

**Designation Decision for the
South Boston Designated Port Area
Boston, MA**

**Executive Office of Energy and Environmental Affairs
Office of Coastal Zone Management
May 10, 2018**

I. INTRODUCTION

Pursuant to the Designated Port Area (DPA) regulations at 301 CMR 25.00, today as Director of the Office of Coastal Zone Management (CZM), I hereby issue this designation decision for the boundary review of the South Boston DPA. This decision affirms the findings and proposed DPA boundary modifications in CZM's February 7, 2018 designation report, *Boundary Review of the South Boston Designated Port Area, Boston, MA* ("boundary designation report"), and its issuance concludes the boundary review process, as described below.

In June of 2017 the owner and developer of the site of the former Edison Power Plant, located along the southern bank of the Reserved Channel within the South Boston DPA at 776 Summer Street, formally requested that CZM initiate a review of the area under their ownership. CZM accepted the request, expanding the review area to include the entire portion of the South Boston DPA located south of the Reserved Channel between Summer Street and the easterly edge of Conley Terminal, consisting of 13 parcels. The review area excludes the portion of the DPA located north of the Reserved Channel in South Boston's Seaport District and the Raymond L. Flynn Marine Park. In response to a request from Massport, and with CZM's concurrence, the review area was expanded to included portions of Conley Terminal along Day Boulevard which were not included within the DPA boundary. Further, the review area consists of DPA lands including all parcels, roads, rights-of-way, railways and parcels within the DPA boundary review area but excludes DPA waters, consisting of the entire watershed of the DPA.

CZM issued a notice of intent to review which was published in the *Environmental Monitor* on July 12, 2017. A public meeting was held on July 25, 2017 in Boston, and the formal 30-day public comment period closed on August 11, 2017.

To inform the DPA boundary review process, CZM conducted the consultation process required by 301 CMR 25.03(4). CZM reviewed comments submitted and met with property owners, City officials, state agency partners, and interested constituents. CZM also conducted site visits and reviews of available plans, permits, and licenses applicable to the DPA review area. Throughout the course of the review, CZM received formal and informal comments from DPA property owners, the public, local organizations and City and state agencies. CZM considered all comments in the context of the policy and regulatory framework that guides the review. Many commenters provided substantive information regarding history, uses, constraints, impacts, and other features of the existing DPA which was particularly useful in the assessment.

A detailed boundary review designation report was issued on February 7, 2018. The report concluded with the finding that the DPA boundary should be modified. Pursuant to 301 CMR 25.03(4), the commencement of a 30-day comment period on the boundary review designation report was noticed in the February 7, 2018 *Environmental Monitor* and the February 8, 2018 *Boston Globe*, and a public hearing was held on February 26, 2018. CZM received oral testimony from nine individuals at the public hearing and ten comments letters on the designation report during the public comment period.

This designation decision summarizes and responds to concerns and matters that were raised by commenters on the boundary designation report, and following careful consideration and analysis, formally designates the DPA boundary. On behalf of CZM, I want to thank everyone who participated in the boundary review process and acknowledge your valuable input.

II. SUMMARY OF BOUNDARY DESIGNATION REPORT

As detailed in the February 7, 2018 boundary designation report, CZM defined three planning units within the South Boston DPA review area that formed coherent areas comprised of groups of parcels that are delineated by shared physical, geographical, and land use characteristics. These planning units were sized and configured in a manner that allowed for consideration of all relevant factors affecting overall suitability to accommodate water-dependent industrial use.

Pursuant to 301 CMR 25.00, CZM employs a two-step review process when evaluating planning units for inclusion within a DPA boundary. The first step assesses whether planning units meet the eligibility for review criteria according to 301 CMR 25.03(2). If a planning unit meets any of the criteria, the area is not eligible for further review and the second step of the review process is not applied. For the ineligible planning units, the DPA boundary does not change. If a planning unit is not disqualified from review by any of the review criteria standards, it is eligible for review and proceeds to the second step of the review process.

