

**BOARD APPROVED**

MEMORANDUM

AUGUST 14, 2007

**TO:** BOSTON REDEVELOPMENT AUTHORITY AND  
PAUL L. MCCANN, ACTING DIRECTOR

**FROM:** THOMAS MILLER, DIRECTOR OF ECONOMIC DEVELOPMENT  
HEATHER CAMPISANO, DEPUTY DIRECTOR FOR DEVELOPMENT  
REVIEW  
DAVID CARLSON, EXECUTIVE DIRECTOR BCDC/SENIOR  
ARCHITECT  
SUE KIM, SENIOR PLANNER  
TAI Y. LIM, SENIOR PROJECT MANAGER

**SUBJECT:** SOUTH COVE URBAN RENEWAL AREA, PROJECT NO. MASS. 4-92:  
PARCEL P-7A, LOCATED AT 240 TREMONT STREET IN THE  
MIDTOWN CULTURAL DISTRICT

---

**SUMMARY:** This Memorandum requests that the Boston Redevelopment Authority ("BRA") authorize the Director to: (1) issue a Scoping Determination waiving the requirement of further review pursuant to Article 80, Large Project Review of the Boston Zoning Code ("Code") to construct a 74,458 square foot, fourteen (14) story structure consisting of seventy-two (72) studio and one-bedroom dwelling units, restaurant space, and a signage component ("Proposed Project") located in the property known as Parcel P-7A located at 240 Tremont Street and the applicable portions of the adjacent public ways to be discontinued in the Midtown Cultural District (collectively referred to as "Parcel P-7A" or "Parcel"); (2) issue a Certification of Compliance under Section 80B-6 of the Code upon successful completion of the Article 80 review process; (3) execute and deliver a Cooperation Agreement, an Affordable Housing Agreement, a Boston Residents Construction Employment Plan, and any and all other agreements and documents that the Acting Director deems appropriate and necessary; (4) approve an Urban Renewal "U\*" Overlay District zoning designation for Parcel P-7A; (5) petition the City of Boston Zoning Commission to designate Parcel P-7A an Urban Renewal Area "U\*" Overlay District; (6) adopt a minor modification to the South Cove Urban Renewal Plan; and (7) petition the Public Improvement Commission for the discontinuance of certain surface, subsurface and air rights portions of Tremont and Stuart Streets.

---

## LOCATION AND BACKGROUND INFORMATION

Parcel P-7A, located at 240 Tremont Street in the Midtown Cultural District of Boston, currently contains approximately 5,787 SF and is situated at the corner of Tremont and Stuart Streets. Parcel P-7A is restricted by easements for access, egress and other purposes for the Wilbur Theatre, which abuts the property. Parcel P-7A is in the South Cove Urban Renewal Area, and for zoning purposes is located within the Midtown Cultural District, as established by Article 38 of the Boston Zoning Code.

On February 24, 2004, the BRA authorized its Secretary to advertise a Request for Proposals ("RFP") for the long-term lease and development of Parcel P-7A. The BRA made Parcel P-7A available for lease to create a commercial development that lends further impetus to the City's ongoing effort to reinvigorate the Theater District and to provide programmatically and technologically innovative enhancements to the area's current vitality. On August 18, 2004, two (2) proposals were submitted in response to the RFP. Due to unsatisfactory submissions, the BRA rejected both proposals on September 9, 2004.

On September 29, 2004, the BRA again issued an RFP for the long-term lease and development of Parcel P-7A. On November 10, 2004, three proposals were submitted in response to the RFP. On December 8, 2004, the BRA conducted a public meeting at the Doubletree Hotel located at 821 Washington Street for the development teams to present their proposals to the community for input.

On May 11, 2005, the BRA sent out a Request for Second Stage Submission to the three entities who responded to the RFP of September 29, 2004. The purpose of the Request for Second Stage Submission was to encourage such entities to add more height and a residential component to their proposals submitted on November 10, 2004. On June 22, 2005, all three entities submitted their proposals in response to the Request for Second Stage Submission of May 11, 2005.

On August 11, 2005, the BRA granted Tentative Designation to Amherst Media Investors, LLC ("Amherst") as the Redeveloper of Parcel P-7A for the development on Parcel P-7A of a three story structure to contain commercial and retail space, community and cultural space, and a spectacular signage component (the "Original Proposal").

