

Final Northern Avenue Waterfront Development Plan

South Boston, Massachusetts

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Environmental Protection

Submitted by:
Massachusetts Port Authority



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Final Northern Avenue Waterfront Development Plan

1.0 Introduction

This Final Northern Avenue Waterfront Development Plan is submitted by Massport to the Department of Environmental Protection (DEP) pursuant to a Memorandum of Understanding (MOU) which sets out a process for planning and licensing of certain projects on Massport property in South Boston. The MOU (attached as Appendix A) creates a two-stage planning and licensing procedure for non-maritime industrial or mixed-use projects in a certain portion of the Massport property covered by the MOU known as the Special Planning Area (shown on Figure 1). Within this Area, Massport can create plans known as “Waterfront Development Plans” which provide a description of proposed land use, dimensional characteristics of buildings, and open space for a portion of the Special Planning Area, and will describe the public benefits and offsets, if appropriate, which development projects will provide. The Plans are submitted by Massport for public review and DEP approval.

When a specific development project subject to the MOU is proposed within an area covered by an approved Plan, it will require a Chapter 91 license, and the proposal will be subject to the usual public comment period. Issuance of a license will be determined by whether the project is consistent with the uses and dimensional characteristics outlined in the approved Plan and provides public benefits and offsets consistent with those proposed in the Plan.

This Final Northern Avenue Waterfront Development Plan is the first such Plan to be submitted by Massport. The Plan covers a 3.3-acre portion of Massport property along the southern side of Northern Avenue, adjacent to but not part of the South Boston Designated Port Area, which is part of the Commonwealth Flats Development Area (CFDA), an area that has undergone broader environmental permitting. The Secretary of Environmental Affairs issued a Certificate on the CFDA FEIR on January 29, 2001.

In the March 31, 2000 Certificate on the CFDA Draft Environmental Impact Report, the Secretary requested that the Draft MOU and the Preliminary Waterfront Development Plan for this area be filed together as a Notice of Project Change (NPC) for his review as part of the CFDA process. This filing occurred on October 15, 2000, and a public hearing on the NPC was held on November 15, 2000. Several parties submitted oral and written comments. The Final MOU incorporating amendments based on these comments was published in the Environmental Monitor on March 15, 2001. At the request of the Department of Environmental Protection, Massport filed a somewhat revised Preliminary version of this Plan on March 15, 2001 for a second public review and comment period. DEP and Massport held a public meeting on this revised Plan on April 4, 2001 and received several comment letters on the Plan. In consideration of these comments and interagency discussions, Massport has made several revisions to the Plan and has attached a Response to Comments as Appendix F.

The principal revisions to the Preliminary Plan incorporated in this Final Plan relate to uses and design parameters for Parcels K-1 and K-2 on the eastern end of the Plan Area. These parcels adjoin the Boston Marine Industrial Park, and Parcel K-2 in particular forms an

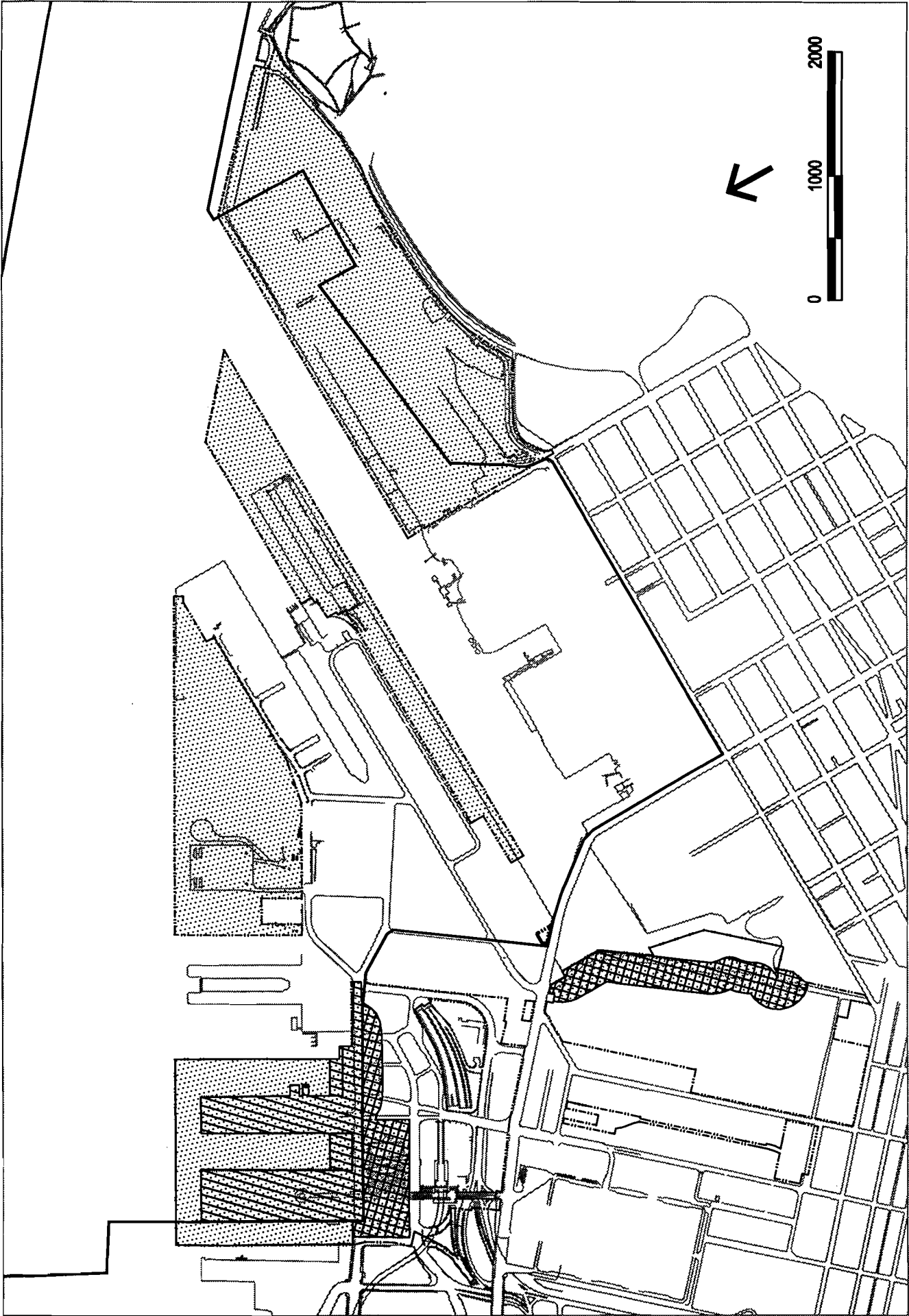


Figure 1: Special Planning Areas

- Designated Port Area Boundary
- - - Approximate Massport Property Line
- ▨ Massport Properties Covered by the DEP-MPA MOU

- ▧ Special Planning Area within DPA
- ▩ Special Planning Area outside DPA

important transition between commercial and residential uses to the west and industrial uses to the east. Section 2.2 of this Plan incorporates a number of new physical guidelines for these parcels and defines a more limited set of uses that can be found consistent with the Plan as specific projects move forward. In particular, residential use will not be allowed on either Parcel K-1 or K-2 (until now it was prohibited only on K-2), and office will not be allowed as a primary use on K-2, but only as ancillary to industrial or service/institutional uses on the parcel.

Other revisions made in response to comments include a more detailed discussion in Section 1.3.2 of Massport's plans to continue accommodations for truck activity serving the Boston Fish Pier and other Port areas, on major streets throughout the Commonwealth Flats area and specifically on Northern Avenue; an updated shadow analysis in Appendix E illustrating the shadow impacts from a realistic conceptual building proposal as well as the maximum proposed envelope shown in the Preliminary Plan, since the maximum envelope could not actually be built according to the full requirements of Massport's proposed offsets; and updated information regarding the Massport South Boston Waterfront Park in Section 1.3.3.



1.1 Area of the Plan and Chapter 91 Jurisdiction

The Northern Avenue WDP area encompasses approximately 3.3 acres of Massport Property within Chapter 91 jurisdiction along the southern edge of Northern Avenue in South Boston (see Figure 2). The Plan Area is separated from Boston Harbor by Northern Avenue, and therefore is adjacent to but does not include the water's edge. The Plan Area also does not include any part of a Designated Port Area. It is adjacent to a Designated Port Area (as shown on Figure 1) and lies just west of the Boston Marine Industrial Park. Northern Avenue, on the Plan Area's northern edge, and particularly the Massport Haul Road, just outside the Plan Area to the east, serve as primary truck routes serving maritime and other industries nearby. The Boston Fish Pier lies to the northwest of the Plan Area.

The Plan area was defined to be consistent with Massport's previously filed Commonwealth Flats Development Area (CFDA) environmental documents: it is the area within the CFDA that is subject to Chapter 91 jurisdiction. The specific extent of Chapter 91 jurisdiction in this area was defined by a Determination of Applicability issued by DEP in 1998; this jurisdiction is also illustrated in Figure 2 as the southern edge of the WDP's boundary.



1.2 Massport's Waterfront Planning Context

Massport has engaged in an extensive planning process over several years and through a number of separate efforts for its Commonwealth Flats land holdings in the South Boston Waterfront. This process began with the Port of Boston Economic Development Plan, which set land use priorities harborwide, followed by the City's Public Realm Plan and Massport's Strategic Plan for Commonwealth Flats, and the series of environmental permitting documents for the Commonwealth Flats Development Area. Together, the plans described in these documents have gone through an extensive public review and comment process. The result of this work is an overall plan for the public realm, including streets, sidewalks, and open spaces, new buildings, and new land uses within Commonwealth Flats that will create a dynamic urban waterfront district.

1.2.1 Port of Boston Economic Development Plan

Massport began the planning for the South Boston Waterfront with the Port of Boston Economic Development Plan, a joint study with the Boston Redevelopment Authority in 1996, that established a basic framework for the allocation of land uses harborwide. This study provided a comprehensive analysis of the prospects for growth in Boston's maritime industries and identified policies, land, and facilities needed over the short- and long-term to accommodate their needs for growth and modernization. The Plan outlined an agenda to optimize port operations and reuse underutilized facilities to create ample capacity for long-term growth of the maritime industry within areas suited to modern operations. The Plan concluded that areas not needed for future maritime purposes should be "reprogrammed for a mix of other uses." The subsequent City and Massport plans — the City's South Boston Waterfront Public Realm Plan, and Massport's Commonwealth Flats Strategic Plan — reaffirmed the suitability of this WDP Area for mixed-use development while protecting the interests of the adjacent working port.

1.2.2 Commonwealth Flats Strategic Plan

Massport prepared the Commonwealth Flats Strategic Plan to serve as an important guide for the Authority's internal decision-making, including prioritizing and phasing commercial mixed-use development projects and core capital improvements to create dependable revenue streams. The Plan, released in May 2000, describes Massport's overall plans for mixed-use development within the South Boston Waterfront. The scope of this plan includes the area of this WDP, and provides the infrastructure framework, proposed development program, and urban design influences for this area. The major plan proposals are identified in Figure 3. Figure 4 includes an illustrative plan of Massport's proposed development in Commonwealth Flats, including the WDP area.

Through the strategic planning process, Massport prepared a set of planning principles to guide its waterfront development. These principles, which are listed below, seek to create an appropriate balance of land uses that supports maritime industrial activities and enhances waterfront public access. As part of the comprehensive overall planning approach for Massport's South Boston Waterfront property, these principles establish an important framework for the Northern Avenue Waterfront Development Plan.

➤ **Maintain Priority of Port-Related Activities**

Consistent with its core missions, Massport will maintain a large majority of its South Boston land holdings for maritime and industrial use. The Authority is reinvesting in its maritime terminals, creating new freight handling and warehousing facilities, and expanding seafood processing facilities to improve the competitive position of the Port of Boston. A transitional use area on the eastern edge of the WDP Area will buffer port activities and the main transportation access corridor that serves them from non-maritime development concentrated on land closer to downtown Boston. The successful development of a mixture of commercial uses, limited to Massport's Commonwealth Flats property in South Boston, will generate a revenue stream to help finance port operations and expenditures for necessary capital projects to improve the Port.

➤ **Improve the Transportation System**

Together with State and City agencies, Massport will enhance access to, from, and within the district by investing in key transportation infrastructure. Critically important are

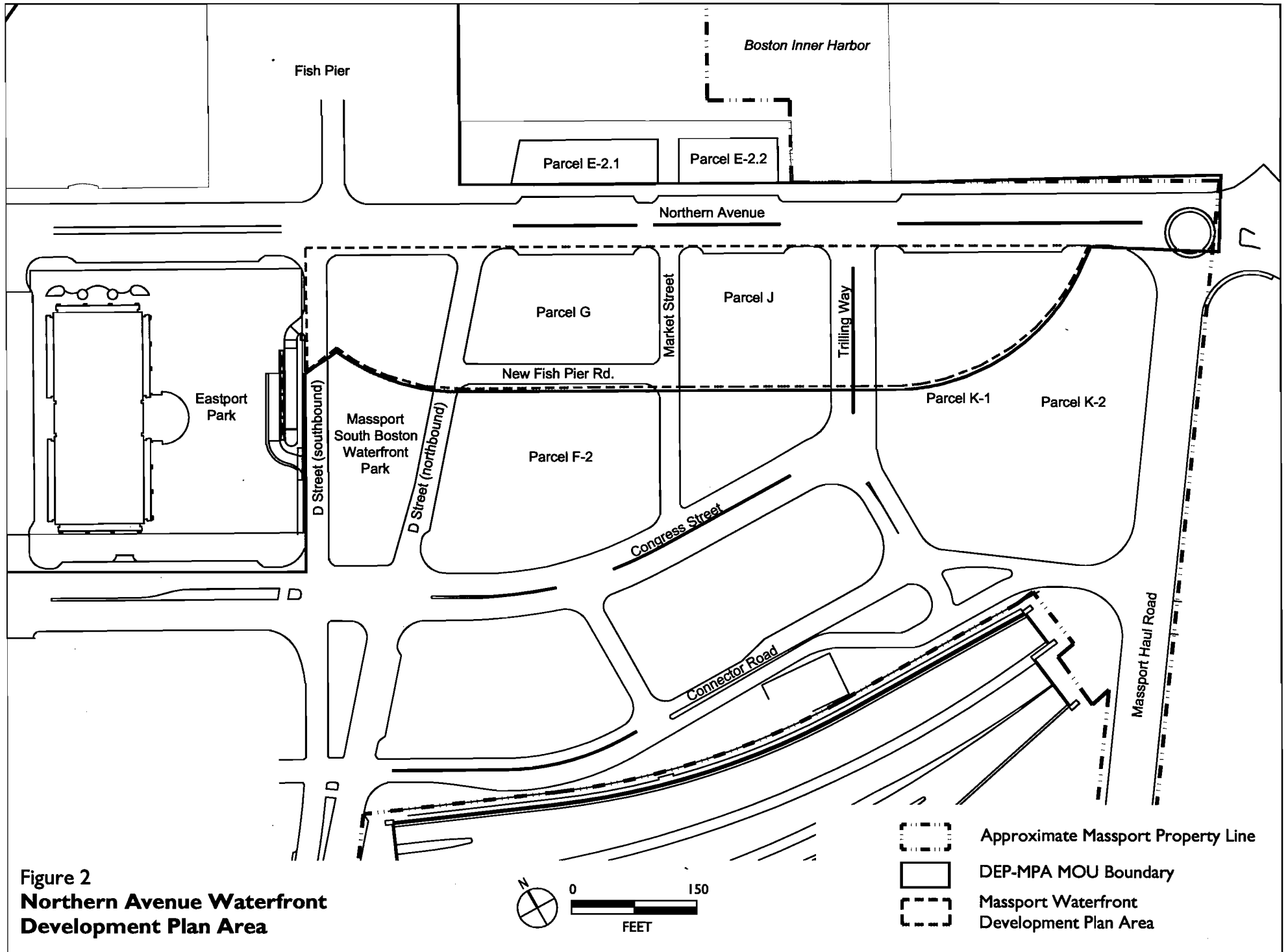


Figure 2
Northern Avenue Waterfront
Development Plan Area

Boston Inner Harbor

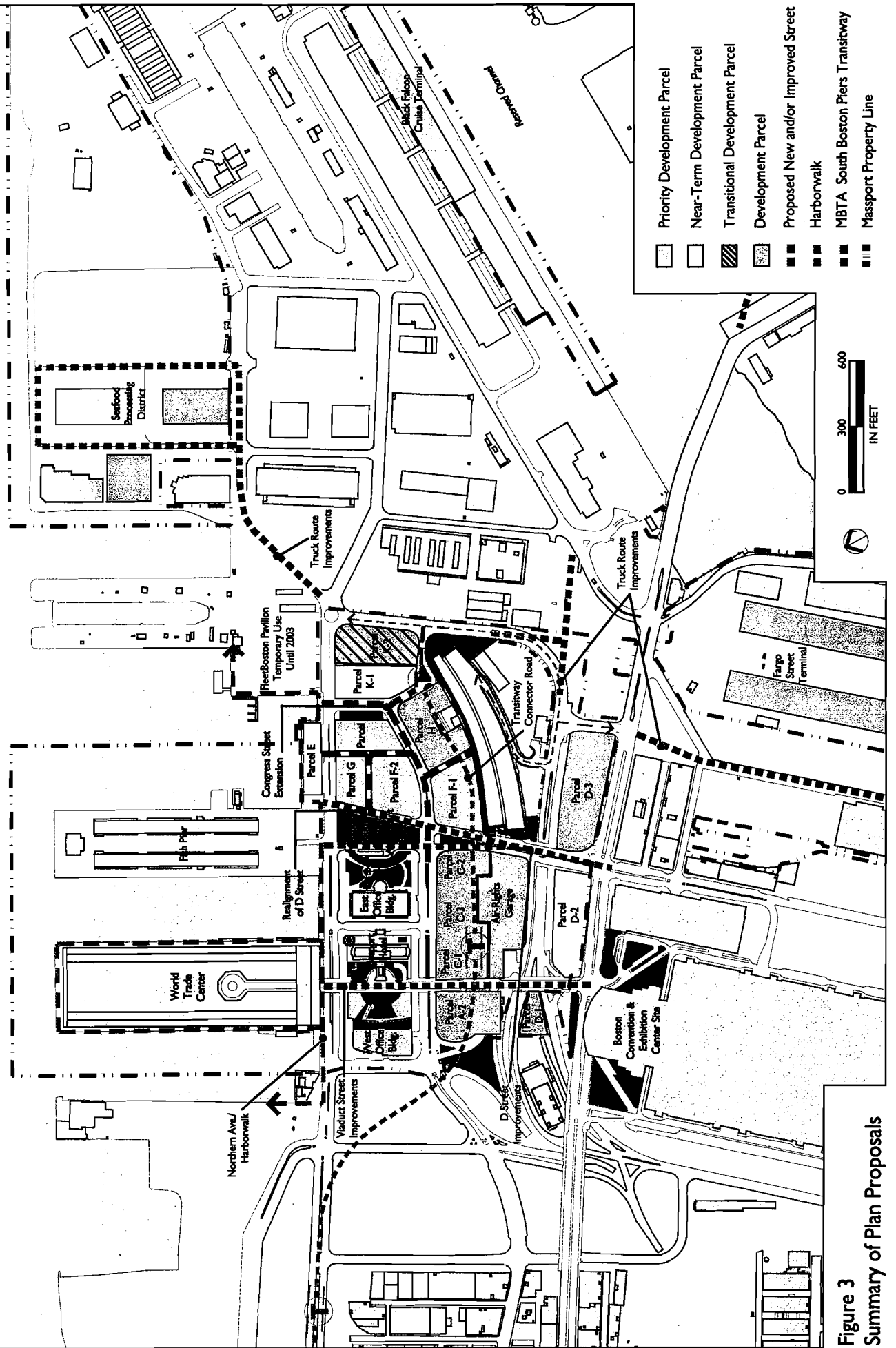


Figure 3
Summary of Plan Proposals

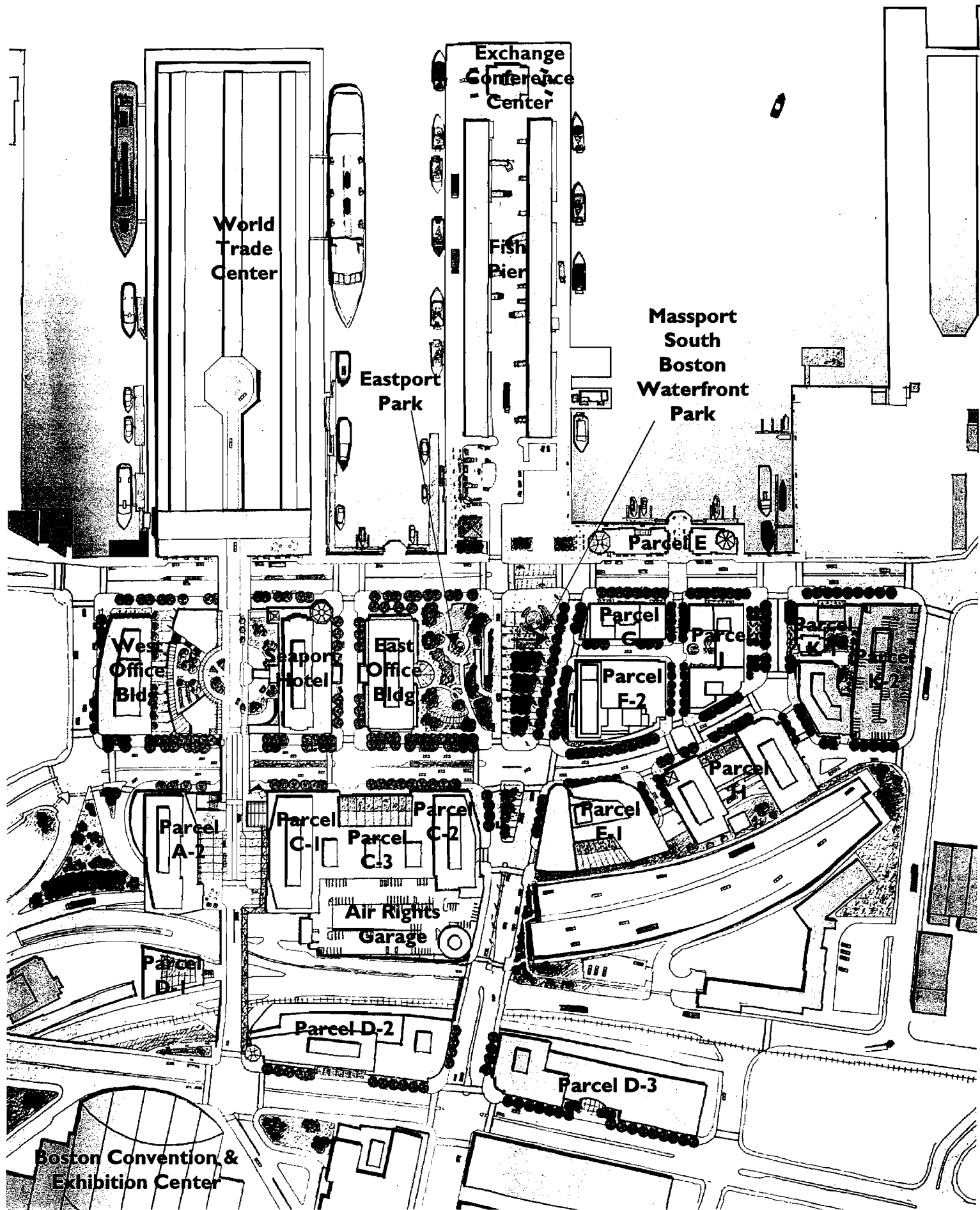


Figure 4
Commonwealth Flats Strategic Plan,
Illustrative Plan

improvements to truck and rail access, which will help revitalize the Port, provide more direct connections to Logan Airport and the interstate highway system, and keep trucks off local streets. A more coherent, efficient pattern of local streets linking to the new interstate system at the waterfront will reduce demands for traffic to cut through the South Boston community and facilitate redevelopment of areas currently lacking adequate access. Massport will ensure maximum use of public transit by clustering its mixed-use development around the planned transit stations and stops and by extending the reach of service through the Airport Intermodal Transit Connector (AITC). Additional passenger water transportation services will expand transportation options to employees and visitors.

➤ **Create a Balanced Mixed-Use District**

Massport is committed to establishing a vital commercial district featuring a balanced mix of office, hotel, maritime, restaurant/retail, cultural, and residential uses on roughly 70 acres of its land in Commonwealth Flats. These uses are consistent with the overall land use pattern contemplated in the BRA's South Boston Waterfront Public Realm Plan. This development will strike an appropriate balance between the needs of Boston's commercial and tourism-based economic sectors with those of the working port and the neighboring community. From an asset management perspective, diversifying land use on Massport property by introducing additional commercial and residential development will strengthen Massport's overall financial position and create more dependable sources of revenue to help fund investments in the Port and district infrastructure.

➤ **Be a Good Neighbor**

The Commonwealth Flats Strategic Plan creates a mechanism for Massport to communicate its development intentions to the city as a whole, and in particular, the South Boston community. It establishes the context for an informative and responsive review process for individual project proposals. Massport will continue to work with the community to minimize any adverse impacts of development on its land. Generous public open spaces will extend the Harborwalk, provide public access, and support a range of activities at the water's edge. New business and employment opportunities will be created in commercial market sectors. Private developers of commercial projects on Massport's Commonwealth Flats property will make substantial payments in the form of City property taxes and voluntary linkage payments. Improved truck routes and buffer zones will protect the community and allow expansion of residential areas.

➤ **Advocate Strong, Cohesive Urban Design**

Massport will maintain high design standards for public realm improvements and private developments on its property. The scale and character of development will be governed by strong, clear urban design principles. These principles will be applied through a thorough design review process coordinated with the City of Boston. They will help create an appealing urban district of mixed land uses that contribute accessible and inviting civic spaces and public improvements of the highest quality, including a coherent system of public streets and open spaces.

➤ **Undertake Environmentally Responsible Development**

Redevelopment of Massport's underutilized urban waterfront properties in Commonwealth Flats, in lieu of new development in suburban areas, supports a sound regional environmental policy: urban redevelopment rather than suburban sprawl. Concentrating urban redevelopment near the new infrastructure improvements currently under construction within the district, particularly the South Boston Transitway, will focus growth and help reduce regional sprawl. Reuse of urban waterfront property provides a mechanism to remediate contaminated soil conditions that may be present. Massport will ensure that principles of sustainability guide the design and construction of buildings, site improvements, and operational systems within Commonwealth Flats.

➤ **Conduct Inter-Agency Coordination**

Massport has and will continue to actively share its planning goals, policies, and priorities for its South Boston Waterfront property with other City and State planning and regulatory agencies and the South Boston community. The Authority seeks to ensure that its planning recommendations are coordinated with and responsive to those of other recognized plans, specifically those included in the BRA's *South Boston Waterfront Public Realm Plan*, and with community expectations.

1.2.3 MEPA Environmental Permitting

The WDP falls within the permitting area known as the Commonwealth Flats Development Area (CFDA). This area was originally defined in Massport's ENF of the same name, submitted to MEPA in March 1999. Subsequently, Massport has filed the CFDA DEIR in January 2000, a Notice of Project Change detailing open space planning in June 2000, a notice of Project Change incorporating earlier drafts of the DEP/Massport MOU and this WDP in October 2000, and a FEIR in December 2000. The CFDA received a certificate on its FEIR on January 29, 2001. The planning proposals expressed in these documents, including those within the plan area, have been reviewed by the public and various agencies and advocacy groups through the MEPA process.

1.2.4 City of Boston Public Realm Plan

Throughout its planning for Commonwealth Flats, Massport has sought to complement the City of Boston's planning for the South Boston Waterfront outlined in the BRA's *Public Realm Plan*. Massport staff has met many times and continues to meet with BRA staff to establish the compatibility of its waterfront planning with that of the City. Massport is an active participant on the Advisory Committee working with the BRA to draft its South Boston Municipal Harbor Plan. Massport supports the principles behind the BRA plan and has sought to prepare a compatible plan in its Northern Avenue WDP. Figure 5 illustrates the BRA's most recent planning for the Northern Avenue WDP Area. Important areas of compatibility between Massport and BRA planning are described below.

➤ **Land Use**

The distribution of land uses described in the BRA's *South Boston Waterfront Public Realm Plan* emphasizes the creation of mixed-use neighborhoods and public open space.

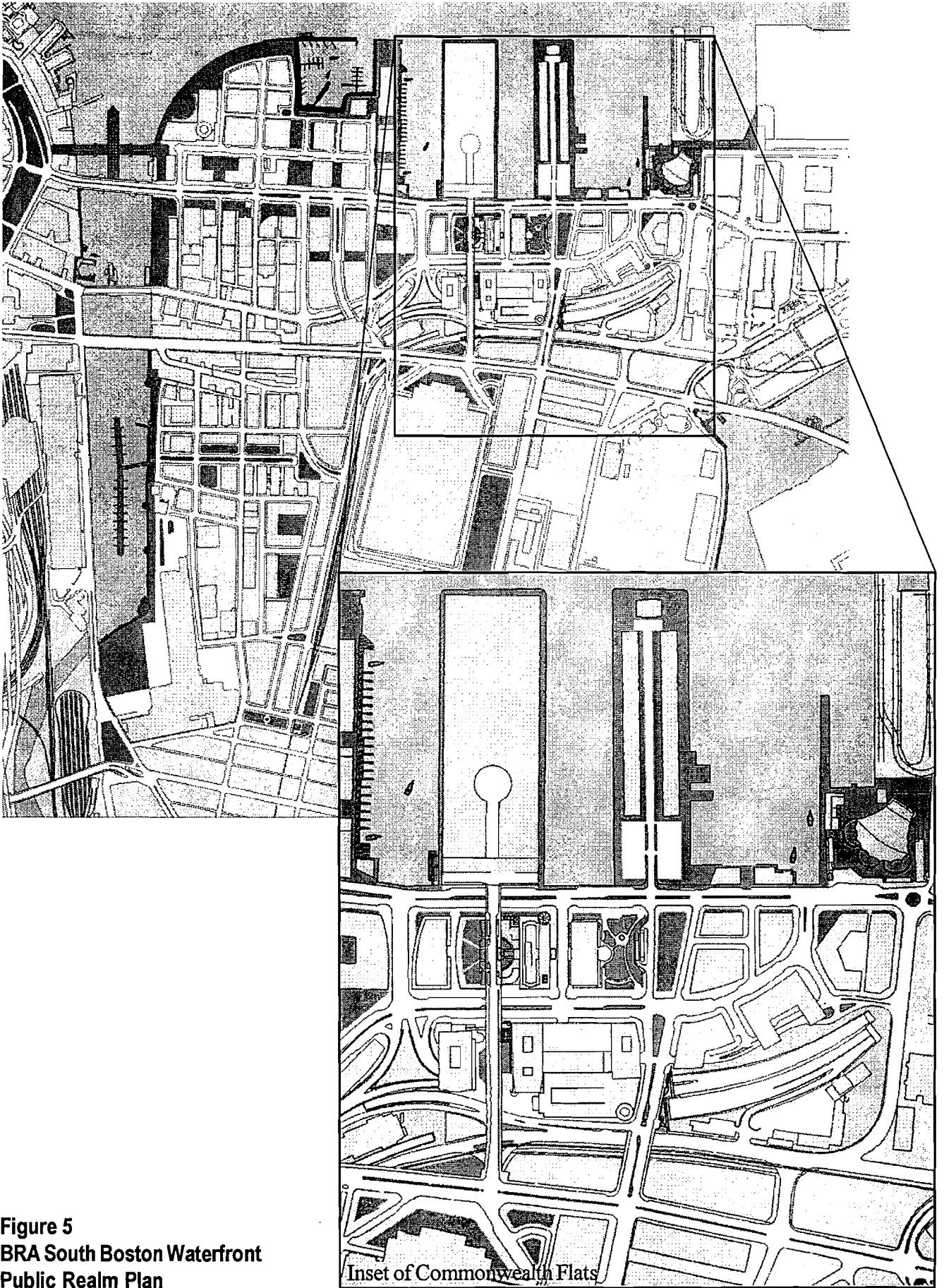


Figure 5
BRA South Boston Waterfront
Public Realm Plan

Source: Boston Redevelopment Authority, June 2000

Within the so-called Piers District, which includes the Northern Avenue WDP area, the BRA Plan envisions “a zone between Summer Street and Northern Avenue of office and hotel to service the convention center and World Trade Center. The D Street corridor would be predominantly residential.” *The South Boston Waterfront Public Realm Plan* also calls for street-level retail and commercial uses. The WDP is consistent with these proposed uses.

➤ **D Street and Seaport Square**

The BRA Public Realm Plan embraced the termination of D Street, a primary north-south connection across the district, at the water’s edge. Key Massport decisions, supported by the City, were to straighten D Street, create the couplet of one-way streets between the Transitway and Northern Avenue, invest in streetscape improvements between Summer Street and Congress Street, and create Massport South Boston Waterfront Park. All these actions reinforce the importance of Seaport Square as an important public place and open space destination within the district.

➤ **Congress Street Design at Northern Avenue**

Following the *Public Realm Plan*, Massport and the BRA have coordinated the conceptual design of Congress Street extension to curve northward to Northern Avenue and to include public open space on the eastern side of Congress Street. This represents a jointly determined evolution of the conceptual designs presented in earlier plans.

➤ **Grid of Smaller Streets**

Both the WDP and the BRA plan show a smaller grid of north-south streets approaching the waterfront and east-west connections through some of the large parcels in this area. These pedestrian-friendly streets as well as the connections through the adjacent buildings will greatly enhance public access in the WDP Area.

➤ **Integrated Streetscape Design**

For several years, Massport has worked with the BRA and others to develop and coordinate the design of streetscape details on streets in Commonwealth Flats. Now, many of these elements are soon to be built. Streetscape details such as paving materials, integrated streetlight/traffic signals, street trees, and other features are being consistently applied on major streets in the district. These urban design features will be reflected in the public realm improvements within the WDP Area.



1.3 Planning Vision for the Northern Avenue Waterfront Development Plan Area

The WDP Area includes a number of development parcels, parks, and streets on Massport’s Commonwealth Flats property along the southern side of Northern Avenue between D Street and the Massport Haul Road. As discussed above, *the Commonwealth Flats Strategic Plan* and the various environmental permitting documents describe Massport’s overall planning in this area. The WDP Area is a small part of the overall area described in these documents. Except for additional land use restrictions on Parcels K-1 and K-2, the WDP does not change

the proposals for land use and public realm investments contained in these earlier documents, but it provides additional information concerning how the proposed uses and investments relate to MGL Chapter 91 and the Waterways Regulations. Both the overall planning and more specific information have been made available for public review and comment through documents and numerous public meetings throughout the MEPA review process for CFDA. This section describes the basic elements of the Massport's urban planning for Commonwealth Flats that are located within or are adjacent to the WDP area.

1.3.1 Land Use and Building Massing

Massport planning envisions a mix of uses in the area east of D Street, including Parcels G, J, K-1, and K-2 within the WDP area (see Figure 2). Uses here are expected to include office, hotel, housing, retail, and Massport's maintenance/service facility for the district together with the various open spaces described below. Parcels G, J, and K-1 along Northern Avenue are planned to provide a mix of uses on upper floors with retail and/or restaurant space on the first floor. Housing will be included on Parcels G and J only within the WDP Area, and not on either of the K parcels. A "restaurant row" is intended to continue to exist along Northern Avenue as part of the redevelopment concept. Although it is located beyond the WDP area to the north, Massport plans to reconfigure the Jimmy's Harborside Restaurant in its current location to provide public views to the harbor, expand public access to the watersheet, and extend Harborwalk on the waterside of buildings in this area.

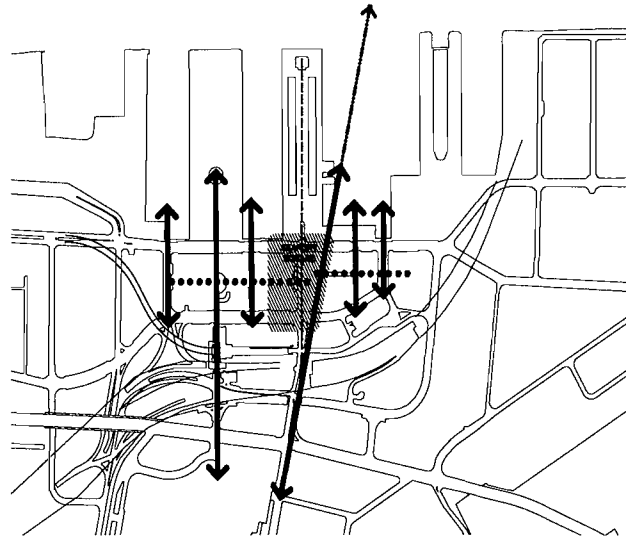
Proposed residential use within the WDP Area will be sited and designed so as not to present impacts or limitations to truck routes and industrial activities to the east. At Parcels K-1 and K-2, Massport proposes a transitional use zone adjacent to the Massport Haul Road that will be limited to uses that do not conflict with working port activities; housing will be prohibited from both Parcel K-2 and the adjacent Parcel K-1. Structured parking, public safety and district maintenance facilities, and industrial space are being considered for the Parcel K-2. Further, Massport will limit direct vehicular access to the Massport Haul Road from this parcel to activities compatible with truck route operations (e.g. maintenance and service vehicles), and will prohibit Haul Road curb cuts for structured parking facilities. Design of housing (on Parcels G and J) will require sound-reducing construction techniques for interior spaces (double glazed windows, etc.); locating housing beginning on the second floor above commercial/public uses; and use of other building design features that can effectively address potential noise issues.

Building heights east of D Street will step down to the north and east, toward the waterfront and areas of maritime activity. Buildings will reduce in height towards the harbor edge in order to create a more pedestrian scale, as contemplated by Chapter 91 Tidelands principles, and Massport's desire to enhance public waterfront view and access conditions. In addition, Massport plans to step building heights down to the east towards Massport Haul Road (a maximum of 140 feet on parcel K-1 and 100 feet on parcel K-2) in response to Logan Airport operating needs and to create an appropriate transition between the area of mixed-use development and the working port.

1.3.2 Streets Connecting to the Harbor

Massport proposes a network of new and relocated streets in the Northern Avenue WDP Area (and Commonwealth Flats generally) that will enhance public access to the waterfront (see Figure 6) and ensure that trucks serving the nearby maritime industrial uses are accommodated.

Figure 6
Urban Design Diagram



This will include the realignment of the northbound portion of D Street so that these lanes extend directly to the waterfront to the east of the Fish Pier. The southbound portion will remain in its current position, creating a public open space area between the northbound and southbound segments. This realignment will open new view and public access corridors along D Street to the harbor. Not only will this concept create a substantial public open space to anchor Seaport Square, but also, together with the Congress Street extension across D Street, it will improve pedestrian and vehicular traffic flow in the area. Massport also plans to curve Congress Street east of D Street northward to end at Northern Avenue near Wharf 8. This will provide a suitable terminus for Congress Street, which runs all the way to Government Center in downtown Boston, but also an important visual and pedestrian connection to the water from the planned MBTA stop at Connector Road to the south.

Other proposed streets will provide smaller-scale, pedestrian-friendly access routes to the waterfront by dividing the development parcels. An east-west secondary street, tentatively named New Fish Pier Road, will provide a vehicular and pedestrian connection through the WDP Area and help keep service vehicles off major streets and truck routes. For example, garage parking and service for parcels G and F-2 is planned to be located on New Fish Pier Road. A north-south street, tentatively named Market Street, will open a new public view and access corridor to the harbor by aligning with a mid-block open space Massport plans to create in redeveloping Jimmy's Harborside Restaurant site across Northern Avenue.

The new roadway system is specifically designed to accommodate the many trucks serving the Boston Fish Pier, the World Trade Center, and the Boston Marine Industrial Park. All roadways that trucks will use on a regular basis in the area, including Northern Avenue, D Street and Massport Haul Road, are being designed with appropriate curve radius standards to ensure smooth movement of trucks. Districtwide standards for roadways and intersections have been developed, in cooperation with the City, to ensure the compatibility of vehicular and pedestrian movement. Elements will include clearly marked and appropriately located crosswalks paved with upgraded materials (concrete pavers), intersection "neckdowns" when appropriate to decrease pedestrian crossing distance, truck route signs, pedestrian crossing signals and signs, a continuity strip for orderly location of streetscape elements, coordinated street and sidewalk lighting, and other features. Northern Avenue is planned to be redesigned

to include two travel lanes in each direction, plus curbside parallel parking in appropriate locations. Currently Northern Avenue has only one travel lane in each direction between D Street and the Massport Haul Road. This will allow the inclusion of a left turn lane at intersections and improve overall traffic flow, benefitting Fish Pier truck traffic as well.

1.3.3 Open Space and Enhanced Pedestrian Environment

Overall, the WDP features important waterfront open space elements within the system of public realm improvements outlined in the Commonwealth Flats Strategic Plan and the Open Space Notice of Project Change which was submitted to MEPA in June 2000 (see Figure 7). These elements provide the following public amenities:

- Provide much needed green areas and open paved areas;
- Sponsor public activities and destinations;
- Provide public views and access to the water; and
- Enhance the district's character for a diverse set of user groups, including employees, residents and visitors.

Massport Plans to create an important public square at the western end of the WDP Area that will be centrally located within the district along D Street between Congress Street and Northern Avenue. Bounded by Massport's development parcels, this square will be the focus of Massport's mixed-use development in the South Boston Waterfront. Within the square, there will be a signature public open space for the district, consisting of a Massport South Boston Waterfront Park adjacent and complementary to Fidelity's Eastport Park. Furthermore, it will extend the experience of the waterfront inland, reaching toward the BCEC. Development adjacent to the square, expected to be composed of office, hotel, and residential uses, will benefit from the expanded waterfront access and views. Retail, restaurant, and public uses will activate the street level of buildings flanking the square.

Massport South Boston Waterfront Park

The location of Massport's 1.2-acre "South Boston Waterfront Park" was created by the realignment of D Street. Massport's objectives for South Boston Waterfront Park include the following:

- Creating a park that is a landmark and an important public place in the City, the region, and the South Boston Waterfront;
- Creating a park that is a public destination at the harbor's edge;
- Creating a park that responds to its adjacency to Boston Harbor in establishing the character of the park and providing views to the harbor;
- Program and design the park so that it addresses the needs of residents and employees in the immediate area, residents of the larger community and visitors;
- Program and design the park so that it is enjoyable, active and useable throughout the year, daytime and night time, and on weekdays and weekends.

MPA's South Boston Waterfront Park, located at the western end of the WDP area, will complement other open space in the area with an active program that features interpretive/educational elements, protected/indoor space, food service, public toilets, and other elements that will define it as an inviting and important public destination. MPA's South Boston Waterfront Park will sponsor daily, seasonal and annual events.

Massport is moving ahead in the design of South Boston Waterfront Park in a manner that in character and program would complement, not duplicate, Eastport Park. As a result, a much wider range of public open space resources will be provided that can support a wider range of activities including those that would be attractive to CFDA residents and residents of the traditional South Boston neighborhood. Together, the two parks will provide almost three acres of public open space. Figure 8 summarizes the context and some of the major influences that will be factors in the design of Massport South Boston Waterfront Park. Massport has selected a team to design the park lead by the Halvorson Company. Currently, the project is in the conceptual design phase.

Thus far, Massport has hosted three public meetings (the most recent on July 24, 2001) and two invited workshops (in April 2001) regarding the program and design of South Boston Waterfront Park. Massport used its comprehensive Commonwealth Flats mailing list to invite participation at the public meetings, including existing tenants. South Boston residents were well represented at the public meetings. At the invited workshops, one group represented abutting developers of the World Trade Center, Parcel F-1 and Parcel F-2, at the other Massport invited a broad range of design professionals, BRA design staff and open space advocates. The public meetings presented information and conducted discussions with those in attendance regarding site analysis, user groups, and possible program elements. Massport, at the request of the community, also prepared a video of numerous local area parks and conducted a Saturday morning bus tour of area parks (Eastport Park, City Square Park, and University Commons Park) to observe characteristics and attributes of existing parks.

At this juncture, based upon the work of the design team and the public input process described above, there is strong support for a public park that celebrates the working waterfront and maritime themes through interpretive elements and public art, contains lawn area and plentiful seating, provides sun and shade, provides food opportunities, and has a public bathroom. The park program is being developed so that it supports activities and features that are inviting to and address the needs of the following users: residents of the immediate area; residents of the existing South Boston neighborhoods; families; and visitors to the area.

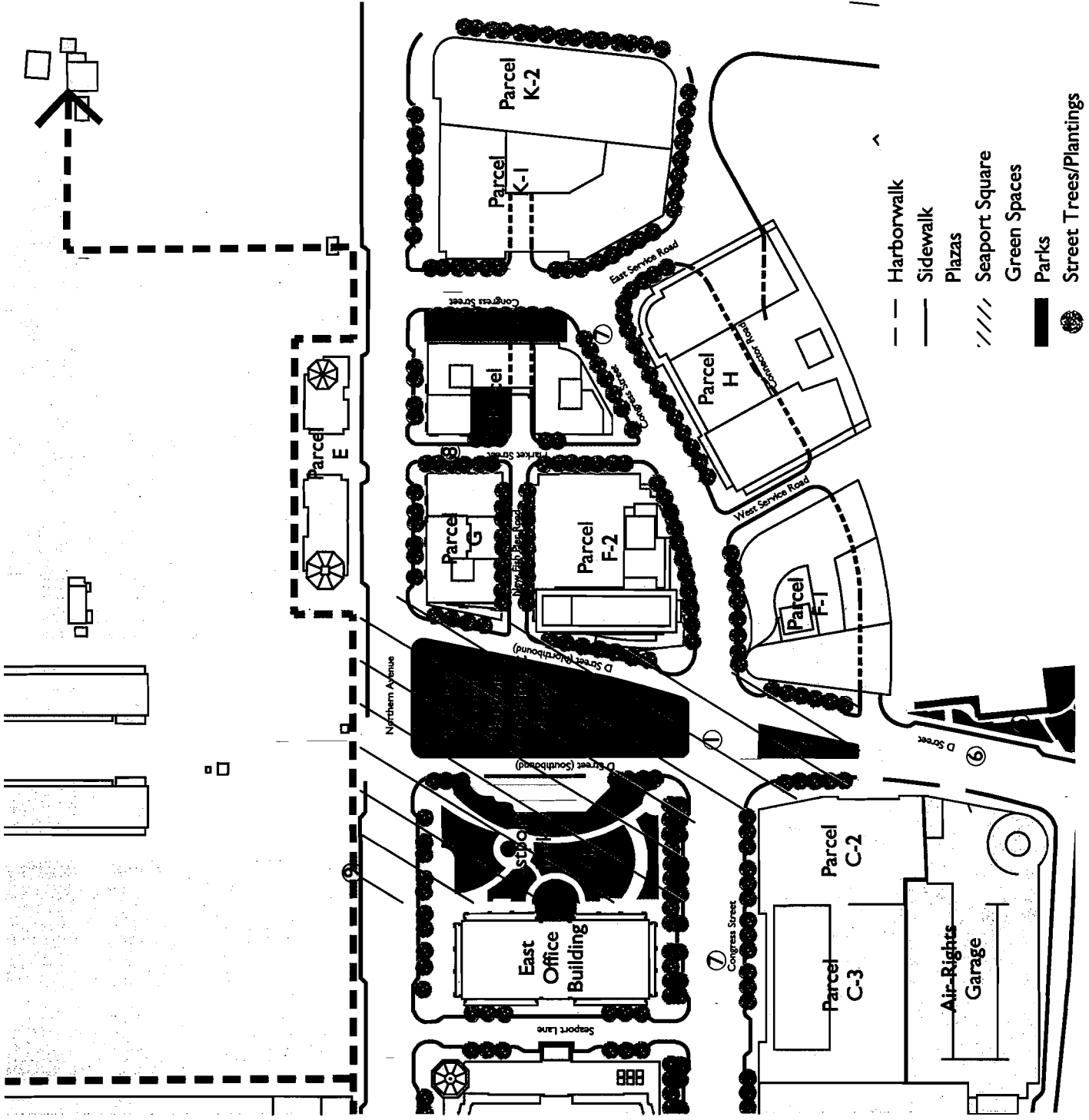
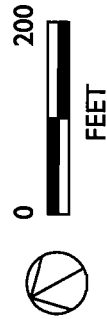
Congress Street Park

A public green space is planned at the end of Congress Street at Northern Avenue between Parcels J and K-1. This park will provide a public open space amenity east of D Street at the terminus of Congress Street that enhances public views and access to the waterfront and establishes a strong pedestrian connection between the waterfront and the MBTA Transitway stop along Connector Road. Massport's mixed-use development plan calls for potential residential and office developments along this portion of Congress Street with retail activity on the ground floor. It is expected that the park will integrate sidewalk and park areas in a manner that includes ample plantings and seating. As design of the streets and buildings in the area has progressed in recent months, this open space may be located on the western side of Congress Street rather than on the eastern side as depicted in earlier documents.

