Regulating New Construction in Historic Areas

by

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Columbia University

Submitted to the Department of Urban Studies and Planning
in Partial Fulfillment of the Requirements for the Degree of
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ABSTRACT

This study is an examination of how the restrictiveness of different design regulations impacts the process of new construction in historic areas. The North End, South End, and Back Bay neighborhoods of Boston were identified as historic areas that possessed increasingly restrictive design regulations, and within each neighborhood, two recent new buildings were selected as case studies. Each pair of cases represented a project that had undergone either an easy or difficult approval process under the district’s design regulations. Using relevant statutes, interviews with regulators, reviewers, and architects, and the official documentation produced during the approval process, histories for each of the new buildings were compiled and compared.

The results of this comparison suggest that, counter to the hypothesis, there is not a direct relationship between the restrictiveness of the regulation and certain variables such as historicism, inflexibility, and contextualism. In many ways, the new construction processes that occur in the North End and Back Bay, the least and most restrictive regulatory environments, respectively, resemble each other much more than they resemble the process that takes place in the South End, which is moderately restrictive. Various factors lead to the prevalence of historicist design in the South End, while there is an unexpectedly high probability that new designs in the North End and Back Bay will depart from traditional historic architectural norms. These unexpected results are attributed to the discretion and authority exercised by the individuals administering design review.

Thesis supervisor: J. Mark Schuster

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Abbreviations and Key Individuals

SPNEA: Society for the Preservation of New England Antiquities
BRA: Boston Redevelopment Authority
BLC: Boston Landmarks Commission
BCDC: Boston Civic Design Commission
NDOD: Neighborhood Design Overlay District
PNF: Project Notification Form
NABB: Neighborhood Association Back Bay
BBAC: Back Bay Architectural Commission
ISD: Inspectional Services Department

BRA Staff
Rick Shaklik: Deputy Director of Zoning
David Carlson: Senior Architect; BCDC Executive Director; design review staff person responsible for all the cases except 424 Mass Ave.
Michael Cannizzo: Senior Architect/Urban Designer; formerly BLC Staff Architect

BLC Staff
Alexa Pinard: South End Preservation Planner
William Young: Back Bay Preservation Planner

South End Landmark District Commission
John Freeman: Commissioner

NABB:
Janet Hurwitz: Co-Chair Architecture Committee
Sue Prindle: former Co-Chair Architecture Committee

Architects:
John Downie, DiMella Shaffer (50 Fleet Street)
Jack French, Neshamkin French (44 Prince Street)
Doug Dolezal, Dolezal Architecture (424 Mass Ave., Minot Hall)
Phil Hresko, Hresko Associates (Minot Hall)
Alfred Wojciechowski, CBT (801 Boylston)
David Hancock, CBT (200 Newbury)
Chapter 1: Regulating Design in Boston
Introduction

In 2003, the Boston Globe's architecture critic, Robert Campbell, asserted that "Bostonians are die-hard conservatives when it comes to architecture." For the last 30 years, the people of Boston have particularly regretted the demolition of historic neighborhoods that occurred during the period of urban renewal from the 1950s-1970s, and many of the modern buildings that replaced these neighborhoods are reviled and widely considered to have been insensitive mistakes. But since the 1970s, Boston has acquired the reputation of being timid and traditional in its architectural tastes. Developers and architects, trying to avoid designs that will enrage the public, are partly responsible for perpetuating the historicist aesthetic that is prevalent throughout the city. However, aesthetics alone do not determine the look of a building or the shape of a city; planning, too, helps determine a city's built character. Boston's historic buildings are now fiercely guarded assets, and historic preservation is an important factor in the city's planning efforts. Thus, an examination of planning mechanisms can help explain Boston's conservative urban design.

In Boston, as elsewhere, regulation is one of the principal tools of planning. The regulation of design is, of course, a contentious topic in the world of urban design. Yet, the basis of design regulation is the assumption that it is legal—and appropriate—for the government to regulate aesthetics. In its 1954 opinion, Berman v. Parker, the US Supreme Court upheld a state's right to regulate solely on the basis of aesthetics, and "[w]hat followed was an outpouring of legislation expanding aesthetics programs existing in fields such as historic preservation and integrating them with others such as urban design." Even though the right to regulate has been affirmed, there has been constant debate on exactly how (and how much) the state should regulate. In his book Aliens and Icons, John Costonis argues that design regulations are contentious because aesthetics are by necessity a personal, creative choice. Design regulations must balance personal tastes with constitutional rights and legal process. Many critics find fault with how this balance is struck.

Critics such as Brenda Case Scheer argue that design regulations including design review and design guidelines constitute an inappropriate limitation on the expertise of architects—skilled architects, she argues, do not need regulatory direction to design buildings that complement or enhance their historic contexts. In addition, some contend that in trying to strike a balance between aesthetics and public goals, regulation actually leads to bad architecture. Still others believe that limitations on design create buildings that no one hates but no one loves. In historic areas, design regulations are blamed for creating cookie-cutter designs that mimic historic architecture. Despite these and many other criticisms, design regulations are a very prevalent planning tool in the United States. For the purposes of this thesis, regulation is taken as a given, and therefore the central issue is the form of regulation rather than its very existence.

Design regulations might account for the conservatism of Boston's recent architecture. Campbell quotes John Neal, a realtor and member of the South End Historical Commission, who expresses a commonly held belief: "I think that the approval process has a deadening effect on creativity in Boston...[t]he process developers have to go through is one of the main reasons architects tend to be less innovative. The clients are afraid to ask for innovation, knowing they might end up spending a lot of money and then get their design shot down by the various layers of agencies in Boston." Nonetheless, there is evidence that the design community
generally supports design review, one ubiquitous kind of design regulation. Mark Schuster's survey of Massachusetts architects found that the "view that architects have of design review is a markedly positive one". This study also found that Massachusetts architects have a great deal of experience dealing with design review. The regulation of design has a great impact on the process of new construction, regardless of whether it is praised or condemned. A greater understanding of the effects of design regulation will not resolve this debate, but it can help clarify the role that planning has played in shaping contemporary urban design. This thesis attempts to describe the impact of regulation in the particular context of Boston, a historic city that uses a variety of different design regulations.

**History of Preservation and Design Regulation in Boston**

A number of qualities unique to Boston make it particularly relevant to a discussion of the issues surrounding historic preservation and design regulation. Boston is one of the oldest cities in the United States, and its self-identity relies greatly on history. New York City is older than Boston, but its public image is not associated with history nearly as much as Boston's—particularly in the eyes of tourists and people unfamiliar with these cities. New York is Broadway, fashion, shopping, and skyscrapers; Boston is the Revolution and venerable universities. Architecturally, Boston reflects this historic identity; much of the city consists of pre-20th century neighborhoods that have been conserved to varying degrees. The patina of age is inescapable. Marketed to tourists as a place to experience America's past, Boston actively cultivates its identity as an historic city, and maintaining architecture that supports this identity is critical. Thus, the regulation of historic areas is particularly salient.

Boston was not always a city known for its past. Michael Holleran notes that, from its founding, the residents of Boston were continually rebuilding the city. Steeped in a "culture of change," the residents of Boston looked unfavorably at their older buildings, constantly demolishing and rebuilding. In the 19th century, Boston grew rapidly. Speculative development of luxury homes on Beacon Hill began as early as 1799, and landfill created vast amounts of new land, including the elite Back Bay in 1858. Well known institutions—museums, churches and hospitals—moved from neighborhood to neighborhood as new land was filled and developed, and as their patrons' tastes changed. Although much of its better known history is colonial, Boston is a 19th Century city architecturally.

By the last quarter of the 19th century, after more than 75 years of explosive growth, Bostonians began to question the lack of permanence in the built environment and sought ways to maintain elements of the past. Holleran describes this change in attitude: "People were displeased by the flux around them and were no longer reluctant to say so. If change in the urban environment was really a malady rather than a healthy fact of life, if at least some parts of cities ought to be permanent, then what could Boston do about it?" At the end of the 19th century several conservation movements, usually centered on specific buildings, brought architectural preservation into the public dialogue, ultimately leading to some of the country's first regulations that controlled design in order to maintain the historic cityscape.

The preservation movement that began in the late 19th century was a decidedly private-sector enterprise. Historic preservation generally entailed the purchase of endangered properties by private groups of wealthy Boston Brahmins. Perhaps the most influential of
such organizations was the Society for the Preservation of New England Antiquities (SPNEA), founded in 1910 by William Sumner Appleton Jr. Although SPNEA’s work protected numerous historically significant structures from demolition, as a private institution limited by its donors’ financial contributions, it had little impact on the form of the city at an urban scale.

