



Are you on board?

15 State Street, Suite 1100
Boston, MA 02109
617.223.8671
bostonharbornow.org

February 12, 2021

Via email: Chris.Busch@boston.gov

Chris Busch, Assistant Deputy Director for Climate Planning
Boston Planning and Development Agency
One City Hall Square
Boston, MA 02201

Re: Coastal Flood Resilience Overlay District

Dear Mr. Busch,

On behalf of Boston Harbor Now, thank you for the opportunity to comment on the draft zoning language for Article 25A, which establishes a Coastal Flood Resilience Overlay District (CFROD). Boston Harbor Now was involved in the development of the Flood Resilience Design Guidelines that serve as the criteria for determining compliance with the requirements of this Overlay District. We have also actively monitored the development of these regulations. A member of our staff has participated in the public meetings on these regulations, and we were grateful to have them presented in more detail at the Climate Roundtable meeting we convened in December 2020.

Promoting increased coastal resilience in the face of climate change and sea level rise is part of Boston Harbor Now's core mission. As such, we commend the Boston Planning and Development Agency for its efforts to clarify the necessary measures for buildings to prepare for these impacts and for the foresight to expand the geographic boundaries of the area where flood protections will be required. These new standards, when combined with coastal adaptation measures envisioned by the neighborhood Coastal Resilience Solutions plans issued by the City of Boston's Environment Department, contribute to a layered approach to combating the effects of climate change. We are particularly encouraged that the Overlay District has as part of its guiding principles (Section 25A-7) enhancement of the public realm and ensuring that actions taken on any one site support the goals and implementation of district level resilience.

Applicability/Implementation

The Overlay District proposed covers all areas of the City that are vulnerable to flooding during

a 1% annual chance of storm with 40 inches of projected sea level rise. This metric was established in the Boston Research Advisory Group's 2016 report and is consistent with current forecasts for sea level rise for the 2070-2100 period based on best available science. However, these forecasts can change based on our actions and improvements in our understanding of sea level rise. This illustrates the need to incorporate into the regulations a mechanism that will allow the boundaries of the Overlay District to be reviewed and modified as new information and projections are developed. It is, of course, also possible that with aggressive actions to slow the pace of climate change that the projections will improve over time allowing the boundaries of the district to be modified downward as well as upward. In either case, there should be a specified procedure for revisiting the boundaries of the district every ten years to reflect the evolving scientific forecasts.

In the areas where this Overlay District will apply, we note that only new buildings/additions or changes of use/substantial rehabilitations of a certain size are subject to its requirements. The requirements for design adaptations vary depending on whether a building is within or outside of the Harborpark area, with additional applicability criteria if the change of use is within or outside of the "Downtown" area. It is unclear why only these buildings are required to adopt flood-protection measures. If an area is subject to the same chance of flooding, flood protection will be beneficial regardless of the size of the project or building. If the issue is one of funding or capacity to implement these reviews, or if the concern is that small property owners will not have the resources themselves to comply with these requirements, then that should be addressed by other complementary City initiatives.

Even in its current form, with only large buildings subject to this new zoning, the district overlay will potentially affect a large number of projects. It is essential that the staffing needed to evaluate all of these new requirements be appropriate to move the projects along in a timely manner.

Projects in the Overlay District are given exemptions on how open space, lot coverage, and gross floor area are calculated to allow for stairs and ramps as well as for other floodproofing measures that may be located outside of the building and/or below the Sea Level Rise-Design Flood Elevation (SLR-DFE). We understand and support the goal of this section. However, we are concerned that this may lead to unintended consequences in terms of the impact on the public realm and pedestrian experience, particularly for people who use wheelchairs or who have other mobility limitations or disabilities. Caution must be taken in the implementation of these measures to avoid creating a street-level experience of ramps and stairs devoid of the character that has been a critique of some edges along recent development projects in places like the South End and East Boston.

Specific Sections

Section 25A-6.1(a) makes essential facilities or high risk structures that are allowed in the underlying zoning conditional uses in the CFROD. There is, however, no guidance provided to determine the basis on which this conditional approval would be granted. Appendix C includes in the definition of "high risk structures" a list of sample building uses: religious institutions, concert halls, museums, athletic facilities, schools, and community centers. It is also unclear why these uses would require a conditional use permit and under what circumstances such a

permit would be granted or denied. Including these uses in the fabric of the City is important for cultural and civic life and establishing a higher standard of first floor elevation should provide sufficient protection.

Section 25A-6.1(c)(i) limits what uses can occur below the SLR-DFE, and allows parking accessory to non-residential uses. The inference here is that parking accessory to residential uses is not allowed below the SLR-DFE. It is unclear why such a distinction is made between these two different uses of parking spaces. Either type could be flood-proofed using the same methods or designed to be used for flood storage in the event that it is emptied of vehicles. Below-grade parking is essential in densely developed urban areas, even where only limited parking is provided and this ordinance should not prohibit such a use if safely designed.

Section (c)(ii) of this same section of the regulations provides that any non-residential use that is allowed or conditional in the underlying zoning is conditional below the required SLR-DFE. Here, again, there is no guidance as to what would be required to secure a conditional use permit below the SLR-DFE for any particular use. In areas where there may be uses below the SLR-DFE that support watershed activation of Chapter 91 spaces, it would be useful to have guidance as to what might be allowable. Worse, those supportive uses, such as locker facilities or kayak rental space may be forbidden under the SLR-DFE by Section (c)(iii) of this section. More clarity is needed in these sections to provide clear guidance to both property developers and advocates.

Section 25A-7.4(a)-(d) set out the Coastal Flood Resilience Design Principles with which projects must be consistent. We are broadly supportive of these principles. It has been our longstanding position that individual development projects must support district-level resilience efforts and tie flood protection measures across multiple sites in order to protect critical infrastructure, support pedestrian connections, and enhance the character of the public realm. Further, no project's resilience strategy should increase flood risk at adjacent or any other parcels. These requirements emphasize the need to require projects to incorporate into their parcel-level plans the design flood elevations and district-level thinking that is set out in the Coastal Resilience Solutions documents for the neighborhoods.

This type of district-level thinking was also envisioned by the Downtown Waterfront Municipal Harbor Plan. It states that:

The Downtown Waterfront should also serve as the city's first Flood Resiliency District, with property owners collectively evaluating risks of future sea level rise, district wide measures that can be implemented to reduce the risk and potential future damage, as well as funding mechanisms for area-wide infrastructure enhancements. Measures to consider could include offshore storm surge barriers and wave attenuators to break up wave action; armoring and fender systems at the ends of piers and wharves; and the elevation and utilization of waterfront plazas and Harborwalk as a heightened seawall that can protect the district from inundation while continuing to provide public waterfront access. (Downtown Municipal Harbor Plan, p. 71).

While we appreciate that the City is trying to incorporate district level flood resilience into its

planning and support the intent of the CFROD in this regard, we are not certain that zoning provides an adequate mechanism for this purpose. We encourage the City to convene a working group with developers, non-profit organizations, and other stakeholders to continue to work towards finding additional legal mechanisms to achieve district level flood resilience as envisioned by the Climate Ready Boston project.

We look forward to continuing to be involved with and contributing to the conversation to achieve climate resilience throughout the City.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Toffler', with a stylized flourish at the end.

Aaron Toffler
Director of Policy
Boston Harbor Now