Northern Avenue and Harborwalk

The waterfront setting and maritime activity along Northern Avenue are defining elements of Commonwealth Flats and bring Boston residents and tourists to the harbor. MPA plans call for sustaining and enhancing focus on restaurants and waterfront access in this area. Improved pedestrian connections along Northern Avenue will be designed in concert with the needs of truck access in this area. Redevelopment of the Jimmy's Harborside site will provide for the extension of Harborwalk on the waterside of the building as well as the creation of new visual

- ① Seaport Square
- ② Massport South Boston Waterfront Park
- ③ WTC Eastport Park
- ④ Congress Street Park
- ⑤ I-90 Portal Park
- ⑥ D Street Corridor
- ⑦ Congress Street
- ⑧ Paths to Sea: A grid of smaller scale streets
- ⑨ Harborwalk/Northern Avenue



**Figure 7
Commonwealth Flats
Open Space Plan**

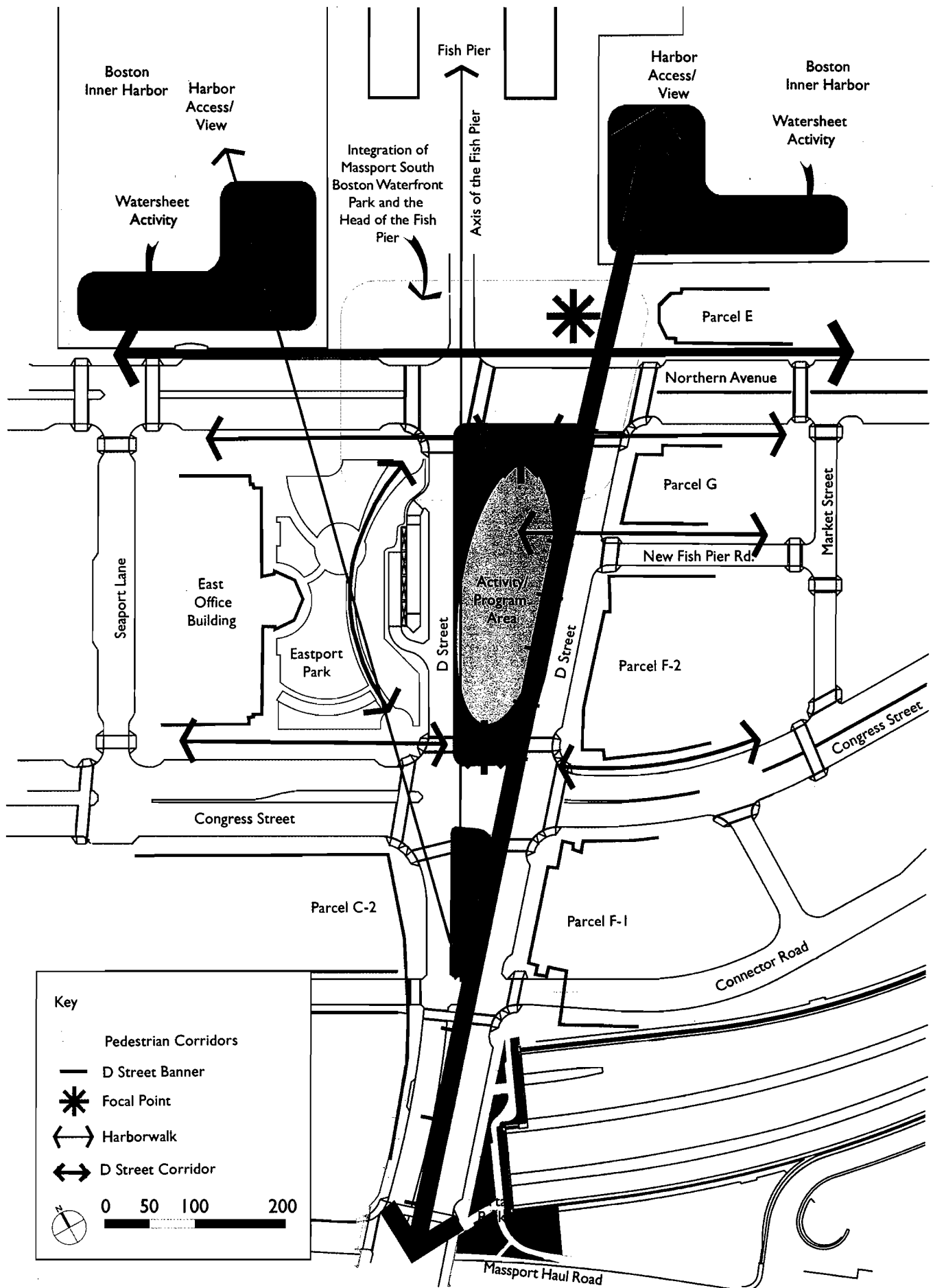


Figure 8
 Massport South Boston Waterfront Park
 Context and Influences Diagram

and access corridors aligning with D Street and Market Street. A floating dock connecting to the Harborwalk here might provide “touch and go” transient boat slips for restaurant patrons arriving and departing by water. Streetscape details such as Harborwalk streetlight fixtures consistent with the City’s established Harborwalk program will extend along Northern Avenue within the WDP.

2.0 Chapter 91 Analysis for the Northern Avenue Waterfront Development Plan Area

The DEP-Massport Memorandum of Understanding describes a number of specific elements which must be included in a Waterfront Development Plan to create “criteria, performance standards and guidelines for development applicable to Projects” to be subsequently licensed under Chapter 91 in the Plan Area. For the Northern Avenue Waterfront Development Plan Area, which does not contain any part of a Designated Port Area, these elements include:

➤ **Planning Analysis**

A description of the planning analysis which synthesized the technical data, public input, and other information that served as the basis for the proposed WDP.

➤ **Proposed Uses**

A summary description of proposed uses for the WDP Area.

➤ **Design Requirements**

Identify performance criteria for future non-water-dependent use Projects, including dimensional guidelines, design guidelines and requirements regarding public and pedestrian access, and identify any criteria which are Substitutions for performance requirements set forth in the Chapter 91 Regulations.

➤ **Public Benefits for Non-Water-Dependent Project Impacts**

If the WDP includes any Non-Water-Dependent uses, identify appropriate potential Public Benefits and a methodology for allocating the Public Benefits required for each Non-Water-Dependent Project.

➤ **Offsets**

Where appropriate, identify appropriate potential Offsets to mitigate impacts resulting from the applications of Substitutions to a Non-Water-Dependent use project that are greater than the impacts which would result from the application of the Regulations.

➤ **Implementation Program**

An Implementation Program commensurate with the scope of the WDP shall outline elements, which may include provisions in leases and licenses, to ensure ongoing compliance with obligations set forth in said WDP.

➤ **Consistency with Coastal Zone Management Policies**

The WDP shall describe the Plan’s consistency with all applicable policies of the Massachusetts Coastal Zone Management Program, including the Port and Harbor Infrastructure Policies, Public Access Policies and Management Principles and Growth Management Principles.

The following sections provide this information and analysis for the Northern Avenue WDP Area.

2.1 Planning Analysis

The extensive planning process and analysis used to arrive at the proposed WDP was described in Section 1.2.

2.2 Proposed Uses

The WDP Area currently contains a variety of commercial and industrial uses. The dominant existing use within the Plan Area is restaurant/retail, with several restaurants, a bank, and a small convenience store on the ground floor of Massport Building 5 stretching along Northern Avenue. In addition, the Area includes part of a Massport maintenance building, approximately 2,400 square feet of seafood processing space, an auto glass repair business, a storage facility for a brewery, mostly vacant office space on the second floor of Building 5, and surface parking. Figure 9 shows the WDP area over an aerial photograph.

Massport proposes that the WDP area be redeveloped for a mix of uses that respond to the goals and objectives of Commonwealth tidelands regulations, CZM policies, City of Boston plans, and Massport's own planning goals and policies. Proposed public open space in the form of parks, generous sidewalks and strategically located new streets will provide for a substantial dedication of land area to public access and provide for a wide range of public activities in the WDP Area. Massport proposes that the development parcels wholly or partially within the Plan Area be developed for a mix of non-water dependent and accessory water-dependent uses, ranging from commercial office space and residential apartments with ground floor restaurants and/or retail space, to a Massport maintenance facility for the district. These are more fully described in the sections that follow. The planning process used to determine these uses was described in detail in Section 1.

2.2.1 Potential Land Uses for the WDP Area

Potential uses for the individual parcels within the WDP Area were described in the Commonwealth Flats Development Area (CFDA) Final Environmental Impact Report. A "Build Condition" use scenario was analyzed in the DEIR and FEIR to assess environmental impacts that needed to be quantified, including transportation. The FEIR also listed other potential uses for each parcel that are considered consistent with the intentions of the CFDA environmental documentation.

Since the issuance of the Secretary's Certificate on the CFDA FEIR, Massport has responded by undertaking further study of Parcels K-1 and K-2 as well as holding meetings with commentors on the CFDA FEIR who were particularly concerned about these parcels. The studies Massport undertook are documented in Table 1, Use Assessment Matrix, and in Figures 10 through 17, a series of performance standards expressed as plan diagrams that address use, building height, pedestrian circulation and vehicular circulation. This information is intended to better define the parameters that demonstrate a suitable transition to the working port and BMIP.




-  Approximate Massport Property Line
-  Approximate Area of Ch. 91 Jurisdiction
-  Massport Waterfront Development Plan Area



Figure 9
Development Plan Area
on Existing Conditions

Table 1. Parcel K-1/K-2 Use Evaluation Matrix

Potential Use	Circulation Characteristics <i>and Guidelines</i>		Other Characteristics <i>and Guidelines</i>		
	<i>Vehicular Circulation</i>	<i>Pedestrian Circulation</i>	<i>Noise Sensitivity</i>	<i>Visual Sensitivity</i>	<i>Design Features</i>
Office (On parcel K-2, limited to ancillary use only)	<ul style="list-style-type: none"> Highest number of vehicular trips and parking demand concentrated weekdays in AM and PM peaks Including office use within overall mixed-use development will create opportunities for walking trips <i>Focus interstate access and links to downtown along Congress St.</i> <i>Locate near public transit and supplemental shuttle buses to reduce vehicular trips</i> <i>Locate primary parking access/egress on Congress/East Cross Sts.</i> <i>Locate service access on Connector Rd. and schedule deliveries to reduce vehicular conflicts</i> 	<ul style="list-style-type: none"> Highest levels of pedestrian activity during weekday AM and PM peak periods Requires safe, convenient connections to nearby retail/restaurants, open space, and public transit trips <i>Focus pedestrian activity on the western side of K parcels along Congress St.</i> <i>Provide pedestrian connections to nearby public transit stop on Connector Rd.</i> <i>Incorporate building and streetscape design features to limit pedestrian activity to the east of Parcel K-1</i> <i>Limit office use to ancillary use only on Parcel K-2</i> 	<ul style="list-style-type: none"> Low to moderate sensitivity to noise on weekdays <i>Locate on upper floors to reduce noise exposure</i> <i>Apply building construction technologies to reduce noise sensitivity</i> <i>Limit office use to ancillary use only on Parcel K-2</i> 	<ul style="list-style-type: none"> Somewhat sensitive to visual impacts <i>Locate office uses on upper floors to reduce potential visual impacts</i> <i>Use setbacks and architectural details to reduce visual impacts</i> <i>Limit office use to ancillary use only on Parcel K-2</i> 	<ul style="list-style-type: none"> Requires more square footage and relatively large floorplates, resulting in greater overall mass Requires a high level of capital investment <i>Limit maximum height on Parcel K-1 to 140 feet above grade</i> <i>Locate building lobby on Congress St., away from truck routes and industrial activity</i>
Hotel	<ul style="list-style-type: none"> Highest vehicular trip levels in off-peak periods Frequent curbside drop-off and service vehicles Low parking demand with week-night peak 	<ul style="list-style-type: none"> Highest level of pedestrian activity during weekday evenings Requires key pedestrian connections to the BCEC, the waterfront, transit, and the mixed- 	<ul style="list-style-type: none"> Sensitive to noise, during weekday evenings <i>Locate hotel rooms on upper floors and setback from the street to reduce noise</i> 	<ul style="list-style-type: none"> Somewhat sensitive to visual impacts <i>Locate hotel rooms on upper floors and setback from the street to reduce negative visual impacts</i> 	<ul style="list-style-type: none"> Narrower dimension of floorplates on upper level room floors Compatible with ancillary retail/restaurant uses on the ground floor Requires a high level

Potential Use	Circulation Characteristics and Guidelines		Other Characteristics and Guidelines		
	<i>Vehicular Circulation</i>	<i>Pedestrian Circulation</i>	<i>Noise Sensitivity</i>	<i>Visual Sensitivity</i>	<i>Design Features</i>
	<ul style="list-style-type: none"> • <i>Locate curbside drop-off areas on Congress St. away from the Haul Rd.</i> • <i>Locate service access on Connector Rd. and schedule deliveries to reduce vehicular conflicts</i> 	<ul style="list-style-type: none"> • <i>use development immediately to the west</i> • <i>Locate the building lobby on the western side of the building on Congress St.</i> • <i>Apply streetscape design elements to focus pedestrian activity to the west and away from the Haul Road and industrial areas to the east</i> 	<ul style="list-style-type: none"> • <i>exposure</i> • <i>Apply building design/construction features to reduce noise sensitivity</i> 	<ul style="list-style-type: none"> • <i>Apply appropriate architectural details to provide visual screening</i> 	<ul style="list-style-type: none"> • <i>of capital investment</i> • <i>Encourage smaller building mass and larger setbacks at upper levels</i>
Ancillary Retail/Restaurant	<ul style="list-style-type: none"> • <i>Non-destinational nature of ancillary retail/restaurant use does not attract a significant number of additional vehicular trips from beyond the immediate development area</i> • <i>Peak parking demand is focused in the evening</i> • <i>Strengthen relationship to the nearby mixed-use development to help increase walking trip and reduce vehicular trips</i> • <i>Maximize use of shared parking resources nearby</i> 	<ul style="list-style-type: none"> • <i>Peak use at mid-day/lunchtime</i> • <i>Pedestrian trips tied to nearby mixed-use development to the west</i> • <i>Prohibit ancillary retail/restaurant entrances within 80' of the Haul Road to limit pedestrian activity in this area</i> • <i>Apply building and streetscape design features to limit pedestrian activity to the east of Parcel K-1</i> 	<ul style="list-style-type: none"> • <i>Low noise sensitivity</i> • <i>Locate ancillary retail/restaurant space on lower floors to help buffer more sensitive uses on upper floor</i> • <i>Apply building design/construction features to reduce noise sensitivity</i> 	<ul style="list-style-type: none"> • <i>Low to moderately sensitive to visual impacts at street level</i> • <i>Use streetscape and building design details to help buffer ground floor ancillary retail/restaurant uses from visual impacts</i> 	<ul style="list-style-type: none"> • <i>Most ground floor ancillary retail/restaurant use will require higher bay heights</i> • <i>Requires low to moderate level of capital investment</i> • <i>Include ancillary retail/restaurant use as a ground floor use with other uses above</i> • <i>Apply architectural details to the building/streetscape to create appropriate areas for ancillary retail/restaurant activity</i>

Potential Use	Circulation Characteristics and Guidelines		Other Characteristics and Guidelines		
	<i>Vehicular Circulation</i>	<i>Pedestrian Circulation</i>	<i>Noise Sensitivity</i>	<i>Visual Sensitivity</i>	<i>Design Features</i>
Residential (Prohibited from both K parcels)	<ul style="list-style-type: none"> • Peak vehicular trip levels during evenings and weekends • Creates/encourages increased transit use, walk to work, and reverse commute opportunities • Reduces weekday AM and PM peak trips • <i>Prohibit residential use on both K parcels</i> 	<ul style="list-style-type: none"> • Peak pedestrian activity evenings and weekends • <i>Prohibit residential use on both K parcels</i> 	<ul style="list-style-type: none"> • High sensitivity to noise, particularly during evenings and weekends • <i>Prohibit residential use on both K parcels</i> 	<ul style="list-style-type: none"> • High sensitivity to visual impacts • <i>Prohibit residential use on both K parcels</i> 	<ul style="list-style-type: none"> • Operable windows are preferred in residential units • Requires moderate to high level of capital investment • <i>Prohibit residential use on both K parcels</i>
Parking	<ul style="list-style-type: none"> • Heaviest activity during weekday AM and PM peak periods • Secondary peak in weekday evenings • Minimal service activity • Requires direct interstate and downtown access • <i>Designate parking to be shared between mix of uses in the immediate area of K parcels</i> • <i>Locate primary vehicular access/egress on Congress and/or E. Cross Sts.</i> • <i>Prohibit access/egress to/from structured parking on the Haul Rd.</i> 	<ul style="list-style-type: none"> • Heaviest pedestrian activity in the weekday AM and PM peak periods • Secondary peak in the weekday evenings • Requires pedestrian connections to/from the BCEC, waterfront, and mixed-use development to the west • <i>Locate pedestrian entrances and vertical circulation within a parking structure to direct pedestrians away from the Haul Road and industrial activity</i> • <i>Apply building and streetscape design features to focus pedestrian activity to the west, away from the Haul Rd.</i> 	<ul style="list-style-type: none"> • Low noise sensitivity • <i>Locate structured parking on Parcel K-2 to serve as a noise buffer from uses on Parcel K-1</i> 	<ul style="list-style-type: none"> • Low visual sensitivity • <i>Locate structured parking on Parcel K-2 to serve as a visual buffer from uses on Parcel K-1</i> 	<ul style="list-style-type: none"> • Requires relatively large floorplates • Requires moderate level of capital investment • <i>Limit maximum height on Parcel K-2 to 100 feet above grade</i> • <i>Create façade design that is responsive to adjacent uses and any significant views from a distance</i>

Potential Use	Circulation Characteristics and Guidelines		Other Characteristics and Guidelines		
	<i>Vehicular Circulation</i>	<i>Pedestrian Circulation</i>	<i>Noise Sensitivity</i>	<i>Visual Sensitivity</i>	<i>Design Features</i>
Light Industrial/ Warehouse	<ul style="list-style-type: none"> • Weekday focus, mostly truck activity • Single or limited multi-tenant trucking activity requires loading docks off of the Haul Rd. • Requires direct connections to Haul Rd. and other truck routes • <i>Limit new curb cuts/building access on Haul Rd. for truck deliveries and related employee parking</i> 	<ul style="list-style-type: none"> • Low level of pedestrian activity limited to employees of light industrial/warehouse uses within the building 	<ul style="list-style-type: none"> • Low noise sensitivity • <i>Locate light industrial/warehouse uses on Parcel K-2 to serve as a noise buffer for uses on Parcel K-1</i> 	<ul style="list-style-type: none"> • Low visual sensitivity • <i>Locate light industrial/warehouse uses on Parcel K-2 to help serve as a visual buffer for uses on Parcel K-1</i> 	<ul style="list-style-type: none"> • Requires relatively low level of capital investment • <i>Include as a possible ground floor use in structure with parking above</i> • <i>Include as a potential use on both K parcels</i>
Massport District Maintenance/ Public Safety	<ul style="list-style-type: none"> • Low activity focused in the off-peak periods • Local roadway access required/limited need for highway access • <i>Limit new curb cuts on the Haul Rd. to district maintenance, public safety, and related employee parking</i> 	<ul style="list-style-type: none"> • Pedestrian activity limited to primarily district maintenance and public safety staff 	<ul style="list-style-type: none"> • Low sensitivity to noise • <i>Locate district maintenance/public safety uses on Parcel K-2 to serve as a noise buffer for uses on Parcel K-1</i> 	<ul style="list-style-type: none"> • Low visual sensitivity • <i>Locate district maintenance/public safety uses on Parcel K-2 to serve as a visual buffer for uses on Parcel K-1</i> 	<ul style="list-style-type: none"> • Possible ground floor use in structure with parking above • Requires relatively low level of capital investment • <i>Include as a potential use on both K parcels</i>

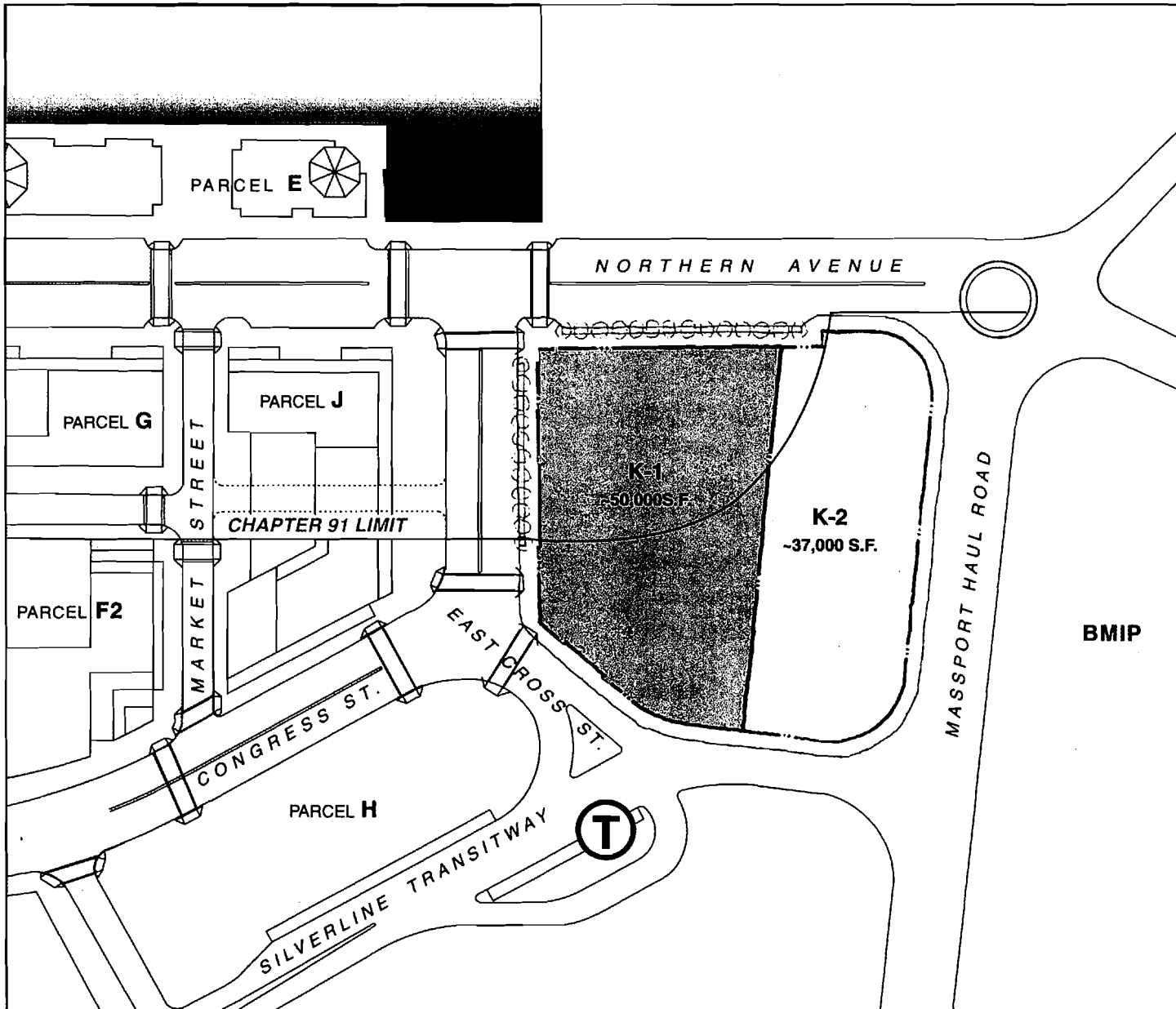


FIGURE 10
Parcel K1 & K2 Performance Standards
Allowed Uses by Parcel

K-1	K-2
<p>ALLOWED USES:</p> <ul style="list-style-type: none"> -OFFICE -HOTEL -DISTRICT SERVICE -PUBLIC SAFETY -LIGHT INDUSTRIAL -TRANSPORTATION SUPPORT -MARITIME RELATED SUPPORT -STRUCTURED PARKING -COMMUNICATIONS/ UTILITY SUPPORT -ANCILLARY RETAIL/RESTAURANT 	<p>ALLOWED USES:</p> <ul style="list-style-type: none"> -LIGHT INDUSTRIAL -DISTRICT SERVICE -PUBLIC SAFETY -TRANSPORTATION SUPPORT -MARITIME RELATED SUPPORT -STRUCTURED PARKING -TELECOMMUNICATIONS -ANCILLARY OFFICE -ANCILLARY RETAIL/RESTAURANT



0 40' 80' 160' 240'

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CHAN KRIEGER & ASSOCIATES
 Architecture & Urban Design

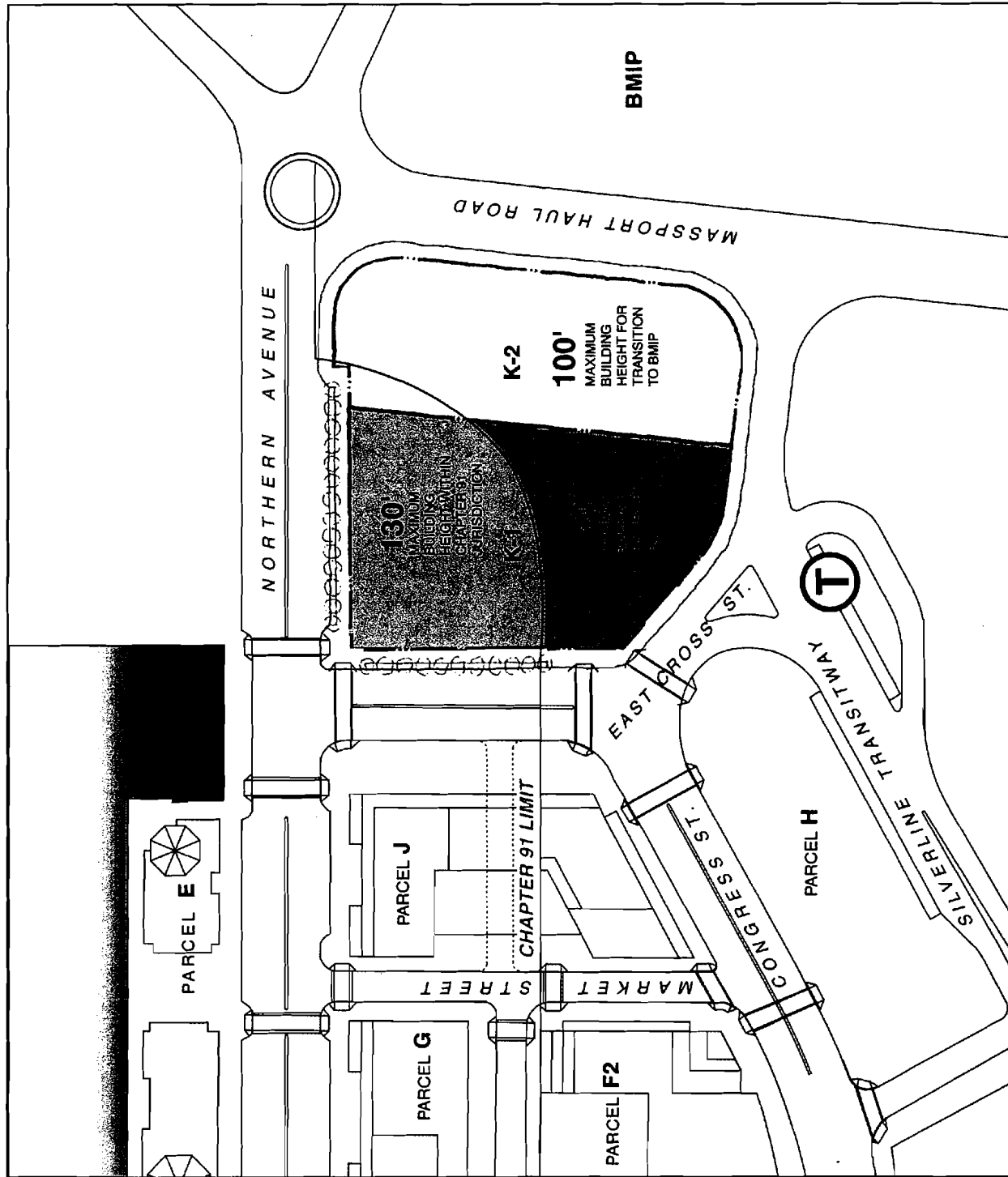


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FIGURE 11

Parcel K1 & K2 Performance Standards
Maximum Building Heights by Parcel



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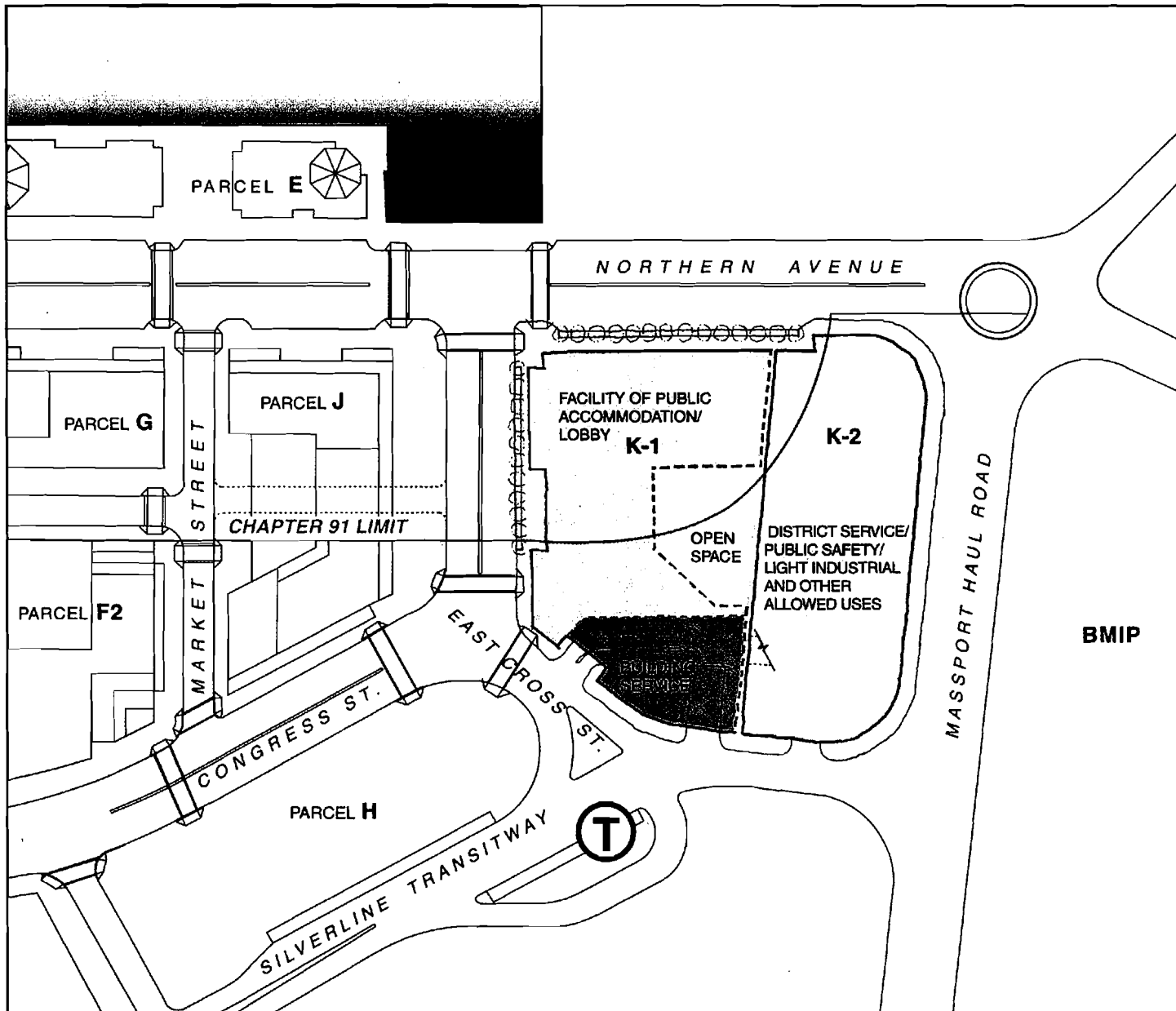
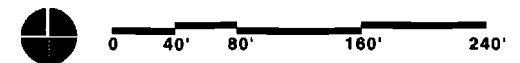


FIGURE 12
Parcel K1 & K2 Performance Standards
Generic Ground Floor Plan



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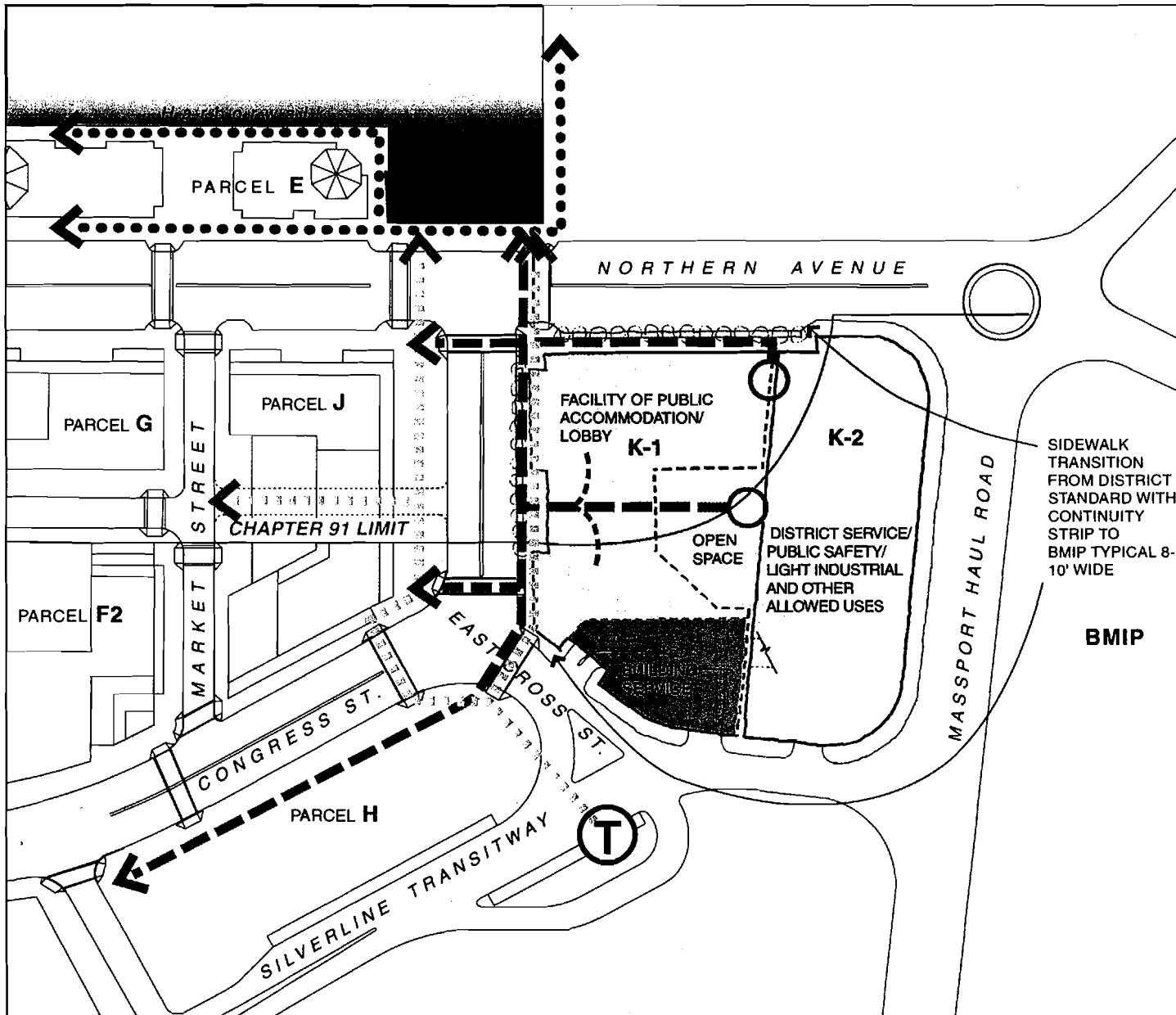



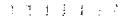

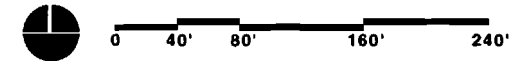


FIGURE 13
Parcel K1 & K2 Performance Standards
Pedestrian Circulation Plan

-  PEDESTRIAN CIRCULATION FROM STRUCTURED PARKING
-  VERTICAL CIRCULATION TO PARKING
-  PEDESTRIAN CIRCULATION ALONG HARBORWALK ROUTE
-  PEDESTRIAN CIRCULATION FROM TRANSIT STOP
-  DISTRICT OPEN SPACE

SIDEWALK TRANSITION FROM DISTRICT STANDARD WITH CONTINUITY STRIP TO BMIP TYPICAL 8-10' WIDE

BMIP



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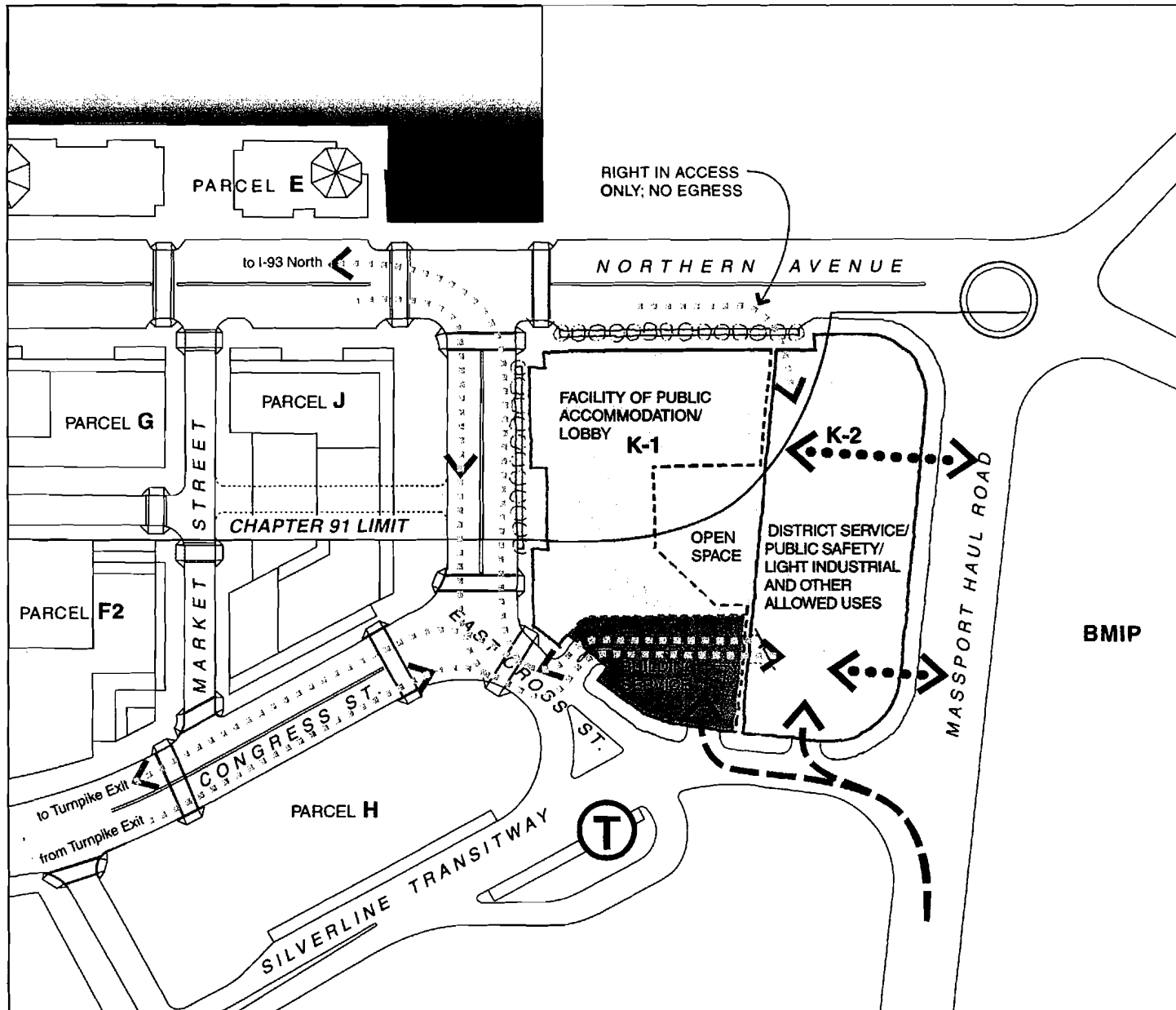
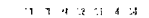




FIGURE 14
Parcel K1 & K2 Performance Standards
Vehicular Circulation Plan

- 
 VEHICULAR CIRCULATION TO AND FROM STRUCTURED PARKING
- 
 ACCESS RESTRICTED TO BUILDING SERVICE VEHICLES ONLY
- 
 ACCESS RESTRICTED TO VEHICLES & PARKING FOR ON-SITE EMPLOYEES ASSOCIATED WITH DISTRICT SERVICE/ PUBLIC SAFETY/ LIGHT INDUSTRIAL AND OTHER ALLOWED USES



0 40' 80' 160' 240'

