

MEMORANDUM

BOARD APPROVED

NOVEMBER 30, 2017

TO: **BOSTON REDEVELOPMENT AUTHORITY**
D/B/A BOSTON PLANNING & DEVELOPMENT AGENCY (BPDA)*
 AND BRIAN P. GOLDEN, DIRECTOR

FROM: JONATHAN GREELEY, DIRECTOR OF DEVELOPMENT REVIEW
 MICHAEL CHRISTOPHER, DEPUTY DIRECTOR FOR DEVELOPMENT
 REVIEW/GOVERNMENT AFFAIRS
 TIM CZERWIENSKI, PROJECT MANAGER
 MICHAEL CANNIZZO, SENIOR ARCHITECT/URBAN DESIGNER
 VIKTORIJA ABOLINA, SENIOR PLANNER

SUBJECT: PUBLIC HEARING TO CONSIDER THE LANDMARK CENTER PROJECT IN
 THE FENWAY NEIGHBORHOOD AS A DEVELOPMENT IMPACT PROJECT

SUMMARY: This Memorandum requests, that the Boston Redevelopment Authority ("BRA") d/b/a/ Boston Planning & Development Agency ("BPDA"): (1) approve the Landmark Center Project (the "Proposed Project") as a Development Impact Project ("DIP") within the meaning of Section 80B-7 of the Boston Zoning Code (the "Code"); (2) authorize the Director issue a Determination waiving the requirement of further review pursuant to Article 80A-6 (d) and Section 80B-5.3(d) of the Code for the Proposed Project; (3) authorize the Director of the Authority to issue one or more Certifications of Compliance or Partial Certifications of Compliance for the Proposed Project pursuant to Section 80B-6 of the Code, upon successful completion of Article 80 Large Project Review; (4) adoption of a Ninth Amendment to Report and Decision on the Landmark Center 121A Project; and (5) authorize the Director to enter into a Development Impact Project Agreement, Cooperation Agreement, Boston Residents Construction Employment Plan, along with any and all other agreements and documents that the Director deems appropriate and necessary in connection with for the Proposed Project.

* Effective October 20, 2016, the BRA commenced doing business as BPDA.

PROJECT SITE

The project site, commonly referred to as Landmark Center, is located at 309 Park Drive/201 Brookline Ave, in the Fenway neighborhood of Boston, consisting of an area bounded by Fullerton Street to the northeast, Brookline Avenue to the southeast, Park Drive to the southwest, and the MBTA Green Line (D branch) to the northwest (the "Project Site"). The Project Site currently contains a retail and office complex, a movie theater and additional retail space, and related parking areas in the historic Sears Roebuck and Co. building (the "Sears Building").

DEVELOPMENT TEAM

The Development Team for the Proposed Project consists of:

Proponent/Applicant: Fenway Enterprises LLC and Landmark Center
Owner Limited Partnership
Abe Menzin

Architect: Elkus Manfredi Architects
David Manfredi
John Taylor
Mark Sardegna

Landscape Architect: LeBlanc Jones
Keith LeBlanc

Legal Counsel: Goulston & Storrs
Douglas Husid
Marvin Cine
William Dillon

Permitting Consultants: VHB
Stephanie Kruel

Transportation Consultant: VHB
David A. Bohn

Civil Engineer: VHB
Mark Junghans

LEED Consultant: The Green Engineer
Erik Ruoff

Geotechnical Consultant: McPhail Associates
Amy Apfelbaum

Mechanical Consultant: WSP
Tom Burroughs

PROJECT HISTORY

On December 5, 1996, the BRA voted to adopt a Report and Decision (the "Report and Decision") on a project known as the Landmark Center Chapter 121A Project (the "Project"), formerly known as the Sears Catalogue Store building. Such vote was approved by the Mayor of the City of Boston (the "Mayor") on December 24, 1996 and the vote, as so approved, was filed with the Clerk of the City of Boston (the "City Clerk") on December 24, 1996.

The original project consisted of the rehabilitation of the Sears Catalogue Store building into a mixture of commercial, retail, office and parking uses containing approximately 602,340 square feet of office space and public spaces, approximately 171,600 square feet of retail space, a 67,000 square foot cinema complex, an approximately 10,000 square foot day care center, an approximately 27,600 square foot health club, a service and loading area of approximately 43,200 square feet and parking for 1,790 cars, which includes a combination of designated parking spaces and valet or attendant parking, located in the Fenway neighborhood of the City of Boston bounded by Park Drive, Brookline Avenue, Fullerton Street and the Riverside or "D" branch of the MBTA Green Line, as more particularly described in the Report and Decision. Abbey Landmark Abbey Owner LLP, a Massachusetts registered limited liability partnership (the "Abbey Owner LLP"), was designated in the Report and Decision as the Chapter 121A entity to own, operate and manage the Project.

The BRA and Abbey Owner LLP, Abbey Landmark Developer LLC and Abbey Landmark Operating LLC entered into a Regulatory Agreement dated as of February 28, 1997 (the "Regulatory Agreement"). In addition, the City of Boston and the Abbey Owner LLP entered into a Massachusetts General Laws Section 6A Contract dated as of February 28, 1997 (the "6A Contract").

On March 9, 2000, the BRA voted to adopt a First Amendment to Report and Decision on the original Project, (hereinafter referred to as the "First Amendment"). Such vote was approved by the Mayor on March 14, 2000 and the vote as so approved was filed with the City Clerk on March 16, 2000. The First Amendment authorized the relocation of approximately 150 approved parking spaces to a new fifth floor parking level constructed above the existing warehouse structure and approval of related zoning deviations (the "Additional Parking Level"). The Additional Parking Level has not been constructed and the owner has previously agreed that it shall not be entitled to construct the Additional Parking Level at the Project without further approval of the BRA.

On April 25, 2000, the BRA voted to adopt a Second Amendment to the Report and Decision on the Project (hereinafter referred to as the "Second Amendment"). Such vote was approved by the Mayor on April 26, 2000 and the vote as so approved was filed with the City Clerk on April 27, 2000. The Second Amendment authorized additional zoning deviations for the Project in order to allow the Project developers to lease out certain space for the previously approved office and research uses by college/university users.

In April 2001, the Abbey Owner LLP notified the BRA that it restructured its ownership interests in connection with a financing and provided the BRA with an updated Disclosure Statement. The restructuring of the ownership interests did not change control of any of the controlling ownership entities of the Project and as a result, Abbey Owner LLP became Abbey Landmark Owner Limited Partnership, a Massachusetts limited partnership (hereinafter referred to as the "Abbey Owner LP"), whose general partner is Abbey Landmark Owner, Inc., a Massachusetts corporation. The Regulatory Agreement and 6A Contract both dated as of February 28, 1997 were assigned from Abbey Owner LLP to the Abbey Owner LP.

On August 10, 2006, the BRA voted to adopt a Third Amendment to the Report and Decision on the Project (hereinafter referred to as the "Third Amendment"). Such vote was approved by the Mayor on August 14, 2006 and the vote as so approved was filed with the City Clerk on August 16, 2006. The Third Amendment authorized further additional zoning deviations for the Project in order to permit conditional clinic and clinical laboratory uses by hospital users in five (5) floors of the tower portion of the Project, which contains approximately 16,000 square feet.

On December 14, 2010, the BRA voted to adopted a Fourth Amendment to the Report and Decision on the Project (hereinafter referred to as the "Fourth Amendment"). Such vote was approved by the Mayor on December 16, 2010 and the vote as so approved was filed with the City Clerk on December 21, 2010. The Fourth Amendment approved a Transfer Application by Landmark Center Owner Limited Partnership ("Owner") pursuant to which the Owner acquired the Project from Abbey Owner LP. In connection with the approved transfer, the Owner entered into a Regulatory Agreement with the BRA dated as of February 1, 2011 and the Section 6A Contract was assigned from Abbey Owner LP to the Owner.

On March 13, 2012, the BRA voted to adopted a Fifth Amendment to the Report and Decision on the Project (hereinafter referred to as the "Fifth Amendment"). Such vote was approved by the Mayor on March 14, 2012 and the vote as so approved was filed with the City Clerk on March 19, 2012. The Fifth Amendment authorized a zoning deviation to authorize general office use and agency/professional use by a hospital at the Project.

On January 16, 2014, the BRA voted to adopted a Sixth Amendment to the Report and Decision on the Project (hereinafter referred to as the "Sixth Amendment"). Such vote was approved by the Mayor on January 22, 2014 and the vote as so approved was filed with the City Clerk on January 24, 2014. The Sixth Amendment approved the Project expansion, authorized related zoning deviations in connection with the Project, and designated Landmark Center Development Limited Partnership as an additional urban renewal entity authorized, together with Landmark Center Owner Limited Partnership, to carry out the Project.

On April 16, 2015, the BRA voted to adopted a Seventh Amendment to the Report and Decision on the Project (hereinafter referred to as the "Seventh Amendment"). Such vote was approved by the Mayor on April 17, 2015 and the vote as so approved was filed with the City Clerk on April 27, 2015. The Seventh Amendment authorized the granting of certain additional zoning deviations and amendment of certain existing zoning deviations in connection with the Project.

On July 16, 2015, the BRA voted to adopt an Eighth Amendment to the Report and Decision on the Project (hereinafter referred to as the "Eighth Amendment"). Such vote was approved by the Mayor on July 17, 2015 and the vote as so approved was filed with the City Clerk on July 17, 2015. The Eighth Amendment authorized the expansion of a hospital use at the Project.

PROJECT MODIFICATION

The Sixth Amendment allowed modification to the original Project including: 600 residential units, 110,000 square feet of new retail use, 75,000 square feet of grocery use, 15,000 square feet of new office use and new subsurface parking, for which the Applicant proposed to provide up to 1,500 striped structured parking spaces with additional capacity with managed valet operations (the “2014 Project Modification”).

Select components of the 2014 Project Modification are currently being implemented in the initial phase of the Project, consisting of the creation of approximately 1.1-acres of open space by converting surface parking to landscaped open space, increasing the total amount of open space to 2.2 acres site-in the Project wide and renovating and comprehensively remerchandising the ground floor retail along Park Drive and Brookline Avenue, including new restaurants, a destination food hall, and other interior office and garage renovations, as part of the initial phase of the Project (the “Phase One”). Phase One has received BPDA review and approval, pursuant to Article 80 of the Code.

On November 29, 2017, the Landmark Center Owner Partnership and Landmark Center Development Limited Partnership filed an application proposing modification to the Project including two primary elements. First, in lieu of the original program, which included four new residential buildings over a retail podium along two sides of the building, the current program includes one new office/lab building along the Fullerton Street side of the building only. Second, the original program required demolition of the garage and replacement of the parking below grade. The current plan no longer requires demolition of the garage.

The project modification will be implemented as the second phase of the Project and will include (i) the construction of a new office/R&D building, consisting of approximately 506,000 square feet; (ii) the creation of a new public plaza at the southwest corner of Brookline Avenue and Fullerton Street, which will contribute to a total of approximately 0.24 acres of new open space; and (iii) related streetscape and site improvements, all as more specifically set forth in the plans to be approved by the BPDA pursuant to its Certification of Approval Consistency, and to comprise one or more separate Sub-Parcels, as delineated on the Subdivision Plan to be approved by the BPDA (together, the “Phase Two”).

DESCRIPTION AND PROGRAM

The Proposed Project includes the following changes to the 2014 Approved Project, as described in the Notice of Project Change (the "NPC") filed by Fenway Enterprises LLC, on behalf of Samuels & Associates (the "Proponent") on August 30, 2017:

- Maintain and reconfigure the existing parking garage.
- Eliminate the 600 residential units in four (4) towers.
- Reduce the retail and grocery components, including eliminating the retail podium.
- Expand the office component.

Phase One of the 2014 Approved Project is currently under construction. The Proposed Project as described in the NPC constitutes Phase Two.

The Proposed Project as described in the NPC calls for the demolition of the building on the southwest corner of Brookline Avenue and Fullerton Street and the construction in its place of a fourteen (14) story, approximately 208 feet tall, 506,000 square-foot office and laboratory building with retail uses on the first two (2) floors. The new building will be constructed around and above the existing parking garage, with some renovation to the garage entrance and demolition of the exterior ramps. The new building will include an approximately 6,000 square-foot plaza on the corner of Brookline Avenue and Fullerton Street.

ARTICLE 80 REVIEW PROCESS

The 2014 Approved Project was designed to be constructed in phases. The first phase included: creation of approximately 1.1 acres of open space on an existing surface parking lot; renovation and remerchandising the ground floor retail along Park Drive and Brookline Avenue; and other interior office and garage renovations. Vertical expansion would occur in subsequent phases. On May 11, 2017, the BPDA voted its authorization for the Director of the BPDA to issue a Partial Certification of Compliance pursuant to Article 80, Section 80B-5.4(c)(iv) of the Code for Phase One, and related actions including authorization of a conveyance by the BPDA in connection with the Project Site. On May 26, 2017, the Director of the BPDA issued a Partial Certificate of Compliance for Phase One.

The Proponent filed the NPC for the Proposed Project on August 30, 2017. Notice of the receipt by the BPDA of the NPC was published in the Boston Herald on

August 30, 2017, initiating a thirty (30) day public comment period, which was extended until October 6, 2017. The notice and the NPC were sent to the City's public agencies pursuant to Section 80A-2 of the Code.

Pursuant to Section 80B-5.3 of the Code, a Scoping Session was held on September 12, 2017 with the City's public agencies during which the Proposed Project was reviewed and discussed.

On September 27, 2017, the BPDA held a Public Meeting to discuss the NPC at 136 Brookline Avenue. The meeting was advertised in the Boston Sun, listed on the BPDA website, and distributed to the Fenway email list.

An Impact Advisory Group ("IAG") meeting was held on October 2, 2017. The IAG meeting was listed on the BPDA website, and distributed to the Fenway email list.

The Proposed Project also comes under jurisdiction of the Boston Civic Design Commission ("BCDC") pursuant to Article 28 of the Code. The Proposed Project was approved by the BCDC on November 7, 2017.

FINANCING FOR THE PROJECT

The total cost of Phase One is approximately \$150 million for Phase One and \$350 million for the Phase Two. The Project is currently financed via a first mortgage from two life insurance lenders. The Proponent anticipates that the funding for the Project Modifications will include financing from the existing lenders through a modification of the existing loan with additional loan proceeds and/or through new lenders to fund new development costs for Phase Two. In addition, certain equity will be contributed to the Project by affiliates or entities controlled by Samuels & Associates Development LLC, clients advised by J.P. Morgan Investment Management, Inc. and/or JPMorgan Chase Bank. If additional funding becomes necessary, the Proponent intends to seek mortgage financing from additional institutional lending sources.

SECTION 6A CONTRACT; MODIFICATIONS

Proponent shall comply with the existing 6A Contract for the Project. The Project Modification will be governed under Chapter 121A for the construction period, and the Proponent may enter into a 6A for the Project Modification with the City of Boston, if required, but will pay a normal rate of taxes. Once construction of the

Project Modification is complete, the Project Modifications shall be severed or terminated from the balance of the Project governed by Chapter 121A and the Proponent and/or their successors and assigns shall continue to pay the normal rate of taxes on the Project Modification. The balance of the Project shall continue to pay taxes in accordance with the existing 6A Contract for the Project.

ZONING

The Proposed Project is subject to Chapter 121A and will receive zoning relief through an amendment to the Report and Decision on the Landmark Center 121A Project.

DEVELOPMENT IMPACT PROJECT ("DIP") EXACTIONS

Due to the square footage and types of uses anticipated at the Proposed Project, the Proposed Project constitutes a DIP under Article 80, Section 80B-7 of the Code. Therefore the Proposed Project is subject to DIP exactions for the commercial/retail space uses in excess of 100,000 square feet. Accordingly, based on the current plans, there will be approximately 506,000 square feet of DIP uses subject to DIP exactions.

Pursuant to the provisions of Article 80, Section 80B-7 of the Code, the Proposed Project will provide estimated linkage funds of \$3,386,040 for the Housing Exaction, which will go to the Neighborhood Housing Trust, and \$678,020 for the Jobs Exaction, which will go to the Neighborhood Jobs Trust. The estimated linkage payments are calculated as follows:

Housing Linkage:

DIP Uses:	506,000 sf
Exclusion:	<u>-100,000 sf</u>
	406,000 sf
	<u>x \$8.34</u>
	\$3,386,040

Jobs Linkage:

DIP Uses:	506,000 sf
Exclusion:	<u>-100,000 sf</u>
	406,000 sf
	<u>x \$1.67</u>
	\$678,020

The DIP gross floor area for the Proposed Project is subject to final calculation based on the final design plans and applicable provisions of the Development Impact Project Agreement.

REQUIRED DESIGN REVIEW AND TRANSPORTATION MITIGATION

Transportation Mitigation

The Proponent will:

- Construct a multi-use path along the right-of-way between the Fenway MBTA station and Fullerton Street. The design of the multi-use path will be coordinated with City and State agencies.
- Widen Kilbuck Street to alleviate congestion on the northbound approach to Brookline Avenue
- Re-stripe Fullerton Street to provide on-street bicycle accommodations that will connect the Multi-Use Path with Brookline Avenue.
- Work with the Audubon Circle Neighborhood Association to advocate for a pedestrian crossing solution on Park Drive at the Fenway T stop exit.
- Improve pedestrian access, comfort, and safety along well-traveled paths between the MBTA Fenway Station and the neighborhood.
- Improve conditions for vehicles entering and exiting the Site at the intersection of Fullerton Street and Brookline Avenue.
- Phase out surface parking on the Park Drive side of the site.

Neighborhood Design Mitigation

The Proponent will:

- Re-landscape the edge of the property abutting the MBTA tracks and install a new fence as part of the construction of the MBTA multi-use path. In addition, the Proponent will replace the fence abutting the Harvard Vanguard property to the northeast with a more opaque rather than open fence. The design of the landscaping and fence will be coordinated with the MBTA, BPDA, and Harvard Vanguard.
- Construct new indoor loading bays to serve the new office/laboratory building.
- Create a total of 2.2 acres of open space in the Project, including conversion of a 1.1-acre surface parking lot to a public open space serving as a gathering place to the entire Fenway neighborhood.

- Create a public plaza at the Brookline Avenue and Fullerton Street intersection.
- Create new and engaging pedestrian connections between the train station and the district, including new connections through and around the building.
- Transform the Park Drive, Brookline Avenue and Fullerton Street frontages of the Site, drawing active retail uses down Fullerton Street from the intersection with Brookline Avenue.
- Improve streetscapes on all sides of the project with generous sidewalks, streetscape improvements, new lighting, street trees, vibrant retail and quality architecture.

Environmental & Infrastructure Mitigation

The Proponent will:

- Mitigate temporary construction-related impacts through the implementation of a Construction Management Plan.
- Improve water quality, reduces runoff volume, and controls peak rates of runoff by incorporating new stormwater management and treatment systems.
- Reduce heat island effects by incorporating green roofs.
- Seek LEED Gold certification of the existing building and expansion.
- Encourage alternative transportation and reduce Greenhouse Gas (GHG) emissions by providing appropriate bicycle storage facilities on-site.

Building Operation Mitigation

The Proponent will:

- Remove the two loading bays closest to the existing garage ramp.
- Strictly enforce loading dock hours of 6:00 AM to 10:00 PM. The Proponent has informed tenants that no deliveries are permitted outside of loading dock hours.
- Perform a nightly and early morning sweep to ensure there are no loading dock violations.
- Establish a hotline with a direct line to the Landmark Center building management team so that noise-related issues can be identified immediately.
- Change dumpster swap times from early morning to afternoon.
- Prohibit loading of construction dumpsters in the loading dock area except between the hours of 7:00 AM and 5:00 PM.

- Restrict nightly sweeping of the above-grade levels of the parking garage to before 10:00 PM or use an electric sweeper.

COMMUNITY BENEFITS

Transportation Benefits

- The Project will contribute \$100,000 towards the long-term maintenance fund of the reconstructed Audubon Circle Road Improvements.
 1. Recipient: Audubon Circle Neighborhood Association
 2. Use: Long-term maintenance of Audubon Circle Road Improvements
 3. Amount: \$100,000
 4. Timeline: The contribution will be made at the issuance of a building permit.

Economic and Community Benefits

- The Proponent had previously committed a contribution of \$100,000 to the Emerald Necklace Conservancy for projects and programming in the Back Bay Fens area of the Emerald Necklace park system. The Proponent has committed to an increased contribution of \$150,000.
 1. Recipient: Emerald Necklace Conservancy
 2. Use: Projects and programming in the Back Bay Fens area of the Emerald Necklace park system
 3. Amount: \$150,000
 4. Timeline: Equal payments over a five (5) year period. One payment has already been made and four remaining annual payments will be made.
- The Project will create a public art program for the new public open spaces, estimated to be valued at up to \$1,000,000.
- The Proposed Project will enhance the economy within the Fenway neighborhood by meeting the increasing demand for office and laboratory space, provide new job opportunities, and serve as a source of customers for local retail and service establishments.
- The Proposed Project will create approximately 3,000 new transit-served office and retail jobs
- The Proposed Project will create temporary construction jobs in all trades.

FUNDAMENTAL CHANGE DETERMINATION

The General Counsel has determined that, because the Project Modification described herein reduces the size and overall impacts of the project expansion described in the 2014 Project Modification approved under the Sixth Amendment, the changes set forth in the Application do not collectively constitute a "fundamental change" in accordance with the Acts of 1960, Chapter 652, Sections 13 or 13A, as amended, and a public hearing is therefore not required. Adoption of the Ninth Amendment to Report and Decision Amendment is recommended.

RECOMMENDATION

Approvals have been requested of the BPDA pursuant to Article 80, Section 80B of the Code for the issuance of a Scoping Determination waiving the requirement of further review pursuant to Article 80, Section 80B-5.3(d) of the Code, and for the issuance of a Certification of Compliance under Section 80B-5 upon successful completion of the Article 80 review process. In accordance with Section 80B-5.3(d) of the Code, the BPDA may issue a Scoping Determination Waiving Further Review if the PNF, together with any additional material and comments received by the BPDA prior to the issuance of the Scoping Determination, are found to adequately describe the impacts of the Proposed Project and offer appropriate mitigation of such impacts.

BPDA staff believes that the NPC meets the criteria for the issuance of a Scoping Determination Waiving Further Review. It is therefore recommended that the BPDA: (1) approve the Proposed Project as a Development Impact Project ("DIP") within the meaning of Section 80B-7 of the Code; (2) authorize the Director issue a Determination waiving the requirement of further review pursuant to Article 80A-6 and Section 80B-5.3(d) of the Code for the Proposed Project; (3) authorize the Director of the BPDA to issue one or more Certifications of Compliance or Partial Certifications of Compliance for the Proposed Project pursuant to Section 80B-6 of the Code, upon successful completion of Article 80 Large Project Review; (4) adoption of a Ninth Amendment to Report and Decision on the Landmark Center 121A Project; and (5) authorize the Director to enter into a Development Impact Project Agreement, Cooperation Agreement, Boston Residents Construction Employment Plan, along with any and all other agreements and documents that the Director deems appropriate and necessary in connection with the Proposed Project and/or the amended Report and Decision.

Appropriate votes follows:

VOTED: That the document presented at this meeting entitled "NINTH AMENDMENT TO REPORT AND DECISION ON THE MODIFICATION OF THE LANDMARK CENTER CHAPTER 121A PROJECT BY LANDMARK CENTER OWNER LIMITED PARTNERSHIP AND LANDMARK CENTER DEVELOPMENT LIMITED PARTNERSHIP, UNDER CHAPTER 121A OF THE GENERAL LAWS OF THE COMMONWEALTH OF MASSACHUSETTS AND CHAPTER 652 OF THE ACTS OF 1960, EACH AS AMENDED" be, and hereby is, approved pursuant to M.G.L. c. 121A is approved and adopted in all respects; and

FURTHER

VOTED: That the Boston Redevelopment Authority ("BRA") hereby finds and determines in accordance with 80B-4(3) of the Code that the Proposed Project, as described in the NPC, conforms to the general plan for the City as a whole, and that nothing in the Proposed Project will be injurious or otherwise detrimental to the public welfare, weighing all the benefits and burdens; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to issue a Determination under Section 80A-6 of the Code, which (i) finds that the Notice of Project Change adequately describes the potential impacts arising from the Landmark Center project, and provides sufficient mitigation measures to minimize these impacts, and (ii) waives further review of the Proposed Project under subsections 4 and 5 of Section 80B-5 of the Code, subject to continuing design review by the BRA; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to issue one or more Certifications of Compliance or Partial Certifications of Compliance for the Proposed Project upon the successful completion of all Article 80 review processes; and

FURTHER

VOTED: That the Director be, and hereby is, authorized to take any and all actions and execute any and all agreements deemed necessary and appropriate in connection with the foregoing including, without

limitation, a Development Impact Project Agreement, a Cooperation Agreement, Boston Residents Construction Employment Plan, all upon terms and conditions determined to be in the best interests of the BRA.

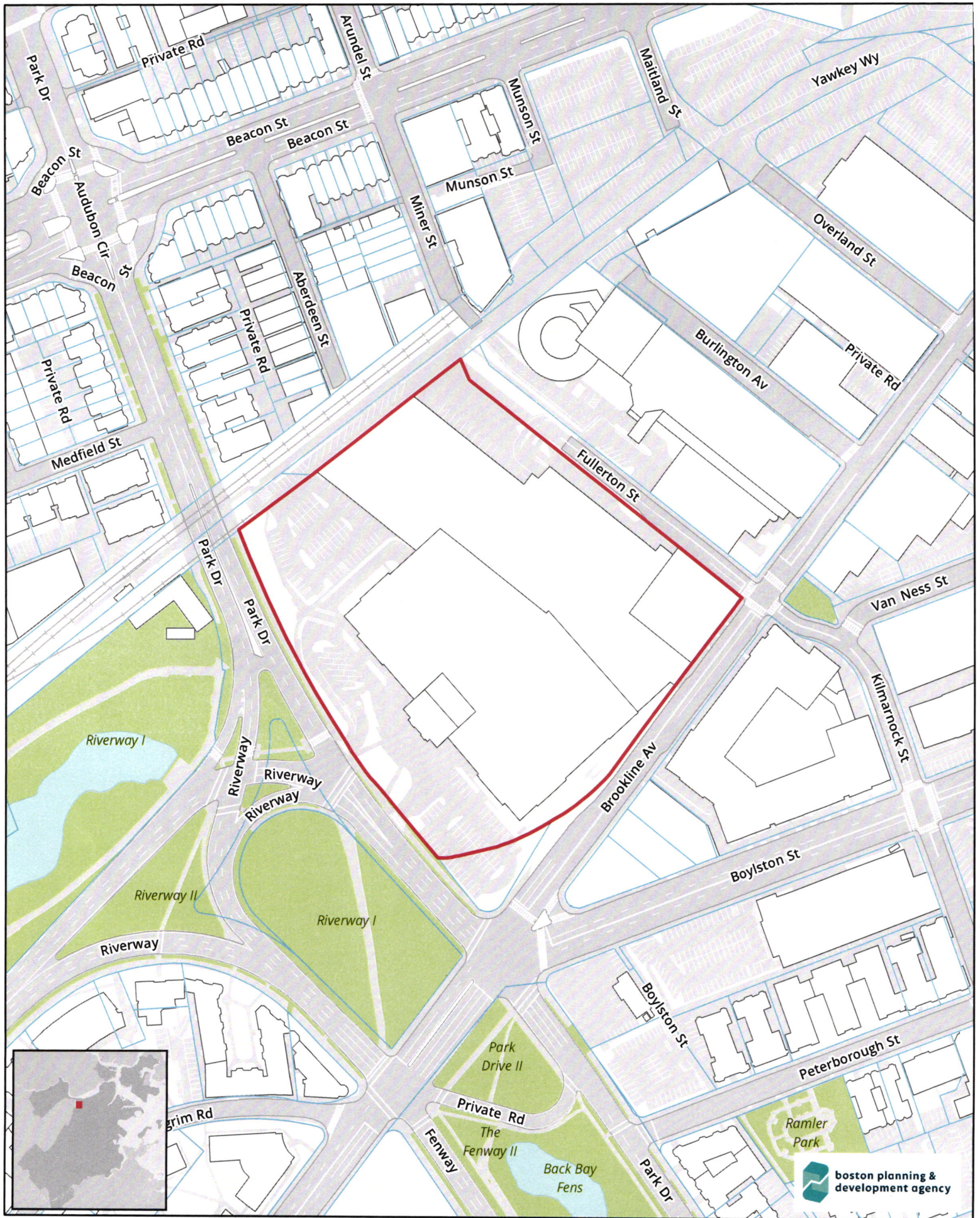
FURTHER

VOTED:

That the Director be, and hereby is, authorized to execute any and all other agreements, instruments, documents or letters the Director deems necessary and appropriate, in the Director's sole discretion, and in the best interest of the Boston Redevelopment Authority, regarding the Proposed Project, the Project and/or the other matters contemplated by the Application.

