

**Secretary's
Decision on
The City of Boston's
South Boston
Municipal Harbor Plan Amendment**

December 31, 2002

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I. INTRODUCTION

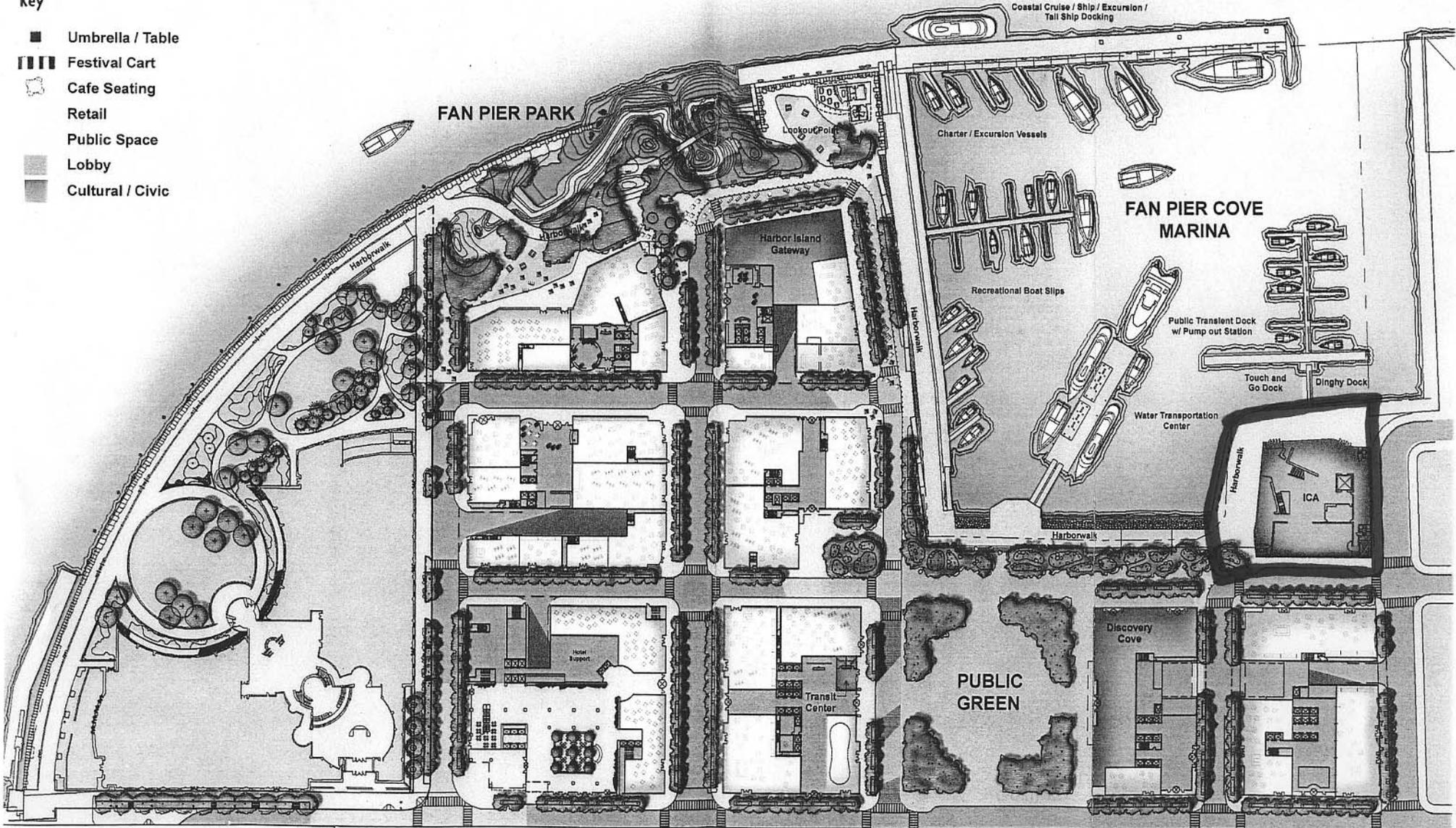
Today, I am approving, subject to certain conditions, an Amendment to the South Boston Waterfront District Municipal Harbor Plan (SBMHP) submitted on November 15, 2002, that encompasses the planning area identified in **Figure 1** of this document. My approval decision for this Amendment is governed by the Municipal Harbor Planning regulations at 301 CMR 23.00. Pursuant to the review procedures contained therein, the Amendment was noticed in the *Environmental Monitor* on November 23, 2002 and written comment letters were accepted during a 30-day comment period ending on December 23, 2002. During the comment period, a public hearing was held at the John Joseph Moakley United States Courthouse on December 3, 2002, where oral testimony was taken. The review process was led by the Massachusetts Office of Coastal Zone Management (CZM), and included consultation with the Waterways Regulation Program of the Department of Environmental Protection (DEP), and the Boston Redevelopment Authority (BRA). The Amendment was reviewed under procedures set forth at 301 CMR 23.04.