On January 26, 2006, in connection with the adoption of authorization to issue Notices of Termination to the two then-occupants of Parcel P-7A, and in response to the Request for Second Stage Submission, the BRA Board was advised of the revision of Amherst's Original Proposal by the introduction of residential use (and the elimination of commercial, community and cultural space) in a substantially larger structure, which

residential development was to be undertaken in a venture with Abbott Real Estate Development LLC ("Abbott") and the retention of the signage component substantially in accordance with the Original Proposal.

On July 20, 2006 the BRA extended the Tentative Designation of Amherst to November 2006.

On November 16, 2006, the BRA amended the Tentative Designation of the redeveloper for Parcel P-7A from Amherst alone to a venture between Amherst and Abbott Real Estate Development, LLC and its affiliates to be known as Tremont-Stuart Development LLC ("Redeveloper"), a Massachusetts limited liability company for the construction of the Proposed Project, and extended the Tentative Designation of the Redeveloper to November 3, 2007. Also on the same day, the BRA authorized the Director to enter into a Lease Commencement Agreement with the Redeveloper for the Proposed Project.

### DEVELOPMENT TEAM

The development team consists of Tremont-Stuart Development LLC, as the Redeveloper, Sheskey Architects as the project architect; Shadrawy & Rabinovitz and Rubin and Rudman LLP as the attorneys; O'Neill and Associates as development consultant; and Daylor Consulting Group, Inc as permitting consultant.

### PROJECT DESCRIPTION

The Redeveloper proposes a fourteen (14)-story structure having approximately 74,458 square feet of gross floor area, to include approximately 72 studio and one-bedroom dwelling units, restaurant space, and a signage component ("Proposed Project"). In order to accommodate the structure on the site, it is proposed that Parcel P-7A be enlarged to contain a total of approximately 8,500 square feet through at grade, subsurface and air-rights discontinuances of portions of Tremont Street and Stuart Street and the taking by the Authority from the City of Boston of such areas for inclusion within Parcel P-7A (the "Project Site").

The Proposed Project will feature innovative and stimulating signage to create an iconic corner in the Theatre District. The centerpiece of the signage will be an electronic video board ("Video Display") that will play full motion video, subject to obtaining applicable approvals, and can be used to provide news as well as arts and cultural information. In addition, there will be a collage of traditional fixed signage integrated with the Video Display, which will be viewable from both Tremont and Stuart Streets. The signage will mainly be affixed on floors two through four, extending out from the building utilizing various technology methods to allow for restaurant patrons and residents to still have access to sunlight and air. In addition, the Video Display, and other proposed signage

will generally consist of so-called off-premises signs, which may include theater signage.

The total development cost of the Proposed Project is estimated at \$30 million and the Redeveloper is anticipating starting construction in fall of 2008.

### ARTICLE 80 PROCESS

On November 14, 2006, the Redeveloper filed a Project Notification Form ("PNF") in accordance with the BRA's policy on mitigation regarding the Proposed Project. Notice of the receipt by the BRA of the PNF was published in the Boston Herald on the same day, which initiated the public comment period with a closing date of February 14, 2006.

Notices of the PNF 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 November 28, 2006 with the City's public agencies, at which the Proposed Project was reviewed and discussed. On December 19, 2006, the BRA conducted a public meeting to present and discuss the Proposed Project at the Doubletree Hotel located at 821 Washington Street in Chinatown. The meeting was duly advertised in the Current, Sampam, Sing Tao and Ming Pao prior to the meeting.

### ZONING AND URBAN RENEWAL

The Project Site is located in the "General Area" of the Midtown Cultural District, a downtown district, where multifamily dwelling, retail and restaurant uses are allowed. Parcel P-7A is governed by Article 38 of the Code and as shown on Map 1A on the Zoning Map of the City of Boston. Parcel P-7A is also located within the PDA III area of the Midtown Cultural District in which a Planned Development Area ("PDA") development is allowed.

Section 38-7 of the Code imposes the following dimensional requirements upon the Parcel P-7A: a maximum floor area ratio ("FAR") of 8, which may increase to 10 if a project is subject to review under Article 80 of the Code, and a maximum height of 125 feet, which may increase to 155 feet if a project is subject to review under Article 80 of the Code. Section 38-19 of the Code imposes certain "Specific Design Requirements," including a "street wall" height limit of 90 feet; street wall continuity aligning with 80% of the alignment of existing buildings; a "skyplane setback" of 10 feet above a height of 90 feet for those portions of the Project facing Tremont and Stuart Streets; and requirements for display window areas and transparency to be determined by the BRA through Article 80 review. Relief from strict compliance with these provisions is by exception under Article 6A of the Code. The Proposed Project is also subject to the provisions of Article 32 as the Project Site is located within the Groundwater

Conservation Overlay District. The Proposed Project will include a groundwater recharge system and will comply with the applicable provisions of Article 32.