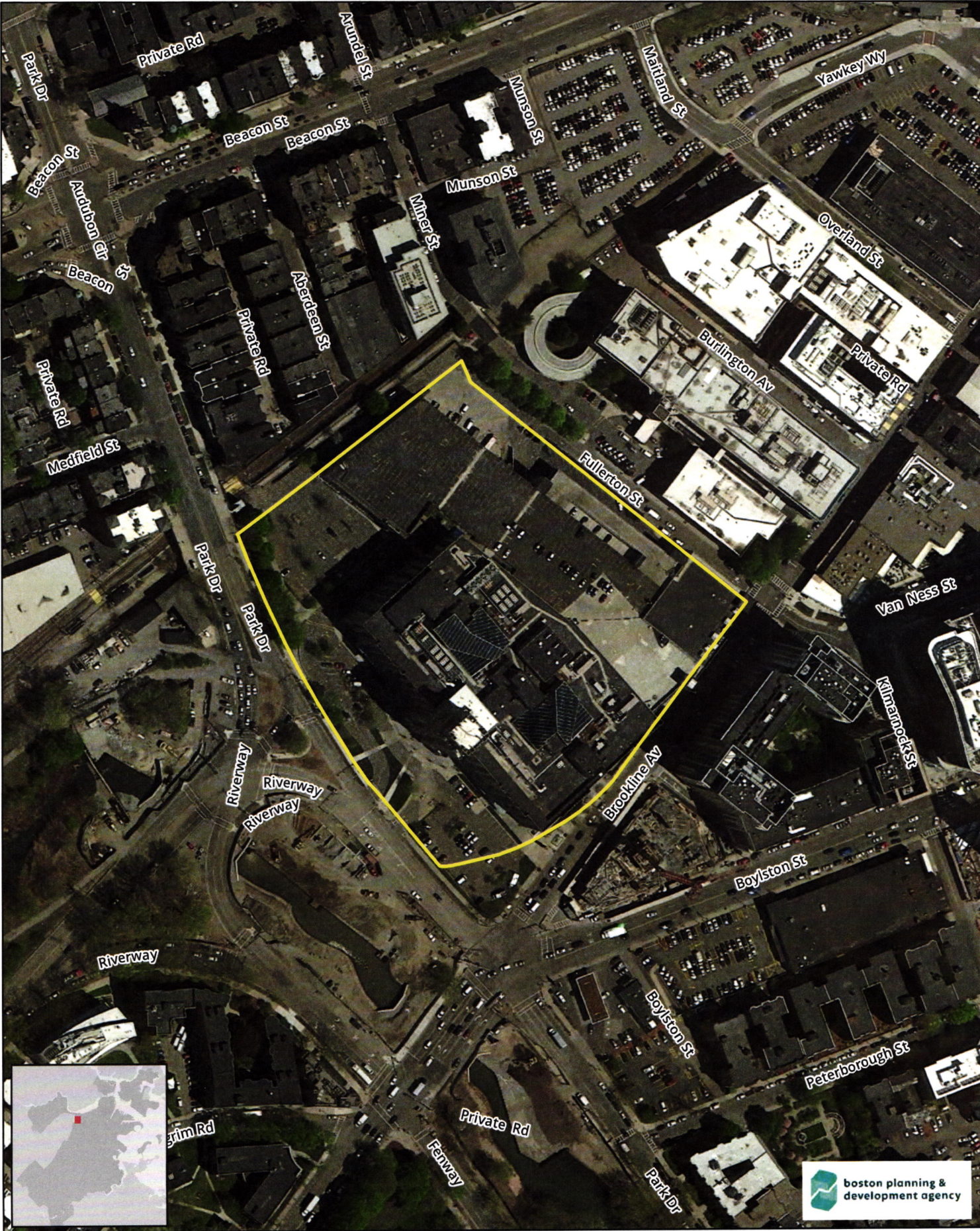
Landmark Center

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Landmark Center

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BOSTON
TRANSPORTATION
DEPARTMENT

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November 1, 2017

Tim Czerwinski
Boston Planning and Development Agency
One City Hall Square, 9th Floor
Boston, MA 02201

RE: Landmark Center Redevelopment – Notice of Project Change

Thank you for the opportunity for BTD to comment on the Notice of Project Change (NPC) for the Landmark Center Redevelopment. The new project substitutes a new 506,000 square foot office/laboratory building in place of the 464,000 square foot residential tower. New underground parking is no longer proposed.

We request that the developer complete the mitigation outlined in the TAPA for phase II, and that in addition they do the following:

- Propose a more pedestrian and bike friendly signal phasing and timing scheme for the signal at the intersection of Riverway/Park Drive/Landmark Connection, shown in the attached study by a student of Professor Peter Furth of Northeastern University (attached). This plan must be reviewed and approved by DCR, owner of the signal.
- Continue to coordinate with the City of Boston and MassDOT on the design of the Fenway-Yawkey multiuse path.

We look forward to working cooperatively with the Landmark Center and the community to reach an agreement on the plans and mitigation measures to be included in this revised project.

Sincerely,

Charlotte Fleetwood
Transportation Planner

Cc: Vineet Gupta, Director of Policy and Planning
John DeBenedictis, Director of Engineering

MARTIN J. WALSH, Mayor

Projects in Advanced Traffic Control

Student Projects from CIVE 7382, Advanced Traffic Control & Simulation

Reducing Pedestrian Delay at the Landmark Center Interchange

Reducing Pedestrian Delay at the Multi-Stage Pedestrian Crossing of Riverway at the Landmark Center Interchange

Author: Michael A. Santos

Advisor: Peter Furth

April 18, 2017

Summary

In conjunction with a project to reduce flooding risk on the Muddy River, the roads and intersections that make up the Landmark Center interchange (formally known as the Sears Rotary) were recently rebuilt with a new traffic circulation plan, opening in 2016. Where the Muddy River path, an important walking and cycling route and part of the Emerald Necklace, crosses Riverway, it was given a new three-stage crossing that offers terrible service for pedestrians and bicycles. For pedestrians, the average delay is 122 seconds, more than double what it takes to merit an "F" level of service grade. For bicycles, there is no safe crossing provision except to dismount and walk.

This project measures pedestrian delay for this three-stage crossing using two different methods, one of them being the Northeastern University Ped & Bike Crossing Delay Calculator, a tool explicitly designed to enable engineers to determine pedestrian delay for complex crossings like this.

This study also proposes two possible changes in the traffic signal timing plan, and finds that one of these options can reduce pedestrian delay at the Muddy River Path crossing by about 75 seconds and makes possible a true bicycle crossing – all of this with less than a 1 second change in delay to motor traffic.

Introduction

The U.S. Army Corps of Engineers recently reconfigured several signalized intersections in the Fenway neighborhood of Boston, Massachusetts as part of the *Muddy River Flood Damage Reduction & Environmental Restoration Project*. The location of the project is shown in **Figure 1**. The project eliminated a left-turn jughandle from Brookline Avenue to Park Drive at the intersection of Brookline Avenue/Boylston Street/Park Drive. The project also signalized the intersection of Riverway/Riverway Connector, which was previously unsignalized and created a problematic weave as vehicles entered the intersection of Riverway/Brookline Avenue/Fenway. The project also reconfigured the intersection of Park Drive at Riverway/Landmark Center to allow northbound vehicles on Riverway to continue directly to Park Drive northbound. As part of the reconfiguration of this third intersection, new crossings were installed to allow pedestrian connectivity along the Muddy River multi-use paths. One of the new crossings involves a three-stage maneuver, resulting in significant pedestrian delays at the intersection. The reconfigured roadways and intersections are shown in **Figure 2**.

Figure 1: Project Location

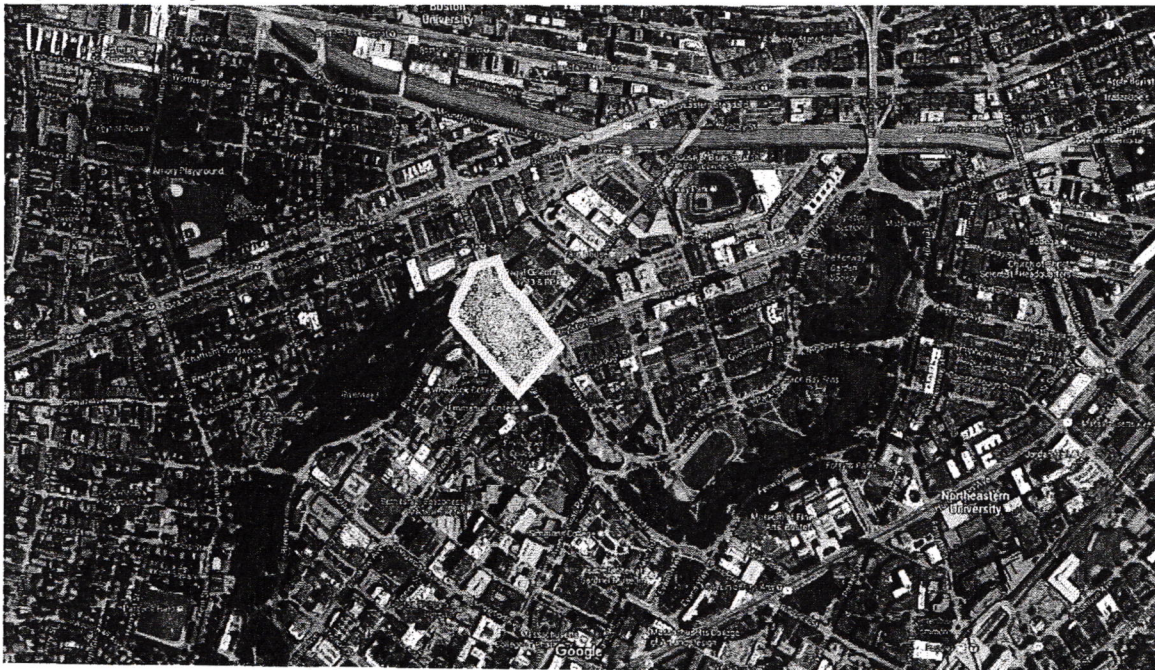
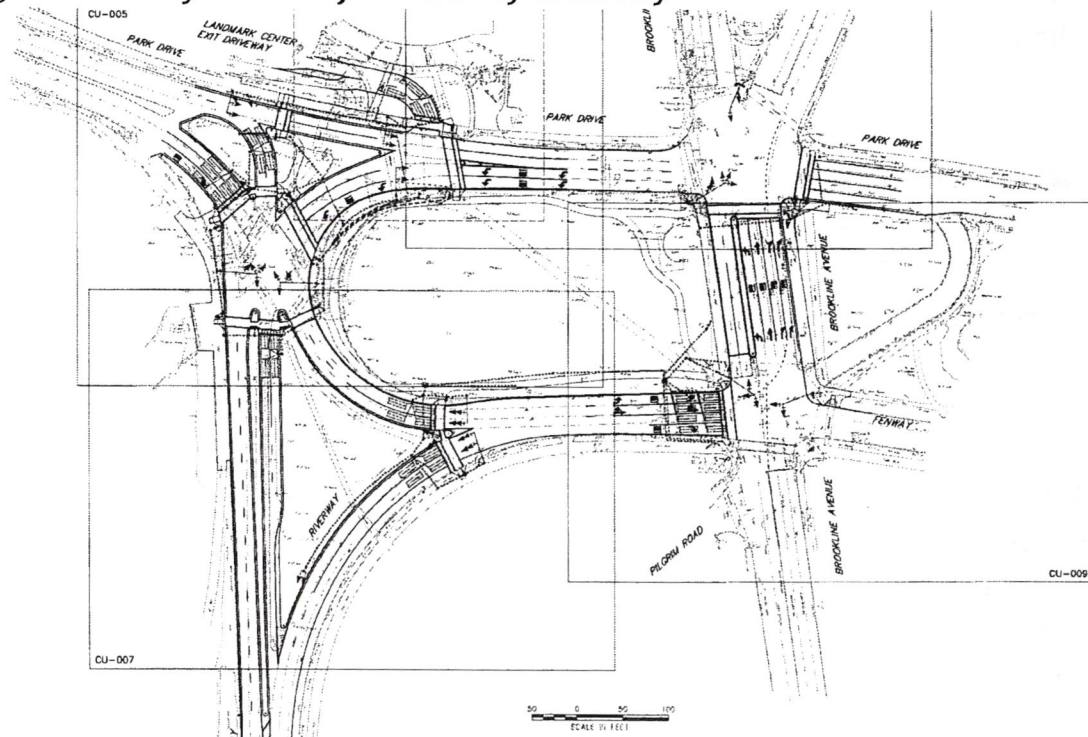


Figure 2: Muddy River Project Roadway Geometry



Based on an analysis of the existing conditions, pedestrians currently experience an average delay of more than 120 seconds in both directions of pedestrian travel at the southern three-stage crossing. The Highway Capacity Manual (HCM)[1] considers pedestrian delays over 60 seconds to operate at level of service (LOS) F with high levels of pedestrian non-compliance with the signalized operation. When delays exceed 60 seconds, there is a high chance that pedestrians will cross against the flashing don't walk and solid don't walk indications, creating a safety issue.

This analysis will focus on the intersection of Riverway at Park Drive/Landmark Center and more specifically, the southern three-stage pedestrian crossing, and will present alternative timing and phasing plans that will reduce pedestrian delays by using advanced signal timing design techniques while maintaining satisfactory vehicular

operations at the intersection. The goal of the alternative timing plans will also be to improve progression for the crossings to give pedestrians a better opportunity to cross without having to stop two times.

The microsimulation software VISSIM and the Northeastern University Ped & Bike Crossing Delay Calculator were used to analyze the existing conditions and the alternative timing and phasing plans.

Existing Conditions

Geometric Conditions

The intersection of Riverway at Park Drive/Landmark Center is shown in **Figure 3**. As shown in **Figure 3**, the intersection consists of four vehicular approaches, has a total of eight pedestrian crossings, and is under traffic signal control. The Park Drive eastbound approach consists of three right turn lanes – one exclusive right-turn lane for vehicles traveling southbound on the Riverway and two right-turn lanes for vehicles continuing on the Riverway Connector. The Park Drive westbound approach consists of five lanes – two through lanes for vehicles continuing on Park Drive, two left-turn lanes for vehicles traveling to the Riverway, and one left-turn lane for vehicles traveling to the Riverway Connector. The through lanes and left-turn lanes are separated by a grass island. The Riverway northbound approach consists of two left-turn lanes for vehicles traveling west on Park Drive. Due to the geometry of the islands at the intersection, the Riverway northbound approach has two stop-lines, both under traffic signal control. The Landmark Center southbound approach consists of two lanes, only allowing for right-turning vehicles traveling to Park Drive westbound, the Riverway, or the Riverway Connector.

Figure 3: Intersection of Riverway / Park Drive / Landmark Connector – Existing (2017) Geometry

clearance phase for the Riverway northbound movements, and Phase 4 serves the Park Drive eastbound and westbound through movements.

Figure 4: Phasing and Timing – Existing Conditions

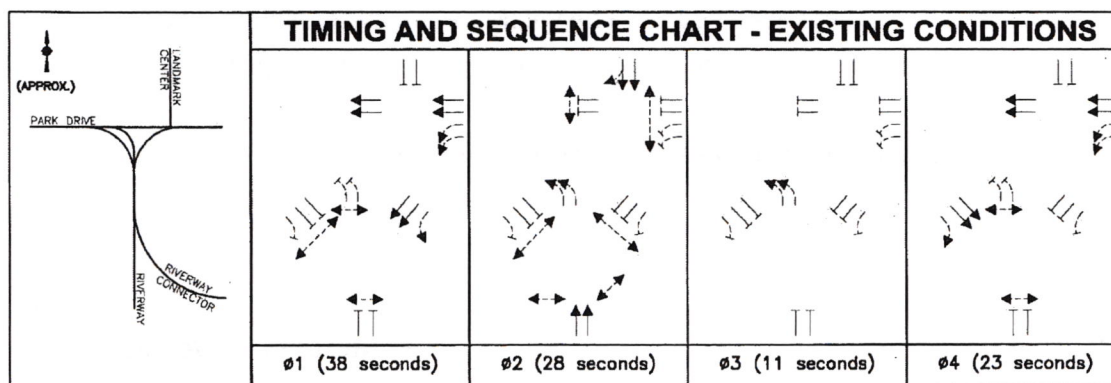


Table 1: Existing Traffic Signal Timings – AM Peak Hour

Phase	As-Built Plans	BTD Updated Timings
1	41 s	38 s
2	27 s	28 s
3	10 s	11 s
4	22 s	23 s
Cycle	100 s	100 s

As shown in **Figure 4**, the traffic signal cycle is 100 seconds during both the weekday AM and PM peak hours. The western crossing (AB) and eastern crossing (CD) occur only during Phase 2 of the signal cycle, while the central crossing (BC) occurs during Phase 4 and Phase 1. Crossings AB and CD are currently allocated 7 seconds of walk (W) time and 15 seconds of flashing don't walk (FDW) time. Crossing BC is allocated 39 seconds of W time and 10 seconds of FDW time.

Traffic Volumes

There have been no traffic counts since the new intersection was completed, and given the time the public will need to become accustomed to the new traffic circulation plan, current counts would probably be a misleading indicator of demand. Therefore this analysis uses the volumes that were projected when the intersection was planned. They

are based on traffic volume measurements conducted by VHB on June 20, 2007 prior to the reconstruction of the surrounding roadway network, with traffic volumes redistributed through the network based on an iterative origin-destination matrix to account for the new traffic patterns created by the direct connection between the Riverway and Park Drive westbound. The weekday morning peak hour traffic volumes at the Park Drive at Riverway/Landmark Center intersection are presented in **Table 2**.

Table 2: Weekday Morning Peak Hour Traffic Volumes

Movement	Volumes (vehicles per hour)
Riverway NBL	126
Park Drive EBR (to Riverway Connector)	572
Park Drive EBR (to Riverway)	231
Park Drive WBT	488
Park Drive WBL (to Riverway)	451
Park Drive WBL (to Riverway Connector)	106
Landmark Center	negligible
TOTAL VOLUME	1,974

Alternative Signal Plans

A review of the existing traffic signal timing plans indicates that there are opportunities to increase the amount of time given to pedestrians, specifically at the southern crossing. Two alternative traffic signal timing and phasing plans were considered:

Option 1: Additional pedestrian overlaps

Option 2: Short exclusive pedestrian phase with additional pedestrian overlaps

Both of the alternatives maintained the same offsets and the 100 second cycle length as the existing conditions in order to continue to function within the existing coordinated

signal system throughout the area.

Option 1 – Additional Pedestrian Overlaps

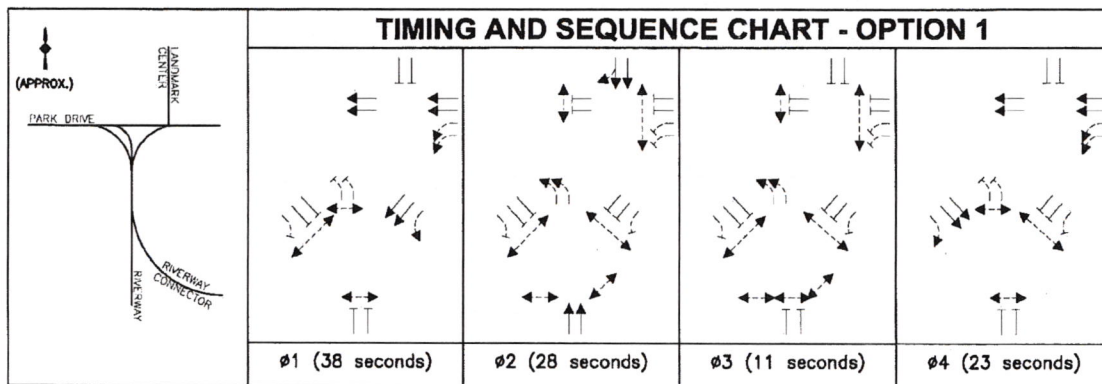
Currently, phase 3 of the traffic signal is an 11 second long clearance phase that serves only the northbound left-turn movements (Riverway northbound left to Park Drive westbound). No other vehicular or pedestrian movements are served by this phase.

The one vehicular movement that is allowed does not conflict with any of the southern pedestrian crossings, and so it makes sense to extend the time given to those crossings to include phase 3. Crossings AB and CD are currently served only by phase 2 of the cycle; it could readily be extended to include phase 3. Crossing BC currently starts in phase 4 and ends in phase 1 of the cycle; it could readily start sooner, in phase 3.

Further, it is possible to allocate more time within phase 1 to crossing BC, extending the Walk interval so that the flashing don't walk (FDW) portion of the phase ends concurrently with the vehicular green indication.

By overlapping the pedestrian crossings with phase 3 and making full use of phase 1, crossings AB and CD will get 19 seconds of W and 15 seconds of FDW time, and crossing BC will get 57 seconds of W time and 10 seconds of FDW time. The phasing and timing diagram for Option 1 is shown in Figure 5.

Figure 5: Phasing and Timing – Option 1



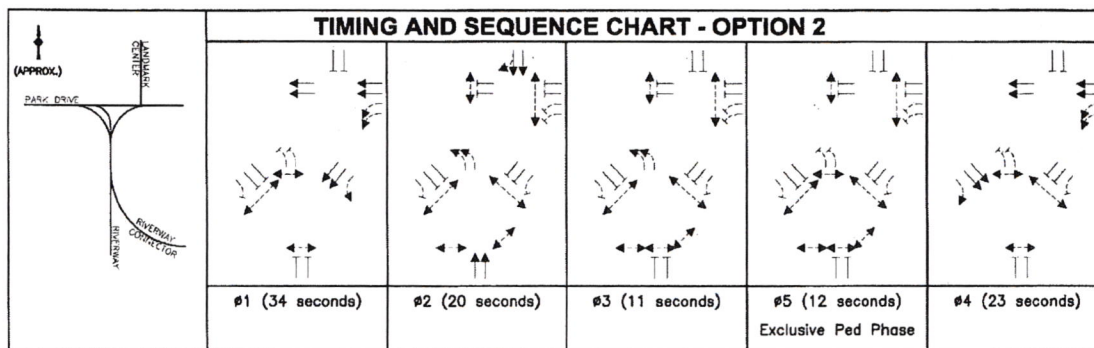
Option 2 – Short Exclusive Pedestrian Phase With Additional Pedestrian Overlaps

The second option adds to the overlaps shown in Option 1 by including a short exclusive pedestrian phase between the existing phases 3 and 4. The additional

pedestrian phase (phase 5) will not, in itself, be long enough for pedestrians to make the full crossing, but will, in combination with the other pedestrian phases, offer pedestrians a “green wave” to pass through the different crosswalks without long waits. It was determined that a 12-second all-pedestrian phase would be sufficient for that purpose.

Inserting this new phase while holding the signal cycle fixed at 100 s requires a retiming of the existing four phases. The 12-second exclusive pedestrian phase was added between phase 3 and 4. The phasing and timing diagram for Option 2 is shown in **Figure 6**. In effect, the added phase lengthens the “clearance time” after phase 2 from 11 s (phase 3) to 23 s (phases 3 and 5 together).

Figure 6: Phasing and Timing – Option 2



As shown in **Figure 6**, crossings AB and CD will start in phase 2 and end in phase 5 and will receive 28 seconds of W time and 15 seconds of FDW time. Crossing BC will start in phase 3 and end in phase 2 and will receive 65 seconds of W time and 10 seconds of FDW time.

Table 3 shows the W and FDW times for the three crossings under each of the scenarios.

Table 3: Pedestrian Phase Timings (in seconds)

Crossing	Pedestrian Times (W/FDW)		
	Existing	Option 1	Option 2
AB	7/15	19/15	28/15
BC	39/10	57/10	65/10
CD	7/15	19/15	28/15

As shown in **Table 3**, the pedestrian times allocated to each of the crossings increase substantially compared to the existing conditions. However, an increase in pedestrian time does not necessarily mean that there will be significantly improved progression. The operations analysis will demonstrate the effects of the different timing and phasing plans on the southern pedestrian crossing.

Bicycle Crossing Potential with Options 1 and 2

A safe bicycle crossing requires at least 16 s; that's 6 s for a "start" window plus 10 seconds of clearance (using a design speed of 10 ft/s for a 100 ft crossing).

Option 1 has an 11-second phase in which the full southern crossing is open, while option 2 has a 23-second interval (phases 3 and 5). Thus, Option 1 would still leave the intersection without a safe bicycle crossing, while Option 2 would make a bicycle crossing feasible.

Operations Analysis

Intersection performance for pedestrians and vehicles were analyzed using both VISSIM software and the Northeastern University Ped & Bike Crossing Delay Calculator. For purposes of this Project, the weekday morning peak hour was analyzed.

VISSIM Analysis

The VISSIM analysis was conducted by using the traffic signal timing and phasing plans provided by the U.S. Army Corps of Engineers and BTM. The traffic volumes and origin-destination data were input to accurately reflect the projected traffic patterns throughout the area. Pedestrian volumes were not provided in the data. Therefore, in order to analyze pedestrian behavior at the southern crossing, a total of 200 pedestrians per hour were used as inputs for both directions. Note that, since pedestrian phases are automatically recalled, the volume of pedestrians does not affect vehicular operations.

The results of the VISSIM analysis are presented in **Table 4**. Delays for the southern pedestrian crossing and all vehicular approaches to the intersection are shown for each of the three scenarios (Existing conditions, Option 1, and Option 2). The delays for the pedestrian crossings represent the total delay for all three stages.

Table 4: Operations Analysis – Weekday AM Peak Hour

Movement	Average Delay (seconds)		
	Existing	Option 1	Option 2
Southern Pedestrian Crossing (east to west)	123	112	42
Southern Pedestrian Crossing (west to east)	121	110	53
Riverway NBL	38	40	45
Park Drive EBR (to Riverway)	45	45	45
Park Drive EBT (to Riverway Connector)	41	41	41
Park Drive WBT	33	33	33
Park Drive WBL (to Riverway)	24	24	24
Park Drive WBL (to Riverway Connector)	17	17	17
All pedestrians	122	111	46
All vehicles	34.8	34.9	35.3

Table 4 shows that the vehicular movements are almost completely unaffected by either Option 1 or Option 2, with average delay increasing by less than a second for both cases.

However, **Table 4** shows some dramatic changes to pedestrian delay. In existing conditions, average delay is 122 seconds (approximately 2 minutes). Pedestrian delays are slightly reduced to around 110 seconds under Option 1, with the addition of the pedestrian overlaps with Phase 3. Despite an increase in the pedestrian walk times under Option 1 when compared to the existing conditions, the average pedestrian delays remain significant and at an overall LOS F, because pedestrians still have to wait for a long time at the islands after their first and second crossings. Under Option 2, however, pedestrian delays are reduced by 76 seconds on average, because adding the short exclusive pedestrian phase gives pedestrians something close to a “green wave,” allowing them to make one crossing after another with little or no wait in between.

Videos from the VISSIM simulations for each option are shown in the following links below:

Video Simulating EXISTING CONDITIONS

Video Simulating OPTION 1

Video Simulating OPTION 2

Northeastern University Ped & Bike Crossing Delay Calculator

The Northeastern University Ped & Bike Crossing Delay Calculator was used to estimate delays experienced by pedestrians at the southern crossing for all three scenarios. The inputs needed for this calculation include crossing lengths, cycle length, walk start time, and walk duration. It also assumes that the pedestrian walk speed is 4.5 feet per second – a typical average walking speed – and an additional 4 seconds of effective “walk” time, recognizing that most pedestrians will still enter the crosswalk for the first few seconds of the FDW period. Pedestrian volumes are not used as an input for the calculation because it is assumed that pedestrians do not experience any delays from queuing behind each other (this effect is significant only at very crowded crosswalks).

The results of the delay calculations using the NU Ped & Bike Crossing Delay Calculator are shown in **Table 5**, with the VISSIM results shown for comparison purposes.

