traffic in the surrounding neighborhoods (as originally stated as one of the purposes of the study). Heights, densities and parking ratios will have to be adjusted according once these studies are done and they show a negative impact.
- d. The above parking and traffic requirements shall be enforced for both As- of-Right and Enhanced zoning.

6. Ensure no negative environmental impacts

- a. **Shadow.** Shadow impact criteria for Copley Square and the Commonwealth Avenue Mall shall comply with the current regulations as set forth in “An Act Protecting the Boston Public Garden.” 1992.
- b. **Wind.** Existing base wind conditions documented at pedestrian levels throughout the study area need to be determined. New development must demonstrate no negative impact on existing conditions at any location or time of day. The studies shall include a radius of 2,000 feet around the project (similar to what was required for the Clarendon Project) and any public plazas in the vicinity. They should be conducted by a source independent of the developer. Should wind conditions worsen at any pedestrian level location after development is completed, the developer shall implement measures to mitigate the negative effect(s).
- c. **Groundwater.** Groundwater conservation must be included in new zoning regulations as stated in the proposal
- d. Shadow, wind and groundwater requirements shall be enforced for both As-of-Right and Enhanced zoning.

7. Encourage a mixed use live/work area by encouraging residential uses

- a. New zoning should encourage a mixed use of retail, service, office and residential to achieve the goal of establishing a vibrant area both day and night. This should be the primary goal of rezoning this area
- b. In order to ensure new retail development in the study area, the BRA’s October 2009 Draft of Proposed Zoning recommends 70% ground floor retail use, however, there is no requirement for a residential percentage. To ensure there will be a balance of uses in the area that includes new residential development, the BRA shall require a minimum percentage of residential gross square feet throughout the study area. This is particularly important given the number of parcels identified as development sites by the BRA, which are owned by commercial entities whose priorities may be to build only office space.

8. Require affordable housing to be located on site and require an increase in affordable housing for Enhanced zoning.

- a. Any affordable housing units resulting from new development in the Study area must be located on the project site they are associated with.
- b. Enhanced zoning residential projects or mixed use projects with a residential component, located within the “K” sub district, must be required (not a choice from a list of three public benefits as proposed in the October BRA draft) to increase affordable housing by 2.5% over existing requirements.

9. Enhance the public realm/pedestrian experience and compliment existing urban form

- a. Requirements should be consistent with the July 1, 2009 version of the BRA's DRAFT Zoning Recommendations
 - i. **Street Wall Requirement.** Any new development shall infill at least 85% of the street frontage. (The October Draft Recommendations decreased the infill to 65-85%, which is not adequate to create a viable street wall)
 - ii. **Transparency.** Maintain 65% transparency of ground floor street walls (The October Draft Recommendations reduced transparency to 50% - 65%)
 - iii. **Publicly Accessible Space.** New development with a street frontage that is 200 feet or longer must contain a publicly accessible through-block connection. (This should be required, with no "Alternative Options Allowed")
- b. Additional requirements that will enhance the public realm/pedestrian experience:
 - i. **Curb Cuts.** Curb cuts shall be limited to one per city block to enhance the pedestrian experience.
 - ii. **Set backs along Dartmouth Street Corridor.** In order to respect the existing visual corridor along Dartmouth Street, any project surface above the As-of-Right height must include a set back of at least 40 ft.
 - iii. **Spacing between buildings.** In order to assure that new development in what is now the "K" IPOD zone does not create a wall of buildings, no surface above the As-of-Right height should be closer than 80 feet to any exterior surface of any other building.

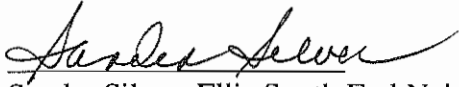
10. Regulations and associated language need to be clearly stated

Many components of the October BRA Draft proposed zoning are 'recommendations' rather than 'requirements'. This is a result of the use of the words "should" rather than the words "shall" or "must," or "Alternative Options Allowed" instead of "Required." For example, in the Wind section the text reads "Buildings **should** be designed to avoid excessive and uncomfortable down drafts on pedestrians." rather than "shall." Clarifying the language will make the requirements clear to an applicant as well as provide certainty that the overall goals, are achieved.

11. Public review process

All projects shall be required to go through the entire Article 80 review process, including a Draft and Final Environmental Impact Report. Any public review body set up as part of the process should be included in the review of the project for all aspects of the schematic development, environmental studies and final design.

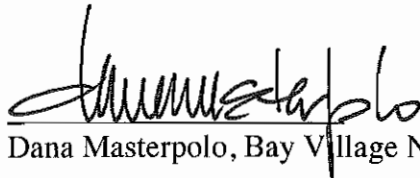
Respectfully submitted,



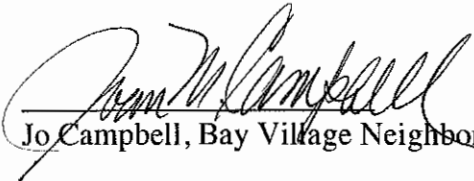
Sandra Silver, Ellis South End Neighborhood Association, Stuart Street Planning AG Member



Janet Hurwitz, Neighborhood Association of Back Bay, Stuart Street Planning AG Member



Dana Masterpolo, Bay Village Neighborhood Association, Stuart Street Planning AG Member



Jo Campbell, Bay Village Neighborhood Association, Stuart Street Planning AG Member

cc: Thomas M. Menino, Mayor of Boston
Michael P. Ross, Boston City Councilor
Bill Linehan, Boston City Councilor
Felix Arroyo, Boston City Councilor
John R. Connolly, Boston City Councilor
Stephen J. Murphy, Boston City Councilor
Ayanna Pressley, Boston City Councilor
Sonia Chang-Diaz, State Senator
Aaron Michlewitz, State Representative
Byron Rushing, State Representative
Martha M. Walz, State Representative

Stuart Street Planning Advisory Group Members:
Meg Mainzer-Cohen, Back Bay Association
Joanne Bragg, Liberty Mutual Group
Nathaniel Margolis, John Hancock
Ted Pietras, South End Business Alliance

Ellis South End Neighborhood Association
2-3-2010



The Ellis South End Neighborhood Association, Inc.
Post Office Box 961
Boston, Massachusetts 02117
www.ellisneighborhood.org

February 3, 2010

To: Boston Redevelopment Authority
Andrew Grace, Senior Planner/Urban Designer
Members of the Stuart Street Planning Study Advisory Group

From: Susan Passoni, President
Ellis South End Neighborhood Association

Re: Comments and suggestions regarding the BRA
draft proposal for zoning in the Stuart Street area

In response to your request, the Ellis South End Neighborhood Association (the Ellis) has reviewed the BRA draft Stuart Street zoning proposal (dated October 20, 2009). In presenting the results of this review of a draft proposal, the Ellis understands that in the future, all stakeholders will have an opportunity to review and comment upon subsequent drafts and the final version prior to the proposal being considered for adoption by the BRA and other City officials and agencies.

This memorandum and the accompanying attachments summarize the Ellis' views and recommendations regarding the current version the draft zoning proposal. There are two attachments to this memorandum: 1) a letter from the neighborhood representatives who serve on the Advisory Group describing their recommendations for modifying the draft zoning proposal and 2) an annotated copy of the BRA draft proposal that includes, in detail, the Ellis' recommendations and comments. The recommendations from these neighborhood representatives played a major role in structuring the Ellis' views and the Ellis concurs with and strongly supports these recommendations.

Prior to summarizing the Ellis' review of this draft, it is important to note that the Ellis compliments the staff of the BRA, the BRA's consultants, and the members of the Advisory Group who have worked on the issues facing the Stuart Street area and the surrounding neighborhoods during the past two years. Their work has focused on issues that have a major impact on our City and neighborhood and we thank them for their diligent efforts on our behalf.

The Ellis' major responses to the current, draft zoning proposals

Although most of the Stuart Street area lies outside of the South End and the Ellis neighborhood, it is clear that development in the Stuart Street area has had and will continue to have significant impacts on the character of and quality of life in the South End and our neighborhood.

- As a result, the Ellis is in full agreement with the BRA and the Advisory Group that prior to additional development being constructed in the Stuart Street area, a plan for the area must be developed and a revised set of zoning requirements that are congruent with this plan must be designed, adopted, implemented, and most importantly, followed.

Furthermore, the various studies that were presented to the Advisory Group have demonstrated that severe infrastructure constraints (including transit, roadway, parking, and sidewalk capacity constraints) and environmental issues (including wind, shadow, sky view, and ground water conditions) already affect the Stuart Street and surrounding areas.

- Thus, the Ellis believes that assessments of the proposed zoning changes and any future projects that are proposed under the adopted zoning regulations project must be based on thorough and detailed analysis of the proposal’s impact on the Stuart Street area, the South End, and all other neighborhoods surrounding the Stuart Street area.

Because an assessment of both positive and negative impacts of any project requires the effective involvement of affected residents living in nearby neighborhoods, the Ellis opposes any aspect of the proposed zoning that will limit public involvement and any significant modification in the required Article 80, Project Review Process. In particular, we are concerned that the authors of the current draft proposal have suggested that community participants should be involved in “structured conversations about individual development expectations” without describing who will be responsible for such “structuring”. We disagree with the authors’ view that streamlining “the development application and approval process” will be beneficial to everyone involved.

The Ellis’ major recommendations

The Ellis strongly supports the recommendations of the AG representatives of the Ellis, Back Bay, and Bay Village neighborhood associations.

Because the areas of the South End included in the Stuart Street study area are subject to the permanent zoning within the South End Neighborhood District (Boston Zoning Code, Article 64), the Ellis recommends that these areas be excluded from the Stuart Street area zoning.

In order to create transitional areas between the low rise residential neighborhoods to the South of the Stuart Street study area, the Ellis recommends that the Stuart Street area zoning:

- Maintain the current height limits (80 feet and 100 feet) in the following two areas of the proposed Stuart Street study area – 1) the area located between the center lines of Stanhope Street and Columbus Avenue and the center lines of Clarendon and Berkeley streets and 2) the area located between the center lines of Stuart Street and Columbus Avenues and the center lines of Berkeley and Arlington Streets
- Include a Bay Village neighborhood area in which building height would be limited to 100 feet (the height of the Castle Armory) along Columbus Avenue and limited to 65 feet (equal to the height of currently existing residential buildings) on other streets, to the South

The Ellis recommends that in other, non transitional, areas affected by the proposed Stuart Street area zoning, the maximum “total building height” be limited to 356 feet (where “total building height” is the height of the building including the height roof-top mechanicals and 356 feet is the height of the shoulder of the original Hancock Building).

The Ellis also recommends that:

- Planned Development Areas be prohibited in the area affected by the proposed zoning because of the extensive effort that has been devoted to getting the proposed zoning ‘right’
- All projects within the area affected by the proposed zoning must demonstrate that they will not negatively impact traffic conditions on any street or intersection located in the affected areas and guarantee that effective mitigation measures will be implemented and maintained if, when the project is partially or fully occupied, this level of impact has not been achieved
- Because of the severe roadway deficiencies and environmental conditions existing in the Stuart Street and surrounding areas, proposed projects must limit automobile traffic and parking and provide transit use incentives; recharge groundwater levels; apply the same shadow impact criteria that is established for the Public Garden to Copley Square and the Commonwealth Mall; and produce no increases in wind conditions facing pedestrians at sidewalks and street crossing throughout the area.

In addition to these major responses and recommendations, the Ellis has developed a series of recommended text changes and suggestions that will, if adopted, improve the proposed zoning. These changes are intended to clarify the meaning of sections of the draft; provide text that responds to the substantive changes included in the Ellis’ recommendations; and strengthen the impact of the proposed zoning by making the most of the proposal’s standards ‘requirements’ rather than ‘suggestions’.

Concluding comments

- The Ellis emphasizes the importance of incorporate the recommendations noted in this memorandum and the accompanying attachments within the proposed zoning regulations.
- We also emphasize that in addition to the adoption of the revised and strengthened zoning, developers need to be willing to propose projects that conform to these regulations and the City and the BRA need to be fully committed to following these regulations to produce the desired transparent predictable, less time consuming and more collaborative development consideration and approval process.

The Ellis South End Neighborhood Association looks forward to continuing to work with the Boston Redevelopment Authority, the City of Boston, and the Stuart Street Study Advisory Group in developing and implementing a zoning code and process that insures the ongoing success of the Stuart Street area, our city, and our neighborhood.

Note -- This document contains both the text of the BRA October 20, 2009 draft proposal for Stuart Street Area zoning and the Ellis Association comments and suggestions

- The BRA draft text is in black text
- *The Ellis comments and suggestions are in italic text*

Preface

Background

The Stuart Street Planning Study area, bound by St. James Avenue to the north, Dartmouth Street to the west, Columbus Avenue/ Cortes Streets to the south, and Arlington Street to the east, represents a 12+ block area totaling more than forty acres. A number of significant Boston landmarks define the area: the ~~790-foot~~ Hancock Building, the Old Hancock Building, Copley Square, and Trinity Church. The area is also identified by the diagonal intersection of Columbus Avenue and sits adjacent to the historic neighborhoods of Bay Village and South End. Recent additions to the area include the 10 Saint James and 131 Dartmouth Street office buildings. ~~Recently approved development projects include Columbus Center Turnpike Air Rights (Parcels 16-20), covering four blocks of the city, The Bryant on Columbus, a fifty unit residential project with parking (recently completed), and the 350-unit The Clarendon development project, at the intersection of Stuart and Clarendon Streets (under construction).~~

Note -- The last sentence of the previous paragraph should be replaced with the following text --

During recent years, a substantial amount of development has occurred within and been approved for the Stuart Street area and more projects are being planned. Recently completed projects include: The Bryant on Columbus (a fifty unit residential project with parking); The Clarendon (a 350-unit residential project with parking) at the intersection of Stuart and Clarendon Streets; and the renovation and conversion of the Red Cross Building (a residential project at the corner of Clarendon Street and Columbus Avenue. Recently approved projects include the Columbus Center air rights project, covering four blocks over the Massachusetts Turnpike Extension. In addition, several other projects are being planned and these developments are likely to have a significant effect on the Stuart Street area. These 'being planned' projects include; the expansion of Copley Place; the replacement of the Shreve building at the corner of Arlington and Boylston Streets; and the replacement of the Salvation Army building and the adjacent parking lot at the corner of Berkeley Street and Columbus Avenue.

Purpose

The consultants and Advisory group have spent the past 18 months examining potential development opportunities, identifying and defining height, density, and use guidelines, and developing scenarios for future development in the area. These recommendations include an assessment of the impacts of density and height on the surrounding neighborhoods, including the impacts on the transportation infrastructure, transit system, parking supply, and utility infrastructure (electrical, water, and sewer), and the environmental impacts such as wind, shadow, and ground water. Provisions for and

protection of open space, pedestrian access, historically significant buildings, and view corridors have also been included in the recommendations.

Note – It is not clear that an assessment of the impacts of the proposed zoning changes (including, but not limited to, the proposed changes in density and height limits) on the surrounding neighborhoods has been conducted by the BRA and its consultants or reviewed by the Advisory Group.

Once this assessment is completed, it should be made available to the Advisory Group and the various neighborhood associations for review prior to the development of the final version of the Stuart Street area zoning proposal.

