



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Maura T. Healey
GOVERNOR

Kimberley Driscoll
LIEUTENANT GOVERNOR

Rebecca L. Tepper
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1081
<http://www.mass.gov/eea>

April 25, 2023

Mr. James Arthur Jemison
Boston Planning and Development Agency
1 City Hall Square #9
Boston, MA 02201

Dear Mr. Jemison:

The Executive Office of Energy and Environmental Affairs (EEA) has received the Boston Planning & Development Agency's (BPDA) request for clarification regarding building height and the Water-Dependent Use Zone (WDUZ) as approved in the 2009 Secretary's Decision (2009 Decision) approving the City of Boston's Request for Approval of the South Boston Waterfront District Municipal Harbor Plan Amendment (MHP Amendment). The request for clarification was noticed in the *Environmental Monitor* on January 25, 2023, with a public comment period ending on February 24, 2023.

The Secretary issued a Decision on the City's original South Boston Waterfront Municipal Harbor Plan in 2000 which required additional master planning by the BPDA for the Fort Point Industrial District to consider access for water-dependent uses, existing historic infrastructure, and public access to waterfront open space along the channel. The City of Boston completed this planning work with the issuance of the 100 Acres Master Plan and development of a MHP Amendment for a 13-acre portion of the 100 Acres Master Plan area. The City of Boston submitted this MHP Amendment to the Secretary, who approved it in 2009. The 2009 Decision on the MHP Amendment approved three substitute provisions of the Waterways Regulations: 1) alternative dimensional standards for the pedestrian access network; 2) alternative (e.g.) building heights; and 3) a reconfigured WDUZ. An amendment to the DEP Waterways regulations in 2022 incorporated these substitute provisions at 310 CMR 9.57. A previous clarification request was requested and approved in 2016 for the reconfiguration of the WDUZ.

As indicated in the BPDA's request, the proposed layout for the 244 – 284 A Street project requires a clarification of the 2009 Decision relating to the distribution of heights for two parcels within the 100 Acres planning area and a reconfiguration of the WDUZ. The 2009

Decision on the MHP Amendment included substitute height provisions allowing for specific building heights by parcel ranging from 80 feet (ft) to 180 ft across the MHP planning area depending on the location within the 100 Acres Master Plan. The height substitution was approved in part due to “structural weight-bearing constraints” over the Central Artery Tunnel underneath the planning area.

The clarification request indicates that improved engineering methods and new data since the Secretary’s Decision allowed two parcels (G5 and G6) to be reconfigured and repositioned to allow for increased height with decreased footprint. The clarification requests that the height of the G5 building increase to 180 ft, 80 ft higher than previously proposed in the MHP Amendment, as part of this repositioning. For building G6, the Secretary’s Decision on the MHP Amendment indicated that the footprint of the building would be located over the I-90 Tunnel. However, the position as approved encroached upon critical Massachusetts Department of Transportation (MassDOT) infrastructure, which MassDOT must access on a regular basis. The clarification requests that the proposed height for G6 be increased to 123 ft to accommodate a reduction in the building footprint that will allow for continuous MassDOT access to infrastructure and increased park space. As noted in the clarification request, the proposed increases in height do not exceed the height that was approved previously for the planning area and will result in a decrease in net new shadow as compared to the building heights and configurations contained within the Secretary’s Decision.

The BPDA also requests a clarification for the reconfiguration of the WDUZ to accommodate the proposed layout for the 244 – 284 A Street project. The Secretary’s Decision adopted a substitute provision establishing an alternative WDUZ “that generally increases the minimum setback to 110 feet from the project shoreline”, provided that it ensures no net loss of land area in the WDUZ and enhances public access and enjoyment of this area of the waterfront. The BPDA requests a WDUZ varying in width from a minimum of 74 feet to a maximum of 145 feet. As required by the Secretary’s Decision on the MHP Amendment, the proposed reconfiguration will result in no net loss of WDUZ and maintains the width of the WDUZ of generally 110 feet across the MHP Amendment planning area as approved in the Secretary’s Decision on the MHP Amendment.

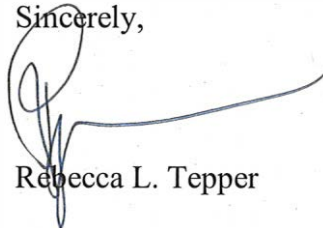
I received five comments during the public comment period with four comments supportive of the clarification and one comment expressing concern. The supportive comments indicated the necessity of the proposed height changes to reduce the footprint of the G6 building to accommodate access to MassDOT infrastructure. Also, commenters noted that the project proposal will enhance capacity for the public at the pedestrian level to access the waterfront. The concern expressed related to the development of tall buildings along waterfront parcels and potential impact to public open space. I note that prior to submitting this clarification request, the BPDA undertook an extensive public engagement process as part of the Article 80 review which led to improvements to the proposed design based on community and stakeholder input. The proposed project also incorporates the City’s policies relating to climate resilience, equity, and inclusion.

After my review of the BPDA's request for clarification of the 2009 South Boston Waterfront District MHP Amendment; of that 2009 MHP Amendment; and of the 2009 Decision on that MHP Amendment, and in consultation with MassDEP, I concur that the proposed height changes and WDUZ reconfiguration as to Parcels G5 and G6 are consistent with the standards and original intent of the 2009 MHP Amendment and will result in an improvement in the overall effectiveness of the planning area to ensure active, accessible, and resilient public open space along the Fort Point Channel. The increase in height results in a decrease in lot coverage and shadow and allows for a more expansive and welcoming public waterfront park. Further, the reconfiguration of buildings increases the porosity of the site, which improves the quality of public access throughout the development as well as views across the Fort Point Channel to downtown Boston.

This clarification relates to the WDUZ and distribution of heights on parcels G5 and G6 only.

This clarification will be noticed in the next Environmental Monitor. If you have questions please contact Joanna Yelen, Boston Harbor Regional Coordinator at my Office of Coastal Zone Management, via email at Joanna.m.yelen@mass.gov. I look forward to continued collaboration with the BPDA and the City of Boston on implementation of the 2009 MHP Amendment consistent with the City's commitment to stakeholder-informed and thoughtfully planned waterfront open space.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rebecca L. Tepper', with a long horizontal flourish extending to the right.

Rebecca L. Tepper

cc: Lisa Berry Engler, Director, CZM
Tyler Soleau, Assistant Director, CZM
Joanna Yelen, Boston Harbor Regional Coordinator, CZM
Gary Moran, Deputy Commissioner, MassDEP
Daniel Padien, Chief, Waterways Program, MassDEP
Christine Hopps, Assistant Director, Waterways Program, MassDEP