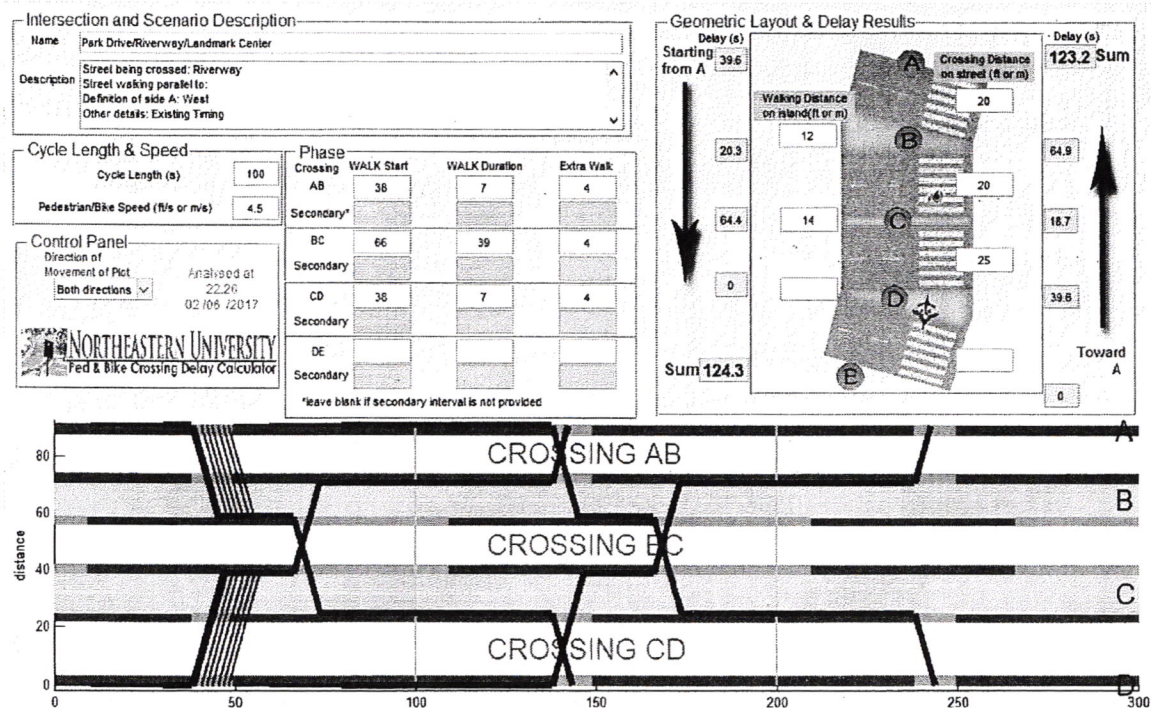
Table 5: Pedestrian Delays – NU Ped & Bike Crossing Delay Calculator (AM Peak Hour)

Pedestrian Crossing	Existing Conditions		Option 1		Option 2	
	NU Ped & Bike Delay Calculator	VISSIM Results	NU Ped & Bike Delay Calculator or	VISSIM Results	NU Ped & Bike Delay Calculator or	VISSIM Results
West to East	124 s	120 s	112 s	110 s	42 s	48 s
East to West	123 s	122 s	111 s	111 s	41 s	41 s

As shown in **Table 5**, the NU Ped & Bike Crossing Delay Calculator verifies the results obtained from the VISSIM models. As stated earlier, pedestrian delays are slightly reduced in Option 1 and are substantially reduced in Option 2.

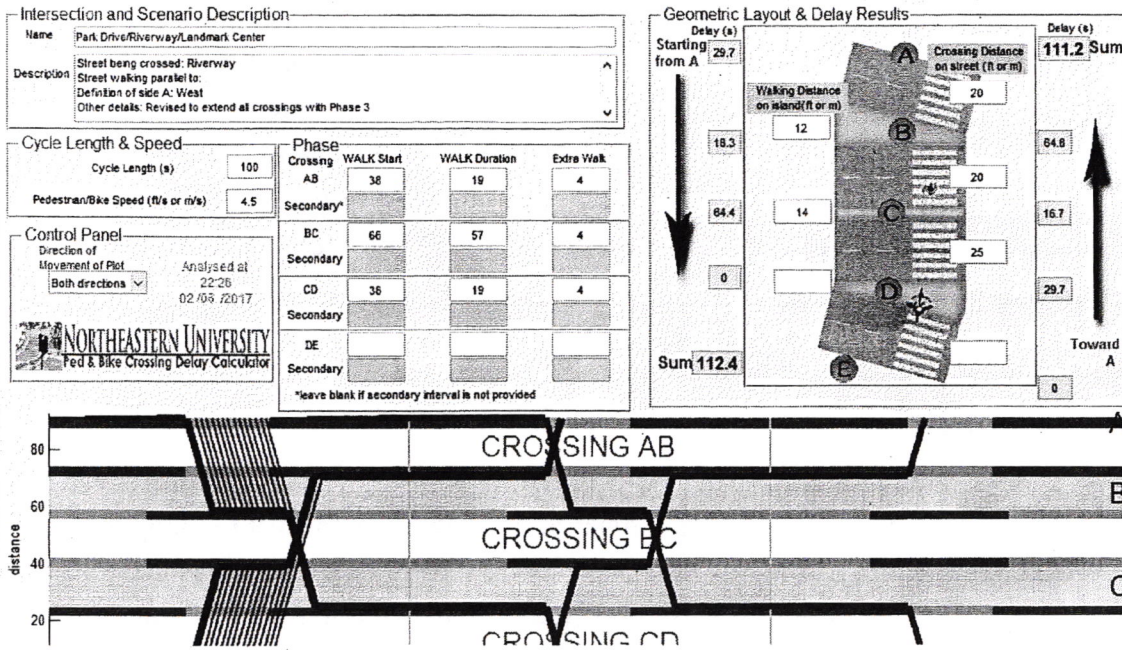
Figures 7, 8, and 9 show time-space diagrams that illustrate pedestrian progression under each scenario, along with other output from the NU Ped & Bike Crossing Delay Calculator.

Figure 7: Existing Conditions – NU Ped & Bike Crossing Delay Calculator (AM Peak Hour)



As shown in **Figure 7**, progression for pedestrians is very poor. In both directions (blue for crossing from A to D, black for crossing from D to A), pedestrians finishing any stage of crossing have to wait, sometimes a long time, before they can start the next stage. Because the the first and last crossings (AB and CD) operate during the same single phase, it takes pedestrians an entire cycle to complete their crossing (that's after waiting for a WALK to begin their crossing).

Figure 8: Option 1 – NU Ped & Bike Crossing Delay Calculator (AM Peak Hour)



As shown in **Figure 8** (Option 1), the added overlaps lengthen the green “windows” within which pedestrians can enter crosswalks AB and CD. However, nearly all pedestrians are still required to stop and wait at an island after each stage of the crossing. This Option demonstrates that additional pedestrian time does not necessarily lead to better progression or significantly reduced delays if the pedestrian phases are not sequenced efficiently.

Figure 9: Option 2 – NU Ped & Bike Crossing Delay Calculator (AM Peak Hour)

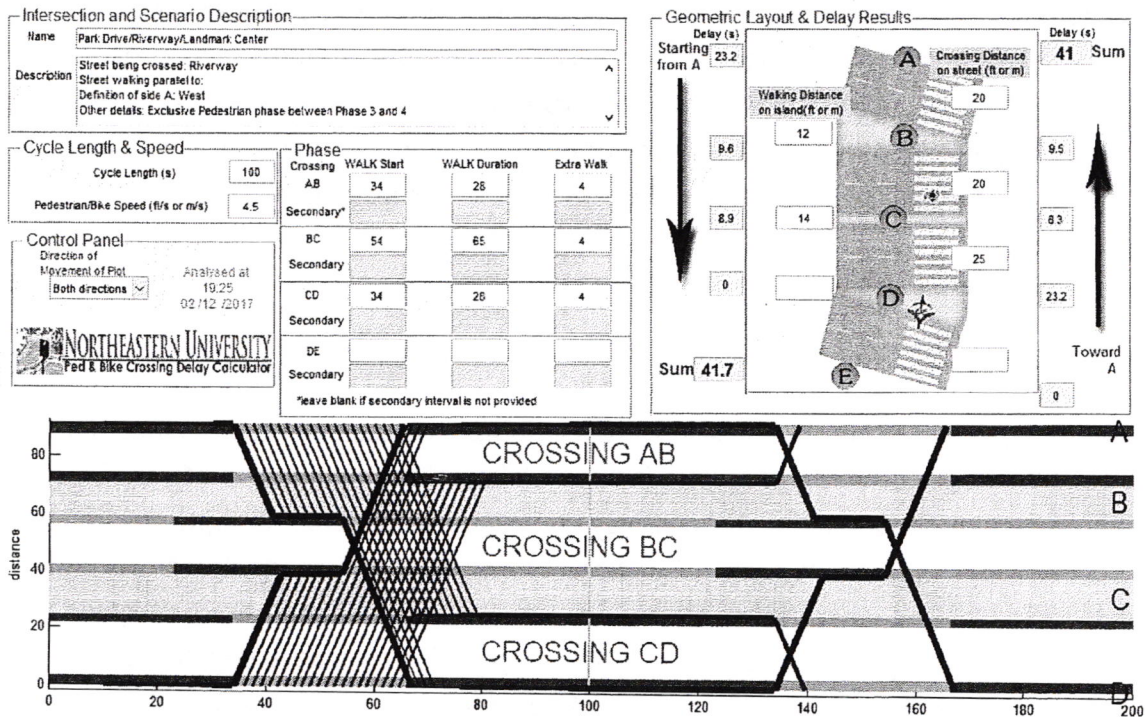


Figure 9 (Option 2), in which a short pedestrian-only phase has been added, shows vastly improved progression in both directions. In both directions, there are pedestrians who, depending on their initial arrival time, can pass through all three crossings without delay, and the majority of pedestrians experience only a short delay at the first island they meet and then no delay at the second island. The only pedestrians that finish their crossing a full cycle after beginning are the roughly 20% whose initial arrival time is during the latter part of “green” (that is “WALK”) for their first crossing.

Discussion

This study has focused on pedestrian delay, assuming that pedestrians comply with the WALK signal (although allowing that they will treat the first 4 seconds of Flashing DON'T WALK as if it were WALK). In reality, it is recognized that when delays become inordinately long, non-compliance becomes more likely. That makes long delays a safety issue. At this particular intersection, non-compliance means crossing multilane roadways that sometimes have fast traffic and in which the direction from which traffic might approach is not always clear. Therefore, signal timing options that reduce pedestrian delay can also be expected to contribute to improved pedestrian safety.

This crossing is also important for bicyclists using the Muddy River Path. The current provision is safe only if bicycles dismount and become pedestrians; however, the majority of cyclists will not do that, and are therefore making unsafe crossings. Option 2, with a 23-second interval that could be used for a bicycle crossing, makes a safe bicycle crossing possible. To make that crossing work as it should, bicycle signals should be installed with the bicycle phase running only during that 23-second interval. Bicycle signals are needed because the time at which it's safe for bicycles to begin crossing is different from what will be indicated by the pedestrian signals.



Conclusion

Multi-stage pedestrian crossings present challenges to designers and engineers to provide acceptable levels of service for pedestrians. The intersection of Park Drive at Riverway/Landmark center was recently redesigned with vehicular optimization as a priority, with little thought toward pedestrian progression through the multi-stage crossings. By implementing an alternative signal timing time expressly designed to provide good progression for pedestrians, overall delay to pedestrians can be substantially reduced with little negative impact to vehicular delay. By reducing the

delay to pedestrians at the multi-stage crossing, pedestrians are less likely to cross against the flashing don't walk and the don't walk phases, improving the overall safety at the crossing and at the intersection.

In this particular case, good pedestrian progression was created by adding a short exclusive pedestrian phase – not long enough to make the full crossing, but long enough that, in combination with (existing) concurrent WALK intervals, it creates a “green wave” for pedestrians through the three stages of the crossing. Compared to existing conditions, pedestrian delay is reduced by 76 s while average vehicular delay changes by less than a second. At the same time, this case showed that simply lengthening the WALK intervals without paying attention to progression offered very little reduction in crossing delay.

This study also shows the utility of the Northeastern University Ped and Bike Crossing Delay Calculator. It enables one to calculate pedestrian delay at multistage crossings without having to resort to (more complex) simulation. In addition, the progression diagrams it creates are a valuable tool for visualizing the quality of progression for multistage crossings, which can help a designer see what changes to signal timing might be needed to improve progression.

 April 27, 2017  Michael Santos

You must be logged in to post a comment.

Audubon Park Residences
16 Miner Street
Boston, MA 02215
on behalf of the
Board of Trustees
and Owners

October 6, 2017

Mr. Tim Czerwienski
Boston Planning & Development Agency
One City Hall Square
Boston, MA
02201

Re: Notice of Project Change
Landmark Center

Dear Mr. Czerwienski:

I am one of two Board of Trustee Members at 16 Miner Street representing fifty-three (53) property owners. I write to offer our comments on behalf of both the Board and Owners regarding the Notice of Project Change by Fenway Enterprises LLC and Landmark Ventures LLC at Landmark Center.

Our comments generally pertain to three (3) aspects of the project.

1. Excessive Massing and Height of New Building

As newly proposed, the building is excessively massive and overshadowing given its new size and density. The new building is considerably larger than the previously approved building proposed for the coordinates of the site. Fenway Enterprises LLC and Landmark Ventures LLC is essentially taking the square feet of four buildings and putting them into one.

Additionally, one, must take into consideration the mechanical penthouse and the additional height. The height of the mechanical penthouse is between 32-36 feet (with 35 feet quoted at the September 27th public meeting) and this effectively translates into two

additional stories of building height given the office and lab use of the new building. At twelve stories (vs. the proposed fourteen) we can support the project.

The new building is massive and disproportionately large compared to what was previously proposed on the existing building site. This scale and size of this building is inconsistent with what we as neighbors can support. The building, as proposed, looms over the residences at 16 Miner Street.

2. Increase Morning Traffic Count

We realize that by reducing the height and massing of the building, without some other accommodation, the proposed office and lab space would also be reduced. This addresses a concern which pertains to the increased number of early morning traffic counts. Foot and automobile traffic existing on both Brookline Ave, Park Drive, Beacon Street, Miner Street and Fullerton Street face extremely dangerous conditions due to the increased traffic counts and ever growing population density.

As an automobile owner, I can attest to the excessive amount of traffic and congestion that currently manifests on Brookline Ave, Park Drive, Beacon Street, Miner Street and Fullerton Street. Excessive traffic congestion is experienced on Brookline Ave, Park Drive and Beacon Street in both the a.m. and p.m. hours and is accentuated (1) during rush hour, (2) before and after Red Sox games and more so, (3) during the combination of the two. I have personally borne witness to numerous automobile accidents on Brookline Avenue and Beacon Street in the vicinity of this project and am gravely concerned for the likelihood of many more accidents given the additive mix of traffic load and pedestrians resulting from the project size and scope.

3. Excessive Noise

The proposed structure locates loading docks, trash and garage entrances / exits in the direction of 16 Miner Street—and will this will create a virtual echo chamber of noise, as it does today. Excessive noise concerns include truck back-up sirens, commercial deliveries, trash compacting, trash pick up, recycling noise and automobile horns. Noise concern is not unfounded as this is an ongoing problem with the Landmark Center today. 16 Miner Street is a building of residential owners. I suggest that all loading docks, commercial deliveries, trash pickup locations, recycling, etc., be designed to attenuate noise and be located on a side away from the Miner Street residences.

Any project approvals should be carefully conditioned on appropriate restrictions on the timing of deliveries and pick ups. HVAC and mechanical placement should take into consideration neighboring residents, as well.

Design/Architectural Comments

While we welcome the investment in our neighborhood, additional planning and design coordination are warranted to ensure that the project does not overwhelm the residents who live here. We look forward to participating in the public review process for the project and hope that my comments and observations are carefully considered.

Very truly yours,

Michael Simons
on behalf of the
Board of Trustees
and Owners at
Audubon Park Residences
16 Miner Street
Boston, MA
02215

Boston Groundwater Trust

229 Berkeley St, Fourth Floor, Boston, MA 02116
617.859.8439 voice
www.bostongroundwater.org

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Angie Liou

Executive Director

Christian Simonelli

September 29th, 2017

Tim Czerwienski, Project Manager
Boston Planning and Development Agency
One City Hall Square
Boston, MA 02201-1007

Subject: Landmark Center Notice of Project Change (NPC) Comments

Dear Mr. Czerwienski:

Thank you for the opportunity to comment on the Notice of Project Change (NPC) for the Landmark Center Project located in the Fenway. The Boston Groundwater Trust was established by the Boston City Council to monitor groundwater levels in sections of Boston where the integrity of building foundations is threatened by low groundwater levels and to make recommendations for solving the problem. Therefore my comments are limited to groundwater related issues.

The project is located in the Groundwater Conservation Overlay District (GCOD) established under Article 32 of the Zoning Code. As stated in the NPC and confirmed at the scoping session, the site plan and GCOD approval will be updated for the proposed project.

As confirmed at the scoping session compliance with the GCOD requires both the installation of a recharge system and a demonstration that the project cannot cause a reduction in groundwater levels on site or on adjoining lots. Before the GCOD zoning approval can be put in place, the proponent must provide the BPDA and the Trust a letter stamped by a professional engineer registered in Massachusetts that details how it will accomplish what is stated in the NPC and meets the GCOD requirement for no reduction in groundwater levels on site or on adjoining lots.

As stated in the NPC and confirmed at the scoping session, the project will comply with the City's Complete Streets program. The Trust has groundwater observation wells located along Brookline Avenue and Park Drive which must be preserved during the sidewalk reconstruction. At the scoping session the proponent acknowledged and committed to working with the Trust to identify those observation wells to be preserved.

I look forward to continuing to work with the proponent and the Agency to assure that this project can have only positive impacts on area groundwater levels.

Very truly yours,



Christian Simonelli
Executive Director

CC: Kathleen Pederson BRA,
Maura Zlody, BED

**Boston Water and
Sewer Commission**



980 Harrison Avenue
Boston, MA 02119-2540
617-989-7000

September 18, 2017

Mr. Tim Czerwienski
Project Manager
Economic Development
Boston Planning and Development Agency
One City Hall Square
Boston, MA 02201-1007

Re: Landmark Center Redevelopment
Notice of Project Change

Dear Mr. Czerwienski:

The Boston Water and Sewer Commission (Commission) has reviewed the Notice of Project Change (NPC) for the proposed Landmark Center Redevelopment Project in Boston. The Commission reviewed the Expanded Project Notification Form that was submitted to the BPDA and submitted comments to the BPDA on November 8, 2013. The Commission also reviewed the Expanded Environmental Notification Form that was submitted to MEPA and submitted comments to MEPA on May 9, 2014. This letter reflects those comments and provides the Commission's comments on the NPC.

The proposed project is located at the Landmark Center. In 2000, the old Sears Building was transformed into the Landmark Center which contains approximately 970,000 square feet of office, health club, daycare, retail and cinema space. The Landmark Center also has a five-level 380,000- square foot parking structure.

The prior proposed project would demolish the existing parking structure and replace it with a below grade parking structure with 1,500 striped parking spaces with additional capacity provided by managed valet operations. The prior project also proposed construction of four buildings with approximately 725,000 square feet of space for retail, office space and up to 600 residential units.

The currently proposed project, will be undertaken in a phased transformation of the Landmark Center and will include a destination food hall. The project includes one new office/lab building with approximately 506,000 square feet of office / laboratory space along the Fullerton Street side of the building. In total, the project will consists of 1,484,200 square feet of space with 308,000 square feet of retail space and 1,176,200 square feet of office / laboratory space. No residential space is proposed. In addition, the current plan no longer requires demolition of the garage. The existing above-grade parking structure will remain and has 1,500 parking spaces.



For water service, the site is served by a 12-inch low service main on Park Drive and Brookline Avenue and an 8-inch low service main on Fullerton Street. There is also a 48-inch main on Brookline Avenue.

For sewer and storm drainage service, the site is served by a 12-inch storm drain and an 18-inch sanitary sewer on Fullerton Street. There is a 24x31-inch and a 15-inch sanitary sewer on Brookline Avenue. There is also a 116x120 inch storm drain on Brookline Avenue.

The previous project estimated that the proposed project would have used approximately 241,867 gallons per day (gpd) of water and generate approximately 219,879 gpd of total wastewater from total project. The current propose project will use approximately 168,799 gpd of water and generate approximately 153,454 gpd of wastewater. As presented in the NPC, this represents a decrease of 66,425 gpd of wastewater from the prior project and an increase of 61,919 gpd over existing wastewater.

The Commission has the following comments regarding the proposed project:

General

1. Prior to demolition of any building, all water, sewer and storm drain connections to the buildings must be cut and capped at the main pipe in accordance with the Commission's requirements. The proponent must then complete a Termination Verification Approval Form for a Demolition Permit, available from the Commission and submit the completed form to the City of Boston's Inspectional Services Department before a demolition permit will be issued.
2. All new or relocated water mains, sewers and storm drains must be designed and constructed at Fenway Enterprises LLC's expense. They must be designed and constructed in conformance with the Commission's design standards, Water Distribution System and Sewer Use Regulations, and Requirements for Site Plans. To assure compliance with the Commission's requirements, the proponent must submit a site plan and a General Service Application to the Commission's Engineering Customer Service Department for review and approval when the design of the new water and wastewater systems and the proposed service connections to those systems are 50 percent complete. The site plan should include the locations of new, relocated and existing water mains, sewers and drains which serve the site, proposed service connections as well as water meter locations.



3. The Department of Environmental Protection, in cooperation with the Massachusetts Water Resources Authority and its member communities, are implementing a coordinated approach to flow control in the MWRA regional wastewater system, particularly the removal of extraneous clean water (e.g., infiltration/ inflow (I/I)) in the system. In this regard, DEP has been routinely requiring proponents proposing to add significant new wastewater flow to assist in the I/I reduction effort to ensure that the additional wastewater flows are offset by the removal of I/I. Currently, DEP is typically using a minimum 4:1 ratio for I/I removal to new wastewater flow added. The Commission supports the DEP/MWRA policy, and will require Fenway Enterprises LLC to develop a consistent inflow reduction plan. The 4:1 requirement should be addressed at least 90 days prior to activation of water service and will be based on the estimated sewage generation provided on the project site plan.
4. The design of the project should comply with the City of Boston's Complete Streets Initiative, which requires incorporation of "green infrastructure" into street designs. Green infrastructure includes green spaces, such as trees, shrubs, grasses and other landscape plantings, as well as rain gardens and vegetative swales, infiltration basins, and paving materials and permeable surfaces. The proponent must develop a maintenance plan for the proposed green infrastructure. For more information on the Complete Streets Initiative see the City's website at <http://bostoncompletestreets.org/>
5. For any proposed masonry repair and cleaning Fenway Enterprises LLC will be required to obtain from the Boston Air Pollution Control Commission a permit for Abrasive Blasting or Chemical Cleaning. In accordance with this permit Fenway Enterprises LLC will be required to provide a detailed description as to how chemical mist and run-off will be contained and either treated before discharge to the sewer or drainage system or collected and disposed of lawfully off site. A copy of the description and any related site plans must be provided to the Commission's Engineering Customer Service Department for review before masonry repair and cleaning commences. Fenway Enterprises LLC is advised that the Commission may impose additional conditions and requirements before permitting the discharge of the treated wash water to enter the sewer or drainage system.
6. Fenway Enterprises LLC should be aware that the US Environmental Protection Agency issued a draft Remediation General Permit (RGP) for Groundwater Remediation, Contaminated Construction Dewatering, and Miscellaneous Surface Water Discharges. If groundwater contaminated with petroleum products, for example, is encountered, Fenway Enterprises LLC will be required to apply for a RGP to cover these discharges.
7. The project site is located within Boston's Groundwater Conservation Overlay District (GCOD). The district is intended to promote the restoration of groundwater and reduce the impact of surface runoff. As was stated in the EENF, the projects will be constructed



to include provisions for retaining stormwater and directing the stormwater to the groundwater table for recharge.

8. As stated in the EENF, Fenway Enterprises, LLC will conduct engineering analysis to determine that the water, sewer and storm drainage systems serving the project site are sufficient to meet project demands. The capacity analyses must be provided with the site plan for the proposed project and must be conducted assuming full build.

Water

1. Fenway Enterprises LLC must provide separate estimates of peak and continuous maximum water demand for residential, commercial, industrial, irrigation of landscaped areas, and air-conditioning make-up water for the project with the site plan. Estimates should be based on full-site build-out of the proposed project. Fenway Enterprises LLC should also provide the methodology used to estimate water demand for the proposed project.
2. In addition to the water conservation measures required by the Massachusetts Plumbing Code, Fenway Enterprises LLC plans to install low flow toilets, and flow-restricting faucets. The Commission suggests that public restrooms also be equipped with sensor-operated faucets and toilets.
3. Fenway Enterprises LLC must obtain a Hydrant Permit for use of any hydrant during the construction phase of this project. The water used from the hydrant must be metered. Fenway Enterprises LLC should contact the Commission's Operations Division for information on and to obtain a Hydrant Permit.
4. The Commission is utilizing a Fixed Radio Meter Reading System to obtain water meter readings. For new water meters, the Commission will provide a Meter Transmitter Unit (MTU) and connect the device to the meter. For information regarding the installation of MTUs, Fenway Enterprises LLC, should contact the Commission's Meter installation Department.

Sewage / Drainage

1. A Total Maximum Daily Load (TMDL) for Nutrients has been established for the Lower Charles River Watershed by the Massachusetts Department of Environmental Protection (MassDEP). In order to achieve the reductions in Phosphorus loading required by the TMDL, phosphorus concentrations in the lower Charles River from Boston must be reduced by 64%. To accomplish the necessary reductions in phosphorus, the Commission is requiring developers in the lower Charles River watershed to infiltrate stormwater discharging from impervious areas in compliance with MassDEP. Fenway



Enterprises LLC will be required to submit with the site plan a phosphorus reduction plan for the proposed development. Fenway Enterprises LLC must fully investigate methods for retaining stormwater on-site before the Commission will consider a request to discharge stormwater to the Commission's system. Under no circumstances will stormwater be allowed to discharge to a sanitary sewer.

In conjunction with the Site Plan and the General Service Application, the Fenway Enterprises LLC will be required to submit a Stormwater Pollution Prevention Plan. The plan must:

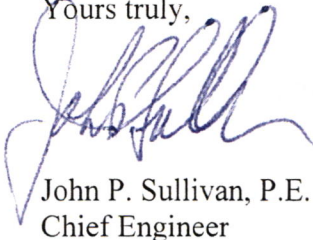
- Identifies best management practices for controlling erosion and for preventing the discharge of sediment and contaminated groundwater or stormwater runoff to the Commission's drainage system when the construction is underway.
 - Includes a site map which shows, at a minimum, existing drainage patterns and areas used for storage or treatment of contaminated soils, groundwater or stormwater, and the location of major control or treatment structures to be utilized during construction.
 - Provides a stormwater management plan in compliance with the DEP standards mentioned above. The plan should include a description of the measures to control pollutants after construction is completed.
2. Developers of projects involving disturbances of land of one acre or more will be required to obtain an NPDES General Permit for Construction from the Environmental Protection Agency and the Massachusetts Department of Environmental Protection. The proponent is responsible for determining if such a permit is required and for obtaining the permit. If such a permit is required, it is requested that a copy of the permit and any pollution prevention plan prepared pursuant to the permit be provided to the Commission's Engineering Services Department, prior to the commencement of construction. The pollution prevention plan submitted pursuant to a NPDES Permit may be submitted in place of the pollution prevention plan required by the Commission provided the Plan addresses the same components identified in item 1 above.
 3. The Commission encourages Fenway Enterprises LLC to explore additional opportunities for protecting stormwater quality on site by minimizing sanding and the use of deicing chemicals, pesticides, and fertilizers.
 4. The Commission requests that Fenway Enterprises LLC install permanent castings stating "Don't Dump: Drains to Charles" next to any catch basin created or modified as part of this project. Fenway enterprises LLC should contact the Commission's Operations Division for information regarding the purchase of the castings.



5. Fenway Enterprises LLC must install grease traps in any proposed commercial kitchen in accordance with the Commission's Sewer Use Regulations.
6. The enclosed floors of a parking garage must drain through oil separators into the sewer system in accordance with the Commission's Sewer Use Regulations. The Commission's Requirements for Site Plans, available by contacting the Engineering Services Department, include requirements for separators.
7. The Commission requires that existing stormwater and sanitary sewer service connections, which are to be re-used by the proposed project, be dye tested to confirm they are connected to the appropriate system.