The second step of the review process evaluates planning units with respect to their compliance with the designation standards for waters (301 CMR 25.04(1)) and for lands (301 CMR 25.04(2)). Consistent with the decision to exclude waters from this boundary review, the designation of waters standards were not applied in this review. The designation standards for lands include four criteria governing physical suitability to accommodate water-dependent industrial use. A planning unit must exhibit all of the four criteria to remain in or be included within the DPA. If a planning unit exhibits all four of the physical suitability criterion, the DPA boundary does not change in that area. If a planning unit lacks one of more of the physical suitability criterion, it is removed from the DPA and the DPA boundary would change in that area. For areas under review that are currently outside a DPA boundary, if that planning unit exhibits all four of the physical suitability criterion, the DPA boundary would change to include the area.

Based on the eligibility criteria at 301 CMR 25.03(2), one planning unit within the DPA was found to be ineligible for review. Based on a thorough assessment, the Haul Road North planning unit in which 97% of the area is in active water-dependent industrial use and has been so throughout the last five years did not meet the criterion for review at 301 CMR 25.03(2)(b) and therefore was not further analyzed for substantial conformance with the criteria governing suitability to accommodate water-dependent industrial use.

CZM analyzed the remaining two planning units (Haul Road South and Day Boulevard), to determine whether they were to be included or remain in the DPA pursuant to 301 CMR 25.04(2). The DPA regulations direct that an area of land shall be included or remain in a DPA *if and only if* CZM finds that the area is in substantial conformance with each of the criteria governing suitability to accommodate water-dependent industrial use. As detailed in the boundary designation report, CZM determined that the Haul Road South planning unit is in substantial conformance with the physical suitability criteria for possessing a topography that is conducive to industrial use and for

being within reasonable proximity to established road links and sewer/water facilities that support general industrial use (301 CMR 25.04(2)(b)(c)).

However, CZM's review found that the presence of the recently constructed Thomas J. Butler Dedicated Freight Corridor (or "haul road") - which diverts approximately 900 trucks per day from local streets, buffers South Boston residents from truck noise and creates a more streamlined entry point into Conley Terminal - functionally separates the planning area from the adjacent lands with developed shoreline and from the navigable waterway. Therefore, this planning unit was found neither to possess nor to be contiguous with a substantially developed shoreline which establishes a functional connection with a DPA watersheet (301 CMR 25.04(2)(a)). Further, in assessing the Haul Road South for the criterion that the land area must exhibit a use character that is predominately industrial, or reasonably capable of becoming so, CZM found that the Thomas J. Butler Memorial Park was not in conformance. The newly created park serves as a buffer between the water-dependent industrial uses of Conley Terminal and the residential neighborhood, and the park—which extends linearly along approximately half of the southern boundary of the Haul Road South planning unit—is protected through Article 97 as conservation land and therefore could only be converted to industrial use by an act of state legislature. In the boundary review designation report, CZM found that the Haul Road South planning unit did not meet the criteria for inclusion in a DPA boundary as required by 301 CMR 25.04(2)(d) and determined that it should be removed from the South Boston DPA.

The Day Boulevard planning unit, currently not in the South Boston DPA, was included in the DPA boundary review at Massport's request and with CZM's concurrence. The Day Boulevard area is functionally connected and operated as part of Conley Terminal which lies along the Reserved Channel. As detailed in the boundary designation report, CZM found that the Haul Road South planning unit is in substantial conformance with each of the four criteria governing suitability to accommodate water-dependent industrial use. CZM concluded that the Day Boulevard planning unit should be included within the South Boston DPA.

III. RESPONSE TO COMMENTS ON THE BOUNDARY REVIEW DESIGNATION REPORT

Oral and written comments received on the boundary designation report both expressed support for the proposed modifications to the South Boston DPA boundary and raised concerns with the removal of any area from the DPA. There were no concerns articulated regarding the determination that the Haul Road North planning unit would remain in the DPA or that the Day Boulevard would be included in the DPA as a result of the review. Two commenters made suggestions for additional topics to be discussed in this Designation Decision.

Many comments received emphasized the importance of Conley Terminal to the local, state, and regional economy and the need to protect the significant financial investments that have been made and are underway in the port. Such improvements include the deepening of Boston Harbor's navigation channels to accommodate larger vessels, increasing the number of deep water berths at Conley Terminal, and building the dedicated haul road from Summer Street to Conley Terminal to facilitate more efficient connections to regional truck routes. Some comments indicated that by confirming the water-dependent industrial use of the area and expanding the DPA to include the Day Boulevard planning unit, the proposed modifications to the DPA boundary would help to secure the role of Conley Terminal and Boston Harbor in the international shipping industry into the future. One commenter acknowledged the changing land uses in the area of the DPA boundary review and supported the proposed modifications to the DPA boundary as an opportunity to consolidate and protect the existing water-dependent uses including the Lobsterman's Cooperative and Conley Terminal while identifying areas which may be more productive as other uses.