Article 11 of the Code regulates signs in the Midtown Cultural District. It specifies allowable on-premises signs but does not allow so-called off-premises signs. Article 11 provides that signs not expressly allowed under such article may be permitted in accordance with the procedures set forth therein.

Giving effect to the fact that Parcel P-7A is an urban renewal parcel governed by the Urban Renewal Plan for the South Cove Urban Renewal Area ("Plan") and to be made available for development by the BRA pursuant to a ground lease, the Redeveloper is seeking to have Parcel P-7A and the applicable portion of the adjacent public ways to be discontinued, if any, designated as Urban Renewal Overlay district, or "U\*" district. In such a district, the terms of the Plan, in combination with land disposition agreement (or in this case the Lease Commencement Agreement and the Ground Lease) will determine the use and dimensional restrictions for a project. Specifically, Section 3-1C of the Code provides that "the provisions of this code establishing use, dimensional, parking, and loading requirements for the downtown districts shall not apply to urban renewal areas established under Section 3-1A."

Given the preliminary design of the Proposed Project, the Redeveloper will need to accomplish relief from current controls with regard to height, FAR, street wall, as well as the use of signage. Compliance with the applicable provisions of Article 32 and the groundwater recharge provisions and the issues of signage, use, dimensions and design will be accomplished through execution of the Lease Commencement Agreement, which anticipates the final Ground Lease and associated designation of a "U\*" district.

The Plan originally contemplated the redevelopment of this site together with other surrounding parcels. Therefore, the current configuration of Parcel P-7A as well as the dimensions and uses contemplated for this parcel were not included in the Plan. In addition, the dimensions and uses contemplated for the prior redevelopment parcel did not contemplate the dimensions and uses for the Proposed Project. A minor modification to the South Cove Urban Renewal Plan is necessary to create Parcel P-7A as it may be increased by certain surface, subsurface and air rights portions of the surrounding public ways, Stuart Street and Tremont Street (to be taken at a later date by the Authority from the City of Boston) and to permit the uses and dimensions of the Proposed Project. Notice of the proposed minor modifications to the Plan was given to the Boston City Council on July 12, 2007. The Authority and the Redeveloper will petition the City of Boston Public Improvement Commission ("PIC") for the discontinuance of the public's rights in the portions of Stuart and Tremont Streets that will be included in the Project Site. Authorization to allow the taking of the surface, subsurface and air-rights areas within the public ways of Stuart and Tremont Streets will be sought at a later date.



## AFFORDABLE HOUSING

Nine (9) of the seventy-two (72) residential units within the Proposed Project will be created as affordable housing ("Affordable Units"). The Inclusionary Development Policy, effective May 16, 2006, applies to the Proposed Project and requires that the units be made affordable to households earning between 130% and 160% of the Boston Median Household Income as determined by the American Community Survey conducted by the US Census Bureau ("BMI"). The location, type, and square footage of the Affordable Units will be proposed by the Redeveloper and approved by the BRA.

Preferences for the Affordable Units will be given to applicants who meet the following criteria:

- (1) Urban Renewal Displacee;
- (2) Boston resident;
- (3) Household size (a minimum of one (1) person per bedroom); and
- (4) First-time homebuyers (applicable to the condominium units).

The Redeveloper will enter into an Affordable Housing Agreement with the BRA for the Affordable Units. The Redeveloper shall submit an Affirmative Housing Marketing Plan to the Boston Fair Housing Commission and the BRA for the Affordable Units, which shall be approved along with the execution of the Article 80 documents. The Affordable Units will not be marketed prior to the submission and approval of the Affirmative Housing Marketing Plan. A deed restriction will be placed on the Affordable Units to maintain affordability for a period of fifty (50) years (thirty (30) years plus a twenty (20)-year extension option). Any subsequent purchaser of an Affordable Unit during this fifty (50)-year period must fall within 130% and 160% of BMI.