The SBMHP (approved on December 6, 2000) was the result of significant effort on the part of the City and the South Boston Municipal Harbor Plan Advisory Committee to implement the planning goals envisioned for this underutilized waterfront in the City's *Public Realm Plan*. To achieve this vision, the SBMHP proposed significant departures from the baseline requirements of the Waterways Regulations, including substitute provisions that would allow greater building heights, altered waterfront setbacks, and the relocation of required open space. The Inner Harbor Subdistrict, made up largely of the Fan Pier and Pier 4 sites, is the location of the most intensive development in the harbor planning area.

The substitute height provisions and offsetting public benefits of the Inner Harbor Subdistrict were the primary focus of much of the public comment during the four-month approval process. To fully activate the waterfront along the Fan Pier and Pier 4 as a year-round public destination, my approval decision required the creation of approximately 127,000 square feet of permanently dedicated civic/cultural building space along the water's edge. One hundred seven thousand of the 127,000 total square feet of cultural and civic space must be provided on the Fan Pier site, of which approximately 60,000 square feet was to consist of the new building for the Institute of Contemporary Art (ICA) to be located on Parcel J. Additional space includes an approximately 17,000 square foot facility for the Harbor Islands Gateway in the first two floors of Parcel D and a 30,000 square foot new family multi-cultural center in the first two floors of Parcel H. With this commitment to civic and cultural uses, extensive public open space and constraints on overall Inner Harbor Subdistrict massing, I concluded that the SBMHP would promote public use and enjoyment of Commonwealth Tidelands to a degree that is fully commensurate with the proprietary rights of the Commonwealth therein, ensuring that private advantages of use are not primary, but merely incidental to the achievement of public purposes.

Key

- Umbrella / Table
- ▤ Festival Cart
- ☼ Cafe Seating
- Retail
- Public Space
- Lobby
- Cultural / Civic



