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December 15, 2024

Via email: article80modernization@boston.gov

Boston Planning Department
One City Hall, Ninth Floor
Boston, MA 02201
Attn: Ms. Nupoor Monani

Re: Article 80 Modernization Draft Action Plan

Dear Ms. Monani,

Boston Harbor Now respectfully submits the following comments on the *Article 80 Modernization Draft Action Plan* put forth by the Boston Planning Department.

Boston Harbor Now's mission is to ensure that Boston's Waterfront, Harbor, and Islands are accessible, inclusive, and adapted to the risks of climate change. We do this to realize our vision of a vibrant, welcoming, and resilient Waterfront, Harbor, and Islands for the benefit of everyone. We advocate for climate resiliency measures that contribute to district-scale flood protection and improve ecosystem services while activating the waterfront by facilitating public programming and ensuring equitable access.

Our organization has reviewed the Article 80 Modernization Draft Action Plan and attended Article 80 Modernization workshops, including the most recent October 26th virtual meeting. We are grateful for this opportunity to provide comments.

Boston Harbor Now appreciates that the Boston Planning Department is undertaking this effort to standardize and streamline the Article 80 process. The current Article 80 process can be opaque, complicated, and lengthy, making it frustrating for both community members and developers alike. The opportunity to improve the process is a welcome change that has the potential to expedite projects delivering critical amenities and infrastructure and educate community members on the built environment around them and the role they can play in shaping it. Although some details are still yet to be decided, we appreciate the modernization of Article 80 as an important step in the right direction.

Effective Engagement

Under the proposed modernized Article 80 process, Community Advisory Teams (CATs) would replace Impact Advisory Groups (IAGs). CAT members would be randomly selected based on housing situation, age, community expertise, etc., to devise a representative sample of the community. Should the CAT model move forward, we strongly recommend that each CAT covering a geographic area near the Boston coastline have at least one representative familiar with the challenges and opportunities of living, working, and visiting the waterfront. We also recommend including a member who can bring a citywide or more regional perspective to the CAT process because most waterfront projects eligible for



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Article 80 review will have benefits and impacts that extend well beyond the immediate neighborhood. Such projects often have the potential to become destinations serving the broader Boston community as well as people from outside the city or region. At the same time, project sites vulnerable to coastal flooding may require resilience solutions that not only provide protection for the sites themselves but also for inland areas, especially if they are part of a continuous line of defense along the waterfront. Failure to address such needs may have regional impacts that could extend beyond the neighborhood boundaries.

Regarding the CAT's education, we recommend they receive training on climate mitigation and climate resilience options, and for those covering the waterfront, Chapter 91 of the Massachusetts General Laws and the City's Coastal Flood Resilience Overlay District (CFROD). Although Chapter 91 is a state law, Article 80 often sets the stage for Chapter 91 discussions. Chapter 91 presents a unique opportunity to create additional amenities to support public access, use, and enjoyment of Boston's waterfront, and it would be helpful for CAT members to understand how to maximize this opportunity. If useful, Boston Harbor Now would be happy to share its knowledge of the waterfront with the CAT members as a training opportunity or provide the Planning Department with educational resources as they develop their CAT training curriculum. Regardless, training resources and learning opportunities developed by the Boston Planning Department should be shared with both CAT members and made publicly available as a resource to all.

Consistent Standards

Through the modernization of Article 80, three new definitions would be created for the terms "mitigation," "community benefits," and "enabling infrastructure" to update "eligibility criteria." We appreciate the attempts to clearly define each of these terms, which are often used interchangeably. However, we remain uncertain how to categorize coastal flood infrastructure under these terms, especially concerning flood infrastructure that contributes to district-scale solutions. Flood infrastructure is critical to ensuring the longevity of a development, suggesting that it might be "enabling infrastructure." Solutions contributing to district-level protection go above what the Coastal Flood Resilience Design Guidelines require, indicating that it may be a "community benefit." Clarity around these definitions is essential because such categorization will significantly impact the community benefit budget. We strongly suggest that if district-level flood infrastructure is considered a community benefit rather than enabling infrastructure, the formula used to calculate the community benefit budget cap considers flood vulnerability. The community benefit budget cap should not be lower than the cost of providing critical flood infrastructure.

We agree that using planning documents as the framework for determining the appropriate types of community benefits minimizes ad-hoc negotiations that only experienced participants can effectively navigate. For waterfront projects, the various Climate Ready Boston neighborhood plans developed over the last several years should be very useful in this regard, although we recognize that, updated



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regional plans or other less formal initiatives could also help evaluate the types of community benefits and amenities needed to support use of the waterfront in specific neighborhoods. Examples include the Fort Point Resource Guide that Boston Harbor Now has done through a series of Fort Point Channel Community Workshops, or the Wharf District Council Plan developed by the neighborhood association composed of property owners along a section of the downtown waterfront.