## FURTHER APPROVALS

The actions requested at this time will enable the Redeveloper to undertake the construction development, review and approvals processes necessary for the Proposed Project. However, further Board approval is necessary on the Proposed Project for authorization to take certain areas in Tremont Street and Stuart Street, as well as for the final designation of the Redeveloper and the execution and delivery of the Ground Lease.

## RECOMMENDATIONS

Approvals have been requested of the BRA 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-6 upon successful completion of the Article 80 review process. In accordance with Section 80B-5.3(d) of the Code, the BRA may issue a Scoping Determination Waiving Further Review if the PNF, together with any additional material and comments received by the BRA prior to the issuance of the Scoping Determination, adequately describe the impact of the Proposed Project and offer appropriate mitigation of such impacts.

It is the opinion of the staff that the PNF meets the criteria for the issuance of a Scoping Determination Waiving Further Review. It is therefore recommended that the BRA approve the Proposed Project and authorize the Acting Director to: (1) issue a Scoping Determination waiving the requirement of further review pursuant to Article 80, Section 80B-5.3(d) of the Code; (2) issue a Certification of Compliance under Section 80B-6 upon successful completion of the Article 80 review process; (3) execute and deliver a Cooperation Agreement, an Affordable Housing Agreement, a Boston Residents Construction Employment Plan, and such other agreements and documents as the Director deems appropriate and necessary. It is further recommended that the BRA: (4) approve an Urban Renewal "U\*" Overlay District zoning designation for the South Cove Urban Renewal Area subdistrict as shown on the attached map; (5) authorize the Acting Director to petition the Boston Zoning Commission to designate the Project Site as an Urban Renewal "U\*" Overlay District; (6) adopt a minor modification to the South Cove Urban Renewal Plan; and (7) authorize the Acting Director to petition PIC for the discontinuance of certain portions of Stuart Street and Tremont Street, including surface, subsurface and air rights discontinuances..

Appropriate votes follow:

**VOTED:** That the Director be, and hereby is, authorized to issue a Scoping Determination under Section 80B-5.3(d) of the Boston Zoning Code ("Code"), which (i) finds that the Project Notification Form received by the Boston Redevelopment Authority ("BRA") together with any additional material and comments received by the BRA prior to the issuance of the Scoping Determination, adequately describes the potential impacts arising from the redevelopment of Parcel P-7A and the applicable portion of the adjacent public ways to be discontinued, if any in the South Cove Urban Renewal Area, Project No. Mass. 4-92: Parcel P-7A, located at 240 Tremont Street in the Midtown Cultural District, a 74,458 square foot, fourteen (14) story structure consisting of seventy-two (72) studio and one-bedroom dwelling units, restaurant space, and a signage component (the "Proposed Project"); 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 a Certification of Compliance for the Proposed Project upon the successful completion of the Article 80 process of the Code; and

**FURTHER VOTED:** That the Director be, and hereby is, authorized to execute a Cooperation Agreement; an Affordable Housing Agreement for the creation of nine (9) residential units to be made available to households earning between 130% and 160% of the Boston Median Household Income as ("BMI"); a Boston Residents Construction Employment Plan; and any and all other agreements and documents which the Director deems appropriate and necessary in connection with the Proposed Project, all upon terms and conditions determined to be in the best interests of the BRA; and

**FURTHER VOTED:** That the BRA hereby approves an Urban Renewal "U\*" Overlay District zoning designation for the South Cove Urban Renewal Area subdistrict as shown on the attached map and authorizes the Director to petition the Boston Zoning Commission to designate the Project Site as an Urban Renewal "U\*" Overlay District; and

**FURTHER VOTED:** That the Authority adopt the attached: RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY RE: MINOR MODIFICATIONS TO THE URBAN RENEWAL PLAN FOR THE SOUTH COVE URBAN RENEWAL AREA, PROJECT NO. MASS. R-92; and

**FURTHER  
VOTED:**

That the Director be, and hereby is, authorized to petition the City of Boston Public Improvement Commission for the discontinuance of certain portions of Tremont Street and Stuart Street, including surface, subsurface and air rights discontinuances needed for the Proposed Project.