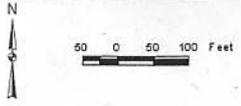
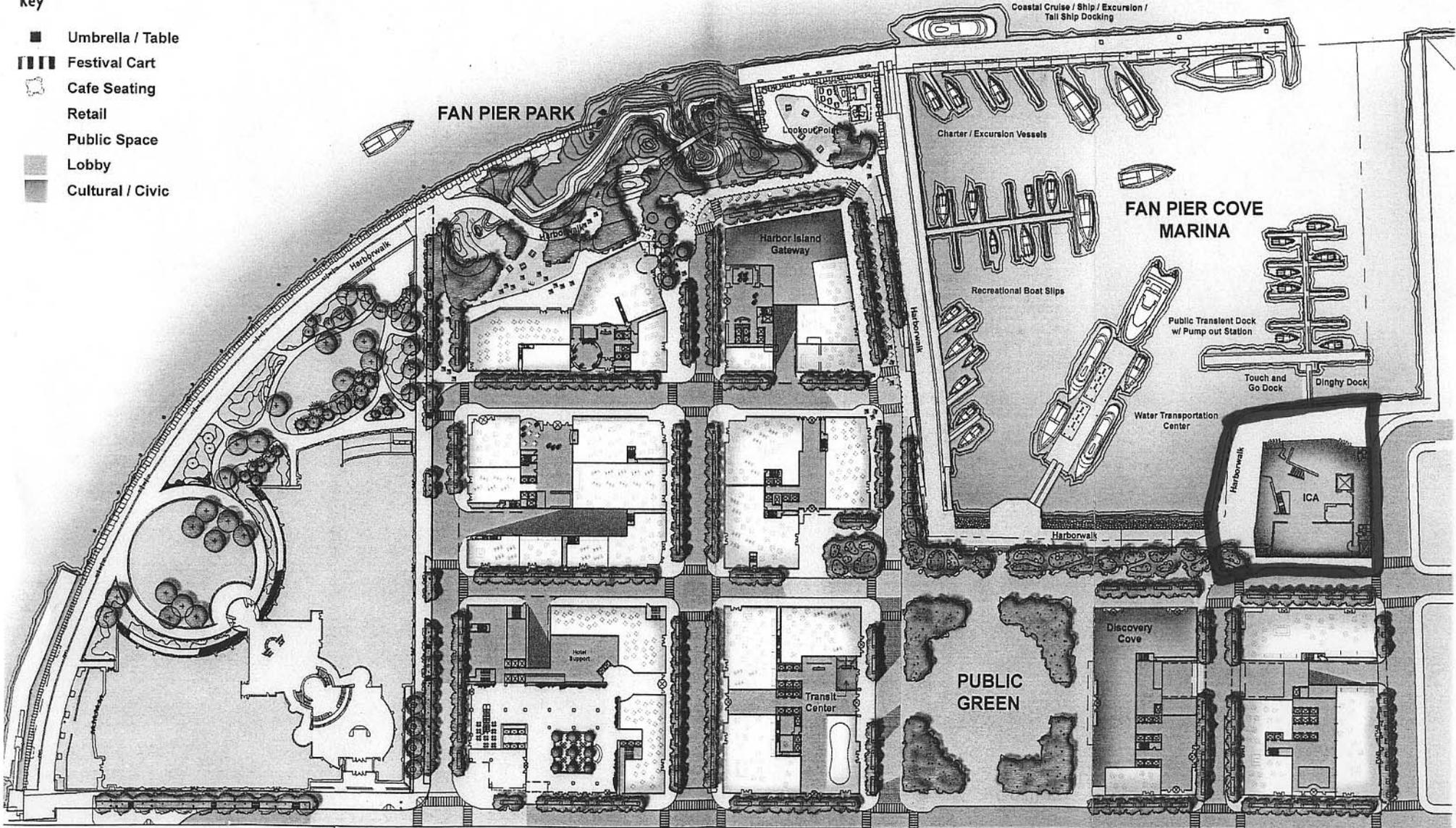
Fan Pier Development

Illustrative Site Plan

Figure 1

Key

- Umbrella / Table
- ▤ Festival Cart
- ☼ Cafe Seating
- Retail
- Public Space
- Lobby
- Cultural / Civic



Fan Pier Development

Illustrative Site Plan

Figure 1

My analysis of the SBMHP as submitted indicated that the level of development originally contemplated for the Inner Harbor subdistrict would significantly increase shadow and other adverse impacts to the ground level environment, and in turn negatively impact the public's use of the waterfront. As a means of quantifying these impacts, a formula based on the calculation of Net New Shadow was developed to determine the appropriate level of offsetting measures. As a result, proposed overbuilding was eliminated and specific offsets related to the pedestrian-level experience were identified to ensure proportionality with the level of impact. Most notably, these offsets included the provision of additional exterior open space (characterized specifically in the decision as "pedestrian useable open space") and the building footprint area of the ICA (approximately 15,500 square feet). As perhaps the most significant public destination and offset of the MHP harbor planning area, the ICA building was not included in the NNS calculations.

Recognizing that an MHP is a planning document, one objective of my SBMHP approval decision was to establish building envelopes defined by clear and predictable rules to guide Chapter 91 licensing decisions that would provide flexibility as project designs evolved over time. For those discrete cases in which final design deviates from that anticipated at the time of plan approval, the regulations at 301 CMR 23.06 provide the flexibility necessary to modify or amend an approved MHP. With final design plans now emerging, the City has proposed this Amendment to its SBMHP to accommodate the construction of the ICA, a major public benefit associated with the Fan Pier project and the most prominent public destination facility to be located along the South Boston waterfront in response to the requirements of the SBMHP approval.