Until the early 20th century, controls on design and construction at the street and district level took the form of contractual agreements. In the first half of the 19th century, deeds in Boston began to carry covenants with design requirements that might specify, for example, that rowhouses be built evenly with one another. In selling parcels of newly filled land in the Back Bay, the state imposed permanent restrictions that specified “front-yard setbacks, minimum building heights of three stories, and maximum cellar depth.” These deed restrictions mark the first widespread effort to control design in Boston, but they were not intended to address historical contexts (even though they functioned in that way) and took the form of contracts rather than legislation.

Legislated design controls and historic preservation first intersected in an effort to maintain the views of the State House dome on Beacon Hill. With advancements in building technology, several tall buildings had appeared on the Boston skyline, and there was a public sentiment that unbridled construction of new buildings would inappropriately overshadow or even erase the historically significant State House. The Commonwealth first tried to use eminent domain to compensate landowners for limiting the height of new buildings. When this strategy proved to be “a dead end,” the state legislature turned to the use of its police power to control height. In 1904, the state legislature passed a bill that divided the city into two height districts, a commercial district capped at 125 feet and a residential district with an 80 foot limit. The residential district included the Back Bay and much of Beacon Hill. This landmark piece of legislation set the tone for Boston’s future design and preservation regulations. An important feature was that the districting was not permanent, but rather would be reevaluated every ten years, in effect creating a tool that controlled this historic environment rather than freezing it.

In addition, although the commission charged with delimiting the first districts avoided aesthetics as a criterion, the city government clearly viewed this bill as a preservation tool. Holleran explains, “The height districts were meant as a preservation measure. Of the fifteen backers cited in the City Council debate, at least ten had worked to preserve the Old South Church, the Bulfinch statehouse, Park Street Church, the Paul Revere House, and the Common.” When challenges to the law inevitably reached the Supreme Court in 1909, the height restrictions based on police power were firmly upheld. From this point on, zoning and preservation-oriented design regulation grew into the regulatory environment that currently exists in Boston. Having used such controls for over 100 years, Boston is a city in which design regulations in historic areas constitute a fundamental component of urban design. Regulation has had a great impact, maintaining the historic shape of Boston and making this city a particularly rich example of how design controls can impact historic areas.

Design and preservation regulations in Boston have evolved and expanded substantially since the 1904 maximum height districts. The history of this evolution is extensive and intertwined with the development of state and federal land use law, but what is most relevant

* Holleran provides a detailed analysis and chronology of the legislative and judicial progression of preservation controls in the city.
to this thesis is the current state of regulation in the city. Over the course of 100 years, Boston has become widely viewed as one of the most restrictive environments for designers and developers of new buildings. Several of the city officials and architects interviewed for this study acknowledge the fact that the regulations in Boston are much more stringent than in other American cities. As one of the cities that most employs regulation, Boston merits an examination—if not a complete assessment—of its different regulatory tools.

**Contemporary Regulations**

Before discussing the regulations that exist today in Boston, it is incumbent upon me to define my terms. The literature on the topic of design regulations does not use a consistent lexicon. Further complicating this problem, municipal governments use the same words to describe what are, in fact, very different regulations. For my purposes, the phrases “design regulation” and “design control” (a term more commonly used in Britain) are synonymous and signify statutory mandates that result in government intervention in the physical form of buildings and urban environments. One form of design regulation that is particularly common is design “guidelines.” This term is particularly confusing because it is used to describe both mandatory requirements and voluntary recommendations. It is not uncommon for a set of guidelines to mix requirements and suggestions in one document. Broadly defined, “guidelines” are a government-issued list of attributes that inform the physical design of a building. “Standards” and “criteria” are equally nebulous phrases, but they generally refer to mandatory physical attributes, such as minimums and maximums that new buildings must meet. It is virtually impossible to create precise definitions that are applicable to the reality on the ground. For example, the document that contains mandatory and voluntary guidelines for new construction in the South End is called “Standards and Criteria.” What this suggests is that it is hopeless to adopt an overall definition, and that the definition of a “guideline,” “standard,” or “criterion,” must be derived from the specific regulation itself. It is important to understand in each instance which components of a guideline are voluntary, which are mandatory, and how the “guidelines” will be enforced.

Another kind of design regulation that is particularly important in this study is “design review.” Some scholars consider design review to be a process that runs parallel to or is added on top of design regulations. However, I believe that review is a subset of regulation; put another way, regulations contain provisions for review. For example, Article 54, which creates the North End Neighborhood District, is a regulation. It contains design guidelines—some mandatory, some advisory—and it contains a provision and mandate for design review. Modifying Schuster’s definition, I will define design review as *the process in which private development proposals are scrutinized by public authorities.* As is the case with “guidelines,” design review takes many forms, ranging from advisory recommendations that are not enforced to very powerful review panels that have final decision-making and permitting authority. The key shared feature of all design reviews is that they involve at least one public official’s assessment and comments on a specific proposal.* In this thesis, we will see design regulations that employ the words “guidelines,” “standards,” “criteria,” and “review” to mean very different things. However, all

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* “Public officials” range from employees of the city to volunteer laypeople serving on city-supported commissions.
of the design regulations in the cases we will see contain lists of desired physical attributes and provisions for public officials to review new proposals.

The literature classifies and categorizes design regulations in many ways.* But for my purposes the most useful distinction between varieties of design regulations is a categorization that Nasar and Grannis apply to design review, the distinction between discretionary and administrative design review: "Discretionary" design review refers to ordinances in which the decision rests on the reviewers’ personal discretion. "Administrative" design review refers to ordinances that limit personal discretion by requiring projects to satisfy clear, precise, and measurable standards."** These terms are equally applicable to all design regulations—not just design review. In my view, design regulations fall into a sliding scale between “discretionary” on one end and “advisory” on the other. The cases in this study will illustrate that some regulatory systems rely on ad hoc, personal decision-making (discretionary), while others require stricter abidance to a set of standards. These differences play an important role in my findings.

I now turn to a discussion of the pertinent regulatory structures in Boston. The Boston Redevelopment Authority (BRA), the city’s planning and development agency, oversees the construction of new buildings and alteration of existing structures across the city. The BRA is the agency that develops and enforces the zoning code and is thus present to some extent in all development that occurs in Boston. From the BRA’s establishment under an enabling act in 1956 until the early 1990s, one comprehensive zoning code applied to the entire city. Zoning districts reflected the variety of fabrics in the city, but the same set of district categories were used in all of the city’s neighborhoods. Approximately 15 years ago, the city began to update its zoning code by creating neighborhood planning districts, which were tailored to each neighborhood and developed with input from community members.19 Currently, there are over 15 specified neighborhood districts, while the remaining neighborhoods continue under the city-wide code. The regulations administered by the BRA seek explicitly to maintain the physical characteristics of historic neighborhoods but are generally limited in their purview to specifying only massing, height, setback, and basic materials.

In addition to delimiting as of right uses, the BRA plays a part in the regulation of new construction in historic areas by providing zoning relief and administering design review. Authority to conduct design review is granted to the BRA under Article 80 of the zoning code. BRA staff members are the decision makers in this process, which ranges from internal negotiations for small projects to a series of public hearings for larger proposals.** Article 80 design review is triggered easily, and some thresholds have been lowered to increase the amount of BRA oversight. Boston architect Doug Dolezal claims that seeking zoning relief and undergoing design review is the norm in Boston. While some residents perceive review as an indication that the proposed development is breaking the law, the standards that trigger design review are intended to capture a substantial portion of all new construction and alterations that

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* See Bender and Bressi, Shirvani, and Delafons for a detailed description of the many kinds of design regulations.
** The assignment of BRA design staff to development projects does not follow a systematic method. According to BRA Senior Architect David Carlson, staff tend to focus on either downtown Boston or outer neighborhoods, but it is common for staff to review projects in all parts of the city. With only six staff members for design review, the BRA does not have sufficient personnel to provide a dedicated staff person for every district.
take place in Boston. Even Rick Shalik, Deputy Director of Zoning at the BRA, admits that “you can’t do a lot without triggering zoning relief.” He explains that in dense neighborhoods, such as the ones in this study, any physical alteration can have an impact on many people, and thus the zoning code is intentionally designed to be triggered even by minor constriction activity.

An additional layer of design regulation that occurs in some parts of Boston is carried out by the Boston Landmarks Commission (BLC). The BLC is not part of the BRA, but rather a division of the Environment Department, a separate office in the city government. The BLC oversees seven designated historic districts.* Each district is assigned one staff member who coordinates a commission of unpaid mayoral appointees. The districts vary in the content of their regulations, both in terms of the architectural considerations to be taken within the district and the level of detail of its design standards. The first commission in each district wrote and developed their own guidelines, and subsequent commissions have the authority to amend them from time to time.20

Generally, historic district commissions focus on conservation and the mitigation of changes made to historic structures. Many of these alterations are consulted on and approved by the BLC staff. In addition, new construction must adhere to the district’s standards and undergo a series of commission reviews, which take place at public hearings. Historic district commissions must either approve or deny each proposal, but in general the process is much more nuanced, involving negotiations, advisory subcommittee review, and multiple hearings. It is important to note that although the historic districts share a number of procedural characteristics, the level of regulation varies between the stringent “Landmark Conservation Districts” and the more lenient “Architectural Conservation Districts.” 21 Two of the districts, Beacon Hill and Back Bay, were created under earlier legislation that granted even greater powers of oversight to the district commissions in these neighborhoods.