Goals

The recommendations have gone through a series of iterations over the past 4 months. During this time, the concepts/ideas have been refined, and are now organized into two categories (base and tower) with subcategories that have been informed by qualitative statements. The underlying goals of the study and resultant zoning recommendations are to:

- Create more certainty and transparency in the development, permitting and approval process;
- Preserve and protect both immediate and adjacent neighborhoods;
- Provide an area for urban growth and economic vitality;
- Improve the district's urban design, public realm and environmental sustainability.
- Exhibit design achievement that demonstrates exemplary skill and creativity in the resolution and integration of formal, functional, and technical requirements.

Note -- The zoning regulations should be designed to achieve two primary goals: 1) to provide net positive benefits to the City as a whole, the rezoned area, and the surrounding neighborhoods and 2) to preserve and protect the rezoned area and the adjacent neighborhoods. To accomplish these goals, the regulations should explicitly encourage the creation of an area that is vibrant during both daytime and nighttime hours by stimulating the development of residential and mixed-use (residential and commercial) projects.

Approach

This zoning has been designed for flexibility in approach but predictability in impacts. This back and forth between flexibility and predictability is a constant theme in the history of zoning and is particularly relevant to mature, nearly built-out area with a strong existing context like the Stuart Street Study area.

The revised approach describes criteria for responsible development while allowing for the marketplace and the community to engage in structured conversations about individual development expectations. It is a hybrid of performance and form-based zoning mechanisms, taking the best attributes from each method, while striking a balance between flexibility and prescribed outcomes.

This proposed zoning aims to foster collaborative citizen involvement, minimize conflict and maximize cooperation. The strength of this approach is that certain objectives,

deemed to benefit the community, are strongly encouraged by economic incentives and disincentives built into the system rather than by rigid codes, which typically restrict innovative solutions and creativity in the urban setting. Finally, this zoning has the potential to streamline the development application and approval process for everyone involved.

Note – The Ellis is concerned by the apparent effort on the part of the drafters of the current text to reduce the effective involvement of community participants in influencing the final character of approved development proposals. For example, the authors suggest that community participants should be involved in “structured conversations about individual development expectations” without describing who will be responsible for this ‘structuring’ or defining what is meant by ‘development expectations’. It is also disturbing, that the authors suggest that a streamlined “development application and approval process” will be beneficial to everyone without assessing whether the interests of some affected parties may be, in fact, harmed by such streamlining.

Proposed Zoning

The proposed zoning recommendations have been organized into two categories: Base and Tower. The Base category is defined by the original underlying zoning, the adjacent building context (cornices, historic fabric, etc.) as well as establishing an appropriate plinth for the upper portion of the building to sit upon. The Tower category of zoning is largely defined by setbacks to the building form in response to environmental concerns (shadow and wind), and a height limit of 400 ft, out of deference to existing historic buildings in the adjacent area, in particular, the old Hancock Building.

Overall, the proposed zoning regulations provide:

- Form-based code strategies that will ensure high-quality sustainable architecture;
- Performance standards to mitigate environmental impacts.
- Flexible strategies that enable economic viability and architectural creativity;

Note – As noted above, these three performance criteria are not the appropriate criteria for assessing the desirability of the proposed zoning regulations. In addition, it is also not clear that the recommended strategies (including the proposed density and height limits) will “ensure high-quality sustainable architecture”, “mitigate environmental impacts” (or improve environmental conditions), or “enable economic viability or architectural creativity”.

As the Ellis notes in its section-specific comments and suggestions (that follow this preface), a more differentiated zoning strategy (which establishes sub-districts within the Stuart Street area within which zoning requirements are responsive to the character of the surrounding neighborhoods) and a more restrictive height limit within the core of the Stuart Street area (which is responsive to the character of the iconic top of the old Hancock Building area) is likely to be more effective.

Base Zoning: 10 FAR/ 150 ft height limit

The recommended base zoning for the Stuart Street Planning Study Area (with the exception of those parcels contained within the Bay Village Zoning District) is a height limit of 150 ft, a maximum of 10 Floor Area Ratio (FAR) and proposals must adhere to the following conditions:

- 1. The recommended zoning for the Stuart Street Area shall not affect the part of Stuart Street Planning Study Area that is currently included in the South End Neighborhood Zoning District and thus is already, permanently zoned.**
- 2. The recommended base zoning, ‘total building height’ limit within the part of the Stuart Street Planning Study Area located within the Bay Village Zoning District (between Columbus Avenue and Cortes Street and between Berkeley and Arlington Streets) shall be 100 ft. along Columbus Avenue and 65 ft in all other locations (including along Arlington Street) to reflect the existing residential buildings in these locations.**
- 3. The recommended base zoning, ‘total building height’ limit within the part of the Stuart Street Planning Study Area located within the so-called “H” IPOD (between the center line of Stanhope Street and Columbus Avenue [between Berkeley and Clarendon Streets] and the between the center line of Stuart Street and Columbus Avenue [between Arlington and Berkeley Streets]) shall be 80 ft. and the maximum Floor Area Ratio (FAR) shall be 6.**
- 4. The recommended base zoning, ‘total building height’ limit within the remaining part of the Stuart Street Study Area (the Study Area excluding the areas described in 1, 2, and 3, above) shall be 150ft and the maximum Floor Area Ration (FAR) shall be 10.**
- 5. For purposes of the Stuart Street Zoning regulations, ‘total building height’ is defined to include the height of roof-top mechanicals and any structure that surrounds or otherwise encloses or shields these roof-stop mechanicals.**

Within the area covered by these base zoning restrictions, Planned Development Areas (PDAs) and other forms of zoning exemptions shall be prohibited.

The maximum height for the area currently included in the Bay Village Zoning District shall be 100 feet, along Columbus Avenue and reflective of the height of the existing residential buildings on other streets.

Review process

Through the adoption of new zoning, projects will be able to benefit from a clearer review process and therefore become eligible for enhanced Article 80 review process, resulting in a streamlined review schedule.

Note –

As stated earlier, we are concerned about the impact of these types of changes in the review process. Furthermore, the meaning of a possible “enhanced Article 80 review process” and a “streamlined review schedule” must be explicitly defined

and memorialized in an amendment to Article 80 of the Boston Zoning Code because the current version of Article 80 does not contain language regarding either 'enhanced' or 'streamlined' reviews.

Article 80B

All projects over 50,000 gross square feet (GSF) are subject to the provisions of Article 80B Large Project Review of the Boston Zoning Code.

Notes –

As part of the project approval process, formal commitments for project financing shall be required for all projects that are subject to the Article 80B Large Project Review process.

In order to insure that delayed or halted projects do not result in negative consequences for the affected areas, these required commitments shall include binding and bonded commitments of compensation for site cleanup and restoration costs incurred by the City, the BRA, and others if project's are delayed or halted after being started.

Documents that establish these financing commitments must be publicly disclosed at least 60 days prior to the granting of any building or demolition permit related to the construction of any approved project.

Because of the number, size, and character of the existing buildings in the proposed area, the Article 80B Large Project Review process should be applied to smaller projects, e.g., projects that impact over 20,000 gross square feet of building space.

Public Realm/ Pedestrian Experience (Applicable to all Article 80B Large Projects or rehabs of over 500 GSF of exterior façade modifications or 1,000 GSF of existing ground floor building.)

GOAL: New development should animate the public realm and create a lively, vibrant and engaging street level experience for the pedestrian.

GOAL: New development shall be required to animate the public realm; create a lively, vibrant and engaging street level experience for pedestrians during daytime and evening hours; and improve the environmental conditions experienced by pedestrians.

Street Wall Frontage Achievement (Required)

New development should infill between 65-85% of the street frontage, to achieve a continuous ground level experience for pedestrians. The street frontage should either meet the property line or be aligned to adjacent buildings. The height of the street frontage shall reflect that of adjacent buildings or those in close proximity.

New development shall fill at least 85% of the street frontage to achieve a continuous ground level experience for pedestrians. The required street frontage shall either meet the property line or be aligned with the frontage of adjacent buildings. The height of this street frontage building component shall be similar to that of the adjacent buildings and those

buildings immediately across the street from the proposed structure and its adjacent buildings. All building components that are higher than these street frontage building components shall be set back at least 20 feet from the street frontage components or no less than the setback of the street frontage components of adjacent buildings (whichever is less).

Transparency Achievement (Required)

Maintain 50- 65% transparency of ground-floor street wall along Columbus Avenue, Dartmouth, Clarendon, Berkeley and Arlington Streets. Transparency calculations do not include garage entrances, loading docks, egress doors, utility vaults and service areas.

Note – “Transparency” needs to be explicitly defined

The following sub-categories allow for greater flexibility in interpreting how they are achieved, however the essence of the form concepts should be met. The underlying intent is to animate the public street experience and building edge. Additionally, each large project development will be allowed flexibility to develop creative and contemporary ways to animate the street edge if they elect to not provide street level retail or meet the specific recommendations listed below.

Publicly Accessible Space (Required/ Alternate Options Allowed)

New development with a street frontage that is 200 ft or longer should aim to include a publicly-accessible through-block connection if such a connection is possible. The connection may be indoors or outdoors. Through block corridors are encouraged to coordinate with existing corridors and open-space. If a through block connection is not possible, a minimum 15,000 GSF publicly-accessible space is an acceptable alternative. The space may be indoors or outdoors.

Publicly Accessible Space (Required)

New development with a street frontage of 200 ft or longer shall include at least one publicly-accessible, through-block connection if such a connection is possible. The required connection may be indoors or outdoors. Through-block corridors are encouraged to coordinate with existing corridors and open-space. If a through-block connection is not possible, a minimum 15,000 GSF publicly-accessible space that provides a clear benefit to the public (as opposed to tenants, owners, customers, or others who are directly using the building itself) is an acceptable alternative to the publicly accessible, through-block connections. The space may be indoors or outdoors.

Ground Floor Pedestrian Entrances (Required / Alternate Options Allowed)

The desired distance between ground-level pedestrian entrances in new development projects is 75 ft.

Ground Floor Pedestrian Entrances (Required)

These entrances must be no greater than 75 ft. apart.

Ground Floor Use (Required/ Alternate Options Allowed)

In order to help ensure active, diverse ground floor uses, for every 50,000 GSF of ground floor leasable retail space, a 2,000 GSF or smaller leasable retail space must be provided. A minimum of 70% street frontage is desired along Columbus Avenue, Dartmouth, Clarendon, Berkeley and Arlington Streets (retail or publicly accessible space.)

Ground Floor Use (Required)

In order to help ensure active, diverse ground floor uses, for every 50,000 GSF of publicly accessible, leasable, ground floor retail, service and/or commercial space, at least one 2,000 GSF or two 1,000 GSF publicly-accessible, leasable retail or service unit(s) must be provided.

In buildings abutting Columbus Avenue and Dartmouth, Clarendon, Berkeley and Arlington Streets, at least 70% of the street frontage must be occupied by retail, service or other publicly accessible space.

Environment (Required)

GOAL: New development should achieve innovation in the area of energy conservation and management. The following are required of all new developments over 50,000 GSF

Sustainability

Incorporating advanced sustainability methods and/or accreditation that achieve certifiable status at LEED silver level or equivalent, whichever meet or exceed environmental standards in effect.

Wind

Buildings should be designed to avoid excessive and uncomfortable downdrafts on pedestrians. Each proposed project will be shaped via setbacks, plinths, and building orientation or other wind-baffling measures, so that the proposed project will not cause ground-level ambient wind speeds to exceed the standards of Article 80.

Wind

Buildings shall be designed to avoid excessive and uncomfortable downdrafts on pedestrians and other uncomfortable wind conditions (e.g., high wind burst speeds) on pedestrians. Each proposed project will be shaped via setbacks, plinths, and building orientations or other wind-baffling measures so that the proposed project will not result in ground-level ambient winds that exceed existing wind conditions at any location. The definition of 'existing wind conditions' shall be those location-specific, wind conditions that currently occur when ambient Boston wind speeds are less than or equal to the highest wind speeds occurring during the 5% of the hours when the highest ambient wind speeds have occurred within the last 20 years within the City of Boston.

In the event that a building (once it has been constructed) is found to fail to perform at this required level of wind impact performance, the owner of the building shall be required to

install additional wind mitigation measures that overcome the observed wind performance failure(s).

Shadow

All projects must adhere to the shadow impact criteria established by legislation to protect the Boston Public Garden and Public Common.

Shadow

All projects must adhere to the shadow impact criteria established by legislation to protect the Boston Public Garden and Public Common. The same criteria shall apply to Copley Square and the Commonwealth Mall.

Ground Water

All projects must conform to Article 32 of the Boston Zoning Code; Groundwater Conservation Overlay District.

Insert the following section as a Base Zoning

Building Preservation (Required)

New development must preserve a building on the development site that meets National Register criteria for individual listing at the time of PNF filing under Article 80. The design of any proposed new structure must respect the architectural character of both the original building and other nearby National Register, individual listing buildings. The decision that a particular proposal's design meets this required level of 'respect' must be ratified by both the Boston Landmarks Commission, in a public meeting, and the Boston Civic Design Commission, in a public meeting, prior to approval.

Note -- The following comments apply to all of the following; transportation components of the proposed zoning

- 1. Prior to a formal study of the current traffic and parking conditions and a thorough analysis of the likely transportation impacts of the currently built; approved but not yet built; and currently-being-planned projects, it is impossible to estimate the potential impact of proposed zoning regulations for the Stuart Street area. Thus the desirability of the currently proposed, transportation-related, zoning regulations is difficult to assess.*
 - 2. Following the adoption of the Stuart Street Zoning regulations, no project within the Stuart Street area shall be allowed to enter the required Article 80 review process unless there is an existing and publicly available, baseline study of the traffic conditions within the area impacted by the Stuart Street zoning and the surrounding neighborhoods describing the traffic conditions as of a date no more than two years previous to the start of the project's entry into the Article 80 review process.*
-

Multi-modal Access (Required/ Specifications as per TAPA)

GOAL: New development should integrate state of the art transit technologies and innovations in demand management. The list of performance criteria below attempts to collect the requirements expected from Boston Transportation Department (BTD) which will be officially memorialized in the Transportation Access Plan Agreement (TAPA.)

Parking Ratios

The current BTD MAXIMUM parking ratios:

0.75 per dwelling unit

0.75 per 1,000 sq ft of commercial development

0.40 per hotel key

Parking Ratios

0.75 per dwelling unit

0.25 per 1,000 sq ft of commercial development

0.25 per hotel key

Notes –

- 1. Consistent with the current parking ban, no commercial parking shall be allowed within the area impacted by the proposed Stuart Street Zoning Regulations*
 - 2. Consideration should be given to allowing residential projects or projects with residential components to have higher ‘per dwelling unit’ parking ratios if the use of the resulting additional spaces is restricted so that only project residents and residents of the Stuart Street and surrounding neighborhoods who have ‘resident parking stickers’ have the right to use such additional spaces.*
-

Parking/Service Access

Curb cuts should be minimized in locating service and parking access points. A maximum entrance width of 30 ft and minimum distance between entrances of 60 ft are preferable when possible. Careful consideration should be given to evening illumination levels of parking garage entries. Service doors, when not in use, should be closed to maintain the street wall.

Curb cuts shall be limited to one per city block

Parking/Service Location

Parking should not be visible from any location on the street. Except for access, parking and service areas must be setback a minimum of 20 ft from the building face.

Bicycle Accommodations

Provide bicycle racks in secure sheltered spaces as per BTD ratios as well as bicycle racks outside major entrances to the building. Provide one shower stall per 1,000 building occupants or in health-club if located on site.

Note –

Showers for use by bicycle riders should be available at no cost.

Car Sharing, Van Pools,

Include at least 1 car-share parking space per 50 parking spaces and at least 1 parking space for vanpool parking. Provide preferential parking for alternative fuel vehicles (hybrids, electric vehicles etc.)