Thank you for the opportunity to comment on this project.

Yours truly,



John P. Sullivan, P.E.
Chief Engineer

JPS/cj

A. Menzin, Landmark Center Venture LLC
D. Husid, Landmark Center Venture LLC
M. Junghans, Vanasse Hangen Brustlin, Inc.
Lauren DeVoe, Vanasse Hangen Brustlin, Inc.
K. Pedersen, BRA
M. Zlody, BED
P. Larocque, BWSC

October 3, 2017

Tim Czerwienski, AICP
Boston Planning and Development Agency
One City Hall Square | Boston, MA 022101

Dear Tim,

Thank you for inviting me to participate in the Impact Advisory Group for the Landmark Center Redevelopment. As long-time residents of 16 Miner St condominium, my neighbors and I are acutely aware of the issues with the area. I have solicited input from my fellow residents in crafting this message.

Below, we have summarized the main issues, along with recommendations, that we demand Samuels and Associates and the City of Boston address to satisfy the residential abutters before, during and after the development of this project.

The input is an aggregation of comments from others in the neighborhood, 16 Miner St condo-dwellers and my personal observations and opinions. Where possible, I have included exhibits.

In summary, without addressing the below concerns, we are not supportive of this project in its current form.

Sincerely,

Sandeep Karnik (On Behalf of Local Residents, including those of 16 Miner St.)

Summary of Issues and Recommendations

Issue 1: Noise from Loading Dock (See exhibits)

- Noise emanating from the loading is present at all times of day and night
- Noise is offensively loud (loud enough to wake residents from sleep) coming from transport trucks, garbage trucks, heavy machinery
- One resident had to install TWO double pain windows to shield from noise at personal expense of ~\$5-\$10K
- Numerous police complaints have been filed against the Landmark Center
- This activity is illegal relative to:
 - ***Massachusetts General Law (MGL), Chapter 90, Section 16A, 310 Code of Massachusetts Regulation (CMR), Section 7.11 and MGL, Chapter 111, Sections 142A - 142M***

Resolutions:

- Revert to earlier plan design approved by the City of Boston in which the entire loading dock was covered by platform or deck and where the loading

dock was made indoors (See exhibit 1.4 and 1.5) to eliminate noise. In the earlier version, we were promised that the loading dock would be entirely indoors. This was the same strategy that was completed for 1325 Boylston and is currently under construction for the entry way between the Trilogy building and the Pearce (all of which are Samuels properties). It is upsetting that Samuels is only investing in this kind of care for the areas that benefit Samuels' exclusively, whilst neglecting the long time residence of the area.

- Relocate the loading dock to Brookline or Park Drive side of the building that is closest to the I-90 expressway where trucks are coming from.
 - a. Study truck traffic patterns coming off of I-90 to Landmark center.
Minimize the amount of time and distance trucks are transiting around the Landmark Center
- Reduce number of loading docks and keep the active ones far away from the residential buildings as possible
- Create a sound barrier / wall to prevent sound from coming (see photos 1.6 from trucks around perimeter of entire loading dock area
- Introduce a green space with trees to break the sound
- Install sound proof windows for all abutters to the loading dock
- Enforce all idling and noise ordinances by the City of Boston (including installation of cameras all around the facility to ensure record for police)

Exhibit 1.1: Trucks loading / unloading at 5:16 AM



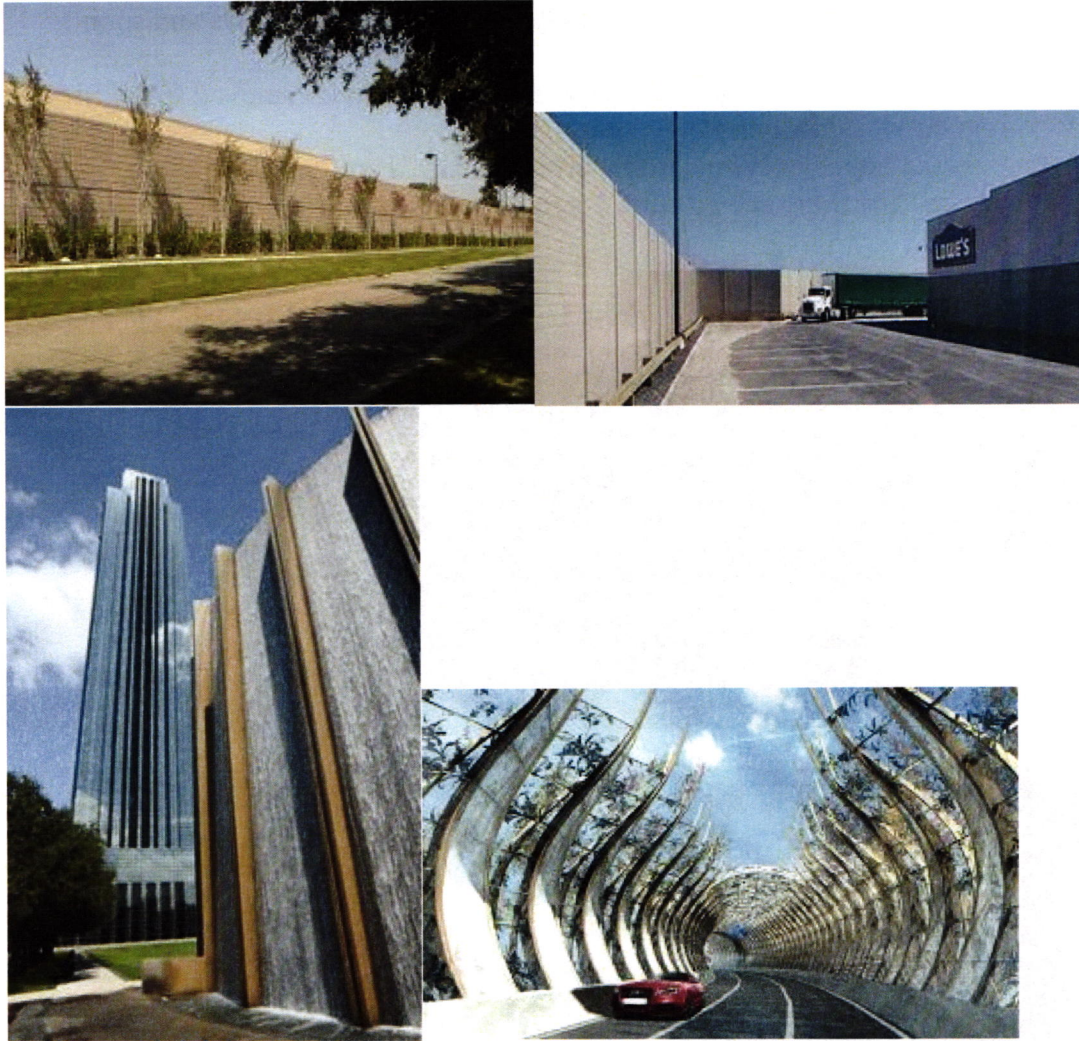
Exhibit 1.2 and 1.3: Trash collection after 12:30 AM



Exhibit 1.4 and 1.5: Landmark center loading dock completely covered in earlier design (view from Miner St., looking toward Brookline; image of developers' model)



Exhibit 1.6: Possible sound remediation – sound walls (including aesthetically pleasing walls with water features and beautiful design, below)



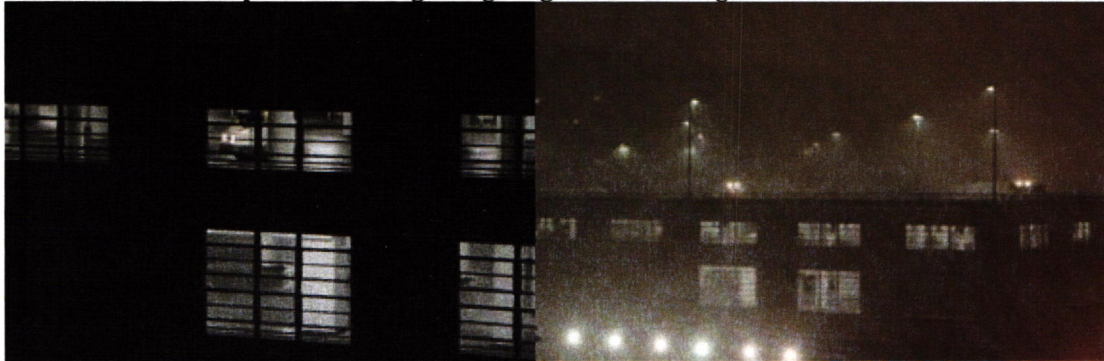
Issue 2: Noise from Parking Garage

- Noise can be heard at all times of night from the garage being cleaned by cleaning machines (see 2.1)
- In the winter time, heavy equipment is used to clear snow from the parking garage (see 2.2 and 2.3)
- Rubbish removal happens at all times of night (see 2.4)
- Use of Caterpillar and large construction dumpster at hours between 6 pm and 7 am is unlawful according to:
 - **16-26.5 Noise Levels at Residential Lot Lines.**
 - It shall be unlawful for any person except in emergencies by Public Utility Companies to operate any construction device(s), including but not limited to impact devices, on any construction site if the operation of such device(s) emits noise, measured at the lot line of a residential lot in excess of 50 dBA between the hours of 6:00 p.m. and 7:00 a.m.

Resolutions:

- Ensure that the garage is completely enclosed, with windows and sound deadened.
- Ensure/enforce that garage is cleaned and rubbish is removed ONLY DURING regular working hours of 9-5 pm
- Ensure that exhaust fans from parking garage do not produce noise
- Ensure that there are no entry / exit buzzers for cars

Exhibit 2.1 and Exhibit 2.2/2.3: Parking Garage Being Cleaned at 11:17 PM and Bobcats and Caterpillar clearing the garage and loading dock at 2 am



Issue 3: Rubbish removal

- Rubbish is being removed from Landmark Center at all times of day and night. Antiquated system of refuse of construction material removal leads to excessive idling and noise

- Loading dock is used for construction at early morning hours with rubbish being dumped into dumpsters (see exhibit 3.1 and 3.2)
- This activity is illegal relative to:
 - **Massachusetts General Law (MGL), Chapter 90, Section 16A, 310 Code of Massachusetts Regulation (CMR), Section 7.11 and MGL, Chapter 111, Sections 142A – 142M**
 - **MGL16-26.4 Regulation of Construction Hours.**
 - No erection, demolition, alteration, or repair of any building and excavation in regard thereto, except between the hours of 7:00 a.m. and 6:00 p.m., on weekdays or except in the interest of public safety or welfare, upon the issuance of and pursuant to an Off Hours Permit from the Commissioner, Inspectional Services Department, which may be renewed for one or more periods of not exceeding one week each

Resolutions:

- Landmark Center must observe use of loading dock between 7 am and 6 pm only (regular business hours)
- Update refuse collection system with noise suppression and move the refuse collection to other side of building (and at minimum to the side of the loading dock, furthest away from Miner St. residents)

Exhibit 3.1 and 3.2: Rubbish removal at 4:14 AM (dropping large objects into metal garbage bin creating very loud reverberating noise throughout the early AM and throughout the day). Second picture shows truck DROPPING dumpster and creating excessive noise and vibration without consideration to residents



Issue 4: Landscaping of Fullerton / Miner area

- The landscaping around all corners of the landmark center where Samuels properties (Trilogy and the Pierce) abut have been very nicely designed, however, the Miner St/ Fullerton St. (as depicted in above) area has been entirely ignored. (see 4.1)

Exhibit 4.1: Very unattractive corner of the landmark center



Resolution:

- Create a small green parks for children and residents to relax in the same manner all other corners of the Landmark property have been thoughtfully “activated” in both the new and old renderings of the project. See example below:



Issue 5: Noise from Construction

- Residents have endured construction from 9 Miner St (completed 2016), adjacent property on Beacon St (currently under construction – see exhibit 5.1), and Boston Children’s Hospital, which has been approved for ground break shortly
- There has been no reprieve from construction for my fellow residents and I for the duration that we have lived at 16 Miner St.

Exhibit 5.1: Current construction adjacent to 16 Miner St.



Resolution:

We demand that noise from construction is monitored by both the City and the developer and only allowed during the hours of 7 am to 6 pm per MGL:

- **MGL16-26.4 Regulation of Construction Hours.**
- No erection, demolition, alteration, or repair of any building and excavation in regard thereto, except between the hours of 7:00 a.m. and 6:00 p.m., on weekdays or except in the interest of public safety or welfare, upon the issuance of and pursuant to an Off Hours Permit from the Commissioner, Inspectional Services Department, which may be renewed for one or more periods of not exceeding one week each
- In addition, we want to ensure that the construction

Issue 6: Traffic and Accessibility

- The intersection of Fullerton St., Miner St and the proposed multi-use pathway requires careful attention as pedestrians, wheels chairs, bicycle, and heavy commercial vehicles (from the landmark center), all use the same roadway; the sidewalks are inadequate or avoided
- Currently there are heavy commercial vehicles and construction vehicles going into and out of the Landmark Center using the Miner St. / Fullerton St. road as shown below.
- ***Violation: American Disabilities Act***

Exhibit 6.1: Sample usage of Miner St by commercial, residential and foot traffic



Resolution:

- Restrict all commercial and construction vehicle traffic on Miner St and the Landmark Center through clearly labeled signs restricting traffic (ideally at all hours)
- Level the side walk and/or create a proper and dedicated ramp for people in wheel chairs to use, instead of having to share the road with the trucks (somebody will eventually get hurt)

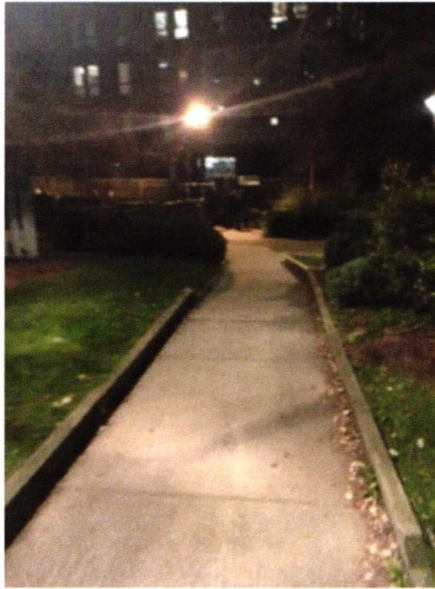
Issue 7: Illegal Hawkers and Homeless Persons

- Due to the lack of attention given to this area by the City,
 - Illegal hawkers often sell Boston Red Sox gear
 - Homeless person use an electrical outlet that Samuels has kept at the Landmark center to operate appliances (including TVs, radios and microwaves)
 - In the very recent past, homeless persons have actually trespassed on 16 Miner St and slept in the hallways/garbage rooms
 - **Violation: MGL Part IV, Title 1: Chapter 266 Section 120**

Resolution:

- Post signs prohibiting loitering
- Remove electrical outlet on Samuels property
- Light the path with bright lights
- Put up appropriate and attractive signage

Exhibit 7.1 and 7.2: Illegal hawker selling baseball caps and homeless person in lawn chair using electricity from Landmark Center



Issue 8: Ride-share Pick Up / Pick-up by Residences

- The Samuels properties including 1325 and the Landmark Center are creating immense congestion and dangerous driving conditions along Brookline St and Fullerton St. due to ride-share drivers stopping in front of the building and the intersection (Kilmarnock and Boylston) for extended periods of time. We need to solve for this.
- Ride-share volume is expected to increase, therefore this must be accommodated by Samuels and the City of Boston

Resolution:

- Create dedicated inset parking (where the cars can pull off into a dedicated spot that does not block the intersection) along Brookline and/or Fullerton St for passenger pick up that moves

Issue 9: Bike Paths

- Brookline and Fullerton do not accommodate bikes

Resolution:

- Create dedicated Bike paths, as is happening all around the city

Please call me with any questions you may have.

Sincerely,
Sandeep Karnik



Tim Czerwienski <tim.czerwienski@boston.gov>

Re: Landmark Center IAG meeting/BCDC meeting

Fri, Oct 6, 2017 at 2:44 PM

Reply-To: [REDACTED]
To: Tim Czerwienski <tim.czerwienski@boston.gov>
Cc: [REDACTED]

Tim.

As mentioned at the IAG meeting, I would like to see committed funds for the Emerald Necklace Conservancy designated for maintenance of the Muddy River Restoration Project across from the Landmark Center. The Conservancy is a great organization, but has many projects. Designating the funds would benefit the neighborhood, the Landmark Center Project, and the Conservancy.

Sincerely,

Ruth E. Khowais

IAG committee member

-----Original Message-----

From: Tim Czerwienski

Sent: Oct 2, 2017 11:29 AM

To: undisclosed-recipients;

Subject: Landmark Center IAG meeting/BCDC meeting

Good morning,

This is a reminder that the Impact Advisory Group for the Landmark Center project will be meeting tonight at 6PM at [136 Brookline Avenue](#), second floor conference room. In addition to evaluating the new office/lab building for its impacts relative to the previously approved project. I would ask that you review sections C, D, and E of the Executive Summary in the NPC document. These sections outline benefits, impacts, and mitigation that were identified and agreed to in the previous approval of the project.

Also, this project will be appearing before the Boston Civic Design Commission at its monthly meeting tomorrow. You can view the agenda here: <http://www.bostonplans.org/news-calendar/calendar/2017/09/26/boston-civic-design-commission-meeting>

--

**boston planning &
development agency****Tim Czerwienski, AICP***Project Manager*

617.918.5303

Boston Planning & Development Agency (BPDA)

One City Hall Square | Boston, MA 02201

bostonplans.org



MEDICAL ACADEMIC AND SCIENTIFIC COMMUNITY ORGANIZATION, INC.

PEOPLE | PLACES | PLANS | FUTURE

October 4, 2017

Member Institutions

Beth Israel Deaconess
Medical Center
Boston Children's Hospital
Brigham and Women's
Hospital
Dana-Farber
Cancer Institute
Emmanuel College
Harvard University
Harvard Medical School
Harvard School of Dental
Medicine
Harvard T.H. Chan School of
Public Health
Isabella Stewart Gardner
Joslin Diabetes Center
Judge Baker Children's Center
Massachusetts College of Art
and Design
Massachusetts College
of Pharmacy and
Health Sciences University
Massachusetts Department of
Mental Health
Simmons College
Temple Israel
Wentworth Institute of
Technology
Wheelock College
The Winsor School

Associate Members

Massachusetts Eye and Ear
Infirmary
Merck Research Laboratories

Mr. Tim Czerwienski, AICP
Project Manager
Boston Planning & Development Agency (BPDA)
One City Hall Square
Boston, MA 02201

RE: Comment Letter on Notice of Project Change for Landmark Center

Dear Mr. Czerwienski:

We are pleased to support the Landmark Center's proposal contained in their Notice of Project Change dated 8-30-2017. The NPC adds an office/research building. The overall site proposal's scale and components have been reduced with the removal of residential towers, a supermarket and a garage replacement. Many positive improvements continue to be proposed in relation to the new project that will positively impact the public realm including improved sidewalk conditions on Brookline Ave., improved path legibility and safety for pedestrians through the site as they access the Fenway MBTA stop, and creation of a new 1.3 acre park adjacent to the Emerald Necklace.

We request that the developer, working with the City of Boston Planning and Development Agency and the Boston Transportation Department, consider additional evaluations or improvements in the vicinity of their development as follows:

- 1) Evaluation of signal timing to enhance pedestrian safety at the rotary, particularly at Brookline and Boylston Avenue intersections with Park Drive. These are very difficult locations for the many pedestrians who walk between the Longwood Medical and Academic Area and MASCO members' near-site facilities, retail, transportation assets at Yawkey Station, and the West Fenway community. Because the multimodal impacts of any proposed timing changes will be felt in both the Fenway and LMA, we request that there be coordination with MASCO prior to completion and implementation of study recommendations.

- 2) Consider audible pedestrian signals as a mitigation, particularly in the path of travel to and from the LMA's nearby colleges through the Sears Rotary crossings to the Landmark Center/Fenway Green Line station. We have a standing request to DCR to improve these signals for sight impaired students from LMA.
- 3) Study and install a crosswalk on the Park Drive bridge at the MBTA bus stop on the westbound side to the Emerald Necklace Park on the eastbound side. This is a busy but unprotected location for pedestrian and bicyclist crossings, and is an important but currently unsafe link to and from the park and the LMA.

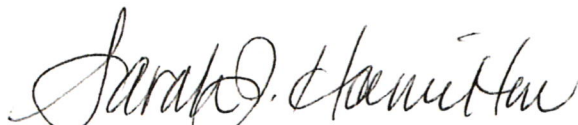
As Samuel's progresses with construction planning we request that their team coordinate with MASCO's Construction Coordination process in advance of and during construction, so that impacts to the access to and from the Fenway and LMA can be anticipated and communicated.

We also encourage Samuels to join MASCO's CommuteWorks Program as a TMA member. Given that many of the Landmark Center's tenants are MASCO members we would be pleased to work with Samuels to provide TDM services to reduce the demand for solo occupancy vehicle access.

Finally, we request that MASCO be included in the planning process with City and State as design progresses for the multi-use path. We were instrumental in getting funding from the state for this path and have a continued interest in improving the right of way for bicyclists, pedestrians, and future transit.

Thank you for the opportunity to comment.

Sincerely,



Sarah J. Hamilton
Vice President, Area Planning and Development



MEDICAL ACADEMIC AND SCIENTIFIC COMMUNITY ORGANIZATION, INC.



Tim Czerwienski <tim.czerwienski@boston.gov>

Fwd: Landmark Center Redesign | Input Needed by Thursday at 6 pm

Sat, Oct 7, 2017 at 3:42 PM

To: Tim Czerwienski <tim.czerwienski@boston.gov>

FYI more community support

Begin forwarded message:

From: Adam Noyes [REDACTED]
Date: October 7, 2017 at 2:15:49 PM EDT
To: Sandeep Karnik [REDACTED]
Subject: Re: Landmark Center Redesign | Input Needed by Thursday at 6 pm

Hey Sandeep,

Thanks for taking the lead on this and for asking for my input. Sorry I wasn't able to get back to you before the comment deadline. I think you encompassed everything that's on my mind, particularly the noise and traffic impacts. Let me know if there's anything you need from me as this thing progresses.

Have a great weekend,

- Adam

On Wed, Oct 4, 2017 at 8:28 AM, Sandeep Karnik [REDACTED] wrote:

Hi folks,

I've been asked to participate on the Landmark Center redesign impact advisory group. This is a group of business owners and citizens that advises the city on large scale development.

Attached, is a firmly stated note that I've crafted to the Boston Planning and Development Agency. Could you please

1. Review the document and provide input (with edit tracker on) in the body of the note and send directly back to me. I want to ensure it is cogent and includes your feedback, where appropriate.
2. I will copy you on the note to BPDA unless you indicate otherwise.
3. If you wish your name to be included in support of the document, please indicate as such or simply respond when I send it to the city.
4. If you wish to state additional issues directly, please feel free to contact tim.czerwienski@boston.gov (Project Manager).
5. Note that I cannot commit any more time than I already have, so please keep things simple in your feedback.
6. If there are others whom you think might be interested, please let me know or collect their feedback and send back to me.

The comment period closes on Friday. Also, feel free to reach out to me directly if you have any questions. There is a link below should you wish to learn more about the project.

<http://www.bostonplans.org/projects/development-projects/landmark-center>

Sincerely,
Sandeep

--

The information transmitted herewith is intended only for use by the individual or entity to which it is addressed. If the reader of this message is not the intended recipient, you are hereby notified that any



Tim Czerwienski <tim.czerwienski@boston.gov>

Landmark Center (401 Park) Project

Lauren Dewey Platt [REDACTED]
To: tim.czerwienski@boston.gov

Fri, Oct 6, 2017 at 9:57 AM

Hello Tim,

After attending the scoping session and the IAG meeting recently, along with review of the documents, following are my comments on this project:

1. Given that the project is vastly downsized from the original design, there is not much to dislike about the changes. Certainly the impacts on both the Fenway and Audubon Circle neighborhoods are reduced, and the addition of green space in the front of the building where surface parking used to be is a major enhancement.
2. While I am delighted that the project adds no new parking, I think there should be emphasis added to the assumption that more commuters will arrive by bike and MBTA. Because I work in the Landmark building, I am aware of the need for additional bike storage to accommodate even the bikers that use the building now. Presumably there will be many more folks riding bikes, so there needs to be a commitment by the developer to build more and better bike storage for the project.
3. The Fenway MBTA station should be enhanced for safety and security. I understand that the developer is improving access to/from the station and is redesigning the shared-use pathway, but there needs also to be a serious commitment, via a collaboration between the MBTA and the developer, to enhance lighting, at the very least, at the Fenway station.
4. I would like to see a number of spaces (perhaps 5-10) for Zipcars in the parking garage. There used to be 2 spots for car-sharing automobiles, but those cars are now gone.
5. In terms of community benefits, as was stated by the IAG members at the meeting earlier this week, the funds being provided to the Emerald Necklace Conservancy (ENC) ought to be granted on the condition that they be used to maintain/enhance those parts of the Emerald Necklace bordering the project area--that is, Back Bay Fens Muddy River Restoration and perhaps the Riverway portion of the Necklace. There was consensus among the IAG members at the meeting that this condition should be incorporated into the community benefit to ENC.

Thank you for all of your efforts on this project and for leading the IAG discussions.

All best,

Lauren Dewey Platt
41 Park Drive
Boston, MA 02215



Tim Czerwienski <tim.czerwienski@boston.gov>

Fwd: Landmark Center comments

Fri, Oct 6, 2017 at 10:51 PM

[REDACTED]
to: Tim Czerwienski <tim.czerwienski@boston.gov>

Please find below a note from Dr Vacirca in support of the note that was sent over

Begin forwarded message:

From: Stephen V [REDACTED]
Date: October 6, 2017 at 10:48:17 PM EDT
To: [REDACTED]
Subject: Landmark Center comments

Hi Sandeep,

Sorry for the delay in my response, but I just discovered your emails in my hotmail account. I very rarely check that account any more, and for some reason, I'm not able to send out emails from that account (hence the reply from this account).

I'm happy to know that you will be part of the Impact Advisory Group. Your letter to the BPDA is excellent! It makes a very compelling, thoughtful, and importantly, well documented, case for the issues cited. I agree that these are very important issues that need to be addressed.

I very much appreciate your efforts, and you have my support.

Thanks Sandeep,

Steve Vacirca

To: Tim Czerwienski tim.czerwienski@boston.gov

Re: Notice of Project Change – Landmark Center Redevelopment Project

October 6, 2017

Dear Tim,

Thank you for the informative sessions held for IAG members and the public on the plans to change the previously approved projects for the Landmark Center. In general, I believe the switch from multiple residences to a singular office/lab use structure at Fullerton and Brookline Avenue is a desirable change, and takes that opportunity to improve the public's approach to the overall site as well as the activities/commerce within the footprint. The numerous public improvements of access, circulation, and programming, especially in Phase I, are ambitious and will be valuable for everyone in the future. We are fortunate to have the Samuels & Associates understanding of the Fenway and their commitment to the many improvements planned.

Wind

There was considerable concern expressed at the meetings about need to find a solution to the current and projected wind shear from the new project. Several factors suggest the wind shear will be less than current conditions, but plans should detail how even improved conditions can be made safer for pedestrians on Brookline Avenue and Fullerton/Van Ness. After the project is completed, there needs to be follow-up of people on the ground to ascertain if the mitigation is what was envisioned or needs further action.

Solar Glare – Unexpected Consequences

This past week, I had the chance to spend time in Ramler Park in the morning around 10 -11 AM and was shocked at the blinding glare and heat from the Pierce building on the people sitting under the shade of the trees on the row of fountain-facing park benches. I moved from bench to bench but could not escape the glare on my eyes and found that the reflective heat to be nearly as hot as the direct sun. This is quite a distance from the Pierce building, and it is hard to believe such a transformative impact was possible on Ramler Park. (The same glare effects are felt earlier for pedestrians walking on Park Drive in the last block before Shaw's parking lot.) I do not know if any study for the Pierce suggested that this occur in Ramler Park, but it shows the limitations of virtual studies in a planning document vs. real life experience. Although less likely because of its location, I would like to ensure that the proposed building will not cast any more glare on Ramler Park or any other public park.