In some respects, the historic district commission is more stringent with regard to design than the BRA, although the latter deals with additional issues such as impact on transportation, infrastructure requirements, and environmental mitigation. The BRA often defers to the BLC’s review and standards. BLC oversight, however, takes place in addition to rather than in lieu of BRA regulations. The primary difference between the regulations and review imposed by these two agencies is that the BRA addresses general issues of urban design, while the BLC adds a more detailed focus on the articulation of the design within the historic context. Shaklik explains that, unlike the additional considerations in a historic district, the underlying zoning attempts to protect physical characteristics such as light, air, and views, rather than protecting the “architectural integrity” of an area.

In addition to BRA and BLC regulations, some new projects are subject to review by the Boston Civic Design Commission (BCDC). Entered into the zoning code as Article 28 in 1986, the BCDC is charged with reviewing the impact on the public realm of certain proposed buildings and plans. The legislation defines the public realm as any “aspect of the urban environment which is visible and accessible to the public, including both spaces and the building

*There are many other historic parts of the city—which I define as neighborhoods with substantial quantities of old buildings—that are not covered by historic districts.
walls which frame them.”22 The objective of the BCDC is to “preserve and promote the health, safety, convenience, and welfare of the inhabitants of the City of Boston.”23 Proposed buildings receive BCDC review if they contain over 100,000 square feet of gross floor area, or if they are of “Special Significance.” This latter category of projects is reviewed at the discretion of the commissioners and the BCDC Executive Director, who is a BRA employee. Reasons to review smaller buildings include proximity to landmarks, visual prominence, or location in an area of special historic interest.24 The BCDC’s main function is to advise the BRA, and it has no power to allow or to deny a project. BCDC review occurs in the early stages of a proposal, while the BRA is still focusing on massing, height, and site design.25 Unlike the BRA and the BLC, the BCDC’s mandate precludes review of the aesthetic details of the proposed design. While the BCDC can deal with precise problems, its recommendations are generally broader, reflecting the large-scale, abstract nature of its goals.

Finally, it is important to note the role of the federal and state governments. In the United States, the restrictiveness of preservation policies increases from the federal to the local levels. The federal government’s primary preservation tools are incentives and information, as opposed to regulation. The rehabilitation tax credit currently offers owners of income-producing properties that are on the National Register of Historic Places or eligible for the register to receive an up to 20% tax credit for the preservation of their historic buildings.26 The National Park Service publishes “The Secretary of the Interior’s Standards for the Treatment of Historic Properties,” a set of generic principles and requirements that is meant to inform owners of historic commercial buildings attempting to qualify for the federal tax credit.* These standards give descriptions of typical historic elements and conditions, such as “masonry” or “storefronts” and offer traditional preservation solutions. They discourage new construction that is completely historicist and undifferentiable from historic structures.

The Massachusetts Historical Commission is a state agency that is charged mostly with maintaining a state register, managing nominations to the federal register, awarding prizes, and disseminating information. Regulation occurs almost exclusively at the city level in Boston; neither the state government nor the federal governments was involved in the design regulation of the cases in this study.

Development in Boston is highly regulated, but even though this is the case, its neighborhoods receive different treatment. BRA Senior Architect/Urban Designer Michael Cannizzo, who has worked in other cities such as Minneapolis, explains that Boston’s system of separate, tailored regulations for each district is unusual compared to most American cities. Most cities simply adopt the Secretary of the Interior’s Standards as their design and preservation regulations and apply them throughout the entire city. As we have seen, design regulations in Boston vary in several ways, one of the most notable being the level of restrictiveness. BRA, BLC, and BCDC regulations are layered in different configurations, resulting in some districts with little oversight and some that are strongly controlled. One would expect that the level of

*On its website, the National Park Service, which provides the Standards, acknowledges their limitations: “The Standards are neither technical nor prescriptive, but are intended to promote responsible preservation practices that help protect our Nation’s irreplaceable cultural resources.”
restrictiveness would have an important impact on the process and outcome of new construction. And thus, in this thesis I will try to answer the following question:

*How does the restrictiveness of design regulation affect contemporary construction in historic areas?*

**Research Design**

One might approach this question in several ways. One possibility that I considered was to compare design and preservation regulations among several cities. A study comparing New York City, Houston, and Charleston, South Carolina could take advantage of the differences among these cities and help to explain why the three come to have such different new buildings in their historic neighborhoods. This would be an interesting study, and similar methodologies have been widely used in the literature on preservation and design control policies. However, the method I have selected is to compare neighborhoods within the same city.

Staying within one city has several advantages. Most importantly, it eliminates much of the variation that can be attributed to regional or even local differences. Differences in the architectural stock among cities in the United States have a great impact on the aesthetic and historical considerations behind regulation. And, the specific culture of a region influences the public’s attitude toward regulation and its use. In Boston, my city of choice, there are, of course, physical and social differences among neighborhoods, but these distinctions are far smaller than the difference between Houston and New York City.

Another advantage to studying one city is that all the cases share a common level of state regulation. Thus, the differences between neighborhoods are more discernable and discrete because they are all built upon the same base of city- and state-wide regulations. My proximity to the location and the access I have gained to the sites, documents, and individuals that I have studied has also been a great advantage. From a research point of view, I have gained a great deal of leverage on my research question by being able to visit the field repeatedly and interview stakeholders in person throughout the course of my research. Finally, the history and current state of design regulation in Boston, which I described earlier, makes this city particularly relevant to the study of different kinds of regulation. Because Boston uses a variety of regulatory tools and applies different levels of restrictiveness, Boston is, in a way, a microcosm of the universe of regulations. Of course, there are many kinds of regulations that are not used here, but the city nonetheless offers a range of regulations that mirrors the overall spectrum of restrictiveness found across the country.

My first step in structuring the research for this thesis was to locate examples of different levels of restrictiveness. My goal was to find three different historic areas in Boston that represent three different levels of regulation. After a review of the statutes and preliminary interviews with local practitioners and city officials, I selected the North End, the South End, and the Back Bay, ordered from least to most restrictive. My general knowledge of Boston led me to believe that this would be an apt characterization of the regulatory environment in these three neighborhoods. All of the people I interviewed for this study agreed that the North End, South End, and Back Bay possessed increasing “restrictiveness.” My original definition of
restrictiveness was abstract and reflected the general consensus of experts and practitioners in Boston.

In the North End, the principal design regulation is Article 54 of the zoning code, which applies to the North End Neighborhood District. The South End is a Landmark Conservation District, and the Back Bay is a highly restricted historic district with its own enabling legislation.* These three neighborhoods have distinct architectural styles, but they were all developed over 100 years ago, making them “historic” by my standards. Further, the historical socio-economic differences between the North End, South End, and Back Bay, while still faintly visible, have faded, and new residents in all three neighborhoods are decidedly affluent.

This thesis employs the case study method. Case studies provide rich, detailed information rather than results that are statistically representative of a larger population. It was my goal to select cases that were typical enough to represent their regulatory environment, but

*In the following three chapters, I will discuss each neighborhood’s regulations in detail, making clear its level of restrictiveness.
the history of each specific case precludes great generalizations. However, the target population, new buildings in Boston, is not immense, and I believe a great deal of transferable information can be gathered by culling the nuances and details that emerge from the qualitative analysis of a set of carefully selected cases.

In each of the three study areas, I selected two cases. I limited my selection of cases to new buildings (not renovations) that were erected under the regulations that exist today. Because there has been so little recent construction in the Back Bay, I was forced to select cases in this neighborhood that extend slightly beyond the ten-year window I had planned to use. Initially, I wanted to find one proposed design that was rejected and one proposed design that was approved in each of the three neighborhoods. I quickly learned that there is virtually no such thing as an automatic approval or denial in Boston, and thus I revised my case selection criteria to include one case that underwent a difficult approval process and one case that underwent a comparably easy approval process. By identifying what went wrong in the difficult cases and what went right in the easy cases, I hoped to elucidate the factors that led to success in each regulatory environment.

My primary source of data was interviews with the participants in each of the six cases. For each case, I interviewed the architect and the city official (the BRA or BLC staff member) responsible for conducting or coordinating design review and enforcing the written guidelines. I also spoke to an historic district commissioner and several BRA staff members who have knowledge and past experience in each neighborhood. All but one of these interviews was conducted in person, and the format was very open-ended and conversational, which led to a great deal of rich and candid information.