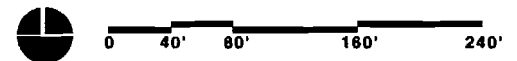
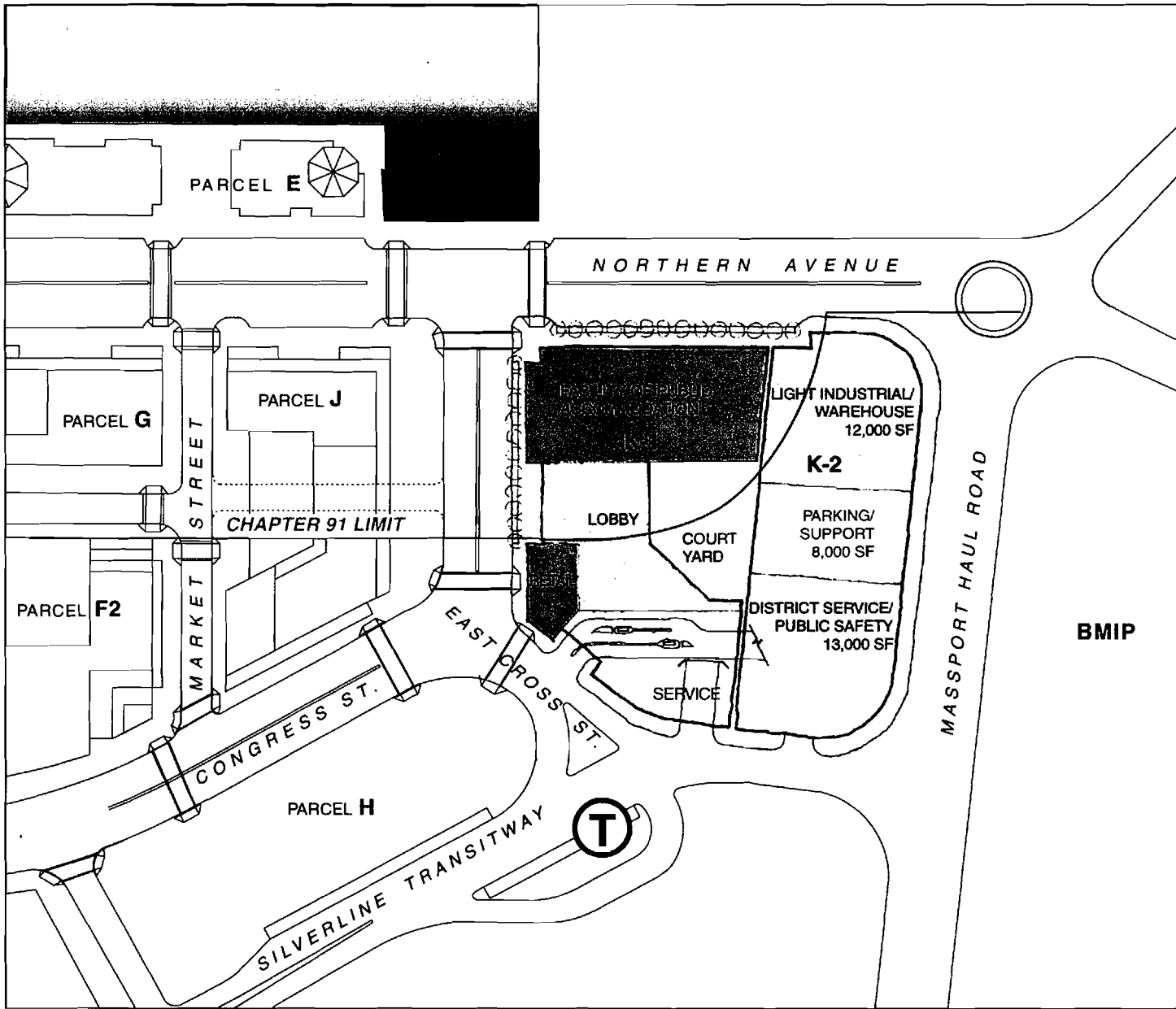
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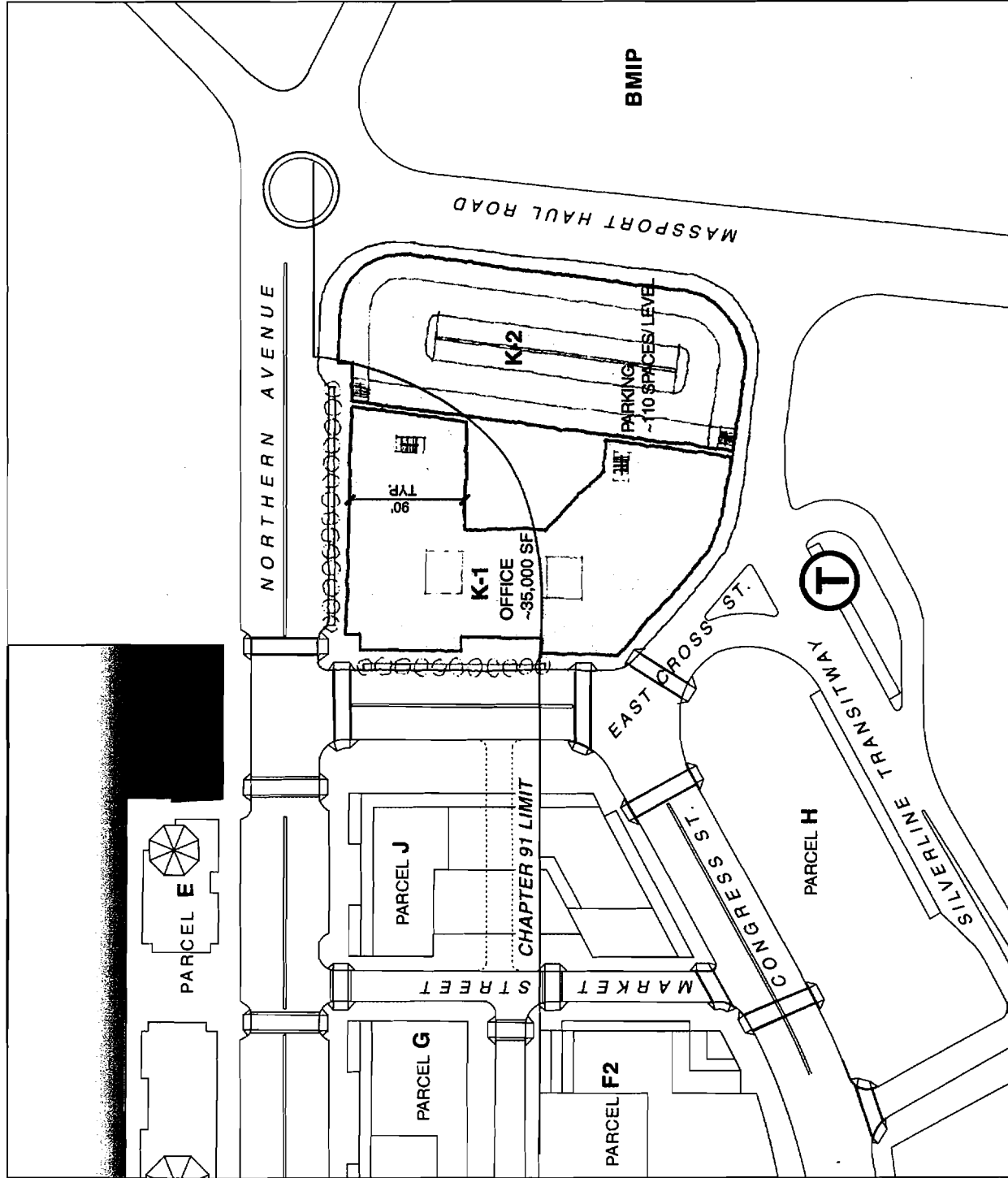
FIGURE 15
Parcel K1 & K2 Performance Standards
Possible Ground Floor Plan



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FIGURE 16

**Parcel K1 & K2 Performance Standards
Possible Upper Floor Plan**



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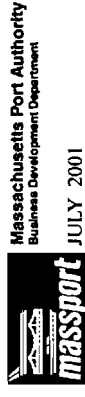
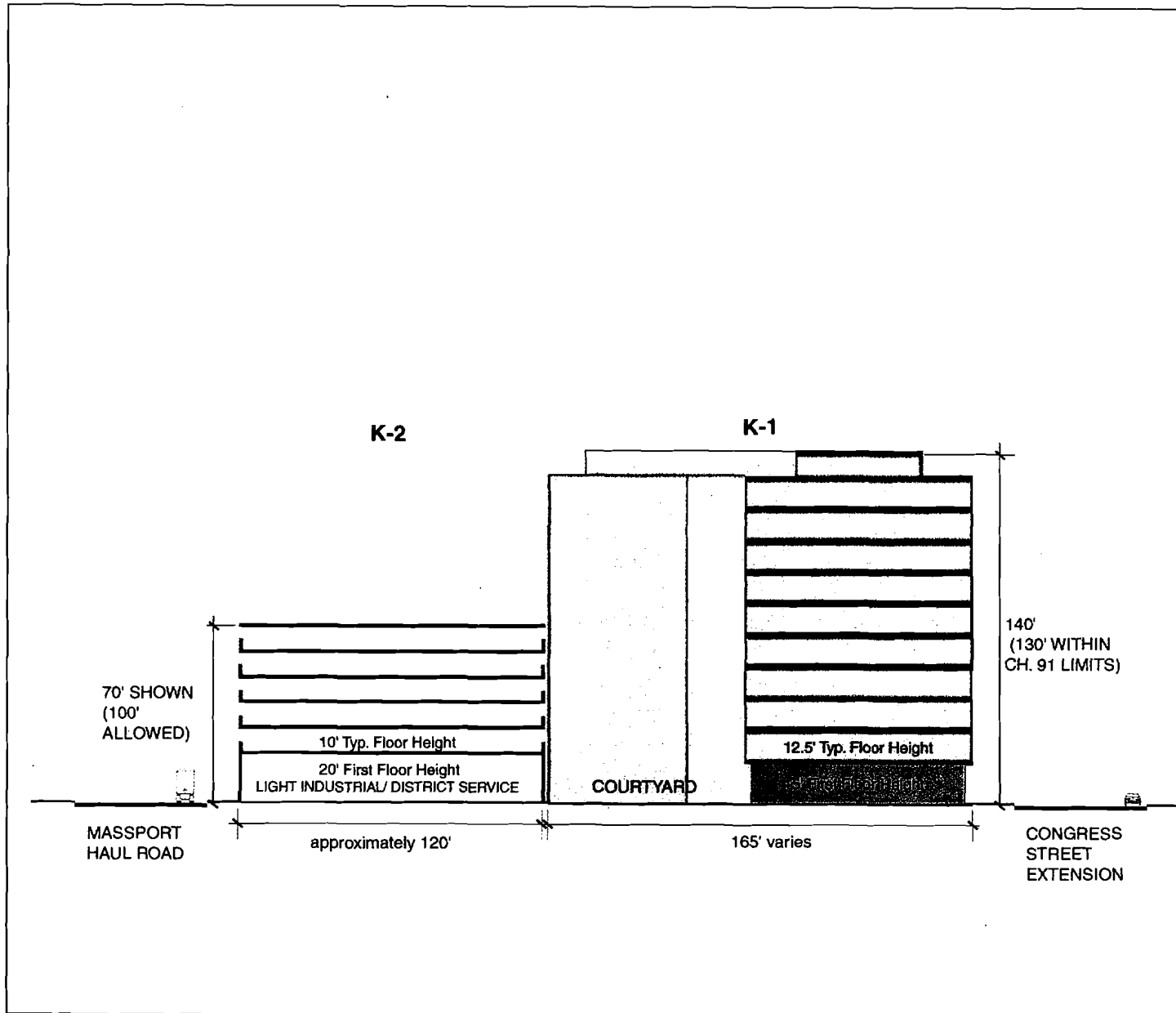




FIGURE 17
Parcel K1 & K2 Performance Standards
Possible Parcel Section



-  OFFICE SPACE
-  ANCILLARY RETAIL/
RESTAURANT SPACE
-  PARKING & LIGHT INDUSTRIAL/
DISTRICT SERVICE SPACE



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- *Public Safety* – An operations center for Massport public safety staff and equipment serving the immediate district
- *Residential* – Rental units located on upper floors and limited by a series of lease commitments (referenced in the Final WDP) intended to protect truck routes/port operations
- *Parking* – Surface, above-ground, or below-ground parking shared by the planned mixed-use development in the area and available to the public
- *Transportation Support* – Queuing areas, layover parking, or other support facilities for transit vehicles, private shuttle buses, or other transportation services in the district

Massport has done further specific planning and has designated a development team for Parcels G and J. Based on these developments, Sections 2.2.2 and 2.2.3, below, describe Massport’s current intentions for Parcels G, J, K-1 and K-2. These descriptions are intended to provide additional information to help the public understand how the area might be built out, but the uses described below are subject to change and are not intended to be used for determinations of consistency with the WDP as actual projects are licensed.

2.2.2 Current Intentions for Parcels G and J

As outlined in the Project Notification Form/Expanded Environmental Notification Form submitted by the South Boston Waterfront Development, LLC on May 15, 2001 for the development of Parcels F-2, G, and J, rental housing is proposed as the primary use on Parcels G and J with the retail and restaurant uses occupying the ground floor. Keeping restaurant and retail uses on the ground floor satisfies multiple objectives including the maintenance of active public uses (“Facilities of Public Accommodation”) in important pedestrian areas and the mitigation of potential impacts between ground floor housing and an adjacent truck route (Northern Avenue). Providing housing addresses multiple objectives that include:

- Increasing housing supply in the City overall;
- Creating a balanced land use mix as discussed in Massport’s planning documents and those of the BRA;
- Using a building type that is more responsive in creating pedestrian scale and massing that can minimize shadows;
- Extending the active use of the public spaces to 18 hours a day and weekends;
- Increasing the local market support for retail/restaurant uses; and
- Providing the opportunity to walk to work and for “reverse commutes” that reduce the potential impacts on peak hour traffic and public transit facilities.

Providing rental housing as proposed on Parcels G and J, in contrast to ownership, also allows the occupant the maximum amount of flexibility to relocate at the end of the lease term should the facilities, conditions or other factors not be to their liking.

Massport has made specific commitments to protect truck routes and limit residential uses to appropriate sites (with associated design standards) in order to mitigate any potential conflicts between residential use and the port industrial activities. Massport’s commitments have been articulated in the CDFA FEIR consistent with those Massport has already made in writing to The Boston Harbor Association (see Appendix C). The commitments include:

- Residential use will be limited to rentals and prohibited from conversion to any equity form of ownership (condominiums or cooperatives) and lease terms over two years will be prohibited. These conditions will be expressly identified in the ground leases between Massport and the developer.
- Residential use will be prohibited from the ground floor (with the exception of a lobby area related to residential units on the upper floors).
- Building construction and design requirements that specifically address noise from adjacent streets (including double glazed windows, wall materials and insulation that reduce the transfer of noise to interior spaces, architectural designs including building setbacks) will be incorporated into Massport's design guidelines and required as part of Massport's design review and approvals.
- Including active retail/public uses on the ground floor along major streets and locating housing entries in less noisy areas through Massport's design review process; and,
- Requiring Massport's approval of the form of apartment lease in ground leases with our developer(s); Massport will require the apartment lease form includes, at a minimum, an acknowledgement by the tenant that the apartment is located in the vicinity of the industrial port and along established truck routes.

2.2.3 Current Intentions for Parcels K-1 and K-2

Parcel K-1 is proposed to have office use with retail/restaurant on the ground floor. Parcel K-2 is proposed to include Massport district services and operations facilities (an accessory water-dependent use) and public parking. Any public parking entry/exits will be located away from the Massport Haul Road, so as not to directly impact the operations of the Haul Road from vehicular or pedestrian traffic. Along with the prohibition of housing as a use, these restrictions have been put in place in recognition of the importance of Parcel K in implementing a compatible transition to the industrial and port activities to the east of Massport Haul Road. Table 1 and Figures 10 through 17 outline proposed use and access guidelines for both K parcels.



2.3 Design Requirements and Approach

Massport's Commonwealth Flats Strategic Plan and Commonwealth Flats Development Area EIR, Open Space NPC, and Chapter 91 NPC describe Massport's plans in great detail (as discussed in Section 1.3 of this WDP), and have gone through an extensive public comment process. This WDP focuses on a small part of the overall area described in those documents. Except for the minor shift of Congress Street Park and the use changes on Parcels K-1 and K-2 as described above. The WDP does not change the proposals for land use and public realm investments contained in those documents; it primarily provides additional implementation information and commitments relative to MGL Chapter 91 and the Waterways Regulations.

Massport's approach to the urban design and development of the WDP area is based on several goals fundamental to the Chapter 91 public trust doctrine:

- Maximize public access to and views of the water;
- Attract and maintain substantial public activity through public open spaces and active ground-floor uses;

As a result of those meetings and the studies Massport has undertaken, Massport has proposed the following adjustments (when compared against the CFDA FEIR, Chapter 2) for each of the parcels:

- Elimination of office as a primary use on Parcel K-2, with offices ancillary to industrial or service/institutional uses still allowed;
- Reduction of maximum allowed building height on Parcel K-2 from 140 feet to 100 feet from grade;
- Elimination of residential as a potential use on Parcel K-1 (previously prohibited on Parcel K-2 only); and
- Explicit inclusion of maritime-related, district service, public safety and like uses as allowed on both parcels.

The range of uses described in the CFDA EIR documents, with the important amendments described above, define the range of acceptable uses within the Northern Avenue WDP which covers Parcels G, J, K-1 and K-2. For the purpose of licensing specific projects within the Northern Avenue WDP Area, project uses that are consistent with the WDP are those that are listed in Table 2.

Table 2. Allowed Uses

Parcel	Allowed Uses
Parcel G	Residential*, restaurant, parking, office, hotel, cultural, ancillary retail/restaurant
Parcel J	Residential*, restaurant, parking, office, hotel, cultural, ancillary retail/restaurant
Parcel K-1	Office, hotel, district service, public safety, light industrial, transportation support, maritime related support, parking, communications/utilities support, restaurant, ancillary retail/restaurant
Parcel K-2	Light industrial, district service, public safety, transportation support, maritime related support, parking, communications / utilities support, ancillary office, ancillary retail/restaurant**

* Residential use prohibited from the ground floor with the exception of lobbies and common service areas.

** Ancillary retail/restaurant entrances must be setback a minimum of 80 feet from Massport Haul Road.

The following section briefly describes the general categories of uses that are included in Table 2.

- *Ancillary Office* – Office space that supports a building’s primary use
- *Ancillary Retail/Restaurant* – Retail and/or restaurant space, typically located on the ground floor, that draws patrons from nearby mixed-use development, resulting in a limited number of additional vehicular trips
- *Communications/Utilities Support* – Facilities and equipment that support the communications and utilities networks serving the district overall
- *District Service* – An operations center and equipment storage location from which Massport will coordinate its street cleaning, snow removal, and other district maintenance
- *Hotel* – A full-service or limited-service hotel with all hotel guest rooms located on upper floors
- *Light Industrial* – Processing, manufacturing and warehousing operations
- *Maritime-Related Support* – Special service functions, equipment, or office that supports the seafood processing and other maritime uses in the area
- *Office* – Single or multi-tenant commercial office space located on upper floors

- Limit shadow and wind impacts on the water dependent use zone and watershed;
- Create a high quality public environment and ensure good building design; and
- Ensure that the public realm is managed and maintained to a high standard.

To ensure these goals are implemented within the proposed Northern Avenue Waterfront Development Plan Area, Massport has proposed a comprehensive set of public realm improvements and has developed design guidelines for new public open spaces, public streets and buildings.

Table 3. Summary of Waterfront Development Plan Requirements

Baseline Requirements	Description of WDP Requirement	Comments
1. Lot Coverage and Open Space	Meets the 50% lot coverage ratio and requirement that all non-built-upon space be public. Exceeds standard as noted in comments	No more than 35% of open space allowed to be roadways or parking areas Square footage of parks, sidewalks, and new streets must equal that of building space
2. Facilities of Public Accommodation	Exceeds the standard of 25% for ground floor accessory uses	Limits the ground floor uses accessory to facilities of private tenancies on upper floors to 20% of the building floor area
3. Water Dependent Use Zone	Meets the standard for shoreline setback for non-water dependent uses	All non-water dependent structures will be setback at least 100 feet from the shoreline
4. Pedestrian Access in and to Water-Dependent Use Zone	Meets the standard	Massport's public sidewalk and open space improvements will provide substantial pedestrian access
5. Management and Maintenance Plans for Public Spaces	Exceeds the standard by also requiring a district service fee	Massport or ground lease holders will prepare and implement plans Massport will require private developers to contribute to public improvements through ground lease obligations
Substitution		
1. Building Height	Retain Chapter 91 maximum height, but allow building heights to penetrate the 1:2 slope defined in Regulations	Maximum building height the same as allowed by Regulations – 130 feet Maximum building height allowed at any location within WDP area
Offsets for Substitution		
1. Additional Public Open Space	.5 square feet of additional exterior public open space for every 1 square foot of net new shadow impact	Net new shadow impact defined by comparison to a Baseline Condition that adheres to Chp. 91 standards Additional open space must be within or contiguous to open space within the WDP area Additional roadway area cannot be used as additional open space
2. Limitation on Building Area	Total building square footage within the WDP area cannot exceed that which could be allowed under existing Chp. 91 dimensional standards	The Baseline Condition will define the amount of square footage that could be allowed under existing regulations
3. Pedestrian Level Wind Analysis / Mitigation	Quantitative wind analysis must be undertaken; Category 4 of Melbourne's Criteria set as standard not to be exceeded	Mitigation of any Category 5 conditions is required to achieve Category 4

2.3.1 Chapter 91 Baseline Conditions

In order to provide a baseline comparison to Massport's proposed approach, Figures 18 and 19 illustrate how the WDP area would be allowed to be developed under an approach that adheres strictly to the requirements of the Chapter 91 Regulations at 310 CMR 9.00. This approach keeps the existing street system in place (except for the elimination of Fish Pier Road) and sets the buildings back from the water in order to provide open space along Northern Avenue equal to meet the 50 percent of the land area requirement. The buildings adhere to the dimensional restrictions of the Regulations, stepping up as they move away from the water (at a 1:2 slope) to a maximum height of 130' above grade within the WDP area. The buildings are essentially a taller version of the most substantial existing building within the WDP Area, Massport Building 5, which stretches continuously along Northern Avenue with retail/restaurant space on the first floor and office uses above.

There is sufficient depth within the area of jurisdiction to provide an acceptable building dimension for residential or hotel uses, although the buildings would likely extend south across the Chapter 91 boundary to provide other potentially more efficient building layouts. Massport has developed this approach as a baseline condition against which the urban design principles, the public benefits, the dimensional standards (including substitutions), the environmental impacts, and the offsets of the development that would be allowed under the WDP can be judged.

2.3.2 Massport's Design Approach

Massport's *Commonwealth Flats Strategic Plan* and the CFDA environmental documents propose substantial modifications to the existing street and open space system for the entire Commonwealth Flats area. These modifications prioritize physical and visual access to Boston Harbor, a superior pedestrian environment, provision of substantial public open space areas and a wide range of public activities. The proposed improvements are integral to Massport's planning for the entire Commonwealth Flats area and as such have been described in detail in the CFDA DEIR and CFDA Open Space NPC. Some principles that have guided the proposed street and open space improvements are:

1. Provide a variety of high-quality, complementary public open spaces.
2. Aggregate public open space at key waterfront locations to create larger, more useable open spaces and open spaces that can become public destinations within the overall public realm.
3. Integrate the Commonwealth Flats public realm with the rest of the South Boston Waterfront and city overall.
4. Expand public access to Boston Harbor and celebrate the unique waterfront setting.
5. Attract and serve a wide range of users.

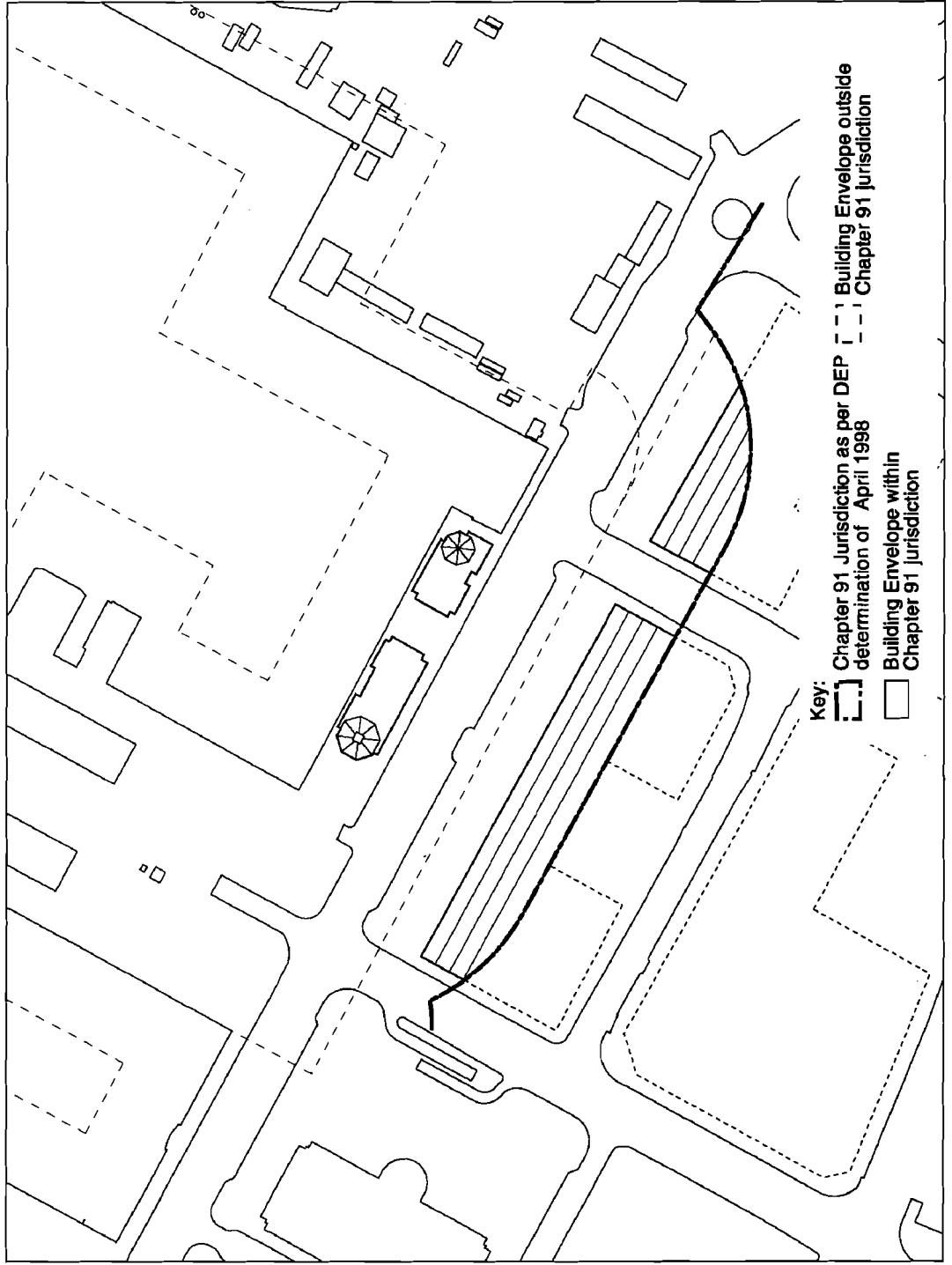


Figure 18
Theoretical Chapter 91
Buildout: Plan

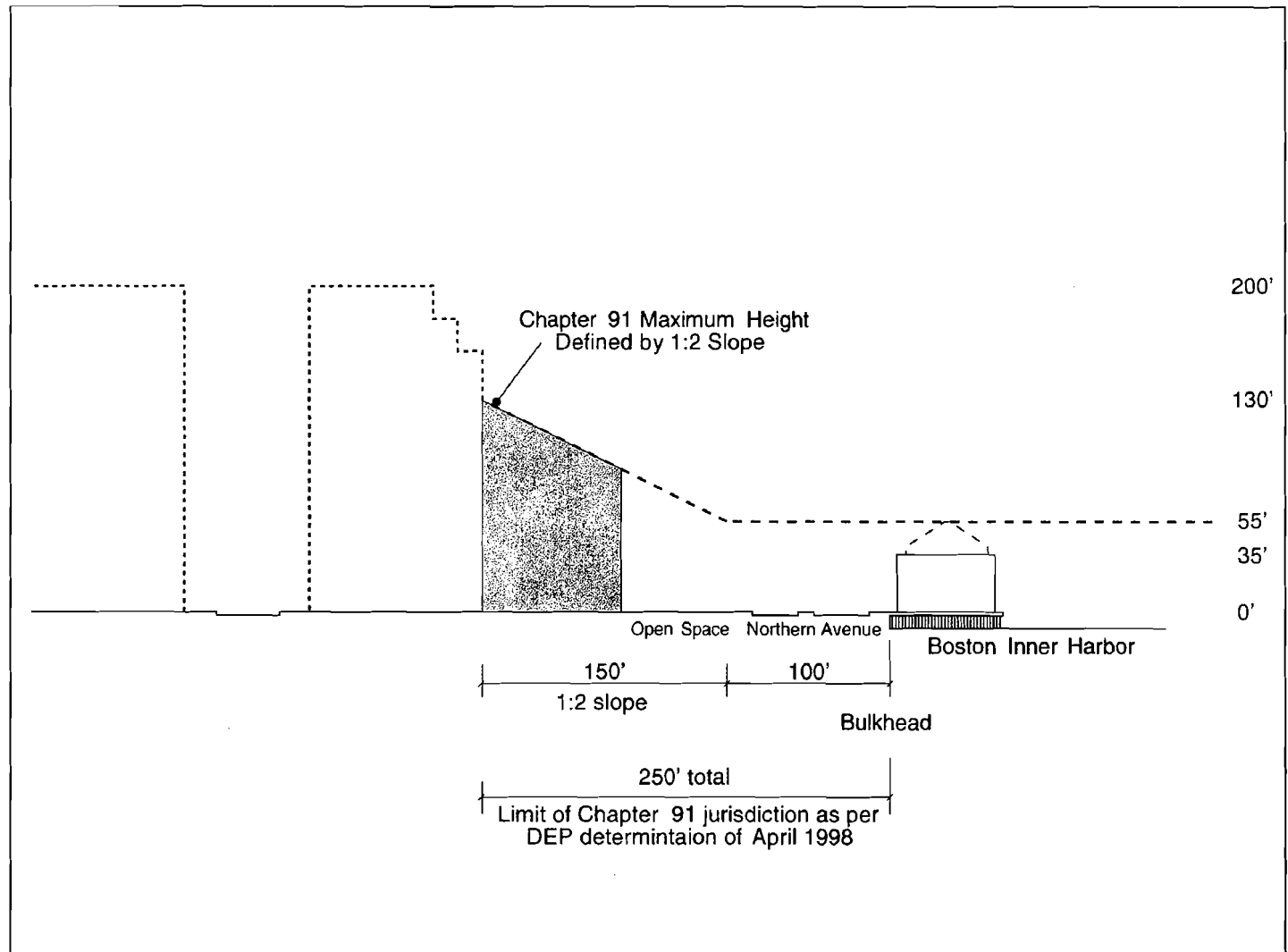


Figure 19
Theoretical Chapter 91
Buildout: Section

The public realm plan proposed within the WDP area includes the following improvements:

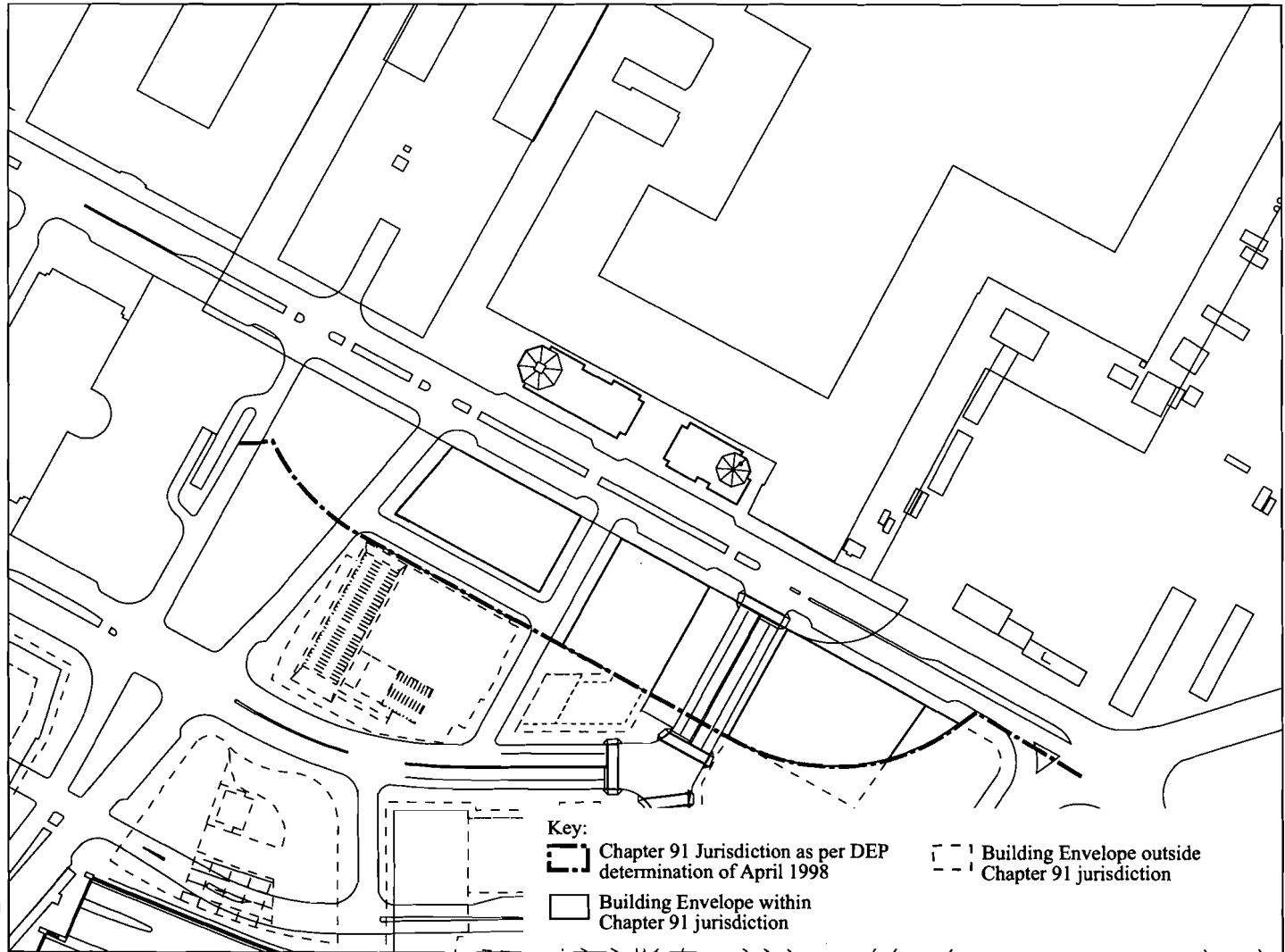
- The realignment of D Street northbound to the east (splitting D Street into a one-way pair of streets) between Connector Road Northern Avenue. This opens up a major public pedestrian and vehicular connection and view corridor between Boston Harbor and the Boston Convention and Exhibition Center, the existing South Boston residential neighborhood and Massport development parcels along D Street.
- The creation of Massport South Boston Waterfront Park, a large (1.3 acre) public open space overlooking Boston Harbor. Enabled by the realignment of D Street, it is adjacent to and intended to complement the existing Eastport Park (next to the East Office Building). Together they form a 2.5-acre public open space at the intersection of Northern Avenue and D Street, the geographic heart of Commonwealth Flats.
- The extension of Congress Street to the water's edge at Northern Avenue with associated public open space and on-street public parking that opens up public views and physical access as you approach the harbor.
- The introduction of Market Street, a new mid-block, north-south street that creates important pedestrian access and an additional view corridor to the harbor.
- The construction of a relocated Fish Pier Road to maintain an east-west connection, provide additional links to Massport South Boston Waterfront Park, and create smaller block sizes in the area east of D Street.

Figure 7 illustrates the location of these important public realm elements within the WDP area. Compared to the Chapter 91 baseline condition, these elements create new development parcels with smaller block sizes, a more pronounced north-south orientation with more access and view corridors to the water, and building frontage that retains the important Northern Avenue streetwall.

Development that would be allowed under Massport's proposed approach is shown in Figures 20 and 21. Building massing is shifted to maintain the active street wall that now exists along Northern Avenue. Maximum building height is the same as in the baseline condition, 130 feet, but taller building heights are allowed to be brought forward toward Northern Avenue to enable a more effective aggregation of public open space, a more appropriate building massing compatible with that planned for the larger Commonwealth Flats area, building siting that provides for generous public view corridors through to the water and buildings that are feasible for new urban residential construction.

Massport has developed guidelines to shape the design of the public realm on its property within Commonwealth Flats, including the Northern Avenue WDP area. These guidelines are aimed at creating a high quality public environment that supports and encourages a high level of public activity and limits potential impacts on important environmental conditions and port-related activities. Massport's Urban Design Guidelines for Commonwealth Flats, including the Northern Avenue Waterfront Development Area, are attached as Appendix D.

Figure 20
Proposed Maximum
Buildout Envelope: Plan



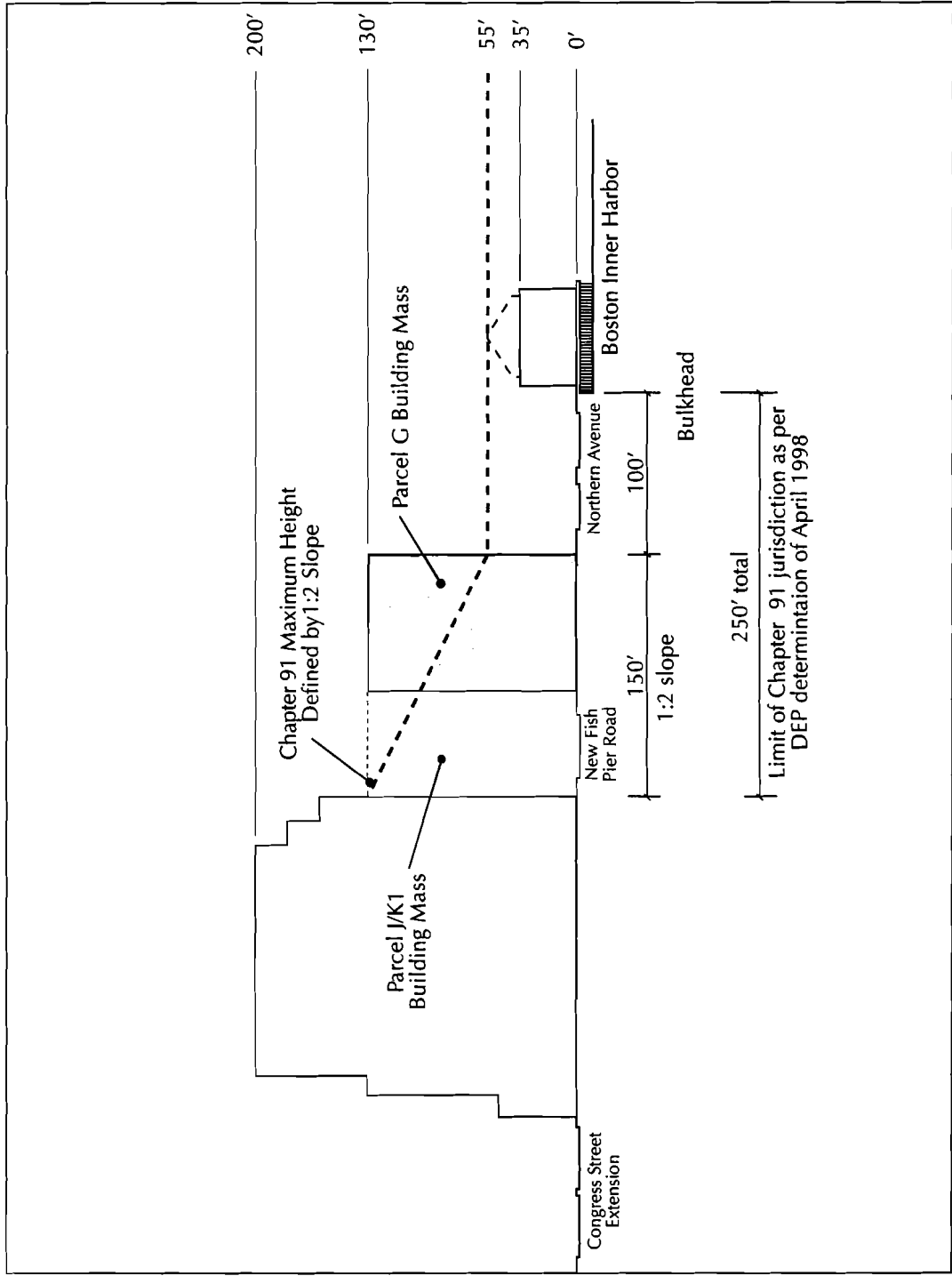


Figure 21
Proposed Maximum
Buildout Envelope:
Section

■

2.4 Dimensional Guidelines Related to Non-Water-Dependent Uses

The Chapter 91 Regulations contain certain dimensional standards governing non-water dependent uses and structures containing such uses. Any proposed variances from these standards are termed *Substitutions*, and may require mitigating *Offsets* if they result in an environmental impact greater than that which would result from the application of the Regulations. The dimensional standards applicable to development Projects within the Northern Avenue WDP Area are described below, along with any proposed *Substitutions*. These standards, substitutions, and offsets are listed in Table 3.

2.4.1 Facilities of Private Tenancy

The Regulations provide that non-water dependent Facilities of Private Tenancy shall not be located on the ground level of any filled tidelands within 100' of a project shoreline.

Projects under the WDP will meet this standard. Northern Avenue and its sidewalks at the WDP area will be 100' wide. As a result, all non-water dependent structures will be set back 100 feet from the shoreline.

2.4.2 Water Dependent Use Zone

The Chapter 91 Regulations provide for a Water Dependent Use Zone measured from the project shoreline that is the lesser of 100 feet or 25% of the depth of the property. New or expanded buildings for non-water dependent use shall not be located in this zone, according to the Regulations.

Projects under the WDP will meet this standard. Northern Avenue and its sidewalks within the WDP area will be 100' wide. As a result, all non-water dependent structures will be set back 100 feet from the shoreline. Within the Plan Area the water dependent use zone will include the southern sidewalk of Northern Avenue, on-street public parking and drop-off lanes, and portions of open spaces.

2.4.3 Building Height

The Chapter 91 Regulations call for a height limit of 55 feet in the Water Dependent Use Zone which extends 100 feet landward from the water's edge. Landward of the Water Dependent Use Zone 100 foot dimension, building heights are allowed to rise on a slope defined as 1 foot of additional height for every 2 feet of additional horizontal distance from the water's edge. Within the WDP area, heights consistent with the Regulations can range from a maximum of 55 feet at the Northern Avenue frontage to a maximum of 130 feet at the southern edge of the WDP boundary which is coincident with the boundary for Chapter 91 jurisdiction (see Figures 18 and 19).

Massport proposes a substitution that would allow building heights to penetrate the 1:2 slope defined in the Regulations. The WDP includes maximum allowable building heights that will

not exceed the 130 foot maximum height allowed by the Regulations. Different than the Regulations would allow, the WDP allows buildings of 130 feet in height to be placed at any location within the WDP area (see Figures 20 and 21). The WDP provides further controls by limiting the total building square footage within the WDP area to that which could be allowed under existing Chapter 91 Regulations (see Section 2.6.3). This building height substitution, in concert with the building square footage limit, enables the WDP to meet the following objectives:

- Maximize public street level views and pedestrian access to the water;
- Aggregate public open space to improve its functionality and expand the range of public activities that can be supported; and
- Create the opportunity for a more flexible building massing scheme of modest scale that can accentuate important points of orientation, provide for building height variation along Northern Avenue, address the feasibility requirements for new residential building construction, and reduce the overall shadow impacts on the water and important public spaces.

Proposed Offsets for this Substitution are described in Section 2.6 below.

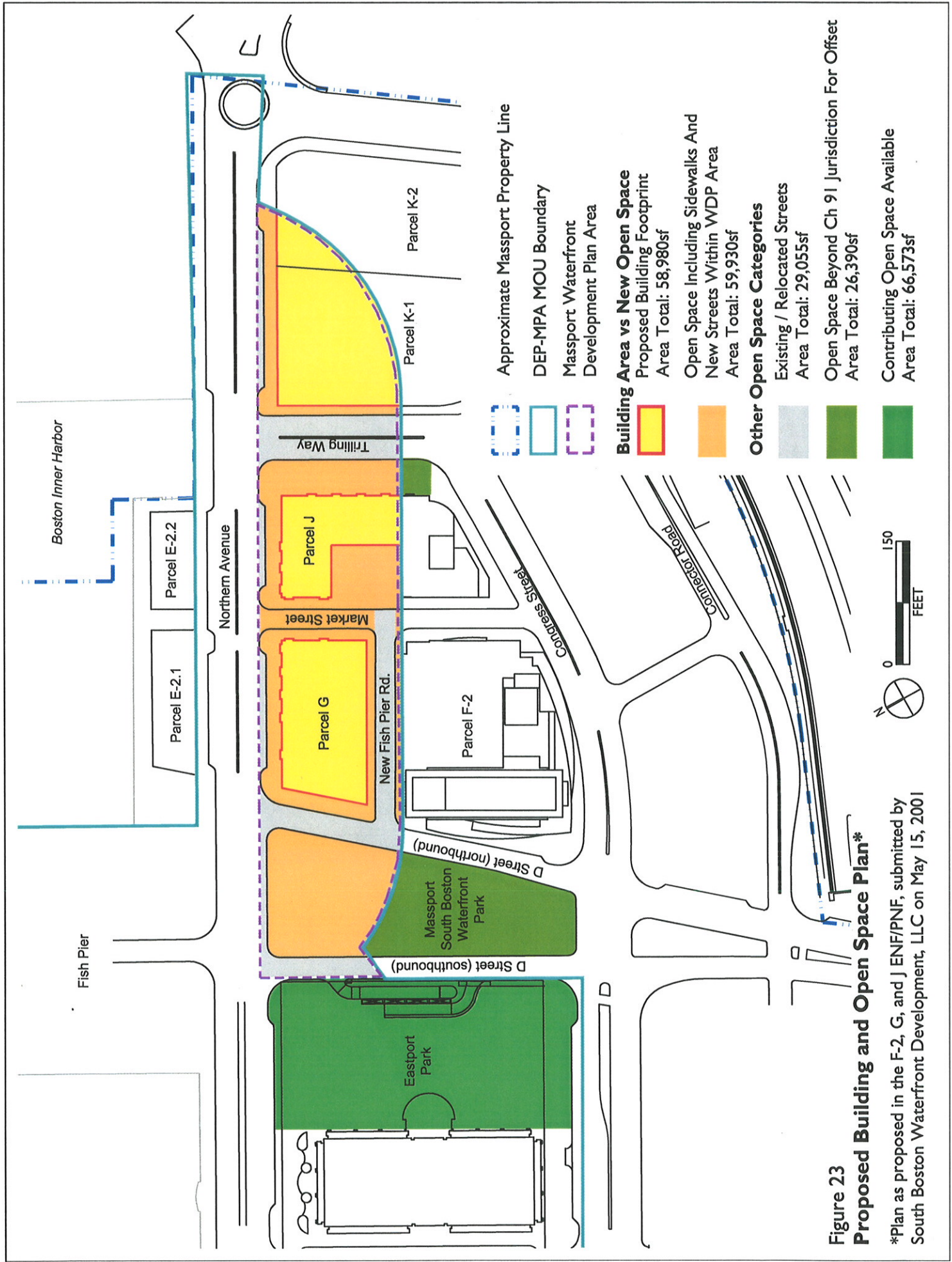
2.4.4 Open Space (Lot Coverage Calculation)

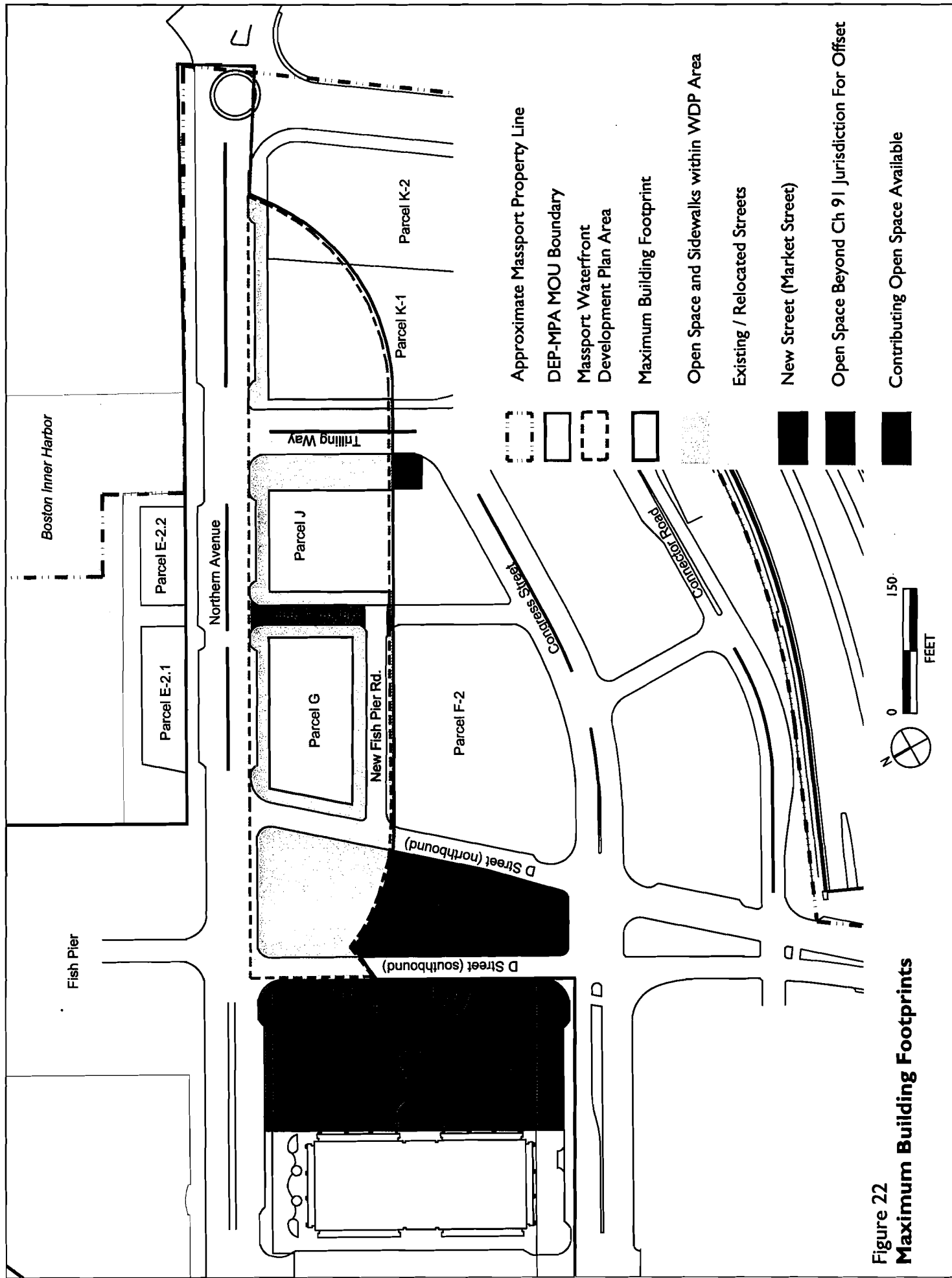
The Chapter 91 Regulations call for providing one square foot of open space for every square foot of tideland area within the footprint of proposed buildings containing nonwater-dependent uses. Unlike the other open space standard discussed below in 2.6.1, this basic dimensional standard, set forth in 9.51(3)(d) of the Regulations, considers any open land to be “open space” and does not distinguish between parks, green spaces, streets, sidewalks, parking areas, vacant lots or other types of potential open space.