Comments raising concerns with the findings of the designation report primarily expressed two perspectives: first, any boundary changes which remove land area from the DPA may have adverse effects on the job security of those who work at Conley Terminal; and second, boundary changes which remove the former Edison Power Plant property from the DPA would potentially allow for the redevelopment of the land into residential and mixed uses which could exacerbate traffic and parking issues in the neighborhood. Regarding the first concern, CZM believes that the proposed review and resulting modifications serve to strengthen Boston's working port and water-dependent industry in South Boston, Conley Terminal, and the local economy that depends on the area by increasing the total land area within the DPA through the inclusion of the Day Boulevard planning unit. Further, the findings confirm that the area north of Massport's haul road is comprised of lands that will continue to be protected for active water-dependent industrial and water-dependent uses. With respect to the concerns regarding potential plans to redevelop the former Edison Power Plant property, the DPA boundary review process is solely focused on the conformance of eligible areas under review with the criteria governing suitability to accommodate water-dependent industrial use. The DPA boundary review does not serve to authorize any future use or specific redevelopment and, further, the regulatory framework for DPA reviews does not include such aspects as traffic, parking, or other elements of future redevelopment - these matters are the subject of other jurisdictions, authorities and reviews. I strongly encourage those with concerns relating to the impacts of a proposed mixed-use residential development to be actively

involved in the upcoming City (Article 80) and state reviews (e.g., MEPA, Chapter 91). It is through these processes that concerns relating to traffic and parking will be addressed.

One comment requested additional information for the portion of the DPA watersheet adjacent to the former Edison Power Plant property – specifically relating to how security requirements associated with Massport’s haul road will be affected by future uses of the shoreline of the Haul Road South planning unit. Massport, working with appropriate state and federal agencies, manages marine security at Conley Terminal and for the haul road. Security requirements, access restrictions, and related protocols are contained in the Conley Terminal Security Plan, which will be reviewed and updated by the appropriate entities and agencies as necessary to reflect changing conditions relating to future site-specific development.

Another comment expressed a concern relating to the potential for conflict between the proposed mixed-use development on the former Edison Power Plant property and Massport’s newly constructed haul road. The commenter opposed the removal of the Haul Road South planning unit, and specifically the former Edison Power Plant property, without a written commitment that Massport maintain and enforce an existing restriction precluding any residential development on the former Edison Power Plant property. However, as noted above, the boundary review process is solely focused on the conformance of eligible areas under review with the criteria governing suitability to accommodate water-dependent industrial use. While the scope and authority of the DPA boundary review regulatory process provide for qualifications, limits or conditions to the designation decision, I do not construe this authority as allowing a determination of whether lands under review shall remain in or be excluded from a DPA to be premised on a use restriction. While such constraints will not be contained herein, through consultation with Massport and its comments on the DPA review, I am convinced that Massport has strong interests in ensuring adequate protections are in place to avoid and minimize conflicts that may arise between new potential uses of the proposed redevelopment and Conley Terminal and its operations. I therefore encourage Massport to consult with abutters and other stakeholders during future city and state reviews for any site-specific redevelopment projects affecting this area.

IV. DESIGNATION DECISION

In conclusion, effective today, I affirm the findings and proposed boundary modifications in the February 7, 2018 *Boundary Review of the South Boston Designated Port Area, Boston, MA* designation report and hereby determine that, pursuant to 301 CMR 25.03(5), the South Boston DPA boundary shall be modified, such that the Haul Road South planning unit will be excluded and the Day Boulevard planning unit will be included. The resulting total area of the South Boston DPA subject to this review increases from 137 acres to 140 acres. The new boundary of the South Boston DPA is depicted on the attached map and available in electronic format from CZM.

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Bruce K. Carlisle, Director



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<https://www.mass.gov/orgs/massachusetts-office-of-coastal-zone-management>

South Boston

Designated Port Area (DPA)

For planning purposes only. In the event of conflict between this map and the accompanying written description, CZM shall issue a written clarification pursuant to the Designated Port Area (DPA) regulations at 301 CMR 25.00.