Several topics were covered consistently. I asked architects how burdensome they considered the regulations, what design considerations they had taken because of the site and because of the regulations, how positively they perceived the approval process, and what their overall approach to the design had been. I asked reviewers to explain the design changes they had requested, their major concerns and objectives in reviewing projects in that district, and their view of the impact of the regulations on each case. An additional and very valuable source of data was minutes from hearings of the South End and Back Bay historic district commissions. These notes are very detailed and provide a virtual transcript of the proceedings, allowing me to interpret the views of the commissioners. Finally, the written regulations themselves, which contain guidelines and goals, were an important source of information.

Hypotheses

It is easy for the layperson—or the urban planning student—to develop some a priori theories based on a general understanding of design and preservation regulations. One might expect that greater restrictiveness would mean that regulators have would have more oversight over more aspects of the design. Thus, it would seem that high regulation would be accompanied by a greater specificity in the building guidelines and standards. With greater specificity, there would be less room for certain styles, and so greater regulation would be more likely to lead to more “historicism” new buildings. In less restrictive areas, historic accuracy and the faithfulness of new design would be demanded less than in highly restrictive areas, where the existing new buildings would be required to resemble their historic neighbors. Thus, flexibility in the approval process would decline as restrictiveness increased. Areas with a great deal of regulation would
be expected to require more steps in the approval process. Coupled with a longer process and a restricted menu of aesthetic options, highly regulated districts would lead to an approval process that would seem to be more burdensome, and architects would consider themselves constricted. In this thesis, I have attempted to test these hypothesized relationships in order to understand how design regulations really work. But this thesis is also about Boston, and I wanted to learn if regulation can explain the conservative nature of Boston’s architecture. While this pervasive aesthetic is sometimes attributed to the restrictiveness of the regulations imposed on designers, it can also be attributed to the perception of stringency, which causes designers and developers to propose conservative buildings that they think will gain easy regulatory acceptance. Examining how new construction occurs under the range of regulations employed in historic areas, this thesis tries to explain how design regulation plays a part in producing the new buildings in Boston that seem to create this conservative and often criticized cityscape. What I found was surprising.
50 Fleet Street
Architect: John Downie, Project Manager, DiMella Shaffer
Dates: 2001-June 2006
Square footage: 17,000
Units: 8
Parking Spots: 12
Use: Residential

44 Prince Street
Architect: John French, Neshamkin French
Dates: 2003-Spring 2006
Square footage: 66,000
Units: 57
Parking Spots: 75
Use: Residential
Background

The North End is arguably both the oldest and the youngest historic area examined in this study. Soon after the Massachusetts Bay Company arrived on the Shawmut Peninsula in 1630, colonists began to inhabit this hilly pasture, which was partially separated from the rest of the peninsula by a tidal inlet. By 1640, a number of residences along the shore of the North End made it one of the first residential districts in Boston. In 1648, a private group of residents completed a dam that turned the inlet into the Mill Pond, submerging a portion of the land and further narrowing the passage to the North End and virtually turning the hill into an island. As the community grew, residences were built near the center of the hill, while businesses gradually clustered along the waterfront, eventually moving out onto the landfill that created the harbor.

Today the North End is known for its narrow, winding streets, which reflect the unorganized location of the first houses on the hill. By 1645, Hanover Street had become the main corridor, as it remains today, and an irregular but “approximately rectangular pattern within the semicircular” perimeter of the hill came to form the tight and uneven urban fabric of this district. Landfilling and the construction of wharves continued through the 18th century. Filling along the shore of the North End created land for a number of mill industries: “By 1800 there were three mills for meal, lumber and chocolate...and on Commercial Street there were factories for brass, cannons, bells and earthware.” Developers “wharved out” from the shores of the North End, adding to the growing harbor, and creating the new shape of the Boston waterfront.

Early construction in the North End, as in all of Boston, consisted of wooden utilitarian structures. Much of the older wood construction was destroyed in fires or replaced during the intense development of the 18th century. The only building that remains from that period is the Paul Revere House, built around 1680. In the 18th century, the North End was the most densely settled area of the city, and Boston’s wealthy residents built mansions there, making it also the most prestigious district in the city. However, many of the wealthy were loyalists who fled Boston during the Revolution, and after the war the neighborhood was unable to regain its former elite status. Hanover and Salem Streets now housed small merchants and tradesmen. The greatest demographic change occurred in 1824 when the Irish potato famine brought thousands of poor Irish laborers to Boston. These immigrants crowded into the former mansions, living as densely as one family per room. After the Irish came Eastern European Jews from the 1850s to the 1880s, and Italians began to settle in the North End in large numbers from the 1890s to the 1920s.
As the immigrant population increased, a gradual change in the building stock occurred, which gave the North End its present appearance. Mansions were torn down and replaced by four and five story walk-up tenements, which were cheaply constructed and housed immigrants even more compactly. Most tenements were built at the turn of the 20th century, and the crowded slum character of the North End was solidified as the last major tenements were built in the 1920s. By this point, the neighborhood was 90% Italian. The construction of the Central Artery in the early 1950s and the urban renewal projects in neighboring districts physically separated and alienated the North End from the rest of the city. In a sense, the North End was frozen in time as a turn-of-the-century Italian tenement neighborhood. It is portrayed to tourists as Boston’s Little Italy, and almost the entire built environment is a reflection of this moment in the North End’s history. As an architectural district, the North End is thus younger than the other districts in this study, which were both constructed from the mid-19th century. Nonetheless, while its full history might not be legible in the streetscape, the North End possesses a much longer story. Coexisting with the Italian identity are several monuments that recall the neighborhood’s Yankee past, such as the Paul Revere House, the Old North Church, and St. Stephen’s Church.
In the 1970s, building owners began to convert tenements into larger apartments, a change that was reflected in rent increases throughout the neighborhood. The gradual gentrification of the North End was greatly accelerated by the impending (and now complete) removal of the Central Artery. In recent years, as the North End has been made more visible and reconnected to the city, development inside the neighborhood has grown rapidly. With the proposed Rose Kennedy Greenway, which will add a sizeable amount of open space, residential development pressures will likely continue to grow. High-end residential development is now quite prevalent and consists mostly of additional units constructed on top of existing tenement buildings. Most development opportunities are for conversion and rehabilitation, but BRA Senior Architect David Carlson points out that there is a fair number of opportunities for infill projects. A great deal of development activity has taken place on the waterfront, as former piers have been converted and expanded for residential, hotel, and commercial uses. The waterfront possesses a very distinct architectural character and comprises a separate Boston planning district. For purposes of this study, I define the North End as the area bounded by the former artery on the west, and the inland side of Commercial Street on the north, east, and south.

The Regulatory Environment

Historic preservation in the North End is a difficult task. More than any other neighborhood, the North End has a great deal of cultural history; however, its architecture is not as prestigious or, some would argue, as significant as in other areas of Boston. The North End utilizes the least restrictive level of regulation in this study, and indeed it is one of the most loosely regulated areas of downtown Boston. Carlson agrees that the North End is the least restrictive of these areas, adding jokingly that “there’s nothing”—no regulations—in the North End as compared to the South End and the Back Bay. The BRA is essentially the only agency that regulates design in the North End, with the BLC providing minor auxiliary support. BRA design review is triggered by construction thresholds in Article 80 and the zoning code, as well as the request for zoning relief. In 1993, the City Council established Article 54, creating the North End Neighborhood District, a zoning district tailored to the community that came out of a three year process informed primarily by extensive community participation. Before Article 54, the only zoning in place that was specifically designed for the North End was a maximum building height of 55 feet, which was adopted in the 1980s in response to residents’ demands. The 1993 district addressed the specific situation of the North End, but it did not dramatically increase the level of design control. Deputy Director of Zoning Rick Shaklik explains that there was strong resistance in the community to including any major design review requirements in the new zoning district. New mechanisms triggered BRA review—for instance, the threshold in the North End was lowered from the typical 20,000 square feet to 10,000 square feet—but the particulars of the design requirements were not especially stringent by Boston’s standards. The design guidelines are advisory, relatively vague, and lenient regarding historic preservation:

New or rehabilitated buildings should reflect and complement the patterns of siting and architectural character of the surrounding structures. The removal or alteration of any historic architectural feature should be held to a minimum...
Contemporary design for new structures, or for additions to existing structures, shall not be discouraged, if such design is compatible with the size, material, and character of the existing structure, if any, and the surrounding neighborhood environment. Alterations to create earlier or later appearances are discouraged...

New construction should respect the standards of scale of existing building patterns in order to maintain the neighborhood's special qualities. Overall building massing, relationships of primary buildings to secondary buildings, and landscape elements all should be consistent with the surrounding architecture and environment. 18

These excerpts from the “Design Guidelines” portion of Article 54 are the most specific and detailed sections dealing with new construction. In addition, there are “Specific Design Requirements,” yet all but one of these deal with non-residential display windows. The remaining requirement demands all new buildings to maintain the block's streetwall. 19 The North End’s zoning code clearly respects the existing built form of the neighborhood, but it allows for a great breadth of designs to be constructed within the district. With respect to historic preservation, the zoning seems to facilitate the replacement of historic material with contemporary material. Shaklik explains that the motivation behind the design provisions is not “architectural integrity.”