Traffic Management

Through a required site plan and traffic management analysis for future development projects, BTM will determine appropriate signal improvements and traffic camera installation required by the proponent.

Loading

The proponent will be required to provide off-street loading to minimize on-street commercial vehicle activity. Parking and loading access, where possible, will be provided off of alleys to enhance pedestrian safety, maximize commercial frontage, and accommodate queuing.

Transportation Demand Management

Required to join the local Transportation Management Association (TMA) and participate in their programs such as “Guaranteed Ride Home” and car pools.

Streetscape Improvements

Design and improve all sidewalks and pedestrian areas on each side of the building in accordance with a to be-determined streetscape plan.

Streetscape Improvements (required)

Design, install, and maintain sidewalk and pedestrian area improvements (including appropriate landscaping) on each side of the building in accordance with a to be-determined streetscape plan.

Transit

Proponents will be required to provide pre-payroll deduction and distribution for T passes.

Tower Zoning: 17.5 FAR/ 400 ft height limit

Proposed projects are eligible for additional build out (FAR of 17.5) as well as height beyond the one hundred and fifty feet (up to a maximum of 400'), if such proposals (a) undergo review pursuant to Article 80B of the Boston Zoning Code, (b) achieve performance criteria identified below and (c) provide public benefits; those benefits at a minimum include significant contributions toward the following:

Proposed projects that are located in the parts of the Stuart Street area within which the base zoning height limit is 150 ft are eligible for additional build out (up to a maximum total FAR of 17.5) as well as additional 'total height' (where 'total height' is defined as the height of the building including any roof-top mechanicals and structures containing these mechanicals and the maximum 'total height' is 356 feet, the height of the shoulder of the original Hancock Building).

This additional build out and height is allowed if a proposed project (a) meets all of the 'base zoning' requirements and standards (described above); (b) undergoes review pursuant to Article 80B of the Boston Zoning Code, (c) achieves the performance requirements criteria identified below and (d) provides significant levels of public benefits, including but not limited to benefits represented by contributions toward the following:

PUBLIC BENEFIT ACHIEVEMENT

Given the variety of constraints on development in the district, very few sites will be able to achieve the maximum height/FAR. The goal of the zoning recommendations is to make the level of benefits achieved commensurate with the scope, scale and impact of the proposed project. ~~Therefore, the public benefit achievement has been organized into two categories; those that are required (when applicable) and a second grouping/menu which can be selected from.~~

Note -- Delete the last sentence of the preceding paragraph

Building Preservation (Required)

New development must preserve a building on the development site that meets National Register criteria for individual listing at the time of PNF filing under Article 80, in a manner that respects the architectural character of the original building, pursuant to consultation with Boston Landmarks Commission staff.

The building preservation requirement should be in the base zoning regulations and thus is not needed in the tower zoning section as all base zoning requirements must be met by all projects seeking tower zoning.

Sustainability (Required)

Incorporating advanced sustainability methods and/or accreditation that achieve certifiable status at LEED gold level or net zero energy consumption or meets or exceeds comparable environmental standards in effect.

~~The developer is permitted to select one of the three choices from the following menu of public benefits. The final degree of achievement will be determined by the BRA based upon the scope, scale and impact of the project.~~

Note -- Delete the above two sentences

Increased creation of public benefits (Required)

The developer is required to meet the “increasing the City’s housing supply” goal (see Number 1, below) and required to meet one of the other two goals (chosen at the developers discretion) –contributing to a “streetscape/pedestrian and bicycle fund” or contributing to “public art” (see Numbers 2 and 3, below). The degree of required achievement for each of these goals will be determined through the Article 80 review process, based upon the scope, scale and impact of the proposed project.

~~Choose one of three (Required): Note – Delete this sub head~~

1. Increasing the city’s housing supply

Proposing to create residential units within a project’s immediate impact area that exceed the minimum level of affordability required by the City’s guidelines on affordable housing then in effect by 2.5%. Careful consideration should be given to the distribution of unit types and sizes. Specifics to be determined through the Article 80 review process.

1. Increasing the City’s housing supply (required)

The developer of a residential project or mixed use project with a residential component is required to create additional affordable residential units on the development site that exceed the minimum level of affordability required by the City’s guidelines on affordable housing. Developers of projects and project components for which a financial contribution to an ‘affordable housing fund’ is required (rather than the creation of affordable housing units) is not required by the City’s guidelines, shall be required to make additional contributions. The required additional units and/or financial contributions must, at a minimum, exceed the City’s guideline then in effect by 2.5%.

2. Streetscape/Pedestrian and Bicycle Fund

Contribute to an existing streetscape/pedestrian and bicycle fund for improved safety, connectivity, and beautification of the public realm at locations other than in the abutting streets of the building – thereby increasing vitality and encouraging pedestrian and bicycle travel in the immediate area. Specifics to be determined through the Article 80 review process and should be of a value equal or greater than one half of one percent (1/2%) of the cost of building construction.

2. Streetscape/Pedestrian and Bicycle Fund

In addition to the developer’s creation of streetscape and pedestrian improvements in the area immediately surrounding the proposed project, the developer shall be required to contribute to a City of Boston, streetscape/pedestrian and bicycle fund that is to be used for improved safety, connectivity, and beautification of the public realm at locations other areas – thereby increasing vitality and encouraging pedestrian and bicycle travel. The amount of this contribution shall be no less than one-half of one percent (1/2%) of the construction cost of the proposed project. One-half of the developer’s estimated

contribution to this fund (based on an estimated cost of construction) shall be transferred to the City prior to beginning of project construction. The remainder of this contribution (based on the actual cost of the project) shall be required to be transferred to the City prior to the issuance of a Certificate of Occupancy for any part of the building.

3. Public Art

New development should provide publicly accessible art or provide a donation to the Fund for Boston Neighborhoods (administered by the Boston Arts Commission, a 501C3) that has an invoiced or appraised value equal to or greater than one half of one percent (1/2 %) of the cost of building construction. Specifics to be determined through the Article 80 review process.

3. Public Art

A new development shall be required to provide publicly accessible art that has an invoiced or appraised value equal to or greater than one half of one percent (1/2 %) of the project's construction cost or to provide a donation in this amount to the Fund for Boston Neighborhoods (administered by the Boston Arts Commission, a 501C3). One-half of the developer's estimated contribution to this fund (based on an estimated cost of construction) shall be transferred to the City prior to beginning of project construction. The remainder of this contribution (based on the actual cost of the project) shall be required to be transferred to the City prior to the issuance of a Certificate of Occupancy for any part of the building.

Mitigating Development Impacts

Additionally, the assessment of the proposed project's impacts on the immediate area will be determined through the Article 80 review process. The Article 80 process will determine if additional mitigation (otherwise exceeding the City's requirements for community benefits) is needed to offset development impacts.

If the assessment of the proposed project's impacts finds that the impacts of the proposed project on the immediate area or nearby areas (as determined through the Article 80 review process) are both negative and significant, the developer may be required to implement additional mitigation measures to reduce or eliminate these negative impacts and/or to provide additional contributions to the City or other affected parties that will help to compensate these parties for the negative impacts of a potential project.

PERFORMANCE CRITERIA

The following performance criteria requirements must be met in order to achieve the Tier 2 zoning status.

In addition to the above-mentioned requirements, the following performance requirements must be met in order to achieve Tower Zoning status or any status that is above the Base Level zoning status.

Building Form (Required)

GOAL: New development should help create a varied skyline for commercial Back Bay, allow individual buildings to be visually distinct, while also creating a family of buildings around the new Hancock Tower, and create a clear animated pedestrian/public realm distinctly delineated from the tower.

GOAL: New development shall help create an attractive skyline visible from the Back Bay, South End, and Bay Village neighborhoods and other surrounding areas of Boston. This skyline should allow individual buildings to be visually distinct, while creating a family of buildings around the new Hancock Tower and the original Hancock Building. In addition, any project proposed under the Tower Zoning regulations shall make a strong contribution to the creation of a well used, attractive, comfortable, and animated pedestrian/public realm in the area surrounding the proposed project.

Given the importance of this building form requirement, the proponent must include a design of the proposed roof-top mechanicals and mechanicals-related building components at every stage of the Article 80 project review process.

Tower GSF

For portions of new development that extend above the base level street wall height, maximum residential floor plate is 12,000 GSF and maximum commercial floor plate is 30,000 GSF.

Tower Length

For portions of new development that extend above the base level street wall height, maximum length is 200 ft. For shallow lots (less than 120' deep) maximum façade length is 275'.

Tower Setback

For portions of new development that extend above the street wall height, massing must setback from the property line by at least 5-15 ft, with an average of 10 ft. The base should acknowledge adjoining cornice lines and context.

For portions of new development that extend above the street wall height, massing shall be setback from the street frontage component of the building by at least 20 ft, the project base shall clearly acknowledge and complement cornice lines and contexts established by adjoining buildings, and setbacks and other building characteristics must be such that negative street level wind conditions and restricted sky views are avoided.

Environment (Required)

GOAL: New development should minimize shadow impacts and mitigate against wind impacts, one of the most significant environmental concerns in the district. New development should also contribute to establishing the Stuart Street district as a model for multi-modal transit options.

GOAL: New Tower Zoning projects shall meet all standards applicable to Base Level zoning standards. In addition, these projects must minimize shadow impacts and successfully mitigate against all negative wind impacts. New Tower Zoning development projects shall also contribute to establishing the Stuart Street district as a model for multi-modal transit options.

Shadow Performance

~~Each proposed project shall be arranged and designed in a way to assure that it does not cast shadows for more than two hours from 8:00 a.m. through 2:30 p.m., on any day from March 21 through October 21, in a calendar year, on any portion of Copley Square Park (bounded by Boylston Street, Clarendon Street, St James Ave. and Dartmouth St, excluding land occupied by Trinity Church.)~~

The above paragraph is no longer needed.

Wind Performance

Wind studies will be conducted which demonstrate that there will be, on average, a net overall positive impact on existing conditions or conditions which would result from the construction of structures built to the base zoning limits.

All Tower Zoning projects must demonstrate that the planned increases in height and density will not result in any net increase in wind speeds and other detrimental wind conditions.

Transportation goals for Tower zoning

Note -- The following two comments apply to all of the transportation components of the proposed Tower Zoning requirements --

- 1. Prior to a formal study of the current traffic and parking conditions and a thorough analysis of the likely transportation impacts of currently built (but not fully occupied) projects; currently approved (but not built) projects; and projects that are currently being planned, it is impossible to establish the needed, transportation-related components of the proposed zoning for the area.*
 - 2. In addition, once the needed studies and analyses have been completed, the transportation requirements should be explicitly described in the in the zoning proposal*
-

Multi-modal Access (Required)

GOAL: The proponent, in consultation with BTM, is expected to determine the appropriate combination of achievement based upon the scope scale and impact of the development project. The final selection of items will be officially memorialized in the Transportation Access Plan Agreement (TAPA.) issued by BTM.

GOAL: During the Article 80 process, the appropriate levels and combination of required transportation goal achievement will be determined, in part based upon the scope scale and impact of the proposed development project.

Parking Ratio/ Shared Parking

Given low parking ratios that currently exist in the study area, anticipated parking needs for future development scenarios, access to alternative modes of transit, and existing garages in the corridor, BTM encourages the overall ratio for the study area to remain under 0.75 on average.

Project proponents will be required to demonstrate efforts to seek shared parking spaces to sustain the existing low parking ratio for the area.

Mobility Hubs

Project proponents are encouraged to locate in a publicly accessible area the following in close proximity:

- Bike Share stations to accommodate the City of Boston's Bike Share program.
 - Information panel locating transportation facilities in the vicinity such as MBTA stations and stops.
-

Bicycle Parking

Bicycle room or "cage" storage, parking and facilities (showers, changing rooms, and lockers) for building occupants and/or registered members of the public.

Note – Showers and changing facilities are to be available to bicycle riders without cost.

Transportation Demand Management

Provide a cash-out incentive for commuters or residents who do not commute by car or own a vehicle.

Provide real-time garage occupancy information that can be used on the City's upcoming mobility website, as well as viewed before entering the garage, to reduce cruising for parking spaces.

BTM will ask the proponent, if adding public parking spaces, to reduce short-term parking rates.

Subsidize transit passes such as one year pass per residential rental unit (for first year), 50% pass subsidy for employees, and free weekend pre-loaded T pass for hotel guests.

Provide an on-site shuttle service for employees and residents to further encourage alternative modes of transit.

Andrew Grace
Senior Planner/Urban Designer
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

February 1, 2010

Re: Stuart Street Study Area Zoning Recommendations

Dear Andrew:

The following recommendations are in response to the BRA's October 20, 2009 draft of Proposed Zoning Recommendations for the Stuart Street Study area. They are a culmination of several meetings between the Bay Village, Ellis and Back Bay neighborhood representatives who serve on the Stuart Street Planning Advisory Group (AG) as well as meetings within the neighborhood groups themselves. These recommendations should be considered interdependent, as each has been determined with the others in mind.

1. Divide the area into four zoning sub-districts*.

In the spirit of fostering a vibrant area that also respects the historic urban context and scale of the surrounding neighborhoods, the new zoning should avoid taking a "blanket" approach to the entire study area. In particular, the new zoning needs to provide a more appropriate architectural transition from adjacent low-rise historic neighborhoods to a maximum allowable height, as defined by the iconic old Hancock Tower. Therefore, the study area should continue to be divided into several zoning districts, each addressing its unique urban context.

- a. **South End Neighborhood District** (from Dartmouth St. and Columbus Ave; north along the centerline of Dartmouth St. to the southern border of Back Bay Station; east along the southern border of Back Bay Station to Clarendon St; south along the centerline of Clarendon St. to Columbus Ave; west along the centerline of Columbus Ave. to Dartmouth St).
 - Maintain the existing permanent zoning that is part of the South End Neighborhood Zoning District, i.e., exclude this area from new zoning.
- b. **"H" IPOD** (from Clarendon St. and Columbus Ave; east along the centerline of Columbus Ave. to Arlington St; west along the centerline of Stuart St. to Berkeley St.; south along the centerline of Berkeley St. to Stanhope St; southwest along the centerline of Stanhope St. to Clarendon St; south along the centerline of Clarendon St. to Columbus Ave.)
 - This area along Columbus Ave. should serve as a buffer to the abutting Bay Village and South End Neighborhoods. Zoning must be more in keeping with the current As-of-Right and Enhanced zoning, i.e., 80ft/6FAR and 100ft/7 FAR.
- c. **Bay Village District** (from Berkeley St. and Columbus Ave; east along the centerline of Columbus Ave. to Arlington St; south along the centerline of

Arlington St. to Cortes St; northwest along the centerline of Cortes St. to Berkeley St; north along the centerline of Berkeley St. to Columbus Ave.).

- This district could be modified from current zoning to allow an increased maximum height of 100 ft along Columbus Ave. (the height of the Castle Armory shed) and 65 ft along Arlington St. to step down to existing neighborhood context. The parcel, currently known as the Sawyer Parking lot, should fall within the zoned 65 ft height limit.

d. **K” IPOD** (bordering the South End Neighborhood District and “H” IPOD to the south; north along the centerline of Dartmouth St. from the southern border of Back Bay Station to St. James St; east along the centerline of St. James St. to Arlington St; south along the centerline of Arlington St. to Columbus Ave.)