Contributions for Muddy River project area

The previously approved mitigations included a \$100,000 contribution to the Emerald Necklace Conservancy for "projects and programming in the Back Bay Fens are of the Emerald Necklace park system". At the 10/2 IAG meeting, there was a desire by members to see that contribution increased, and targeted specifically to maintenance of Phase I of the Army Corps Muddy River restoration project upon conveyance of the project back to the public partners. I would like to suggest an additional

\$50,000 be added to the original commitment, with payment schedule to be determined by the proponent and BPDA. It is important to note that the additional maintenance contribution is not be used to offset the public partners' budgeted funds, but rather be used to augment the considerable care required to ensure the viability and longevity of the extensive plantings in the Phase I project area.

Thank you for the opportunity to comment.

Fredericka Veikley

Fenway Resident

Member of IAG for Landmark Center Redevelopment

Landmark Center NPC Public Comments via website form 2017-10-10

Date	Name	Organization	Address	Opinion	Comments
10/6/2017	Brenda Lew	Friends of the Muddy River, Inc.	107 Queensberry Street, #2 Boston MA 02215	Support	<p>At the October 2, 2017 meeting, an IAG member raised the question of how the \$100,000 contribution to the Emerald Necklace Conservancy will be used. It should specify that it will be earmarked for the maintenance of the Muddy River Restoration Project across from the Landmark Center possibly over the next five years.</p> <p>The Friends of the Muddy River support such a stipulation for not only maintenance of Phase I but also later Phase 2. We thank Samuels & Associates for their contribution and support of the Muddy River.</p>
9/12/2017	Thomas Plant	Boston Public Health Commission	1010 Massachusetts Avenue 2nd Floor Boston MA 02118	Support	<p>I like the original plan that call for residential housing (I hope mixed income) to be added to the former Sears Complex. I believe we miss a great opportunity to balance and restore to this building to the community without a housing component which is desperately needed in Boston and is inline with Imagine Boston 2030. While I support the redevelopment of the Sears Complex. I would like to see the residential component added to the final proposal.</p>

BOSTON REDEVELOPMENT AUTHORITY
PUBLIC HEARING
November 30, 2017

This is a public hearing before the Boston Redevelopment Authority doing business as the Boston Planning & Development Agency, being held in conformance with Article 80 of the Boston Zoning Code, to consider the Landmark Center project in the Fenway as a Development Impact Project. The Project consist of the construction of a new, fourteen (14)-story building with approximately 506,000 square feet for office and laboratory use; and, to adopt the Ninth Report and Decision Amendment to the Landmark Center Chapter 121A Project.

The hearing was duly advertised on November 17, 2017 in the Boston Herald.

In a BPDA hearing on a proposed petition by the Authority, staff members will first present their case and are subject to questioning by members of the Authority. Thereafter, others who wish to speak in favor of the proposed petition are afforded an opportunity to do so under the same rules of questioning. Following that, those who wish to speak in opposition may do so, again under the same rules of questioning. Finally, the proponents are allowed a period of five to ten minutes for rebuttal if they so desire.

In an effort to accommodate all who would like to speak about this proposal, each person will be given up to two minutes to comment. BPDA staff will indicate when thirty seconds remain. At that time, please conclude your remarks, so that the hearing may continue and others may be heard.

Mr. Czerwienski will present.

November 30, 2017

BOSTON REDEVELOPMENT AUTHORITY

NINTH AMENDMENT TO REPORT AND DECISION ON THE MODIFICATION OF
THE LANDMARK CENTER CHAPTER 121A PROJECT BY LANDMARK CENTER
OWNER LIMITED PARTNERSHIP AND LANDMARK CENTER DEVELOPMENT
LIMITED PARTNERSHIP, UNDER CHAPTER 121A OF THE GENERAL LAWS OF THE
COMMONWEALTH OF MASSACHUSETTS AND CHAPTER 652 OF THE ACTS OF
1960, EACH AS AMENDED

A. The Meeting. A meeting was held at 5:30 p.m. on November 30, 2017 (the "Meeting"), in the offices of the Boston Redevelopment Authority ("BRA") in the Board Room of the BRA, Room 900, Boston City Hall, Boston, Massachusetts, by the BRA on an application filed with the BRA and dated November 29, 2017 ("Application"), for authorization and approval of a redevelopment project, as described herein ("Project") under Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, both as amended (respectively hereinafter referred to as "Chapter 121A" and "Chapter 652") to undertake and carry out the Project pursuant to said Chapter 121A and Chapter 652.

B. BRA Action. In passing upon the Application, the BRA has considered the Application itself, all documents, plans, exhibits and supplemental information filed therewith or referred to herein, the oral evidence presented at the Meeting, the exhibits offered in evidence at the Meeting, and arguments and statements made at the Meeting.

C. The Project and Project Area. The Project originally consisted of the rehabilitation of the former Sears Catalogue Store building into a mix use development of commercial, retail, office and parking uses containing approximately 921,740 square feet consisting of approximately 602,340 square feet of office space and public spaces, approximately 171,600 square feet of retail space, an approximately 67,000 square foot cinema complex, an approximately 10,000 square foot day care center, an approximately 27,600 square foot health club, a service and loading area of approximately 43,200 square feet and parking approved under Chapter 121A for up to 1,966 cars, but as constructed contains parking for 1,790 cars, located on a parcel of land with an address at 309 Park Drive/201 Brookline Avenue in the Fenway neighborhood of the City of Boston bounded by Park Drive, Brookline Avenue, Fullerton Street and Miner Street and the Riverside or "D" branch of the MBTA Green Line, as more particularly described in the Report and Decision, as herein defined. The legal description of the Project Area is attached hereto.

D. Prior Proceedings and Actions.

1. On December 5, 1996, the BRA voted to adopt a Report and Decision (the "Report and Decision") on a project known as the Landmark Center Chapter 121A Project, formerly known as the Sears Catalogue Store building. Such vote was approved by the Mayor of the City of Boston (the "Mayor") on December 24, 1996 and the vote, as so approved, was filed with the Clerk of the City of Boston (the "City Clerk") on December 24, 1996.

2. The Project consisted of the rehabilitation of the Sears Catalogue Store building into a mixture of commercial, retail, office and parking uses containing approximately 602,340 square feet of office space and public spaces, approximately 171,600 square feet of retail space, a 67,000 square foot cinema complex, an approximately 10,000 square foot day care center, an approximately 27,600 square foot health club, a service and loading area of approximately 43,200 square feet and parking for 1,790 cars, which includes a combination of designated parking spaces and valet or attendant parking, located on a parcel of land in the Fenway neighborhood of the City of Boston bounded by Park Drive, Brookline Avenue, Fullerton Street and the Riverside or "D" branch of the MBTA Green Line, as more particularly described in the Report and Decision. Abbey Landmark Abbey Owner LLP, a Massachusetts registered limited liability partnership (the "Abbey Owner LLP"), was designated in the Report and Decision as the Chapter 121A entity to own, operate and manage the Project.

3. The BRA and Abbey Owner LLP, Abbey Landmark Developer LLC and Abbey Landmark Operating LLC entered into a Regulatory Agreement dated as of February 28, 1997. In addition, the City of Boston and the Abbey Owner LLP entered into a Massachusetts General Laws Section 6A Contract dated as of February 28, 1997.

4. On March 9, 2000, the BRA voted to adopt a First Amendment to Report and Decision on the original Project, (hereinafter referred to as the "First Amendment"). Such vote was approved by the Mayor on March 14, 2000 and the vote as so approved was filed with the City Clerk on March 16, 2000. The First Amendment authorized the relocation of approximately 150 approved parking spaces to a new fifth floor parking level constructed above the existing warehouse structure and approval of related zoning deviations (the "Additional Parking Level"). The Additional Parking Level has not been constructed and the owner has previously agreed that it shall not be entitled to construct the Additional Parking Level at the Project without further approval of the BRA.

5. On April 25, 2000, the BRA voted to adopt a Second Amendment to the Report and Decision on the Project (hereinafter referred to as the "Second Amendment"). Such vote was approved by the Mayor on April 26, 2000 and the vote as so approved was filed with the City Clerk on April 27, 2000. The Second Amendment authorized additional zoning deviations for the Project in order to allow the Project developers to lease out certain space for the previously approved office and research uses by college/university users.

6. In April 2001, the Abbey Owner LLP notified the BRA that it restructured its ownership interests in connection with a financing and provided the BRA with an updated Disclosure Statement. The restructuring of the ownership interests did not change control of any of the controlling ownership entities of the Project and as a result, Abbey Owner LLP became Abbey Landmark Owner Limited Partnership, a Massachusetts limited partnership (hereinafter referred to as the "Abbey Owner LP"), whose general partner is Abbey Landmark Owner, Inc., a Massachusetts corporation. The Regulatory Agreement and 6A Contract both dated as of February 28, 1997 were assigned from Abbey Owner LLP to the Abbey Owner LP.

7. On August 10, 2006, the BRA voted to adopt a Third Amendment to the Report and Decision on the Project (hereinafter referred to as the "Third Amendment"). Such vote was approved by the Mayor on August 14, 2006 and the vote as so approved was filed with the City Clerk on August 16, 2006. The Third Amendment authorized further additional zoning deviations for the Project in order to permit conditional clinic and clinical laboratory uses by hospital users in five (5) floors of the tower portion of the Project, which contains approximately 16,000 square feet.

8. On December 14, 2010, the BRA voted to adopted a Fourth Amendment to the Report and Decision on the Project (hereinafter referred to as the "Fourth Amendment"). Such vote was approved by the Mayor on December 16, 2010 and the vote as so approved was filed with the City Clerk on December 21, 2010. The Fourth Amendment authorized a Transfer Application by Landmark Center Owner Limited Partnership ("Owner") pursuant to which Owner acquired the Project from Abbey Owner LP. In connection with the approved transfer, the Owner entered into a Regulatory Agreement with the BRA dated as of February 1, 2011 and the Section 6A Contract was assigned from Abbey Owner LP to the Owner (the "Existing Regulatory Agreement").

9. On March 13, 2012, the BRA voted to adopted a Fifth Amendment to the Report and Decision on the Project (hereinafter referred to as the "Fifth Amendment"). Such vote was approved by the Mayor on March 14, 2012 and the

vote as so approved was filed with the City Clerk on March 19, 2012. The Fifth Amendment authorized a zoning deviation to authorize general office use and agency/professional use by a hospital at the Project.

10. On January 16, 2014, the BRA voted to adopted a Sixth Amendment to the Report and Decision on the Project (hereinafter referred to as the "Sixth Amendment"). Such vote was approved by the Mayor on January 22, 2014 and the vote as so approved was filed with the City Clerk on January 24, 2014. The Sixth Amendment approved a modification to the Project involving the demolition of the existing above-grade parking structure and the construction of a new mixed-use project, to be integrated with proposed renovations to the existing portions of the Project (the "2014 Project Modification"), and authorized related zoning deviations in connection therewith. The Project Modification was anticipated to include up to: 600 residential units, 110,000 square feet of new retail use, 75,000 square feet of grocery use, and 15,000 square feet of new office use and new subsurface parking, which will provide up to 1,500 striped structured parking spaces with additional capacity with managed valet operations. The Owner did not move forward with the 2014 Project Modification expansion in its entirety.

11. On April 16, 2015, the BRA voted to adopt a Seventh Amendment to the Report and Decision on the Project (hereinafter referred to as the "Seventh Amendment"). Such vote was approved by the Mayor on April 17, 2015 and the vote as so approved was filed with the City Clerk on April 27, 2015. The Seventh Amendment authorized the granting of certain additional zoning deviations and amendment of certain existing zoning deviations in connection with the Project.

12. On July 16, 2015, the BPDA voted to adopt an Eighth Amendment to the Report and Decision on the Project (hereinafter referred to as the "Eighth Amendment"). Such vote was approved by the Mayor on July 17, 2015 and the vote as so approved was filed with the City Clerk on July 17, 2015. The Eighth Amendment authorized the expansion of a hospital use at the Project.

13. The original Report and Decision, as amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment, Seventh Amendment and Eighth Amendment shall hereinafter be referred to as the "Amended Report and Decision".

E. Application for Modification.

1. On May 11, 2017 the BRA board approved an initial phase of the 2014 Project Modification from which only select components of the overall project are currently

being implemented in, consisting of the creation of approximately 1.1-acres of open space by converting surface parking to landscaped open space, increasing the total amount of open space to 2.2 acres site-wide in the Project and renovating and comprehensively remerchandising the ground floor retail along Park Drive and Brookline Avenue, including new restaurants, a destination food hall, and other interior office and garage renovations that have been reviewed and approved under Article 80 of the Boston Zoning Code as part of the initial phase of the Project (the "Phase One").

2. On November 29, 2017, Landmark Center Owner Partnership and its affiliate, Landmark Center Development Limited Partnership (together, the "Applicant"), filed an Application for Modification (the "Application") requesting an amendment to the Amended Report and Decision to allow a modification to the Project involving the three primary elements: (i) the construction of a new office/R&D building, consisting of approximately 506,000 square feet, along the Fullerton Street side of the building only; (ii) the creation of a new public plaza at the southwest corner of Brookline Avenue and Fullerton Street, which will contribute to a total of approximately 0.24 acres of new open space; and (iii) related streetscape and site improvements, all as more specifically set forth in the plans to be approved by the BPDA, and to comprise one or more separate Sub-Parcels, as delineated on the Subdivision Plan to be approved by the BPDA (together, the "Project Modification" and "Phase Two"). The new office/lab building replaces the proposed four new residential buildings over a retail podium along two sides of the building from the 2014 Project Modification; and the current plan no longer requires demolition of the garage or construction of new below-grade parking. The Project Modification will be implemented as a separate phase. A copy of the Application on file with the BRA in the Executive Director/Secretary's office. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Application.

3. The Application requests *inter alia* that the BRA grant certain additional zoning deviations in connection with the Project Modification. Landmark Center Owner Partnership and Landmark Center Development Limited Partnership continue to be the Applicant for the Project. Depending on market conditions and the financing arrangements the Project Modification may be undertaken by Landmark Center Owner Partnership and/or Landmark Center Development Limited Partnership.

4. Landmark Center Owner Limited Partnership and the BRA amended the Existing Regulatory Agreement in connection with Phase One pursuant to an Amendment to Regulatory Agreement dated as of October 5, 2017. The Application contemplates that Landmark Center Owner Limited Partnership and/or Landmark Center Development Limited Partnership, as applicable, will enter into a new or

amended Regulatory Agreement for the Project Modification (the "New Regulatory Agreement") and a new Agreement Not to Dispose of Interests for the Project Modification (the "New Agreement Not to Dispose"), each in a form to be approved by the BRA's Director, and requests that the Minimum Financing, Construction Maintenance and Management Standards for the Project Modification, be approved.

F. BRA Action. The BRA is acting hereunder pursuant to General Laws Chapter 121A, as amended and applicable ("Chapter 121A") and the Acts of 1960, Chapter 652 ("Chapter 652"), specifically Section 13A thereof, and all other applicable sections or provisions of Chapter 121A and Chapter 652 and the BRA's "Rules and Regulations Governing Chapter 121A Projects in the City of Boston", as amended and applicable. Further, the BRA in acting hereunder has considered the Application and all documents or exhibits filed therewith or attached thereto, and the statements and all other documents or materials presented at the November 30, 2017 BRA Board meeting sufficient in its judgment to enable it to act as hereinafter set forth.

G. Decision. The BRA hereby acts as follows:

1. Approval. The Application is hereby approved only to the extent set forth herein and the Amended Report and Decision is further amended to the extent hereinafter set forth, including specifically amending the approvals granted under the Sixth Amendment for expansion of the Project granted under the Sixth Amendment and replacing such approvals with those granted under this Ninth Amendment to Report and Decision for the changes to the Project as described or requested in the application. If there is any inconsistency between the terms and conditions of this Ninth Amendment to Report and Decision (the "Ninth Amendment") and those of the Application, the terms and conditions of this Ninth Amendment shall govern.

2. Applicant. The BRA hereby approves Landmark Center Development Limited Partnership as an urban redevelopment entity authorized, together with Landmark Center Owner Limited Partnership, to undertake the Project Modification. Landmark Center Owner Limited Partnership is the existing owner of the Project Area and Project, and its acquisition and ownership of the Project for the remainder of its term under Chapter 121A was previously approved by the BRA in its Fourth Amendment, dated December 14, 2010. The sole General Partner of Landmark Center Owner Limited Partnership is Landmark Center GP LLC, a Delaware limited liability company, and the sole limited partner is Landmark Center Venture LLC, a Delaware limited liability company. The sole General Partner of Landmark Center Development Limited Partnership is

Landmark Development LLC, a Delaware limited liability company, and the sole limited partner is Landmark Center Venture LLC, a Delaware limited liability company. The Certificates of Limited Partnership and Limited Partnership Agreements of Applicant have been filed with the BRA. Any subsequent amendments or restatements to, or of such certificates shall be submitted to the BRA promptly after filing with the Secretary of State of the State of Massachusetts; provided, however, that any such amendments or restatements that substantially and materially alter the certificates in a manner that is inconsistent with the provisions of this Report and Decision shall be subject to the prior review and approval of the BRA's Director before their filing with the Secretary of State of the State of Massachusetts.

3. Cost of the Project Modification; Financing. In the opinion of the BRA, the approximate cost of the Project, of approximately \$150 million for Phase One and \$350 million for the Phase Two, has been realistically estimated in the Application, and the Project Modification is practicable. The Project is currently financed via a first mortgage from two life insurance lenders. The Applicant anticipates that the funding for the Project Modifications will include financing from the existing lenders through a modification of the existing loan with additional loan proceeds and/or through new lenders to fund new development costs for the Project Modification/Phase Two. In addition, certain equity will be contributed to the Project Modification by affiliates or entities controlled by Samuels & Associates Development LLC, clients advised by J.P. Morgan Investment Management, Inc. and/or JPMorgan Chase Bank. If additional funding becomes necessary, the Applicant intends to seek mortgage financing from additional institutional lending sources. The BRA hereby approves the method of financing for the Project Modification, as described in the Application.

Any future financing or refinancing made by the Applicant in connection with the Project Modification may be made without the prior approval of the BRA, but with prior written notice thereof, if provided by (i) a recognized institutional lender, an insurance company, trust company, bank, pension fund, real estate investment fund, real estate investment trust, investment vehicle directed by an investment advisor (including without limitation, securitized loans), investment banking firm, private equity firm, venture capital company, sovereign nation or any agency, commission or BRA thereof, or sovereign wealth fund (in each case provided that such entity is not prohibited by any law or regulation from providing financing for the Project), (ii) the Applicant or any stockholder, partner, member, manager or affiliate thereof, or any Affiliated Entity (as hereinafter defined), and/or (iii) the federal government, the Commonwealth of Massachusetts, the City of Boston, or any political subdivision or instrumentality thereof. All other financing shall be

made only with the prior approval of the BRA as to the identity and capability of the financing party or parties, the sufficiency of such financing and its compliance with the provisions of Chapter 121A and this Report and Decision, and such other additional information as may be requested by the BRA.

4. Deviations. The Application requests that permission be granted for certain deviations in connection with the Project Modification. Exhibit A, and Attachment A thereto, attached to the Application, includes the deviations requested in connection with the Project Modification. The BRA finds that certain deviations are necessary for the carrying out of the Project. Further, only those deviations set forth in Exhibit A, and Attachment A thereto, attached hereto and incorporated herein by reference are hereby granted and such Exhibit A and Attachment A amend and restate the deviations for the Project in their entirety. The BRA hereby finds that such deviations or permission may be granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinance and regulations. The provisions of this Section 4 shall survive the severance or termination of all or any portion of the 121A status of the Project or Project Modification.

5. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement set forth in Section 3(e) of the Application filed with the BRA on December 20, 2013, are hereby adopted and imposed as Rules and Regulations applicable to the Project Modification for the same period as the Project Modification is subject to the provisions of Chapter 121A and Chapter 652. If there are any inconsistencies between the terms and conditions of the Minimum Standards in the Application and the terms and conditions of this Ninth Amendment, this Ninth Amendment shall govern.

6. Future Transfer of Interests. The Applicant will not voluntarily transfer, assign, convey or sell in any manner, or hypothecate its interest in the Project, except in accordance with the applicable Regulatory Agreement(s).

7. 6A Contract. Because the Application does not seek an exemption from real estate tax for the new building being constructed as part of the Project Modification, the Project Modification shall be subject to a 6A Contract with payments equal to those applicable under MGL Ch. 59 as of the commencement of construction, and the Project Area, the Project Modification, this Ninth Amendment and all documents and agreements related thereto shall be deemed modified, upon issuance of the final Certificate of Occupancy for the Project Modification, to partially terminate (the "Partial Termination") the designation under Chapter 121A and the restrictions on the Applicant, the Project Modification and Project Area related thereto; provided,

however, that the deviations and permissions granted in this Ninth Amendment, as the same may hereinafter be amended, survive and remain in effect, without limitation. The Partial Termination shall apply only to the new building constructed as part of the Project Modification. Prior to the issuance of a building permit for the Project Modification, the Applicant shall enter into an amendment of the existing 6A Contract or a new 6A Contract to reflect the foregoing, terms and conditions which shall be acceptable to the Commissioner of Assessing, which amendment shall be in a form approved by the Commissioner of Assessing.

H. General Findings and Determinations. The Authority hereby finds and determines that: (a) the Project Modification, as approved in this Ninth Amendment, does not constitute a “fundamental change” in accordance with Chapter 652, Section 13A, as such Project Modification described herein reduces the size and overall impacts of the project expansion described in the 2014 Project Modification approved under the Sixth Amendment; (b) except to the extent inconsistent with or contrary to the provisions of this Ninth Amendment, all of the findings, determinations, approvals and consents contained in the Amended Report and Decision, including those zoning deviations granted therein, are hereby ratified and confirmed in all respects; and (c) any procedural requirements of applicable statutes and rules and regulations, which may not have been complied with regarding the Application or the Authority’s proceedings in connection therewith, are hereby waived.

I. Further Aspects of this First Amendment to Report and Decision. In addition to such minimum standards set forth in paragraph G.5 above, the BRA hereby requires that the rights and obligations of the Applicant and the BRA under this Ninth Amendment, shall not take effect unless the following has occurred: (1) the full execution of the New Regulatory Agreement with the BRA pursuant to the requirements of Chapter 121A, Section 18C, and the 6A Contract or Amendment with the City of Boston, as required. The Project Modification shall be subject to continuing design review by BRA staff, and copies of all plans and specifications for the Project Modification shall be submitted as the BRA may require.

J. Consistency with Master Plan. The Project Modification does not conflict with the Master Plan for the City of Boston, because the Project Area comes within a classification in the Master Plan which permits commercial uses of the kind proposed by the Applicant and because the Project Modification is consistent with the goals of the Master Plan. The use proposed in the Project Modification, including but not limited to office/laboratory, retail, and outdoor space are consistent with the uses within the neighborhood and neighboring parcels. The Project Modification will also contribute to the economy of the City of Boston

through the creation of construction and permanent jobs and the contribution of tax payments under the 121A program.

K. Effect of the Project. The Project Modification will not be in any way detrimental to the best interests of the public or the City of Boston or to the public safety and convenience, and is not inconsistent with the most suitable development of the Project Area's neighborhood or the City. The blighted, decadent and substandard condition of the Project Area has been a matter of concern to the surrounding neighborhood. The BRA finds that the development of the Project Modification will help to continue to revitalize the Project Area and the surrounding neighborhood, will provide a significant number of jobs during construction of the Project Modification, and will help to meet the needs of the City for affordable housing.

L. Force Majeure. The Applicant shall not be held in any way liable for delays which may occur in the construction, repair and maintenance of the Project Modification or the failure to perform its obligations under the Application or otherwise, by reason of scarcity of materials or labor, labor difficulties, damage by fire or other casualty or any other cause beyond the reasonable control of the Applicant, including, without limitation, delays due to the presence of hazardous materials in, on or under the Project Area or any portion thereof. The Applicant shall use due diligence to secure all such permissions, variances, permits and licenses and to overcome any such delays.

M. Implementing Agreements. The BRA hereby requires that the rights and obligations of the Applicant and the BRA hereunder shall not take effect until: (a) the full execution of a New Regulatory Agreement between the Applicant and the BRA, with such changes or other terms and conditions that are acceptable to the BRA's Director, in the Director's discretion; and (b) the New Agreement Not to Dispose of Interests for the Project Modification with such changes or other terms and conditions of which are acceptable to the BRA's Director, in the Director's discretion.

N. Environmental Considerations. The BRA has reviewed the environmental impact of the Project Modification through the Article 80 review process. Pursuant to the provisions of Section 61 of Chapter 30 of the General Laws, the BRA finds and declares that the Project Modification will not result in damage to or impairment of the environment, and that all practicable and feasible means and measures have been taken or will be utilized to avoid or minimize damage to the environment.

O. Report and Decision. All provisions of the Amended Report and Decision not specifically amended, revised by or inconsistent with this Ninth Amendment shall remain in full force and effect.

P. Authorization to Execute Documents. The BRA's Director is hereby authorized to execute, in the name and on behalf of the BRA, the New Regulatory Agreement and any and all agreements, instruments or documents required or authorized by this Ninth Amendment including without limitation any estoppel certificate or like instruments to and for governmental bodies, lenders or other interested parties, at the Director's discretion, that confirm matters covered by this Ninth Amendment.

Q. Severable Obligations. The BRA acknowledges that the Applicant has represented in the Application that it is contemplated that, within the Project Area, the Project as it exists and the Project Modification, may be separately owned and financed. Any non-compliance by or within the Project as it exists shall not affect the compliance of the Project Modification, and non-compliance by or within the Project Modification shall not affect the compliance of the Project as it exists.

R. Limited Liability. The BRA agrees that neither the Applicant nor its related entities nor any of their respective partners, venturers, trustees, beneficiaries, shareholders, officers, directors, employees or agents or any of their respective successors and assigns (including, without limitation, mortgagees) nor any person or entity directly or indirectly holding any interest in any of the foregoing, shall have any personal liability hereunder or under any agreement or undertaking related hereto specifically set out herein or in any agreements entered into as required hereby.

S. Invalidity. In the event any provisions of this Ninth Amendment shall be held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions thereof, or of the Amended Report and Decision.

T. Conditions.

The BRA hereby imposes the following conditions on this approval of the Project Modification, which have been established as a result of careful review and consideration of the Project, and in light of the Project's key importance in the Fenway neighborhood of the City of Boston. The conditions in this Section T supersede and replace the Conditions set forth in Section T of the Sixth Amendment, as amended. The dimensional limitations imposed below shall be measured and applied in accordance with the criteria established by the Boston

Zoning Code as affected by the deviations approved under the Amended Report and Decision.

1. Project Changes. Except as provided in the next sentence of this paragraph, (i) any increases in the building heights as specified below; (ii) material changes of the building locations from the locations shown on the Approved Plans; (iii) increases in the floor plate sizes as specified below; (iv) material increases in the square footages to be devoted to retail, office, or residential uses as set forth in the Project Modification description set forth herein; or (v) changes in phasing as specified below, shall be referred by the Director to the BRA Board if he/she makes a determination that an amendment of this Report and Decision is necessary or appropriate. Minor changes that do not exceed the standards set forth above may be approved as part of continuing design review by the BRA staff with application of the special design review guidelines specified in conditions 9 below.
2. No floor in the Project Modification located more than fifty feet (50') above Grade shall exceed 38,000 Gross Square Feet
3. Maximum FAR: The Project may not exceed an FAR of 5.
4. Unless submittal of appropriate documents to the Inspectional Services Department for a core and shell building permit is made for the Project Modification within 48 months of execution of 121A Agreements for the Project Modification (as such deadline may be extended by the Director), the deviations granted by the BRA for any portion of the Project Modification for which a building permit has not yet been issued will expire, but all other deviations shall remain in effect.
5. Special Design Guidelines

Design review by the BRA staff of the Project Modifications shall apply to the special design guidelines set forth in Sections 6 to 9 below.

6. Design Performance Criteria/Site and Public Realm:

The design of the lower indoor and outdoor level public spaces must be designed to highlight the civic role and pivot role of this site as the pedestrian cross roads between Fenway and Audubon Circle neighborhoods to the north and south, and Fenway Park and the Fens to the east and west.

The design should strengthen the many strong pedestrian desire lines through and around the perimeter of the project area

Fenway Station is also one of the critical public transit hubs for the area, with critical desire lines of pedestrian circulation and bicycles that originate at the T station and cuts through the site and must be acknowledged in the public realm design.

The overall Project Modifications should also be designed as a destination, and therefore provide for and function as a major indoor and outdoor public gathering place.