In addition to being “broad and general,” the North End’s design regulations grant less authority to their enforcer, the BRA, than do the regulations applied in other areas of Boston. 20 BRA Senior Architect/Urban Designer Michael Cannizzo explains that the lack of specific guidelines to support reviewers’ comments weakens the BRA’s position with developers and architects during the design review process; the city must approve designs when they fulfill the stipulated requirements. Cannizzo notes that this has led to a number of projects that he finds unappealing. For instance, several new buildings have been constructed with mansard roofs, which are not characteristic of the North End, but rather of other Boston neighborhoods. But buildings such as these, which inaccurately address the historic context, are permitted if they are not in violation of the zoning code’s general principles.

Carlson states that there is “always an experimental and a safe way to go when designing in the North End.” Like many of the people interviewed for this study, Carlson stresses the difficulty and importance of designing new buildings that are discernibly contemporary and simultaneously respectful of their historic settings. He states that “the North End doesn’t really need a Bilbao—it would be fun but controversial,” referring to Frank Gehry’s strikingly modern museum. The goal for this BRA reviewer is to find a middle ground; “a general sense of the neighborhood” must be reflected in new designs. 21 For instance, because brick is a defining characteristic of North End architecture, using this material is an appropriate way to fit a new building into the neighborhood. The BRA allows designers some “variance and experimentation in the color” of the brick, but the use of brick is strongly encouraged. 22

BRA review is an internal process that for small projects generally consists of informal conversations between the proponents and the assigned BRA staff person. Carlson, who
acted as the staff reviewer for both North End projects in this study, notes that the North End Neighborhood District guidelines are enforced at the staff level, leaving the individual staff person to decide how and to what extent a new building should relate to its context. Cannizzo has a slightly different view; he believes that the nature of group dynamics adds to the leniency in the North End. It is harder for one person to say “no” to a proposal, whereas a commission of multiple people, as in the BLC historic districts, might find it easier to enforce an unpopular decision. Projects that fall under Article 80 Large Project Review receive scrutiny from many BRA staff members, but the topics that are raised are not usually related to urban design. Cannizzo has a slightly different view; he believes that the nature of group dynamics adds to the leniency in the North End. It is harder for one person to say “no” to a proposal, whereas a commission of multiple people, as in the BLC historic districts, might find it easier to enforce an unpopular decision. Projects that fall under Article 80 Large Project Review receive scrutiny from many BRA staff members, but the topics that are raised are not usually related to urban design.23 Article 80 requires public meetings, which open up what would otherwise be a closed, internal discussion, but Carlson notes that still not much “interfacing with the public” occurs because of time constraints.

The Boston Landmarks Commission plays a very limited role in the North End. Although there are several individual designated landmarks, the North End does not contain a BLC historic district, unlike the two other neighborhoods in this study. Shaklik states that in the North End there is no “culture of preservation,” as is the case in the South End and Back Bay, where an active portion of the residents supports and is involved in local preservation efforts. In the recent past, there have been initiatives to designate the North End a Boston Historic District, but local opposition has until now prevented such legislation.24 Despite past neighborhood opposition, there is a common understanding of the district’s significance.25 Shaklik believes that in terms of historic assets it would have been possible to create a North End historic district during the rezoning process. Carlson seconds this view by asserting that the North End is eligible for designation. He postulates that there might soon be enough momentum to begin the process of creating an historic district, but this process will take five or six years in his estimation, leaving a sizeable window in which new building will be constructed under the current level of regulation.

Three years after the adoption of the North End district zoning, the BRA added an overlay district that increased design oversight in the area of the neighborhood’s major landmarks. The Freedom Trail Neighborhood Design Overlay District (NDOD) covers the properties on either side of the streets that fall on the Freedom Trail, a route that connects several historic landmarks throughout the city, many of which are maintained by the National Parks Department. As stated in the regulation, the overlay district is intended “to protect the existing scale of the area, the quality of the pedestrian environment, the character of the residential/commercial mixed-use neighborhoods, and the concentrations of historic buildings within the area.”26 As in all NDODs, projects located within this overlay trigger Article 80 review, and in this case the review is focused on historic preservation. The BRA creates NDODs on the recommendation of the Boston Landmarks Commission, which assesses districts that might be eligible for listing on the National Register of Historic Places. Shaklik describes the overlay district as “an interim solution.” Conceding that the BLC does not have the resources to administer policies in all eligible districts, the BRA creates historic NDODs with the understanding that if the BLC chooses to create a historic district, the BRA will rescind the overlay district.27 The Freedom Trail NDOD is, in Shaklik’s words, “the best that we could get.” It appears that the BRA would like to have greater design and preservation oversight in this area and is paving the way for increased regulation. Currently the BLC’s only other role in the North End is advisory,
consulting with the BRA on demolition requests. The two cases I selected in the North End lie outside of the NDOD, as do most of the properties in this district. As described by participants, neither of these cases underwent a particularly unpleasant approval process, but one received minimal scrutiny while the other participated in a much more detailed review.

Case 1: 50 Fleet Street (easy approval)

50 Fleet Street is a residential building located near the waterfront on the corner of Fleet and Commercial Streets; it is currently in the final stages of construction. With only eight units and a height and FAR that fit within the zoning envelope, this project fell outside of the BRA’s jurisdiction by avoiding all of the mechanisms that trigger design review.* Unlike other historic areas, the North End’s regulations are lax enough to allow the construction of new buildings by right. After the BRA flatly rejected their original plan for a 19-unit building that required a

*The reported square footage, 17,000 square feet, and the Article 54 design review trigger, 10,000 square feet, are difficult to reconcile. Nonetheless, both the BRA and the designer confirm that 50 Fleet Street did indeed fall below the design review threshold.
height variance, the developers intentionally chose to construct a building that would fall outside of Article 80 review. Because 50 Fleet Street was designed and constructed outside of the mandatory design regulations, this project is an example of an easy approval process in the North End. For the purposes of seeing what makes for an uncomplicated design approval process, there is perhaps no better example than a project that skirted the review process altogether. However, the building was obligated to obey the urban design principles embedded the zoning, and, as I will describe, underwent an informal process very much like the official Small Project Review.*

The local architecture firm DiMella Shaffer was brought onto the project in 2001 to replace a firm that had prepared a by-right design with nine units in response to the rejection of the larger proposal. John Downie, DiMella Shaffer’s project manager for 50 Fleet Street, indicates that the previous firm was responsible for obtaining the zoning relief for building up to 55 feet. The zoning code requires a special permit to build more than one story above the existing building’s height, which in this case was one and a half stories.** The city’s official involvement was minimal and took place early in the process. The site originally contained a pool hall and restaurant, for which the BLC granted a demolition permit on the grounds that the building was not historic and that the replacement was of acceptable quality. The BLC approval process consisted of one meeting, at which the commission was “very willing” to accept the demolition and even waved the required waiting period.30 Downie describes this process as “very smooth.”

After receiving the BLC’s demolition approval, all design review was entirely voluntary. Although the BRA held no binding authority over the design of the building, the architects chose to participate in a fairly extensive process of courtesy review. Downie explains that he chose to undergo the courtesy review because obtaining the BRA’s approval and feedback greatly smoothed out the project’s process with the Inspectional Services Department (ISD), the agency responsible for granting building permits. The review process for 50 Fleet Street appears nearly identical to what would have taken place under Article 80 Small Project Review. David Carlson, who conducts design review for Article 80 projects throughout the city, was the BRA staff person assigned to consult with the proponents. In the beginning of the process, Downie presented the products list and many details of the design, with Carlson advising on features such as the windows, precast stone, the stone base, and the color of the metal accents. During the rest of the design and construction, Downie informed Carlson of all changes. Carlson reviewed and signed off on the drawings for all major changes that occurred through the life of the project.31 Downie believes that obtaining a BRA staff member’s approval for the design virtually erased any zoning-related complications that might have arisen with the ISD.

The BRA’s major objection to the proposed design of 50 Fleet Street was that the parking garage was located on the ground floor, rather than underground. The BRA prefers to have a variety of uses on the street level, as opposed to a garage, which adds very little to the public experience. Downie explains that from his perspective the dimensions of the lot made

*Because this project did not undergo formal review, there is little documentation available regarding the review process. Information from this case is drawn from interviews with the designer and reviewer.

**Although Downie could not provide information on this process, I presume that obtaining such a permit was not particularly difficult, as 55 feet is the standard height for the North End.
an underground garage virtually impossible. In order to accommodate the number of parking spots required by the zoning, the garage had to be located on the ground floor. Carlson states that retaining parking on the ground floor was “the worst possible outcome,” but the BRA had no leverage over the designers. Accepting the design, the BRA urged Downie to enliven the street level façade, which the designers addressed by adding windows to the ground floor. This negotiation illustrates the overall nature of this review process: the architect agreed with and considered the BRA’s design recommendations and ultimately chose to follow those that could be easily reconciled with the building’s program.

