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July 8, 2016

Via email to: brian.golden@boston.gov

Brian P. Golden
Director
Boston Redevelopment Authority
One City Hall Square, 9th Floor
Boston, MA 02201

Re: Proposed Fourth Amendment to Planned Development Area No. 64 (Pier 4)

Dear Mr. Golden,

On behalf of Boston Harbor Now, thank you for the opportunity to comment on the fourth amendment to Planned Development Area No. 64 (Pier 4) under Article 80 submitted by Tishman Speyer on May 24, 2016. At our June 30, 2016 Harbor Use Committee meeting, the project proponent provided additional information on the proposed amendment. Our specific comments follow.

Planned Development Area 64 (PDA) includes the Phase 2 Office Building and the Phase 3 Wharf Residential Building at Pier 4. This amendment has two purposes, as described in the Fourth Amendment document:

The Fourth Amendment, if adopted, will remove approximately 33,767 square feet, substantially all of which is land under water, from PDA No 64 so it may be incorporated as part of the 150 Seaport Boulevard Project ("150 Seaport Project") in accordance with a request by Cronin Holdings LLC, the developer of the 150 Seaport Project. The area being removed is owned entirely by 130 Northern Avenue, LLC, the owner and developer of the Phase 2 Office Building.

The Fourth Amendment, if adopted, will also allow the affordable housing obligations for the Phase 3 Wharf Residential Project to be satisfied by facilitating the off-site development of affordable senior housing units in the O'Connor Way senior housing project at 5 Major Michael J. O'Connor Way, South Boston (the "O'Connor Way Project") or another off-site affordable housing project approved by the BRA.

Although on its face each part of the amendment is relatively straightforward, both actions trigger changes in development policy that deserve greater public scrutiny and consensus. First, it is our understanding that the goal of this underwater land transfer is to expand the lot size of the 150 Seaport Boulevard Project to more than one acre in order to qualify as a Planned Development Area (PDA) under Article 80. (Note: Tishman Speyer will retain an easement for the watershed and therefore its Chapter 91 watershed activation requirements.)

This would allow the project to conform to a site-specific zoning overlay rather than standard BRA zoning requirements, and indeed the 150 Seaport project is already considered to be a PDA currently undergoing Article 80 review. By law, however, these submerged lands are state-owned bottom land and cannot be held for private interest (and hence private gain) related to associated upland land use regulation (See Snows Inn Case, Harwich, MA). The use of underwater land for a PDA by the City sets a new precedent for zoning of underwater property as if it were dry land and sets up a cascade of possibilities for similar land swaps around the harbor.

The 150 Seaport Boulevard project is pursuing a parallel strategy under Chapter 91 by using a single-site Municipal Harbor Plan (MHP) amendment to exempt the proposal from Chapter 91 standards for project height, open space and setback (see attached). In both cases, we believe this is a misuse of the regulatory process to allow a project to go forward that otherwise would be prohibited under standard regulations as being too large for its site.

The proposed amendment states that the transfer of land should not affect the development rights, parcel ownership, or expand the size of the 150 Seaport Boulevard lot. The amendment states that it does not change any uses, project benefits, or include additional rights other than those currently set forth in the Development Plan for the project as a whole. That being the case, please clarify 1) how 150 Seaport qualifies as a PDA without this transfer and/or 2) why it would qualify as a PDA with the transfer.

Similarly, the offsite affordable housing offset creates a precedent for using waterfront-specific resources for public benefits elsewhere. Without denying the clear need for more affordable housing throughout Boston, we believe that again, this is a larger public policy decision that merits broader public understanding and consensus than provided here. We believe that both of these actions depart significantly enough from existing regulations that they represent regulatory changes more appropriately decided by legislative authorities.

Thank you for your consideration of our comments.

Sincerely,



Julie Wormser
VP Policy



Jill Valdes Horwood
Waterfront Policy Analyst