- The height limit for any new development within the “K” IPOD area should reinforce and preserve the iconic skyline defined by the original Hancock building and should be no taller, including mechanicals, than the shoulder of original Hancock Building, or 356 feet. Rather than an arbitrary height of 400 feet currently proposed by the BRA, we hope that using the shoulder of the Hancock building will present an historic standard that will be used as a future rationale to discourage variances for additional height.
- As-of-Right: 150ft/ FAR10
Enhanced: 356 ft/FAR15

***(A map of the 4 sub-districts can be found at the end of this document)**

2. Allow no exemptions within the Stuart Street zoning district

No exemptions shall be allowed for Planned Development Areas (PDA), Institutional Master Plans (IMP), U-Districts, or other zoning exemptions.

3. Tiers proposed by the BRA should be changed to “As-of-Right” and “Enhanced”

The terms “Base Zoning” and “Tower Zoning” should be replaced with “As of Right” and “Enhanced” respectively to be consistent with the existing established zoning process.

- a. Changing “Base“ and “Tower” zoning to “As-of-Right” and “Enhanced” is intended to ensure that the existing process outlined in Article 27D for the IPOD Districts will continue to include approval by the Board of Appeal for projects requesting “Enhanced” building heights and FAR’s.
- b. Any new permanent zoning document should mirror such a process.

4. Ensure the preservation of historic buildings

All new development in the study area must preserve buildings that meet National Register criteria for individual listing at the time of the PNF filing under Article 80, (or buildings designated as Category I, II, or III by the Landmarks Commission).

- a. These buildings should be preserved and adaptively reused as significant contributors to the complex urban fabric that makes Boston a unique city, without fundamentally altering the inherent characteristics (e.g., scale, proportion and richness of detail) that have earned them this status, as stated in Article 27D,

Downtown Interim Planning Overlay District. These buildings cannot be demolished.

- b. Any proposed project involving such a building in the area should have no more than a 2 story addition added to the top, located and detailed so that it is appropriate to the scale and detailing of the existing structure. (A precedent for controlling rooftop additions currently exists for 'H' IPOD Enhanced zoning)
- c. The decision that a particular proposal meets this required level of "respect" must be ratified by both the Boston Landmarks Commission, in a public meeting, and the Boston Civic Design Commission, in a public meeting, prior to approval.
- d. This requirement would be applicable to all new development for both As-of-Right and Enhanced zoning.

5. Minimize impacts of new development on traffic and parking

Encourage use of public transportation and other alternative methods, develop a live/work area with an enhanced pedestrian environment, and discourage new vehicular traffic both within the area and in the adjacent neighborhoods.

- a. **Traffic studies.** Any new development must include a baseline traffic study to accurately assess current conditions and predict future conditions given the proposed commercial and residential scenarios within the study area. This study shall be conducted by a source independent of the developer and shall also include other approved projects not yet built within the study area or in adjacent areas. Any traffic study must include the surrounding area bordered by Storrow Drive to the north, Harrison Ave to the south, Massachusetts Ave to the west and Albany Street to the east. Should the study demonstrate that the proposed development would contribute to increased traffic such that existing intersections will score below their existing rating, a list of mitigating options must be identified with the BTM, and efforts should be taken to implement those found to be the best mitigating options. In no instance shall the existing intersections score below a "D" rating [as described in the Transportation Research Board's (TRB) National Highway Research Program (NCHRP) Report 616: Multimodal Level of Service (MLOS) Analysis for Urban Streets]
- b. **Parking ratios.** Parking ratios should be lower for commercial development and hotels. Maximum ratios more compatible with this goal are:
0.75 per dwelling unit (as currently recommended by the BRA)
0.25 per 1,000 sq ft of commercial development
0.25 per hotel key
Consistent with the Parking ban currently in place, no commercial parking shall be allowed within parking structures or on open lots.
- c. The BRA recommendations are not based on an assessment of the impacts of the proposed density and height scenarios on the traffic in the surrounding neighborhoods (as originally stated as one of the purposes of the study). Heights, densities and parking ratios will have to be adjusted according once these studies are done and they show a negative impact.
- d. The above parking and traffic requirements shall be enforced for both As- of-Right and Enhanced zoning.

6. Ensure no negative environmental impacts

- a. **Shadow.** Shadow impact criteria for Copley Square and the Commonwealth Avenue Mall shall comply with the current regulations as set forth in “An Act Protecting the Boston Public Garden.” 1992.
- b. **Wind.** Existing base wind conditions documented at pedestrian levels throughout the study area need to be determined. New development must demonstrate no negative impact on existing conditions at any location or time of day. The studies shall include a radius of 2,000 feet around the project (similar to what was required for the Clarendon Project) and any public plazas in the vicinity. They should be conducted by a source independent of the developer. Should wind conditions worsen at any pedestrian level location after development is completed, the developer shall implement measures to mitigate the negative effect(s).
- c. **Groundwater.** Groundwater conservation must be included in new zoning regulations as stated in the proposal
- d. Shadow, wind and groundwater requirements shall be enforced for both As-of-Right and Enhanced zoning.

7. Encourage a mixed use live/work area by encouraging residential uses

- a. New zoning should encourage a mixed use of retail, service, office and residential to achieve the goal of establishing a vibrant area both day and night. This should be the primary goal of rezoning this area
- b. In order to ensure new retail development in the study area, the BRA’s October 2009 Draft of Proposed Zoning recommends 70% ground floor retail use, however, there is no requirement for a residential percentage. To ensure there will be a balance of uses in the area that includes new residential development, the BRA shall require a minimum percentage of residential gross square feet throughout the study area. This is particularly important given the number of parcels identified as development sites by the BRA, which are owned by commercial entities whose priorities may be to build only office space.

8. Require affordable housing to be located on site and require an increase in affordable housing for Enhanced zoning.

- a. Any affordable housing units resulting from new development in the Study area must be located on the project site they are associated with.
- b. Enhanced zoning residential projects or mixed use projects with a residential component, located within the “K” sub district, must be required (not a choice from a list of three public benefits as proposed in the October BRA draft) to increase affordable housing by 2.5% over existing requirements.

9. Enhance the public realm/pedestrian experience and compliment existing urban form

- a. Requirements should be consistent with the July 1, 2009 version of the BRA's DRAFT Zoning Recommendations
 - i. **Street Wall Requirement.** Any new development shall infill at least 85% of the street frontage. (The October Draft Recommendations decreased the infill to 65-85%, which is not adequate to create a viable street wall)
 - ii. **Transparency.** Maintain 65% transparency of ground floor street walls (The October Draft Recommendations reduced transparency to 50% - 65%)
 - iii. **Publicly Accessible Space.** New development with a street frontage that is 200 feet or longer must contain a publicly accessible through-block connection. (This should be required, with no "Alternative Options Allowed")
- b. Additional requirements that will enhance the public realm/pedestrian experience:
 - i. **Curb Cuts.** Curb cuts shall be limited to one per city block to enhance the pedestrian experience.
 - ii. **Set backs along Dartmouth Street Corridor.** In order to respect the existing visual corridor along Dartmouth Street, any project surface above the As-of-Right height must include a set back of at least 40 ft.
 - iii. **Spacing between buildings.** In order to assure that new development in what is now the "K" IPOD zone does not create a wall of buildings, no surface above the As-of-Right height should be closer than 80 feet to any exterior surface of any other building.

10. Regulations and associated language need to be clearly stated

Many components of the October BRA Draft proposed zoning are 'recommendations' rather than 'requirements'. This is a result of the use of the words "should" rather than the words "shall" or "must," or "Alternative Options Allowed" instead of "Required." For example, in the Wind section the text reads "Buildings **should** be designed to avoid excessive and uncomfortable down drafts on pedestrians." rather than "shall." Clarifying the language will make the requirements clear to an applicant as well as provide certainty that the overall goals, are achieved.

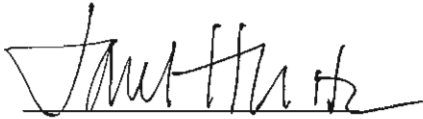
11. Public review process

All projects shall be required to go through the entire Article 80 review process, including a Draft and Final Environmental Impact Report. Any public review body set up as part of the process should be included in the review of the project for all aspects of the schematic development, environmental studies and final design.

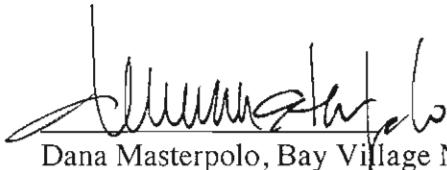
Respectfully submitted,



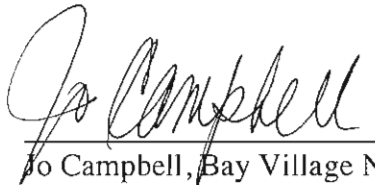
Sandra Silver, Ellis South End Neighborhood Association, Stuart Street Planning AG Member



Janet Hurwitz, Neighborhood Association of Back Bay, Stuart Street Planning AG Member



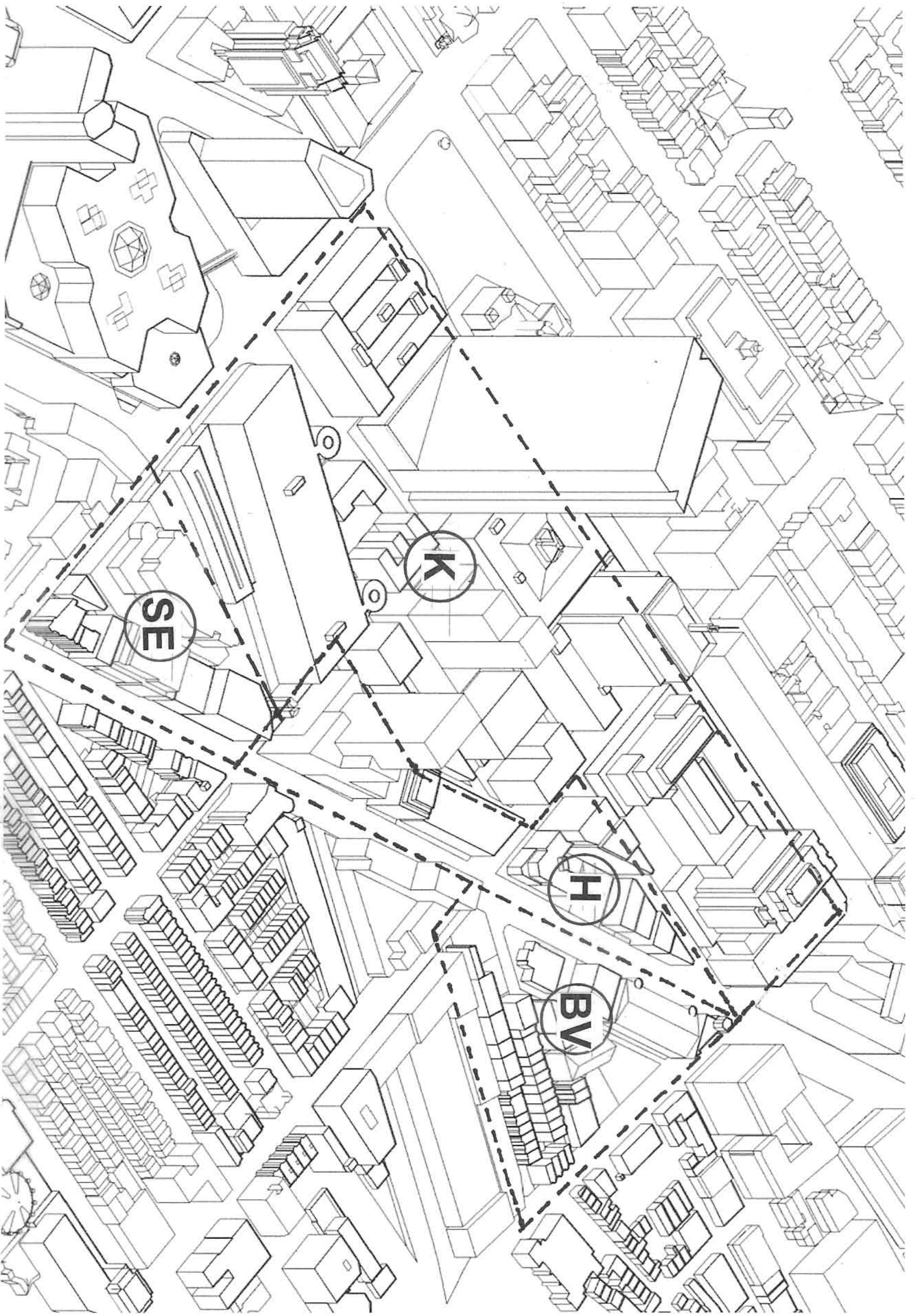
Dana Masterpolo, Bay Village Neighborhood Association, Stuart Street Planning AG Member



Jo Campbell, Bay Village Neighborhood Association, Stuart Street Planning AG Member

cc: Thomas M. Menino, Mayor of Boston
Michael P. Ross, Boston City Councilor
Bill Linehan, Boston City Councilor
Felix Arroyo, Boston City Councilor
John R. Connolly, Boston City Councilor
Stephen J. Murphy, Boston City Councilor
Ayanna Pressley, Boston City Councilor
Sonia Chang-Diaz, State Senator
Aaron Michlewitz, State Representative
Byron Rushing, State Representative
Martha M. Walz, State Representative

Stuart Street Planning Advisory Group Members:
Meg Mainzer-Cohen, Back Bay Association
Joanne Bragg, Liberty Mutual Group
Nathaniel Margolis, John Hancock
Ted Pietras, South End Business Alliance



STUART STREET PLANNING AREA - EXISTING CONDITIONS WITH EXISTING ZONING

- | | | |
|-------------------------------|---------------|---------------|
| | As of Right | Enhanced |
| K sub district in IPOD | 125ft / 8 FAR | 155ft / 10FAR |
| H sub district in IPOD | 80ft / 6 FAR | 100ft / 7FAR |
-
- | | |
|-----------|---|
| BV | Bay Village Neighborhood District, permanent zoning |
| SE | South End Neighborhood District, permanent zoning |

**Neighborhood Association of Back Bay
2-22-2010**

Neighborhood
Association of the
Back Bay



Officers:

Ann Gleason
Chair
Linda Zukowski
President
Kelli O'Brien
Vice Chair
Steve Wintermeier
Vice President
Steven Sayers
Treasurer
Susan Baker
Secretary

Directors:

Nancy Amer
Caryn Appelbaum
Susan Ashbrook
Gene Bauer
Melissa Bevelacqua
Catherine Bordon
John Boreske
Maura Burke
Don Carlson
Marianne Castellani
Roseann Colot
Sybil CooperKing
Fran Duffly
Daniel Fickes
Peter Flynn
Mike Foley
Sandi Gaskin
Jack Gregg
Ken Hamberg
Thomas High
James Hill
Janet Hurwitz
Warren Johnson
Kathleen Kolar
Shirley Kressel
Rosanne Kumins
Stephen Kunian
Elliott Laffer
Jo-Ann Leinwand
Michael McCord
Myron Miller
Tim Ian Mitchell
Molly Mosier
Carl Nielsen
Jeryl Oristaglio
Roberta Oriandino
Faith Perkins
Margaret Pokorny
Susan Prindle
Patricia Quinn
Gordon Richardson
Ellen Rooney
Peter Sherin
Barry Solar
Diane Stiles
Anne Swanson
Jolinda Taylor
Sam Wallace
Marvin Wool
Jackie Yessian

Lois Harvey
Office Administrator

Andrew Grace
Senior Planner/Urban Designer
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

February 22, 2010

Re: NABB Comments on the Stuart Street Planning Study Proposed Zoning Recommendations

Dear Mr. Grace:

The Neighborhood Association of the Back Bay has been monitoring the progress of the Stuart Street Planning Study for the past two years. The Association has a strong stewardship interest in this area, which, according to its Articles of Organization, falls within the Association's boundaries:

...the Back Bay shall encompass the following area in the City of Boston, Massachusetts: Arlington Street to Park Plaza, Park Plaza to Columbus Avenue, Columbus Avenue to the former New York New Haven and Hartford Railroad right of way, Harcourt Street to Huntington Avenue, Huntington Avenue to West Newton Street, West Newton Street to Dalton Street, Dalton Street to the Massachusetts Turnpike, the Turnpike to Charlesgate East, Charlesgate East to the Charles River, and the Charles River to Arlington Street.