One of the goals of this study is to better understand the regulations’ and regulators’ ultimate design objectives in each case location. Downie notes an evolution of the BRA’s approach to new architecture in the North End during the time his firm has been involved with 50 Fleet Street. Initially, the BRA was very “contextual”: Carlson suggested traditional brick sizes and urged build-out to all the lot lines, even the “back” side of the building, which lies on Commercial Street, despite the allowed 20-foot setback. (50 Fleet Street’s lot is unusual in that it has three street exposures.) Later in the process, Downie notes that the BRA seemed to stress and promote the more modern features of the design. He adds that it seemed as if Carlson regretted signing off on a building that was just brick with punched windows. Such ambivalence is created in part by the lack of specificity in the guidelines, which leave most design and aesthetic decisions to be made on a case-by-case basis by the BRA staff person assigned to the project.

In this case, the developers favored a more conservative design. The developers were four North End childhood friends; two owned local restaurants, and two were attorneys. This group eventually sold the project to a professional developer, Barkan Properties, but the four friends were the owners during most of the important design decisions. Downie notes that they found DiMella Shaffer’s design to be “very modern”—more so than did the BRA—and worried about the reaction it would elicit. Carlson did not appear to object to the contemporary look of the building, and neither did the neighborhood. The proponents held many community meetings with local associations, abutters, and activists in the basement of Caffé Vittoria, which belonged to one of the four owners. Downie notes that they faced virtually no opposition from the neighborhood.

When DiMella Shaffer took over the project, the owners were holding a design that looked like four South End or Back Bay townhouses. Downie describes this design as “Disneylandish”: there were copious turrets and stoops that led to windows or false doors, and the building contained flats across the whole building, even though it appeared to be four distinct structures. DiMella Shaffer kept almost nothing of this design. The designers sought to make a building that would stylistically reflect the North End tenement fabric as well as the waterfront, which lies on the other side of Commercial Street. They approached this task by striking a balance between contemporary and historic elements. Downie explains that the design selects separate historic and modern features and marries them. For instance, the building contains a fair amount of brick, but the windows are not double hung. The stone base, punched windows, brick detailing, precast lintels, and understated front entrance are all elements that Downie claims are derived from traditional examples. Modern components include an all-glass corner and an
Artist's rendering of 50 Fleet Street (Courtesy of DiMella Shaffer)

unpainted metal cornice. The "historical" elements were inspired not by the site's specific context, but rather by an idea of the North End as a whole, according to Downie.

Despite its undeniably contemporary appearance, the building is intended to react subtly to its environment. Downie stresses that he wanted to create a building that was a "good neighbor" and "wasn't offensive," an attitude that he believes made the approval process faster. Nonetheless, Downie believes that he would have faced much greater opposition from the BRA and the community if his firm had proposed a building with a glass curtain wall or zinc siding, for instance. It would have been more "fun" but also more time consuming. However, Frank DiMella, the principal in charge of design for 50 Fleet Street, wanted to create a building that didn't "look like an alien that had landed in the neighborhood." This attitude guided the design and produced a building that is arguably conservative. Downie asserts that even though the looseness of the regulations and this project's exemption freed the architects to design how they wanted, his firm would have produced the same building with or without the BRA's review. His firm did not, he adds, take advantage of the lack of regulatory oversight to create an otherwise objectionable building. It is possible to imagine that building by right in an area that the BRA
is accustomed to controlling might lead to a tense relationship between designer and regulator. This does not seem to be the case with 50 Fleet Street. Downie has great praise for Carlson and expresses disappointment only with the city-wide focus on historical appropriateness, noting that developers are discouraged from challenging Bostonians’ conservative preconceptions of architecture.

Case 2: 44 Prince Street (difficult approval)

44 Prince Street is a 57-unit luxury condominium building that will begin housing residents in Spring 2006. The building is shoehorned into an irregularly shaped lot that runs through the entire block, with entrances on both Prince and Parmenter Streets. The site was owned by the Roman Catholic Archdiocese of Boston, and since 1950, it held a two-story building that has served as a gymnasium and, most recently, a function hall. The site also had 49 surface parking spaces. On Parmenter Street, the property is adjacent to the North End Branch of the Boston Public Library, an architecturally well-regarded building designed in 1965. All
the other adjacent structures are "two to five-story buildings containing residential and retail uses," many of which are traditional turn-of-the-century North End tenements. After issuing an RFP for a multi-unit residential development in 2003, the Church sold the property to developer Byron Gilchrist, who hired the small, Charlestown-based architecture firm Neshamkin French to create a design for this unusually shaped infill parcel.

At 56,000 square feet, the proposed structure easily qualified for Article 80 Large Project Review. The BRA staff member in charge of design for the project was David Carlson. Jack French, the lead architect and project manager, notes that the most difficult party to work with on the project was the Catholic Church, implying that the BRA and its design oversight were not burdensome. French has a great deal of praise for both Carlson and for Heather Campisano, the BRA project manager who and led this project through the permitting and reviews required by Article 80. French believes that working with Carlson resulted in a better building, and he adds that Campisano's role in mediating communication with the local community was especially helpful. Despite the architect's positive characterization of the regulators, 44 Prince Street is an example of a difficult approval process because it underwent one of the more stringent forms of design review possible in the North End. Only if the project had been located within the Freedom Trail NDOD would the design regulation of the project have been any greater.

Article 80B-1, Large Project Review, encompasses a wide variety of development components: transportation, environmental protection, urban design, historic resources, infrastructure systems, site plan, tidelands, and several development impacts such as affordable housing and job creation. A review of "historic resources" is the vehicle for addressing historic preservation at the site of large projects, but it entails the protection of existing artifacts rather than the form of new design. Under this provision, the developers of 44 Prince Street provided the BRA and the BLC an "Archeological Disturbance/Sensitivity Assessment" that offered a very detailed description of the site's history and analysis of sample cores to determine potential archeological findings. The report found that the site possessed "low prehistoric and historic archeological sensitivity." As was the case with 50 Fleet Street, the BLC easily granted demolition of the existing building and waved the 90-day delay.

Article 80 design review is more organized and more complex than the informal review that takes place for smaller projects. After meeting with the BRA urban design reviewer, the proponent submits a Project Notification Form (PNF) that describes and analyzes many of the buildings features, including the program, massing, floor plans, and zoning compliance. The PNF is then reviewed by various BRA staff, and the developer incorporates the reviewers' requests. Then the BRA accepts comments from the public and other agencies. After this process, the developer files more detailed design plans and participates in a Scoping Session, in which the BRA discusses and advises the applicant on the design. Finally, the BRA delivers a Scoping Decision, which is a BRA report that lists all of the recommendations and mandatory changes—including design changes—that the proponent must fulfill.

The process is long and very detailed, but it appears that the point at which design changes are effected occurs in the Scoping Session. This session is open to the public but appears to be more of a negotiation and conversation than a formal hearing, as is the case in the BLC's historic commission hearings. Furthermore, my interviews with French and Carlson suggest that a fair amount of the design oversight still took place in informal conversations between the developer, architect, and staff reviewer. As such, there does not appear to be a
record of the content of the design review hearings. Carlson and French seem to have worked together in an informal forum to achieve a design that fit the zoning, addressed neighborhood concerns, and followed the BRA's urban design principles. Although Article 80 provides a very strong legal framework for overseeing new development, design does not seem to have been the major focus of the review of 44 Prince Street. In fact, in discussing the review process, French stressed another requirement, the geotechnical analysis, as one of the major undertakings in applying for approval. Large Project Review certainly addresses historic preservation and design, but these are two among many other considerations.

The only zoning relief pursued by the developers was a conditional permit to build above the height of the original structure. Like 50 Fleet Street, this was the only permit required because the proponents chose to stay within the zoning envelope. French explained that he “had to live with” the 55-foot height limit and created a somewhat unusual design to fit the height, locating the chiller inside the building, for example, rather than externally above the roof. The height limit appears to be a fundamental element of North End design regulations that the BRA enforces strictly. In general, the design for 44 Prince Street complied with the BRA’s design specifications and raised few objections during review.

Carlson explains that while there was some “tweaking” the building has been constructed largely the way it was proposed. He believes that this building “plays it safe” but that there would not be much demand for a more “cutting edge” design. He added that he believed the project would sell very well. Most of the BRA’s changes to the design were minor. French recalls that Carlson’s main concern throughout the review process was “texture.” Carlson suggested the use of large cast stone at the base of the building and a more “sympathetic” color of brick and Alucobond, an aluminum and plastic siding material. In addition, French notes that Carlson wanted to make sure that the adjacent library remained visible from the public spaces on the condominium building’s grounds.