Projects under the WDP will meet or exceed this standard within the WDP Area. Figure 22 shows the maximum building footprints in the WDP Area. They cover significantly less than half of the entire WDP Area including all streets.

2.5 Public Benefits Baseline Requirements for Non-Water-Dependent Projects

The proposed range of allowable land uses for the WDP area contains nonwater-dependent uses. The Chapter 91 regulations require that projects containing such uses within Commonwealth Tidelands provide public benefits to compensate for the dedication of land to nonwater-dependent use. The public benefits baseline requirements are described below. Some of the alternative public benefits requirements proposed by Massport for projects in the WDP Area exceed those contained in the existing Chapter 91 requirements. In those instances the additional requirements are specifically identified.





2.5.1 Methodology for Allocating Public Benefits

The DEP-Massport MOU stipulates that Public Benefits may be provided before, after, or simultaneously with development of nonwater-dependent use Projects in the Plan Area, as long as this is done prior to or within 12 months of the completion of the Project to which the Public Benefit is allocated. To the extent that a Public Benefit is not fully allocated to a particular project, it can be allocated retrospectively or prospectively for another project. Massport will describe to DEP in writing the nature of the public benefit, the timeframe for its completion, the proportionate allocation of the benefit to a specific project, and the amount available to allocate to future projects. DEP will retain this information in its files and will confirm with Massport that the benefit has been completed within the timeframe required. When Massport wishes to allocate the remaining available benefit to a subsequent project, it will again inform DEP in writing and DEP will confirm that the proposed remaining benefit is available.

For example, Massport may propose building the South Boston Waterfront Park and Congress Street open space, along with new sidewalks and streets, at a time commensurate with the development of Parcels G and J. These improvements may exceed the one square foot of open space benefit for each square foot of building footprint standard Massport has proposed for the Plan Area (see 2.5.2 below). Massport currently estimates that this would create 53,770 square feet of open space compared to 32,920 square feet of building footprint—an excess of 20,850 square feet. Massport would inform DEP in writing that it expects to create an excess of 20,850 open space early and put it in reserve to be allocated for later projects at Parcels K-1 and K-2. DEP would later confirm with Massport that the proposed open space was in fact built no later than one year following the Parcel G and J completion. When Massport wished to develop Parcel K-1, it would inform DEP of its intentions to apply some or all of the available 20,850 feet to that project. DEP would confirm with Massport that this open space, plus any new open space to be created in the Parcel K-1 project, is sufficient to meet the 1-1 ratio of open space to building footprint for the new project. Any remaining excess open space benefit could be applied to a later Parcel K-2 project in the same manner.

2.5.2 Exterior Open Spaces

In addition to the open space calculation noted in 2.5.1 above, Section 9.53(2)(b) of the Regulations stipulates that every square foot of Commonwealth Tidelands area not within the footprint of buildings, and not deemed necessary to accommodate other water-dependent uses, be available as public open space. Such open space shall be available for public recreation and include “related pedestrian amenities such as lighting and seating facilities, restrooms and trash receptacles,” etc. However, the Regulations allow up to half of this open space area to be used for public roadways and public surface parking.

The WDP will meet this standard within the Chapter 91 jurisdictional area. All areas not within the footprint of buildings will be available for such uses. As described in previous sections of the WDP, public open space will be aggregated within the plan area to maximize view corridors and public access to the waterfront as well as to increase the range of public activities that are supported by the open space resources.

The WDP area also will exceed this standard by allowing no more than 35 percent of the open space area to be in public roadways or public parking areas. This exceeds the baseline

Chapter 91 standard by 15 percent. Massport's plans will also provide substantial additional contiguous open space in Massport's South Boston Waterfront Park that extends beyond the area of jurisdiction to the south (see Figure 22).

The WDP also will exceed this standard by providing one square foot of park, plaza, green space, sidewalk, or new roadway (as opposed to existing or replacement roadway) for every square foot of tideland area within the footprint of proposed buildings containing nonwater-dependent uses. New roadways can account for no more than 10 percent of this area. In accordance with the MOU and consistent with the Chapter 91 license conditions for the WTC East Office Building, the Eastport Park may be used to help satisfy this additional open space area requirement. However, no more than 15 percent of the required open space area may be satisfied with Eastport Park. Figure 23 shows that the currently proposed building footprints as described in 2.2.2 will meet this requirement without the use of any portion of Eastport Park.

2.5.3 Facilities of Public Accommodation

The Regulations require that the ground level of all buildings containing nonwater-dependent facilities of private tenancy be devoted to facilities of public accommodation. Up to 25 percent of this ground floor space may be devoted to uses accessory to facilities of private tenancy on upper floors. These include, but are not limited to, such accessory uses as lobbies, elevator and stair cores, and loading docks.

Buildings in the WDP area will exceed this standard by limiting the ground floor accessory uses to twenty percent (20%) of the building ground floor area. This will provide for a higher level of public activity and accessibility within the waterfront area while providing necessary support to the facilities of private tenancy on upper floors. Ground floor accessory facilities that are able to be shared by uses within a mixed-use project will be assigned to the primary user for the purposes of this calculation.

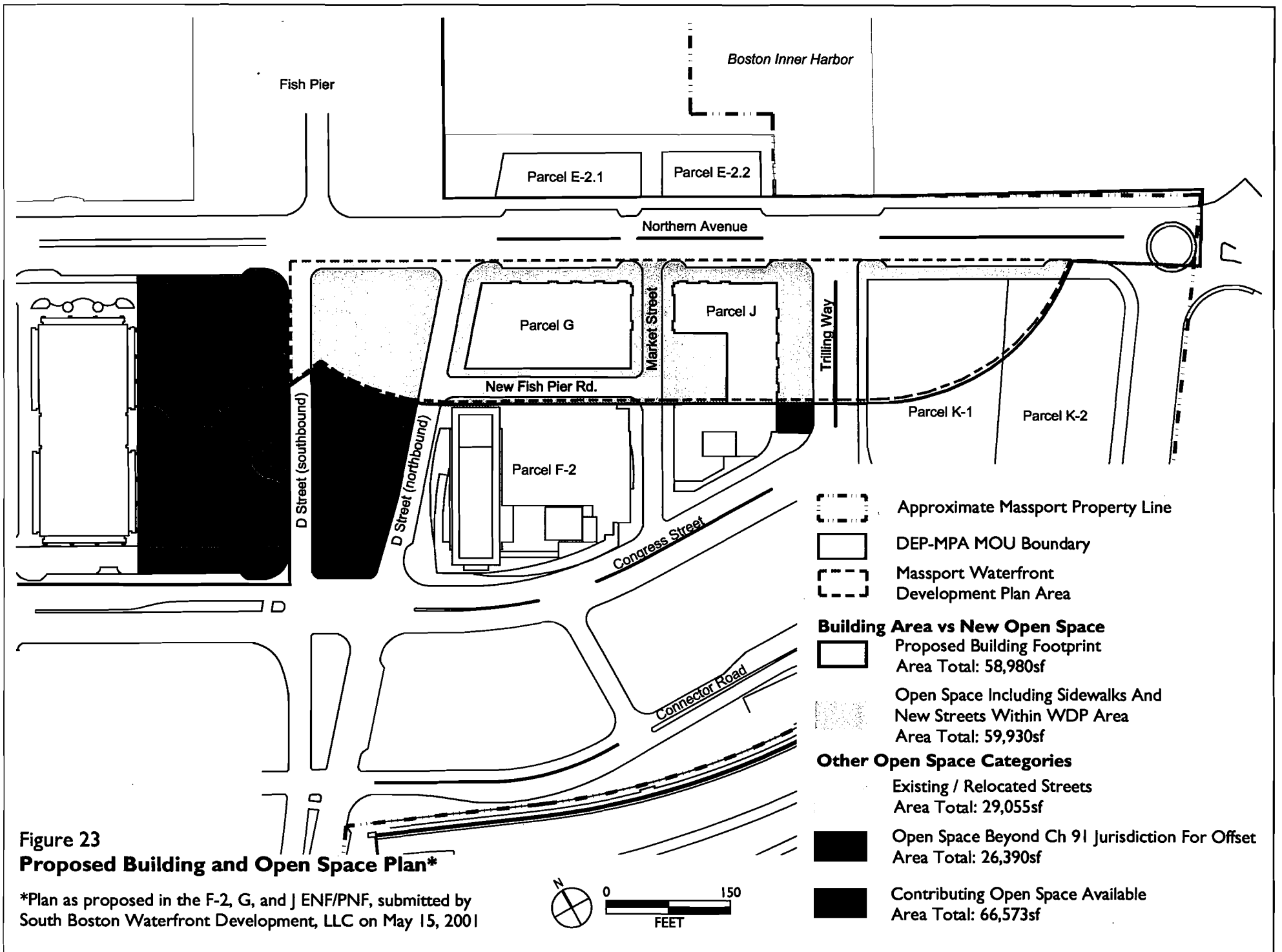
2.5.4 Public Access to and in the Water-Dependent Use Zone

The Regulations call for the Water Dependent Use Zone to have "walkways and related facilities along the entire length and other public pedestrian facilities providing access to a Water Dependent Use Zone.

The WDP will meet this standard. Massport's public realm improvements will provide generous and high quality pedestrian access to the Water Dependent Use Zone. Along Northern Avenue, a public sidewalk along the entire length of the Water Dependent Use Zone will be provided. This will take the form of sidewalks, public parks and enhanced streetscape elements. Many of these improvements, such as Massport's South Boston Waterfront Park and Market Street, will be located within the WDP area as well as extending to contiguous areas. Massport has developed a set of design guidelines that establish dimensional and quality control (see Section 2.4.2).

2.5.5 Management and Maintenance Plan for Public Open Spaces and Facilities

In order to ensure that public open space is appropriately managed and well maintained, the regulations stipulate that projects should provide plans addressing these subjects.



Massport will ensure, as it currently does with other open space resources under its control, that management and maintenance plans for the public open spaces within the WDP be prepared. These plans will provide for a variety of public activities that include daily activities as well as small and large events. Further, maintenance plans for these facilities will also be prepared to direct daily, seasonal and annual maintenance activities as necessary for all public open space improvements. For public open spaces within private leasehold areas, Massport will require similar plans to those described above be incorporated into ground lease obligations of the leaseholder.

In addition, developers constructing buildings containing nonwater-dependent uses in the WDP area will be required to make significant monetary or in-kind contributions to Massport in the form of a District Service Fee. This fee will be used to build, maintain and replace public amenities such as parks, harborwalks, overlooks, and enhanced streetscape elements (high quality lighting fixtures and street furniture, sidewalks and crosswalks with district standard concrete pavers, landscaped medians, and the like) within the WDP area, along the water's edge, and throughout Massport's Commonwealth Flats holdings. Massport builds and maintains all the streets, sidewalks and other public improvements outside of private ground lease areas in Commonwealth Flats. The contribution commitment will be defined through the ground lease between Massport and the developer / leaseholder.



2.6 Proposed Offsets for the Substitution for Chapter 91 Regulations

As noted in 2.4.3 above, Massport proposes a single Substitution for the Northern Avenue WDP that is related to the allowable height of buildings. The Substitution is described again below.

2.6.1 Height Substitution

The Regulations call for a height limit of 55 feet in the Water Dependent Use Zone which extends 100 feet landward from the water's edge. Landward of the Water Dependent Use Zone 100 foot dimension, building heights are allowed to rise on a slope defined as 1 foot of additional height for every 2 feet of additional horizontal distance from the water's edge. Within the WDP area, heights consistent with the Regulations can range from a maximum of 55 feet at the Northern Avenue frontage to a maximum of 130 feet at the southern edge of the WDP boundary which is coincident with the boundary for Chp. 91 jurisdiction (see Figures 18 and 19).

Massport proposes a substitution that would allow building heights to penetrate the 1:2 slope defined in the Regulations. The WDP includes maximum allowable building heights that will not exceed the 130 foot maximum height allowed by the Regulations. Different than the Regulations would allow, the WDP allows buildings of 130 feet in height to be placed at any location within the WDP area (see Figures 20 and 21). This building height substitution, in concert with the building square footage limit, enables the WDP to;

- Maximize public street level views and pedestrian access to the water;
- Aggregate public open space to improve its functionality and expand the range of public activities that can be supported; and
- Create the opportunity for a more flexible building massing scheme of modest scale that can accentuate important points of orientation, provide for building height variation along

Northern Avenue, address the feasibility requirements for new residential building construction, and reduce the overall shadow impacts on the water and important public spaces.

The WDP includes the following additional public benefits and development limitations to offset impacts created by the building height substitution described above.

2.6.2 Additional Public Open Space Offset

The principal negative effect that the building height substitution may have on the public's enjoyment of the waterfront area is a potential net increase in the amount of shadow cast by buildings as compared to that which could be cast by buildings adhering to the dimensional standards in the Chapter 91 Regulations. *To offset any net new shadow impacts caused by proposed projects, the WDP requires the provision of additional public open space in excess of the fifty percent (50%) lot coverage ratio required by the Chapter 91 Regulations.*

Specifically, the WDP requires that an additional one-half (.5) square foot of exterior public open space be provided for every square foot of net new shadow impact on public open space, the Water Dependent Use Zone, or the watershed caused by a proposed project as compared to the shadows created by the Baseline Condition (defined in Section 2.4.1) which adheres to the dimensional standards in the Chapter 91 Regulations. Shadows will be measured at 9:00 a.m., 12:00 p.m., 3:00 p.m. and 5:00 p.m. on October 23 within certain shadow impact areas where public use of the waterfront is expected. The total shadow impact areas associated with the WDP are defined as park, sidewalk or other non-building open spaces; the Water Dependent Use Zone; and the first 100 feet of watershed. They are illustrated in Figures 24 and 25 for the Chapter 91 baseline and Massport proposed build-out, respectively. The additional public open space must be located to meet at least one of the following criteria:

- The public open space must be within the WDP boundary, or
- Contiguous to the public open space proposed by the project within Chapter 91 jurisdiction. The area on Figure 22 marked in dark green and labelled in the key "Open Space Beyond Chapter 91 Jurisdiction for Offset" qualifies in this manner. It consists of those portions of the South Boston Waterfront Park and Congress St. open space that are physically contiguous to but lie outside the Chapter 91 jurisdictional area.

Additional roadway area cannot be used towards satisfying this additional public open space offset. As a result, the additional public open space that is required to be provided under the WDP will meet the stated purposes of the Chapter 91 Regulations to "attract and maintain substantial public activity on the site" by increasing public access to and enjoyment of the waterfront area. It will also contribute important additions to the overall public realm that will improve the pedestrian access and public views of Boston Harbor.

Computer model estimates of shadow impacts associated with the Chapter 91 baseline and Massport's proposed maximum build-out and conceptual likely build-out for the October 23 test date are included in Appendix E. The studies of the "worst-case" maximum buildout under the WDP guidelines suggest modest shadow impact increases compared to the baseline. However, the more likely conceptual buildout (which reflects the Limitation on Building Area Offset described in 2.6.3 below) demonstrates significant reductions in shadow impact

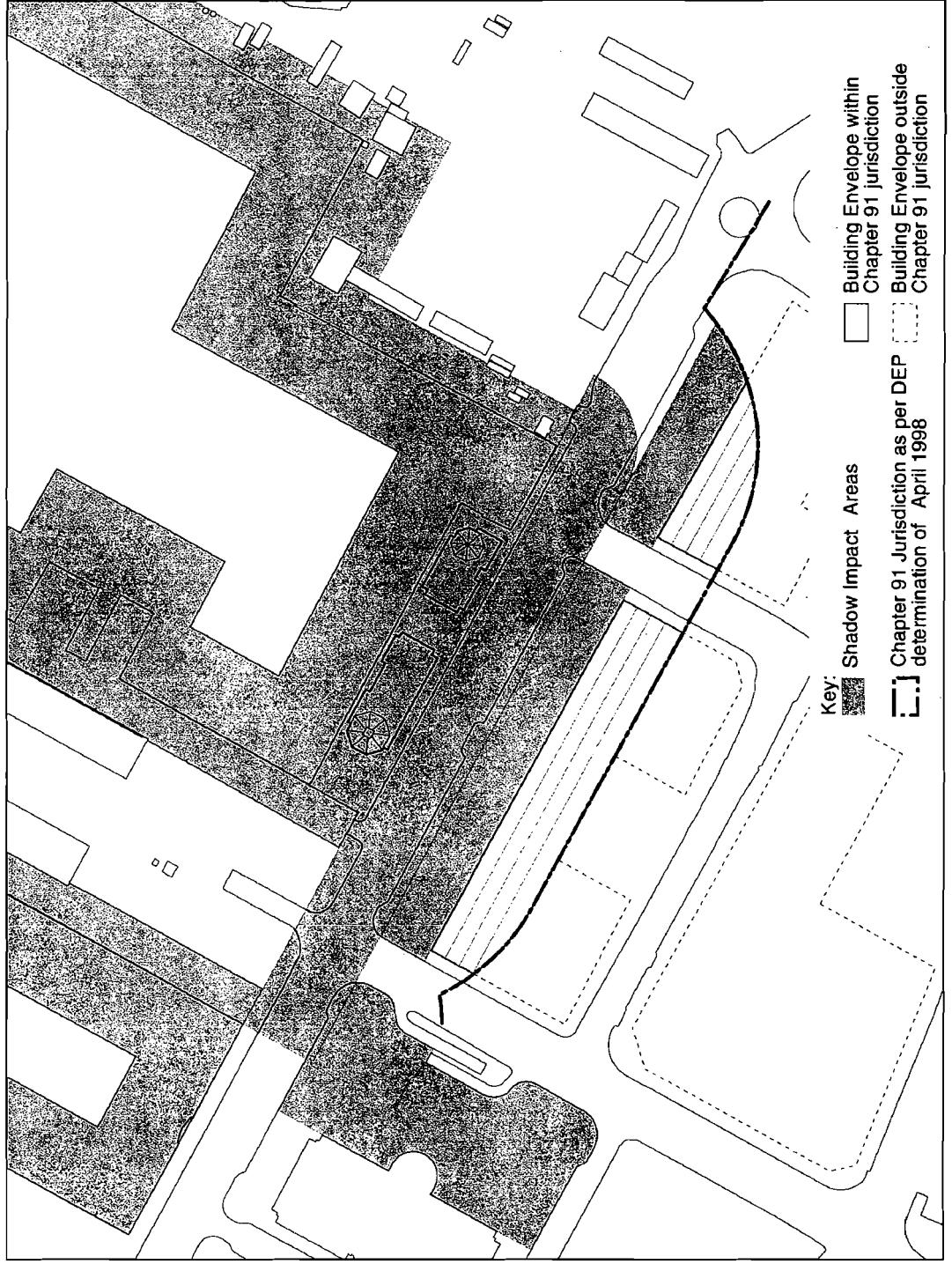
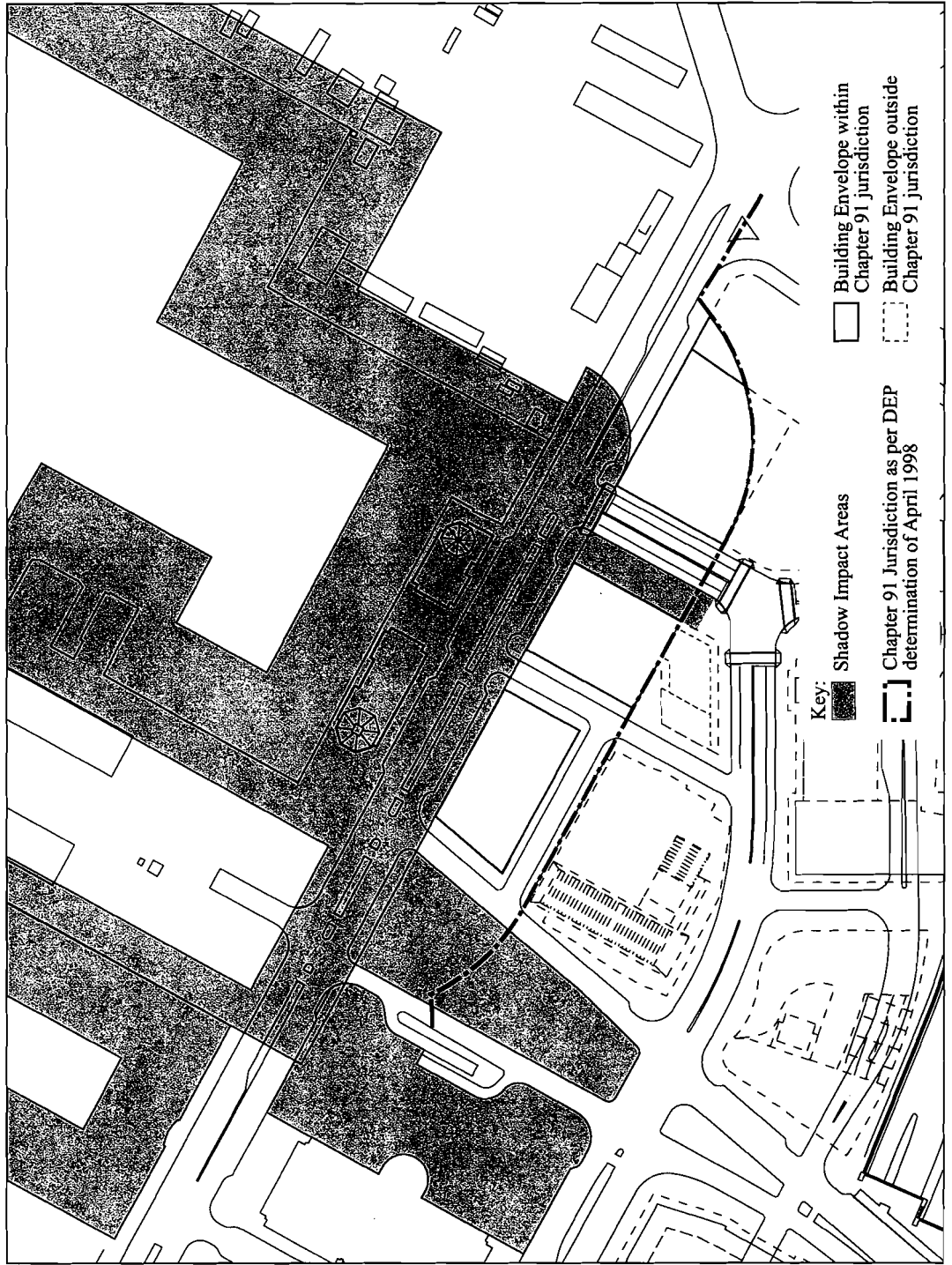


Figure 24
Theoretical Chapter 91
Buildout: Areas of
Impact



Key:

- Shadow Impact Areas
- ▭ Building Envelope within Chapter 91 jurisdiction
- ▭ Building Envelope outside Chapter 91 jurisdiction
- ▭ Chapter 91 Jurisdiction as per DEP determination of April 1998

Figure 25
Proposed Maximum
Buildout Envelope:
Areas of Impact

compared to the Chapter 91 baseline (see Table 4). Figures 26 and 27, respectively, illustrate the conceptual build-out plan for Parcels G and J as included in the Parcels F-2, G, and J PNF/EENF filed in May of 2001 and the associated shadow impact areas. It is likely that there will be no negative impact and no required offset when actual projects such as the one identified above are proposed. In particular, Massport's plan to aggregate open space in areas that will receive more sun appears to be a significant benefit over the baseline.

Table 4. Shadow Impact Comparison

Time of Day EST/EDT	Shadow Area (in square feet)	
	Chapter 91 Envelope	Conceptual Building Proposal*
8:00 AM / 9:00AM	48,741	76,538
11:00 AM / 12:00 Noon	81,397	80,104
2:00 PM / 3:00 PM	134,340	80,892
4:00 PM / 5:00 PM	212,025	184,044
Cummulative Shadow Impact**	476,503	421,578
Average Shadow Impact per Period***	119,126	105,395

* Based on the conceptual build-out plan for Parcels G and J as included in the Parcels F-2, G, and J PNF/EENF filed in May of 2001.

**Summation of shadow impacts from each of the four measurement times.

*** Average of shadow impact from each of the four measurement times.

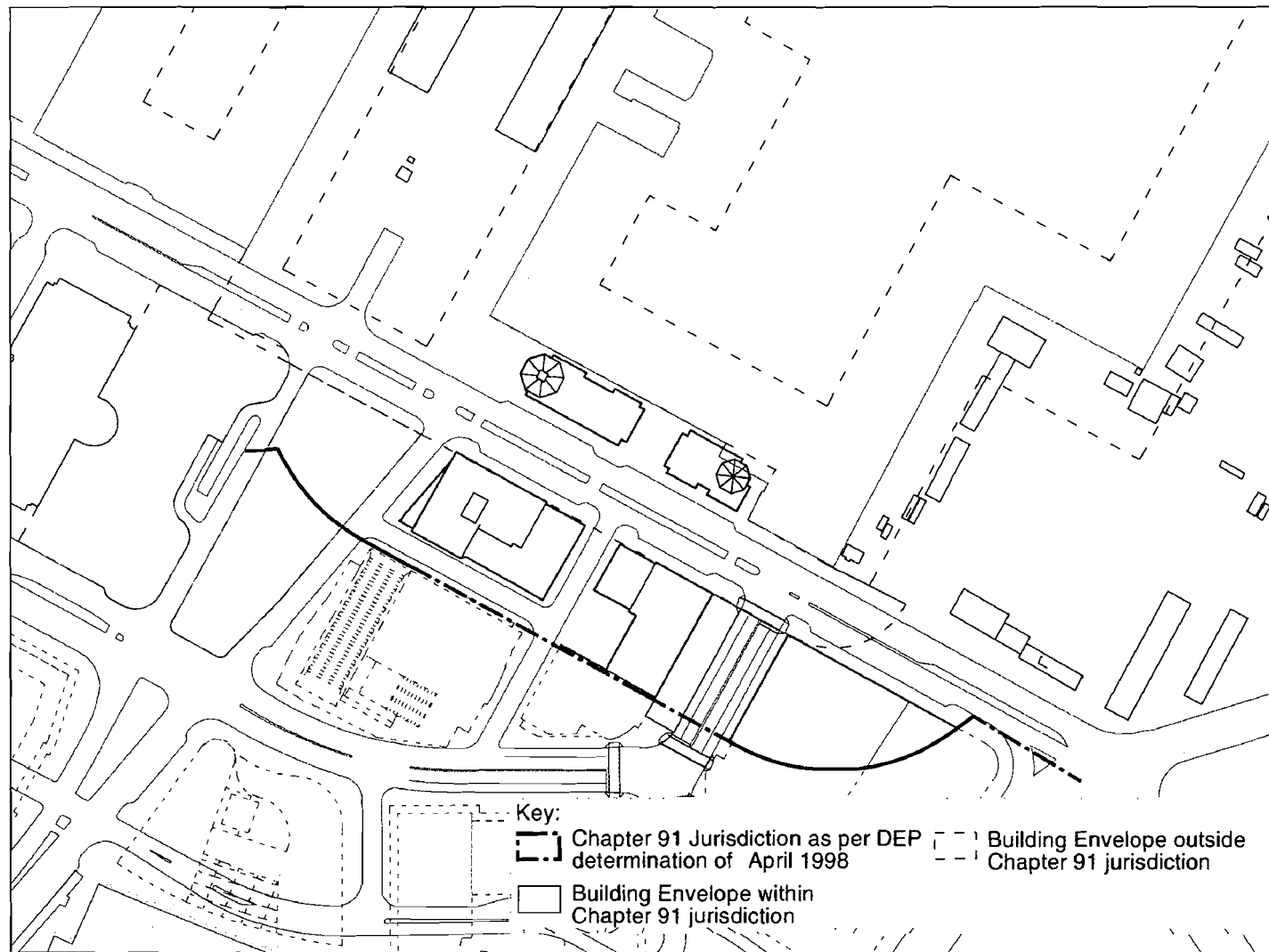
2.6.3 Limitation on Building Area Offset

The WDP requires that the total amount of building square footage within the WDP Area as a whole be no more than that which could have been allowed under existing Chapter 91 Regulations as defined by the Baseline Condition described in Section 2.3.1. WDP requirements are defined in Table 3.

2.6.4 Pedestrian Level Wind Analysis Offset

Due to its waterfront location, the WDP area is a naturally windy environment compared to sites further inland. Nevertheless, limiting wind impacts on the water and public spaces is an objective of the Regulations and of the WDP. In order to assess the pedestrian level wind conditions, the WDP will utilize Melbourne's Criteria (as does the Boston Redevelopment Authority in Article 80 review of projects in the city) which establishes five quantifiable categories of pedestrian level (non-storm event) winds, as follows:

Figure 26
Conceptual Building
Plan*



* Conceptual Plan as presented in parcels F2, G, and J PNF/EENF submitted by the South Boston Waterfront Development, LLC on May 15, 2001.

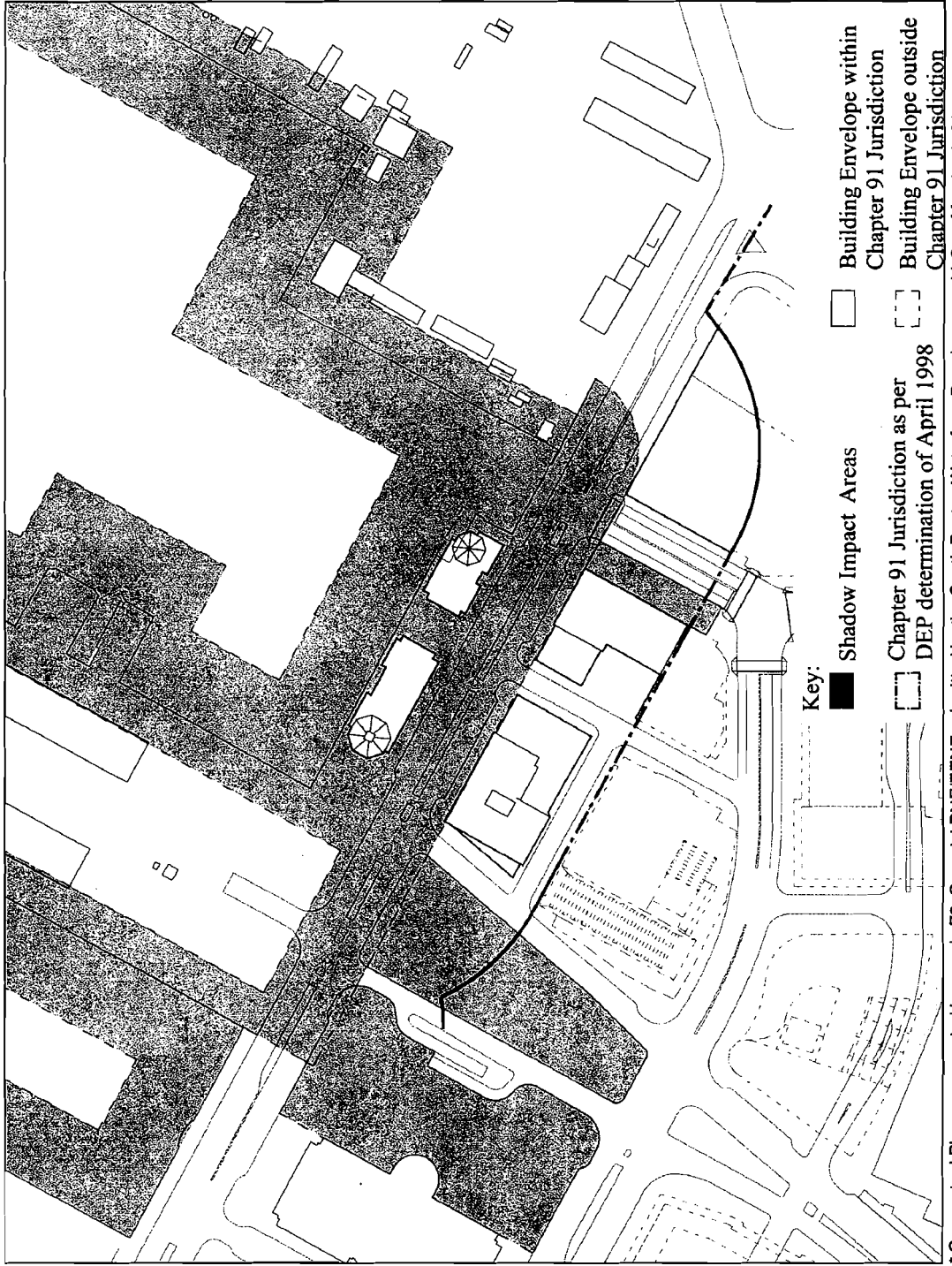


Figure 27
Conceptual Building
Plan*: Areas of Impact

* Conceptual Plan as presented in parcels F2, G, and J PN/EENF submitted by the South Boston Waterfront Development, LLC on May 15, 2001.

1. Comfortable for long periods of standing or sitting;
2. Comfortable for short periods of standing or sitting;
3. Comfortable for walking;
4. Uncomfortable for walking; and
5. Dangerous and Unacceptable.

The WDP requires that a quantitative analysis of pedestrian level winds be undertaken for projects within the WDP area that utilize the building height substitution. Pedestrian level winds that are determined to exceed Category 4 of Melbourne's Criteria will be required to provide building or site design elements that mitigate pedestrian level winds to within Category 4 conditions. These mitigating elements may include street level roof extensions, setback of taller building elements, re-massing or re-orientation of taller building elements, arcades, changes to facade materials, and other techniques.



2.7 Implementation Program

As specified in the MOU, the Northern Avenue WDP includes an Implementation Program that outlines the specific actions through which Massport will implement the WDP proposals. The program includes an approach for elements such as the design and construction of the public realm (e.g., roads, sidewalks, parks) and development projects within the WDP Area.

Massport owns and operates the public realm within its property, including the streets, sidewalks, and parks. A design process already is underway to design and construct Massport South Boston Waterfront Park and the major roads within the Plan Area. An inclusive public design process is being lead by the Halvorson Company to determine the appropriate theme and program for this important open space. This same design team also will design and build D Street and the extension of Congress Street, east of D Street, and create design guidelines for the adjacent sidewalks. In general, sidewalks within the WDP Area will be constructed by the developers of parcels on which they are located. However, developers will be required to design and build sidewalks in a manner consistent with Massport's overall open space plan for the Commonwealth Flats.

Development projects within the WDP Area will undergo a comprehensive design review process. Through this process developers within the WPD Area will apply the Design Requirements outlined in this WPD Plan (i.e., facilities of public accommodation, dimensional standards) and Massport's urban design guidelines to create projects that are consistent with the standards and objectives outlined in the Plan. As with projects elsewhere on Massport property within Commonwealth Flats, developers are expected to coordinate additional design review with the BRA through a voluntary design review process.

Massport intends to incorporate design review process requirements into ground leases for development projects within the WPD Area. Lease language will specify the extent of the public realm construction and maintenance for which developers will be held responsible. As mentioned above, for example, developers will be expected to construct and maintain public sidewalks adjacent to their projects at the high standards Massport plans for the rest of its property.

Developer compliance with maintenance, public access, and other Plan requirements will be closely monitored. Developers also may be asked to pay additional fees to help Massport fund items such as district maintenance, security, and sponsorship of public events.

3.0 Consistency with Coastal Zone Management Programs Policies and Management Principles

Consistent with the requirements of the MOU, this section reviews the consistency of the WDP with applicable policies of the Massachusetts Coastal Zone Management Program, including the Port and Harbor Infrastructure Policies, Public Access Policies and Management Principles and Growth Management Principles.

3.1 Port and Harbor Infrastructure Policies

1. *Ensure that dredging and disposal of dredged material minimizes adverse effects on water quality, physical processes, marine productivity and public health.*

The Northern Avenue WDP will not result in any dredging activity and this policy is non-applicable.

2. *Promote the widest possible public benefit from channel dredging, ensuring that designated ports and developed Harbors are given highest priority in the allocation of federal and state dredging funds. Ensure that this dredging is consistent with marine environmental policies.*

The Northern Avenue WDP will not result in any dredging activity and this policy is non-applicable.

3. *Preserve and enhance the capacity of Designated Port Areas (DPA's) to accommodate water-dependent industrial uses, and prevent the exclusion of such uses from tidelands and any other DPA lands over which a state agency exerts control by virtue of ownership, regulatory authority or other legal jurisdiction.*

This WDP does not include any DPA area within its boundaries. Section 1.2 of the WDP thoroughly reviews Massport's previous planning and environmental documentation covering this area of Commonwealth Flats for which the main priority was the preservation and enhancement of the working port. These documents include the Port of Boston Economic Development Plan conducted jointly with the BRA and completed in 1996, Massport's Maritime Optimization Program (1998), the Commonwealth Flats Development Area DEIR (January 2000), Open Space NPC (June 2000), Chapter 91 NPC (October 2000), and FEIR (December 2000). Consistent with the findings and recommendations of all those documents the WDP proposes a mix of commercial uses that will be compatible with nearby water-dependent uses and will generate revenue to Massport through ground leases that can be used to finance the operations and capital investments needs at Massport's maritime facilities.

3.2 Ports Management Principles

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.*

The WDP seeks to advance this principle by the appropriate redevelopment of an existing urban waterfront area in a manner that greatly expands the amount and quality of both visual and physical public access as compared to current conditions and that which would be allowed under existing Chp. 91 Regulations. Further, consistent with Massport's Commonwealth Flats Strategic Plan (see Section 1.2.2), the ground lease revenue from the WDP Area can be used to finance the operations and capital improvements needs at Massport's maritime facilities.



3.3 Public Access Management Principles

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.

The WDP proposes substantial new public open spaces that will support a wide variety of public activities. Massport's planned roadway, streetscape and public open space improvements (see Sections 1.2, 1.3 and 2.3) will greatly improve pedestrian, bicyclist and vehicular public access in and around the WDP area. A vastly improved and upgraded D Street corridor will provide an important and inviting link between the waterfront and the South Boston community. Public transit to the area will be greatly enhanced with the MBTA South Boston Piers Transitway (scheduled to be in service by the end of 2003) which has a station located no more than one block away from the WDP area.

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

There are no existing recreation areas within the WDP and this principle is non-applicable.

3. Provide technical assistance to developers of private recreation facilities and sites that increase public access to the shoreline.

The public open space system within and adjacent to the WDP area provide for extensive public access to the harbor and a wide range of activities. Section 2.3.2 describes Massport's design guidelines for open space and streets within the WDP area which includes certain streetscape improvements (lighting, planting, paving and setbacks) that may be within private ground lease areas where the private developer is responsible to execute the improvements.

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

The WDP area is within a urban waterfront area undergoing substantial redevelopment. Both within the WDP area and adjacent to it, Massport has ensured through its own investments or those of private developers that substantial new public open space areas and activities will be available. Massport will continue to own the land and will allow private development through ground leases. See Sections 1.2 and 1.3 for further detailed descriptions.

■

3.4 Growth Management Principles

1. Encourage, through technical assistance and review of publicly funded development, compatibility of proposed development with local community character and scenic resources.

The WDP area is part of a much larger urban waterfront area undergoing redevelopment with sparse existing development. Massport's planning has prioritized the success of the existing port and supporting industrial activities on its holdings in South Boston. Massport's direct investments within and adjacent to the WDP area are focused on new open spaces enhancing the public's opportunities to enjoy the harborfront.

2. Ensure that state and federally-funded transportation and wastewater projects primarily serve existing developed areas, assigning highest priority to projects that meet the needs of urban and community development centers.

The Central Artery/Tunnel Project and the MBTA Transitway Project are federally-funded transportation projects that enhance access to an existing urban redevelopment area that includes the WDP area. As a result, redevelopment is enabled in an urban area that is supported by transportation infrastructure in lieu of development of undeveloped suburban and exurban areas. This approach is also consistent with the Commonwealth's Executive Order 385.

3. Encourage the revitalization and enhancement of existing development centers in the coastal zone through technical assistance and federal and state financial support for residential, commercial and industrial development.

The WDP proposes the redevelopment of an existing urban area that is slated for major transportation infrastructure improvements. The WDP proposes a mix of uses, including residential and commercial consistent with Massport's planning documents and environmental filings, the City's planning documents and compatible with the needs of the working port. These principles are more fully described in Sections 1.2 and 1.3.

Appendix A
Memorandum of Understanding

SOUTH BOSTON
March 15, 2001

MEMORANDUM OF UNDERSTANDING

between

Massachusetts Port Authority

and

**The Commonwealth of Massachusetts
Department of Environmental Protection**

This Memorandum of Understanding (“MOU”) entered into as of March 15, 2001 by and between the Massachusetts Port Authority (“Massport”) and The Commonwealth of Massachusetts Department of Environmental Protection (“DEP”) relative to the licensing of certain projects on certain properties owned by Massport in South Boston:

WHEREAS, Massport is a body politic and corporate created by Chapter 465 of the Acts of 1956, as amended (the “Enabling Act”), to engage in, *inter alia*, the operation, maintenance and improvement of the Port of Boston;

WHEREAS, the DEP is an agency of the Commonwealth of Massachusetts created pursuant to M.G.L. Ch. 21, authorized to administer the provisions of M.G.L. Ch. 91, §1 through 63, commonly known as the Public Waterfront Act (“Ch. 91 “);

WHEREAS, pursuant to the authority contained in § 18 of said Ch. 91, the DEP has promulgated regulations codified at 310 CMR 9.00 *et seq.* (the “Regulations”);

WHEREAS, pursuant to §4C of the Enabling Act, Massport and *inter alia*, the DEP are authorized and empowered to enter into agreements furthering the purposes of the Enabling Act, which include, but are not limited to, the operation and development of the Port of Boston and other property owned by Massport;

WHEREAS, §6 of the Enabling Act provides that, although the DEP may “issue licenses and permits for filling, dredging, building of structures or excavating within the Port of Boston,...no such licenses or permits shall be required to be obtained by [Massport]”;

SOUTH BOSTON
March 15, 2001

WHEREAS, §9.03(3) of the Regulations states that Massport may undertake “without written authorization in the form of a license or permit from the Department ... any project consisting entirely of water-dependent industrial uses or accessory uses thereto on previously filled or flowed tidelands within the Port of Boston;”

WHEREAS, §9.03(3) of the Regulations provides that “Massport shall obtain a license or permit pursuant to M.G.L. c. 91 for any project consisting entirely of uses other than water-dependent industrial uses”;

WHEREAS, §9.03(3) of the Regulations further provides that the DEP and Massport may enter into agreements to further clarify the DEP's jurisdiction under Ch. 91 for certain activities undertaken on Massport land that include Water-dependent Industrial or Accessory Uses and Nonwater-dependent uses;

WHEREAS, Massport has identified Special Planning Areas within the Massport Properties in South Boston where it may undertake future projects that include both Water-dependent Industrial Uses and Nonwater-dependent Uses;

WHEREAS, Massport has invested well over \$100,000,000 in the past ten years to provide the necessary infrastructure to facilitate the water-borne transportation of freight and passengers;

WHEREAS, Massport is endeavoring to undertake mixed use development on certain portions of its land holdings in order to generate revenues sufficient to help subsidize substantial capital investments in and operating costs of Port facilities including Conley Container Terminal, the Black Falcon Cruise Terminal, and the Massport Marine Terminal;

WHEREAS, Massport will continue to maintain the functions of the Designated Port Areas and will protect deep water berths, channels and transportation infrastructure necessary to support the operations of the Port of Boston and maintain its competitive position in the future;

WHEREAS, Massport has undertaken extensive planning in concert with the City of Boston, community representatives and others to create a comprehensive strategy for investment and development of its properties in South Boston, as articulated in the joint City of Boston/Massport Port of Boston Economic Development Plan, the Port of Boston Competitiveness Task Force Report and Massport's Commonwealth Flats Strategic Plan;

WHEREAS, the DEP and Massport recognize the importance of establishing an agreement with respect to the confirmation by the DEP of Massport's compliance with Ch. 91 for activities on certain Massport Properties hereinafter described;

WHEREAS, Massport will obtain licenses from DEP for all activities on the Massport Properties unless exempt by statute, regulation or this MOU;

NOW, THEREFORE, Massport and the DEP agree that, with respect to the Massport-owned properties described herein, the terms of this MOU shall govern the licensing by DEP of certain Projects, as defined below.

Article 1
Definitions

As used in this MOU, the following terms shall have the definitions set forth below:

A. "Accessory Use" means a use customarily associated with and necessary to accommodate principal Water-dependent Industrial Uses. Such Use must be integral in function to the construction or operation of Water-dependent Industrial Uses, or provide related goods or services to persons primarily engaged in such Uses, and be commensurate in scale with the operations of Water-dependent Industrial Uses in the DPA area. Examples of such Accessory Uses include, but are not limited to, access and interior roadways, surface and/or above-and below-grade structured parking facilities, administrative offices and other facilities providing services to Water-dependent Industrial Uses, and office or lodging facilities exclusively serving Water-dependent industrial uses. Uses that may not be determined to be Accessory Uses include, but are not limited to, general office, general hotel and residential facilities, and major retail establishments.

B. "Airport" means Logan International Airport, located in East Boston.

C. "Applicable Regulatory Performance Standards" mean the provisions of the Regulations found at 310 CMR 9.31, 9.32, 9.33, 9.35(1), (2), (3) and (6), 9.37, 9.38, 9.39, 9.40, 9.51, 9.52, and 9.53, for Projects in and outside the DPA, and 9.35(5) for Projects outside the DPA.

D. "Height" or "Height of Building" shall mean the vertical measurement of a structure from the surface on the land or pier on which the structure will be constructed to the peak of the roof, excluding however, any mechanical structures, equipment, architectural features or other facilities that are not intended for habitation.