The design of this permanently dedicated cultural/civic building features a creative integration of interior and exterior public space overlooking the Inner Harbor, with a portion of its pedestrian-useable exterior open space sheltered by the cantilevered fourth-floor space of the main gallery. As designed, the merging of exterior and interior public space includes ground floor FPAs within the building, an elevated public platform for harbor viewing and seating, and year-round pedestrian-useable space sheltered from the elements. The design of the ICA has evolved significantly from that envisioned during the MHP process and I look forward to seeing it become a premier public destination of the South Boston waterfront and the wider Boston Harbor.

The ICA, as a major public benefit and offset of the Fan Pier development project, occupies a unique position in the SBMHP. As I discuss in detail below, I find that the design changes proposed in this Amendment reflect the goal of my SBMHP approval to guide redevelopment of this important urban waterfront in a way that protects and promotes the use and enjoyment of this valuable resource by future generations.

II. PLAN CONTENT

The Amendment area, comprising Parcel J of the Fan Pier project, is located on the South Boston waterfront east of the Fan Pier and the Federal Courthouse, north of Northern Avenue, and west of the Boston World Trade Center, as shown in **Figure 1**. According to the City's Amendment, Parcel J is approximately 34,000 square feet and is located entirely on Commonwealth tidelands.

A minimum of 60,000 square feet of the ICA was required by the SBMHP. Final project plans for the ICA indicate that the total usable square footage will be approximately 60,800. This Amendment to the MHP is required to accommodate final design plans that result in covering a portion of the Harborwalk and water dependent use zone (WUZ) on the northerly side of the site by the upper-level cantilevered building element, and a 100 square foot reduction in the on-the-ground building footprint, a fixed offset identified by the South Boston MHP. These modifications are addressed below.

The proposed Amendment reflects final design plans for the proposed ICA building. The design of this required civic/cultural building deviates from the preliminary design contemplated at the time of SBMHP approval as follows:

- Addition of an 18,000 square foot cantilevered gallery
- Addition of a 3,400 square foot public grandstand/viewing platform
- Reduction of on-the-ground footprint from 17,000 square feet to 15,400 square feet
- Addition of approximately 1,600 square feet of pedestrian-useable open space
- Increase in the setback (from project shoreline) of the on-the-ground building footprint (SBMHP required 30 feet, new setback varies between 68 and 74 feet).

III. COMPLIANCE WITH APPROVAL STANDARDS

A. Consistency with CZM Program Policies

The federally approved Massachusetts CZM Program Plan is based on program policies that articulate the Commonwealth's priorities for the management of its coastal resources and uses. These policies reflect the national interests expressed by the Congress in the Coastal Zone Management Act (CZMA) and they are enforceable under Massachusetts statutes and regulations. CZM's policies address water quality, marine habitat, protected areas, coastal hazards, port and harbor infrastructure, public access, energy, ocean resources, and growth management.

I have listed below those CZM Policies and Management Principles that are most relevant to the Amendment area.

WATER QUALITY POLICY #1 - Ensure that point-source discharges in or affecting the coastal zone are consistent with federally approved state effluent limitations and water quality standards.

WATER QUALITY POLICY #2 - Ensure that non-point pollution controls promote the attainment of state surface water quality standards in the coastal zone.

WATER QUALITY POLICY #3 - Ensure that activities in or affecting the coastal zone conform to applicable state and federal requirements governing subsurface waste discharges.

PORTS POLICY #1 - Ensure that dredging and disposal of dredged material minimize adverse effects on water quality, physical processes, marine productivity and public health.

PUBLIC ACCESS POLICY #1 - Ensure that the adverse impacts of developments proposed near existing public recreation sites are minimized.

In addition to program policies, the Program Plan includes Management Principles that provide guidance regarding the preferred management of coastal resources and uses.

PORTS MANAGEMENT PRINCIPLE #1 - Encourage, through technical and financial assistance, expansion of water dependent uses in designated ports and developed harbors, redevelopment of urban waterfronts, and expansion of visual access.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #1 - Improve public access to coastal recreation facilities and alleviate auto traffic and parking problems through improvements

in public transportation. Link existing coastal recreation sites to each other or to nearby coastal inland facilities via trails for bicyclists, hikers, and equestrians, and via rivers for boaters.

GROWTH MANAGEMENT PRINCIPLE #1 - Encourage, through technical assistance and review of publicly funded development, compatibility of proposed development with local community character.