The two greatest design problems identified by the BRA were the location of a clock tower and the building’s setback from the street. The original design called for a clock tower that would rise above the 55-foot height limit, which reviewers and community members feared drew too much attention to the new building. French explains that the developer was personally determined to retain a clock tower but was unable to gain permission to build above the height limit. This issue was resolved by locating a large clock face on the Prince Street façade, masking the chiller. This appears to have been the only major point of contention regarding stylistic design elements. The BRA also objected to setting the building back from the sidewalk and fragmenting the streetwall. Maintaining a continuous façade on the street is one of the BRA’s stated objectives in the North End. However, French argued that such a large structure flush with the adjacent buildings would dominate the block and that reorienting the building inwards would help reduce the building’s presence. Ultimately the BRA agreed to allow the setback.

Although the BRA was the principal agency regulating the design and historic preservation features of this project, the BLC exerted some influence in its advisory capacity in the Large Project Review Process. Early in the process, the BLC responded to the PNF and offered several suggestions that were later carried out during the BRA design review. The BLC stressed repeatedly that 44 Prince Street is in a very historic area and that construction needed to
be very careful in order to avoid damage to surrounding buildings, asserting that “the project site is within a potential Boston Landmarks district.” The BLC suggested further examination of the clock tower and the building’s overall height but did not issue any concrete recommendation. Agreeing with Carlson, the BLC endorsed the use of “traditional building materials and techniques rather than synthetic composite materials”. Finally, the BLC requested a dated cornerstone to be placed into the wall of the building to easily identify 44 Prince Street as a new building.47

French believes that the “ambiance” one would experience upon entering the building was the deciding factor in receiving relatively favorable feedback from the BRA design review. French explains that the inspiration for this building was Italy itself, rather than the specifics of North End architecture. Just prior to creating the design for 44 Prince Street, French had visited Florence and was struck by the small urban spaces that formed “livable vignettes.”48 Inspired by what he saw in Europe, French’s goal for this building was to capture the “flavor” of the North End rather than match the abutting buildings. Because the North End has so many layers of history, each with a different architectural form, French argues that it is difficult to determine which period of history a new design should match. In the North End, it is more important to create a good quality building than to fit in precisely with the abutters, he concluded. Adjacent to a 1950s library and turn of the century tenements, 44 Prince Street fits in by capturing the “spirit” of the neighborhood. The Architect used French and Italian icons throughout to make this building “like a stage set” that invoked a European spirit.49 Dominant trellises, decorative railing, and a plaza with a fountain are decorative elements that French employed to establish the European quality of this building. Carlson notes that 44 Prince Street is not a traditional North End building; he views it as an “imaginary” building in the sense that it does not emulate or allude to any one identifiable architectural precedent. Nonetheless, the BRA’s design regulations were not applied in a way to diminish the elaborate European-influenced design. This is clearly a very different aesthetic approach from the one taken by DiMella Shaffer for 50 Fleet Street, but both were permitted under the current regulations.

It is clear that Large Project Review resulted in a number of design changes, but perhaps its greatest impact on the approval process was enhancing local community involvement. Under the provisions of Large Project Review, a twelve-person Impact Advisory Group (IAG) of community members was formed to determine what mitigation the developers would provide. In addition to receiving and incorporating residents’ concerns, as in most development projects, the developers had to provide money and certain services to the community and abutters. Several letters sent by IAG members and abutters to the BRA indicate a concern for the shadows created by the new building. In response to these complaints, the designers pulled back the façade of the middle floors by eleven feet and retracted the top floor facades even further.50

Mitigation took the form of hundreds of thousands of dollars in physical improvements to abutters’ properties. At community meetings, the abutters negotiated these improvements in compensation for inconvenience during the construction period. The developer paid for new yards, window replacements, and wall repairs.51 French explains that the proponents proactively sought to gain support from the community. BRA project manager Heather Campisano facilitated many neighborhood meetings and explained to the community that much of the
project could be executed by right, which French found to be particularly helpful. Developing a strong rapport with abutters was particularly important because, in French’s words, “a neighborhood is people, not buildings.” This seems to be an attitude shared by the residents. French indicates that the community was far more concerned about the social impact of the new building than about its form. In a letter to Campisano, IAG member Jason Whittet indicates concern over the demolition of a “community resource” but affirms that the design is “visually pleasing.” Community participation, a major component of Large Project Review, resulted in costly expenditures but relatively minor design changes.

The two North End cases underwent very different approval processes; one was voluntary and informal, while the other was extensive and involved many different stakeholders. The size of the building and neighborhood involvement seem to be the factors that created a more difficult process for 44 Prince Street. In terms of architectural design, the two projects share an abstract interpretation of the North End, as opposed to rather than a literal emulation of neighboring buildings.
Chapter 3: The South End
424 Massachusetts Avenue
Architect: Doug Dolezal, Dolezal Architecture
Dates: Summer 2001-April 2005
Square footage: 15,000
Units: 10
Parking Spots: 7
Use: Residential

Minot Hall, 1723 Washington Street & 68-84 West Springfield Street
Architect: Phil Hresko, Hresko Associates
Dates: 1999-2003
Square footage: 68,000
Units: 44
Parking Spots: 26
Use: Residential, ground floor retail
Background

Until the 19th century, the "South End" was a name used for the area that we now call Downtown Crossing. It was located between State Street and the "Neck," a narrow strip of land that connected the Shawmut Peninsula to the mainland. As the South Bay, the marshland south of the Neck, was filled and commercial uses came to predominate in the State Street area, the neighborhood commonly thought of as the "South End" moved southwest of downtown towards Roxbury. For the purposes of this study, I will refer to the South End as the area bounded on the west by Massachusetts Avenue, on the north by the Amtrak and MBTA commuter railroad (formerly the Providence and Worcester rail line), on the east by the Massachusetts Turnpike, and on the south by Albany Street, excluding the Prudential Center and the Christian Science Church complex.

Washington Street, the major avenue that runs east-west through the neighborhood, is the oldest section of the South End. The Washington Street corridor was originally the narrowest part of the Neck, with a road connecting the Boston peninsula to Roxbury on the mainland. The Neck area was low and marshy with little development, containing only causeways and dikes to prevent flooding and gallows for public executions along the route into Boston. The scarcity of land on the peninsula led the city to consider filling the marshes along the neck, and in 1801 Charles Bullfinch created a plan for the area. It called for a central square and large blocks for detached homes surrounded by yards. During the next quarter century, investor and municipal ambivalence deterred any action on the plan. The city offered a new plan in 1828 with narrower blocks that reflected developers' and the public's growing preference for rowhouses. In 1829, the city filled some of the bay and extended two streets, Tremont and Front Streets, on either side of Washington Street, to encourage development. Still, development remained slow and timid. It was not until 1845 that major filling of the South Bay commenced, and from 1848-1850 under Mayor John Bigelow, the city took an active role in laying out and promoting investment in the new district.

Social and demographic changes in the mid 19th century were the major impetus for development, and they also shaped the layout and form of this development. The active development of the South End finally started because of the major influx of Irish immigrants in
the late 1840s. The increase in population not only created a demand for more land for housing, it also precipitated the flight of the Yankee population to the growing outer suburbs. The city explicitly planned the South End to be an elite enclave that would retain the fleeing wealthy, native-born Yankees. The city sold land with the stipulation of immediate construction, a condition only wealthy builders could afford.

Changing attitudes about the role of nature in the city also contributed to the South End’s unique layout, which includes a number of residential parks. Fueled by a romantic understanding of nature and a conception of the city as an unsanitary environment, planners designed parks into the street grid. Smith explains, “Intended...to beautify the new section and to provide nodal points of high class residential enclaves which would encourage settlement over the whole area, the South End squares took shape as elongated oval-shaped parks ornamented with tree-shaded grass plots, decorative iron fences, and fountains.” Several upper and upper-middle class Bostonians did, in fact, relocate to the area, and many of them built ornate brownstone townhouses along the first residential squares.
But, despite the city’s initial hopes, the South End never became the upper-class district it had planned. By 1854, the mayor recommended that financing requirements be lowered to attract “enterprising men of limited means.” The changing demographic sustained rapid development and also gave the area its distinctive architectural form. While there were some brownstone townhouses and a few freestanding mansions, the “most characteristic architectural form of the South End is the brick, bowfront, high stooped row house.” The brick bowfront rowhouse was an archetypal middleclass housing typology at the time. What is most striking about the South End as a historic area in the 21st century is the consistent, intact fabric formed by the repetitive blocks of these brick townhouses. This consistency, as discussed in the introductory chapter, is due in part to deed restrictions that required uniformity, sometimes even requiring “existing buildings to be copied.” The ubiquitous bowfront style in the 1850s-60s reflected the “traditional architectural preference of Boston,” but, Smith notes, by the 1870s commentators were already criticizing the neighborhood’s “monotonous” streetscape. While other areas of Boston were embracing more “sophisticated French attitudes,” the South End retained its conservative, English-inspired aesthetic, caving in only to the use of mansard roofs, which Smith identifies as a French stylistic element.