E. "Maritime Projects" means Projects related to the use and operation of the Port of Boston, including but not limited to facilities related to intermodal transportation of goods shipped by sea, bulk cargo and petroleum facilities, seafood processing facilities, terminals and facilities for commercial and charter fishing, water transportation and other commercial passenger vessel operations, including cruise ship, charter cruises, water taxis, water shuttles, Boston Harbor Islands shuttles and commuter services.

F. "Massport Properties" means those properties owned or leased by Massport or leased by Massport to tenants of Massport, which constitute Commonwealth Tidelands, Flowed Tidelands or Filled Tidelands other than Landlocked Tidelands, or are located within a Designated Port Area (hereinafter, a "DPA"), as those terms are defined in the Regulations, located in the South Boston area of the City of Boston as such properties are more particularly identified on Exhibit A attached hereto and made a part hereof.

G. "Offsets" means those activities, uses, or structures included in a Project to compensate for the application of Substitutions under this MOU and impacts resulting from such Substitutions which are greater than impacts which would result from application of the requirements of the Regulations. Where offsets are required by this MOU, they are to be provided in addition to any Public Benefits which may be required to compensate for the use of Filled or Flowed Tidelands for Nonwater-dependent Uses. Such Offsets may be:

- a) numeric, in-kind offsets;
- b) qualitative, out-of-kind offsets, provided there is a reasonable proportionality, geographic proximity and temporal proximity so that the public benefits outweigh the detriments within the same area and time frame;

- c) offsets that are appropriate for the scale and density of existing structures, taking into account the location of the Project Area in an urban community; and
- d) offsets that appropriately reflect the relationship between proposed structures and the waterfront.

If Substitutions allowing Nonwater-dependent Uses in the DPA portion of the Special Planning Area are exercised, Offsets involving the construction or operation of Water-dependent Industrial Use Projects or Maritime Projects in the DPA, or the provision of financial support for such projects or uses, shall be proposed, although Offsets outside of the DPA may be proposed in addition. Any provision of Offsets in the DPA shall not create adverse impacts on the operations of the Designated Port Area.

Where offsets outside of the DPA are proposed, offsets may include, but are not limited to, the creation, development or support of public purpose uses and structures, such as cultural facilities, educational facilities, additional on-site or off-site parks, public art, museums, cultural or other special public destination facilities, transportation facilities or services, off-site harbor walks, additional on-site or off-site open space or greater activation of open space in excess of that required in a Waterfront Development Plan; public pedestrian facilities in excess of those required in a Waterfront Development Plan; promotion, support and maintenance of public facilities, water shuttles to the Boston Harbor Islands or elsewhere in Boston Harbor; the management and/or support for or financial support of public events and activities which help activate the waterfront; and other similar uses or structures or programs described in the Waterfront Development Plan to mitigate or otherwise ameliorate the impact of development of Nonwater-dependent Uses on the Massport Properties. Reductions in wind or shadow impacts below those impacts which would be experienced by the application of the Regulations to a theoretical structure on the Project site may also be considered as an Offset. These Offsets may include the open space provided in connection with the creation of the so-called D Street Open Space authorized by the Written Determination for the World Trade Center, issued by DEP on August 16, 1995.

H. "Project" means any structure, activity or use that is proposed by Massport or a private entity proposing to act under a ground lease of the Massport Properties, for new construction or Substantial Structural Alteration

on the Massport Properties, unless specifically excluded from the scope of this MOU, as set forth below.

I. "Public Benefits" means those features incorporated into a Project to compensate for the use of Filled or Flowed Tidelands for Nonwater-dependent Uses and structures. Where proposed for inclusion within the DPA portion of the Special Planning Area, Public Benefits shall include facilities or financial support for Water-dependent Industrial Uses or non-recreational water-based activities, such as rebuilding or constructing additional pier heads, bulkheads, aprons and fender systems, repairs to the dry dock, implementing elements of the South Boston Transportation Study's recommendations for truck route improvements, dredging to support maritime activities, increasing or improving paved cargo handling surfaces and other lay down areas, providing supporting structures or services for cargo or commercial fishing vessels, ferries, cruise ships and water shuttles, or otherwise improving the freight handling capacity of the Port of Boston. Waterfront walkways, small-scale parks and observation areas may be appropriate in the DPA portion of the Special Planning Area, provided that they will not interfere with any existing or planned Water-dependent Industrial Uses. Any provision of Public Benefits in the DPA shall support Maritime and Water-dependent Industrial activities within the DPA wherever feasible and not create adverse impacts on the operations of such Designated Port Area.

Where proposed for inclusion outside of a DPA, such Public Benefits may include, but are not limited to, facilities that promote active use of the Project shoreline, such as boat landing docks and launching ramps, marinas, fishing piers, waterfront boardwalks, esplanades, walkways, parks, plazas, observation areas, facilities which support water-based activities such as ferries, cruise ships, water shuttles, excursion/charter/rental docks, and community sailing facilities and other facilities which support and/or promote active use of the Project Shoreline and support water-based activities. These Public Benefits may include the open space provided in connection with the creation of the so-called D Street Open Space authorized by the Written Determination for the World Trade Center, issued by DEP on August 16, 1995.

J. "Substitutions" means the substitution of the dimensional and use requirements set forth hereunder for those set forth in the Regulations regarding open space, set backs, water-dependent use zones, ground floor Facilities of

Public Accommodation, Facilities of Private Tenancy over Flowed Tidelands,
and Height limitations.

All capitalized terms used herein and not specifically defined above shall have the definitions set forth in the Regulations.

Article 2
General Provisions

2.1. Applicability of MOU. As the development of the Massport Properties will be undertaken on an integrated basis, including a combination of Water-dependent Industrial uses, Maritime Uses, Water-dependent Uses and Nonwater-dependent Uses, except as specifically excluded in Section 2.2 of this MOU, the terms and provisions of this MOU shall govern and apply to Projects on the Massport Properties which do not consist solely of Water-dependent Industrial Uses, Maritime Projects or Accessory Uses. The terms of this MOU shall not apply to structures, projects, or properties owned, operated, developed or leased by Massport on land not contained within the Massport Properties identified on Exhibit A hereto. Notwithstanding the foregoing, Massport may elect to identify an individual non-exempt Project which shall be subject to licensing pursuant to the provisions of 310 CMR 9.00 et seq. or to the provisions of this MOU by written notice to DEP.

Projects which are not exempt from licensing requirements pursuant to Section 2.2 shall be required to obtain a Ch. 91 license in accordance with the requirements of Articles 4 or 5 hereof.

2.2. Projects Not Requiring a License. Notwithstanding anything to the contrary contained in this MOU, in no event shall the terms and provisions of this MOU, apply to or govern the following:

A. all structures, Projects and activities specifically exempted from Ch. 91 and the Regulations pursuant to Section 9.03(3) of the Regulations including:

(1) any Project consisting entirely of Water-dependent Industrial Uses, including Maritime Projects, or Accessory Uses on previously Filled or Flowed Tidelands within the Port of Boston; or

(2) any Project authorized pursuant to the Enabling Act on previously Filled Tidelands within the geographic boundary of the Airport, so long as it is operated as an airport;

B. The continuation in use of any Project or structure on the Massport Properties, whether owned or leased by Massport or leased by Massport to tenants of Massport, existing as of October 4, 1990 and for which no unauthorized structural alteration or change of use has occurred since October 4, 1990, provided said Project or structure:

(1) includes Water-dependent Industrial Uses, including Maritime Projects or Accessory Uses;

(2) is any other Project for which a final EIR was certified as adequate and properly complying with M.G.L. Ch. 30, §§61 through 62H, prior to January 1, 1984; or

(3) is any Project or structure in existence as of the date of this MOU for which DEP has issued a determination of exemption from the requirements of Ch.91.

C. Maintenance, repair and minor modification of existing structures described in (A) through (E) herein, whether owned or leased by Massport or leased by Massport to tenants of Massport;

D. Any other activity on the Massport Properties otherwise exempt from the requirement of the Regulations pursuant to Section 9.05(3) thereof; and

E. All Projects undertaken by Massport for the use of Massport and in aid of the performance of its governmental functions as provided in the Enabling Act.

No permit, license or approval pursuant to Ch. 91 shall be required for those structures, Projects and activities described in paragraphs (A) through (E) above.

2.3. MOU as Exclusive Regulatory Framework. The terms and provisions of this MOU, including references to the Regulations as modified by a Waterfront Development Plan, shall constitute the exclusive framework under Ch. 91 and M.G.L. c. 21A for regulation of structures and uses on the Massport Properties. The terms and provisions of any Municipal Harbor Plan now or hereinafter approved by the Executive Office of Environmental Affairs shall not govern the development, use or dimensional requirements of Projects on the Massport Properties.

Article 3
Massport Properties Waterfront Development Plan

3.1. Development of Waterfront Development Plans. Massport may develop and adopt one or more Waterfront Development Plans (the "Waterfront Development Plans") for certain portions of the Massport Properties known as the "Special Planning Area" shown on Exhibit B hereto, the adoption of which shall be subject to the review and approval process set forth in Section 3.3 below. Such Waterfront Development Plans, once approved, shall be used by Massport and DEP in connection with the licensing of future Projects undertaken on Massport Properties under this MOU. The Waterfront Development Plan(s) may be developed and adopted by Massport simultaneously or in sequence.

3.2. Waterfront Development Plan Elements. The Waterfront Development Plan(s) shall set forth criteria, performance standards and guidelines for development applicable to Projects in the Special Planning Area. All of the Massport Properties designated within an area covered by a Waterfront Development Plan shall be treated as a single site or parcel for the purposes of meeting the requirements of this section and licensing pursuant to this MOU. The Waterfront Development Plans shall include:

- A. Planning Analysis. A description of the planning analysis which synthesized the technical data, public input and other information which served as the basis for the proposed Waterfront Development Plan.
- B. Proposed Uses. A description of the proposed uses for the Planning Area. Uses proposed and described shall conform to the standards set forth in Regulations, as set forth in the Applicable Regulatory Performance Standards, unless otherwise specifically allowed in the approved Waterfront Development Plan.
- C. Public Benefits for Nonwater-dependent Uses. If the Waterfront Development Plans include any Nonwater-dependent Uses, the plans shall identify appropriate potential Public Benefits which may be constructed by Massport or its tenants on either the Massport Properties or other properties owned or being leased by Massport, as mitigation for the development of Nonwater-dependent Uses on the Massport Properties. For Projects within a DPA, the Plan shall provide as primary Public Benefits facilities or financial support for Water-dependent Industrial Uses as described in Article 1(I) of this

MOU, and may also include additional Public Benefits either in or outside the DPA. The Waterfront Development Plans shall also contain a methodology for allocating the Public Benefits required for each Nonwater-dependent Use. The Public Benefits shall be developed, constructed or otherwise provided before, after, or simultaneously with development of Nonwater-dependent Uses on the Massport Properties, provided such Public Benefits are developed, constructed or otherwise provided prior to or within a time frame that is reasonably proximate to the development of the Nonwater-dependent Use to which said Public Benefit is allocated but no later than 12 months from the completion of the Project, and, to the extent not fully allocated to a particular Nonwater-dependent Use, the Public Benefits may be applied retrospectively or prospectively as Public Benefits or Offsets for another Nonwater-dependent Use. The Waterfront Development Plan shall describe a methodology for tracking the allocation of Public Benefits and the Offsets described below.

D. Design Requirements. Waterfront Development Plans that include Nonwater-dependent Uses shall identify performance criteria for Nonwater-dependent Uses, including, but not limited to, dimensional guidelines, design guidelines and requirements regarding public and pedestrian access and also identify those criteria which are Substitutions for performance requirements set forth in the Applicable Regulatory Performance Standards.

E. Offsets. Where appropriate for Nonwater-dependent Uses, the Waterfront Development Plans shall identify potential Offsets to mitigate impacts from Substitutions which result in greater impacts than would result from the application of the Applicable Regulatory Performance Standards. Where required, the Offsets shall be developed, constructed or otherwise provided prior to or within a time frame that is reasonably proximate to the development of the Project built with the exercise of a Substitution, but no later than 12 months from the completion of the Project, and to the extent not fully allocated to a particular Project, the Offset may be applied retrospectively or prospectively as an Offset or Public Benefit for another Project. The applications of Substitutions and use of such Offsets, together with the Public Benefits, shall ensure that the Waterfront Development Plan will promote, with comparable or greater effectiveness than the Regulations, the Commonwealth's tidelands policy objectives.

- Development
- F. Implementation Program. Commensurate with the scope of the Waterfront Development Plan, the Plan shall include an implementation program, which may include provisions in leases and licenses, to ensure ongoing compliance with obligations set forth in said Waterfront Plan.
- G. Consistency with Coastal Zone Management Policies. The Waterfront Development Plans shall describe the Plan's consistency with all applicable policies of the Massachusetts Coastal Zone Management Program, including the Port and Harbor Infrastructure Policies, Public Access Policies and Management Principles and Growth Management Principles.
- H. Accommodation for Redevelopment of Existing Structures. Waterfront Development Plans may include provisions allowing for the redevelopment of existing structures with application of specific dimensional and design guidelines and/or access requirements set forth in the Waterfront Development Plan, provided such redevelopment (i) results in structures with the same or lesser footprint area, and total building volume as the original use and/or structure; (ii) provides appropriate Public Benefits to compensate for the impacts of any new or additional use of filled Tidelands for Nonwater-dependent Use; (iii) provides proportional compensatory Offsets, if such redevelopment results in any greater net impact than the existing use or structure; and (iv) provides public access through the use of a harbor walk to the maximum extent practicable, unless incompatible with Water-dependent Industrial Uses in the area. Any such dimensional and design guidelines may serve as Substitutions under this MOU.
- I. Additional Requirements Within the DPA Area. In addition to the elements described in A through H above, any Waterfront Development Plan(s) that incorporate portions of the Special Planning Area lying within the South Boston DPA shall contain:
- (1) an inventory of all currently existing uses within said DPA Special Planning Area. This inventory shall specify the uses by type, in categories, including but not limited to, Maritime and Water-dependent Industrial Uses, Accessory Uses, Supporting DPA Uses, Temporary Uses, and other uses. The inventory shall provide a percentage breakdown by type of use, including an overall calculation of total Water-dependent Industrial Uses, Accessory Uses, Supporting DPA Uses, and Temporary Uses compared to all other Uses;

- (2) an analysis assessing the feasibility of future Water-dependent Industrial Uses, considering the area's existing uses, characteristics and the context of surrounding land uses and activities, and determining whether additional uses are appropriate for the study area.
- (3) a representation by Massport that it shall maintain Water-dependent Industrial Uses, Accessory Uses, Maritime Projects, and/or Temporary Uses on no less than seventy-five percent (75%) of the entire area consisting of those portions of Massport Properties located in a DPA, and a description of those uses which may comprise the remaining twenty-five percent (25%) or less, including Supporting DPA uses and other uses proposed for the Waterfront Development Plan Area. For purposes of this evaluation, Massport shall employ the methodology described in the Boston Marine Industrial Park Master Plan Update submitted to the DEP in July 1998.
- (4) a description of the arrangements to be provided for Water-dependent Industrial Uses to be continued at their current locations or at appropriate alternative locations in the Port of Boston.
- (5) a representation by Massport's Maritime Director that (a) any Nonwater-dependent Projects proposed within the DPA will not give rise to severe conflict with Port operations or excessive consumption of Port space, either directly or indirectly and (b) the implementation of the Waterfront Development Plan shall not significantly disrupt any existing Water-dependent Industrial Uses in areas outside, but proximate to, the Waterfront Development Plan area.
- (6) with respect to any Waterfront Development Plan for the Fish Pier, as shown on Exhibit C, the Plan shall not propose hotel, residential or other short- or long-term overnight occupancy uses, except those exclusively serving Water-dependent Industrial Uses, or general purpose retail facilities not related to Maritime or Water-dependent Industrial Uses.
- (7) notwithstanding the foregoing, Maritime, Water-dependent Industrial, Temporary and Supporting DPA Uses shall be allowed in DPA areas.

3.3. Waterfront Development Plan(s) Preparation, Approval, Amendment.

A. Preliminary Waterfront Development Plan Preparation. To initiate the Waterfront Development Plan process, Massport shall prepare preliminary descriptive materials consistent with the elements set forth in Section 3.2 above, together with any necessary historical or reference maps and/or plans (the "Preliminary Waterfront Development Plan"). Massport shall submit the Preliminary Waterfront Development Plan to the DEP, with a copy to the Massachusetts Office of Coastal Zone Management. Notice of availability of the Preliminary Plan and of the public meeting, shall be provided to Massport's tenants within the Plan area, and Massport shall advise those tenants to notify their subtenants.

1. Within twenty (20) days of receipt by DEP of the Preliminary Waterfront Development Plan, the DEP shall consult with Massport to discuss objectives and plan elements for the Massport Properties.
2. During the twenty (20) day period described in Section 3.3.A(1) above, the DEP shall publish notice of receipt of the Preliminary Waterfront Development Plan in the next available edition of the *Environmental Monitor*, and shall consult with the Massachusetts Office of Coastal Zone Management and other state agencies to evaluate consistency with applicable state agency plans and policies, including applicable CZM policies. If the Director of the Office of Coastal Zone Management determines that the Preliminary Waterfront Development Plan is inconsistent with applicable CZM Policies, the Director shall submit a finding to Massport and DEP indicating the basis for such a determination.
3. For a period of thirty (30) days after publication of notice in the *Environmental Monitor*, DEP and Massport shall accept public comment and shall convene a public meeting to address public comments regarding the elements of the Preliminary Waterfront Development Plan(s).

B. Final Waterfront Development Plan(s) Preparation. After the close of the public comment period referred to in Section 3.3.A above, Massport shall incorporate the reasonable comments received from the DEP and the public into a final Waterfront Development Plan(s) to be presented to the DEP for its

review and approval. Upon receipt of the final Waterfront Development Plan(s), the DEP shall publish notice of receipt of the Final Waterfront Development Plan(s) in the next available edition of the *Environmental Monitor*.

C. DEP Approval of Waterfront Development Plan(s). Not later than forty-five (45) days after the publication of the notice of receipt of the final Waterfront Development Plan(s) by the DEP in the *Environmental Monitor*, the DEP shall approve the Waterfront Development Plan(s), conditionally approve the Waterfront Development Plan(s), or disapprove the Waterfront Development Plan(s). A conditional approval of the Waterfront Development Plan(s) shall specify the conditions of such approval, and a disapproval of the Waterfront Development Plan(s) shall specify the reasons for such disapproval. In its approval, conditional approval or disapproval of the Waterfront Development Plan(s), DEP shall determine:

1. whether the Waterfront Development Plan balances the economic and public benefits of the proposed Plan with Massport's statutory obligation to operate and develop the Port of Boston;
2. whether the Waterfront Development Plan promotes the overall public trust in waterways, taking into account Massport's statutory obligation to operate and develop the Port of Boston, the Commonwealth's public tidelands objectives as embodied in the provisions of 310 CMR 9.00, and the applicable CZM policies;
3. whether the Waterfront Development Plan provides, with equal or greater effectiveness than the Commonwealth's public tidelands objectives embodied in the provisions of 310 CMR 9.00 and applicable CZM policies, Public Benefits and/or Offsets which mitigate, compensate or otherwise offset potential adverse effects on Water-dependent Industrial and Maritime Uses in the Port of Boston; and
4. whether the implementation of the Waterfront Development Plan will serve a proper public purpose, providing greater benefits than detriments to the public rights in the subject tidelands, and that collectively, the private advantages of use are not primary, but merely incidental to the achievement of public purposes, as those purposes are set forth in Ch. 91 and the Enabling Act.

D. Amendments to Waterfront Development Plan(s). The review and approval requirements for amendment of a Waterfront Development Plan(s) shall be the same as those for the initial approval for such plan.

E. Resolution of Disputes. In the event a dispute arises regarding DEP's determination on the Waterfront Development Plan(s), the parties shall engage in mediation in the same manner as described below in Section 5.5. In the event the parties are unable to reach agreement on the content of the Waterfront Development Plans, Massport may elect to withdraw without prejudice all or a portion of the Waterfront Development Plan, or a Project described in the Waterfront Development Plan upon written notice to the Commissioner of the DEP.

Article 4
Licensing of Special Allowed Uses

4.1 Special Allowed Uses. Notwithstanding any other provisions of this MOU to the contrary, the following structures and uses shall be specifically allowed pursuant to this MOU, subject to the conditions and limitations contained in this Article 4, as established in licenses issued pursuant to Sections 5.1 through 5.6 hereof. The DEP shall review applications for licenses for the uses set forth in this Article 4 to determine compliance with 310 CMR 9.32, 9.33, 9.35(1) and (6), 9.37, 9.38(1), 9.39 and 9.40 of the Regulations:

A. The construction of a new commercial restaurant facility on the location of the so-called "Jimmy's Harborside" parcel (parcel E) as shown on Exhibit C, provided that the area of the footprint of the new structure(s) (not including any public pedestrian walkway or harbor walk or transient vessel piers or floats constructed appurtenant thereto) shall not exceed the area of footprint of the present structure, nor shall the Height exceed 55 feet. A new facility on the "Jimmy's Harborside" parcel shall include a harbor walk and a view corridor; and

B. The non-exclusive use of that portion of the water sheet within the Special Planning Area shown on Exhibit C for transient recreational vessel mooring, berths, piers and floats, and supporting structures and facilities thereto, to permit temporary (less than 12 hours) water access

to the restaurant and commercial uses appurtenant thereto. However, such facilities shall not interfere with the use and operations of any existing or proposed Water-dependent Industrial Uses proximate thereto.

4.2 Designated Port Area. Nothing in this MOU is intended to alter the location of the existing boundaries of the South Boston Designated Port Area.

Article 5
Licensing for Non-Exempt Projects

5.1. General Requirements. After the DEP's approval of a Waterfront Development Plan(s) in accordance with Article 3 above, Massport may, from time to time, propose an individual Project or Projects for the Special Planning Area covered by such Waterfront Development Plan(s). If such Project does not require a license, as set forth in Section 2.2 hereof, Massport shall notify the DEP in writing that it will be commencing development of such Project. If such Project is subject to the terms of this MOU as provided in Section 2.1 hereof, Massport or its tenant shall file an application with the DEP in accordance with Section 5.2 below.

5.2. Application: The application for a license under this MOU shall be submitted to DEP by Massport or its tenant on forms provided by the DEP, and meeting the requirements 310 CMR 9.11 of the Regulations (the "Application").

5.3. Notice.

A. Within thirty (30) days of receipt of the Application and the information required in Section 5.2 above, the DEP shall notify Massport, and, if applicable, its tenant, whether the Application meets the minimum submittal requirements or whether additional information is required.

B. Once the DEP determines that the Application meets the minimum submittal requirements, it shall assign a file number to the Project and, in accordance with the Regulations shall publish notice of receipt of a completed Application in the *Environmental Monitor* and shall send notice of the Application to:

1. The City of Boston Conservation Commission, Boston Redevelopment Authority and Harbor Master;
2. The Massachusetts Coastal Zone Management Office; and
3. All abutters to the Project site, identified in accordance with the Regulations.

C. Massport or its tenant shall, upon assignment by the DEP of a file number of the Application and, at its own expense, cause a notice in accordance with the Regulations to be published in one or more newspapers having circulation in the area affected by the Project and shall post such notice at one or more prominent locations on the Project site visible to the public. Massport shall also provide notice of such Application to its tenants located within the relevant Waterfront Development Plan area, and advise such tenants to notify their subtenants.

5.4 Public Hearing. The DEP and Massport shall conduct a public hearing on the application. The hearing shall be noticed in accordance with the Regulations, and shall be conducted no later than forty-five (45) days from the notice in the *Environmental Monitor* provided above.

5.5. DEP Review: Within thirty (30) days of the close of the applicable public comment period, DEP shall review the Application to determine: (i) whether the proposed Project incorporates either directly or in conjunction with the Implementation Program, the Public Benefits and Offsets, if applicable, as set forth in the applicable Waterfront Development Plan; (ii) whether the Project conforms to the Applicable Regulatory Performance Standards and the Substitutions in the approved Waterfront Development Plan; (iii) whether, in the context of the approved Waterfront Development Plan, the Project will serve or contribute to a proper public purpose and provide greater benefit than detriment to the public rights in the subject tidelands; and (iv) in the case of proposed Projects in the DPA portion of the Special Planning Area, whether the proposed Project will result in the required seventy-five (75%) standard described in Section 3.2 above being met. The DEP shall meet with Massport and its tenant, if applicable, to collectively determine the application of the performance criteria and calculation of the 75% requirement. In the event a dispute arises regarding the application of the performance criteria and/or the calculation of the 75% requirement that, after reasonable efforts to negotiate, the parties hereto cannot resolve, said parties hereby agree to pursue mediation, by hiring a mutually acceptable mediator from a agency or firm engaged in the provision of professional mediation services. In the event the parties cannot agree on the same mediator, then upon request of either party, each party shall

designate a mediator within seven (7) days after such a request to designate has been made and the two mediators so designated shall choose a third mediator to conduct the mediation and such choice shall be binding on the parties. If a party fails to designate a mediator as heretofore provided, then the mediator selected by the other party shall be the designated mediator. Mediation shall be undertaken and completed as soon as possible but in no event later than sixty (60) days after the close of the applicable public comment period. The parties shall share equally any costs of mediation.

5.6. Issuance of License. Within sixty (60) days after the close of the applicable public comment period, the DEP shall take action on the Application. Except for temporary licenses, which shall be no more than 10 years, or unless a shorter term is otherwise requested by Massport, the DEP shall issue a license for the Project with a term of sixty-five (65) years, provided it has determined that the requirements of Section 5.5 have been met. Licenses with terms up to ninety-nine (99) years may be issued by DEP if requested by Massport, provided such extended term is deemed appropriate by the DEP in accordance with 310 CMR 9.15(1)(b) (2), (4) and (5), and 9.15(1)(c). Massport may propose a license term for any Project in the applicable Waterfront Development Plan. Any license so issued by DEP shall be recorded in accordance with Section 9.18 of the Regulations.

5.7. Appeals. The appeal of the grant or denial of any license by DEP pursuant to the terms of this MOU shall be governed by and subject to the provisions of Sections 9.17 of the Regulations. The standard for review of any appeal for a license issued pursuant to a Waterfront Development Plan hereunder shall be whether the proposed Project meets the criteria set forth in Section 5.5. For Projects licensed under Section 5.8 hereof, the standard of review of shall be those set forth in the Regulations.

5.8. Projects Outside Approved Waterfront Development Plan Area. If a Project subject to this MOU pursuant to Article 2 hereof, but is not within an area for which a Waterfront Development Plan has been approved, Massport or its tenant shall file an application with the DEP in accordance with Section 5.2, 5.3 and 5.4 hereof. Within 30 days of the applicable comment period, DEP shall review the application to determine compliance with Applicable Regulatory Performance Standards and 9.54 of the Regulations and shall issue a license therefor.

5.9. Emergency Actions. In the event of an emergency situation, as defined in Section 9.20 of the Regulations, Massport and DEP agree to follow the requirements set forth in said Section 9.20 for Massport Projects subject to this MOU pursuant to Section 2.1 hereof. For Projects exempt from this MOU pursuant to Section 2.2 hereof, Massport may take any

action it deems necessary and desirable in connection with an emergency situation, provided it so notified the DEP in writing within ten (10) days thereafter of such action taken.

5.10. Maintenance, Repair and Minor Project Modification. The provisions of Section 9.22 of the Regulations shall apply to maintenance, repair and minor projects modifications for Projects subject to this MOU pursuant to Section 2.1 hereof. Maintenance, repair and minor project modifications for Projects exempt from this MOU pursuant to Section 2.2 hereof shall be made by Massport in its sole discretion, without notice to the DEP.

5.11. Removal of Previously Licensed Structures. The provisions of Section 9.27 of the Regulations shall apply to removal of structures licensed pursuant to this MOU. The removal of structures exempt from this MOU pursuant to Section 2.1 hereof shall be made by Massport in its sole discretion, without notice to the DEP.

5.12. Enforcement. The provisions of Section 9.08 of the Regulations shall apply to all Projects subject to the terms of this MOU pursuant to Section 2.2 hereof.

Article 6
Miscellaneous

6.1. Binding Effect. This MOU is a legally binding document having the full force and effect of the law between the parties and shall be enforceable by the signatories hereto in a court of law by equitable relief.

6.2. Applicable Law. This MOU shall be interpreted in accordance with the laws of the Commonwealth of Massachusetts.

6.3. Entire Agreement. This MOU sets forth the entire agreement of the parties hereto with respect to the subject matter contained herein, and no amendment of this MOU shall be effective unless it is in writing and signed by both parties to this MOU. The draft text of any amendment shall be published in the *Environmental Monitor* for a 30 day public review and comment period, and the text shall be published therein upon adoption and made available by the DEP upon request.

6.4. Effective Date of MOU. The terms and provisions of this MOU shall become effective immediately upon execution by the Commissioner of DEP and by a Massport Officer duly authorized by the Massport Board of Directors and no further action shall be required by the parties hereof.

SOUTH BOSTON
March 15, 2001

6.5. No Waiver. The parties agree that nothing in this MOU shall be construed to constitute assent to or assertions by either party that Massport, its agents, tenants, successors or assigns is or is not subject to the jurisdiction or regulatory authority of the DEP for licenses and permits for filling, dredging, building of structures or excavating within the Port of Boston or is otherwise subject to the requirements of Ch. 91 or the Regulations.

6.6. Notices. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be deemed delivered hereunder if mailed postage prepaid, or delivered by hand to the following address, or to such other individual or address as may be specified by either of the parties in writing:

If to the DEP: Commonwealth of Massachusetts
 Department of Environmental Protection
 One Winter Street
 Boston, MA 02108
 Attention: Commissioner
 Attention: Director, Waterways Program

If to Massport: Massachusetts Port Authority
 Logan Office Center
 One Harborside Drive
 East Boston, MA 02116
 Attention: Executive Director

with a copy to: Massachusetts Port Authority
 Logan Office Center
 One Harborside Drive
 East Boston, MA 02116
 Attention: Chief Legal Counsel

6.7. Paragraph Heading. The paragraph headings in this MOU are for convenience and reference only, and shall not be used to interpret, clarify, limit or amend the contents or meaning of any provision.

SOUTH BOSTON
March 15, 2001

IN WITNESS WHEREOF, the Executive Director of the Massachusetts Port Authority, and the Commissioner of the Commonwealth of Massachusetts Department of Environmental Protection have executed this Memorandum of Understanding as of the date first written above.

MASSACHUSETTS PORT
AUTHORITY

Approved as to Form:

_____/s/_____
Virginia Buckingham
Executive Director

_____/s/_____
Chief Legal Counsel

DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Approved as to Form:

_____/s/_____
Lauren Liss
Commissioner

_____/s/_____
Counsel to the Commissioner

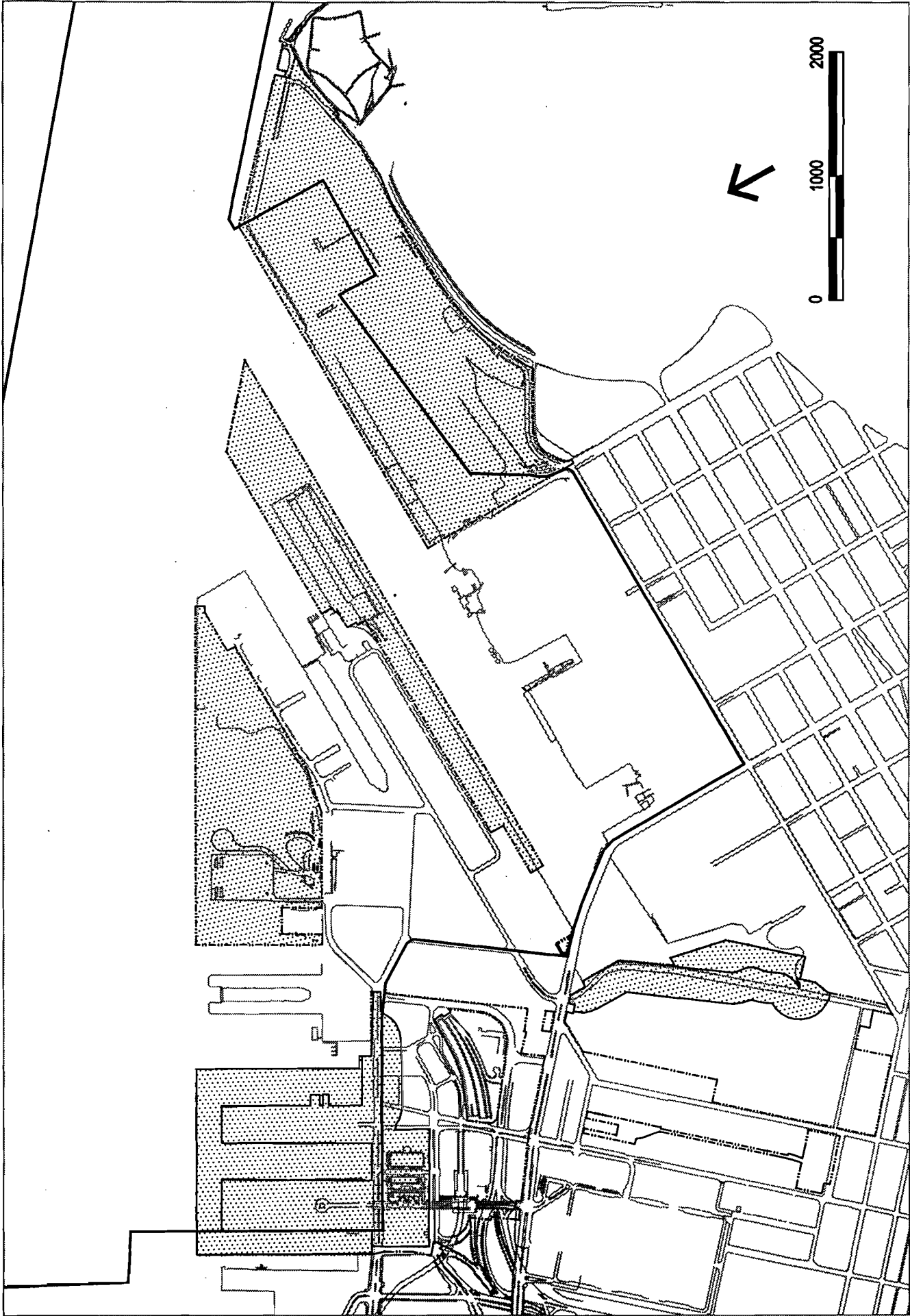


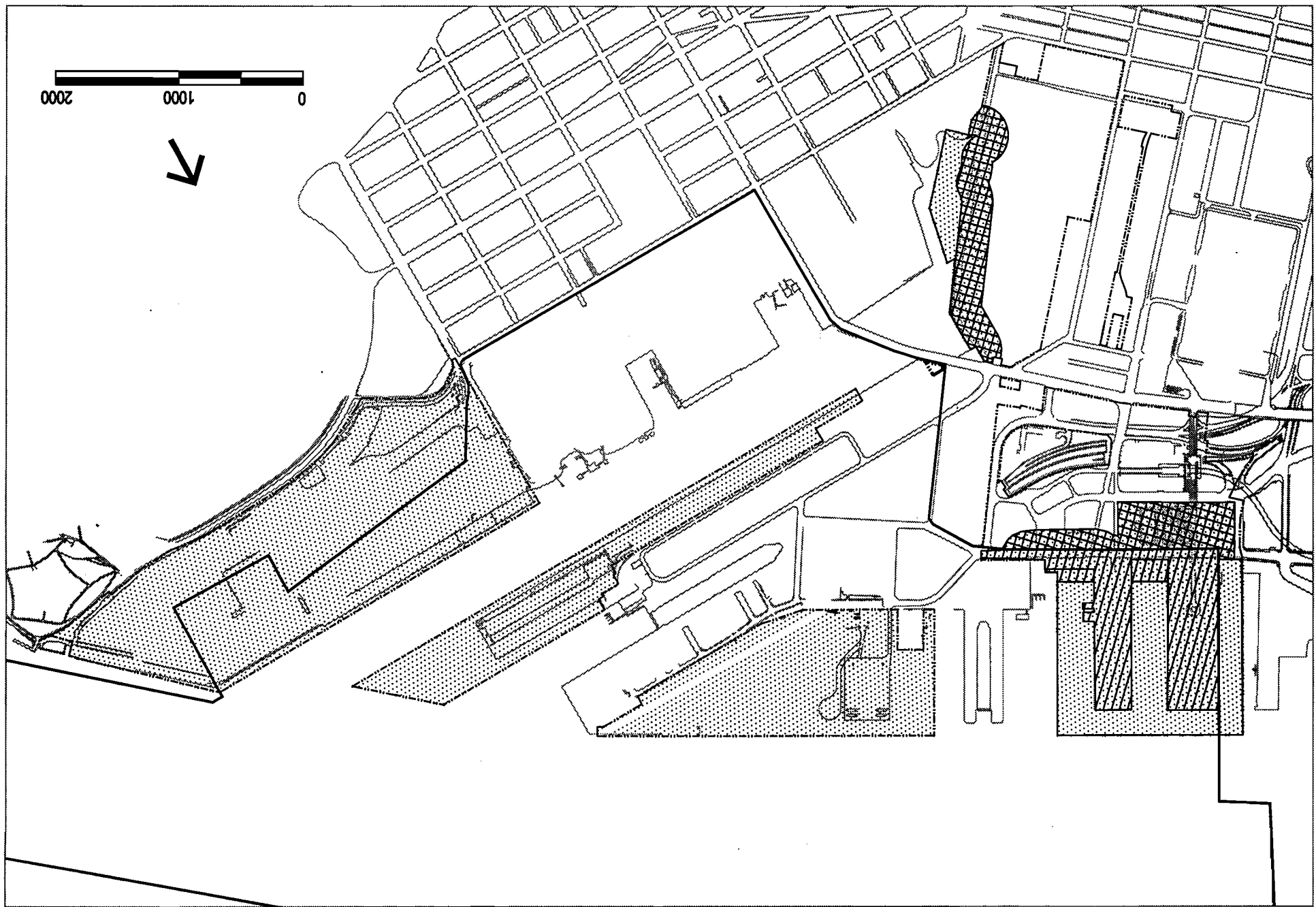
Exhibit A: Massport Properties
Subject to the DEP-MPA MOU

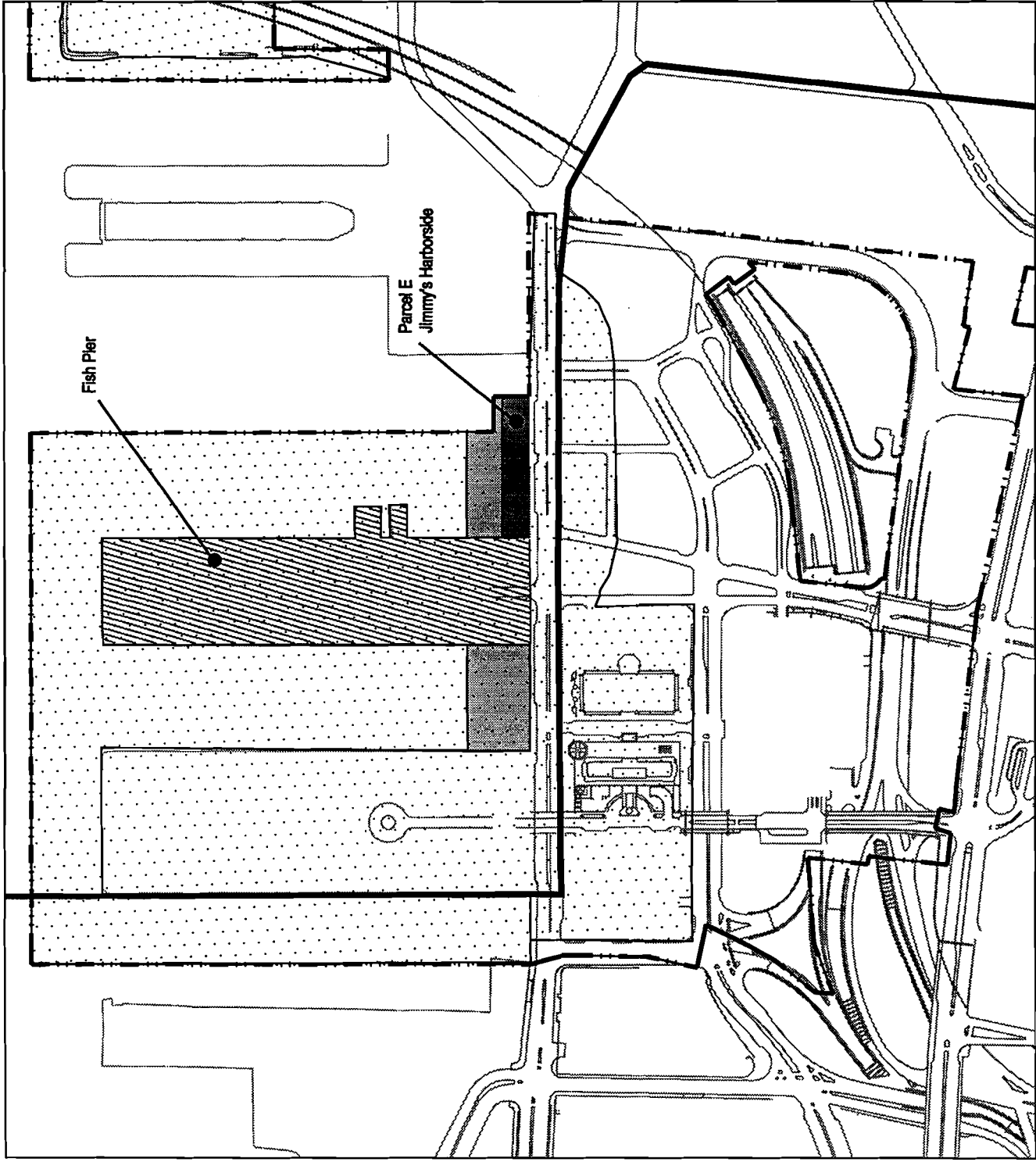
- Designated Port Area Boundary
- - - Approximate Massport Property Line
- ▨ Massport Properties Covered by the DEP-MPA MOU

Exhibit B: Special Planning Areas

Special Planning Area within DPA
Special Planning Area outside DPA

Designated Port Area Boundary
Approximate Massport Property Line
Massport Properties Covered by the DEP-MPA MOU





**Exhibit C: Detail of
Commonwealth Flats
Waterfront**



Appendix B
DEP Determination of Applicability



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

ARGEO PAUL CELLUCCI
Governor

TRUDY COXE
Secretary

DAVID B. STRUHS
Commissioner

April 30, 1998

Massachusetts Port Authority
10 Park Plaza
Boston, MA 02116
Attn: Michael Leone

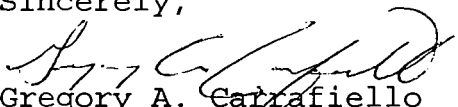
Re: Determination of Applicability
Waterways File No. JD98-0000, Boston, Boston Harbor

Dear Mr. Leone:

Enclosed is the Determination of Applicability for the referenced application and is issued pursuant to Waterways Licensing Regulations 310 CMR 9.06. This Determination may be recorded at the County Registry of Deeds and a copy will be maintained in the Department files.

Should you have any questions on this matter, please call me at (617) 292-5686.

Sincerely,


Gregory A. Carrafiello
Acting Program Chief
Waterways Regulation Program

/gac

enc.

cc: C. Natale, Environmental Science Services
Mayor and City Council of Boston w/enc.
Boston Conservation Commission w/enc.
Boston Harbormaster w/enc.
MCZM w/enc.
Abutters w/enc.



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

ARGEO PAUL CELLUCCI
 Governor

TRUDY COXE
 Secretary

DAVID B. STRUHS
 Commissioner

WRP File No. JD98-0000

Town Boston

Determination of Applicability
 310 CMR 9.00

From Waterways Regulation Program Issuing Authority

To The Massachusetts Port Authority The Massachusetts Port Authority
 (Name of person making request) (Name of property owner)

Address 10 Park Plaza South Boston Properties/Fish Pier
Boston, MA 02116 Boston, MA 02110

This determination is issued and delivered as follows:

by hand delivery to person making request on April 30, 1998

Pursuant to 310 CMR 9.06, the Waterways Regulation Program has considered your request for a Determination of Applicability and its supporting documentation, and has made the following determination (check whichever is applicable):

The Determination is positive:

The area of land or water, described below, presently is subject to M.G.L. c.91 and such provisions of the waterways regulations (310 CMR 9.00) as are applicable.

- All flowed tidelands, as depicted on the plan entitled "Chapter 91 Tidelands Plan" prepared by ESS, Inc. and dated 11/13/97 and revised 3/5/98.

- All filled tidelands within the study area, not identified as landlocked, as depicted on the plan entitled "Chapter 91 Tidelands Plan" prepared by ESS, Inc. and dated 11/13/97 and revised 3/5/98.


The Determination is negative:

The area of land, described below, presently is not subject to 310 CMR 9.00.

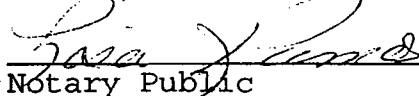
- Landlocked filled tidelands within the study area as depicted on the plan entitled "Chapter 91 Tidelands Plan" prepared by ESS, Inc. and dated 11/13/97 and revised 3/5/98.

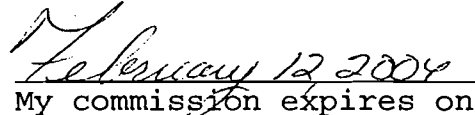
Issued by the Division of Watershed Management, Waterways Regulation Program

Acting Program Chief



On this 30th day of April, 1998 before me personally appeared Gregory Carrafiello to me known to be the person described in, and who executed, the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.



Notary Public

My commission expires on

This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, by-laws or regulations.

NOTICE OF APPEAL RIGHTS:

A) Appeal Rights and Time Limits

This determination is an action of the Department. If you are aggrieved by this action, you may request an adjudicatory hearing. A request for a hearing must be made in writing and postmarked within twenty-one (21) days of the date this determination was issued.

B) Contents of Hearing Request

Under 310 CMR 1.01(6) (b), the request must state clearly and concisely state the facts which are the ground for the request, and relief sought. Additionally, the request must state why the determination is not consistent with applicable laws and regulations.

In addition, pursuant to 310 CMR 9.17(3), any notice of claim for an adjudicatory hearing must include the following information: the WRP File No., name of the applicant and address of the project; the complete name, address, and telephone number of the party filing the request and, if represented by counsel, the name, address and telephone number of the attorney and, if claiming to be a person aggrieved, the specific facts that demonstrate that the party satisfies the definition of "aggrieved person" found in section 9.02; a clear statement that a formal adjudicatory hearing is being requested; a clear and concise statement of the specific objections to the Department's determination, and the relief sought through the adjudicatory hearing; and a statement that a copy of the request has been sent to: the applicant and the municipal official of the city or town where the project is located.

C) Filing Fee and Address

The hearing request along with a valid check payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
PO Box 4062
Boston, Mass. 02211.