COASTAL HAZARD POLICY #2 - Ensure construction in water bodies and contiguous land areas will minimize interference with water circulation and sediment transport. Approve permits for flood or erosion control projects only when it has been determined that there will be no significant adverse effects on the project site or adjacent or downcoast areas.

PUBLIC ACCESS POLICY #1 - Ensure that developments proposed near existing public recreation sites minimize their adverse effects.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #1 - Improve public access to coastal recreation facilities and alleviate auto traffic and parking problems through improvements in public transportation. Link existing coastal recreation sites to each other or to nearby coastal inland facilities via trails for bicyclists, hikers, and equestrians, and via rivers for boaters.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #2 - Increase capacity of existing recreation areas by facilitating multiple use and by improving management, maintenance and public support facilities. Resolve conflicting uses whenever possible through improved management rather than through exclusion of uses.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #3 - Provide technical assistance to developers of private recreational facilities and sites that increase public access to the shoreline.

PUBLIC ACCESS MANAGEMENT PRINCIPLE #4 - Expand existing recreation facilities and acquire and develop new public areas for coastal recreational activities. Give highest priority to expansions or new acquisitions in regions of high need or limited site availability. Assure that both transportation access and the recreational facilities are compatible with social and environmental characteristics of surrounding communities.

ENERGY MANAGEMENT PRINCIPLE #1 - Encourage energy conservation and the use of alternative sources such as solar and wind power in order to assist in meeting the energy needs of the Commonwealth.

These policies and principles seek to promote and maintain public access, encourage the expansion of water-dependent uses and activities in developed ports and harbors, and to encourage the responsible redevelopment of urban waterfronts. The City's Amendment addresses consistency with each of the applicable CZM Polices in Section 5.0.

B. Consistency with Tidelands Policy Objectives

The MHP Amendment must be consistent with the primary state tidelands policy objectives and associated regulatory principles as articulated in the Waterways Regulations (310 CMR 9.00). The foundation for this determination is set forth in the MHP Regulations.

301 CMR 23.05(2)(a) identifies ten primary state tidelands policy objectives and regulatory principles with which the Plan must be consistent. The following five state tidelands policies are most relevant to consideration of the Amendment before me. These policies protect the public's rights in tidelands by ensuring that:

- Those rights held by the Commonwealth in trust for the public to use tidelands for lawful purposes, and to preserve any public rights of access that are associated with such use, as provided in 310 CMR 9.35, are preserved (301 CMR 23.05 (2)(a)(2))
- The availability and suitability of tidelands that are in use for water-dependent purposes, or that are reserved primarily as locations for maritime industry or other specific types of water-dependent use, are preserved (301 CMR 23.05(2)(a)(3)).
- Nonwater-dependent uses do not unreasonably diminish the capacity of tidelands to accommodate water-dependent-uses, as provided in 310 CMR 9.51. (301 CMR 23.05(2)(a)(8))
- Nonwater-dependent use projects on any tidelands devote a reasonable portion of such lands to water-dependent use, including public access in the exercise of public rights in said lands, as provided in 310 CMR 9.52 (301 CMR 23.05(2)(a)(9))
- Nonwater-dependent use projects on Commonwealth Tidelands, except in Designated Port Areas (DPAs), promote public use and enjoyment of such lands to a degree that is fully commensurate with the proprietary rights of the Commonwealth therein, and which ensures that private advantages of use are not primary but merely incidental to the achievement of public purposes, as provided in 310 CMR 9.53. (301 CMR 23.05(2)(a)(10)).

As discussed above, the provision of approximately 127,000 square feet of civic and cultural space as part of the Fan Pier and Pier 4 projects was a key element of the SBMHP that allowed me to conclude that the projects would promote public use and enjoyment of Commonwealth Tidelands to a degree that is fully commensurate with the proprietary rights of the Commonwealth therein, ensuring that private advantages of use are not primary but merely incidental to the achievement of public purposes. A total of approximately 107,000 square feet of this space must be provided by the Fan Pier project, of which approximately 60,000 square feet must be dedicated permanently to ICA use.