--NABB Articles of Organization, December 6, 1982.

Pursuant to the goals for which our Association was founded, on August 26, 2009, the NABB Board voted to adopt several basic principals for the development of the Stuart Street Corridor:

- 1) Allow for appropriate urban growth, both residential and commercial.
- 2) Protect and enhance the abutting neighborhoods.
- 3) Create a vibrant day/night urban life that connects the adjoining neighborhoods.
- 4) Enhance residential life.
- 5) Encourage a balance of residential, office, retail, restaurant, recreational and other uses.
- 6) Protect and improve environmental quality, in the area and in surrounding neighborhoods.
- 7) Protect historic structures.
- 8) Enhance the public realm.
- 9) Build on Boston's strengths as a walk-to-work city and a walkable city.

The BRA's October 20, 2009 Draft Proposed Zoning Recommendations are not consistent with these goals. Therefore, NABB does not sanction these Draft Recommendations.

Rather, NABB strongly endorses the alternative vision outlined by the Bay Village, Ellis and Back Bay neighborhood representatives to the Stuart Street Planning Advisory Group (the AG) in their letter of February 1st, understanding that the provisions included in this document are not separable. That letter was endorsed by our Board of Directors on January 20, 2010.

Despite recent press coverage to the contrary, the recommendations proposed by the BRA have **not** been endorsed by the Advisory Group that was convened by the Mayor to provide input to the rezoning process. The BRA's attempt to short circuit the study process is not a valid basis for rezoning the area. We are also dismayed to see the announcement of a project proposal – by a developer who is, inappropriately, a member of the Advisory Group – that is already endorsed by the BRA and the Mayor, despite its obvious inconsistency with the recommendations submitted in good faith by the neighborhood representatives on the AG.

In 2005, when the Neighborhood Association of the Back Bay's representative to the Clarendon IAG signed an agreement letter concerning the proposed Stuart Street Study, there was a general consensus that new growth, if properly planned, could be appropriate in the study area. However, there was also an understanding that such growth should not come at the expense of the surrounding neighborhoods. For this reason, numerous environmental and design studies were mandated. The authorizing vote of the BRA Board of October 20, 2005, reads in part:

The study will examine potential development opportunities and identify and define height, density, use, and setbacks of future development in the area. The study will include an assessment of the impacts of density and height on the surrounding neighborhoods, including the impacts on the transportation infrastructure, transit system, parking supply, wind, shadow, ground water, and the existing utility infrastructure (electrical, water, and sewer). Provisions for and protection of open space, pedestrian access, historically significant buildings, and view corridors will also be included in the study.

While lip service has been paid to this stipulation, the bulk of the studies have been done in the Stuart Street area, rather than in the abutting neighborhoods. The recommendations do not embrace the promised assessment of the impacts of increased density and height on the surrounding neighborhoods as they relate to traffic or utility infrastructure. Shadow impacts are still being studied. There are no provisions for and protection of open space. We do not believe that historically significant buildings are adequately protected. These studies must be completed before the impacts of any proposed zoning changes can be evaluated.

For this reason, we choose not to comment on the proposal put forth by the BRA in October, but rather to provide some additional comments on items that are of particular concern to NABB, based on the recommendations elucidated by the Bay Village, Ellis and Back Bay neighborhood AG members' position stated in a joint letter to you on February 1, 2010.

Development

The comments submitted by the neighborhood representatives endorse that which we believe to be appropriate development within this area. However, increased gross square footage is not in itself a neighborhood goal.

To clarify our position on where new development can appropriately occur, NABB recommends that the K district be further subdivided to separate the three proposed development sites from the balance of the district. We concur

with the BRA that the area bounded by St. James Avenue and Berkeley, Stuart and Dartmouth Streets is not a NABB potential new development site, and would like to ensure this by maintaining the current zoning height and FAR.

Environment

Sunlight: NABB believes that it is important to a quality of life to preserve sunlight on significant open spaces, notably Copley Square and the Commonwealth Avenue Mall. Sunlight is important during growing season, but it is even more important during the winter months to have areas that provide sun and warmth. We endorse the legislation proposed by Rep. Walz, which prohibits the casting of new shadows on either park between the first hour after sunrise and the last hour before sunset, and urge the BRA to adopt that criterion.

Wind: For many years our membership has been concerned about the increasing wind, particularly in the vicinity of Copley Square and on Dartmouth and Clarendon Streets, which reaches dangerous levels, particularly in winter. The BRA should stipulate that developers monitor for worst-case actual conditions for a year before building, rather than rely on previous studies and similarly monitor for a year post-construction. These studies should be done by a firm that has previously conducted studies, the accuracy of which has been demonstrated by post-build measurements for at least one year. The BRA should also re-evaluate its standards for this area with the objective of mitigating this increasing problem.

Sustainability: Proposed development in the area should readily be able to attain LEED Silver, in part due to its proximity to public transportation. It also should also respect the right to solar access of properties within the impact area. The precepts in the LEED certification program run tandem with the objectives of the Mayor's Climate Action Plan. Consistent with the City's Climate Action objectives and its leadership as one of thirteen inaugural Solar America Cities under the Solar America Initiative of the U.S. Department of Energy, "As-of-Right" development should be required to achieve LEED Gold and "Enhanced" development should achieve LEED Platinum.

Use

NABB strongly endorses the AG's position that "new zoning should encourage a mixed use of retail, service, office and residential to achieve the goal of establishing a vibrant area both day and night." We believe that the neighborhoods and the city will be best served by connecting the three downtown neighborhoods and revitalizing what is a retail and residential "dead zone." We urge the BRA to require a residential component in any proposal requesting enhanced zoning.

Streetscape and Building Form

Streetscape: In addition to those items already outlined in the February 1st letter, we consider it important that new streetscape improvements be consistent with a set of area wide design guidelines and that these should be implemented throughout the area, rather than piecemeal site by site, a system which has proven problematic on Boylston Street.

Building Form: There are predominant architectural characteristics in the study area, including the consistent building alignment with the street which creates a "street wall."

It is important that any proposed development project acknowledge and respect this prevalent feature and not project any building volume beyond that plane and over the public way. Coincident with that consideration are other important massing and scaling features in the project context, such as the horizontal datums of the piano nobile and cornice, and vertical rhythm of entry. Setback requirements should be based on overall building design, wind and shadow impacts, and existing context.

Historic Preservation

The BRA vote authorizing the study included provisions for protecting buildings worthy of preservation. While we support the effort to protect those buildings considered "eligible" or rated I-III, in a manner outlined in the February 1st Joint Neighborhood Recommendations, we also recommend that the John Hancock Clarendon Building, the Carriage Houses on Stanhope Street, the Publishers Building, the Salvation Army Building and the New England Power Building be protected in the same way.

We anticipate that at future meetings the BRA and the Advisory Group will plan how to use the recommendations in the AG letter and individual neighborhood letters as a basis for any regulatory changes in the study area. We also anticipate continuing the public process with transparency and accountability to our representatives, our organizations, and our neighbors.

Sincerely yours,



Ann Gleason
Chair, Neighborhood Association of the Back Bay

cc: Mayor Thomas M. Menino
Councilor Michael Ross
Councilor William Linehan
Councilor Felix Arroyo
Councilor John R. Connolly
Councilor Stephen J. Murphy
Councilor Ayanna Pressley
Senator Sonia Chang-Diaz
Rep. Aaron Michlewitz
Rep. Byron Rushing
Rep. Martha M. Walz
Stuart Street Planning Advisory Group
Meg Mainzer-Cohen, Back Bay Association
Joanne Bragg, Liberty Mutual Group
Nathaniel Margolis, John Hancock
Ted Pietras, South End Business Alliance
Sandra Silver, Ellis South End Neighborhood Association
Dana Mastropolo, Bay Village Neighborhood Association
Jo Campbell, Bay Village Neighborhood Association
Janet Hurwitz, Neighborhood Association of the Back Bay

Back Bay Association
2-25-2010



February 25, 2010

Andrew Grace
Senior Planner/Urban Designer
Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

Dear Andrew:

As we present comments to the Boston Redevelopment Authority, responding to the draft of proposed zoning recommendations for the Stuart Street area, we turn first to the letter May 25, 2005 written to the BRA regarding the study (enclosed).

Stuart Street Planning Overview

After much discussion, the Back Bay Association agreed to join the request for a study of the Stuart Street corridor in a letter to the Boston Redevelopment Authority dated May 25, 2005. Since the area being studied was predominantly commercial and was surrounded by neighborhoods that were historically protected, it was critically important to the long-term growth of City of Boston and vibrancy of the Back Bay in particular to have an area designated for potential further, yet sensible, growth. Although the study area itself is primarily commercial, we advocated for a study group with members composed equally of business or commercial owners and residential owners so that no one agenda dominated and all voices were heard. Lastly, the letter states that planning consultants hired to conduct the study should meet with and listen to the advisory group, but in the end, their recommendations should be in the best interest of the City. The City retained the planning and architectural firm Utile to serve as the planning consultant.

The work of the advisory group commenced in January, 2008. The Advisory Group met monthly, and began with an historic perspective of the area and its zoning, a review of historic properties, and an itemization of open space, transportation and parking, infrastructure, and environmental conditions, including groundwater resources, shadow and wind patterns. We examined the current condition in terms of urban design, focusing on ground level uses, pedestrian connectivity, view corridors, the skyline, as well as the high spine concept proposed in the 1960's. The process of reviewing this information in a proactive manner (not responding to a specific development project) was refreshing.

The professional consultants proposed a step-by-step approach that incorporated:

1. Analysis, mapping and modeling
2. Creation of development scenarios
3. The evaluation of development scenarios
4. The creation of form-based zoning recommendations

The consultants presented examples of form-based zoning that had two levels: a base level (called a plinth) and a tower. The plinth level would connect with adjacent architecture and enhance the street-level experience. A mid-rise or high-rise tower level would provide potential additional floor area but would be set back and incorporate design elements to achieve desirable outcomes for the surrounding area.

Turning to the study area, the consultants identified 10 possible development opportunity sites. These sites illustrated the potential and challenges of development in the study area. They were not the exclusive areas for development, nor were they identified as likely locations for development either. Utile used them to demonstrate numerous massing models, all featuring a plinth base and towers with different configurations depending upon their use for residential or commercial. Taking into consideration adjacent neighborhoods, lower heights were considered for the parcels on the south side of Columbus Avenue. Each of the 10 opportunity sites were further reviewed in subsequent meetings, as were the current buildings. The consultant from Utile presented development opportunities and scenarios that incorporated the fundamentals of real estate investment, in addition to environmental impacts, transportation, and urban design. It was helpful to examine the economic realities of real estate development in an anticipatory and educational manner.

Without reacting to any specific plan, Utile educated us about supportable land costs and the need to have a sufficient return to attract equity and debt financing to make a project viable. Each of the opportunity sites was reviewed through the lens of the low end of financial viability and the high end of financial viability, for commercial or residential uses.

Utile presented the current mix of uses in the area without including the Clarendon and Columbus Center. Incorporating total gross square footage of 8,456,673, the current mix is as follows:

- 69% commercial/office
- 15% parking
- 2% institutional
- 4% hotel
- 3% retail
- 7% residential

There was a thorough examination of public transit, automobile traffic, and loading; followed by a full vetting of environmental impacts.

After the extended process described above, Utile recommended the following:

Encourage growth in the study area in order to:

1. Create a new mixed-use district that connects and protects established existing neighborhoods and districts
2. Reinforce the imageability of Boston's urban form at the city scale
3. Leverage existing transportation urban infrastructure to reduce energy consumption and improve air quality
4. Enhance the district's urban realm and pedestrian experience by building on the publicly accessible human-scaled pedestrian environments adjacent to the study area

Based on these criteria, Utile proposed that the area could support an additional 3,000,000 – 3,850,000 gross square feet (depending on use) and recommended that the zoning include:

1. Rigid form-based code principles to ensure high-quality public realm
2. Use flexible code strategies to enable economic viability and architectural creativity
3. Encourage additional height and density in exchange for public benefits

In June 2009, Utile presented a “Stuart Street Planning Study” that included massing studies for the 10 development opportunities and specific recommendations regarding public benefits, based on a tiered approach, with greater height permitted for greater public benefit.

Since June 2009, a variety of draft documents have been circulated, reviewed by constituent groups, advisory group members, and elected officials.

The goals of the proposed zoning recommendations are on target for an area that is 93% commercial and institutional. We think the focus of increased development and the addition of square footage should be focused on the north side of Columbus Avenue, in the commercial part of the neighborhood. One of the key reasons that the Back Bay Association agreed to support a planning study was to create more certainty and transparency in the development process. This allows the City to define better the form, features and benefits it will require in developments of different sizes, while giving landowners an understanding in advance what is expected of them. This will also better quantify the value of all property in the area. We also strongly support the other goals, namely;

- Provide an area for urban growth and economic vitality
- Improve the district’s urban design, public realm and environmental sustainability
- Preserve and protect both immediate and adjacent neighborhoods
- Exhibit design achievement that demonstrates exemplary skill and creativity in the resolution and integration of formal, functional, and technical requirements

We support the two tiered approach outlined in the proposed zoning, with an understanding that the changes contain:

- Form-based code strategies that will ensure high-quality sustainable architecture;
- Performance standards to mitigate environmental impacts and
- Flexible strategies that enable economic viability and architectural creativity.

As we review the specific criteria for base zoning and tower zoning, the Back Bay Association suggests changes in the following areas.

1. Height Limit: We support the height limit for base zoning, but do not think there should be an overall height limit under the tower zoning. Since the shadow legislation for the Boston Common and Public Garden limit height already, we believe zoning should allow for height and density in this area of the City. The City of Boston will need to grow in the future and maximize its use of public transportation, which is abundant in this area. There is room in the Back Bay for a new signature building or buildings to enhance the skyline.

2. We agree that there should be a step down in development heights between the Back Bay and the South End and Bay Village neighborhoods. Therefore, we support limited heights on the 4 opportunity sites located on the south side of Columbus Avenue, adjacent to Bay Village.
3. Tower Setback: Since the streetscape and parcel configuration is so varied in the study area, we believe the average set back should be 10 feet.
4. Wind performance: We believe that any project should demonstrate that they do not create problematic wind conditions as outlined in the Article 80 process.
5. Parking: There is such a low ratio of existing parking ratios in the study area; .37 spaces per 1,000 gsf of commercial space and .28 per residential unit. Utile suggested that 1 space per residential unit is the market expectation for residential units, and .4 - .5 is the market expectation for commercial uses. There also exists a shortage of on street parking spaces; there are 900 on-street parking spaces for 1,850 residential permits. Therefore, we suggest that the parking ratio remain at .75 per 1,000 gsf of commercial space, but be increased to 1 per unit for residential development.
6. Boston has many historic buildings that should be preserved, but we need to evolve and continue to develop into the future. We support the recommendation that decisions about a building's preservation status should be done in consultation with the Boston Landmarks Commission.
7. Traffic Management: There should be a clear expectation of appropriate signal improvements and traffic camera installation required of the proponent. Traffic Improvements/camera installations must be within 30 feet of the development site.
8. We support the encouragement of public transportation, but more flexibility must be added to the sentence "provide pre-payroll deduction and distribution for T passes." Large employers or international companies may not have the ability to add local payroll options.
9. While we support the menu of public benefits, we believe there should be an appropriate cap.