The footprint, location, massing and architecture of the taller (over 90 feet) buildings must enhance the overall composition of taller buildings acting as a backdrop to the original Sears tower.

7. Building Massing/Architecture

The architecture, heights and massing of the buildings must be mindful of allowing the Sears "tower" element to remain the dominant feature within the LCD, while maintaining the height and prominence of "The Point" project (bounded by Brookline Street, Boylston Street and Trilogy project) as the dominant gateway building location within the larger district .

The mechanical/top should be integrated to the overall architecture and form of the building.

During Design Review the BRA staff may require further environmental impact studies under Article 80 criteria for any unstudied configurations that may be presented during design review.

8. Energy/Resiliency/Climate Change

Prior to the submission of an application for a building permit for Phase Two, the Project Modification proponents shall submit a feasibility analysis and implementation strategy for onsite clean energy/CHP and localized distributed energy for the Project Modification alone or jointly with other adjacent developments/uses.

Prior to the submission of an application for a building permit for Phase Two, the Project Modifications proponents must submit a vulnerability analysis and implementation strategy for climate resiliency of the Project Modifications

based on the BRA Climate Change Resilience Check List. Specific emphasis shall be placed on a coordinated response with the MBTA to the vulnerability of subway infrastructure.

The buildings in each Phase shall be expressive of the long-standing reputation of Boston as a center of innovation. Consequently, the Project Modification shall incorporate a systemic, research-based approach to sustainability and be designed for construction to achieve gold level certification under LEED v3/ 2009.

9. Area Public Realm Improvements

Public realm improvements shall be made within the general vicinity of the Project Area and may include bold new elements in new public spaces at the ground level that incorporate quality contemporary public art, innovative greenscaping strategies, or other high impact place making opportunities in the area surrounding the Project.

The Proponent has committed to contribute in excess of \$8 million dollars towards public benefits in relation to the Project Modifications. Expected public benefits from the Redevelopment of the Landmark Center include improvements to the infrastructure, economy, pedestrian experience, and neighborhood design. Some, but not all, of each of these are listed below.

Economic and Community Benefits

- Enhance the economy within the Fenway by providing new job opportunities and a source of customers for local retail and service establishments.
- Reposition the existing Landmark Center office space as a top-tier employment center for medical, technology, and research tenants, promoting additional economic development and creating and retaining up to 2,400 high quality office jobs.
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Pedestrian, Bicycle and Open Space Improvements

- Create penetrability of the existing Landmark building, providing enhanced pedestrian connectivity between the MBTA station and the district.
- Increase publically accessible open space along Park Drive, maintaining the character and dignity of the historic building and activating streetscapes with retail and open space that complements the current public initiative to restore the Emerald Necklace in the Sears Rotary.

- Create new public open space along Brookline Avenue and Fullerton Street, areas currently occupied by inactive and unattractive facades.
- Re-stripe Fullerton Street to provide on-street bicycle accommodations that will connect the Multi-Use Path with Brookline Avenue.
- Provide sufficient protected bicycle storage for tenants and at-grade public bike racks for customers and visitors.
- Contribute \$250,000 to construct a portion of the City's planned Multi-Use Path adjacent to the Project Area, when approved, the design of which will be coordinated with the City and State.
- Create and contribute \$1,000,000 for a public art program for the new public open spaces.
- Funding to the Emerald Necklace Conservancy of \$150,000 paid over five years to support projects and programming in the Back Bay Fens area of the Emerald Necklace park system (one payment has already been made).
- Make a \$100,000 contribution towards the long-term maintenance fund of the reconstructed Audubon Circle Road Improvements.
- Work with the Audubon Circle Neighborhood Association to advocate for a pedestrian crossing solution on Park Drive at the Fenway T stop exit.
- Phasing out of surface parking on the Park Drive side of the site.

Neighborhood Design Benefits

- Preserve the landmark status of the existing historic building through design that considers its original character, while adding distinctive features that accommodate the increased activity in the lower floors.
- Improve streetscapes on all sides of the project with generous sidewalks, streetscape improvements, new lighting, street trees, vibrant retail and quality architecture.
- Widen Kilbarnock Street to alleviate congestion on the northbound approach to Brookline Avenue

Development Impact Project Exaction

The Project will provide the Neighborhood Housing Trust payment contribution and a Neighborhood Jobs Trust payment contribution pursuant to Section 80B-7 of the Code.

EXHIBIT A
Approved Deviations

EXHIBIT A

Amended and Restated Deviations

The following is a statement of permissions to deviate from any zoning, building, health or fire law, code, ordinance or regulation in effect in Boston which, so far as known to the applicant, will be required for the overall redevelopment of the Project Area as proposed in the foregoing application, inclusive of changes requested by the Applicant to the Existing Project (as defined in the application) and the Authority's approval of the Project Modification (as defined in the application). The Existing Project and the Project Modification are collectively referred to in the application and this Appendix at times as the "Project". Terms not expressed defined herein are given the same meaning as ascribed to them by the Boston Zoning Code (the "Code"), applicable section of the City of Boston Ordinances or as defined in Applicant's attached application.

- A.1. Section 66-15 and Table E of Article 66 (Floor Area Ratio). Section 66-15 and Table E of Article 66 of the Code permit a Maximum Floor Area Ratio of 4.0 for Project Modifications located within Community Commercial Subdistricts. The Applicant hereby respectfully requests a deviation from the above requirement of Section 66-15 and Table E of Article 66 of the Code and for the Authority to authorize and approve a Maximum Floor Area Ratio of up to 5.0 for the Project.
- A.2. Section 2A (Grade). Section 2A of Code provides that for projects subject to Article 80, Development Review and Approval, "Grade" shall be determined as the average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building. Given the complexity of the structures and ownership of the Project and the difficulty in applying the definition of Grade in Section 2A of the Code to the Project, the Applicant respectfully requests a deviation from the above requirement of Section 2A of the Code and for the Authority to authorize and approve the calculation of Grade and all other measurements for buildings located or to be located within the Project Area that are based on or affected by Grade (including but not limited to Building Height and Street Wall Height) using the average elevation of 18.4 feet (Boston City Base) for the entire Project.
- A.3. Section 66-38 and Table E (Maximum Building Height). Section 66-38 and Table E of Article 66 of the Code permit a Maximum Building Height of 95 feet or 8 stories. The Applicant hereby respectfully requests a deviation from the above requirements of Section 66-38 and Table E of Article 66 of the Code to deviate from the foregoing requirements and for the Authority to authorize and approve a Maximum Building Height of up to 210 feet for proposed new Buildings and 197 feet for the existing Sears building (specifically the existing tower) located in the Project Area.
- A.4. Section 66-38 (Rooftop Structures & Building Height Restrictions). Section 66-38 of the Code requires that roof structures, headhouses, and mechanical equipment normally built

above the roof and not designed or used for human occupancy shall be included in Building Height if the total area of such structures exceeds in the aggregate: 10% of the total roof area of a Building, if such total roof area is greater than 3,300 square feet. The plans for the Project Modification include rooftop mechanical equipment, headhouses, and other roof structures and rooftop amenities ("Rooftop Structures"). The Applicant hereby respectfully requests deviations from the above requirements of Section 66-38 of the Code to permit the calculation of Building Height to exclude such items if a maximum of 33% of the total roof area within the Project Modification is occupied by accessory roof structures and rooftop amenities, including but not limited to rooftop decks, enclosed or unenclosed common facilities, restrooms, ornamental architectural features and/or any allowed rooftop signs, but excluding green roofs/open space, head houses, parapets, mechanical equipment and equipment enclosures, located or to be located on any Buildings that are part of the Project Modification, subject to the Authority's review and approval of Applicant's plans as evidenced by any agreement, instrument, or document executed by the Director.

- A.5. Section 66-38 (Open Roof Decks). Section 66-38 of the Code permits that open roof decks may be erected on the main roof of a Building with a flat roof or a roof with a slope, provided (a) such deck is less than 1 foot above the highest point of such roof; (b) the total height of the Building, including such deck, does not exceed the maximum building height allowed by Article 66 for the location of the building; (c) access is by roof hatch or bulkhead no more than 30 inches in height above such deck unless, after public notice and hearing and subject to Sections 6-2, 6-3, and 6-4 of the Code, the Board of Appeal grants permission for a stairway headhouse, and (d) an appurtenant hand rail, balustrade, hatch, or bulkhead is set back horizontally, 1 foot for each foot of height of such appurtenant Structure, from a roof edge that faces a Street more than 20 feet wide. Plans for the redevelopment of the Project Area include the location of new roof decks on top of the existing Sears building and proposed new Buildings. The Applicant hereby respectfully requests deviations from the above requirements of Section 66-38 of the Code as related to open roof decks such that such requirements do not apply to any open roof decks located within the Existing Project or the Project Modification, subject to the Authority's review and approval of Applicant's plans as evidenced by any agreement, instrument, or document executed by the Director.
- A.6. Table E of Article 66 (Street Wall Height). Table E of Article 66 of the Code permits the maximum Street Wall Height which is the lesser of 75 feet or 6 stories. The Existing Project includes an existing Street Wall Height on Brookline Avenue measuring up to 112 feet and an existing Street Wall Height on Park Drive measuring up to 197 feet (the Sears building tower). The Project Modification includes new Street Wall Heights (exclusive of Rooftop Structures) along streets adjacent to the Project Area as follows: up to 210-feet on Fullerton Street; and up to feet on 230 Brookline Avenue. The Applicant hereby respectfully requests a deviation from the requirements of Table E of Article 66 of the Code as they related to Street Wall Height and for the Authority to authorize and approve the Street Wall Heights for both the Existing Project and the Project Modification as set forth in the immediately preceding sentence.

- A.7. Table E of Article 66 (Setback above Street Wall). Table E of Article 66 of the Code requires that the Setback above Street Wall Height of 15 feet. The Applicant respectfully hereby requests a deviation from the above requirement of Table E of Article 66 of the Code and for the Authority to authorize and approve the Street Wall Heights along Fullerton Street, Brookline Avenue and Park Drive without any Setback above Street Wall Height for the Existing Project and the Project Modification as set forth in Item A.6 above.
- A.8. City of Boston Ordinance 7-4.12 (Parkway Building Setback). City of Boston Ordinance 7-4.12 provides that no building shall be erected or placed upon premises within twenty (20') feet of Park Drive. The plans for redevelopment of the Project Area includes a new below-grade parking facility, including but not limited to a parking garage, parking garage entryway and portal, retaining walls, pedestrian walkways, stairways, access/egress ramps and other above and below grade structures associates therewith (collectively, the "Garage"). The Applicant hereby respectfully requests a deviation from the above requirement of City of Boston Ordinance 7-4.12 as it relates to buildings erected or placed within 20 feet of Park Drive and the Garage, subject to the following conditions: (i) the City of Boston Parks Recreation Commission ("Commission") shall have full review of all improvements to be located in such 20' area and the Commission shall have issued an approval of the improvements to be located in such 20' area prior to the issuance of a building permit for any improvements to be located in such 20' area, (ii) the Boston Landmark Commission shall have issued an approval of the improvements to be located in such 20' area prior to the issuance of a building permit for any improvements to be located in such 20' area, and (iii) the Authority shall have reviewed and approved Applicant's plans for any improvements to be located in such 20' area prior to the issuance of a building permit for any improvements to be located in such 20' area (any agreement, instrument or document executed by the Director shall be confirmation of such approval by the Authority pursuant to this clause (iii)). Any structure built within such 20' area shall include a 16' minimum setback between the right-of-way and the entry ramp, which setback area shall be used for plantings to screen the garage entry ramp. The above grade portion of the ramp retaining wall shall not exceed 42" high on the Park Drive side, as measured from the Park Drive side of the ramp retaining wall.
- B.1. Section 66-42 and Table F of Article 66 (Minimum and Maximum Parking). Section 66-42 of the Code requires that if a Lot includes multiple uses, the required number of off-street parking spaces for such Lot shall be the total of the required number of off-street parking spaces for each use. Further, Table F of Article 66 of the Code specifically requires that for all Project Modifications that minimum Off-Street Parking be provided as follows: for Other Uses at a maximum of 0.75/1000 gross square feet with no minimum parking requirement for such Other Uses. The Applicant hereby respectfully requests deviations from the above requirements of Section 66-42 and Table F of Article 66 of the Code such that any and all requirements thereof shall not apply to the Project Area and to that the Authority authorize and approve up to 1,500 striped parking spaces, with additional capacity allowed to the extent managed valet parking operations is used within the Project Area, including but not limited to within new below-grade parking facility.
- B.2. Section 66-42 (Parking Location). Section 66-42 of the Code requires that for all Project Modifications, except in the case of a Lot serviced by a common parking facility, the off-

street parking facilities required by Section 66-42 shall be provided on the same Lot as the main use to which they are accessory, except where the Board of Appeal determines otherwise. In connection with the development of the Project Area, the Applicant may seek to have all or a portion of the Project Area subdivided or otherwise divided into designated Sub-Parcels as set forth herein. To the extent applicable, Applicant hereby respectfully requests a deviation from the above requirements of Section 66-42 of the Code to deviate from the foregoing requirements and for the Authority to authorize and approve the location of a parking facility anywhere within the Project Area, whether or not said parking facility is located on the same Lot or Sub-Parcel as the main use to which it is accessory.

- B.3. Section 66-42 (Parking Design). Section 66-42 of the Code requires that for all Project Modifications, the design of off-street parking meet the following specifications: that each car space be located entirely on the Lot, and 50% of the required car spaces may be no less than 7 feet in width and 18 feet in length, and the remainder shall be no less than 8-1/2 feet in width and 20 feet in length, in both instances exclusive of maneuvering areas and access drives. The Applicant hereby respectfully requests a deviation from the above requirements of Section 66-42 of the Code to deviate from the foregoing design requirements for off-street car spaces within the Project Area, subject to the Authority's review and approval of Applicant's plans as evidenced by any agreement, instrument, or document executed by the Director.
- B.4. Section 3-1A.c. and Section 6-3A (Restricted Parking District). Pursuant to Section 3-1A.c. and Section 6-3A of the Code, in a restricted parking district, off-street parking facilities, including parking garages are conditional uses which may be granted only in conformance with the provisions of Section 6-3A, which requires findings by the Board of Appeal that the conditions set forth in Section 6-3A have been satisfied. The Applicant hereby respectfully requests a deviation from the above requirements of Section 3-1A.c. and Section 6-3A of the Code to deviate from the foregoing requirements and for the Authority to authorize and approve up to 1,500 striped parking spaces, with additional capacity allowed to the extent managed valet parking operations is used within the Project Area, including but not limited to within new below-grade parking facility.
- C.1. Permitted Uses. Pursuant to Section 66-14 and Table B of Article 66, within the Neighborhood Business Subdistricts, including the Brookline Avenue Community Commercial Subdistrict, no land or Structure shall be erected, used, or arranged or designed to be used, in whole or in part, unless, for the proposed location of such use, the use is identified in Table B of this Article as "A" (allowed) or as "C" (conditional), and any use identified as conditional in Table B is subject to the provisions of Article 6 of the Code. The Project Modification is presently intended to be used for office/lab, retail, service, restaurant, and other uses accessory thereto. However, it is acknowledged that the uses for the Project, including those uses located within the Project Modification and the Existing Project, will vary depending on market conditions, from time to time, but shall continue to include only uses already permitted under the Amended Report and Decision and those listed in Attachment A attached hereto. The Applicant hereby respectfully requests deviations from Section 66-14, Table B of Article 66, Article 6 and any other applicable sections of the Code related to allowed, conditional or forbidden uses such that any and all

such requirements shall not apply to the Project and for the Authority to authorize and permit any and all uses for the Project already permitted under the Amended Report and Decision and such uses are set forth in Attachment A.

- C.2. City of Boston Ordinance 7-4.10 (Parkway Use Restriction). City of Boston Ordinance 7-4.10 provides that no public garage nor any buildings or structures used for mechanical, mercantile or manufacturing purposes shall be located within one hundred (100) feet of specific parks and parkways, including Riverway and Park Drive. The plans for redevelopment of the Project Area include the Garage, which is partially located within 100 feet of Park Drive, and mercantile uses and mechanical uses, as well as alterations to the façade/street wall of the existing Sears building, including, but not limited to the installation of canopies, awnings, retail storefronts, a glassed-in entranceway/lobby, decorative architectural design elements and any ornamental features or mercantile use-related outdoor amenities (temporary or permanent), such as by way of example outdoor seating areas, benches, paved entry courts, artwork, retail tents, retail kiosks, farm stands, a shade pavilion with a stage and/or seasonal uses such as a skating rink, which may extend within 100 feet of Park Drive. The Applicant hereby respectfully requests a deviation from the above requirement of City of Boston Ordinance 7-4.10 as it relates to building use and permission to use buildings and other structures located within 100 feet of Park Drive for public garage, mercantile and mechanical uses, subject to the following conditions: (i) the Commission shall have full review of improvements to be located in such 100' area and the Commission shall have issued an approval of the improvements to be located in such 100' area prior to the issuance of a building permit for any improvements to be located in such 100' area, (ii) the Boston Landmarks Commission shall have issued an approval of the improvements to be located in such 100' area prior to the issuance of a building permit for any improvements to be located in such 100' area, and (iii) the Authority shall have reviewed and approved Applicant's plans for any improvements to be located in such 100' area prior to the issuance of a building permit for any improvements to be located in such 100' area (any agreement, instrument or document executed by the Director shall be confirmation of such approval by the Authority pursuant to this clause (iii))
- D.1. Section 66-41 and Section 11-12 (Signage Design and Height). Section 66-41 includes sign regulations applicable to all Project Modifications within Neighborhood Business Subdistricts, except to the extent that sign requirements have been established through Large Project Review pursuant to Article 80, and Section 11-2 of the Code provides that no sign supports shall extend above the cornice line of building to which it is attached. The Applicant hereby respectfully requests a deviation from the above requirements of 66-41, as and if applicable to the Project and from Section 11-2 of the Code to allow for all signage design and height proposed within the Project Area from time to time, subject to the Authority's review and approval of Applicant's plans as evidenced by any agreement, instrument, or document executed by the Director.
- D.2. Section 3-1A(a) and Section 66-28 (Planned Development Areas Special Purpose Overlay District). The Project Area is located within a Planned Development Area ("PDA") and was rezoned from the then applicable underlying zoning districts by the Zoning Commission of the City of Boston on December 13, 1989, which rezoning was thereafter approved by the Mayor. Under Section 3-1A(a) and Section 66-28 of the Code,

development within a PDA requires the submission and approval of a Development Plan and subsequent receipt of “exceptions” from the Board of Appeal for any zoning relief that is required. However, the Applicant is seeking approval of the Project Modification by means of an Application under Chapter 121A and Chapter 652 of the Acts of 1960. Under Section 13 of Chapter 652, the Authority is granted the exclusive authority to grant deviations from among other things, the Code. The Zoning relief for the Project Modification shall be governed by Chapter 121A and Chapter 652 and not the PDA requirements.

- D.3. Article 32 (Groundwater Conservation Overlay District). Article 32 of the Code provides that in an area designated as a Groundwater Conservation Overlay District (“GCOD”), any Applicant seeking a building permit for a Project Modification within a GCOD where such Applicant seeks (a) the erection or extension of any structure, where new structure or extension will occupy more than 50 square feet of lot area; (b) the erection or extension of any structure designed or used for human occupancy or access, mechanical equipment, or laundry or storage facilities, including garage space, if such construction involves the excavation below grade to a depth equal to or below 7 feet above Boston City Base; (c) to Substantially Rehabilitate any structure; or (d) any paving or other surfacing of lot area, Applicant must obtain a conditional use permit from the Board of Appeal and show that the Project Modification complies with all applicable standards set forth in Section 32-6 of the Code.

The Applicant hereby respectfully requests a deviation from the above requirements Article 32 of the Code, including requirement of obtaining a conditional use permit from the Board of Appeal, subject to the Applicant: (i) incorporating into the Project groundwater conservation systems that meet the standards set forth in Article 32 and that are acceptable to the Boston Water and Sewer Commission (“BWSC”) and the Boston Groundwater Trust (“BGT”) and that comply with the requirements of Article 32 as determined by BWSC; (ii) obtaining a written determination from BWSC as to the Project meeting the standards and requirements of Article 32; (iii) demonstrating that the Project meets the requirements of Section 32-6 by obtaining a stamped certification from a Massachusetts registered engineer showing how the requirements of Section 32-6 are met; and (iv) providing both a copy of the written determination from BWSC and a copy of the stamped certification from a Massachusetts registered engineer to the Authority and the BGT prior to the issuance of a Certification of Compliance for the Project. Provided that the foregoing conditions (i) through (iv) are met, the Authority hereby that the Applicant shall not be required to obtain a conditional use permit from the Board of Appeal, and the Project shall be deemed in compliance with Article 32 of the Code.

- D.4. Article 25 (Flood Hazards District). Article 25 of the Code, relating to flood hazard districts (as defined in Section 25-3), imposes certain restrictions and requirements under Section 25-5 thereof, with regard to, among other things, that: (1) new residential construction shall have the lowest floor, including basement, elevated to or above the base flood elevation; (2) new construction of any commercial, industrial or other nonresidential structure either shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified) or meet specific requirements for nonresidential

construction set forth in Section 25-5; (3) for pre-existing structures that lawfully existed prior to the effective date of Article 25 of the Code, the Board of Appeal may grant permission for reconstruction, structural change or extension thereof provided that any non-conformity with items 1 and 2 above is not increased; and (4) storage or processing of materials that are flammable, explosive or injurious to water quality or to human, animal or plant life is forbidden in any flood hazard district and storage of certain materials and equipment in such districts. A portion of the Project Area is located within such a flood hazard district.

The Applicant hereby respectfully requests a deviation from the above requirements of Article 25 of the Code and the requirement of obtaining a variance from the Board of Appeal of the applicable provisions of Article 25, subject to the Applicant providing a stamped certification from a Massachusetts registered engineer showing how the requirements of Article 25 are met prior to the issuance of a Certification of Compliance for the Project. Provided that the foregoing condition is met, the Authority hereby agrees that the Applicant shall not be required to obtain a variance from the Board of Appeal pursuant to Section 25-6 of the Code, and the Project shall be deemed in compliance with Article 25 of the Code.

The Project shall comply with the Climate Change Preparedness and Resiliency Guidelines set forth in the Authority's Development Review Guidelines.

- E.5. 121A Approvals for Existing Project. The Project Area is subject to the Amended Report and Decision (as defined in the application). Pursuant to the Amended Report and Decision, the Authority's approval is required for any Minor Change to the Existing Project (as defined in the 121A Amended Report and Decision to mean a change that is a de minimis modification of the square footage of the Existing Project, as determined by the Authority). The Applicant hereby respectfully requests all necessary approvals from the Authority required under the above requirements of the Amended Report and Decision to permit Minor Change(s) to the Existing Project, subject to the Authority's review and approval of Applicant's plans as evidenced by any agreement, instrument, or document executed by the Director.
- E.6. Non-Conformities. For any other non-conforming use, structure or condition located or present within the Project Area, as part of the Existing Project and/or the Project Modification under the Code and City of Boston Ordinances which is not expressly set forth and requested as a deviation in this Exhibit A, the Applicant hereby respectfully requests a minor deviation(s) from the requirements of the Code and City of Boston Ordinances as applicable, including, without limitation, Project Area site improvements, exterior facades, roofscapes, public spaces, roadway and transit mitigation, or parking and loading, subject to the approval of the Authority's Director without further Authority review and approval of Applicant's plans, unless the Director determines that amendment to this Application and approval of the Authority is required.
- E.7. Separate Ownership; Sub-Parcels within Project Area. It is contemplated that, within the Project Area, the Existing Project and Project Modification, as well as other portions thereof, may be separately owned and financed. Accordingly, the Applicant respectfully

requests permission from the Authority to designate and establish from time to time the boundaries of sub-areas ("Sub-Parcels") within the Project Area, consisting of air rights or otherwise, and including future subdivision(s) of the Project Area based on such Sub-Parcels, provided that the Project taken as a whole is consistent with the provisions of the Amended Report and Decision when considered on the basis of the Project, Project Modification and/or Project Area, as applicable, as a whole. The Applicant shall submit the subdivision plan creating the Sub-Parcels (the "Subdivision Plan"), if applicable, to the Authority for review to determine that no deviations are required as a result of such Subdivision Plan other than the eight deviations listed below prior to recording any such Subdivision Plan and any subsequent amendments thereto. Approval by the Authority may be evidenced by any agreement, instrument, or document executed by the Director. The designation and establishment of any such Sub-Parcels, whether formally subdivided or otherwise, shall not affect the future applicability of any deviations previously granted by the Authority pursuant to the Amended Report and Decision, as the same may be amended from time to time (including but not limited to these Amended and Additional Deviations), or any other deviations granted by the Authority. Specifically, the deviations approved by the Authority pursuant to the Amended Report and Decision that will be applied to the Project, Project Modification and/or Project Area, as applicable, as a whole, notwithstanding the existence of any Sub-Parcels, include the following:

- A.1 (Floor Area Ratio)
- A.2 (Grade)
- A.4 (Rooftop Structures & Building Height Restrictions)
- A.8 (Minimum Usable Open Space per Dwelling Unit)
- B.1 (Minimum and Maximum Parking)
- B.2 (Parking Location)
- B.3 (Parking Design)
- C.1 (Permitted Uses)

E.8. Outdoor Uses/Structures. The Applicant may implement temporary or permanent outdoor amenities, structures and/or uses on the Park Drive side of the Project, such as by way of example artwork, retail tents, retail kiosks, farm stands, beer gardens and/or seasonal uses such as a skating rink, and/or projections or other modifications to the facade of the existing Sears building (collectively "Outdoor Facilities"). The Applicant hereby respectfully requests that, subject to the following conditions: (i) the Commission shall have full review of all Outdoor Facilities and the Commission shall have issued an approval of the Outdoor Facilities prior to the installation of such Outdoor Facilities, (ii) the Boston Landmarks Commission shall have issued an approval of the Outdoor Facilities prior to the installation of such Outdoor Facilities, and (iii) the Authority shall have reviewed and approved Applicant's plans for any Outdoor Facilities prior to the installation of such Outdoor Facilities (any agreement, instrument or document executed

by the Director shall be confirmation of such approval by the Authority pursuant to this clause (iii)), the Project shall be deemed to include any such Outdoor Facilities and the deviations for the Project, including without limitation the deviations related to Article 29 (Greenbelt Protection Overlay District), Article 32 (Groundwater Conservation Overlay District) and Article 25 (Flood Hazards District), shall be deemed to include the same.

ATTACHMENT A
List of Uses
Allowed Uses for the Project

MAIN USES

Retail/Restaurant/Office/Services Uses

Local Retail Business including store retailing one or more of the following: food; baked goods; groceries; packaged alcoholic beverages; drugs; pharmacy; tobacco products; clothing; dry goods; books; flowers; paint; computers; electronic appliances; movie videos; audio tapes and compact discs; eyeglasses; cameras and photographic equipment, telephones and wireless phones; hardware and minor household appliances

General Retail Business, including department store, furniture store, general merchandise mart and supermarket

Restaurant

Lunch Room

Cafeteria

Retail Catering

Take-Out Restaurant (Small & Large)

Food court

Restaurant with live entertainment not operating after 10:30 p.m., which may include outdoor rooftop expansion of outdoor dining, seating and/or outdoor rooftop standing area

Bar

Private Club not serving alcohol

Private Club serving alcohol

Restaurant with or without live entertainment

Fitness Center, health club or gymnasium

Rental agency for cars

Bank

Service Establishment, including the following: barber shop; beauty shop; shoe repair shop; self-service laundry; pick-up and delivery station of laundry or dry-cleaner; dry cleaning shop; printing and/or photocopying shop; or optometrist's shop

Trade Uses including the following: tailor shop; caterer's establishment; photographer's studio; upholsterer's shop; radio, television and other electronic appliances repair shop.

Automatic Teller Machine

General Office

Agency or Professional Office

Bakery

Liquor Store

Retail Service Laundry

Open Space

Open space recreational building

Post Office

Art Gallery

Public Art Display Space

Bar with live entertainment

Beverage Manufacturing, including breweries, distilleries, wineries, tasting rooms and food service

Billiard Parlor

Food Hall, which may include, in addition to restaurants and retail, one or more of the following: musical performances, broadcasts or other live entertainment, whether or not separately ticketed; culinary classes; cultural events; beer, wine or spirits tastings; dancing; and accessory uses incidental to any of the foregoing

Restaurant with live entertainment, operating after 10:30 pm

Educational Uses

Professional school

Trade school

Non-Institutional Health Care Uses

Clinic

Clinical Laboratory

Institutional Uses

Institutional Uses subject to the requirements of any applicable Institutional Master Plan (excluding High Impact Sub-Uses and uses that are not otherwise allowed under this Report and Decision and/or in the Community Commercial Subdistrict).