- Point of Beginning
- Point of Ending
- South Boston DPA Boundary
- - - Adjacent DPA Boundary
- Chapter 91 Presumptive Line
- - - Municipal Boundary
- Assessor's Parcels



Basemap: Google Imagery, 2017 via MassGIS
Map coordinate system: North American Datum of 1983,
Massachusetts State Plane Coordinate System,
Mainland Zone (FIPS zone 2001), meters.



May 2018

South Boston Designated Port Area

An area of land and water within Boston Harbor and located in the municipality of (South) Boston in the Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a point formed by the intersection of the northeasterly line of the federal navigation channelⁱ in Boston Inner Harbor and a line projected due south from Navigation Buoy 29ⁱ (W Or “29” Fl 4s at approximate coordinates N71°01’30.8” W42°21’20.4”, NAD83) at approximate coordinates N42°21’08.9” W71°01’30.8”, NAD83, in the municipality of Boston;

Thence southeasterly along the northeasterly line of the federal navigation channelⁱ to a point on said line proximate to Navigation Buoy 8ⁱ (R “8” Fl R 4s at approximate coordinates N42°20’26.8” W71°00’17.5”, NAD83);

Thence southerly by a straight line to a point on the southwesterly line of the federal navigation channelⁱ proximate to Navigation Buoy 5Aⁱ (G C “5A” at approximate coordinates N42°20’12.2” W71°00’20.0”, NAD83);

Thence northwesterly along the southwesterly line of the federal navigation channelⁱ to the intersection of said channel line and the northeasterly projection of a line constructed perpendicular to said channel line from the easterly corner of the armored shorelineⁱⁱ of Parcel 0603417000ⁱⁱⁱ at approximate coordinates N42°20’23.4” W71°00’38.8”, NAD83, on the (South) Boston shoreline, as depicted by the bulkhead on the Massachusetts Office of Geographic Information (MassGIS) Google ortho imagery;^{iv}

Thence southwesterly by a straight line to the easterly corner of the armored shorelineⁱⁱ of Parcel 0603417000ⁱⁱⁱ, as depicted by the bulkhead on the MassGIS Google ortho imagery,^{iv} located at approximate coordinates N42°20’23.4” W71°00’38.8”, NAD83;

Thence southwesterly and westerly along the southeasterly armored shorelineⁱⁱ and southerly edge of the existing parking/staging area located on Parcel 0603417000ⁱⁱⁱ, as shown on the MassGIS Google ortho imagery to a point at the approximate coordinates N42°20’20.8” W71°00’45.6”, NAD83;

Thence southerly to meet the southerly line of Parcel 0603417000ⁱⁱⁱ at approximate coordinates N42°20’20.5” W71°00’45.5”, NAD83;

Thence generally westerly along the southerly line of Parcel 0603417000ⁱⁱⁱ to an inflection point on said Parcel at approximate coordinates N42°20’18.6” W71°01’24.2”, NAD83;

Thence northeasterly along a line projected from the northwesterly line of Parcel 0603416000 approximately 35 feet to the existing parking/staging area located on Parcel 0603417000ⁱⁱⁱ as shown on the MassGIS Google ortho imagery,^{iv};

Thence generally westerly along the southerly edge of the retaining wall to the terminus of the retaining wall as shown on the MassGIS Google ortho imagery,^{iv};

Thence southwesterly along a buffer constructed 20 feet northwesterly parallel to the northern side of Shore Road to the easterly line of Parcel 0603413000ⁱⁱⁱ;

Thence southerly along the easterly line of Parcel 0603413000ⁱⁱⁱ, westerly along the southerly line of said parcel, and northerly along the westerly line of said Parcel to the approximate coordinates N42°20'19.2" W71°01'30.8", NAD83;

Thence westerly following the southerly edge of the wall constructed and along the northerly boundary of the Thomas J. Butler Memorial Park as shown on the MassGIS Google ortho imagery,^{iv};

Thence northerly along the easterly line of Parcel 0603407100ⁱⁱⁱ and continuing northwesterly and westerly along the northerly line of said Parcel;

Thence westerly along the northerly line of Parcel 0603407015ⁱⁱⁱ;