August 14, 2007

RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY  
RE: MINOR MODIFICATIONS TO THE URBAN RENEWAL PLAN FOR THE  
SOUTH COVE URBAN RENEWAL AREA, PROJECT NO. MASS R-92

---

WHEREAS, the Urban Renewal Plan for the South Cove Urban Renewal Area, was adopted by the Boston Redevelopment Authority (the "Authority") on June 10, 1965 and approved by the City Council of the City of Boston on July 26, 1965 (said plan, as heretofore amended, is referred to herein as the "Plan"); and

WHEREAS, Section 1201 of Chapter 12 of the Plan entitled: "Modification" provides that the Plan may be modified at any time by the Authority without any further approval provided that the proposed modifications do not substantially or materially alter or change the Plan; and

WHEREAS, Parcel P-7 as identified in the Plan was divided into two parcels by the Authority with the resulting parcels identified as Parcel P-7A and Parcel P-7B; and

WHEREAS, Parcel P-7B was conveyed by the Authority in accordance with the Plan to New England Medical Center Hospital and Metropolitan Center Inc. pursuant to a Land Disposition Agreement dated July 9, 1980; and

WHEREAS, the Authority remains the owner of Parcel P-7A located at the corner of Tremont Street and Stuart Street, containing approximately 5,810 square feet; and

WHEREAS, Parcel P-7A continues to be a blighted and underutilized site despite its prominent location in the center of the Theater District; and

WHEREAS, the proposed modifications to the Plan hereinafter described are necessary to effectuate the reuse of Parcel P-7A in a manner that continues to further the reinvigoration and revitalization of the Theater District and in furtherance of the Plan as a whole; and

WHEREAS, it is the opinion of the Authority that the modifications with respect to Parcel P-7A hereinafter described do not substantially or materially alter or change the Plan; and

WHEREAS, the Authority is cognizant of the requirements of Massachusetts General Laws Chapter 30, Sections 61 through 62H, as amended, and its implementing regulations (collectively, "MEPA") with respect to minimizing and preventing damage to the environment;

NOW THEREFORE, BE IT RESOLVED BY THE BOSTON REDEVELOPMENT  
AUTHORITY:

1. That pursuant to Section 1201 thereof, the Plan be, and hereby is, amended as follows:
  - a. Map 5, Disposition Plan is hereby amended by creating re-use Parcel P-7A, a parcel containing approximately 8500 square feet.
  - b. That the portion of Table A of Section 603 entitled "Land Use and Building Requirements, Table A: Requirements for Dispositions Parcels" is hereby amended by adding the following after P-6 and P-7:

<u>Site Designation</u>	<u>Permitted Uses</u>	<u>Max. F.A.R.</u>	<u>Minimum Parking Spaces</u>	<u>Ground Floor Setback</u>
P-7A	Residential, Institutional, Commercial (including retail and restaurant, including take- out)	13	None	None

2. That these modifications are found to be minor modifications, which do not substantially or materially alter or change the Plan.
3. That it is hereby found and determined pursuant to MEPA that these modifications will not result in significant damage to or impairment of the environment and further, that all practicable and feasible means and measures have been taken and are being utilized to avoid or minimize damage to the environment.
4. That all other provisions of the Plan not inconsistent herewith be and hereby are continued in full force and effect.
5. That the Secretary be and hereby is authorized to file the aforesaid amendments to the Plan with the minutes of this meeting and that said amendments shall be conclusively deemed to be the official amendments of the Plan.
6. That the Director be, and hereby is, authorized to proclaim by certificate these minor modifications to the Plan, all in accordance with the provisions of the Urban Renewal Handbook, RHM 7207.1, dated August 8, 1974.

Map Amendment Application No. 538  
Boston Redevelopment Authority  
"U\*" Designation for Parcel P-7A  
South Cove Urban Renewal Area  
Map 1A, Midtown Cultural District

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

The Boston Redevelopment Authority hereby petitions to amend "Map 1A, Midtown Cultural District" of the series of maps entitled "Zoning Districts City of Boston," dated August 15, 1962, as amended, as follows:

By adding the designation "U\*", indicating an Urban Renewal Area overlay district, to the existing zoning of land known as Parcel P-7A, located at 240 Tremont Street, Boston, within the South Cove Urban Renewal Area, as shown on Appendix A.

\* Inconsistent provisions of the Boston Zoning Code notwithstanding, the applicable use and dimensional controls shall be the use and dimensional controls of the South Cove Urban Renewal Plan and the Land Disposition Agreement relating thereto.

Petitioner: Boston Redevelopment Authority

By: Paul L. McCann, Acting Director

Address: City Hall/9<sup>th</sup> Floor

Boston, MA 02201-1007

Tel. No.: (617) 722-4300, ext. 4308

Date: As authorized by the BRA Board at its meeting  
on August 14, 2007.

# Parcel 7