Hotel and Conference Center Uses

Conference Center

Executive Suites

Non-Institutional Research and Development Uses

Product development or prototype manufacturing

Research Laboratory

Other Uses

Day Care Center

Cinema

Parking Garage or Facility

ACCESSORY USES¹

Accessory uses ordinarily incident to a lawful main use are allowed, subject to the provisions of Article 10, provided that any such accessory use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the main use to which it is accessory, including without limitation the following:

¹ Accessory uses located at the Existing Project, the Project Modification and/or other Sub-Parcels may be used by all of the Existing Project, the Project Modification and/or other Sub-Parcels.

Accessory Telecommunications Equipment and Service Facility

Accessory telecommunications data distribution center

Accessory automatic teller machine

Accessory swimming pool

Accessory parking

Accessory outdoor café

Accessory retail

Accessory cafeteria

Accessory personnel quarters

Accessory machine shop

Accessory storage of flammable liquids and gases (small or large)

Accessory Art Use

Accessory Cultural Use

Accessory Family Day Care Home

Accessory Home Occupation

Accessory Offices

Accessory outdoor sale of garden supplies

Accessory Recycling

Accessory Container Redemption

Accessory Services

Accessory Services for Apartment Residents and Hotel Residents

Accessory Truck Storage

Accessory Conference Center

Accessory Bus Storage

Accessory professional office in a dwelling unit

Accessory amusement game machines, apparatuses, devices, mechanisms and equipment in a commercial or non-commercial establishment

Accessory keeping of laboratory animals

EXHIBIT B
Legal Description of Project Area

Real property in the City of Boston, County of Suffolk, Commonwealth of Massachusetts, described as follows:

Beginning at the intersection of the southwesterly line of Fullerton Street with the northwesterly line of Brookline Avenue;

Thence running S 38° 03' 17" W, along said northwesterly line of Brookline Avenue, a distance of 366.11 feet, to a point of curvature,

Thence running southwesterly, in part along said northwesterly line of Brookline Avenue and in part by land of the City of Boston, on a curve to the right, having a radius of 367.00 feet, an arc distance of 219.24 feet, to a point of tangency,

Thence running S 72° 16' 56" W, by land of said City of Boston, a distance of 70.00 feet, to a point of curvature,

Thence continuing southwesterly, by land of said City of Boston, on a curve to the right, having a radius of 87.00 feet, an arc distance of 28.53 feet, to a point on the northeasterly line of Park Drive,

Thence running northwesterly, along said northeasterly line of Park Drive, on a curve to the right, having a radius of 1719.12 feet, an arc distance of 644.82 feet, to a point at land, now or formerly of Consolidated Rail Corporation,

Thence running N 53° 07' 17" E, along land of said Consolidated Rail Corporation, a distance of 480.73 feet, to a point in Fullerton Street,

Thence running through Fullerton Street, on the following three (3) courses:

S 20° 19' 13" E, a distance of 37.55 feet, to a point;

S 51° 56' 43" E, a distance of 118.29 feet, to a point and

S 53° 07' 17" W, a distance of 20.71 feet, to a point on the southwesterly line of Fullerton Street,

Thence running S 51° 56' 43" E, along said southwesterly line of Fullerton Street, a distance of 452.43 feet, to the point of beginning.

Said parcel is shown on a plan entitled "ALTA/ACSM Land Title Survey of Land Owned by Sears, Roebuck and Co., Brookline Avenue & Park Drive, Boston, Massachusetts, dated June 15, 1995, Revised July 19, 1996 and March 3, 1997, by Cullinan Engineering Co., Inc.. Auburn, Boston, Massachusetts" recorded in the Suffolk County Registry of Deeds as Plan 54 of 1997, Book 21246, Page 192.

TOGETHER WITH:

A CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF BOSTON, SUFFOLK COUNTY, COMMONWEALTH OF MASSACHUSETTS, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY SIDELINE OF BROOKLINE AVENUE AND THE NORTHEASTERLY SIDELINE OF PARK DRIVE, THENCE RUNNING ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 87.00 FEET, A LENGTH OF 28.53 FEET, A DELTA ANGLE OF $18^{\circ}47'11''$ AND A CHORD OF 28.40 FEET ALONG A BEARING OF $N81^{\circ}40'32''E$, TO A POINT OF TANGENCY;

THENCE RUNNING $N72^{\circ}16'56''E$, A DISTANCE OF 70.00 FEET TO A POINT OF CURVATURE;

THENCE RUNNING ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 367.00 FEET, A LENGTH OF 219.24 FEET A DELTA ANGLE OF $34^{\circ}13'39''$, AND A CHORD OF 215.99 ALONG A BEARING OF $N55^{\circ}10'06''E$, TO A POINT;

THE PRECEDING THREE COURSES RUN ALONG THE NORTHWESTERLY SIDELINE OF BROOKLINE AVENUE;

THENCE TURNING AND RUNNING $S38^{\circ}03'17''W$, A DISTANCE OF 0.78 FEET TO A POINT OF CURVATURE;

THENCE RUNNING ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 390.00 FEET, A LENGTH OF 62.12 FEET AND A DELTA ANGLE OF $09^{\circ}07'38''$, TO A POINT OF REVERSE CURVATURE;

THENCE RUNNING ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 400.00 FEET, A LENGTH OF 63.71 FEET AND A DELTA ANGLE OF $09^{\circ}07'38''$, TO A POINT OF TANGENCY;

THENCE RUNNING $S38^{\circ}03'17''W$, A DISTANCE OF 147.48 FEET TO A POINT;

THENCE RUNNING ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LENGTH OF 43.16 FEET AND A DELTA ANGLE OF $98^{\circ}55'04''$, TO A POINT OF TANGENCY;

THENCE RUNNING $N43^{\circ}01'39''W$, A DISTANCE OF 54.05 FEET TO A POINT OF CURVATURE;

THENCE RUNNING ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,719.12 FEET, A LENGTH OF 30.68 FEET AND A DELTA ANGLE OF $01^{\circ}01'21''$, AND A CHORD OF 30.68 ALONG A BEARING OF $N42^{\circ}30'58''W$, TO THE POINT OF BEGINNING;

THE PRECEDING SIX COURSES RUN ALONG THE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY LIMIT OF THE METROPOLITAN DISTRICT COMMISSION (MDC) TAKING AREA AS SHOWN ON MDC PLANS 37657 V.T. AND 37658 V.T.

DISCONTINUANCE-1 CONTAINS AN AREA OF 9,936 SQUARE FEET AS SHOWN ON A PLAN ENTITLED "CITY OF BOSTON PUBLIC WORKS DEPARTMENT, ENGINEERING DIVISION, DISCONTINUANCE, BROOKLINE AVENUE, BOSTON PROPER" PREPARED BY FELDMAN LAND SURVEYORS DATED MARCH 6, 2017.

APPLICATION FOR MODIFICATION
to
LANDMARK CENTER 121A PROJECT

Submitted by
Landmark Center Owner Partnership, and
Landmark Center Development Limited Partnership

NOVEMBER 29, 2017

APPLICATION FOR AMENDMENT
TO THE REPORT AND DECISION FOR THE LANDMARK CENTER CHAPTER 121A
PROJECT BY LANDMARK CENTER OWNER LIMITED PARTNERSHIP AND
LANDMARK CENTER DEVELOPMENT LIMITED PARTNERSHIP, UNDER CHAPTER
121A OF THE GENERAL LAWS AND ACTS OF 1960, CHAPTER 652, BOTH AS
AMENDED

The undersigned, Landmark Center Owner Limited Partnership, a Massachusetts limited partnership, and Landmark Center Development Limited Partnership, a Massachusetts limited partnership (each individually or, as the context so requires, collectively, “Applicant”), hereby submit this application (hereinafter referred to as the “Application”) to the Boston Redevelopment BPDA d/b/a the Boston Planning & Development Agency (“BPDA”) pursuant to M.G.L. c. 121A and Chapter 652 of the Acts of 1960, as both of have been amended (collectively, “Chapter 121A”) and the Rules and Regulations Governing Chapter 121A projects in the City of Boston (“City”) adopted by the BPDA on June 22, 1978, as amended, to amend the Amended Report and Decision, as defined hereinafter. All capitalized terms used in this Application and not defined herein shall have the meanings set forth in the Amended Report and Decision.

1. Background

a. Report and Decision:

- i. On December 5, 1996, the BPDA voted to adopt a Report and Decision on a project known as the Landmark Center Chapter 121A Project (the “Project”), formerly known as the Sears Catalogue Store building. Such vote was approved by the Mayor of the City (the “Mayor”) on December 24, 1996 and the vote, as so approved, was filed with the Clerk of the City (the “City Clerk”) on December 24, 1996.
- ii. The Project consisted of the rehabilitation of the Sears Catalogue Store building into a mixture of commercial, retail, office and parking uses containing approximately 602,340 square feet of office space and public spaces, approximately 171,600 square feet of retail space, a 67,000 square foot cinema complex, an approximately 10,000 square foot day care center, an approximately 27,600 square foot health club, a service and loading area of approximately 43,200 square feet and parking for 1,790 cars, which includes a combination of designated parking spaces and valet or attendant parking, located on a parcel of land in the Fenway neighborhood of the City bounded by Park Drive, Brookline Avenue, Fullerton Street and the Riverside or “D” branch of the MBTA Green Line. Abbey Landmark Abbey Owner LLP, a Massachusetts registered limited liability partnership (the “Abbey Owner LLP”), was designated in the Report and Decision as the Chapter 121A entity to own, operate and manage the Project.

- iii. The BPDA and Abbey Owner LLP, Abbey Landmark Developer LLC and Abbey Landmark Operating LLC entered into a Regulatory Agreement dated as of February 28, 1997. In addition, the City and the Abbey Owner LLP entered into a Massachusetts General Laws Section 6A Contract dated as of February 28, 1997.
- iv. On March 9, 2000, the BPDA voted to adopt a First Amendment to Report and Decision on the original Project, (hereinafter referred to as the “First Amendment”). Such vote was approved by the Mayor on March 14, 2000 and the vote as so approved was filed with the City Clerk on March 16, 2000. The First Amendment authorized the relocation of approximately 150 approved parking spaces to a new fifth floor parking level constructed above the existing warehouse structure and approval of related zoning deviations (the “Additional Parking Level”). The Additional Parking Level has not been constructed and Abbey Owner LLP agreed that it would not be entitled to construct the Additional Parking Level at the Project without further approval of the BPDA.
- v. On April 25, 2000, the BPDA voted to adopt a Second Amendment to the Report and Decision on the Project (hereinafter referred to as the “Second Amendment”). Such vote was approved by the Mayor on April 26, 2000 and the vote as so approved was filed with the City Clerk on April 27, 2000. The Second Amendment authorized additional zoning deviations for the Project in order to allow the Project developers to lease out certain space for the previously approved office and research uses by college/university users.
- vi. In April 2001, the Abbey Owner LLP notified the BPDA that it restructured its ownership interests in connection with a financing and provided the BPDA with an updated Disclosure Statement. The restructuring of the ownership interests did not change control of any of the controlling ownership entities of the Project and as a result, Abbey Owner LLP became Abbey Landmark Owner Limited Partnership, a Massachusetts limited partnership (hereinafter referred to as the “Abbey Owner LP”), whose general partner is Abbey Landmark Owner, Inc., a Massachusetts corporation. The Regulatory Agreement and 6A Contract both dated as of February 28, 1997 were assigned from Abbey Owner LLP to the Abbey Owner LP.
- vii. On August 10, 2006, the BPDA voted to adopt a Third Amendment to the Report and Decision on the Project (hereinafter referred to as the “Third Amendment”). Such vote was approved by the Mayor on August 14, 2006 and the vote as so approved was filed with the City Clerk on August 16, 2006. The Third Amendment authorized further additional zoning deviations for the Project in order to permit conditional clinic and clinical

laboratory uses by hospital users in five (5) floors of the tower portion of the Project, which contains approximately 16,000 square feet.

- viii. On December 14, 2010, the BPDA voted to adopted a Fourth Amendment to the Report and Decision on the Project (hereinafter referred to as the “Fourth Amendment”). Such vote was approved by the Mayor on December 16, 2010 and the vote as so approved was filed with the City Clerk on December 21, 2010. The Fourth Amendment authorized a Transfer Application by Landmark Center Owner Limited Partnership (“Owner”) pursuant to which Owner acquired the Project from Abbey Owner LP. In connection with the approved transfer, the Owner entered into a Regulatory Agreement with the BPDA dated as of February 1, 2011 and the Section 6A Contract was assigned from Abbey Owner LP to the Owner.
- ix. On March 13, 2012, the BPDA voted to adopted a Fifth Amendment to the Report and Decision on the Project (hereinafter referred to as the “Fifth Amendment”). Such vote was approved by the Mayor on March 14, 2012 and the vote as so approved was filed with the City Clerk on March 19, 2012. The Fifth Amendment authorized a zoning deviation to authorize general office use and agency/professional use by a hospital at the Project.
- x. On January 16, 2014, the BPDA voted to adopted a Sixth Amendment to the Report and Decision on the Project (hereinafter referred to as the “Sixth Amendment”). Such vote was approved by the Mayor on January 22, 2014 and the vote as so approved was filed with the City Clerk on January 24, 2014. The Sixth Amendment allowed a modification to the Project involving the demolition of the existing above-grade parking structure and the construction of a new mixed-use project, to be integrated with proposed renovations to the existing portions of the Project. The Project modification was anticipated to include up to: 600 residential units, 110,000 square feet of new retail use, 75,000 square feet of grocery use, 15,000 square feet of new office use and new subsurface parking, which will provide up to 1,500 striped structured parking spaces with additional capacity with managed valet operations.
- xi. On April 16, 2015, the BPDA voted to adopt a Seventh Amendment to the Report and Decision on the Project (hereinafter referred to as the “Seventh Amendment”). Such vote was approved by the Mayor on April 17, 2015 and the vote as so approved was filed with the City Clerk on April 27, 2015. The Seventh Amendment authorized the granting of certain additional zoning deviations and amendment of certain existing zoning deviations in connection with the Project.
- xii. On July 16, 2015, the BPDA voted to adopt an Eighth Amendment to the Report and Decision on the Project (hereinafter referred to as the “Eighth

Amendment”). Such vote was approved by the Mayor on July 17, 2015 and the vote as so approved was filed with the City Clerk on July 17, 2015. The Eighth Amendment authorized the expansion of a hospital use at the Project.

- xiii. The original Report and Decision, as amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment, Seventh Amendment and Eighth Amendment shall hereinafter be referred to as the “Amended Report and Decision”.

- b. Proposed Amendment: This Application is submitted to amend the Amended Report and Decision, including the deviations granted thereunder, as set forth in Exhibit A and Exhibit A-1 attached hereto.

2. Project Background

- a. Project Context. The Project is a major component of ongoing place-making efforts by Samuels & Associates in the revitalization of the historic Fenway neighborhood and advancement of the long-term planning vision of an urban village for the West Fenway neighborhood. The existing Sears Catalogue Store building located within the Project Area, was constructed in 1928 for Sears, Roebuck and Company and formerly used as department store, warehouse and distribution center. The Sears Building was renovated into a retail and office complex in the late 1990’s by the Applicant’s predecessor. In 2010, before Landmark Center Owner Limited Partnership’s acquisition of the Project Area, the prior owner proposed a 230-foot high 337,000 square foot office building to be built above the existing parking structure along the Fullerton Street frontage. This proposed redevelopment never came to fruition because while that proposal was under review, Landmark Center Owner Limited Partnership purchased the Sears Building and decided to pursue a modified and more comprehensive redevelopment strategy.

The Project was subsequently modified by the Applicant to include a mix of uses, such as expanded office and retail space, a new grocery store, new residential buildings and replacement of the existing above-grade structure with underground parking. This revised program was approved by the BPDA Board on January 16, 2014 and included approximately 725,000 square feet of additional development, including a new podium and four new residential building with a total of 600 units.

Market conditions have changed considerably since 2014. The Applicant has succeeded in bringing new types of office tenants to the office component of Van Ness, located at 1325 Boylston Street, including technology companies, data analytics, and lab tenants. With the successful lease-up of the Van Ness, the Fenway neighborhood has emerged as a business hub for tenants seeking knowledge workers. In response to this trend, the Project has been revised to ensure its feasibility.

b. Current Project – Phase One. Select components of the approved Project are currently being implemented in the initial phase of the Project, consisting of the creation of approximately 1.1-acres of open space by converting surface parking to landscaped open space, increasing the total amount of open space to 2.2 acres site-wide and renovating and comprehensively remerchandising the ground floor retail along Park Drive and Brookline Avenue, including new restaurants, a destination food hall, and other interior office and garage renovations that have been reviewed and approved by the BPDA pursuant to Article 80 of the Boston Zoning Code as part of the initial phase of the Project (the “Phase One”). On May 11, 2017, the BPDA voted its authorization for the Director of the BPDA to issue a Partial Certification of Compliance pursuant to Article 80, Section 80B-5.4(c)(iv) of the Boston Zoning Code for Phase One. On May 26, 2017, the Director of the BPDA issued a Partial Certificate of Compliance for Phase One.

3. Proposed Modification.

The Applicant’s proposed modification to the Project includes two primary elements. First, in lieu of the original program, which included four new residential buildings over a retail podium along two sides of the building, the current program includes one new office/lab building along the Fullerton Street side of the building only. Second, the original program required demolition of the garage and replacement of the parking below grade. The current plan no longer requires demolition of the garage.

The project modification will be implemented as the second phase of the Project and will include (i) the construction of a new office/R&D building, consisting of approximately 506,000 square feet; (ii) the creation of a new public plaza at the southwest corner of Brookline Avenue and Fullerton Street, which will contribute to a total of approximately 0.24 acres of new open space; and (iii) related streetscape and site improvements, all as more specifically set forth in the plans to be approved by the BPDA, and to comprise one or more separate Sub-Parcels, as delineated on the Subdivision Plan to be approved by the BPDA (together, the “Project Modification”).

4. Financing for the Project.

The total cost of Phase One is approximately \$150 million and \$350 million for Phase Two. The Project is currently financed via a first mortgage from two life insurance lenders. The Applicant anticipates that the funding for the Project Modifications will include financing from the existing lenders through a modification of the existing loan with additional loan proceeds and/or through new lenders to fund new development costs for Phase Two. In addition, certain equity will be contributed to the Project by affiliates or entities controlled by Samuels & Associates Development LLC, clients advised by J.P. Morgan Investment Management, Inc. and/or JPMorgan Chase Bank. If additional funding becomes necessary, the Applicant intends to seek mortgage financing from additional institutional lending sources.

5. Applicant

Landmark Center Owner Partnership and Landmark Center Development Limited Partnership continue to be the Applicant for the Project, and both entities remain located at the address set forth in Section 1 of the Application. Depending on market conditions and the financing arrangements the Project Modification may be undertaken by Landmark Center Owner Partnership and/or Landmark Center Development Limited Partnership.

6. Findings Requested

The Applicant requests that the Amended Report and Decision be amended to reflect the following:

- a. Approve the modifications set forth in Exhibit A and Exhibit A-1 attached hereto.
- b. Acknowledge that the proposed changes, as requested herein, are intended to amend certain provisions of the Amended Report and Decision.

In addition, the Applicant requests that the BPDA:

- c. Waive any requirements of the Regulations with which this Application is not in conformity in its Amended Report and Decision.
- d. Confirm that the Project Modification may be undertaken by one or both of the Applicant entities, as described above.
- e. Find that the matters set forth in this Application do not constitute a fundamental change to the Project.
- f. Authorize the BPDA's Director to execute, in the name and on behalf of the BPDA, any and all agreements, instruments or documents required or authorized by the Amended Report and Decision and any estoppel certificate or like instruments to and for governmental bodies, lenders or other interested parties, at this discretion, that confirm matters covered by the Amended Report and Decision.
- g. Find that, if any of the provisions of this Application or the approval or consent granted pursuant thereto or any of the agreements entered into in connection therewith are held invalid, the remainder of such provisions may not be affected thereby.
- h. Amend the Amended Report and Decision to reflect the provisions of this Application.

[Signatures on following page]

Executed under seal this 24th day of November, 2017, at Boston, Massachusetts.

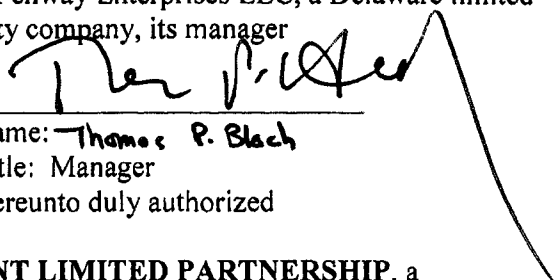
LANDMARK CENTER OWNER LIMITED PARTNERSHIP, a Massachusetts limited partnership

By: Landmark Center GP LLC, a Delaware limited liability company, its general partner

By: Landmark Center Venture LLC, a Delaware limited liability company, its sole member

By: FE Landmark Center LLC, a Delaware limited liability company, its managing member

By: S&A Fenway Enterprises LLC, a Delaware limited liability company, its manager

By: 
Name: Thomas P. Blach
Title: Manager
Hereunto duly authorized

LANDMARK CENTER DEVELOPMENT LIMITED PARTNERSHIP, a Massachusetts limited partnership

By: Landmark Center Development LLC, a Delaware limited liability company, its general partner

By: Landmark Center Venture LLC, a Delaware limited liability company, its sole member

By: FE Landmark Center LLC, a Delaware limited liability company, its managing member

By: S&A Fenway Enterprises LLC, a Delaware limited liability company, its manager

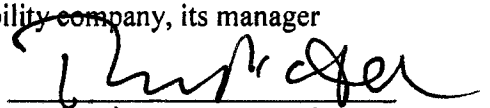
By: 
Name: Thomas P. Blach
Title: Manager
Hereunto duly authorized

EXHIBIT A

Amended and Restated Deviations

- A.1. Section 66-15 and Table E of Article 66 (Floor Area Ratio). Section 66-15 and Table E of Article 66 of the Code permit a Maximum Floor Area Ratio of 4.0 for Project Modifications located within Community Commercial Subdistricts. The Applicant hereby respectfully requests a deviation from the above requirement of Section 66-15 and Table E of Article 66 of the Code and for the Authority to authorize and approve a Maximum Floor Area Ratio of up to 5.0 for the Project.
- A.2. Section 2A (Grade). Section 2A of Code provides that for projects subject to Article 80, Development Review and Approval, “Grade” shall be determined as the average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building. Given the complexity of the structures and ownership of the Project and the difficulty in applying the definition of Grade in Section 2A of the Code to the Project, the Applicant respectfully requests a deviation from the above requirement of Section 2A of the Code and for the Authority to authorize and approve the calculation of Grade and all other measurements for buildings located or to be located within the Project Area that are based on or affected by Grade (including but not limited to Building Height and Street Wall Height) using the average elevation of 18.4 feet (Boston City Base) for the entire Project.
- A.3. Section 66-38 and Table E (Maximum Building Height). Section 66-38 and Table E of Article 66 of the Code permit a Maximum Building Height of 95 feet or 8 stories. The Applicant hereby respectfully requests a deviation from the above requirements of Section 66-38 and Table E of Article 66 of the Code to deviate from the foregoing requirements and for the Authority to authorize and approve a Maximum Building Height of up to 210 feet for proposed new Buildings and 197 feet for the existing Sears building (specifically the existing tower) located in the Project Area.
- A.4. Section 66-38 (Rooftop Structures & Building Height Restrictions). Section 66-38 of the Code requires that roof structures, headhouses, and mechanical equipment normally built above the roof and not designed or used for human occupancy shall be included in Building Height if the total area of such structures exceeds in the aggregate: 10% of the total roof area of a Building, if such total roof area is greater than 3,300 square feet. The plans for the Project Modification include rooftop mechanical equipment, headhouses, and other roof structures and rooftop amenities (“Rooftop Structures”). The Applicant hereby respectfully requests deviations from the above requirements of Section 66-38 of

the Code to permit the calculation of Building Height to exclude such items if a maximum of 33% of the total roof area within the Project Modification is occupied by accessory roof structures and rooftop amenities, including but not limited to rooftop decks, enclosed or unenclosed common facilities, restrooms, ornamental architectural features and/or any allowed rooftop signs, but excluding green roofs/open space, head houses, parapets, mechanical equipment and equipment enclosures, located or to be located on any Buildings that are part of the Project Modification, subject to the Authority's review and approval of Applicant's plans as evidenced by any agreement, instrument, or document executed by the Director.

- A.5. Section 66-38 (Open Roof Decks). Section 66-38 of the Code permits that open roof decks may be erected on the main roof of a Building with a flat roof or a roof with a slope, provided (a) such deck is less than 1 foot above the highest point of such roof; (b) the total height of the Building, including such deck, does not exceed the maximum building height allowed by Article 66 for the location of the building; (c) access is by roof hatch or bulkhead no more than 30 inches in height above such deck unless, after public notice and hearing and subject to Sections 6-2, 6-3, and 6-4 of the Code, the Board of Appeal grants permission for a stairway headhouse, and (d) an appurtenant hand rail, balustrade, hatch, or bulkhead is set back horizontally, 1 foot for each foot of height of such appurtenant Structure, from a roof edge that faces a Street more than 20 feet wide. Plans for the redevelopment of the Project Area include the location of new roof decks on top of the existing Sears building and proposed new Buildings. The Applicant hereby respectfully requests deviations from the above requirements of Section 66-38 of the Code as related to open roof decks such that such requirements do not apply to any open roof decks located within the Existing Project or the Project Modification, subject to the Authority's review and approval of Applicant's plans as evidenced by any agreement, instrument, or document executed by the Director.
- A.6. Table E of Article 66 (Street Wall Height). Table E of Article 66 of the Code permits the maximum Street Wall Height which is the lesser of 75 feet or 6 stories. The Existing Project includes an existing Street Wall Height on Brookline Avenue measuring up to 112 feet and an existing Street Wall Height on Park Drive measuring up to 197 feet (the Sears building tower). The Project Modification includes new Street Wall Heights (exclusive of Rooftop Structures) along streets adjacent to the Project Area as follows: up to 210-feet on Fullerton Street; and up to feet on 230 Brookline Avenue. The Applicant hereby respectfully requests a deviation from the requirements of Table E of Article 66 of the Code as they related to Street Wall Height and for the Authority to authorize and approve the Street Wall Heights for both the Existing Project and the Project Modification as set forth in the immediately preceding sentence.
- A.7. Table E of Article 66 (Setback above Street Wall). Table E of Article 66 of the Code requires that the Setback above Street Wall Height of 15 feet. The Applicant respectfully hereby requests a deviation from the above requirement of Table E of Article 66 of the Code and for the Authority to authorize and approve the Street Wall Heights along

Fullerton Street, Brookline Avenue and Park Drive without any Setback above Street Wall Height for the Existing Project and the Project Modification as set forth in Item A.6 above.