At the same time, pursuant to 310 CMR 9.17, a copy of this appeal shall be sent by certified mail or hand delivery to the applicant, and other parties to this proceeding, if any, and to the municipal official of the city or town where the project is located.

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver as described below.

D) Exceptions

The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal

housing authority.

E) Waiver

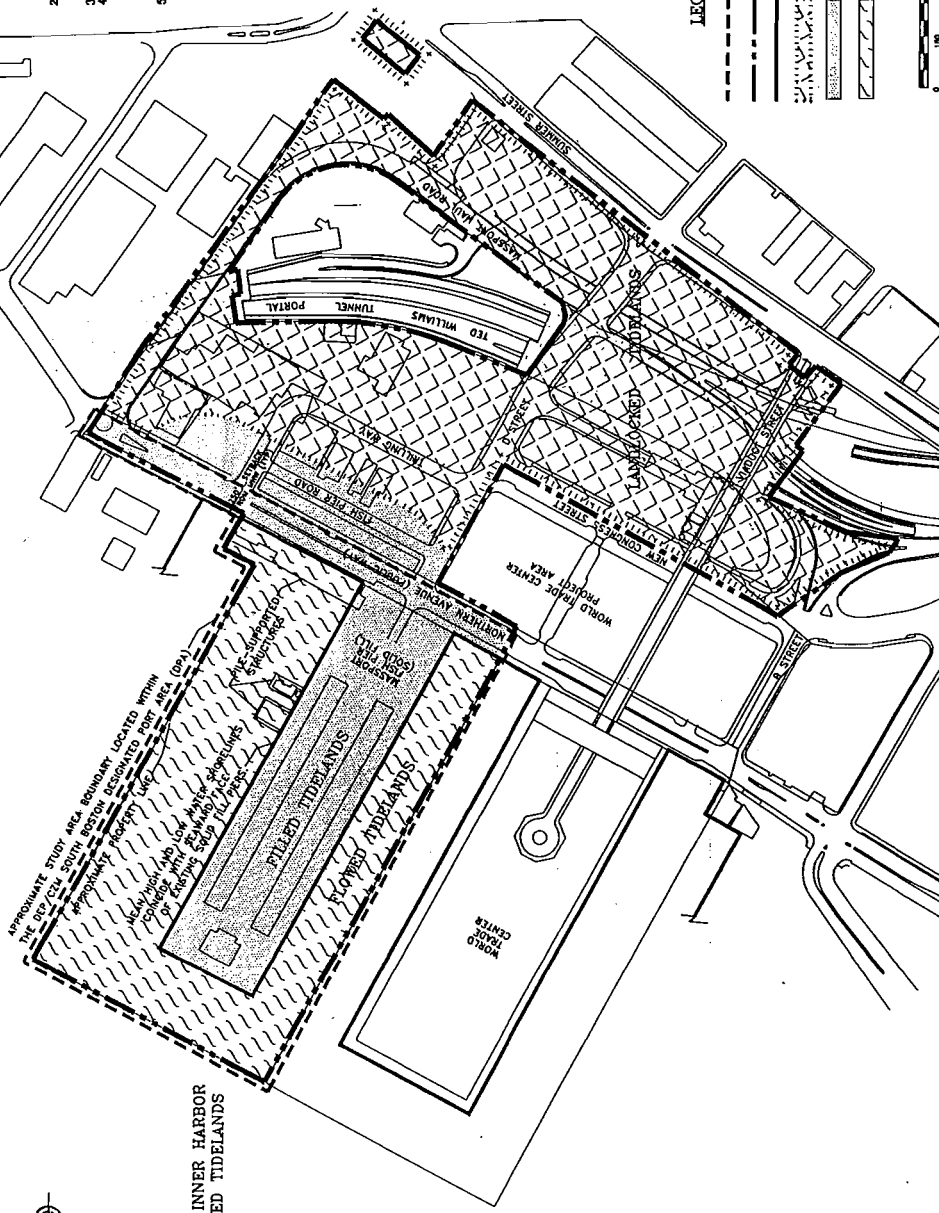
The Department may waive the adjudicatory hearing filing fee for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file, together with the hearing request as provided above, an affidavit setting forth the facts believed to support the claim of undue financial hardship.

NOTES:

1. EXISTING CONDITIONS SURVEY, INCLUDING PRESENT MEAN HIGH WATER (MHW), SHORELINE LOCATION, PROVIDED BY SURVEY ON MAY 2, 1987.
2. NEW AND MHW SHORELINES COINCIDE WITH THE SEAWARD FACE OF THE EXISTING MEAN TIDAL RANGE IS 9.5 FEET ABOVE M.L.W.
3. THE HISTORIC HIGH WATER MARK (HHWM) IS LOCATED SOUTH OF THE STUDY AREA AS SHOWN ON THE MAP.
4. THE HISTORIC LOW WATER MARK (HLWM) IS PREVIOUSLY DOCUMENTED BY THE DEP WATERWAYS REGULATION PROGRAM.

LEGEND

- - - - - BOUNDARY OF SOUTH BOSTON DPA WITHIN THE STUDY AREA
- — — — — STUDY AREA BOUNDARY
- — — — — PRESENT MEAN HIGH WATER (MHW) SHORELINE
- · - · - · - · - · - · LANDLOCKED TIDELANDS BOUNDARY WITHIN THE STUDY AREA
- ▨ FILLED TIDELANDS WITHIN THE STUDY AREA
- ▩ FLOWED TIDELANDS WITHIN THE STUDY AREA



**BOSTON INNER HARBOR
FLOWED TIDELANDS**

Scale: 1" = 150'
 Date: 12-1-87
 Checked by: CNY/EA
 Preparer: A. H. HARRIS

CHAPTER 91 TIDELANDS PLAN
 REQUEST FOR DETERMINATION OF APPLICABILITY
 CHAPTER 91 TIDELANDS ASSESSMENT

AN ENVIRONMENTAL SCIENCE SERVICE, INC.
 100 WASHINGTON STREET, SUITE 100
 BOSTON, MASSACHUSETTS 02111
 TELEPHONE: 617-552-1234
 FAX: 617-552-1235

MASSPORT PROPERTIES
 SOUTH BOSTON, MASSACHUSETTS
 SUFFOLK COUNTY

Appendix C
TBHA Letter of April 26, 2000



Massachusetts Port Authority
One Harborside Drive, Suite 200S
East Boston MA 02128-2909
Telephone (617) 428-2800
www.massport.com

Mark E. Robinson Virginia Buckingham
Chairman Executive Director and CEO

April 26, 2000

Mr. Robert Kenney
Chairman
The Boston Harbor Association
c/o Kenney Development Company, Inc.
120 Fulton Street
Boston, MA 02109

Dear Bob:

Thank you for hosting Joe Fallon of Corcoran Jennison and Massport at your Board meeting on March 27th. I appreciate the Board's expressed support (as demonstrated by the 14 - 2 vote) for the hotel, residential and retail uses proposed for Parcels F-2, G and J and acknowledge that the Board identified several important issues that have conditioned your support. The purpose of this letter is to identify Massport's commitments relative to addressing the issues the Board raised.

As I stated in our discussion at the Board meeting, Massport's maritime port operations do not generate enough money to finance their own operations or important capital improvements. Since Massport is a self-financed authority, it is incumbent on us to identify revenue streams that can provide the resources to operate and invest in the Port. Massport's overarching objective for undertaking commercial mixed-use development in Commonwealth Flats is the creation of a revenue stream that can finance the operations and capital investments necessary for the Port of Boston.

Residential Use in Commonwealth Flats

Having residential use appropriately located and designed within the land use mix in Commonwealth Flats is very important to the Authority for several reasons, which I identified during our discussion and will restate:

- Adds vitality to the public realm by extending the active day beyond the traditional workday and increases the demand for goods, services and amenities that help activate important streets and public spaces;
- Provides opportunities for residents to walk to work, or use public transit and generates less peak hour traffic than commercial uses that result in less traffic impact on the street network;
- Responds to significant market demand within Boston, and thereby assists in dampening the overall market risk and improving the dependability of the revenue stream from our mixed-use real estate portfolio;
- Can be built at a more modest scale than office buildings or hotels which helps to minimize shadows, create view corridors and have a comfortable pedestrian scale near the water; and
- Incrementally contributes to the city's overall housing supply and advances the planning objectives of the City of Boston.

We share your concern over ensuring that residential uses are located and designed so as not to limit or impact the vital port functions, most important of which is smoothly flowing trucking operations. In this

regard, Massport has been unequivocal in insisting that Northern Avenue continue to be a designated truck route (from points north along I-93 it will continue to be the preferred route in the port area), and that the Massport Haul Road be adequately protected to ensure it functions well in service of Port / BMIP operations.

With regard to the planned residential uses within Commonwealth Flats, we have committed that residential uses will be prohibited from Parcels K-2, D-1, D-2 and D-3 because these sites abut major multi-purpose truck routes. This has been documented as part of Massport's Commonwealth Flats Development Area (CFDA) Draft Environmental Impact Report (DEIR). Further, we are committed to addressing potential noise and other compatibility issues through the following actions or limitations on residential uses in Commonwealth Flats:

- Residential use will be limited to rentals and prohibited from conversion to any equity form of ownership (condominiums or cooperatives) and lease terms over two years will be prohibited. These conditions will be expressly identified in the ground leases between Massport and the developer.
- Residential use will be prohibited from the ground floor (with the exception of a lobby area related to residential units on the upper floors).
- Building construction and design requirements that specifically address noise from adjacent streets (including double glazed windows, wall materials and insulation that reduce the transfer of noise to interior spaces, and architectural designs including building setbacks) will be incorporated into Massport's design guidelines and required as part of Massport's design review and approvals.
- Including active retail / public uses on the ground floor along major streets and locating housing entry areas in less noisy areas which will be implemented as part of Massport's design review; and
- Requiring Massport's approval of the form of apartment lease in ground leases with our developer(s); Massport will require the apartment lease form includes, at a minimum, an acknowledgement by the tenant that the apartment is located in the vicinity of the industrial port and along established truck routes.

In order to evaluate potential conflicts properly, I would also point out that long haul trucking associated with the port principally takes place Monday through Friday, during the typical workday. During that time, residential buildings will typically have a very small population. As a result, port cargo truck noise impacts on residents may inherently be limited and will be well mitigated by the above conditions and limitations.

We have recently undertaken a noise study, which included field measurements in Commonwealth Flats and elsewhere, that demonstrated to us that, from a noise impact perspective, Parcels F-2, G and J are typical of, if not better situated than, several other successful urban housing locations in Boston.

Given our careful evaluation of the sites and the conditions and limitations identified, Massport strongly believes that residential uses on Parcels F-2, G and J will successfully coexist with the needs of the Port.

Transitional Use on Parcel K-2

Transitional Use on Parcel K-2

Massport has defined Parcel K-2 as a transitional use parcel that will have uses that are compatible with and are not impacted by the adjacent industrial / maritime businesses and trucking operations. Massport has already made serious commitments in our CFDA DEIR filing and in many public presentations that Parcel K-2 will be restricted to transitional uses, which are limited to parking, district maintenance services, office, ancillary retail or other utilitarian uses exclusive of other commercial or residential uses which would be considered incompatible with the industrial uses or truck traffic on Massport Haul Road.

We will seek a board action limiting Parcel K-2 to uses consistent with this parcel serving as a transition parcel and identifying Massport's land use policy of ensuring that the Massport Haul Road is the acknowledged boundary between the working port and the area of mixed-use commercial development. While we cannot bind future Massport boards with respect to these restrictions, this will add to Massport's public commitments already contained in the CFDA DEIR. To propose some other use for this site would be found inconsistent by MEPA and require further MEPA review and approvals.

Massport Haul Road

As you know Massport has played a leading role in the Truck Routes Working Group that we jointly created and chair with TBHA. Massport is committed to the establishment and preservation of effective, efficient truck routes which will allow cargo to move in and out of the port as efficiently and cost-effectively as possible. To that end, we have worked closely with major trucking interests to identify the primary truck routes leading to all potential moves from the working port to the regional highway system. This work was documented in the CFDA DEIR. This plan includes Northern Avenue as a designated truck route, with the particular need being trucks destined for the South Boston industrial area from points north on I-93.

Massport has consistently sought to protect the Massport Haul Road as the backbone for interstate truck access to and from the Port. Accordingly, Massport is on record in the CFDA DEIR that it will not permit any additional curb cuts on the Haul Road related to the commercial development of Parcel K-2, including public parking garages. To the extent that Massport does allow any additional curb cuts they will be dedicated to district service functions (maintenance vehicles) or public safety vehicles.

Massport has also committed in the CFDA DEIR to:

- the prohibition of general traffic from accessing the Haul Road via the Connector Road, as well as the opposite move; and
- limiting the use of the Connector Road at the eastern end to MBTA vehicles only with the exception of a limited number of service vehicles that may need to access Parcel K.

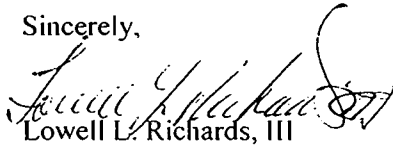
In addition to the above, we are fully committed to a signage program that directs general traffic to the interstate highway system via D Street, Congress Street and Northern Avenue instead of Massport Haul Road and designates all truck routes including Massport Haul Road through a comprehensive signage system.

Pedestrian Improvements and Traffic Controls

Massport has worked diligently to design the roadways within Commonwealth Flats to standards that facilitate truck movements, general traffic movements, pedestrians and bicycles. In this regard, we have documented many of the street sections in the CFDA DEIR. As part of the FEIR for CFDA, Massport will further articulate the design guidelines for street improvements including intersections, crosswalks, signs, etc. that will be applied to the final street designs in Commonwealth Flats. The design guidelines will provide for the safe and convenient flow of traffic (including trucks) and pedestrians within a well designed street environment.

I believe the above conditions, limitations and commitments address your concerns raised on April 27th. We will continue to address our commitments in the CFDA Final EIR and in our upcoming MOU with DEP concerning the protocols for Chapter 91 licensing in Commonwealth Flats. We look forward to our continued cooperative efforts in pursuit of our mutual goal of a vibrant and successful port.

Sincerely,



Lowell L. Richards, III
Chief Development Officer
Massachusetts Port Authority

cc: Christine Dunn (Vice Chair)
Vivian Li (TBHA)
Catherine Frazer
Richard Henderson
Jim Doolin
Juan Loveluck

Appendix D
Commonwealth Flats Urban Design
And Public Realm Guidelines

Commonwealth Flats Urban Design & Public Realm Guidelines

This section describes Massport's urban design and public realm guidelines for Commonwealth Flats. The urban design guidelines apply specifically to the design of buildings within the district. The public realm guidelines apply to the parks, open spaces, sidewalks and roadways of the district. Together, these guidelines will provide for the coordinated development of a handsome mixed-use waterfront district.

Note: These guidelines are excerpted from the Commonwealth Flats Development Area Open Space Notice of Project Change.

Urban Design Guidelines

Overall, Massport agrees with the urban design concepts stated in the Boston Redevelopment Authority's South Boston Waterfront Public Realm Plan for the Piers District (pages 104 - 106), including the following overall statement.

"The architecture in this district should be contemporary, diverse and energetic, but coherent as a group of buildings. By drawing on the imagery of the port - its strength, simplicity and directness - every opportunity should be taken to reinforce a new sense of place."

Furthering the concepts of the Public Realm Plan, Massport has established the following guidelines for its Commonwealth Flats property.

Building Character

Image and character of the district should be taken from the simple industrial buildings of the Fish Pier and Commonwealth Pier because the area relates directly to Boston Harbor and nearby maritime uses. Simple forms and large window areas typical of early steel frame construction define these buildings. The design of the Boston Convention and Exhibition Center presents a strong contemporary interpretation of these industrial elements that should be influential within the district. Buildings may be more articulated to reflect the smaller scale of residential and hotel uses within.

Massport expects that a combination of contemporary and traditional materials will be used to express that new buildings in Commonwealth Flats will be at once forward looking and respectful of the rich maritime heritage. Interpretations of the maritime industrial

heritage are encouraged to include contemporary materials such as steel (or other metals) and glass.

Special architectural treatments will be required at key locations. Massport has made considerable effort to establish a strong pattern of streets and development parcels. Key building corners and facades will play critical roles in terminating visual axes and ensuring that the urban design concepts are reinforced by the architectural treatments. Figure D-1 identifies parcel locations where special architectural treatments will be required within Commonwealth Flats. Given the positioning of almost all of the development parcels, buildings will have to present positive design statements in all directions and avoid the perception of a back and front in terms of architectural treatments.

Building Height

Overall building heights are intended to be modest, with a variety of heights desirable to create a pleasing skyline. The tallest building elements in Commonwealth Flats will be approximately 250 feet tall with most buildings being considerably shorter. Figure D-2 shows the relationship between building heights proposed on Massport property compared to proposed by other land owners in the district as well as the Federal Reserve Bank building on the west bank of the Fort Point Channel near South Station.

East of D Street, building heights will step down towards the harbor and towards the working port to the east. This will provide for a pedestrian scale and minimizing shadows near the harbor and provide an appropriate scale transition to the working port. Along Northern Avenue the tallest building elements will be 130 feet tall. The area closest to Massport Haul Road will have a height limit of 140 feet. Figure D-3 is a view of Commonwealth Flats from the north that shows how Massport's proposed development east of D Street will step down towards the water.

Maximum building heights on each parcel will be required to comply with any height limits imposed to ensure the safe and efficient operations of Logan International Airport.

Building Massing and Orientation

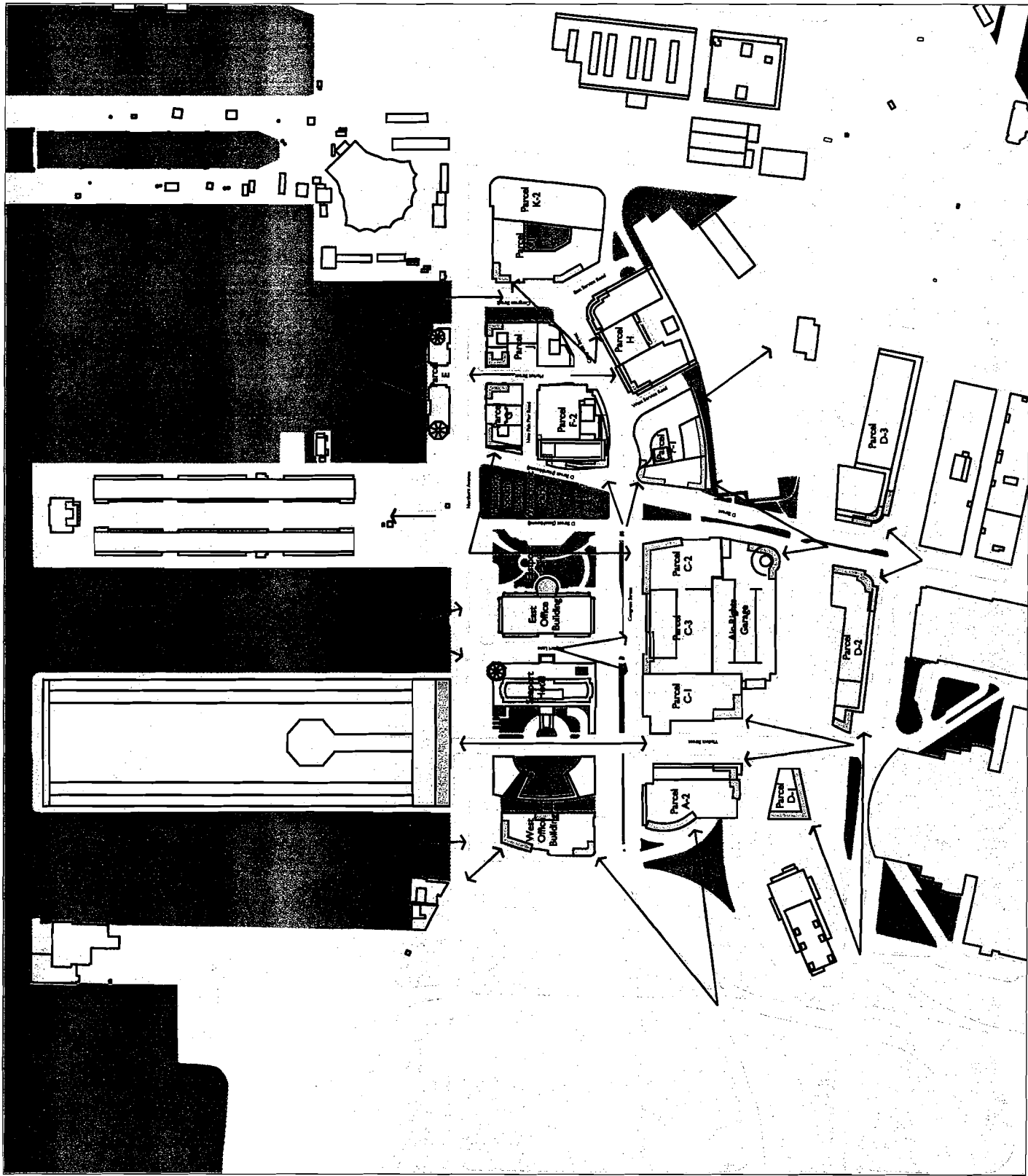
New buildings should reference and express the cornice heights established by existing buildings in the district. The most important of these is the World Trade Center Headhouse immediately along Northern Avenue (approximately 30 feet). This reference point was continued in the Seaport Hotel and East and West Office Buildings designs. This cornice height provides a pedestrian scale reference in the vertical face of the buildings. A second reference point is provided by the Commonwealth Pier headhouse at approximately 75 feet in height further back from Northern Avenue; this height should be considered in the vertical division of the building mass.

Taller building elements that are over approximately 100 to 120 feet in height will be oriented generally on the north-south axis. This will enable views through towards the harbor

Figure D-1
Building Features

Legend

- Special Building Features
- Important Building Views



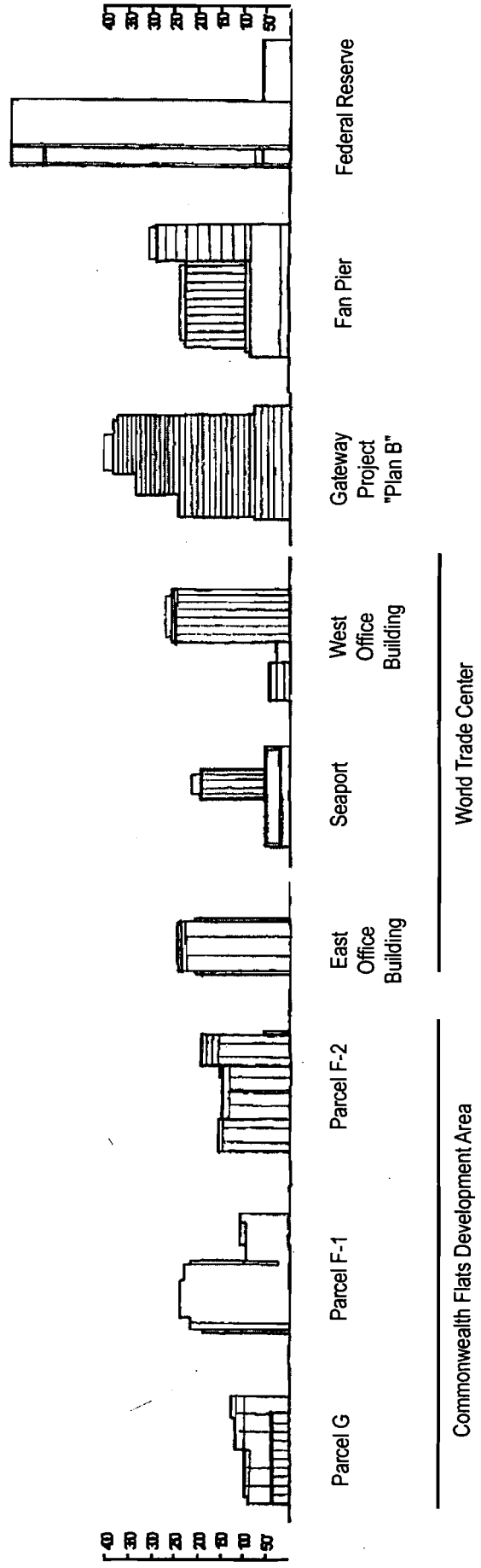


Figure D-2
Waterfront Building
Height Comparison

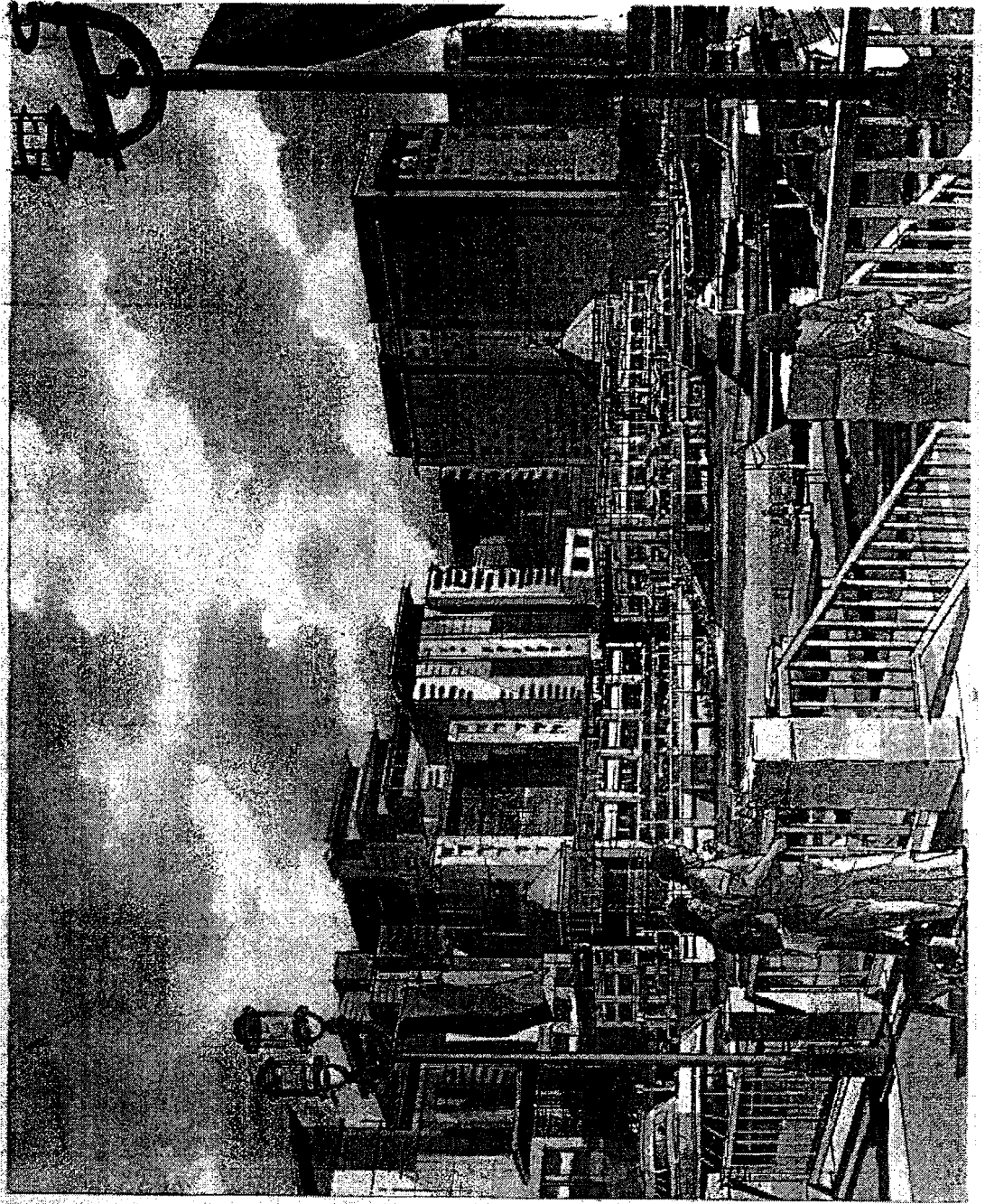


Figure D-3
View of Northern Avenue Harborwalk
and adjacent development from
Wharf 8 in the BMIP

A reconfigured Jimmy's Harborside Restaurant will provide harbor views and public access along the Northern Avenue corridor.

from the surrounding community and other buildings to the south and minimize shadow impacts on adjacent streets and public open spaces. Figure D-4 illustrates the principle of north-south orientation of taller building elements to create view corridors within Commonwealth Flats. Figure D-5 is a bird's eye view of Massport's proposed mixed-use development plans for the Commonwealth Flats Development Area.

All taller building elements over 150 feet should have reduced floorplate areas compared to the lower floors. This will serve to minimize shadows and provide opportunities for a more pleasing skyline. In general, the maximum building floorplate intended above 150 feet is 25,000 square feet with additional reductions expected at the tallest portions of the building.

Distinctive roof forms should be provided at the top of taller building elements. Roof forms should respond to both long views of the skyline and views from within Commonwealth Flats. Rooftop mechanical equipment should be integrated within the overall building design.

Building Edges

Building walls should be located to establish and maintain the continuity of a strong street wall. Buildings should be built to the back of the sidewalk in the traditional pattern of Boston streets. Variation may be provided where special conditions exist.

Street level uses along major pedestrian routes should maximize retail, public lobbies and other public uses to provide an active street environment. The street level building design should provide for generous physical and visual interaction between the sidewalk area and the interior spaces by having frequent doorways (multiple entrances to lobbies, entrances to retail shops, etc.) and by being predominantly transparent and visually interesting.

Building setbacks should be provided that allow for mature street trees, associated streetscape elements (e.g., streetlights, signs, trash receptacles, parking meters) and a clear sidewalk dimension of approximately 10 feet. Massport has planned the street and sidewalk sections for the major streets in Commonwealth Flats, including a district "continuity strip" that organizes street lighting, street tree planting and other streetscape elements along the curb. Larger sidewalk dimensions have been designed for portions of Congress Street and Northern Avenue west of D Street.

Pedestrian Circulation

Building siting, entrances, interior circulation and public activities should reinforce clear and direct connections to and along the waterfront. Northern Avenue is an extension of the City's Harborwalk system and new development along this corridor should increase and improve public access to the harbor, including openings between buildings that allow views and access from the south. Public access on the waterside of the building containing Jimmy's needs to be provided.

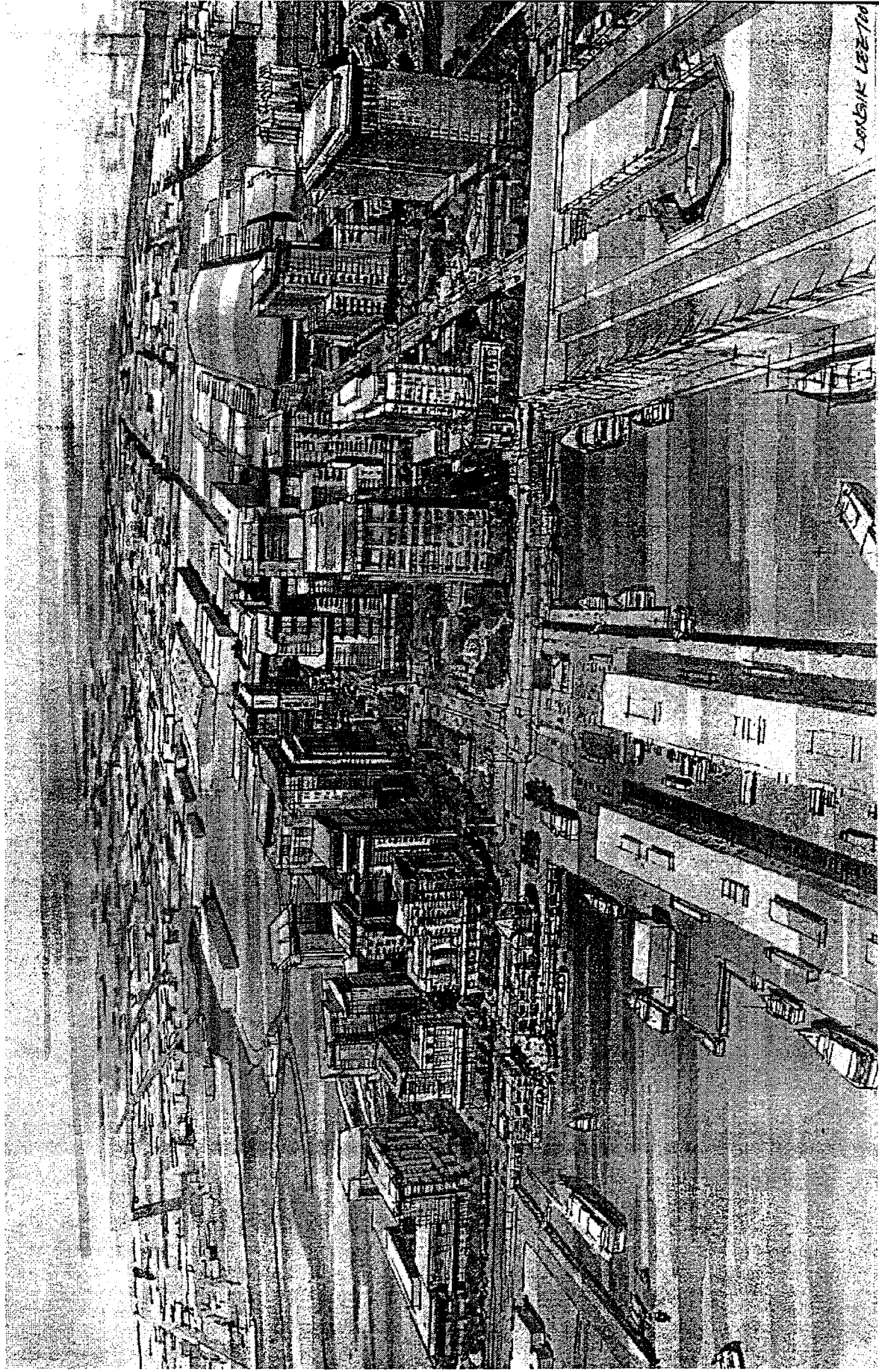
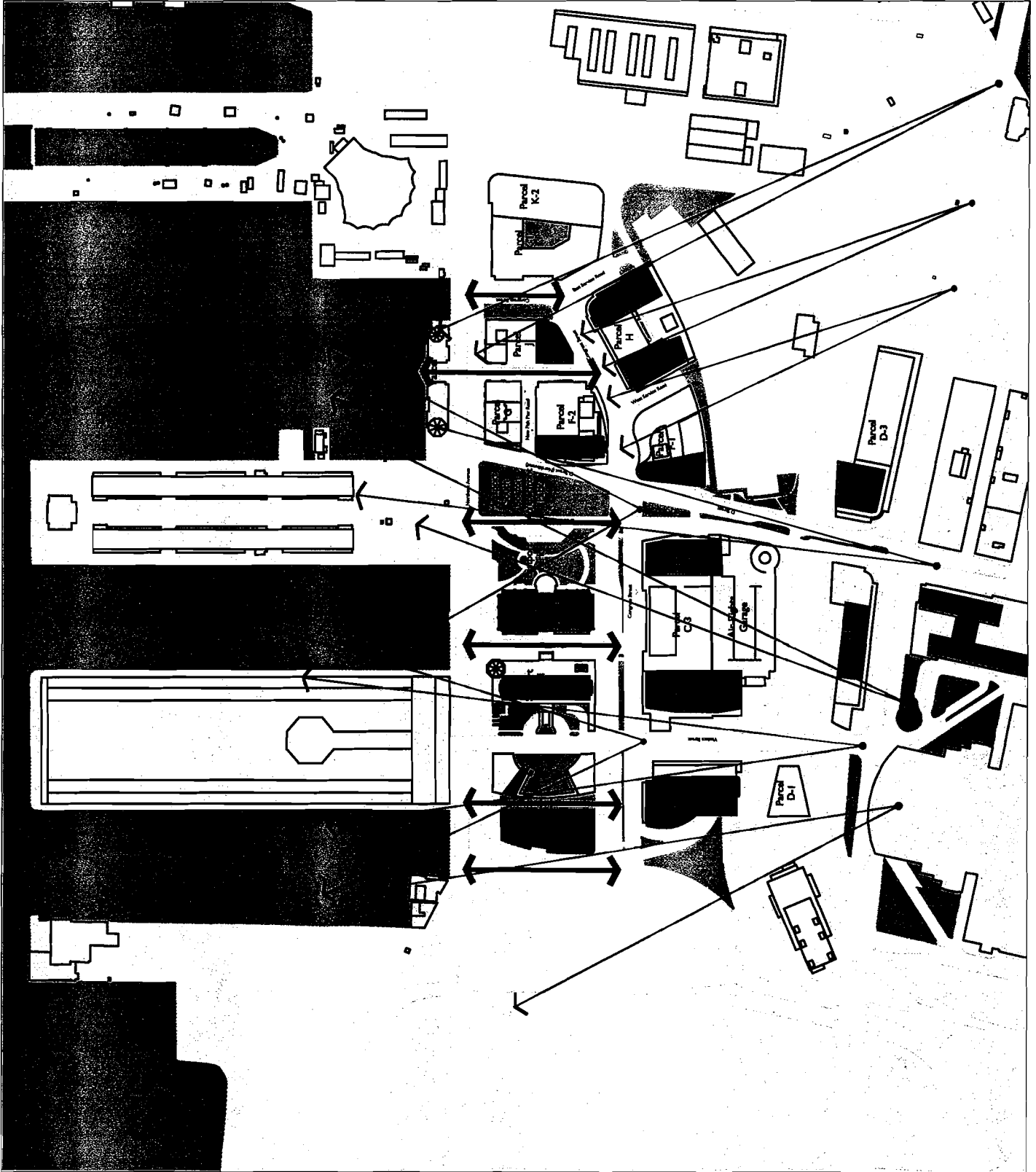


Figure D-5
Aerial View of Massport's Commonwealth
Flats Mixed-Use Development

Figure D-4
Views and Taller Building
Elements

- ↑ Long Range Views
- Pedestrian Level Views
- Taller Building Elements



Public activity centers, major building entries, public parking facilities, open space features should be located to align with major pedestrian routes. The Commonwealth Flats Development Area has been planned to emphasize the relationship between primary and secondary pedestrian routes, building access points, and centers of activity in the district.

Buildings should have features that protect pedestrians from wind and precipitation along pedestrian routes including elements such as canopies, roof extensions, arcades, pergolas, etc. These features are particularly important along pedestrian routes serving the district's MBTA Transitway and major bus stops, including the Viaduct.

Buildings should have through-block public connections at key locations to provide direct/convenient routes and routes that are used during inclement weather. These connections are necessary where building straddle major pedestrian desire lines, occupy large footprints, have prominent waterfront locations, or are along walking routes to public transportation. Public through block connections are also very important in providing suitable pedestrian circulation between the Viaduct Street Promenade and the streets below.

Building frontages along D Street and the Viaduct should incorporate special streetscape features and well articulated architectural features in order to improve the quality of the walking experience and reinforce the role of these corridors as major pedestrian routes to the waterfront. Along D Street these streetscape features will include special light fixtures for street lighting and enhanced sidewalk paving. These features will complement special streetscape elements planned by Massport for D Street including tall banners in the median, special bridge lighting and Portal Park. Along the Viaduct Street Promenade these features will include widened sidewalks with enhanced paving, special street lighting, signature bridge railing design and a covered walkway on the eastern side.

Parking and Service

Parking shall be located below grade with the exception of a limited number of sites designated within the Massport's Commonwealth Flats Strategic Plan. Three levels of below grade parking should be the typical condition given soil conditions and the overall shared parking plan.

On-street parking should be maximized to provide for convenience, traditional street edges and separation between pedestrians and vehicular travel lanes. Management of curb operations within Commonwealth Flats will be important to ensure that on-street parking is available, building drop-off areas are appropriately located and bus services are accommodated.

Parking garage and building service entrances/exits shall not be located (to the extent feasible) on major streets nor should they present conflicts with pedestrian routes. These major streets include Northern Avenue, D Street and Congress Street.

Environment

Buildings with taller elements should include design features that address potential wind impacts on the surrounding public spaces and at building entries. Setbacks for taller building elements, canopies, roof extensions and other features are encouraged as solutions for addressing wind impacts. Building undercuts are not preferred.

Taller building elements should be sized, shaped and located with consideration of their impacts on shadowing public spaces, the harbor and major pedestrian routes. Shadows on the north side of Northern Avenue, Eastport Park, Massport's South Boston Waterfront Park and the head of the Fish Pier are of primary concern. Massport has established floor size and design guidelines for taller buildings and maximum building heights.

Accessibility

All facilities and services in Commonwealth Flats should be usable by all people and all development should seamlessly integrate access and design.

Buildings should provide convenient on-site public services, such as telephones, bathrooms and generous public lobby space.

Sustainability

Massport is committed to the efficient use of resources to reduce the impact and life cycle costs of built projects while also creating a practical, pleasant and healthy environment for work, living and recreation. Massport is in the process of developing a formal sustainable design and construction program for use on all Massport and developer projects. The program will establish requirements and criteria for a variety of sustainability components including criteria in the selection of designers, as well as the use of "green technologies" that efficiently use energy, water and air. These Authority wide policies will provide guidance from such specific measures as installing "Do Not Dump" placards on storm drains near Boston Harbor to standards that encourage sustainable purchasing and maintenance practices. They will include building design, building systems, site improvements, and operational protocols. Individual projects will be required to incorporate elements of sustainable design including energy efficiency, maximum use of public and alternative forms of transportation and use of recycled materials.

The appendices of the Commonwealth Flats Development Area Open Space NPC contain a list of Sustainable Design Strategies being considered by Massport for Commonwealth Flats

Public Realm Guidelines

This section provides descriptions and guidelines for the design of parks and open spaces within the Commonwealth Flats Development Area, as well as general and specific guidelines for the design of streets within the district.

Parks and Open Spaces

Descriptions are provided only for open space elements within the Waterfront Development Plan area. For information on other open spaces or parks, see the Commonwealth Flats Development Area Open Space Notice of Project Change.

Seaport Square

Summary

Seaport Square is a collection of integrated parks, plazas, and enhanced pedestrian areas framed by several important mixed-use development parcels and centered around the intersection of D and Congress Streets that will form the core of Massport's public open space plan for the Commonwealth Flats. Seaport Square will anchor the western end of the Northern Avenue Waterfront Development Area. Massport's plan envisions three open space components within Seaport Square: WTC Eastport Park (scheduled to open later this year), Massport's South Boston Waterfront Park (currently under design), and Harborwalk and other activity at the water's edge. Each of these open spaces will offer the public different types of open space opportunities and experiences and together they will offer a wide, complementary range of options for the public.

Massport South Boston Waterfront Park

Summary

Massport plans to design and build South Boston Waterfront Park to be a premier 1.2-acre public open space consisting of two separate but related pieces at the confluence of Congress Street, Northern Avenue, D Street, and the Boston Fish Pier: a 1.0-acre area north of Congress Street and a 0.2-acre area south of Congress Street. Massport's proposal to realign D Street into a couplet of one-way streets between Congress Street and Northern Avenue will make this new park possible.

Objectives

- Create a park that through its physical design and range of programmed activities is an important public open space for South Boston, the City as a whole, and the region;

- Create a park that is a major public destination at the water's edge as experienced from the D Street corridor, from the major streets connecting with the downtown, and from the Harborwalk at the Northern Avenue;
- Respond to the park's location adjacent to Boston Inner Harbor in establishing its character and in providing generous public views and access to the waterfront; and
- Program and design the park so that it addresses the needs of the principal users, including people who work or live in the immediate area, residents of the greater Boston area, and visitors.

Guidelines

- Massport South Boston Waterfront Park will serve as an important public destination within the district and should feature a high level of design and material finishes.
- Massport South Boston Waterfront Park should support a wide range of public activities and welcome a variety of user groups.
- The design of Massport South Boston Waterfront Park should respond to and celebrate its prominent location directly on Boston Harbor.
- The design of Massport South Boston Waterfront Park should provide a high level of public amenities and extend the seasons and time of day that the public can use it.
- The design of Massport South Boston Waterfront Park should respond to its role at the junction of several important pedestrian circulation routes.
- Massport South Boston Waterfront Park should be integrated with adjacent open spaces, the Fish Pier, and surrounding streetscape.
- The design of Massport South Boston Waterfront Park should address wind and inclement weather conditions that this area will experience.
- Massport South Boston Waterfront Park should complement the design of Eastport Park, the Fish Pier, and the development parcels surrounding Seaport Square.

Fidelity Eastport Park

Summary

Eastport Park is a 1.3-acre park that has just been completed by World Trade Center/Fidelity Investments adjacent to the East Office Building. It features an array of public art pieces, a raised plaza from which to view the harbor, extensive landscaping, and a wintergarden extending into the park from the East Office Building.

Objectives

- Establish a significant public open space within the South Boston Waterfront;
- Take advantage of the park's excellent location adjacent to the waterfront; and
- Provide amenity and a beneficial relationship to the adjacent East Office Building.

Guidelines

- Eastport Park will play an important role at the center of the district and the junction of several key pedestrian routes and/or connections along the waterfront.
- Eastport Park has been designed to respond to the ground-level uses contained within the East Office Building.
- The Park should provide a high-quality, sophisticated open space design.
- Eastport Park should celebrate its waterfront location at the water's edge.

Congress Street Park

Summary

A public green space that will punctuate the end of Congress Street at Northern Avenue and the water's edge and provide a pedestrian link from the South Boston Transitway stop on the Connector Road and the harbor.

Objectives

- Create an public green space at the terminus of Congress Street that enhances public views and access to the waterfront;
- Create strong pedestrian connection between the MBTA Transitway stop along Connector Road and the waterfront; and

- Provide a public open space amenity for the Massport development parcels east of D Street.

Guidelines

- Establish an appropriate termination for the eastern end of Congress Street as it turns and ends at Northern Avenue and the harbor.
- The Congress Street Park should provide an important north-south pedestrian connection in the area east of D Street.
- The design of the green should provide open space amenity for the adjacent development parcels.
- Congress Street Park should establish a high quality urban open space in the area east of D Street.
- Extend waterfront views and access inland from the Harborwalk.



Descriptions and Guidelines for Streets

Massport has placed a high priority on creating the best possible pedestrian environment on its property in Commonwealth Flats. For years, Massport has worked closely with the CA/T Project on “betterments” or enhancements to the design and materials of the streetscape finishes that the project will build on Massport property. In many cases, Massport has or will pay for these enhancements. Through this process, Massport has developed a series of guidelines to help design and build a consistent system of streets on its property in Commonwealth Flats. This section outlines general guidelines that will shape the design of these streets, including such issues as dimensions, continuity strips, streetlights, and street trees. More detailed descriptions and guidelines for each major street or type of street within Commonwealth Flats are included below.

General Streetscape Guidelines

Basic Street Dimensions

Massport has established basic street section dimensions that it will apply to streets that it designs and builds throughout Commonwealth Flats. The baseline sidewalk dimension on all of the district streets is 16 feet wide. Where appropriate on smaller secondary streets narrower sidewalk dimensions have been designated.