Conclusion

One of the promises of this zoning study was greater clarity and predictability in the development process in the study area. The Back Bay Association whole-heartedly endorses this concept. We support the work that demonstrated that the area can support the addition of about 3,000,000 square feet of development, especially since we studied the impacts and mitigations that have been incorporated into the zoning recommendations we are commenting on today.

However, especially as we reach conclusion of the planning process, we are extremely concerned that the zoning recommendations we do support will serve as a starting point in the public process. We are concerned that the current community process, which can be long, arduous, expensive and unpredictable, will continue. We are concerned that the new process for development will incorporate all of the recommendations in the zoning tiers, and then whatever the IAG or CAC requests in addition. We are concerned that the height recommendations will also be used as a starting point, and the community process will demand that the developer reduce the height of proposed buildings, as happens so often today.

We began the planning process hopeful that, if we all understood the costs, impacts, and demands of development, we could better plan for the future of the area. Since the Back Bay and the South End are historically protected (therefore, limiting development growth), we continue to believe that development along the high spine will allow Boston to grow and expand for future generations to

live and work. We studied the information provided by consultants, which factored in the financial realities of developing in the Back Bay. We very much appreciated working with Utile staff members and commend the Boston Redevelopment Authority for conducting such a thorough, well managed process. We particularly enjoyed working with Advisory Group delegates from the Ellis Neighborhood Association, the Neighborhood Association of Back Bay and Bay Village Neighborhood Association, not to mention the business stakeholders in the area. A lot of great appreciation for the City of Boston was expressed by all during these meetings. Thank you for the opportunity to participate and provide these comments.

I look forward to future discussions and work on this plan.

Thank you.



Meg Mainzer-Cohen
President
Back Bay Association

John Hancock
3-1-2010

Stuart Street Planning Study
Proposed Zoning Recommendations dated October 20, 2009
Response of John Hancock Financial Services
March 1, 2010

Advisory Group. Over two years ago the Boston Redevelopment Authority (“BRA”) asked John Hancock Financial Services (“John Hancock”) to participate as a member of the Advisory Group being assembled for the Stuart Street Planning Study. The BRA articulated that its purpose for convening the Advisory Group was to develop a recommendation for rezoning a portion of the Back Bay Downtown Interim Planning Overlay District (the “Study Area”) and to create more certainty and transparency in the development, permitting and approval process for projects proposed within the Study Area. John Hancock is pleased to have participated in the Advisory Group and after having reviewed the latest proposed zoning recommendations dated October 20, 2009 circulated by the BRA (the “Proposal”), we offer our qualified support for it. We honor the thought and effort behind the Proposal and find much to like in it; we have attached our comments to the Proposal and have noted some of our material reservations and concerns below.

John Hancock’s Unique Perspective. As a significant landowner and employer within the study area—John Hancock owns approximately 1.4 million square feet of space in the Study Area and employs approximately 2,800 people in the Back Bay and a total of approximately 4,000 people in the City of Boston—we offer an important perspective to the Advisory Group. John Hancock has been a business resident and significant taxpayer of this area of the Back Bay for many years. We have participated in the growth of the Study Area into a vibrant and robust corridor of commercial uses. Our buildings alone house several key business units of John Hancock and its subsidiaries as well as more than fourteen other small and large businesses. On any given day, more than 6,000 people pass through the doors of our buildings to work and meet. We are pleased and proud to be a corporate presence in the Back Bay and in other areas of Boston with partnerships and sponsorships throughout the City, including the Boston Marathon sponsorship which is celebrating its 25th year with the running of this year’s race in April 2010.

Proposed Zoning Recommendations. After more than eighteen months of work and regular meetings of representatives of the BRA, a consulting firm retained to aid with the effort and members of the Advisory Group, the BRA produced Proposed Zoning Recommendations for the Study Area, which went through several iterations after comments and consideration and resulted in the Proposal. The Proposal organizes zoning for the Study Area into two categories: (1) a Base zoning applicable to the Study Area permitting a maximum height of 150 feet and a maximum floor area ratio of 10 and (2) a Tower zoning contemplating a height of up to 400 feet and a maximum floor area ratio of 17.5 that would be permitted if certain public benefit, environmental and infrastructure requirements are met.

We endorse the Proposal’s acknowledgement that the Study Area can support greater density and height throughout its expanse. The existing scale of the buildings in the Study Area and its many mixed uses justify the development of larger scale projects. The Study Area is marked by significant buildings, including the John Hancock Tower, the tallest in Boston, John Hancock’s buildings and Liberty Mutual’s corporate headquarters. While the area has many venerable, longstanding buildings, it is also the home of a changing landscape, with newer projects such as the 10 St. James office building and The Clarendon, a residential development completed just months ago. The Study Area is and remains a vital and dynamic corridor with mixed commercial and residential uses of significant scale. What better place to implement an approach to zoning which acknowledges this character and permits it to flourish.

As for a concern that permitting greater density will spur unbridled growth, the BRA and its consultant presented evidence suggesting that the shape and composition of the lots in the Study Area and the myriad requirements imposed by the proposed zoning changes, the BRA’s development

process and other statutory and regulatory regimes, constrain the actual density that can be built in the Study Area.

Concerns and Reservations. The two tiered zoning approach has merit and reflects important thinking and efforts to combine form and performance based zoning principles that the BRA and its consultant introduced and explained to the Advisory Group. But it only works and is worth pursuing if it is coupled with a certain and consistent development process that uses the zoning requirements as the basis for evaluating and approving a project, rather than as a launching point from which additional changes and concessions are exacted.

Consistent with existing regulations, the BRA will administer any new zoning requirements through its established Article 80 Development Review process. In a rich and diverse city such as Boston, a careful planning process, one that integrates various stakeholders, is understandable. Impact Advisory Groups and Citizen Advisory Committees—groups of neighbors and other stakeholders contemplated by Article 80--have an important role to play as part of the planning process. Their concerns and ideas add context and perspective to any proposal for development. The approval process should consider and integrate relevant concerns of these stakeholders, but at the same time, should not relinquish the planning or design process to them.

The success of the innovative and creative two tiered approach to zoning in the Study Area is contingent upon the BRA's commitment to embrace its planning and design function and to control the approval process and not cede it to any stakeholder, whether owner, abutter or other party. We all must be committed to change the way that zoning projects are considered and approved in the Study Area. The discussion for approval of a project should revolve around, and be framed within, the zoning requirements and the environmental and infrastructure requirements and public benefits articulated in the Proposal. In this way, property owners in the Study Area who propose development or re-development projects can achieve greater certainty and will then more willingly satisfy the articulated requirements and provide the requisite public benefits. If these requirements and mandated public benefits are just a baseline, landowners in the Study Area are penalized when they develop or redevelop a property by having to provide significant public benefits and then facing a process that has reverted to situational zoning, where predictability disappears and many aspects of a proposed project are open to negotiation.

JH Comments
(Additions)
3-1-2010

Stuart Street Planning Study Advisory Group
Proposed Zoning Recommendations to replace
 Back Bay Downtown IPOD (1987)

DRAFT OCT 20, 2009

Preface

Background

The Stuart Street Planning Study area, bound by St. James Avenue to the north, Dartmouth Street to the west, Columbus Avenue/ Cortes Streets to the south, and Arlington Street to the east, represents a 12+ block area totalling more than forty acres. A number of significant Boston landmarks define the area: the 790 foot Hancock Building, the Old Hancock Building, Copley Square, and Trinity Church. The area is also identified by the diagonal intersection of Columbus Avenue and sits adjacent to the historic neighborhoods of Bay Village and South End. Recent additions to the area include the 10 Saint James and 131 Dartmouth Street office buildings. Recently approved development projects include Columbus Center Turnpike Air Rights (Parcels 16-20), covering four blocks of the city; The Bryant on Columbus, a fifty unit residential project with parking (recently completed), and the 350-unit The Clarendon development project, at the intersection of Stuart and Clarendon Streets (under construction).

Purpose

The consultants and Advisory group have spent the past 18 months examining potential development opportunities, identifying and defining height, density, and use guidelines, and developing scenarios for future development in the area. These recommendations include an assessment of the impacts of density and height on the surrounding neighborhoods, including the impacts on the transportation infrastructure, transit system, parking supply, and utility infrastructure (electrical, water, and sewer), and the environmental impacts such as wind, shadow, and ground water. Provisions for and protection of open space, pedestrian access, historically significant buildings, and view corridors have also been included in the recommendations.

Goals

The recommendations have gone through a series of iterations over the past 4 months. During this time, the concepts/ideas have been refined, and are now organized into two categories (base and tower) with subcategories that have been informed by qualitative statements.

The underlying goals of the study and resultant zoning recommendations are to:

- Create more certainty and transparency in the development, permitting and approval process;
- Preserve and protect both immediate and adjacent neighborhoods;
- Provide an area for urban growth and economic vitality;
- Improve the district's urban design, public realm and environmental sustainability.
- Exhibit design achievement that demonstrates exemplary skill and creativity in the resolution and integration of formal, functional, and technical requirements.

Approach

This zoning has been designed for flexibility in approach but predictability in impacts. This back and forth between flexibility and predictability is a constant theme in the history of zoning and is particularly relevant to mature, nearly built-out area with a strong existing context like the Stuart Street Study area.

The revised approach describes criteria for responsible development while allowing for the marketplace and the community to engage in structured conversations about individual development expectations. It is a

hybrid of performance and form-based zoning mechanisms, taking the best attributes from each method, while striking a balance between flexibility and prescribed outcomes.

This proposed zoning aims to foster collaborative citizen involvement, minimize conflict and maximize cooperation. The strength of this approach is that certain objectives, deemed to benefit the community, are strongly encouraged by economic incentives and disincentives built into the system rather than by rigid codes, which typically restrict innovative solutions and creativity in the urban setting. Finally, this zoning has the potential to streamline the development application and approval process for everyone involved.

Proposed Zoning

The proposed zoning recommendations have been organized into two categories: **Base** and **Tower**. The Base category is defined by the original underlying zoning, the adjacent building context (cornices, historic fabric, etc.) as well as establishing an appropriate plinth for the upper portion of the building to sit upon. The Tower category of zoning is largely defined by setbacks to the building form in response to environmental concerns (shadow and wind), and a height limit of 400 ft, out of deference to existing historic buildings in the adjacent area, in particular, the old Hancock Building.

Overall, the proposed zoning regulations provide:

- Form-based code strategies that will ensure high-quality sustainable architecture;
- Performance standards to mitigate environmental impacts;
- Flexible strategies that enable economic viability and architectural creativity;

Base Zoning: 10 FAR/ 150 ft height limit

The recommended base zoning for the Stuart Street Planning Study Area (with the exception of those parcels contained within the Bay Village Zoning District) is a height limit of 150 ft, a maximum of 10 Floor Area Ratio (FAR), and proposals must adhere to the following conditions:

Review process

Through the adoption of new zoning, projects will be able to benefit from a clearer review process and therefore become eligible for enhanced Article 80 review process, resulting in a streamlined review schedule.

Article 80B

All projects over 50,000 gross square feet (GSF) are subject to the provisions of Article 80B Large Project Review of the Boston Zoning Code.

Public Realm/ Pedestrian Experience (Applicable to all Article 80B Large Projects or rehabs of over 500 GSF of exterior-façade modifications or 1,000 GSF of existing ground floor building.)

GOAL: New development should animate the public realm and create a lively, vibrant and engaging street-level experience for the pedestrian.

Street Wall Frontage Achievement (Required)

New development should infill between 65-85% of the street frontage, to achieve a continuous ground level experience for pedestrians. The street frontage should either meet the property line or be aligned to adjacent buildings. The height of the street frontage shall reflect that of adjacent buildings or those in close proximity.

Transparency Achievement (Required)

Maintain 50- 65% transparency of ground-floor street wall along Columbus Avenue Dartmouth, Clarendon Berkeley and Arlington Streets. Transparency calculations do not include garage entrances, loading docks, egress doors, utility vaults and service areas.

These streets in Study Area are already largely built out

The following sub-categories allow for greater flexibility in interpreting how they are achieved, however the essence of the form concepts should be met. The underlying intent is to animate the public street experience and building edge. Additionally, each large project development will be allowed flexibility to develop creative and contemporary ways to animate the street edge if they elect to not provide street-level retail or meet the specific recommendations listed below.

Publicly Accessible Space (Required/ Alternate Options Allowed)

New development with a street frontage that is 200 ft or longer should aim to include a publicly-accessible through-block connection if such a connection is possible. The connection may be indoors or outdoors. Through block corridors are encouraged to coordinate with existing corridors and open-space. If a through-block connection is not possible, a minimum 15,000 GSF publicly-accessible space is an acceptable alternative. The space may be indoors or outdoors.

have exception for bldg occupied by 50% or more by one tenant/ user and its affiliates.

Ground Floor Pedestrian Entrances (Required/ Alternate Options Allowed)

The desired distance between ground-level pedestrian entrances in new development projects is 75 ft.

Ground Floor Use (Required/ Alternate Options Allowed)

In order to help ensure active, diverse ground floor uses, for every 50,000 GSF of ground floor leasable retail space, a 2,000 GSF or smaller leasable retail space must be provided. A minimum of 70% street frontage is desired along Columbus Avenue Dartmouth, Clarendon, Berkeley and Arlington Streets (retail or publicly accessible space.)

already largely built out

Environment (Required)

GOAL: New development should achieve innovation in the area of energy conservation and management. The following are required of all new developments over 50,000 GSF

Sustainability

Incorporating advanced sustainability methods and/or accreditation that achieve certifiable status at LEED silver level or equivalent, whichever meet or exceed environmental standards in effect.

Wind

Buildings should be designed to avoid excessive and uncomfortable downdrafts on pedestrians. Each proposed project will be shaped via setbacks, pilnths, and building orientation or other wind-baffling measures, so that the proposed project will not cause ground-level ambient wind speeds to exceed the standards of Article 80.

intensify

and cause them to

Shadow

All projects must adhere to the shadow impact criteria established by legislation to protect the Boston Public Garden and Public Common.

Ground Water

All projects must conform to Article 32 of the Boston Zoning Code; Groundwater Conservation Overlay District.

Multi-modal Access (Required/ Specifications as per TAPA)

GOAL: New development should integrate state of the art transit technologies and innovations in demand management. The list of performance criteria below attempts to collect the requirements expected from Boston Transportation Department (BTD) which will be officially memorialized in the Transportation Access Plan Agreement (TAPA.)

Parking Ratios

The current BTD MAXIMUM parking ratios:
0.75 per dwelling unit
0.75 per 1,000 sq ft of commercial development
0.40 per hotel key

Parking/Service Access

Curb cuts should be minimized in locating service and parking access points. A maximum entrance width of 30 ft and minimum distance between entrances of 60 ft are preferable when possible. Careful consideration should be given to evening illumination levels of parking garage entries. Service doors, when not in use, should be closed to maintain the street wall.

Parking/Service Location

Parking should not be visible from any location on the street. Except for access, parking and service areas must be setback a minimum of 20 ft from the building face.