- A.8. Table E of Article 66 (Minimum Usable Open Space per Dwelling Unit). Table E of Article 66 of the Code requires that a Minimum Usable Open Space per Dwelling Unit of 75 square feet. The plans for redevelopment of the Project Area include the location of up to 600 Dwelling Units with over 45,000 square feet of Usable Open Space per Dwelling Unit. The Applicant hereby respectfully requests a deviation from the above requirements of Table E of Article 66 of the Code to expressly allow the location of Minimum Usable Open Space per Dwelling Unit anywhere within the Project Area, regardless of whether or not such Minimum Usable Open Space is located within the same Sub-Parcel as the Dwelling Unit for which such open space is required pursuant to Article 66.
- A.9. City of Boston Ordinance 7-4.12 (Parkway Building Setback). City of Boston Ordinance 7-4.12 provides that no building shall be erected or placed upon premises within twenty (20') feet of Park Drive. The plans for redevelopment of the Project Area includes a new below-grade parking facility, including but not limited to a parking garage, parking garage entryway and portal, retaining walls, pedestrian walkways, stairways, access/egress ramps and other above and below grade structures associates therewith (collectively, the "Garage"). The Applicant hereby respectfully requests a deviation from the above requirement of City of Boston Ordinance 7-4.12 as it relates to buildings erected or placed within 20 feet of Pak Drive and the Garage, subject to the following conditions: (i) the City of Boston Parks Recreation Commission ("Commission") shall have full review of all improvements to be located in such 20' area and the Commission shall have issued an approval of the improvements to be located in such 20' area prior to the issuance of a building permit for any improvements to be located in such 20' area, (ii) the Boston Landmark Commission shall have issued an approval of the improvements to be located in such 20' area prior to the issuance of a building permit for any improvements to be located in such 20' area, and (iii) the Authority shall have reviewed and approved Applicant's plans for any improvements to be located in such 20' area prior to the issuance of a building permit for any improvements to be located in such 20' area (any agreement, instrument or document executed by the Director shall be confirmation of such approval by the Authority pursuant to this clause (iii)). Any structure built within such 20' area shall include a 16' minimum setback between the right-of-way and the entry ramp, which setback area shall be used for plantings to screen the garage entry ramp. The above grade portion of the ramp retaining wall shall not exceed 42" high on the Park Drive side, as measured from the Park Drive side of the ramp retaining wall.
- B.1. Section 66-42 and Table F of Article 66 (Minimum and Maximum Parking). Section 66-42 of the Code requires that if a Lot includes multiple uses, the required number of off-street parking spaces for such Lot shall be the total of the required number of off-street parking spaces for each use. Further, Table F of Article 66 of the Code specifically

requires that for all Project Modifications that minimum Off-Street Parking be provided as follows: for Residential Uses at a minimum and maximum of 0.75/Dwelling Unit, and for Other Uses at a maximum of 0.75/1000 gross square feet with no minimum parking requirement for such Other Uses. The Applicant hereby respectfully requests deviations from the above requirements of Section 66-42 and Table F of Article 66 of the Code such that any and all requirements thereof shall not apply to the Project Area and to that the Authority authorize and approve up to 1,500 striped parking spaces, with additional capacity allowed to the extent managed valet parking operations is used within the Project Area, including but not limited to within new below-grade parking facility.

- B.2. Section 66-42 (Parking Location). Section 66-42 of the Code requires that for all Project Modifications, except in the case of a Lot serviced by a common parking facility, the off-street parking facilities required by Section 66-42 shall be provided on the same Lot as the main use to which they are accessory, except where the Board of Appeal determines otherwise. In connection with the development of the Project Area, the Applicant may seek to have all or a portion of the Project Area subdivided or otherwise divided into designated Sub-Parcels as set forth herein. To the extent applicable, Applicant hereby respectfully requests a deviation from the above requirements of Section 66-42 of the Code to deviate from the foregoing requirements and for the Authority to authorize and approve the location of a parking facility anywhere within the Project Area, whether or not said parking facility is located on the same Lot or Sub-Parcel as the main use to which it is accessory.
- B.3. Section 66-42 (Parking Design). Section 66-42 of the Code requires that for all Project Modifications, the design of off-street parking meet the following specifications: that each car space be located entirely on the Lot, and 50% of the required car spaces may be no less than 7 feet in width and 18 feet in length, and the remainder shall be no less than 8-1/2 feet in width and 20 feet in length, in both instances exclusive of maneuvering areas and access drives. The Applicant hereby respectfully requests a deviation from the above requirements of Section 66-42 of the Code to deviate from the foregoing design requirements for off-street car spaces within the Project Area, subject to the Authority's review and approval of Applicant's plans and provided that a Certification of Compliance under Article 80 shall be deemed approval by the Authority pursuant to this requested deviation.
- B.4. Section 3-1A.c. and Section 6-3A (Restricted Parking District). Pursuant to Section 3-1A.c. and Section 6-3A of the Code, in a restricted parking district, off-street parking facilities, including parking garages are conditional uses which may be granted only in conformance with the provisions of Section 6-3A, which requires findings by the Board of Appeal that the conditions set forth in Section 6-3A have been satisfied. The Applicant hereby respectfully requests a deviation from the above requirements of Section 3-1A.c. and Section 6-3A of the Code to deviate from the foregoing requirements and for the Authority to authorize and approve up to 1,500 striped parking spaces, with additional capacity allowed to the extent managed valet parking operations is used within

the Project Area, including but not limited to within new below-grade parking facility.

- C.1. Permitted Uses. Pursuant to Section 66-14 and Table B of Article 66, within the Neighborhood Business Subdistricts, including the Brookline Avenue Community Commercial Subdistrict, no land or Structure shall be erected, used, or arranged or designed to be used, in whole or in part, unless, for the proposed location of such use, the use is identified in Table B of this Article as "A" (allowed) or as "C" (conditional), and any use identified as conditional in Table B is subject to the provisions of Article 6 of the Code. The Project is presently intended to be used for multifamily residential, retail, service, restaurant, and other uses accessory thereto. However, it is acknowledged that the uses for the Project, including those uses located within the Project Modification and the Existing Project, will vary depending on market conditions, from time to time, but shall continue to include only uses already permitted under the Amended Report and Decision and those listed in Attachment A attached hereto. The Applicant hereby respectfully requests deviations from Section 66-14, Table B of Article 66, Article 6 and any other applicable sections of the Code related to allowed, conditional or forbidden uses such that any and all such requirements shall not apply to the Project and for the Authority to authorize and permit any and all uses for the Project already permitted under the Amended Report and Decision and such uses are set forth in Attachment A.
- C.2. City of Boston Ordinance 7-4.10 (Parkway Use Restriction). City of Boston Ordinance 7-4.10 provides that no public garage nor any buildings or structures used for mechanical, mercantile or manufacturing purposes shall be located within one hundred (100) feet of specific parks and parkways, including Riverway and Park Drive. The plans for redevelopment of the Project Area include the Garage, which is partially located within 100 feet of Park Drive, and mercantile uses and mechanical uses, as well as alterations to the façade/street wall of the existing Sears building, including, but not limited to the installation of canopies, awnings, retail storefronts, a glassed-in entranceway/lobby, decorative architectural design elements and any ornamental features or mercantile use-related outdoor amenities (temporary or permanent), such as by way of example outdoor seating areas, benches, paved entry courts, artwork, retail tents, retail kiosks, farm stands, a shade pavilion with a stage and/or seasonal uses such as a skating rink, which may extend within 100 feet of Park Drive. The Applicant hereby respectfully requests a deviation from the above requirement of City of Boston Ordinance 7-4.10 as it relates to building use and permission to use buildings and other structures located within 100 feet of Park Drive for public garage, mercantile and mechanical uses, subject to the following conditions: (i) the Commission shall have full review of improvements to be located in such 100' area and the Commission shall have issued an approval of the improvements to be located in such 100' area prior to the issuance of a building permit for any improvements to be located in such 100' area, (ii) the Boston Landmarks Commission shall have issued an approval of the improvements to be located in such 100' area prior to the issuance of a building permit for any improvements to be located in such 100' area, and (iii) the Authority shall have reviewed and approved Applicant's plans for any improvements to be located in such 100' area prior to the issuance of a building permit for any improvements to be located in such 100' area (any agreement, instrument or

document executed by the Director shall be confirmation of such approval by the Authority pursuant to this clause (iii))

- D.1. Section 66-41 and Section 11-12 (Signage Design and Height). Section 66-41 includes sign regulations applicable to all Project Modifications within Neighborhood Business Subdistricts, except to the extent that sign requirements have been established through Large Project Review pursuant to Article 80, and Section 11-2 of the Code provides that no sign supports shall extend above the cornice line of building to which it is attached. The Applicant hereby respectfully requests a deviation from the above requirements of 66-41, as and if applicable to the Project and from Section 11-2 of the Code to allow for all signage design and height proposed within the Project Area from time to time, subject to the Authority's review and approval of Applicant's plans and provided that a Certification of Compliance under Article 80, or an approval pursuant to the Authority's Design Review Procedures, is issued, and any such Certificate of Compliance or approval by the Authority shall also be deemed an approval pursuant to this requested deviation.
- D.2. Section 3-1A(a) and Section 66-28 (Planned Development Areas Special Purpose Overlay District). The Project Area is located within a Planned Development Area ("PDA") and was rezoned from the then applicable underlying zoning districts by the Zoning Commission of the City of Boston on December 13, 1989, which rezoning was thereafter approved by the Mayor. Under Section 3-1A(a) and Section 66-28 of the Code, development within a PDA requires the submission and approval of a Development Plan and subsequent receipt of "exceptions" from the Board of Appeal for any zoning relief that is required. However, the Applicant is seeking approval of the Project Modification by means of an Application under Chapter 121A and Chapter 652 of the Acts of 1960. Under Section 13 of Chapter 652, the Authority is granted the exclusive authority to grant deviations from among other things, the Code. The Zoning relief for the Project Modification shall be governed by Chapter 121A and Chapter 652 and not the PDA requirements.
- D.3. Article 32 (Groundwater Conservation Overlay District). Article 32 of the Code provides that in an area designated as a Groundwater Conservation Overlay District ("GCOD"), any Applicant seeking a building permit for a Project Modification within a GCOD where such Applicant seeks (a) the erection or extension of any structure, where new structure or extension will occupy more than 50 square feet of lot area; (b) the erection or extension of any structure designed or used for human occupancy or access, mechanical equipment, or laundry or storage facilities, including garage space, if such construction involves the excavation below grade to a depth equal to or below 7 feet above Boston City Base; (c) to Substantially Rehabilitate any structure; or (d) any paving or other surfacing of lot area, Applicant must obtain a conditional use permit from the Board of Appeal and show that the Project Modification complies with all applicable standards set forth in Section 32-6 of the Code.

The Applicant hereby respectfully requests a deviation from the above requirements

Article 32 of the Code, including requirement of obtaining a conditional use permit from the Board of Appeal, subject to the Applicant: (i) incorporating into the Project groundwater conservation systems that meet the standards set forth in Article 32 and that are acceptable to the Boston Water and Sewer Commission (“BWSC”) and the Boston Groundwater Trust (“BGT”) and that comply with the requirements of Article 32 as determined by BWSC; (ii) obtaining a written determination from BWSC as to the Project meeting the standards and requirements of Article 32; (iii) demonstrating that the Project meets the requirements of Section 32-6 by obtaining a stamped certification from a Massachusetts registered engineer showing how the requirements of Section 32-6 are met; and (iv) providing both a copy of the written determination from BWSC and a copy of the stamped certification from a Massachusetts registered engineer to the Authority and the BGT prior to the issuance of a Certification of Compliance for the Project. Provided that the foregoing conditions (i) through (iv) are met, the Authority hereby that the Applicant shall not be required to obtain a conditional use permit from the Board of Appeal, and the Project shall be deemed in compliance with Article 32 of the Code.

- D.4. Article 25 (Flood Hazards District). Article 25 of the Code, relating to flood hazard districts (as defined in Section 25-3), imposes certain restrictions and requirements under Section 25-5 thereof, with regard to, among other things, that: (1) new residential construction shall have the lowest floor, including basement, elevated to or above the base flood elevation; (2) new construction of any commercial, industrial or other nonresidential structure either shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified) or meet specific requirements for nonresidential construction set forth in Section 25-5; (3) for pre-existing structures that lawfully existed prior to the effective date of Article 25 of the Code, the Board of Appeal may grant permission for reconstruction, structural change or extension thereof provided that any non-conformity with items 1 and 2 above is not increased; and (4) storage or processing of materials that are flammable, explosive or injurious to water quality or to human, animal or plant life is forbidden in any flood hazard district and storage of certain materials and equipment in such districts. A portion of the Project Area is located within such a flood hazard district.

The Applicant hereby respectfully requests a deviation from the above requirements of Article 25 of the Code and the requirement of obtaining a variance from the Board of Appeal of the applicable provisions of Article 25, subject to the Applicant providing a stamped certification from a Massachusetts registered engineer showing how the requirements of Article 25 are met prior to the issuance of a Certification of Compliance for the Project. Provided that the foregoing condition is met, the Authority hereby agrees that the Applicant shall not be required to obtain a variance from the Board of Appeal pursuant to Section 25-6 of the Code, and the Project shall be deemed in compliance with Article 25 of the Code.

The Project shall comply with the Climate Change Preparedness and Resiliency Guidelines set forth in the Authority's Development Review Guidelines.

- E.5. 121A Approvals for Existing Project. The Project Area is subject to the Amended Report and Decision (as defined in the application). Pursuant to the Amended Report and Decision, the Authority's approval is required for any Minor Change to the Existing Project (as defined in the 121A Amended Report and Decision to mean a change that is a de minimis modification of the square footage of the Existing Project, as determined by the Authority). The Applicant hereby respectfully requests all necessary approvals from the Authority required under the above requirements of the Amended Report and Decision to permit Minor Change(s) to the Existing Project, subject to the Authority's review and approval of Applicant's plans as evidenced by any agreement, instrument, or document executed by the Director.
- E.6. Non-Conformities. For any other non-conforming use, structure or condition located or present within the Project Area, as part of the Existing Project and/or the Project Modification under the Code and City of Boston Ordinances which is not expressly set forth and requested as a deviation in this Exhibit A, the Applicant hereby respectfully requests a minor deviation(s) from the requirements of the Code and City of Boston Ordinances as applicable, including, without limitation, Project Area site improvements, exterior facades, roofscapes, public spaces, roadway and transit mitigation, or parking and loading, subject to the approval of the Authority's Director without further Authority review and approval of Applicant's plans, unless the Director determines that amendment to this Application and approval of the Authority is required.
- E.7. Separate Ownership; Sub-Parcels within Project Area. It is contemplated that, within the Project Area, the Existing Project and Project Modification, as well as other portions thereof, may be separately owned and financed. Accordingly, the Applicant respectfully requests permission from the Authority to designate and establish from time to time the boundaries of sub-areas ("Sub-Parcels") within the Project Area, consisting of air rights or otherwise, and including future subdivision(s) of the Project Area based on such Sub-Parcels, provided that the Project taken as a whole is consistent with the provisions of the Amended Report and Decision when considered on the basis of the Project, Project Modification and/or Project Area, as applicable, as a whole. The Applicant shall submit the subdivision plan creating the Sub-Parcels (the "Subdivision Plan"), if applicable, to the Authority for review to determine that no deviations are required as a result of such Subdivision Plan other than the eight deviations listed below prior to recording any such Subdivision Plan and any subsequent amendments thereto. Approval by the Authority may be evidenced by any agreement, instrument, or document executed by the Director. The designation and establishment of any such Sub-Parcels, whether formally subdivided or otherwise, shall not affect the future applicability of any deviations previously granted by the Authority pursuant to the Amended Report and Decision, as the same may be amended from time to time (including but not limited to these Amended and Additional Deviations), or any other deviations granted by the Authority. Specifically, the

deviations approved by the Authority pursuant to the Amended Report and Decision that will be applied to the Project, Project Modification and/or Project Area, as applicable, as a whole, notwithstanding the existence of any Sub-Parcels, include the following:

- A.1 (Floor Area Ratio)
- A.2 (Grade)
- A.4 (Rooftop Structures & Building Height Restrictions)
- A.8 (Minimum Usable Open Space per Dwelling Unit)
- B.1 (Minimum and Maximum Parking)
- B.2 (Parking Location)
- B.3 (Parking Design)
- C.1 (Permitted Uses)

E.8. Outdoor Uses/Structures. The Applicant may implement temporary or permanent outdoor amenities, structures and/or uses on the Park Drive side of the Project, such as by way of example artwork, retail tents, retail kiosks, farm stands, beer gardens and/or seasonal uses such as a skating rink, and/or projections or other modifications to the facade of the existing Sears building (collectively “Outdoor Facilities”). The Applicant hereby respectfully requests that, subject to the following conditions: (i) the Commission shall have full review of all Outdoor Facilities and the Commission shall have issued an approval of the Outdoor Facilities prior to the installation of such Outdoor Facilities, (ii) the Boston Landmarks Commission shall have issued an approval of the Outdoor Facilities prior to the installation of such Outdoor Facilities, and (iii) the Authority shall have reviewed and approved Applicant’s plans for any Outdoor Facilities prior to the installation of such Outdoor Facilities (any agreement, instrument or document executed by the Director shall be confirmation of such approval by the Authority pursuant to this clause (iii)), the Project shall be deemed to include any such Outdoor Facilities and the deviations for the Project, including without limitation the deviations related to Article 29 (Greenbelt Protection Overlay District), Article 32 (Groundwater Conservation Overlay District) and Article 25 (Flood Hazards District), shall be deemed to include the same.

ATTACHMENT A
List of Uses
Allowed Uses for the Project

MAIN USES

Retail/Restaurant/Office/Services Uses

Local Retail Business including store retailing one or more of the following: food; baked goods; groceries; packaged alcoholic beverages; drugs; pharmacy; tobacco products; clothing; dry goods; books; flowers; paint; computers; electronic appliances; movie videos; audio tapes and compact discs; eyeglasses; cameras and photographic equipment, telephones and wireless phones; hardware and minor household appliances

General Retail Business, including department store, furniture store, general merchandise mart and supermarket

Restaurant

Lunch Room

Cafeteria

Retail Catering

Take-Out Restaurant (Small & Large)

Food court

Restaurant with live entertainment not operating after 10:30 p.m., which may include outdoor rooftop expansion of outdoor dining, seating and/or outdoor rooftop standing area

Bar

Private Club not serving alcohol

Private Club serving alcohol

Restaurant with or without live entertainment

Fitness Center, health club or gymnasium

Rental agency for cars

Bank

Service Establishment, including the following: barber shop; beauty shop; shoe repair shop; self-service laundry; pick-up and delivery station of laundry or dry-cleaner; dry cleaning shop; printing and/or photocopying shop; or optometrist's shop

Trade Uses including the following: tailor shop; caterer's establishment; photographer's studio; upholsterer's shop; radio, television and other electronic appliances repair shop.

Automatic Teller Machine

General Office

Agency or Professional Office

Bakery

Liquor Store

Retail Service Laundry

Open Space

Open space recreational building

Post Office

Art Gallery

Public Art Display Space

Bar with live entertainment

Beverage Manufacturing, including breweries, distilleries, wineries, tasting rooms and food service

Billiard Parlor

Food Hall, which may include, in addition to restaurants and retail, one or more of the following: musical performances, broadcasts or other live entertainment, whether or not separately ticketed; culinary classes; cultural events; beer, wine or spirits tastings; dancing; and accessory uses incidental to any of the foregoing

Restaurant with live entertainment, operating after 10:30 pm

Educational Uses

Professional school

Trade school

Non-Institutional Health Care Uses

Clinic

Clinical Laboratory

Institutional Uses

Institutional Uses subject to the requirements of any applicable Institutional Master Plan (excluding High Impact Sub-Uses and uses that are not otherwise allowed under this Report and Decision and/or in the Community Commercial Subdistrict).¹

Hotel and Conference Center Uses

Bed & Breakfast

Conference Center

Executive Suites

Hotel

Non-Institutional Research and Development Uses

Product development or prototype manufacturing

Research Laboratory

Residential Uses

Elderly housing

Multi-Family Housing

Other Uses

Day Care Center

Cinema

¹ For avoidance of doubt, Institutional Uses already leasing space within the Project, including, without limitation, Children's Hospital, shall not be restricted as to square footage.

Parking Garage or Facility

ACCESSORY USES²

Accessory uses ordinarily incident to a lawful main use are allowed, subject to the provisions of Article 10, provided that any such accessory use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the main use to which it is accessory, including without limitation the following:

Accessory Telecommunications Equipment and Service Facility

Accessory telecommunications data distribution center

Accessory automatic teller machine

Accessory swimming pool

Accessory parking

Accessory outdoor café

Accessory retail

Accessory cafeteria

Accessory personnel quarters

Accessory machine shop

Accessory storage of flammable liquids and gases (small or large)

Accessory Art Use

Accessory Cultural Use

Accessory Family Day Care Home

Accessory Home Occupation

Accessory Offices

Accessory outdoor sale of garden supplies

² Accessory uses located at the Existing Project, the Project Modification and/or other Sub-Parcels may be used by all of the Existing Project, the Project Modification and/or other Sub-Parcels.

Accessory Recycling

Accessory Container Redemption

Accessory Services

Accessory Services for Apartment Residents and Hotel Residents

Accessory Truck Storage

Accessory Conference Center

Accessory Bus Storage

Accessory professional office in a dwelling unit

Accessory amusement game machines, apparatuses, devices, mechanisms and equipment in a commercial or non-commercial establishment

Accessory keeping of laboratory animals

Exhibit A-1

Amendments to Report and Decision

The Sixth Amendment to Report and Decision for the Landmark Center Chapter 121A Project dated January 16, 2014 is hereby amended as follows:

A. Partial Termination. Section G.7 is hereby amended as follows:

Because the Application does not seek an exemption from real estate tax for the new buildings being constructed as part of the Project Modification, the Project Modification shall be subject to a 6A Contract with payments equal to those applicable under MGL Ch. 59 as of the commencement of construction, and the Project Area, the Project, the Amended Report and Decision and all documents and agreements related thereto shall be deemed modified, upon issuance of the final Certificate of Occupancy for the Project, to partially terminate (the "Partial Termination") the designation under Chapter 121A and the restrictions on the Applicant, the Project and Project Area related thereto; provided, however, that the deviations and permissions granted in the Amended Report and Decision, as the same may hereinafter be amended, survive and remain in effect, without limitation. The partial termination shall apply only to all new buildings constructed as part of the Project Modification. Prior to the issuance of a building permit for the Project Modification, the Applicant shall enter into an amendment of the existing 6A Contract to reflect the foregoing, terms and conditions which shall be acceptable to the Commissioner of Assessing, which amendment shall be in a form approved by the Commissioner of Assessing (the "6A Contract Amendment").

B. Floor Plate Size. Section T.2 is hereby deleted in its entirety and replaced with the following: "No floor in the Project Modification located more than fifty feet (50') above Grade shall exceed 38,000 Gross Square Feet."

C. Maximum Tower Heights. Section T.3 is hereby deleted in its entirety. The maximum height of the Project Modification shall be as set forth above in the Amended Report and Decision, as amended hereby.

D. Phasing. Sections T.5, T.6 and T.7 are hereby deleted in their entirety and replaced with the following:

"Unless submittal of appropriate documents to the Inspectional Services Department for a core and shell building permit is made for the Project Modification within 60 months of execution of 121A Agreements for the Project Modification (as such deadline may be extended by the Director), the deviations granted by the Authority for any portion of the Project Modification for which a building permit has not yet been issued will expire, but all other deviations shall remain in effect."

E. LEED. The third paragraph of Section T.11 is hereby amended as follows:

The buildings in each Phase shall be expressive of the long-standing reputation of Boston as a center of innovation. Consequently, the Project Modification shall incorporate a systemic, research-based approach to sustainability and be designed for construction to achieve gold level certification under LEED v3/ 2009.

- F. Multi-Use Path. The sixth paragraph of the Pedestrian, Bicycle and Open Space Improvements subsection of Section T.12 is hereby amended as follows:

“[C]onstruct a portion of the City's planned Multi-Use Path adjacent to the Project Area, when approved, the design of which will be coordinated with the City and State”

- G. DIP Exactions. The last paragraph of the Sixth Amendment is hereby amended as follows:

The Project will provide the Neighborhood Housing Trust payment contribution and a Neighborhood Jobs Trust payment contribution pursuant to Section 80B-7 of the Code.

- H. Project Area. Exhibit A of the Sixth Amendment is hereby amended as set forth on Exhibit A attached hereto.

EXHIBIT A
Project Area

Real property in the City of Boston, County of Suffolk, Commonwealth of Massachusetts, described as follows:

Beginning at the intersection of the southwesterly line of Fullerton Street with the northwesterly line of Brookline Avenue;

Thence running S 38° 03' 17" W, along said northwesterly line of Brookline Avenue, a distance of 366.11 feet, to a point of curvature,

Thence running southwesterly, in part along said northwesterly line of Brookline Avenue and in part by land of the City of Boston, on a curve to the right, having a radius of 367.00 feet, an arc distance of 219.24 feet, to a point of tangency,

Thence running S 72° 16' 56" W, by land of said City of Boston, a distance of 70.00 feet, to a point of curvature,

Thence continuing southwesterly, by land of said City of Boston, on a curve to the right, having a radius of 87.00 feet, an arc distance of 28.53 feet, to a point on the northeasterly line of Park Drive,

Thence running northwesterly, along said northeasterly line of Park Drive, on a curve to the right, having a radius of 1719.12 feet, an arc distance of 644.82 feet, to a point at land, now or formerly of Consolidated Rail Corporation,

Thence running N 53° 07' 17" E, along land of said Consolidated Rail Corporation, a distance of 480.73 feet, to a point in Fullerton Street,

Thence running through Fullerton Street, on the following three (3) courses:

S 20° 19' 13" E, a distance of 37.55 feet, to a point;

S 51° 56' 43" E, a distance of 118.29 feet, to a point and

S 53° 07' 17" W, a distance of 20.71 feet, to a point on the southwesterly line of Fullerton Street,

Thence running S 51° 56' 43" E, along said southwesterly line of Fullerton Street, a distance of 452.43 feet, to the point of beginning.

Said parcel is shown on a plan entitled "ALTA/ACSM Land Title Survey of Land Owned by Sears, Roebuck and Co., Brookline Avenue & Park Drive, Boston, Massachusetts, dated June 15, 1995, Revised July 19, 1996 and March 3, 1997, by Cullinan Engineering Co., Inc.. Auburn, Boston, Massachusetts" recorded in the Suffolk County Registry of Deeds as Plan 54 of 1997, Book 21246, Page 192.

TOGETHER WITH:

A CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF BOSTON, SUFFOLK COUNTY, COMMONWEALTH OF MASSACHUSETTS, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY SIDELINE OF BROOKLINE AVENUE AND THE NORTHEASTERLY SIDELINE OF PARK DRIVE, THENCE RUNNING ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 87.00 FEET, A LENGTH OF 28.53 FEET, A DELTA ANGLE OF $18^{\circ}47'11''$ AND A CHORD OF 28.40 FEET ALONG A BEARING OF $N81^{\circ}40'32''E$, TO A POINT OF TANGENCY;

THENCE RUNNING $N72^{\circ}16'56''E$, A DISTANCE OF 70.00 FEET TO A POINT OF CURVATURE;

THENCE RUNNING ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 367.00 FEET, A LENGTH OF 219.24 FEET A DELTA ANGLE OF $34^{\circ}13'39''$, AND A CHORD OF 215.99 ALONG A BEARING OF $N55^{\circ}10'06''E$, TO A POINT;

THE PRECEDING THREE COURSES RUN ALONG THE NORTHWESTERLY SIDELINE OF BROOKLINE AVENUE;

THENCE TURNING AND RUNNING $S38^{\circ}03'17''W$, A DISTANCE OF 0.78 FEET TO A POINT OF CURVATURE;

THENCE RUNNING ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 390.00 FEET, A LENGTH OF 62.12 FEET AND A DELTA ANGLE OF $09^{\circ}07'38''$, TO A POINT OF REVERSE CURVATURE;

THENCE RUNNING ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 400.00 FEET, A LENGTH OF 63.71 FEET AND A DELTA ANGLE OF $09^{\circ}07'38''$, TO A POINT OF TANGENCY;

THENCE RUNNING $S38^{\circ}03'17''W$, A DISTANCE OF 147.48 FEET TO A POINT;

THENCE RUNNING ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LENGTH OF 43.16 FEET AND A DELTA ANGLE OF $98^{\circ}55'04''$, TO A POINT OF TANGENCY;

THENCE RUNNING $N43^{\circ}01'39''W$, A DISTANCE OF 54.05 FEET TO A POINT OF CURVATURE;

THENCE RUNNING ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1,719.12 FEET, A LENGTH OF 30.68 FEET AND A DELTA ANGLE OF $01^{\circ}01'21''$, AND A

CHORD OF 30.68 ALONG A BEARING OF N42°30'58"W, TO THE POINT OF BEGINNING;

THE PRECEDING SIX COURSES RUN ALONG THE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY LIMIT OF THE METROPOLITAN DISTRICT COMMISSION (MDC) TAKING AREA AS SHOWN ON MDC PLANS 37657 V.T. AND 37658 V.T.

DISCONTINUANCE-1 CONTAINS AN AREA OF 9,936 SQUARE FEET AS SHOWN ON A PLAN ENTITLED "CITY OF BOSTON PUBLIC WORKS DEPARTMENT, ENGINEERING DIVISION, DISCONTINUANCE, BROOKLINE AVENUE, BOSTON PROPER" PREPARED BY FELDMAN LAND SURVEYORS DATED MARCH 6, 2017.