On-street parking lanes of eight feet will be included on all streets wherever possible to help create a more urban atmosphere and to slow traffic speeds. Narrower streets

will include a single travel lane in each direction of approximately 14 feet wide. This width includes 11 feet for motorized vehicles and a three-foot allowance for bicycles. In some cases, the street section includes a second and third 11-foot travel lane to accommodate heavy traffic flow or turning lanes. In general, a two-foot flush median will be incorporated in to the section.

Massport believes this set of basic street dimensions will provide adequate vehicular flow, accommodate bicycles, and result in a pedestrian-friendly streetscape environment. The application of these dimensions to specific streets in the district is described in more detail below.

Streetlights and Traffic Signals

Massport and its urban design consultants have invested considerable time and effort into developing a system of streetlight standards for Commonwealth Flats. Within the WDP area, a number of streetlight fixtures will be applied.

➤ Fort Point

Massport has adopted the Fort Point streetlight fixture on a fluted pole as the basic fixture that will light a majority of its streets. This fixture will be mounted in single, double, and quadruple light heads in different applications.

➤ Harborwalk

The City of Boston has designated a Harborwalk streetlight fixture and Massport has adopted it for application along both sides of Northern Avenue and elsewhere along the Harborwalk on its property.

➤ Special D Street Fixture

Massport has developed a special streetlight fixture that will be applied along D Street between Summer Street and Congress Street. This fixture includes a stainless steel banner element and it will be applied in concert with a series of tall banners that will be installed along the D Street median. Massport also may install this fixture along the southern portion of the Viaduct Street Promenade. Massport has discussed with the BRA and the BCEC staff the possibility of extending the D Street fixture along Summer Street as well.

➤ Eastport Park and Portal Park Fixture

A simple, modern fixture has been selected to be installed in these two locations.

➤ Massport South Boston Waterfront Park Fixture

The Halvorson design team has just begun early design work on the park. Eventually, the park designers will select a light fixture – either one from the list above or a new fixture that helps distinguish the park from its surroundings.

Continuity Strip

Massport plans to organize the design of streetscape elements within Commonwealth Flats through the application of “continuity strips” along each of its

streets. The continuity strip is an urban design mechanism that establishes a consistent, rational framework for locating various elements such as paving, trees, streetlights, fire hydrants, parking meters, and other street furniture in a band between the curb and the sidewalk. Massport has devised two types of continuity strips: a wider one that will be applied along major streets in the district and a narrower version for smaller secondary streets. Within the WDP Area, continuity strips will be applied along Northern Avenue, Congress Street, Market Street, and New Fish Pier Road. This urban design feature not only will create a more attractive sidewalk environment, but also it will help to integrate the overall system of public open space within the area through a consistent application of high-quality materials.

Street Trees

Street trees will be planted along at least one side of nearly every street within Commonwealth Flats. Congress Street will feature trees on both sides. Northern Avenue will not have street trees planted along the exposed waterfront edge.

D Street Corridor

Summary

Massport has proposed the realignment of D Street and numerous other improvements between Summer Street and Northern Avenue to establish Seaport Square and to make this street a strong link between the neighborhood and the BCEC to the south and Boston Harbor to the north.

Objectives

- Unify the streetscape along the length of D Street from Summer Street to Northern Avenue to strengthen this important north-south connection across Commonwealth Flats;
- Improve pedestrian conditions along the length of D Street north of Summer Street;
- Establish the southern end of D Street at Summer Street as an important gateway to the district; and
- Orient D Street toward the water at its northern end.

Guidelines

- The design of D Street should strengthen the link between the South Boston community and the BCEC to the south and the waterfront to the north
- The design of D Street should seek to create safe pedestrian crossing zones and generally improve pedestrian conditions.

- The D Street Corridor should feature a system of consistent streetlights and or other streetscape elements to unify its length from Summer Street to Northern Avenue.
- The design of D Street should engage Massport South Boston Waterfront Park.
- The bridge at Summer Street should provide ample sidewalk space to accommodate pedestrians entering Commonwealth Flats.
- The alignment of D Street should create a strong orientation to the water's edge.
- The design of D Street should strengthen the street wall, particularly in areas where physical constraints limit the ability to construct buildings.

Harborwalk/Northern Avenue

Summary

Massport has decided to extend the BRA's Harborwalk concept along the length of Northern Avenue on Massport property to expand and unify public waterfront access.

Objectives

- Extend the BRA's Harborwalk concept along South Boston Waterfront through Commonwealth Flats.
- Preserve and improve public views and access to Boston Harbor;
- Integrate activity on land with activity on the watersheet along the water's edge.

Guidelines

- The Harborwalk should be distinguished from other Massport streets through the application of the unique Harborwalk light fixture and Harborwalk signs.
- Wherever possible, Harborwalk should engage landside open spaces along its route to extend the waterfront experience in land from the water's edge.
- Boardwalks and gangway connections to floats and other watersheet activity should be used, were appropriate, to extend the Harborwalk along the water's edge.
- Buildings and structures along Northern Avenue should create a pedestrian environment that encourages use of the waterfront.

Congress Street

Summary

East of D Street Congress Street will be a narrower pedestrian-scale street that will provide a transition to its termination at the Northern Avenue and the waterfront.

Objectives

- Provide ample sidewalks and safe pedestrian crossing areas that relate to ground-floor retail and other proposed street level activity proposed on Massport development parcels;
- Create a rational and appealing streetscape environment along this important east-west arterial; and
- Transition from grand boulevard to waterfront to the east of D Street.

Guidelines

- The design of Congress Street should provide wide sidewalks and strong linear urban design features in the area west of D Street to establish the importance of this major street.
- Streetscape design of Congress Street should provide safe pedestrian conditions.
- East of D Street the profile of Congress Street should narrow to create a smaller-scale street more appropriate for a residential area.
- Buildings and streetscape elements east of D Street should strengthen the curve of Congress Street toward the water.

Paths to the Sea (Smaller-scale Grid of Lanes)

Summary

Massport's open space planning proposes a series of smaller streets of north-south orientation on its property between Congress Street and Northern Avenue that will provide views and pedestrian access to the and from the water's edge. Within the WDP area, Market Street will be such a street and will create new public views and access to the harbor.

Objectives

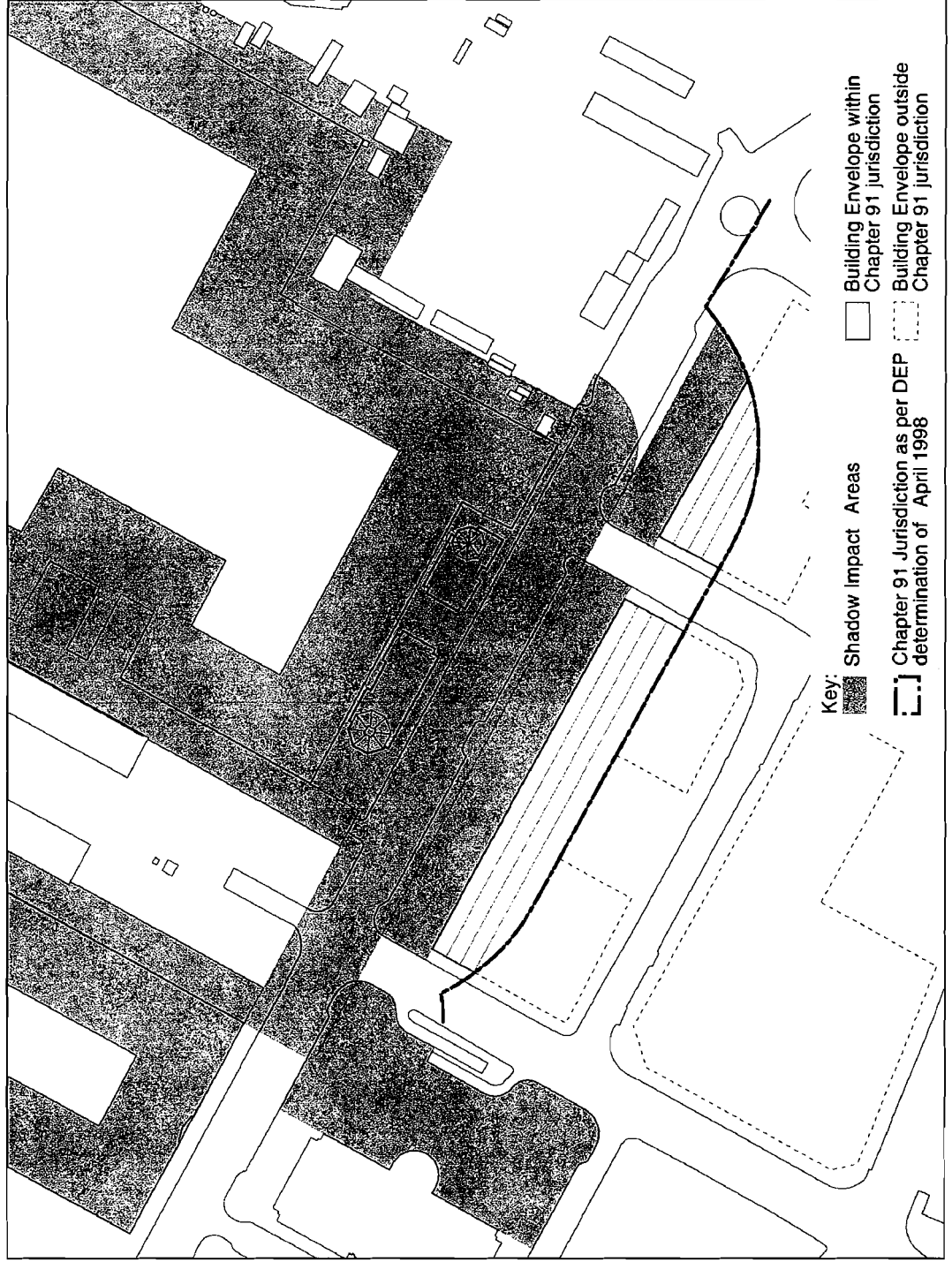
- Create view and access corridors to and from the water's edge;
- Divide the parcels in Commonwealth Flats into smaller, pedestrian-scale blocks; and
- Establish pedestrian street access to Massport development parcels in the district.

Guidelines

- The width of secondary streets in Commonwealth Flats should be reduced to create a more inviting pedestrian environment.
- Secondary streets should be oriented north-south and terminated at the water's edge to enhance public waterfront access.
- Secondary streets should be located to enhance pedestrian connections within the district and improve access to Massport development parcels.

Appendix E

Shadow Study



**Figure E-1
Chapter 91 Envelope:
Areas of Impact**

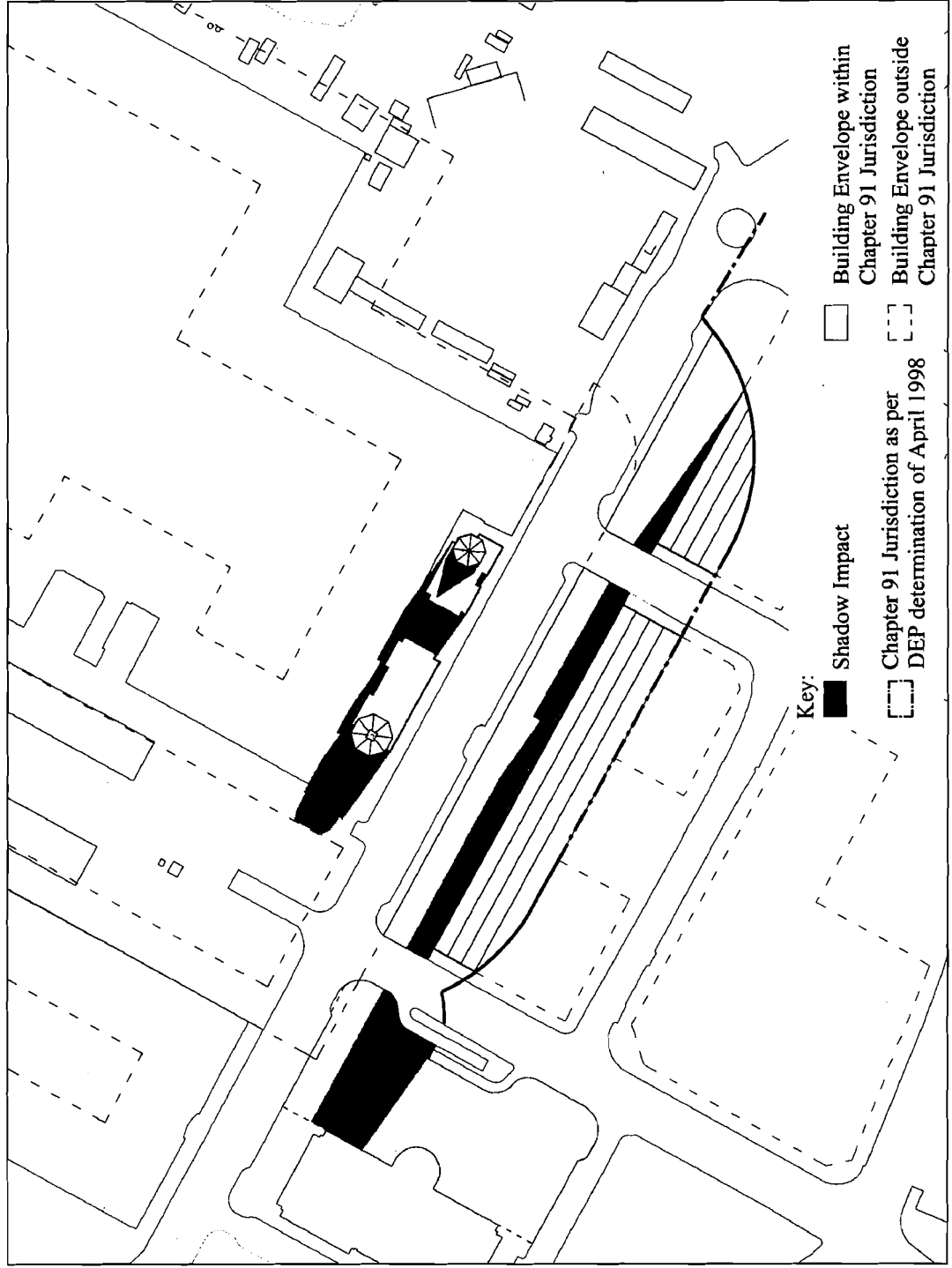


Figure E-2
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Figure E-3
Chapter 91 Envelope:
Oct 23rd at Noon
EDT

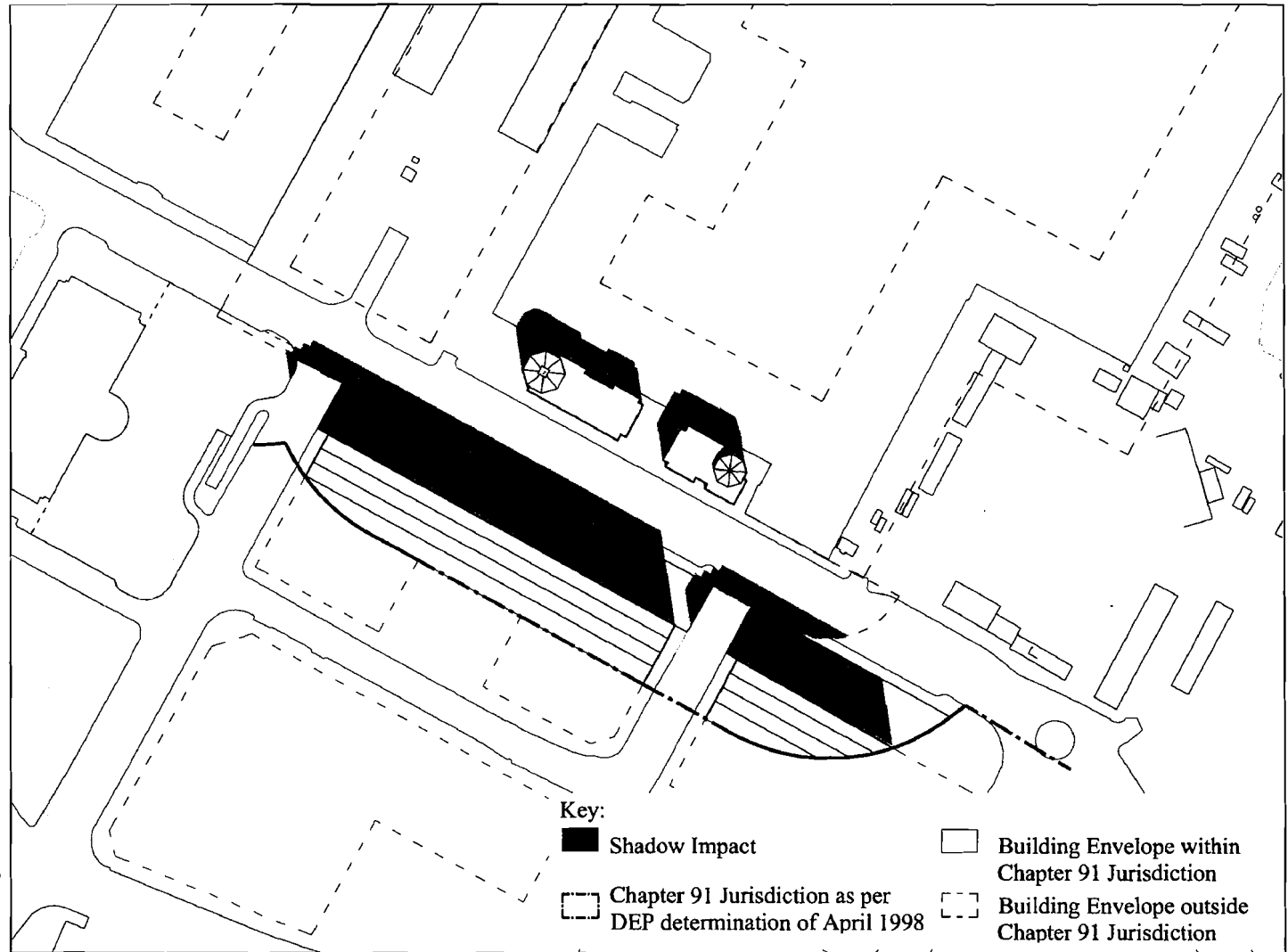
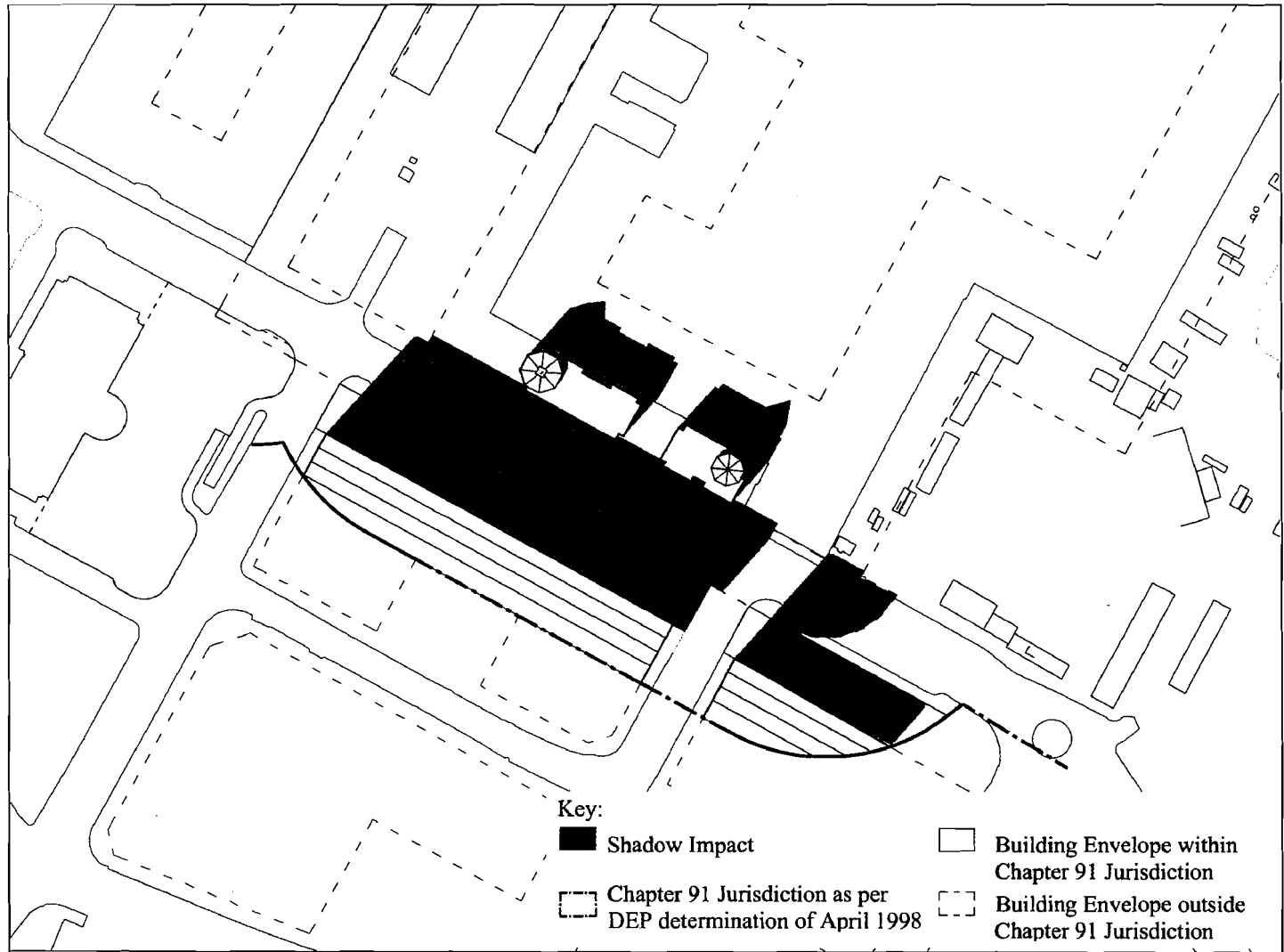


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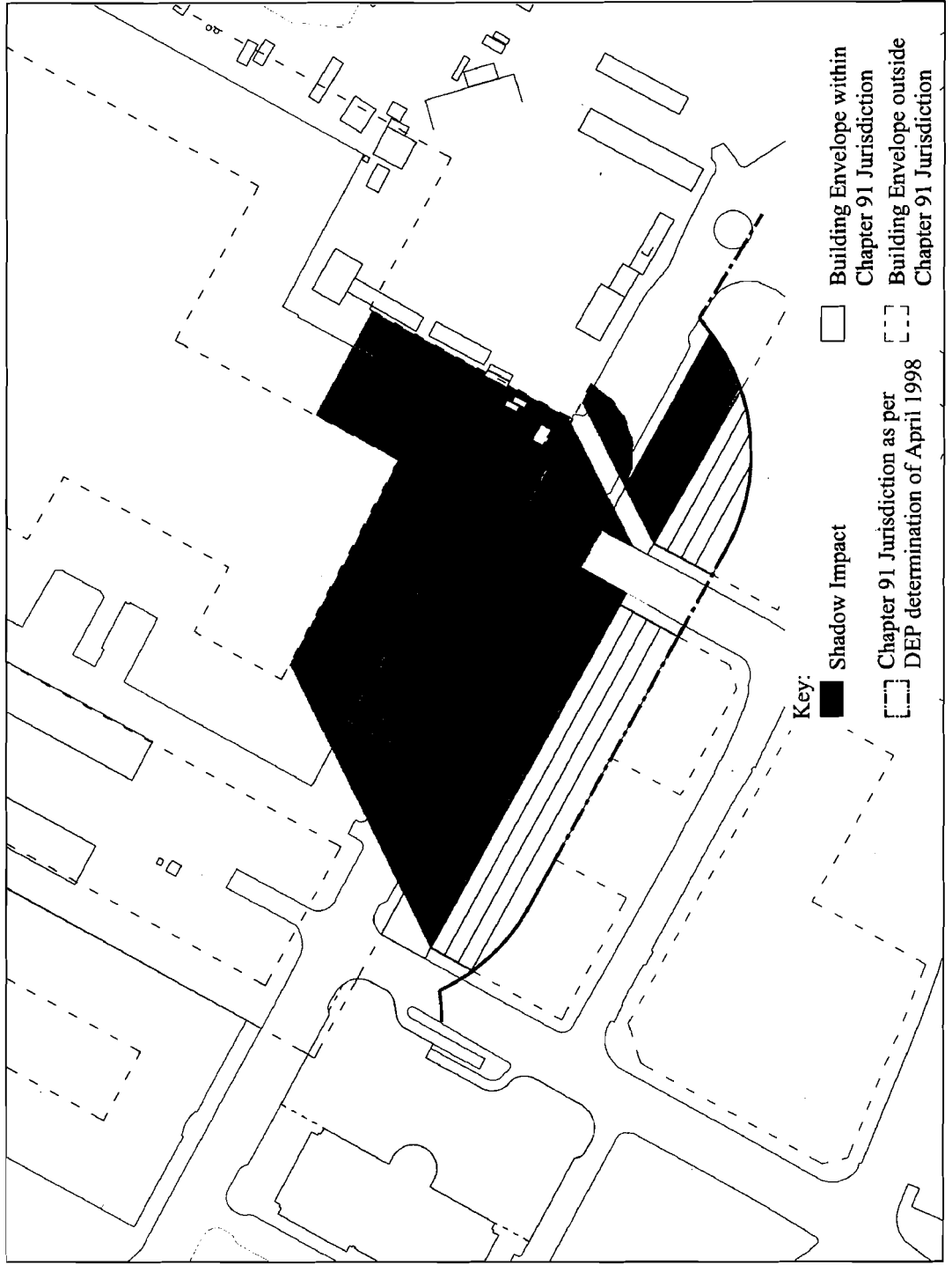


Figure E-5
Chapter 91 Envelope:
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Figure E-6
Proposed Maximum
Buildout Envelope:
Areas of Impact

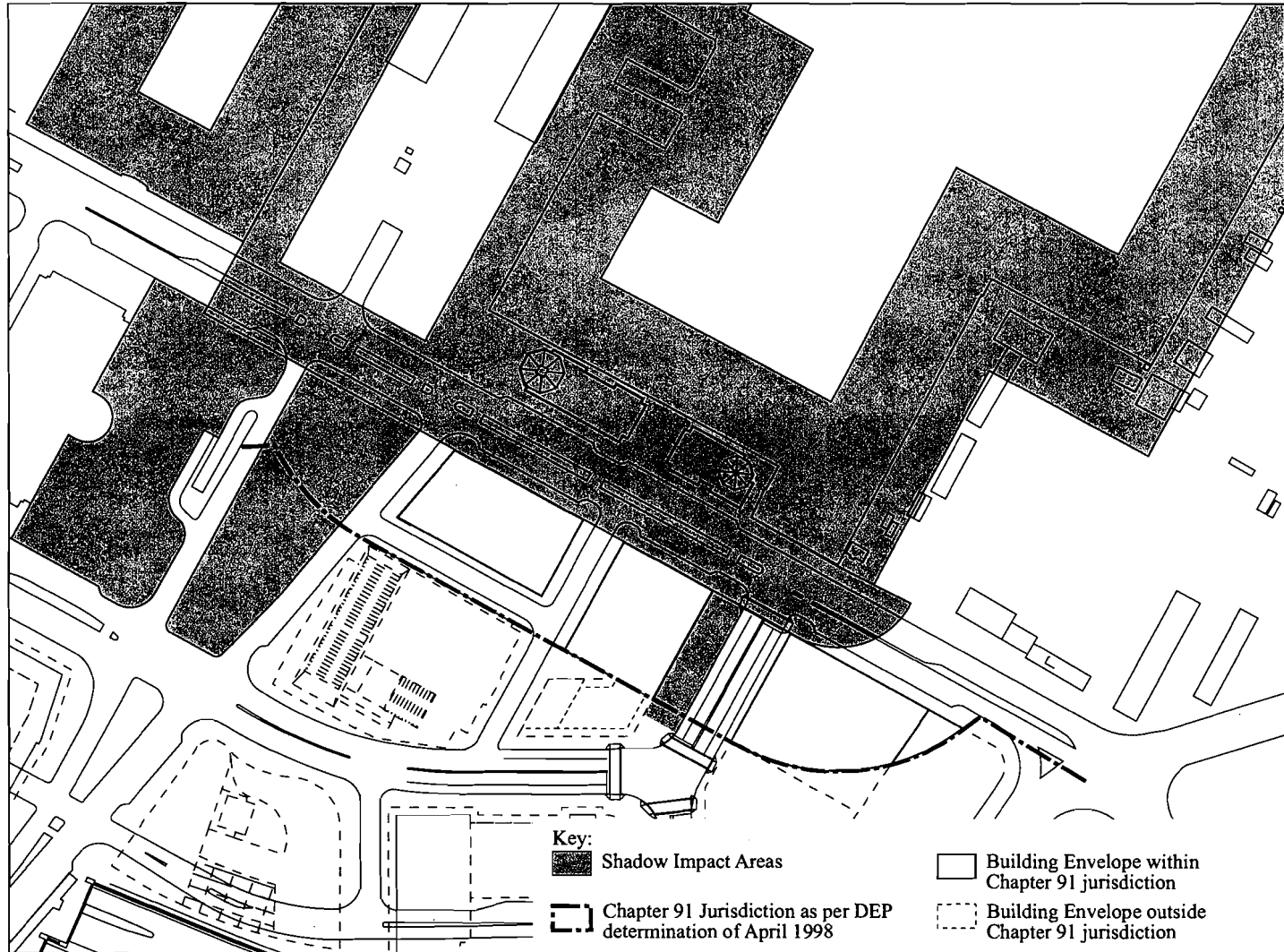
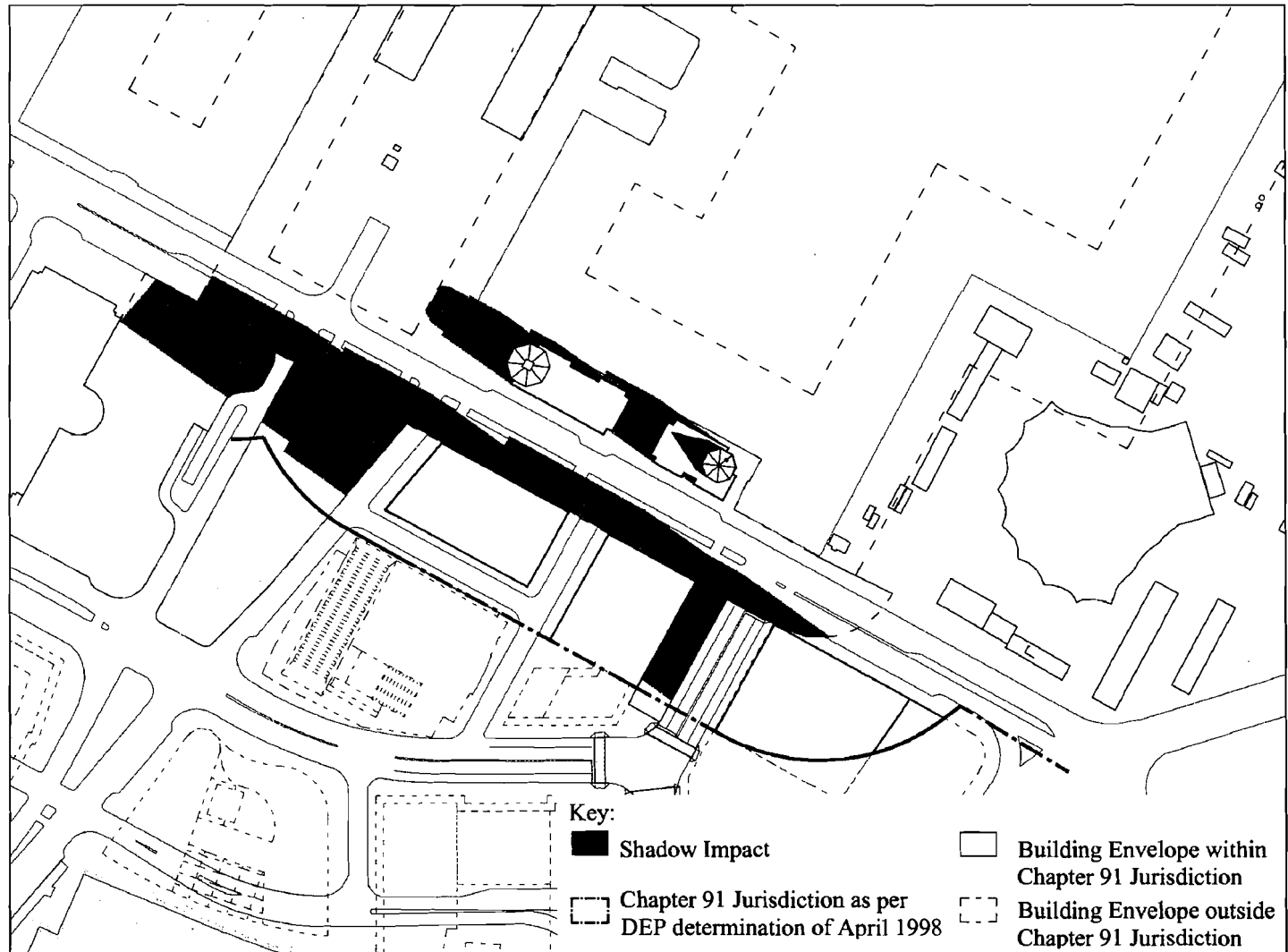


Figure E-7
Proposed Maximum
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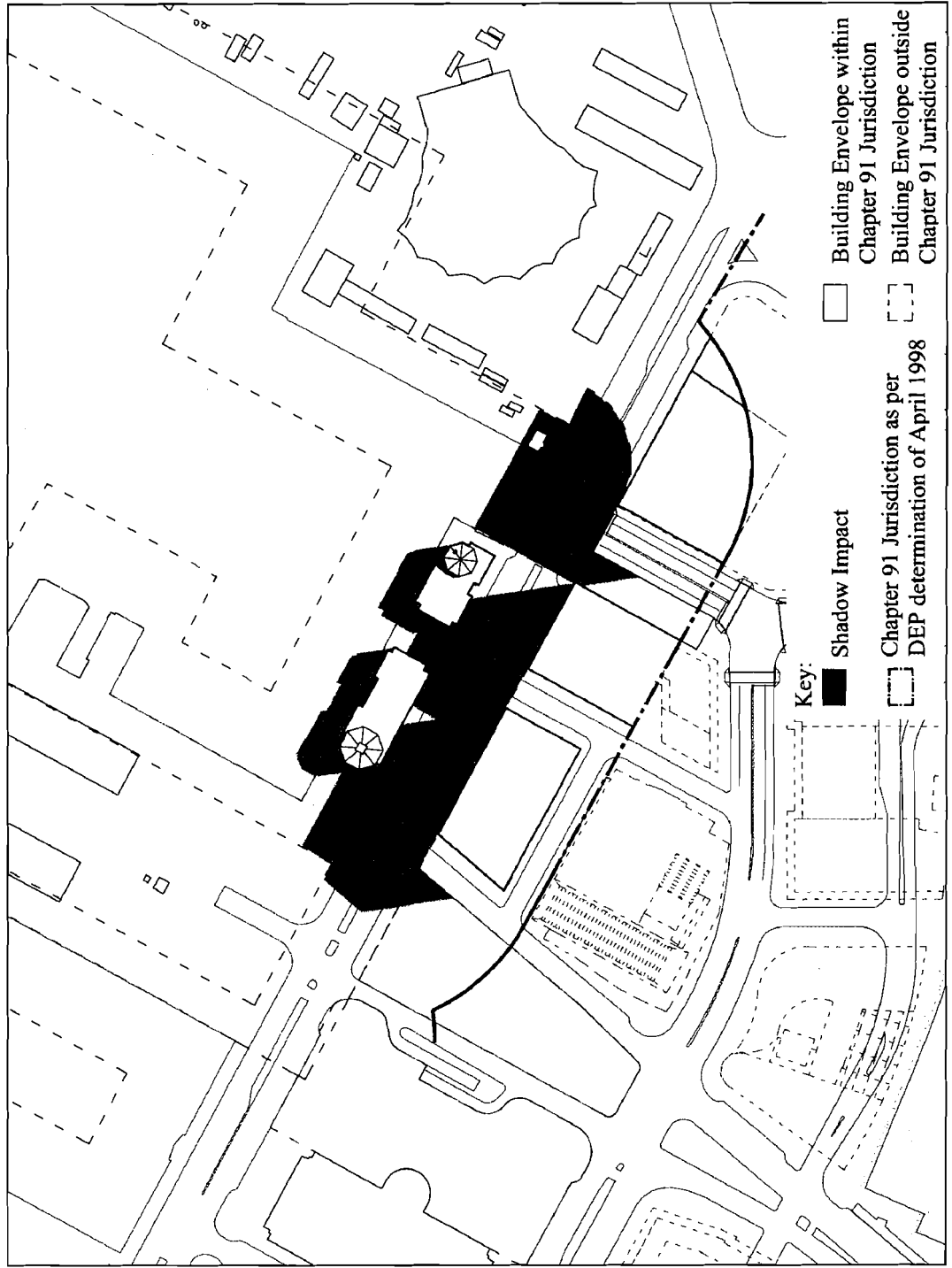
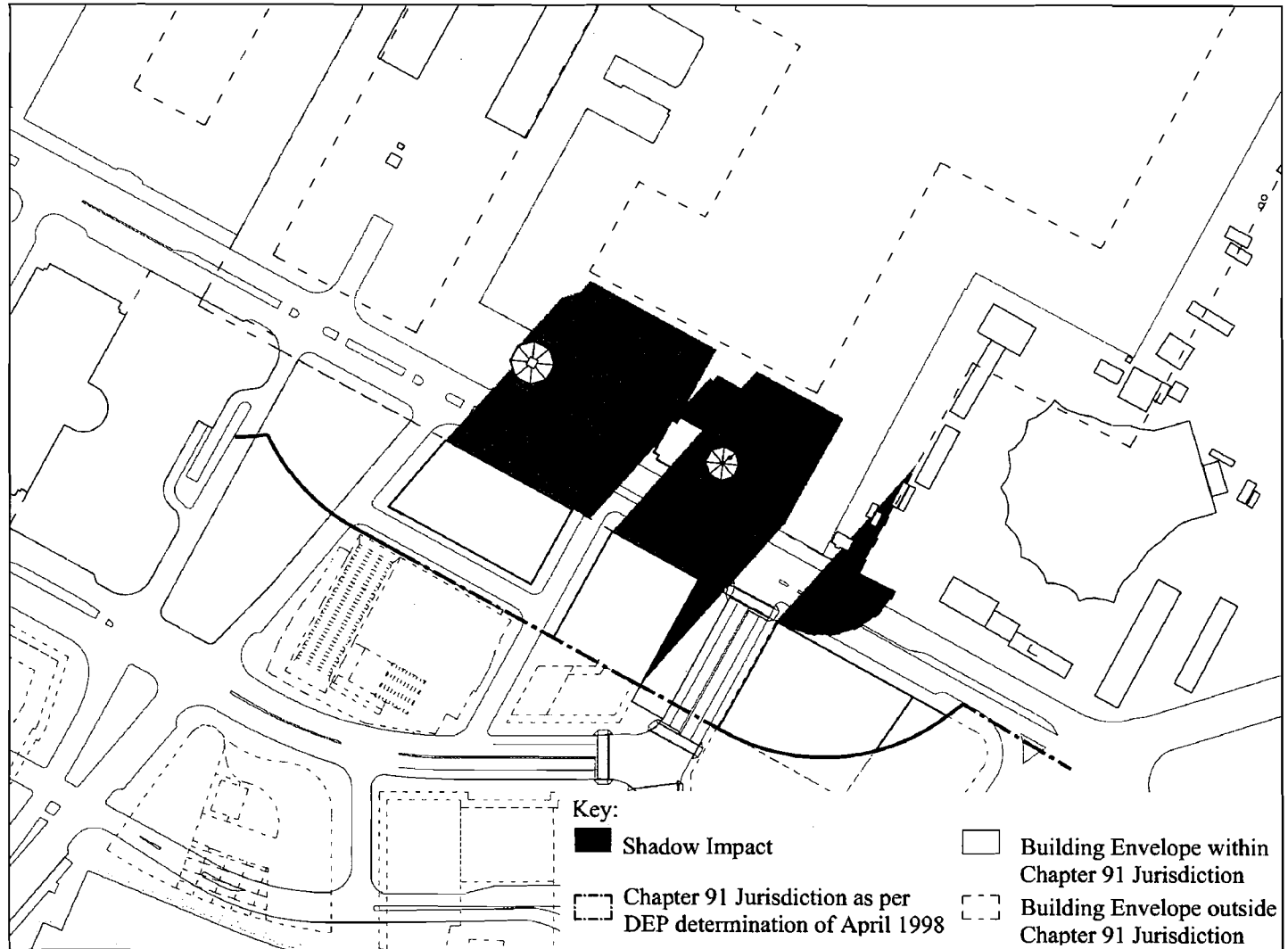
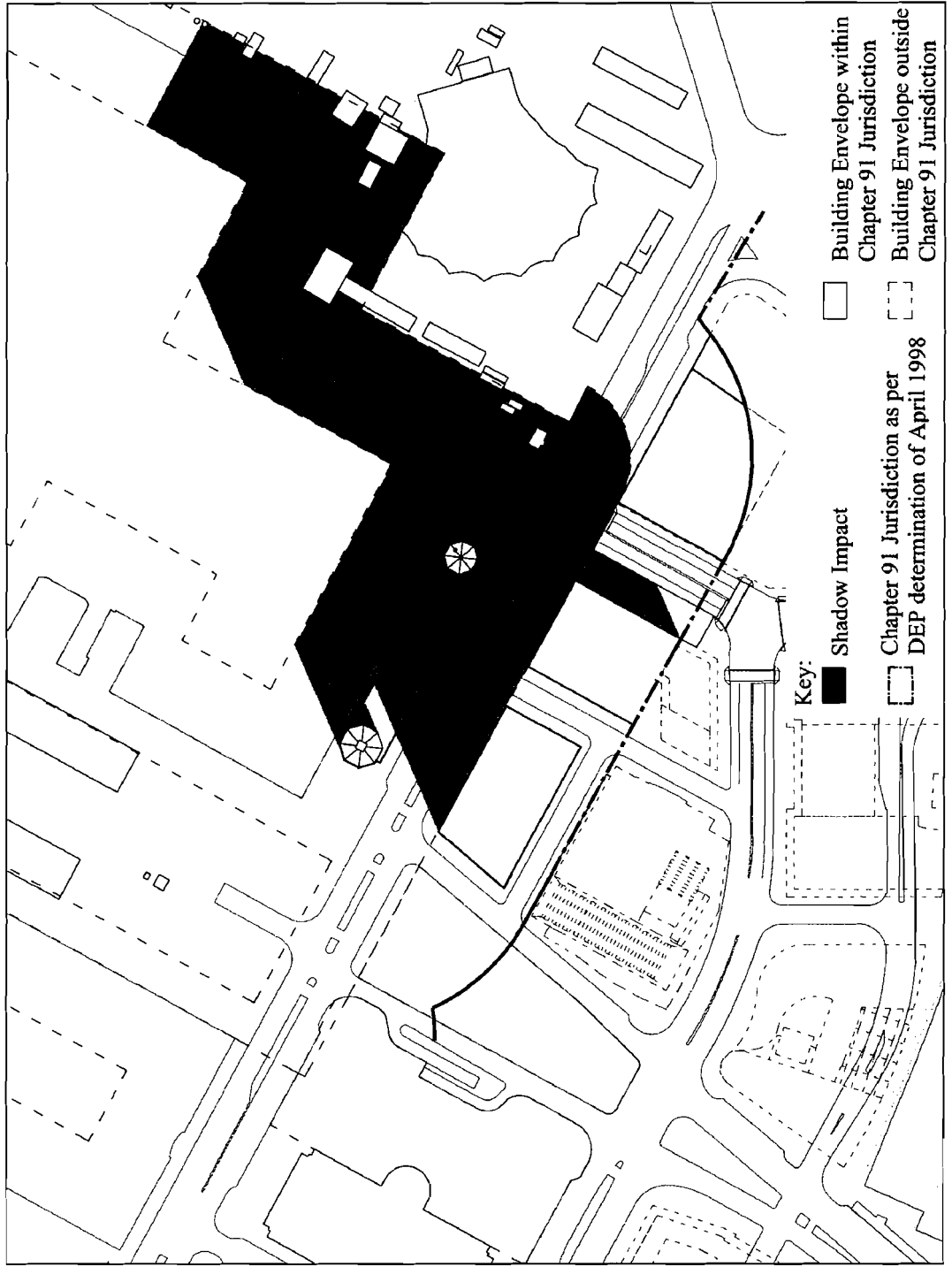


Figure E-8
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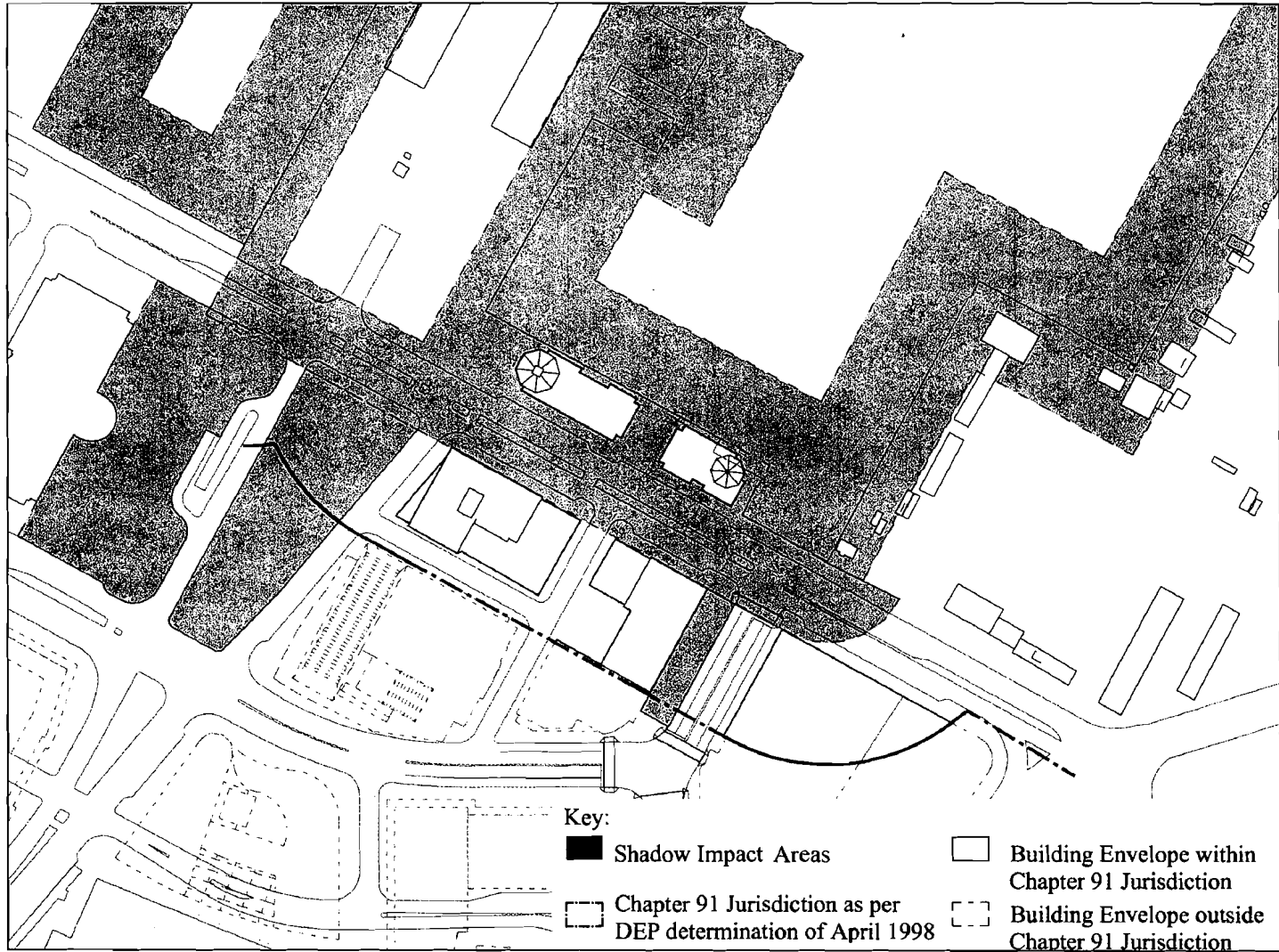
Figure E-9
Proposed Maximum
Envelope:
Oct 23rd
3:00 PM EDT