Having reviewed the design changes proposed by the City, it is clear that the ICA will promote public use and enjoyment of the waterfront in a manner not anticipated by preliminary design concepts envisioned at the time of the SBMHP submittal. Through the integrated treatment of exterior and interior space associated with an active and engaging civic/cultural use, the ICA has the potential to become the site of one of the premier public destinations in Boston Harbor. The creative cantilevered design (located 40 feet above grade) will result in approximately 1,600 square feet of additional pedestrian-useable waterfront open space by reducing the on-the-ground footprint of the building. The ICA has, for many years, provided free and/or heavily subsidized art education programs to the public, in addition to a free admission night. I strongly urge that these generous programs continue at the new waterfront location.

I have considered the modifications to the SBMHP proposed by the City in this Amendment carefully and find that they remain consistent with, and indeed promote further, the objectives of the state tidelands policies listed above.

C. Relationship to State Agency Plans (301 CMR 23.05(3))

In accordance with provisions set forth at 301 CMR 23.05(3), an MHP must include measures to achieve compatibility with the plans or planned activities of all state agencies owning real property within the harbor planning area. The modifications to the SBMHP represented by the City's proposed Amendment do not affect the activities of any state agencies owning property or implementing projects within the harbor planning area.

D. Enforceable Implementation Commitments (301 CMR 23.05(4))

In accordance with provisions set forth at (301 CMR 23.05(4)), a plan must include enforceable implementation commitments to ensure that, among other things, all measures will be taken in a timely and coordinated manner to offset the effect of any plan requirement less restrictive than that contained in 310 CMR 9.00. As discussed above, the ICA constitutes a key offset of the Fan Pier project and is subject to the terms and conditions set forth in DEP's consolidated written determination (CWD), dated June 28, 2002, for the Fan Pier project.

IV. ANALYSIS AND EVALUATION OF AMENDMENT ELEMENTS

A. Addition of 18,000 Square Foot Cantilevered Gallery

Final design plans for the ICA now include fourth-floor gallery space that will be cantilevered over portions of the Harborwalk, the WDUZ, and pedestrian-useable open space that was created through the reduction in building footprint. The cantilever, located 40 feet vertically above grade, will extend to the seaward edge of the Harborwalk.

Due to the potential for privatization, whether real or perceived, I do not generally support the covering of exterior public open space. As the signature public destination facility of the SBMHP harbor planning area, however, I am persuaded that privatization in the area located beneath the cantilever is not of paramount concern in this particular case. My decision has been informed by valuable input from the SBMHP advisory committee, Boston Harbor advocacy groups, the City of Boston, DEP, and CZM, leading me to conclude that the covering of this area by an architecturally-innovative cantilever located 40 feet overhead will not degrade the public nature of the space, and indeed creates an area from which the harbor can be viewed protected from sun, rain, or snow. This covering of open space, Harborwalk, and the WDUZ, is in no way precedent-setting and is justified in this discrete case by the carefully integrated approach to public space associated with a public destination facility that also serves as a prominent offset.

B. Addition of Grandstand/Public Viewing Platform

An additional element emerging from the final design for the ICA is a 3,400 square foot (approximate) public grandstand overlooking Fan Pier cove and Boston Harbor. Public comment on the proposed Amendment has demonstrated some concern regarding pedestrian flow in the area between the grandstand and the water's edge. The completion of a vast array of public amenities associated with the Pier 4 and Fan Pier projects, combined with the impressive cultural/civic use planned for Parcel J, are certain to attract large numbers of visitors to this area. The ICA's location at the juncture of the Pier 4 project (with its restaurants and mixed-use development), the Fan Pier cove (offering water transportation service), and Fan Pier park and public green, will result in significant pedestrian flow in the area of the ICA grandstand and requires further review and consideration.

The current design for this area results in a minimum setback of approximately 13 feet 8 inches from the edge of the grandstand to the shoreline (as depicted in Figure 1-4 of the Amendment), and the actual useable square footage of this area may be further reduced during periods of heavy public use. While the grandstand can be considered a "public amenity" under Chapter 91 (310 CMR 9.53(2)(b), *Activation of Commonwealth Tidelands for Public Use*) as it provides a pedestrian-related amenity, based on concerns of the SBMHP Advisory Committee, public comment, DEP, and CZM, I strongly recommend that the minimum setback (from the project shoreline) for any portion of the grandstand be no less than 24 feet. The additional setback could be achieved by reducing

the size of the westerly grandstand, or by extending the walkway out over the existing rip-rap shoreline. The manner in which the increased setback is achieved is a subject for the Chapter 91 licensing process, where public comment from the SBMHP advisory committee, advocacy groups, the City of Boston, and regulatory agencies can offer guidance to the project proponent regarding pedestrian flow along this important waterfront area. In the event DEP determines that a minimum setback of 24 feet is impractical, I am directing DEP to work with interested parties on alternative measures that promote comparable pedestrian flow around the waterside edge of Parcel J.