Thence northerly and northwesterly along the northeasterly line of Parcel 0603406060ⁱⁱⁱ to the approximate coordinates N42°20'25.6" W71°02'01", NAD83;

Thence generally following in a westerly direction along the shoreline projecting in a straight line to approximate coordinates N42°20'25.6" W71°02'04.8", NAD83;

Thence generally following the developed shoreline in a southerly, westerly, then southerly direction to approximate coordinates N42°20'25.2" W71°02'05", NAD83 as shown on the MassGIS Google ortho imagery,^{iv};

Thence westerly along the developed shoreline to approximate coordinates N42°20'25.2" W71°02'06.4", NAD83 as shown on the MassGIS Google ortho imagery,^{iv};

Thence northerly following the developed shoreline to the line of Parcel 0603406060ⁱⁱⁱ as shown on the MassGIS Google ortho imagery,^{iv};

Thence generally northwesterly along the northerly line of Parcel 0603406060ⁱⁱⁱ and continuing southerly along the northwesterly line of said Parcel;

Thence from the southwesterly most point of Parcel 0603406010ⁱⁱⁱ crossing Summer Street westerly to the eastern line of Parcel 0603405050ⁱⁱⁱ;

Thence northerly along the westerly line and northwesterly along the southwesterly line of Summer Street to the intersection of said line and the southwesterly projection of the northwesterly line of Harbor Street;

Thence northeasterly along the southwesterly projection of the northwesterly line of Harbor Street and continuing along the northwesterly line of said street to the intersection of said line and the southwesterly line of Northern Avenue;

Thence northwesterly along the southwesterly line of Northern Avenue/Seaport Boulevard to the intersection of said line and the southwesterly projection of the northwesterly side of Commonwealth Pier, labeled as Pier 5 on NOAA Chart #13272;ⁱ

Thence northeasterly along the southwesterly projection of the northwesterly side of Commonwealth Pier, labeled as Pier 5 on NOAA Chart #13272,ⁱ and continuing along the northwesterly side of said pier to the intersection of the northeasterly projection of said line and the southwesterly line of the federal navigation channel;ⁱ

Thence northwesterly along the southwesterly line and northeasterly along the westerly line of the federal navigation channel,ⁱ bypassing the Fort Point Channel and Charles River Channel, to the point of ending coincident with the point of beginning of the Mystic River Designated Port Area Boundary, located at the intersection of said navigation channel and a line projected due east from the southwesterly corner of Pier 5 in the Charlestown Navy Yard.ⁱ

The above described South Boston Designated Port Area is shown generally on a plan entitled: "South Boston Designated Port Area (DPA)," Scale: 1" = 1,550' +/-, Prepared by: Massachusetts Office of Coastal Zone Management, 251 Causeway Street, Suite 800, Boston, MA 02114, Date: May 2018.

Please note: In the event of conflict between this written description and the accompanying map, CZM shall issue a written clarification pursuant to the Designated Port Area (DPA) regulations at 301 CMR 25.00.

ⁱ U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Office of Coast Survey (OCS). *Boston Inner Harbor* [nautical chart]. 50th ed. 1:10,000. Chart #13272. Washington, D.C.: DOC, NOAA, NOS, OCS, Aug. 2008.

ⁱⁱ Refers to the present mean high water shoreline. See M.G.L. c. 91: Public Waterfront Act; 310 CMR 9.00: Waterways Regulations.

ⁱⁱⁱ The City of Boston Assessor's parcel data were extracted from the Massachusetts Office of Geographic Information (MassGIS) Assessors' Parcels data layer, which is a collection compiled by MassGIS of digital parcel data that were provided by municipalities and regional planning agencies. The data were last updated for Boston in 2016 and were accessed May 21, 2018, from the MassGIS website (<https://docs.digital.mass.gov/dataset/massgis-data-standardized-assessors-parcels>). Please note: These data were used for planning purposes only and should not be used for, and are not intended for, survey and engineering purposes. The data do not take the place of a legal survey or other primary source documentation.

^{iv} MassGIS Google ortho imagery. Google 6-inch resolution, natural color aerial imagery acquired April 15, 2017. Web Mercator EPSG:3857. <https://docs.digital.mass.gov/dataset/massgis-data-licensed-google-ortho-imagery>