Bicycle Accommodations

Provide bicycle racks in secure sheltered spaces as per BTD ratios as well as bicycle racks outside major entrances to the building. Provide one shower stall per 1,000 building occupants or in health-club if located on site.

via this ratio, no. based upon data?

Car Sharing, Van Pools,

Include at least 1 car-share parking space per 50 parking spaces and at least 1 parking space for vanpool parking. Provide preferential parking for alternative fuel vehicles (hybrids, electric vehicles etc.)

Traffic Management

Through a required site plan and traffic management analysis for future development projects, BTD will determine appropriate signal improvements and traffic camera installation required by the proponent.

should be within specified distance of project (30 ft.)

Loading

The proponent will be required to provide off-street loading to minimize on-street commercial vehicle activity. Parking and loading access, where possible, will be provided off of alleys to enhance pedestrian safety, maximize commercial frontage, and accommodate queuing.

Transportation Demand Management

Required to join the local Transportation Management Association (TMA) and participate in their programs such as "Guaranteed Ride Home" and car pools.

This assumes that owner & user are identical. Often they are not.

Streetscape Improvements

Design and improve all sidewalks and pedestrian areas on each side of the building in accordance with a to-be-determined streetscape plan.

Transit

Proponents will be required to provide pre-payroll deduction and distribution for T passes.

this assumes that a developer controls the tenants' practices who occupy a building.

Proposed projects are eligible for additional build out (FAR of 17.5) as well as height beyond the one hundred and fifty feet (up to a maximum of 400'), if such proposals (a) undergo review pursuant to Article 80B of the Boston Zoning Code, (b) achieve performance criteria identified below and (c) provide public benefits; those benefits at a minimum include significant contributions toward the following:

PUBLIC BENEFIT ACHIEVEMENT

Given the variety of constraints on development in the district, very few sites will be able to achieve the maximum height/FAR. The goal of the zoning recommendations is to make the level of benefits achieved commensurate with the scope, scale and impact of the proposed project. Therefore, the public benefit achievement has been organized into two categories: those that are required (when applicable) and a second grouping/menu which can be selected from.

Building Preservation (Required)

New development that preserves a building on the development site that meets National Register criteria for individual listing at the time of PNF filing under Article 80, in a manner that respects the architectural character of the original building, pursuant to consultation with Boston Landmarks Commission staff.

how determine that it meets criteria?
Park Stc will designate many things as eligible upon request. This is not a feasible standard.

Sustainability (Required)

Incorporating advanced sustainability methods and/or accreditation that achieve certifiable status at LEED gold level or net zero energy consumption or meets or exceeds comparable environmental standards in effect.

The developer is permitted to select one of the three choices from the following menu of public benefits. The final degree of achievement will be determined by the BRA based upon the scope, scale and impact of the project.

Choose one of three (Required):

1. Increasing the city's housing supply

Proposing to create residential units within a project's immediate impact area that exceed the minimum level of affordability required by the City's guidelines on affordable housing then in effect by 2.5%. Careful consideration should be given to the distribution of unit types and sizes. Specifics to be determined through the Article 80 review process.

2. Streetscape/Pedestrian and Bicycle Fund

Contribute to an existing streetscape/pedestrian and bicycle fund for improved safety, connectivity, and beautification of the public realm at locations other than in the abutting streets of the building - thereby increasing vitality and encouraging pedestrian and bicycle travel in the immediate area. Specifics to be determined through the Article 80 review process and should be of a value equal or greater than one half of one percent (1/2%) of the cost of building construction.

3. Public Art

New development should provide publicly accessible art or provide a donation to the Fund for Boston Neighborhoods (administered by the Boston Arts Commission, a 501C3) that has an invoiced or appraised value equal to or greater than one half of one percent (1/2%) of the cost of building construction. Specifics to be determined through the Article 80 review process.

* Mitigating Development Impacts

Additionally, the assessment of the proposed project's impacts on the immediate area will be determined through the Article 80 review process. The Article 80 process will determine if additional mitigation (otherwise exceeding the City's requirements for community benefits) is needed to offset development impacts.

PERFORMANCE CRITERIA

The following performance criteria requirements must be met in order to achieve the Tier 2 zoning status.

Building Form (Required)

GOAL: New development should help create a varied skyline for commercial Back Bay, allow individual buildings to be visually distinct, while also creating a family of buildings around the new Hancock Tower, and create a clear animated pedestrian/public realm distinctly delineated from the tower.

Tower GSF

For portions of new development that extend above the base level street wall height, maximum residential floor plate is 12,000 GSF and maximum commercial floor plate is 30,000 GSF.

Tower Length

For portions of new development that extend above the base level street wall height, maximum length is 200 ft. For shallow lots (less than 120' deep) maximum façade length is 275'.

Tower Setback

For portions of new development that extend above the street wall height, massing must setback from the property line at least 5-15 ft, with an average of 10 ft. The base should acknowledge adjoining cornice lines and context.

Environment (Required)

GOAL: New development should minimize shadow impacts and mitigate against wind impacts, one of the most significant environmental concerns in the district. New development should also contribute to establishing the Stuart Street district as a model for multi-modal transit options.

Shadow Performance

Each proposed project shall be arranged and designed in a way to assure that it does not cast shadows for more than two hours from 8:00 a.m. through 2:30 p.m., on any day from March 21 through October 21, in a calendar year, on any portion of Copley Square Park (bounded by Boylston Street, Clarendon Street, St James Ave. and Dartmouth St, excluding land occupied by Trinity Church.)

and the sidewalks surrounding the square

Wind Performance

Wind studies will be conducted which demonstrate that there will be, on average, a net overall positive impact on existing conditions or conditions which would result from the construction of structures built to the base zoning limits.

no net degradation

Multi-modal Access (Required)

GOAL: The proponent, in consultation with BTS, is expected to determine the appropriate combination of achievement based upon the scope scale and impact of the development project. The final selection of items will be officially memorialized in the Transportation Access Plan Agreement (TAPA) issued by BTS.

Parking Ratio/ Shared Parking

Given low parking ratios that currently exist in the study area, anticipated parking needs for future development scenarios, access to alternative modes of transit, and existing garages in the corridor, BTS encourages the overall ratio for the study area to remain under 0.75 on average.

Project proponents will be required to demonstrate efforts to seek shared parking spaces to sustain the existing low parking ratio for the area.

Mobility Hubs

Project proponents are encouraged to locate in a publicly accessible area the following in close proximity:

- Bike Share stations to accommodate the City of Boston's Bike Share program.

before inserting this, need to make sure this program is viable & sustainable⁸

- Information panel locating transportation facilities in the vicinity such as MBTA stations and stops.

Bicycle Parking

Bicycle room or "cage" storage, parking and facilities (showers, changing rooms, and lockers) for building occupants and/or registered members of the public.

↳ have health or fitness center offset or option as alternative

Transportation Demand Management

Provide a cash-out incentive for commuters or residents who do not commute by car or own a vehicle.

Provide real-time garage occupancy information that can be used on the City's upcoming mobility website, as well as viewed before entering the garage, to reduce cruising for parking spaces.

BTD will ask the proponent, if adding public parking spaces, to reduce short-term parking rates.

Subsidize transit passes such as one year pass per residential rental unit (for first year), 50% pass subsidy for employees, and free weekend pre-loaded T pass for hotel guests.

Provide an on-site shuttle service for employees and residents to further encourage alternative modes of transit.

Can these be worked out w/ BTD?
They are not always feasible or economical w/ every site.

DRAFT

Liberty Mutual c/o Goulston
3-1-2010

March 1, 2010

HAND DELIVERY

Boston Redevelopment Authority
One City Hall Square, 9th Floor
Boston, Massachusetts 02114

Attention: Prataap Patrose

Re: Proposed Stuart Street Zoning Recommendations Dated October 20, 2009

Dear Prataap:

I write on behalf of Liberty Mutual Insurance Company ("Liberty") with comments on the October 20, 2009 draft of proposed zoning recommendations for the Stuart Street Planning Study Area.

Liberty is the only Fortune 100 Company with its headquarters in the city of Boston, and Liberty's Back Bay headquarters campus is located entirely within the Stuart Street Planning Study Area. The campus comprises the entire block bounded by Arlington Street, Stuart Street, Berkeley Street and St. James, as well as the portion of the block bounded by Stuart Street, Berkeley Street and Columbus Avenue which includes 330 Stuart Street (the former Salada Tea Building), 147 Berkeley Street/155 Columbus Avenue (the former Salvation Army divisional headquarters), and 320 Stuart Street/147-153 Columbus Avenue (formerly occupied by Benjamin Franklin Smith Printers).

Liberty appreciates the opportunity to be represented on the Stuart Street Planning Study Advisory Group and to participate, along with other major property owners in the district, in shaping the revised draft. Liberty has several comments and concerns which we hope will be addressed prior to your presenting zoning recommendations to the BRA Board for approval. These are described below.

A. Base Zoning Issues.

1. Publicly Accessible Space. Liberty believes that this requirement, even as re-phrased in the revised draft, is more appropriate for a market-oriented mixed-use development than for an owner-occupied facility such as a corporate headquarters of the type which has existed in the district for a century. We accordingly suggest that, for a commercial building at least 50% of which will be occupied by the owner, these requirements be replaced with a more flexible "streetscape activation" standard that could be met through measures of the proponent's choosing such as façade transparency, placement of building entrances in prominent locations, sidewalk or open space improvements, or other similar measures.

2. Ground-Floor Use. Liberty believes that a goal that a minimum of 70% of the street frontage along Columbus Avenue, Berkeley and Arlington Streets be retail or publicly accessible space is inappropriate for a corporate headquarters facility. We suggest instead that a goal of locating employee cafeterias or other active uses on the ground floor be encouraged for such user facilities.

3. Parking/Service Location. The requirement that service areas be set back at least 20 feet from the building face is unworkable on shallow lots. Accordingly, we suggest that this state that such service areas should, where possible, be set back a minimum of 20 feet from the building face.

4. Transit. Liberty strongly supports transit, carpool and vanpool use by its employees. Through Liberty's Commuter Benefit Program, all eligible employees who travel to work using public transportation (including vanpools) can save tax dollars on commuting expenses by electing to pay with before-tax payroll deductions (to IRS limits) for eligible transportation expenses. Liberty also distributes T passes on site and supports the use of carpools and vanpools as an alternative to drive-alone commuting through web-based ride-matching and preferential carpool and vanpool parking at nearby facilities. In 2008 over 70% of Liberty's employees at its Boston corporate headquarters commuted to work by public transit or by carpool or vanpool.

B. Tower Zoning Issues.

1. Building Preservation. We suggest that this requirement be clarified by defining preservation of a building as "substantial preservation of principal facades," in order to allow adaptive reuse projects, and that the phrase "meets National Register criteria" be changed to "listed on the National Register" to make clear, without subjectivity or confusion, which buildings are subject to this provision.

2. Sustainability. Liberty believes that LEED Gold could prove to be an unworkable requirement. As you know, the United States Green Building Council regularly changes its LEED rating criteria. The newest version of LEED for new construction, Version 3.0, which became effective only in the summer of 2009, is significantly more burdensome than the prior version, which was in effect when the LEED Gold standard was first introduced into the Stuart Street zoning recommendations. LEED 3.0 makes it very difficult to achieve a LEED Gold rating for a large urban corporate headquarters building. We accordingly suggest that this standard be revised to LEED Silver, that it be clear that additional "Boston Green Building Credits" be available as defined in Article 37, and that the reference to "comparable environmental standards in effect" be clarified to specifically include the United States Environmental Protection Agency's Energy Star program.

3. Streetscape/Pedestrian and Bicycle Fund and Public Art. We suggest that the contribution amount for each of these categories, equal to at least half of one percent of the cost of building construction, be capped at a maximum \$1 million for each project.

4. Tower Setback. We suggest that the average 10-foot setback be measured from the continuous property line of the full block surrounding an entire building, rather than averaged along each street line or façade or some other metric.

5. Wind Performance. The requirement that a project demonstrate a "net overall positive impact on existing conditions" is appropriate only where existing conditions are demonstrated to create

“excessive and uncomfortable downdrafts on pedestrians.” Otherwise, the general standard of no material adverse impact on pedestrian-level wind conditions should apply.

6. Transportation Demand Management. We suggest that zoning recommendations requiring consideration of transportation demand management measures would apply unless the building owner can demonstrate, by biannual reports submitted to the BRA and the Boston Transportation Department, that it has achieved a non-single-occupancy vehicle mode share for building occupants of at least 50%. As you may know, large employers such as Liberty must submit such reports to the Massachusetts Department of Environmental Protection’s Rideshare Program pursuant to 310 CMR 7.16. Such reports could form the basis for monitoring such alternate compliance.

7. Expanded Project Notification Form. We ask that the zoning recommendations themselves (rather than just the “Explanation of Changes to Proposed Zoning Recommendations”) explicitly state that projects be afforded a presumption that further Large Project Review under Article 80B will be waived upon filing an expanded Project Notification Form demonstrating adherence to tower zoning public benefit achievements and performance criteria.

Thank you for the opportunity to comment. As you know, Liberty is currently in the early stages of advancing a project to expand its Back Bay corporate headquarters and anticipates beginning the development review process in the next several weeks. As a result, we are particularly mindful of the importance of obtaining a predictable zoning envelope, and hope you find that we have made appropriate suggestions for incorporating project features, mitigation measures and public benefits which are both predictable and feasible. We look forward to continuing to work with you and our neighbors to finalize rezoning of the Stuart Street Planning Area which achieves this important objective for Liberty and for the City of Boston.

Very truly yours,



Matthew J. Kiefer

MJK:CM

cc: (by e-mail)
Mr. John F. Palmieri
Mr. Kairos Shen
Mr. Andrew Grace
Ms. Joanne Bragg
Frederick W. Eromin, Esq.
Mr. Jerome R. Gentile, Jr.
Mr. Sean Murphy
Mr. Yann Tsipis
Ms. Karen L. Whiteknact
Frank E. Litwin, Esq.

South End Business Alliance
3-1-2010

BRA-City Hall Plaza

March 1, 2010

The South End Business Alliance (SEBA) participated as a member of the Stuart Street Planning Advisory Group. We very much appreciated the opportunity to be a member of this important process.

Overall, we found the 2 year planning process to be very informative. Instead of reacting to specific developments, it was helpful to view the area in its entirety. We reviewed the buildings and development that are currently there, including density, transportation infrastructure, parking, shadow, and uses. Working with the consultants, Utile, we then reviewed different models for what future development might look like. Utile outlined ten possible development sites, and we looked at each of those in great detail, both their impact on the neighborhood, but also surrounding neighborhoods.

Since the area we studied is mostly commercial and institutional (93%), it was helpful to look at studies that demonstrated how more residential or more commercial would impact the area. We support the fact, demonstrated by much of the study, that the area can support further total development in the 3,000,000 square foot range. This seems appropriate for a segment of the Back Bay that is almost all commercial now. Utile recommended that the parcels adjacent to Bay Village remain low, which I agree with. SEBA supports the addition of growth, but wants to be extremely sensitive to the historic neighborhoods of the South End and Bay Village. The plans we reviewed with Utile accomplishes this goal.

When it comes to the specific recommendations regarding the proposed zoning changes, SEBA is in overall support. We think the heights are reasonable, and the addition of incentives for aspects to development that benefit the community is a way to memorialize, but make more specific, a process that is already part of the development process. We like the aspects of creating a building "pass-through" when possible and adding vitality to the streetscape with greater transparency and active uses on the street level.