C. Reduction in On-the-Ground Building Footprint

As discussed above, under the provisions of the SBMHP approval for the Fan Pier project, the approximately 15,500 square foot ICA building footprint was identified as one of several fixed offsets for net new shadow associated with a substitute provision allowing increased building height. As discussed in the City's Amendment, the area of the on-the-ground (i.e., not including a plan view projection of the cantilever) building footprint depicted on the final ICA design plans will be reduced to 15,400 square feet. The 100 square feet previously estimated to be part of the footprint will now be converted to pedestrian-useable open space. Civic/cultural building footprint area and pedestrian-useable open space were viewed equally under the SBMHP, and in response to public comment, my SBMHP approval encouraged project proponents to provide additional pedestrian-useable open space where possible. These SBMHP items, combined with the fact that the fixed offset specification reflected a preliminary assessment of ICA design, I have concluded that this minor change does not impact the goals associated with my SBMHP approval.

D. Additional Pedestrian-Useable Open Space

As discussed above, the final design plans for the ICA will result in the creation of pedestrian-useable open space located under the proposed cantilever. Although not discussed in the Amendment submittal, I will expect this open space to be managed under the auspices of the Common Area Entity (CAE) as set forth in DEP's consolidated written determination (CWD) for the Fan Pier project (discussed below).

E. Increase in Building Setback

As a result of the cantilevered design and the subsequent retraction of on-the-ground footprint, the building setback from water's edge has increased. The SBMHP required a minimum building setback of 30 feet, striving for 40 feet. The new design results in a 74-foot setback at the northeastern edge of the building, and a 68-foot setback at the northwestern building edge.

F. Fan Pier Consolidated Written Determination

In accordance with the provisions of 310 CMR 9.14(3), if a project includes a set of activities that cannot reasonably be incorporated into a single license, DEP may issue, upon request of the applicant, a consolidated written determination (CWD) allowing for multiple licenses to be issued independently for phases of the project, provided licenses can be sequenced or conditioned in a manner that ensures overall public benefits will exceed public detriments as each portion of the project is completed. The Fan Pier proponents applied for and received a CWD for their project on June 28, 2002. Although this determination was subsequently appealed, I understand that a final determination was issued on November 21, 2002.

The ICA, as an integral public component of the Fan Pier project, is included in the CWD issued for the Fan Pier project. The CWD recognized that “due to the long-term nature of the project, potential for changes in technology, desirable changes in design resulting from the design review process, requirements of other permitting agencies, and other relevant factors, the Department may issue a license for a component of the project which differs in some aspects from the plans and description submitted with the application for this CWD, as long as the component remains in substantial conformance with the CWD” (*Consolidated Written Determination Waterways Application No. W02-0404-N Fan Pier, Boston*).

Six provisions define “substantial conformance” for the purposes of this CWD, and two are relevant to the City’s Amendment. These provisions state that “a final license plan will be found to be in substantial conformance with the CWD provided that:

- It is not inconsistent with any qualifications, limitations, conditions or numerical requirements of the approved MHP,
- Any proposed increase in the footprint of a building is less than 10% of the footprint area as shown in the Building Envelope Plans, Plans 5 through 13 submitted with the CWD application; and is accompanied, if necessary, by a corresponding reduction in other building footprints(s) in order to maintain consistency with the approved MHP.”

When reviewing license applications, DEP typically defines “building footprint” as the extent of building area detailed by the project plan view. I am aware that application of this interpretation to the final ICA design plans would represent a 6,804 (or 40%) square foot increase in building footprint. I understand from DEP that this CWD condition, while applicable to the entire project, was intended to prevent non-public facilities from submitting footprint increases during the licensing process that were not subject to public review during the CWD public process. Based on discussions during the Amendment consultation session, DEP indicated that an increase in the plan-view footprint for the ICA would not trigger the need for a new or amended written determination in this particular case as 1) the project itself is the key civic/cultural and waterfront activation element of the SBMHP, 2) the increase in plan view footprint does not result in a significant increase in overall building square footage, 3) the increase in

plan view footprint increases, rather than decreases, the amount of pedestrian useable open space on the project site, and does not negatively impact the ground-level pedestrian environment, and 4) the proposed project change has gone through a formal MHP amendment process. Based on my review of Amendment plan elements, I strongly support this determination.