According to the Draft Action Plan, “Compl[iance] with Mass. Ch. 91 requirements to preserve pedestrian access along the water’s edge and provide facilities to enhance public use and enjoyment of the water” is considered “mitigation” under the new system. Requirements under Chapter 91 are nuanced and can vary depending on whether a project is located within Private Tidelands versus Commonwealth Tidelands, whether a project is a water-dependent versus a non-water-dependent and more. We suggest that the Planning Department work with Department of Environmental Protection’s Waterways Division, the administrators of Chapter 91, when devising their Mitigation and Community Benefits Formulas to account for all the nuances of Chapter 91.

Coordinated Review

Boston Harbor Now co-chairs the Green Ribbon Commission’s Coastal Resilience Working Group. Through this work, we have found that permitting challenges are one of the most significant barriers to the deliverance of coastal flood infrastructure. For example, unpredictable and lengthy timelines for Planning Department approval are a source of frustration for waterfront developers, which leads to increased, but avoidable, project expenses. The efforts to streamline the Article 80 process and provide consistent timelines will still alleviate some of the permitting obstacles. We, therefore, appreciate the Planning Department’s desire to expedite the process and see it as a way to help deliver critical coastal resilient infrastructure in a timely fashion. However, from the action plan, it was less clear how these more predictable timelines would come to fruition. Requests for comment letter deadline extensions and delayed feedback from other City Hall departments are all potential pinch points that must be addressed through close coordination between city hall departments, including specific deadlines.

Regarding the information required during each of the new filing phases - pre-concept design, concept design, and schematic design - we are concerned by how late in the filing process “Resilient Sites and Buildings” occurs. Understanding how the project intends to address coastal flooding concerns during the concept phase would be much more beneficial, even if the proponent can only identify alignments and types of intervention, whether that be berm, deployable, or something else at this point in the filings. Coastal flood infrastructure would likely impact the circulation and landscaping plans, which is part of the concept design phase, making it imperative that this information be provided earlier. Developers have also noted that designing and refining flood infrastructure gets more costly to change later in the process.



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Boston Design Vision and Other Ongoing Planning Processes

In conjunction with the Article 80 Modernization Draft Plan, the Planning Department is also in the midst of developing their Boston Design Vision Report, which outlines the design principles to which the Planning Department strives to achieve, and at the start of their Greening while Growing planning process, which “aims to expand the City’s network of public spaces, foster better connections, and fill the gaps in the City’s existing open space network.” These large scale planning efforts are commendable and we appreciate that the Boston Design Vision Report, which we understand to have spin off Neighborhood Character Analyses, and Greening and Growing Initiative, have the potential to help align design expectations for community members, developers, Boston Civic Design Commission (BCDC), and planning staff. These clearer expectations and standards lead to a more transparent, predictable, and equitable development review process, which we highly commend.

We want to ensure that the design review guidelines established in the Boston Design Vision Report and Greening while Growing creates guidelines for waterfront spaces. The Harborwalk, a roughly 43-mile set of public walkways along the waterfront, should be standardized to the extent possible. The Harborwalk was built in a piecemeal fashion by hundreds of different property owners resulting in constant design transitions between different properties. The lack of cohesion and harsh transitions between properties fails to create a sense of destination and makes Harborwalk users question their right to continue along these public areas. Design guidelines that standardize how the coastline should look, and feel will help the Harborwalk become more than the sum of its parts. Additionally, as noted previously, Chapter 91 comes with additional space and design requirements for waterfront developments that often require both indoor and outdoor spaces to be open to the public. These spaces should have design standards to ensure that they are built with the public’s needs in mind. We have already experienced the success of the Coastal Flood Resilience Design Guidelines in promoting resilience best practices and are excited to see additional design guidelines that will help promote access along the waterfront as well.

We appreciate the opportunity to comment on the Article 80 Modernization Draft Action Plan and look forward to following and participating in the modernization process. Boston Harbor Now would be happy to speak with the Planning Department to address any questions regarding these comments. We look forward to continuing to work with the department to ensure that appropriate resilience projects can move forward expeditiously and that public access to the waterfront is maintained and enhanced.

Sincerely,

A handwritten signature in black ink that reads "Kathy Abbott".

Kathy Abbott
President & CEO