We are concerned, at the end of the day, that this new zoning would not change the public process. Even during this planning study, in the end, there seems to be opposition. In Boston, especially for the future, it is so important to add housing and commercial development. If Liberty Mutual wants to build a new headquarters building in the Back Bay, we should be generally supporting their efforts for economic and employment reasons. SEBA supports new zoning that clearly outlines what is expected of developers and property owners. If new zoning is approved, developers and the community should follow the new rules with only minimal changes on either side.

Thank you for the opportunity to participate and we look forward to working with the group to a conclusion.

Ted Pietras

Board member of South End Business Alliance and liaison to the Stuart St CAC

Boston Preservation Alliance

3-1-2010

BPA Letter to Boston Landmarks Commission

2-25-2010

March 1, 2010

Board of Directors

Peter Roth
Chair

Susan Park
President

Dréw Leff
Treasurer

Rosemary Kverek
Secretary

Roger Tackéff
Vice Chair

Kay Flynn
Vice Chair

Jean Abouhamad

W. Lewis Barlow IV F.A.A.

William G. Barry AIA

Richard Bertman F.A.A.

Frances Duffly

Minxie Fannin

Elaine Finbury

Gill Fishman

Leigh Freudenheim

Alden Gifford

Carl Jay

Susie Kim

Tim Pattison

Jonathan Seward

Robert Thomas

Rita Walsh

Richard Wills AIA

Andrew Zelermyer

Executive Director
Sarah D. Kelly

Old City Hall
45 School Street
Boston, MA 02108
617.367.2458

bostonpreservation.org

Mr. Andrew Grace
Boston Redevelopment Authority
Boston City Hall, Floor 9
Boston, MA 02201

Dear Mr. Grace:

During fall 2009, the Boston Preservation Alliance participated in several Stuart Street Planning Advisory Group meetings. The Alliance commends the BRA for trying to build historic preservation incentives into the study and proposed zoning changes for the area. We understand that this is an unprecedented effort for the City of Boston. The Alliance firmly believes that proactive planning for historic preservation is essential to achieving a successful balance between preservation of important historic resources and new development.

The Alliance offers the following comments on the proposed Stuart Street Zoning Recommendations that would replace the Back Bay Downtown IPOD.

Public Process

The Alliance was brought into the planning process after 12 months of meetings for the Stuart Street area this fall after we learned about it through neighborhood representatives to the Advisory Group. In the future, the Alliance urges the BRA to engage the Alliance earlier in the process. As Boston's primary historic preservation advocacy organization, we believe that early consultation is the most effective way to discuss potential differences of opinion regarding studies guiding new development while protecting historic resources.

It is not clear to the Alliance what the decision-making process regarding changes to the proposed draft language will be moving forward. The Alliance notes that while a number of materials have been posted on the BRA's website, the draft zoning language itself has not been posted for the public review and comment. We request clarification of the process and the timeframe for completing this work. The Alliance would like to know what, if any, efforts will be made to make the information regarding these changes publically available.

Building Preservation

The proposed new zoning includes a requirement for preservation of buildings on development sites that are eligible for listing on the National Register if a project is over 150 feet tall. The Alliance indicated when we first met with BRA staff in August 2009, that we believed that a number of the buildings in the study area were underrated on their Boston Landmarks

Mr. Andrew Grace
March 1, 2010
Page 2

Commission (BLC) survey forms (rated a IV or V) which indicates that they would not be eligible for National Register listing. The survey forms for these buildings were completed in 1980 and 1990. After a period of two to three decades, it is not uncommon for new information and the passing of time to inspire a reconsideration of the historic significance of such buildings.

In recognition of this situation, the Alliance recently requested that that the BLC work with us to reevaluate the significance of the following buildings:

1. The carriage houses on Stanhope Street (currently rated IV) – 13-19, 21-27, 35 and 39-45 Stanhope Street
2. Salvation Army Building (currently rated V) – 147 Berkeley Street
3. The Publishers Building (currently rated V) – 151 Clarendon Street
4. The New England Power Building (currently rated IV) – 185 Dartmouth Street
5. John Hancock "Clarendon Building" (currently rated IV) – 197 Clarendon Street
6. 129-153 Columbus Ave/304-322 Stuart Street (currently rated IV)

While this request is complicated by the fact that the BLC is currently in the process of phasing out its rating system, the Alliance believes that it is essential that the buildings that meet National Register eligibility be properly identified. This will ensure that the proposed preservation incentives apply to the buildings that meet a threshold of significance based on a present-day evaluation of them, as opposed to survey forms that are twenty or thirty years old. The Alliance requests that the BRA urge the BLC to conduct its assessment of the significance of these buildings, in partnership with the Alliance and other interested parties, before finalizing the zoning language.

While the Alliance believes that consultation with BLC staff to determine whether a preservation plan "respects the architectural character of the original building" is essential, we believe that full Boston Landmarks Commission design review should also be required. This would provide an opportunity for comment by experts drawn from the architecture, planning, landscape architecture and real estate professions. It would also provide a forum for other individuals and organizations with an interest in historic preservation to comment on proposed designs. The Boston Landmarks Commission, which meets twice per month, is accustomed to regular design review, and the Alliance is fully confident that they would be able to expedite the process in keeping with Article 80 permitting process schedules.

Mr. Andrew Grace
March 1, 2010
Page 3

Building Heights Adjacent to Historic Neighborhoods

The proposed new zoning would replace two IPOD subdistricts and portions of two neighborhood districts in the Stuart Street Area. The current zoning in the neighborhood districts includes lower heights closer to the historic South End and Bay Village neighborhoods, which the proposed new zoning does not. The Alliance believes that new language should be included in the proposed new zoning that would step down heights toward the historic neighborhoods, or subdistricts should be created that would help to transition heights for new buildings as they approach the historic neighborhoods.

Sincerely,



Sarah D. Kelly
Executive Director



Susan Park
President

cc: Senator Sonia Chang-Diaz
Representative Marhta M. Walz
Representative Aaron Michlewitz
City Council President Michael Ross
City Councilor Bill Linehan
Kairos Shen, BRA
Prataap Patrose, BRA
David Carlson, BRA
Ellen Lipsey, BLC
Neighborhood Association of the Back Bay
Bay Village Neighborhood Association
Ellis South End Neighborhood Association
DOCOMOMO-New England/US
John Cusolito, Liberty Mutual

February 25, 2010

Peter Roth
President
Susan Park
Vice President

Ms. Ellen Lipsey
Executive Director
Boston Landmarks Commission
Boston City Hall, Room 805
Boston, MA 02201

Drew Leff
Secretary
Rosemary Kverek
Secretary

Dear Ms. Lipsey,

Roger Tackeff
Vice Chair
Kay Flynn
Vice Chair

The Boston Preservation Alliance has attended meetings of the Stuart Street Planning Study Task Force over the past several months. As you are aware, the study's aim is to "explore potential development opportunities, identify and define height, density, and use guidelines, and develop scenarios for future development in the area." It will propose changes to the zoning in the area.

Jean Abouhamad
W. Lewis Barlow IV FAIA
William G. Barry AIA
Richard Bertman FAIA
Frances Duffly

The Stuart Street area contains a remarkable collection of historic buildings, representing a great variety of architectural styles from a range of periods in the city's development. The draft zoning includes language regarding "incentives" for historic preservation for properties that are deemed to be eligible for or are listed on the National Register of Historic Places (NR).

Minxie Fannin
Elaine Finbury
Gill Fishman
Leigh Freudenheim
Alden Gifford
Carl Jay
Susie Kim

The Alliance believes that several buildings in the area may meet the criteria for eligibility to be listed on the National Register but have not had a determination made and are not rated with a "3" or above on their Boston Landmarks Commission (BLC) inventory forms from 1980 or 1990. The Alliance believes that as planning and new development move forward, it is important that all relevant parties develop a shared understanding of the significance of buildings in the area. The buildings that Alliance has identified that may possibly have significance greater than what is indicated on their survey forms are:

Tim Pattison
Jonathan Seward
Robert Thomas
Rita Walsh
Richard Wills AIA
Andrew Zelermyer

1. The carriage houses on Stanhope Street (currently rated IV) – 13-19, 21-27, 35 and 39-45 Stanhope Street
2. Salvation Army Building (currently rated V) – 147 Berkeley Street
3. The Publishers Building (currently rated V) – 151 Clarendon Street
4. The New England Power Building (currently rated IV) – 185 Dartmouth Street
5. John Hancock "Clarendon Building" (currently rated IV) – 197 Clarendon Street
6. 129-153 Columbus Ave/304-322 Stuart Street (currently rated IV)

Sarah D. Kelly

As you know, it is common for buildings to be resurveyed and their historic significance reconsidered after two to three decades. The passing of time and acquisition of new information can change the perspective of regulatory agencies and the broader public regarding a building's significance.

Old City Hall
45 School Street
Boston, MA 02108
617.367.2458

At the same time, it is the Alliance's understanding that the ratings system that the BLC has used in the past to determine the historic significance of buildings on survey forms is being phased out. For this reason, it is not clear

Ellen Lipsey
February 25, 2010
Page 2

to the Alliance what the proper procedure would be for appropriately categorizing buildings.

The Alliance requests a clarification from the BLC regarding the proper procedure to evaluate the buildings identified above to ensure that a determination is made as to whether the above listed buildings should be subject to the proposed Stuart Street area zoning changes. If a ratings upgrade is required by the BLC, the Alliance requests a ratings review as soon as possible. If a determination of eligibility for NR listing is required from the Massachusetts Historical Commission, we request that the Boston Landmarks Commission staff work with the Alliance to make a request for a determination of NR eligibility in a timely fashion.

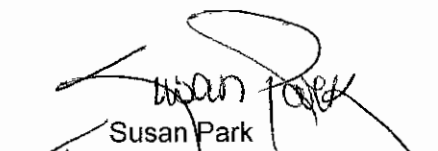
This is a time sensitive matter for two reasons. The Stuart Street Planning Study has not been finalized but the Alliance expects that the Boston Redevelopment Authority will soon be seeking to determine what changes, if any, it would like to make to the draft zoning based on participants' input. (Comments are due by March 1.) Second, the Alliance is aware that Liberty Mutual has announced a new development proposal that would impact some of the above mentioned buildings. The Alliance has reached out to Liberty Mutual to request a meeting so that we can learn more about the project and highlight any questions or concerns that we might have about the proposal at this early stage. The Alliance feels that our conversation with Liberty Mutual would benefit from as clear an understanding as possible about the historic significance of the buildings in question.

For these reasons, the Alliance requests your prompt response to our inquiry.

Sincerely



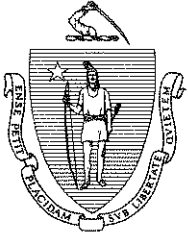
Sarah D. Kelly
Executive Director



Susan Park
President

cc: Senator Sonia Chang-Diaz
Representative Marhta M. Walz
Representative Aaron Michlewitz
City Council President Michael Ross
City Councilor Bill Linehan
Kairos Shen, BRA
Prataap Patrose, BRA
David Carlson, BRA
Andrew Grace, BRA
Neighborhood Association of the Back Bay
Bay Village Neighborhood Association
Ellis South End Neighborhood Association
DOCOMOMO-New England/US
John Cusolito, Liberty Mutual

Joint Elected Officials
2-26-2010



The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133-1054

February 26, 2010

Andrew Grace
Boston Redevelopment Authority
One City Hall Plaza
Boston, MA 02201

Dear Mr. Grace:

We are writing regarding the February 1, 2010 Stuart Street Study Area Zoning recommendations letter signed by representatives of Ellis South End Neighborhood Association, the Neighborhood Association of the Back Bay, and Bay Village Neighborhood Association.

As elected representatives for these three neighborhoods, we strongly support these recommendations. Our constituents worked diligently to craft a proposal that balances the needs of the residential and business communities. For Boston to remain a dynamic city, economic development is essential, and the study area provides appropriate opportunities for some of that growth. At the same time, strong downtown residential neighborhoods are also essential and development should not be a detriment to the quality of life of residents. These recommendations creatively provide opportunities for both residential and business development in our neighborhoods.

We especially want to highlight the recommendations regarding shadows. The requirement that the shadow impact criteria for Copley Square and the Commonwealth Avenue Mall comply with the current law regarding the Boston Public Garden mirrors legislation we filed that is currently pending before the legislature. The preservation of sunlight in these public open spaces is essential protection for the health and livability of the study area and its surrounding communities.

Please do not hesitate to contact any of us if you have any questions.

Sincerely,

Handwritten signature of Aaron Michlewitz.

Aaron Michlewitz
3rd Suffolk District

Handwritten signature of Byron Rushing.

Byron Rushing
9th Suffolk District

Handwritten signature of Martha M. Walz.

Martha M. Walz
8th Suffolk District

Senator Chang-Diaz

3-16-10



COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, ROOM 413-C, BOSTON 02133

SENATOR SONIA CHANG-DÍAZ
SECOND SUFFOLK DISTRICT

TEL: (617) 722-1673
Sonia.Chang-Díaz@state.ma.us

COMMITTEES:
CHAIR, TOURISM, ARTS & CULTURAL DEVELOPMENT
VICE-CHAIR, COMMUNITY DEVELOPMENT & SMALL BUSINESS
EDUCATION
ELDER AFFAIRS
HOUSING

March 16, 2010

Andrew Grace
Senior Planner & Urban Designer
Boston Redevelopment Authority
One City Hall Plaza
Boston, MA 02201

Re: Stuart Street Planning Study Advisory Group

Dear Mr. Grace:

I am writing with regard to the Stuart Street Planning Study Advisory Group and concerns that have been raised by the neighborhood group representatives in the Advisory Group. I know that many months of hard work have been put into this process, and I appreciate and applaud the commitment of the Boston Redevelopment Authority (BRA) and the Advisory Group members. As the process continues to move forward, I urge you to honor the BRA's commitment to transparency and collaboration and to engage the neighborhood group representatives to arrive at final zoning criteria for the Stuart Street Planning Study area.

Over the last several weeks, particularly in the wake of the recent Liberty Mutual development announcement, I have heard from constituents, including Advisory Group members, troubled about a perceived change in the BRA's approach to the Stuart Street Planning Study process. The feeling among the neighborhood groups, as you may know, is that the BRA has backed off initial commitments to collaboration and transparency and has acted in ways that limit the role and input of the neighborhood groups.

I urge you to honor the process set forth at the beginning of the Advisory Group's proceedings and ensure the neighborhood groups have a voice in the process. While I understand that the Advisory Group technically plays only an advisory role, it was the understanding of all participants and the pledge of the BRA that the neighborhood group representatives, who, like

the other Advisory Group members, have committed a lot of time and energy to this process, would be active players in developing final zoning regulations for the Stuart Street Planning Study area. Neighborhood group representatives had a fair and reasonable expectation that their concerns would be heard, genuinely considered, and incorporated into final zoning regulations in a balanced way. It is only fair that the BRA see this value through to the end of the process.

In addition, input from neighborhood representatives ensures a well-rounded review process and encourages neighborhood buy-in and active participation and cooperation going forward. I believe that the neighborhood groups are committed to many of the same goals of the BRA and the City of Boston, including helping to grow jobs and revenue. For the benefit of my constituents and the City of Boston, I ask you to work with the neighborhood groups in pursuit of these important goals and honor the BRA's up-front commitment to transparency, accountability, and collaboration.

Thank you for your time and consideration. Please do not hesitate to contact me if you have questions or concerns.

Saludos,



Sonia Chang-Díaz
State Senator
Second Suffolk District