F. Shadow and Wind Impacts

The ICA footprint is one of the fixed offsets identified in the SBMHP approval to offset the shadow impacts of the Fan Pier project. As such, shadows created by this structure were not included in the net new shadow calculations used to quantify Fan Pier's offset requirements. Further, the South Boston MHP decision allowed 75 feet for the height of the ICA, while the final height proposed in this Amendment is 70 feet. I also note that while the cantilever will project over a small area of the WDUZ, pedestrian-useable open space, and Harborwalk not previously anticipated in the SBMHP, the majority of this area is subsumed by the shadows created by the Fan Pier and Pier 4 developments. Final plans for the ICA building do not appear to result in significant wind impacts to the ground level pedestrian environment, and may, in some cases, improve the pedestrian landscape by providing additional shelter. As required in my SBMHP approval, I will look to the City of Boston's design review process to ensure that the final ICA design meets the City's acceptable wind standards.

V. STATEMENT OF APPROVAL

Based on the planning information and public comment submitted to me pursuant to 301 CMR 23.04 and evaluated herein pursuant to the standards set forth in 301 CMR 23.05, I hereby approve the South Boston Waterfront District Municipal Harbor Plan Amendment, November 2002. This approval is subject to all requirements, qualifications, and conditions set forth in this Decision. This Amendment Decision shall take effect immediately upon issuance on January 1, 2003. The expiration date of this Amendment shall be coincident with the expiration of the South Boston Municipal Harbor Plan—December 6, 2010.

Bound copies of the approved Amendment incorporating this approval decision as an attachment shall be kept on file by the Boston City Clerk, the Boston Redevelopment Authority (BRA), the Boston office of CZM, and the Boston office of DEP/Waterways.

By letter from the Acting Program Chief of the Waterways Regulations Program, dated December 27, 2002, DEP has stated that the Amendment will become operational for waterways licensing purposes in the case of all applications for which the effective date of Amendment approval occurs prior to the close of the public comment period.



Bob Durand
Secretary of Environmental Affairs

12/31/02
Date



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

JANE M. SWIFT
Governor

BOB DURAND
Secretary

LAUREN A. LISS
Commissioner

December 27, 2002

Bob Durand, Secretary
Executive Office of Environmental Affairs
251 Causeway Street, 9th Floor
Boston, MA 02114

Dear Secretary Durand:

The Department of Environmental Protection, Waterways Regulation Program (WRP) has reviewed the City of Boston's South Boston Waterfront District Municipal Harbor Plan Amendment (SBMHP amendment), dated November, 2002. WRP staff have worked closely with the South Municipal Harbor Planning Committee and the Massachusetts Office of Coastal Zone Management (CZM) throughout the planning process, and our comments have been adequately addressed and incorporated into the final amendment. The WRP, therefore, recommends that you approve the SBMHP amendment and make a finding that it is consistent with state tidelands policy objectives, as required by 301 CMR 23.05(3).

In accordance with the provisions of 310 CMR 9.34(2), the Department will require conformance with any applicable provisions of the approved SBMHP amendment in the review of waterways license applications submitted subsequent to the amendment's effective date.

Should you have any questions in regard to the foregoing, please contact me at (617)292-5615. Thank you for your consideration.

Sincerely,

Ben Lynch
Acting Program Chief
Waterways Regulation Program

cc: Mayor Thomas Menino
L. Langley, Wetlands & Waterways Program Director, DEP
T. Skinner, CZM
M. Gaffney, CZM
R. McGuinness, Boston Redevelopment Authority
R. McDonald, Chair, SB Harbor Planning Committee

This information is available in alternate format. Call April McCabe, ADA Coordinator at 1-617-556-1171. TDD Service - 1-800-298-2207.

DEP on the World Wide Web: <http://www.mass.gov/dep>

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