**Figure E-10
Proposed Maximum
Envelope:
Oct 23rd
5:00 PM EDT**

Figure E-11
Conceptual Building
Proposal:
Areas of Impact



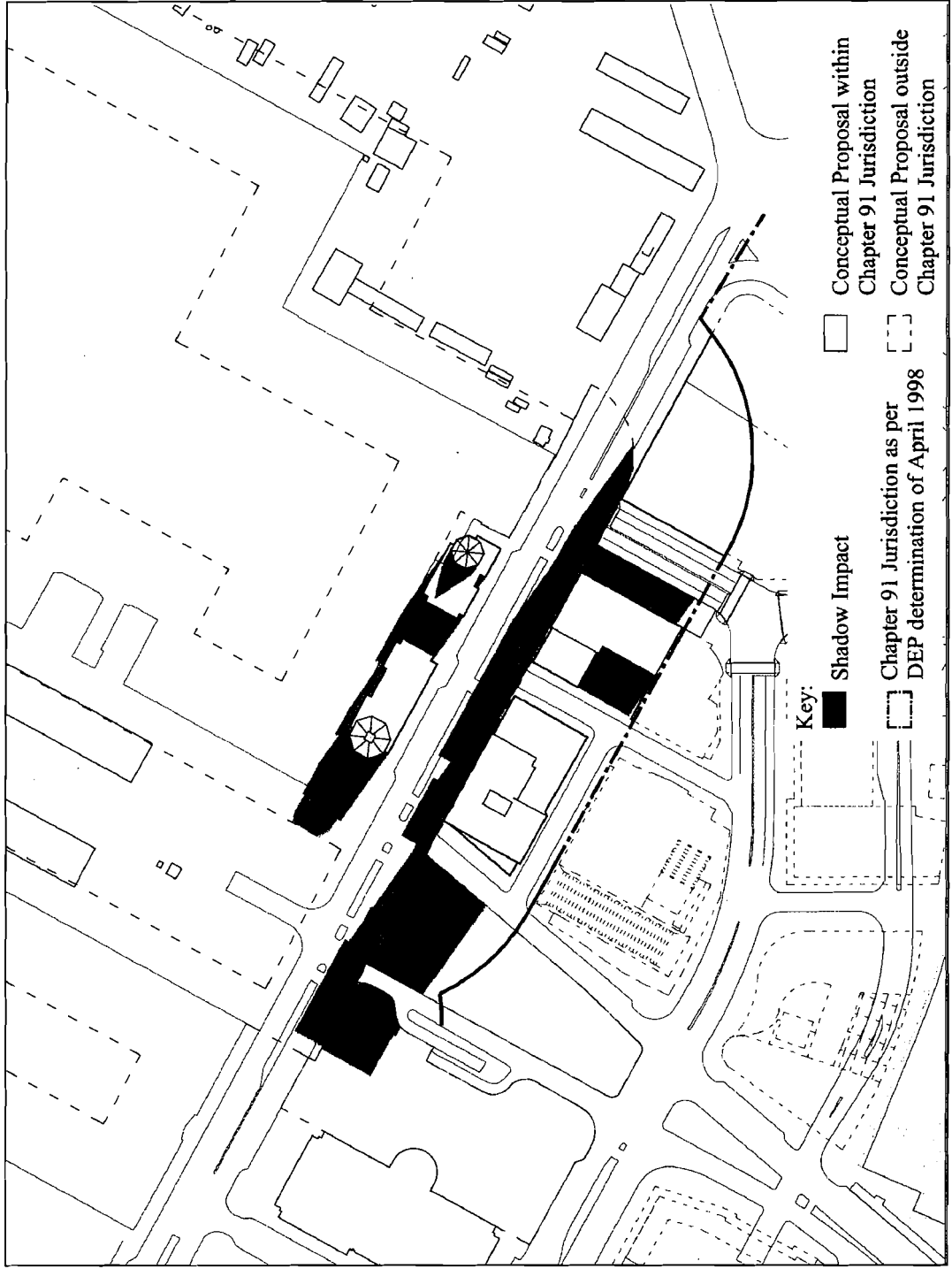


Figure E-12
Conceptual Building
Proposal:
Oct 23rd
9:00 AM EDT

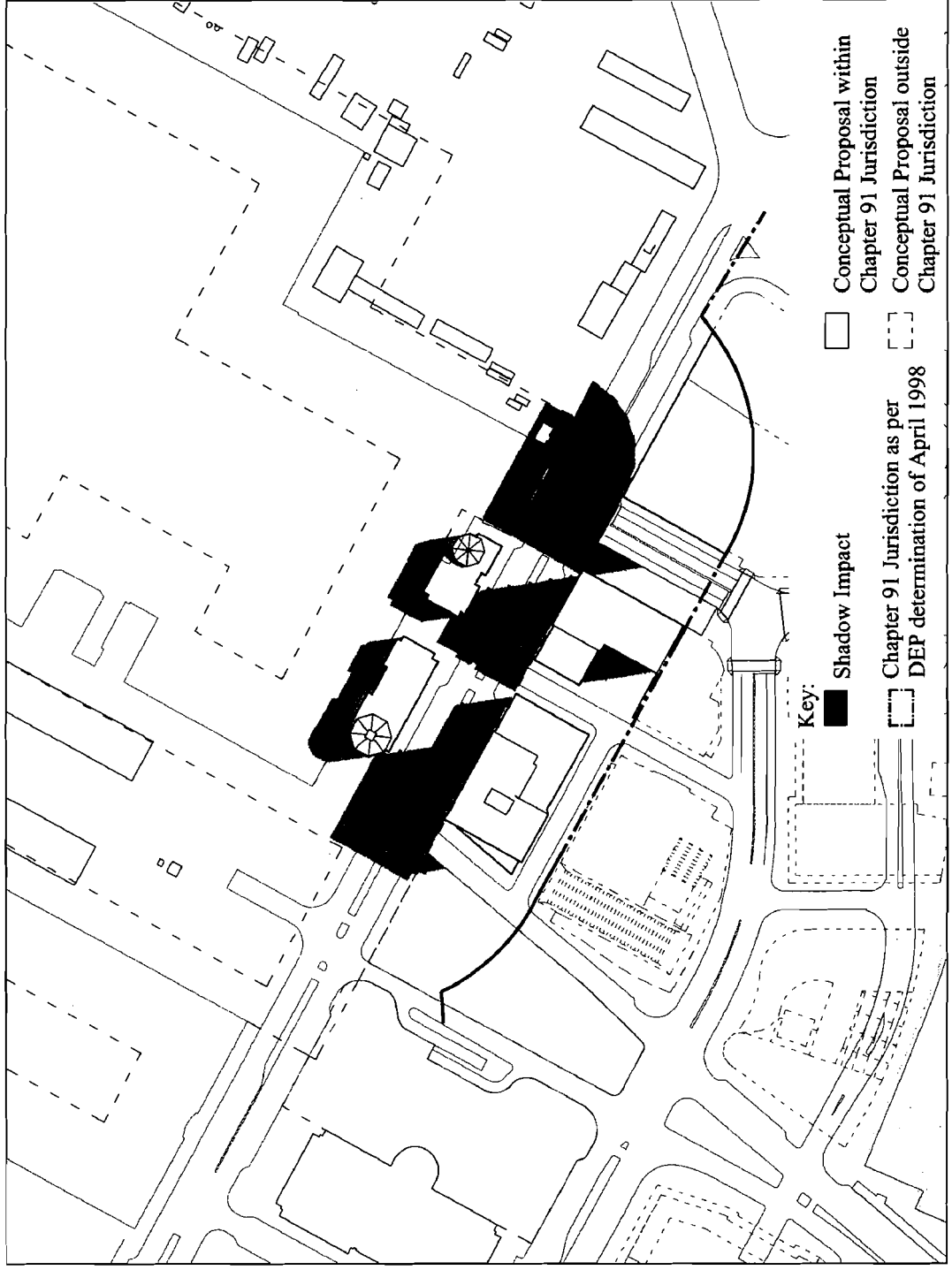


Figure E-13
Conceptual Building
Proposal:
Oct 23rd
12:00 PM EDT

Figure E-14
Conceptual Building
Proposal:
Oct 23rd:
3:00 PM EDT

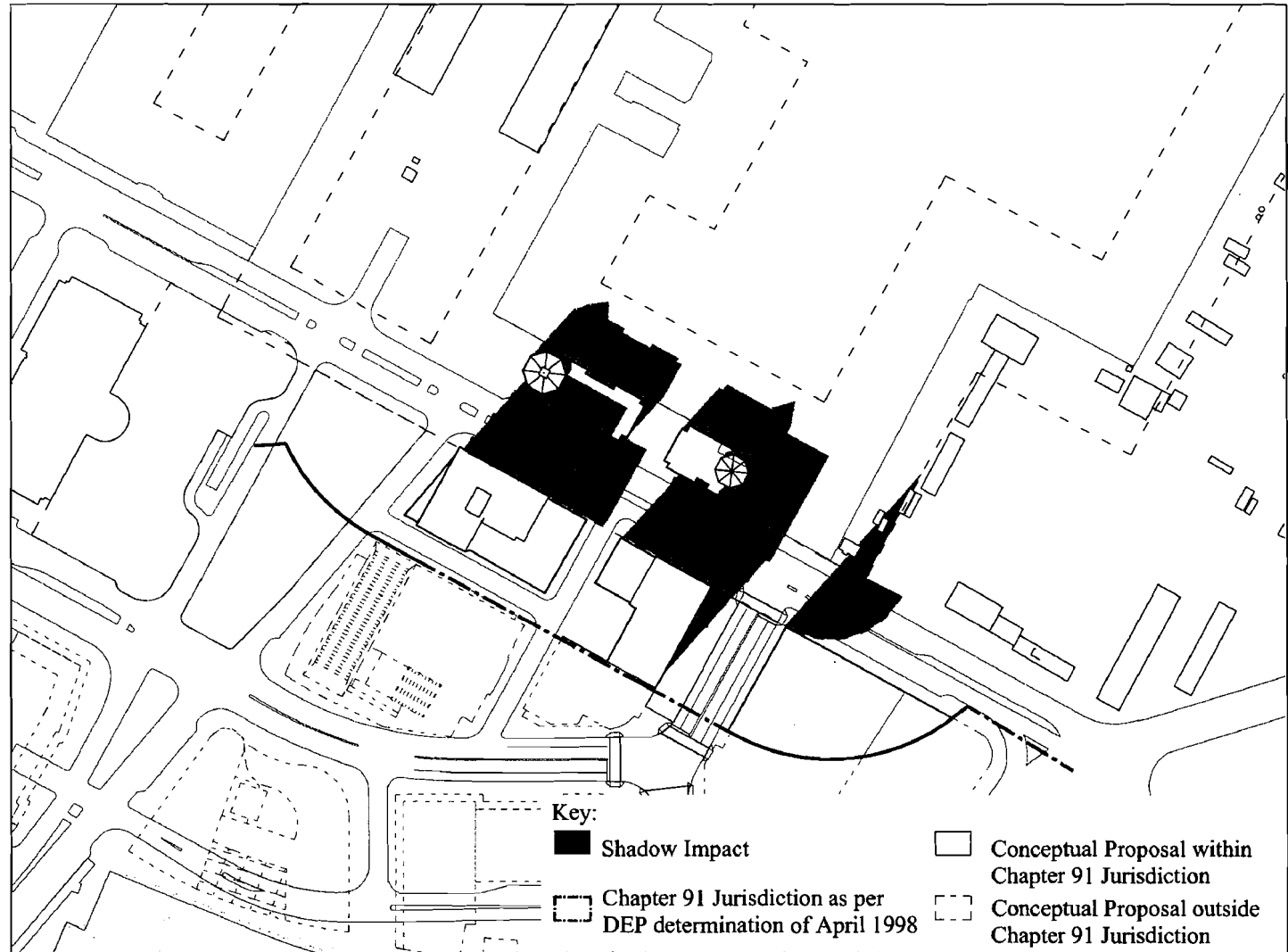
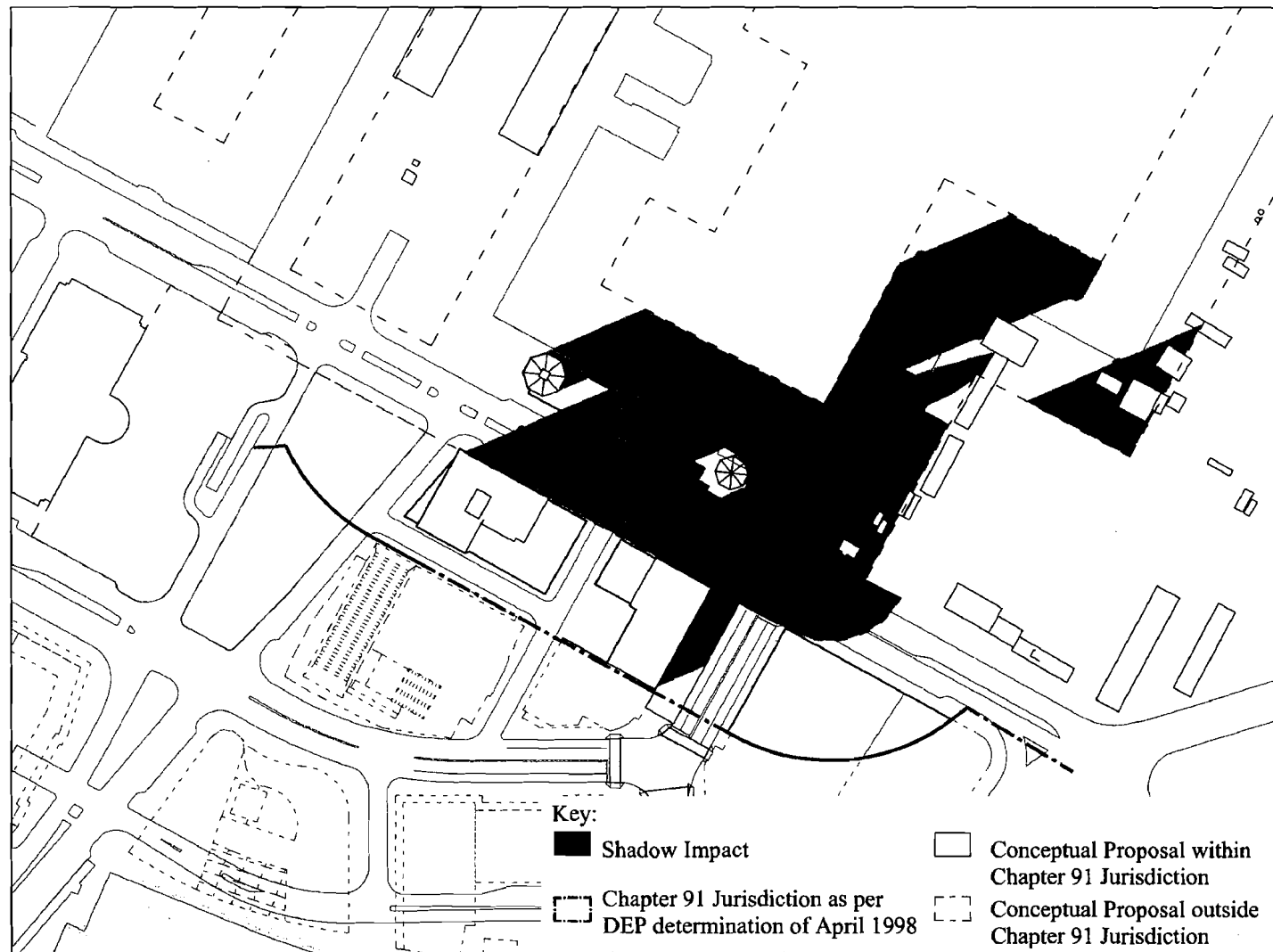


Figure E-15
Conceptual Building
Proposal:
Oct 23rd
5:00 PM EDT



Appendix F
Response to Comments

Appendix F – Response to Comments

This appendix presents Massport's response to comments received on the Preliminary Northern Avenue Waterfront Development Plan as summarized in DEP's letter to Massport dated July 13, 2001 (see attached copy). DEP's letter combines the comments from the following entities: The Conservation Law Foundation (1), The Boston Harbor Association (2), The Office of Coastal Zone Management (3), The Boston Redevelopment Authority (4), and Stevan Goldin (5).

Financial Consequences on the Working Port

- a) *Comment:* Given the paucity of available land for use in the existing working port, why is nonwater-dependent development of key port properties necessary? (5)

Response: Massport owns or operates over 150 acres of land in the South Boston Waterfront that are dedicated to maritime industrial uses. The Waterfront Development Plan (WDP) Area is not located within the South Boston Designated Port Area and does not have direct access to the water. The primary land use for some time has been commercial, including several restaurants, a bank, a convenience store, and parking. The greatest single need of the working port in South Boston is adequate funding for the extensive and costly facility maintenance and capital improvements that are continually needed to keep the Port of Boston competitive in the international trade arena. Massport has designated certain parcels such as those covered by the Northern Avenue Waterfront Development Plan as commercial development parcels from which a revenue stream will be generated to help finance port operations and expenditures necessary for capital projects to improve the Port.

- b) *Comment:* Will the funds raised as a result of these development be earmarked for a dedicated port development fund? (5)

Response: Once the Authority has funded the capital and operating costs associated with the public realm infrastructure it plans to build on its property, Massport plans to use a substantial portion of the net revenues earned by development projects within the WDP Area to fund port improvement projects.

- c) *Comment:* Will there be funds invested in restoring rail service to the working port? Will there be an effort to purchase different, strategically located port properties to offset the loss of redeveloped Northern Avenue parcels? (5)

Response: As part of larger master planning effort Massport has underway for the Massport Marine Terminal in South Boston, the Authority is assessing the feasibility of and developing concept plans for extending Track 61 to this site to support maritime industrial uses. If it is determined to be appropriate and feasible, Massport plans to work as part of a multi-agency effort to design, finance, and build a rail extension to the Massport Marine Terminal. Depending upon market demand for the extension, funding sources, and other factors, final design could be completed by the end of 2002 and construction could begin as early as 2003. Currently, service along Track 61 is suspended in the area between approximately Fargo Street and Dry Dock Avenue due to Central Artery/Tunnel Project construction, but the line is expected to be reactivated by the end of 2003. Although no property acquisitions are needed to offset the redevelopment of the Northern Avenue parcels, Massport does periodically evaluate acquisition of strategically located port properties. For example, Massport is currently in discussions regarding acquisition of the former Coastal Oil terminal located on Reserved Channel adjacent to Conley Terminal in South Boston.

■

Building Height/Shadow Impacts

- a) *Comment* For consistency with the South Boston Municipal Harbor Plan (SBMHP), shadow impacts should be analyzed at 5:00 PM as well as at the other times (9:00 AM, 12:00 PM, 3:00 PM) provided. As well, shadow impacts at both the summer and winter solstices and at the autumnal equinox should be provided. Provide impact comparisons of baseline (c.91 allowable) heights versus proposed building heights. (4)

Response: Massport is providing additional shadow analysis to include 5:00 PM analysis as part of the WDP (see Appendix E). This information has been added to the comparison of baseline Chapter 91 (allowable heights) versus proposed building heights that were included in the Preliminary WDP. The specific City of Boston Article 80 requirements pertaining to shadow analysis would be appropriate at such time as a developer of Massport property voluntarily undertakes the Article 80 process, as is the case with the Parcel F-2, G and J developer (the South Boston Waterfront Development, LLC).

- b) *Comment:* Analysis should be provided that shows the shadow impacts of entire buildings, not just those portions of buildings within c.91 jurisdiction (1)&(2)

Response: The shadow analysis included in the Final WDP examines the impact of buildings built anywhere within the jurisdiction area, but not that of buildings outside of the Chapter 91 jurisdiction. DEP has concurred with this approach (see page four of DEP's letter of July 13, 2001 that is attached with this Appendix). Shadow analysis for entire projects, including areas both inside and outside of Chapter 91 jurisdiction, will be provided in MEPA and Article 80 filings.

■

Open Space

- a) *Comment:* Make public sidewalk and open space plans consistent with Seaport Public Realm Plan (SPRP) and the SBMHP Public Access Network (4)

Response: Massport has undertaken a comparison of the Public Realm Open Space Plan and Massport's open space planning for CFDA overall, acknowledging that the Public Realm Plan provides general guidance only. This information was presented in the CFDA Open Space NPC and again in the WDP (see Figure 5). Massport has incorporated a requirement for inclusion of the "continuity strip" along all streets as a result of coordinated design efforts with the BRA. The buildings within the WDP Area are intended to be outside of the water-dependent use zone and public sidewalks along Northern Avenue will exceed the referenced twelve foot (minimum) – see CFDA Public Open Space NPC.

While Massport does not agree that the BRA has design review and approval authority on Massport property, Massport fully intends that Harborwalk be legible and implemented so that the public is presented with a design, including signs and light fixtures, that is consistent with the established Harborwalk program. Massport fully intends, as it has to date, to coordinate with the BRA staff on matters of planning and design. In cases where private developers of Massport property voluntarily seek Article 80 approvals, should a Harborwalk component be included, it would be subject to design review approvals by the BRA.

- b) *Comment:* Are the plazas identified at the foot of the Fish Pier open to the public? (4)

Response: Massport intends to extend Harborwalk along Northern Avenue in this area as shown on Figure 7, Proposed Open Space Plan Elements. With respect to the plazas shown on the Fish Pier in the Preliminary WDP, they are outside the WDP boundary and Massport has not yet determined the exact

geometry, area, shape, or controls that may be necessary regarding public use. To avoid confusion, Massport has dropped the plazas from Figure 7.

- c) *Comment:* Concern that 2.1 acres of open space is insufficient to offset the effects of nonwater-dependent development within the working port, especially in that the parks would appear to serve office building occupants and not residents. (1)

Response: Massport agrees that the South Boston Waterfront Park should serve a larger role than providing a lunchtime refuge for local office workers. Section 1.3.3 of the Final WDP provides more information regarding the status of design and programming discussions for the park. This section addresses Massport's intentions to make the park distinctly attractive for a broad audience of visitors and local and regional residents as well as area workers.

Massport is moving ahead in the design of South Boston Waterfront Park in a manner that in character and program will complement, not duplicate, Eastport Park. As a result, a much wider range of public open space resources will be provided that can support a wider range of activities including those that would be attractive to residents of the traditional South Boston neighborhood, residents of the Fort Point Channel area, future residents of Commonwealth Flats, and others. Three public meetings and two invited workshops have been conducted on the program and design of South Boston Waterfront Park. Together, the two parks will provide almost three acres of public open space. Massport has addressed the amount, location and overall program for open space in a number of documents including the CFDA Open Space NPC that was certified by EOE late in 2000. The Parcel F-2, G and J EENF and PNF, which have been recently filed, acknowledge that public open space needs to be provided as part of the project to address the needs of residents and the public in a manner that complements the open space being provided elsewhere in the area.

The Written Determination for the World Trade Center project is explicitly clear in allowing the area of Eastport Park ("D Street Open Space") to be used in the calculation of open space for the balance of Massport property within jurisdiction. As shown in the open space calculations in the Final WDP (Section 2.5.2 and Figure 23), none of the Eastport Park open space is expected to be needed to satisfy open space requirements within the WDP area.

- d) *Comment:* Reconsider allocation of open space so that a clear pedestrian connection can be established between MBTA Transitway stop at the Connector Road and the waterfront, including additional open space at the intersection of Congress Street and Northern Avenue, between Parcels J and K-1. (3)

Response: Massport agrees that a clear and strong pedestrian connection supported by public open space and well designed sidewalks and street crossings is necessary between Northern Avenue and the Transitway stop east of D Street. These features will help create an important pedestrian harbor access corridor from the Transitway stop, which is outside of the WDP Area, to the Harborwalk along Northern Avenue. Massport has planned (see Figure 8, Proposed Open Space Plan Elements, and Parcel K Performance Standards, Figures 11 to 18) the Congress Street open space on the western side of Congress Street to better align with the pedestrian movements between the waterfront and the Transitway stop, take advantage of favorable solar orientation, and provide additional public open space that supports the planned residential use on Parcel J. Parcel H, which is outside of Chapter 91 jurisdiction, also will need to support the pedestrian movement along its eastern edge in a manner that is safe and inviting. Provision of additional public space will be considered as part of the solution to create this connection.



Pedestrian Access to the Park

- a) *Comment:* Because Waterfront Park is encircled by actively traveled streets, will there be a plan to designate the preferred pedestrian routes to and from the park? (4)

Response: With respect to pedestrian access to and around South Boston Waterfront Park, Massport's design team is working to provide safe and inviting street crossings to and from the park that function as north-south and east-west pedestrian corridors. In addition, the park will provide for appropriate zones for receiving pedestrians at its edges and for pedestrian movement through the park. To date, Massport and the park design team have held a series of public meetings on the park design as well as an in-depth work sessions with abutters, design professionals, and BRA staff.



Programming the Park Space

- a) *Comment:* Who will be responsible for the Park's programming? (4)

Response: Massport will be responsible for programming activities for the South Boston Waterfront Park (See Section 2.5.4, Management and Maintenance Plan for Public Open Spaces and Facilities).



Vehicular Movements around the Fish Pier

- a) *Comment:* What specific measures will be implemented to minimize the traffic impacts generated by non water-dependent development on truck traffic to and from the Fish Pier? (1)

Response: Massport's planning for this area, as evidenced in the Commonwealth Flats Strategic Plan and the CFDA environmental filings, has accounted for continuing maritime industrial use at the Fish Pier. The CFDA traffic modeling assumed the present mix of maritime industrial uses and office use on upper building floors. The design of streets and intersections in the area, as well as commitments to maintain protections for truck routes, account for continuing truck activity to and from the Fish Pier. For example, the engineering team currently designing the new street system for the area is examining measures to ease turning movements for large trucks into and out of the Fish Pier entrance on Northern Avenue.

Massport has developed district wide standards for roadways and intersections, in cooperation with the City, to address the compatibility of vehicular and pedestrian movements. These standards will include such elements as clearly marked and appropriately located crosswalks paved with upgraded materials (concrete pavers), curb "neckdowns" at intersections where appropriate to reduce pedestrian crossing distance, a consistent system of truck route signs, pedestrian crossing signals and signs, a continuity strip for orderly location of streetscape elements, coordinated street and sidewalk lighting, and other features. Northern Avenue is planned to be redesigned to include two travel lanes in each direction, plus curbside parallel parking in appropriate locations. Currently, Northern Avenue has only one travel lane in each direction between D Street and the Massport Haul Road. These improvements will allow the creation of a left turn lane at intersections where it is needed, which will improve overall traffic flow and benefit Fish Pier truck traffic.

Transition Zone at Parcel K

- a) *Comment:* The Plan appears to be inconsistent with Secretary's certificate on the Final Commonwealth Flats EIR. Strongly urge Massport to revisit the plan and program something other than a commercial use for Parcel K. A transitional use such as a Massport institutional use, which would generate fewer traffic impacts, would be a more appropriate choice. (2)

Response: Massport has been consistent in its proposals to allow a mix of uses on Parcel K since its Commonwealth Flats Development Area (CFDA) EENF filed in March of 1999, which specifically proposed a structured parking garage on Parcel K-2, and its CFDA Draft EIR filed in January of 2000, which proposed a mix of commercial, residential, parking, and industrial/service uses on Parcels K-1 and K-2. To address the noted concerns regarding proposed uses for Parcels K-1 and K-2, Massport is now proposing to eliminate residential use on either parcel, where formerly residential use was prohibited only on Parcel K-2. Furthermore, Section 2.2.1 of the Final WDP and its accompanying table and figures define allowed uses and performance standards that accomplish two key objectives: 1) minimize vehicular and pedestrian traffic on and near the Massport Haul Road, and 2) ensure Parcel K-2 is an effective buffer between maritime industrial uses and commercial/residential uses to its east and west, respectively. Massport continues to plan for a district maintenance facility as part of the development of Parcel K-2.

Water-Dependent Traffic

- a) *Comment:* Provide an analysis of the traffic impacts of higher buildings containing residential use on the water-dependent traffic of both Fish Pier and BMIP. (2)

Response: The height substitution does not allow more units to be built within the area of jurisdiction. Specifically, Table 3 and Section 2.6.3 of the Final WDP requires that the total amount of building square footage within the WDP area be no more than that which could have been allowed under the Chapter 91 Regulations. Massport undertook a comprehensive assessment of traffic in the area as part of the CFDA permitting process. This analysis demonstrated the ability of the planned street system to accommodate both truck traffic and traffic associated with the proposed mixed-use development within Commonwealth Flats. Fundamental to this analysis were the maritime industrial uses in the area, including those within BMIP, along with the assumption that the uses on the Fish Pier might remain as seafood processing with associated truck activity.

- b) *Comment:* Allow no more curb cuts on Massport Haul Road associated with proposed development on parcel "K" and "D". (2)

Response: Allowed uses that would be able to have a curb cut to the Haul Road are described in detail in Section 2.2.1 and its accompanying tables and figures. Massport's D Parcels within Commonwealth Flats are well beyond the WDP Area, however, access to these parcels will be limited.

- c) *Comment:* Allow no general traffic access to Haul Road from Connector Road, and limit the eastern end access to MBTA vehicles only. (2)

Response: A detailed description of Connector Road use, including a prohibition of general traffic from accessing the Haul Road at the eastern end, was provided in the CFDA Final EIR and is reflected in the guidelines for vehicular circulation at Parcel K in Figure 16. Massport's proposed vehicular operations for the Connector Road as defined in the FEIR prohibit the movement of general traffic between the Connector Road and the Massport Haul Road. In addition to MBTA vehicles, only building service vehicles will be allowed to turn from the Haul Road to the Connector Road to make

deliveries to the K parcels. Service vehicles will not be allowed to make the reverse move from the Connector Road to the Haul Road; only MBTA vehicles will be allowed to travel in this direction.

- d) *Comment:* Protect and clearly designate existing truck routes under Massport control. Remove "No Trucks" signs along Northern Avenue. (2)

Response: The new roadway system that the CA/T Project will complete in the area, along with Massport's infrastructure program, will significantly improve connections for trucks to the interstate highway system. All roadways that trucks will use on a regular basis in the area, including Northern Avenue, D Street and Massport Haul Road, are being designed with appropriate curve radii to provide for smooth truck operations. Massport has and will continue to designate and protect truck routes under its control in South Boston, including the provision of truck routes signs. Massport has played an active role with the City of Boston, TBHA, and others through the South Boston Truck Routes Working Group to discuss the protection and designation of appropriate truck routes today and in the future. Massport has removed the truck prohibition signs in question. Massport originally installed these signs in conjunction with the CA/T Project to keep project trucks carrying excavated soil to the Massport Marine Terminal from using Northern Avenue. Sections 1.0 and 1.1 of the Final WDP make note of the location of the Area adjacent to the BMIP and the South Boston Designated Port Area. More information regarding truck routes has been added to Section 1.3.2.



Proposed Water Transportation

- a) *Comment:* "Touch and go" water transportation service contemplated adjacent to the Jimmy's Harborside site must be carefully implement so as to minimize any impacts on the existing maritime uses associated with the Fish Pier. (3)

Response: Massport has been clear in the MOU, that while "touch-and-go" type vessel service may be potentially desirable, the harbor area immediately north of Jimmy's Harborside Restaurant must first provide for safe and efficient operations of the Fish Pier fishing fleet and other working vessels. The MOU states that to consider touch-and-go operations at this location within a DPA it must be demonstrated that they have minimal impacts on working vessels. Since this area is not located within the formal boundaries of the WDP Plan Area, Massport would more specifically address such issues in a Chapter 91 licensing process if it chooses to propose touch-and-go vessel operations in that watershed.

- b) *Comment:* In determining offsets for nonwater-dependent use impacts on the working port, consideration should be given towards a subsidy for the "Cultural Loop" water transportation, identified in the *1996 Port of Boston Economic Development Plan*. (2)

Response: Massport, as co-sponsor of the *Port of Boston Economic Development Plan* with the City of Boston, subsidized and managed the implementation of the cultural loop service as a pilot project known as *Boston by Boat*. After just two complete operating seasons in 1995 and 1996, the service was close to financial sustainability. At that point, the operator and the participating private institutions chose to discontinue the service. Massport currently has underway a watershed study for Commonwealth Flats that is evaluating existing and potential future water transportation services and facilities in the harbor to the north of the WDP Area.

Section 2.6 of the WDP proposes suitable offsets to address the potential impacts of the height substitution, the single proposed substitution within the WDP Area.



Displacement of WDI Supporting Uses

- a) *Comment:* Has there been any analysis done by Massport on the potential effect of the displacement of existing businesses which provides support to the marine industrial operations on the Fish Pier? (1)

Response: The majority of the businesses on parcels G and J are restaurants and a small convenience store serving the district's workers, including Fish Pier employees. The development plan anticipates very similar ground floor uses, perhaps including some of the very same restaurants returning to new structures. It is not anticipated that these businesses will be any more or less sensitive to Fish Pier operations than the existing uses. Restaurants have successfully operated at this location, at Jimmy's Harborside adjacent to the Fish Pier, and even on the Fish Pier itself, for many years. Other businesses include an automobile repair shop and a windshield replacement firm. The automobile repair shop does provide a convenient location for repairs and maintenance, but numerous repair shops are located nearby in South Boston, within a five to ten minute drive from the pier. It should be noted that Massport currently has underway a master planning effort for the nearby Massport Marine Terminal that specifically is examining alternatives to expand and support maritime industrial uses in the area.

- b) *Comment:* Has there been any planning on the potential effect of nonwater-dependent businesses and corollary development on the existing maritime industrial uses on the Fish Pier? (1)

Response: See the above response and responses addressing water-dependent traffic issues.



District Service Fee

- a) *Comment:* How do the land lessee's payments to Massport, earmarked for costs associated with construction, maintenance and replacement of public amenities, relate to the potential DEP requirements for port related subsidies for nonwater-dependent development? (4)

Response: The Massport "district service fee" is required through ground leases and would complement, not replace any other required contributions by developers. The Northern Avenue WDP Area is not within the DPA, and therefore, the reference to the port-related support required by the MOU for any nonwater-dependent projects built within a DPA is not relevant in this case.



Ground Floor Uses

- a) *Comment:* All ground Floor uses should be programmed as Facilities of Public Accommodation (FPA). (2)

Response: As described in Section 2.5.3 of the Final WDP, projects within the WDP Area will exceed the requirements of Chapter 91 for FPAs. Page five of DEP's letter to Massport on July 13, 2001 (see attached) acknowledges the need to consider the proper approach to FPA use for Parcel K-2 consistent with its status as the transition between commercial and maritime industrial uses.



Residential Uses

- a) *Comment:* All proposed residential uses on upper floors should be rental with leases not to exceed two years. Such restrictions should be a part of the ground lease agreement between Massport and the developer of the building. (2)

Response: Massport agreed to these commitments in the Preliminary WDP. They are reaffirmed in Section 2.2.2 of the Final WDP. In addition, residential use is no longer an allowed use on Parcel K-1 (in addition to the prohibition of residential use on Parcel K-2 agreed to in the Preliminary WDP).

- b) *Comment:* Any residential lease agreement should contain language requiring the acknowledgment of the lessee that the rental unit is located on designated truck routes and adjacent to a Marine Economic Reserve Zone. (2)

Response: See above response.



Public Benefits Methodology

- a) *Comment:* There was no methodology provided for allocating and tracking the public benefits assessed for nonwater-dependent use, as required by Section (c). (2)

Response: Massport and DEP have conferred to establish a methodology for allocating and tracking the Public Benefits required for each non-water dependent use. The description of the methodology appears in Section 2.5.1 of the Final Waterfront Development Plan.



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

JANE SWIFT
Governor

BOB DURAND
Secretary

LAUREN A. LISS
Commissioner

July 13, 2001

Richard Henderson, Director
Planning and Development
Massachusetts Port Authority
One Harborside Drive, Suite 200S
East Boston, MA. 02128-2909

Re: Preliminary Northern Avenue Waterfront Development Plan

Dear Mr. Henderson:

The Preliminary Northern Avenue Waterfront Development Plan ("Plan"), an outcome of a process articulated in the Memorandum of Understanding ("MOU") between the Department of Environmental Protection (DEP) and Massport, executed on 15 March, 2001, proposes to redevelop certain parcels in a 3.3 acre geographic area bounded by Northern Avenue, D Street South and Parcel K-2, adjacent to the Massport Haul Road, on lands controlled by Massport in South Boston. As explained in the Plan, the proposed uses will include office, residential, hotel, retail, open space and a Massport Maintenance facility.

The Department received five written comments during the public comment period associated with the Plan, which was noticed in the 24 March, 2001 Environmental Monitor. Massport submitted the Plan to the Department on 28 March, and conducted a public meeting at the Black Falcon Cruise Terminal in South Boston on 4 April, 2001 to address public comments on the Plan. Pursuant to Article 3.3(B) of the referenced MOU between the Department of Environmental Protection (DEP) and Massport, the Department has summarized those written comments below. To conform with the procedures established in the MOU, Massport must conduct a substantive review of these comments, as well as those received in testimony at the public meeting, and explain in the text of the Final Northern Avenue Waterfront Development Plan ("Final Plan") the extent to which they have been incorporated in the Final Plan to the maximum reasonable extent, or, if not incorporated, the reasons therefore.

This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.

DEP on the World Wide Web: <http://www.state.ma.us/dep>

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Upon completion of the Plan revisions, Massport will submit the Final Waterfront Development Plan (“Final Plan”) to the Department for its review and approval, pursuant to Article 3.3(B) of the MOU. Subsequent to the Final Plan approval, Massport or its tenant/lessee may submit a Chapter 91 License application for any project within the jurisdiction of the Final Plan.

The commenters were as follows: (1) Conservation Law Foundation (CLF); (2) The Boston Harbor Association (TBHA); (3) Office of Coastal Zone Management (CZM); (4) Boston Redevelopment Authority (BRA) and (5) Stevan Goldin.

The issues addressed are as follows, accompanied by the groups who made them keyed to the list above:

Financial Consequences on Working Port

- a) Given the paucity of available land for use in the existing working port, why is nonwater-dependent development of key port properties necessary? (5)
- b) Will the funds raised as a result of these developments be earmarked for a dedicated port development fund? (5)
- c) Will there be funds invested in restoring rail service to the working port? Will there be an effort to purchase different, strategically located port properties to offset the loss of redeveloped Northern Avenue parcels? (5)

Building Height/shadow impacts

- a) For consistency w/ the South Boston Municipal Harbor Plan (SBMHP), shadow impacts should be analyzed at 5:00 p.m. as well as at the other times (9 am, 12:00 pm, 3:00 pm) provided. As well, shadow impacts at both the summer and winter solstices, and at autumnal equinox should be provided. Provide impact comparisons of baseline (c.91 allowable) heights vs. proposed building heights. (4)
- b) Analysis should be provided that shows the shadow impacts of entire buildings, not just those portions of buildings within c.91 jurisdiction) (1)&(2).

Open space

- a) Make public sidewalk and open space plans consistent with Seaport Public Realm Plan (SPRP) and the SBMHP Public Access Network (4)
- b) Are the plazas identified at the foot of the Fish Pier open to the public? (4)
- c) Concern that 2.1 acres of open space is insufficient to offset the effects of nonwater-dependent development within the working port, especially in that the parks would appear to serve office building occupants and not residents. (1)
- d) Reconsider allocation of open space so that a clear pedestrian connection can be established between MBTA Transitway stop at the Connector Road and the waterfront, including additional open space at the intersection of Congress Street and Northern Avenue, between Parcels J and K-1. (3)

Pedestrian access to park

- a) Because Waterfront Park is encircled by actively traveled streets, will there be a plan to designate the preferred pedestrian routes to and from the park? (4)

Programming of the park space

- a) Who will be responsible for the park's programming? (4)

Vehicular movements around the Fish Pier

- a) What specific measures will be implemented to minimize the traffic impacts generated by nonwater-dependent development on truck traffic to and from the Fish Pier? (1)

Transition Zone at Parcel K

- a) Plan appears to be inconsistent with Secretary's Certificate on the Final Commonwealth Flats EIR. Strongly urge Massport to revisit the plan and program something other than a commercial use for Parcel K. A transitional use, such as a Massport institutional use, which would generate fewer traffic related impacts, would be a more appropriate choice.(2)

Water-dependent Traffic

- a) Provide an analysis of the traffic impacts of higher buildings containing residential uses on the water-dependent traffic of both Fish Pier and BMIP. (2)
- b) Allow no more curb cuts on Massport Haul Road associated with proposed developments on Parcels "K" and "D." (2)
- c) Allow no general traffic access to Haul Road from Connector Road, and limit the eastern end access to MBTA vehicles only. (2)
- d) Protect and clearly designate existing truck routes under Massport control. Remove "No Trucks" signs along Northern Avenue. (2)

Proposed Water Transportation

- a) "Touch and go" water transportation service contemplated adjacent to the Jimmy's Harborside site must be carefully implemented so as to minimize any impacts on the existing maritime uses associated with the Fish Pier. (3)
- b) In determining Offsets for nonwater-dependent use impacts on the working port, consideration should be given towards a subsidy for the "Cultural Loop" water transportation, identified in the 1996 Port of Boston Economic Development Plan. (2)

Displacement of WDI supporting uses

- a) Has there been any analysis done by Massport on the potential effect of the displacement of existing businesses which provide support to the maritime industrial operations on the Fish Pier? (1)
- b) Has there been any planning on the potential effects of nonwater-dependent businesses and corollary development on the existing, maritime industrial uses on the Fish Pier? (1)

District Service Fees

- a) How do the land lessee's payments to Massport, earmarked for costs associated with construction, maintenance and replacement of public amenities, relate to the potential DEP requirements for port related subsidies for nonwater-dependent development? (4).

Ground Floor Uses

- a) All ground floor uses should be programmed as Facilities of Public Accommodation (FPA). (2)

Residential Uses

- a) All proposed residential uses on upper floors should be rental with leases not to exceed two years. Such restrictions should be a part of the ground lease agreement between Massport and the developer of the building. (2)
- b) Any residential lease agreements should contain language requiring the acknowledgement of the lessee that the rental unit is located on designated truck routes and adjacent to a Marine Economy Reserve Zone. (2)

Public Benefits Methodology

- a) There was no methodology provided for allocating and tracking the public benefits assessed for nonwater-dependent use, as required by Section 3.2(c). (2)

In the BRA's 24 April comment letter, it sought further clarification from the Department as to whether lands leased, but not owned, by Massport were subject to the exemptions described pursuant to 310 CMR 9.03(3). It is the position of the Department that the exemptions of 310 CMR 9.03(3) apply for maritime industrial uses, however, the Department would require a letter of assent from the property owner, as it would for any applicant proposing activities on lands that they do not own, pursuant to 310 CMR 9.11(3)(a).

Consistent with the methods employed throughout the South Boston Municipal Harbor Plan (SBMHP) process in the analysis and quantification of nonwater-dependent impacts, the Department will require offsets for substitutions requested within its jurisdiction. The jurisdictional boundaries of this Waterfront Development Plan were established pursuant to a 30 April, 1998 Determination of Applicability issued by the Department to Massport. The effect of that Determination limited the Department's c.91 jurisdiction to the boundaries displayed in the Plan. Filled tidelands more than 250 feet landward of the existing mean high water shoreline and separated by from the shoreline by a public way were excluded from jurisdiction because they fall under the definition of Landlocked Tidelands, pursuant to 310 CMR 9.02. It is the Department belief that the points raised during the public comment period concerning the impacts of building heights that exceed limits pursuant to 310 CMR 9.51(3)(e) but are located landward of its jurisdiction, are more appropriately reviewed and mitigated through the City's Article 80 Design review process.

The Department acknowledges that, pursuant to its 16 August, 1995 issuance of the World Trade Center Written Determination, Massport is entitled to utilize portions of the D Street Open Space (Eastport Park) as an offset for other nonwater-dependent development impacts proposed within the planning area. This understanding was conceived of as a means by which the Department could secure project-related public benefits in advance of the construction of the related nonwater-dependent project. As stipulated in the Memorandum of Understanding (“MOU”) between Massport and the Department, public benefits may be allocated either prospectively, retrospectively or simultaneously, as long as the provision of benefits are done within twelve months of the completion of the project to which the public benefit is to be allocated. It is incumbent on Massport to describe to the Department in writing the nature of the public benefit, the time frame for its completion, the proportionate allocation of the benefit to a specific project, and the amount available, if any, to be allocated to future projects. The Department will carefully review these proposals for conformance to the methodology described in the MOU, and track the accrual and use of “banked” public benefits for subsequent projects.

The Department will continue to work with Massport and commenter to develop appropriate FPA uses for the ground floor of parcel K-2, which has been identified as a transitional parcel in the Secretary’s Certificate. Because all the tidelands within the jurisdiction of the Plan are Commonwealth tidelands, the ground floors of all buildings in the Plan must be programmed as FPAs. The Department must ensure through the license review process that any proposed public use on the ground floor of this parcel be completely consistent with the transitional uses envisioned in the Certification.

The Department looks forward to the submission of the Final Northern Avenue Waterfront Development Plan. Please call Ben Lynch @292-5615 or me if you have any questions about the foregoing.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon M. Pelosi". The signature is stylized and includes a small mark that looks like "TAP" at the end.

Sharon M. Pelosi

Program Chief

Waterways Regulation Program

cc: Office of Mayor Thomas Menino
Linda Haar, BRA
Tom Skinner, CZM
Vivien Li, TBHA
Stephanie Pollack, CLF
Stevan Goldin
Pamela Harvey, DEP
WRP files