By the 1870s, the residential fabric of the South End was essentially built out. In less than three decades the entire district was formed, gaining a physical appearance clearly fixed in a certain moment in history. Yet, within this short period, the South End’s social character—and consequently its physical character—changed dramatically. Soon after the creation of the major park squares, more middle class housing began to appear, and smaller park squares were retrofitted into the street grid. By the 1870s, Smith even finds evidence of buildings owned by absentee landowners that were constructed as rooming houses. As the middle- and lower-class populations grew, upper-class residents departed, often to the Back Bay. Developed almost concurrently but independently, the Back Bay, with its proximity to the Public Garden and to the still exclusive Beacon Hill neighborhood, appeared to be a securely upper-class alternative for the South End’s uneasy wealthy residents. Upper-class Bostonians also found the characteristic bowfront houses to be “old-fashioned,” preferring the French styles that were possible in the still developing Back Bay. The South End developed quickly into a brick Victorian townhouse district, and just as quickly it deteriorated into one of Boston’s least prestigious neighborhoods.

**Design and Preservation Regulations**

For close to a century, the South End became a neighborhood of rooming houses and housing for poor immigrants and migrants from Europe. Later African Americans and Puerto Ricans came to dominate. Like many such neighborhoods in older American cities, the South End became the locus of urban pioneering in the 1960s and 1970s, attracting a younger population with a distinctively artistic and gay flavor. In 1973, the South End was listed on the National Register of Historic Places, “as the largest urban Victorian neighborhood in the country,” and in 1983, through the advocacy of the South End Historical Society, a portion of the neighborhood was designated a Boston Landmark District. John Freeman, a commissioner on the South End Landmark District Commission board, notes that when the district’s regulations were written the South End was a dangerous part of the city. He adds that the regulators at the
time created the design standards for the district with little idea of how much the area would change.

The topic of new construction is particularly relevant to the South End because it contains many more opportunities for development than the other two neighborhoods in this study. As the neighborhood declined through the 20th century, real estate was abandoned, left to deteriorate, or fell victim to arson. Alexa Pinard, the BLC preservation planner for the South End, notes that the BRA purchased many of these “nasty,” decrepit sites, choosing to demolish several of the buildings.\(^7\) The result is a historic district with many more developable parcels than commonly found in other historic sections of Boston. The South End is now one of the city’s most active real estate markets. The rapidly changing real estate environment means that residents pay close attention to the regulation and preservation of the neighborhood in the belief that it will help increase their property values. There are still many derelict buildings in the South End, Freeman notes, and in a hypothetical—but common—situation in which a resident has just paid half a million dollars for a condo adjacent to an abandoned building, it follows that the residential community holds a great stake in the development of new buildings.\(^8\)

The preservation and design regulations in the South End are noticeably more stringent than those in the North End. Like the North End, the South End is one of the neighborhoods in Boston that now possesses its own, tailor-made zoning district: Article 64 of the Boston Zoning Code, which was inserted into the code in 1998, creating the South End Neighborhood District. Developing the design portions of the zoning was a more contentious process than in the North End, says Deputy Director of Zoning Rick Shaklik. In community meetings during the writing process, some residents favored a very strict respect for historic uses and structures while others focused on the people and activities needed to make a healthy neighborhood.\(^9\) In balancing these conflicting approaches, the BRA ultimately developed a zoning code with relatively limited design specifications. The design regulations specified in the South End zoning district are fewer and much less precise than in the North End, but this lack of regulation is more than made up for by the BLC.

While it might appear that the city chose to side with the residents who fought against strict architectural preservation, what actually happened was that the BRA stepped back its design oversight in order to leave room for the Landmarks Commission’s stricter regulations. Shaklik explains that the South End zoning code lacks specific design provisions because of the level at which the South End Landmark District already enforces a great amount of design control in the same area. Section 64-32 of the zoning code, “Design Review and Design Requirements,” simply states that design review will be carried out by the BRA as dictated by Article 80 and that the BLC’s design guidelines and review procedures apply to the Landmark District portion of the neighborhood.\(^20\)

Although the BRA maintains a role in the new construction process by granting variances, Pinard and BRA staff members characterize the BRA’s role in design regulation as secondary to the BLC’s. The BRA and the BLC “work closely,” with the BRA generally “deferring” to the BLC on matters of design because the historic commission possesses the authority to review and specify design in greater detail.\(^21\) The result is a regulatory environment in which the South End Landmark District Commission is essentially the only body regulating...
design in the South End.*

The BLC commissions’ stated goals are to manage change and maintain the historic fabric in their respective districts. In the South End, the primary objective of the commission’s standards and review is “to preserve the physical features, architectural character and appearance of the South End, a cohesive district of 19th-century Victorian red brick rowhouses with various institutional and commercial structures.” Commissioner Freeman explains that the intent of the regulations in the South End is to move the neighborhood toward becoming a more consistently “Victorian” area, but he points out that there are several other structures of different styles and materials that add character, identity, and contrast to the neighborhood. Thus, the architectural diversity in this district goes beyond the explicit priorities of the commission’s mandate. With respect to alterations of existing buildings, the South End commission is granted oversight only over facades that are on a major public way, while the Back Bay commission has jurisdiction over the entire exterior of the building. Several of the reviewers and practitioners that I interviewed agreed with my characterization that design oversight in the South End is lower than in the Back Bay and Beacon Hill areas of Boston, even though all three are districts administered by the BLC.

The mandate for new construction in the South End is similarly restrained: “the focus of the standards and criteria is on the compatibility of new construction with [the] existing character of the South End without dictating style or taste.” Michael Cannizzo, a Senior Architect/Urban Designer at the BRA and former staff architect for the BLC, explains that the South End Landmark District Commission is limited to enforcing only the historic components of design. Pinard, who is responsible for ensuring that the commission acts consistently and within its legislated powers, indicates that all commission decision making must be “definable” and “objective.” The consequence, as she admits, is that the regulation is structured in a way that the commission might have to approve construction that its members do not like or do not consider to be of high enough architectural quality. The result is that the level of regulation in the South End allows oversight of the historic compatibility but not the quality of design. This feature of the South End regulations has had a great impact on the issue of historicist versus contemporary aesthetics for new construction. Pinard believes that the current commissioners prefer contemporary-looking buildings to ones that try to appear historic. Freeman reinforces this statement by explaining that in his opinion, “mimicry,” or “replicative” design, simply dilutes the historic nature of the district. However, he notes, the regulations in the South End do not allow the commission to reject proposals on the grounds of “mimicry.” In fact, the Standards and Criteria note that “[t]raditional architectural designs are permitted if in nineteenth century styles which are appropriate to the Landmark District, but shall not be expressly required by these standards and criteria.”

A unique characteristic of the South End Landmark District’s design criteria for new construction is that attached and freestanding buildings are held to different standards. The regulation divides new projects into two categories:

*As I will explain later, the BRA plays an important auxiliary role, but for the purposes of delineating the scope and intensity of regulation, it seems fair to characterize the BLC as the deciding design regulator.
Category A, defined as any vacant parcel or collection of parcels that share a party wall with an existing structure. Within this category, stricter conformity will be required of the new construction on the narrower parcels, especially those with existing buildings adjoining two sides, corner parcels, and parcels on a block of exceptionally strong or uniform character.

Category B, defined as any parcel or group of parcels which is not abutted by an existing structure. Within this category, less strict conformity to existing neighborhood design will be required.²⁶

Allowing for this distinction acknowledges the variation of historically significant areas within the district. Buildings within the brick rowhouse fabric are most likely to be in category A, while parcels in the more industrial portions of the district around Harrison and Albany Streets typically fall into category B. Historic districts rarely contain perfectly uniform architectural assets, but it is rare to find design regulations that codify different standards based on the precise type of physical context.⁶ Reflecting on this format of regulation, Cannizzo believes that the South End represents a good model for design regulations in other historic areas. He noted that if it were possible to rewrite the design regulations for other Boston neighborhoods, he would use the South End’s categorization scheme as a starting point. In Cannizzo’s view, the use of different standards indicates a lucid understanding on the part of the regulations’ creators that the South End’s historic character is its historic urban design. Rather than preserving individual buildings, the South End strives to achieve cohesive blocks, seeking greater compatibility of new construction in rowhouse blocks.**

The South End Landmark District’s regulations are decidedly more stringent than those of the North End, but they are limited in their scope. The height, setback, and lot coverage requirements, in addition to suggested materials and design features define the architectural palate. For instance, the preferred cladding is brick, and exterior steps must appear to be stone. That said, the Standards and Criteria that inform the commission’s decisions are not so detailed that they dictate the exact look of new buildings. There is a certain amount of leeway in the commission’s decision-making authority. Freeman notes that in contrast to stricter Boston historic districts, the “latitude” afforded to the South End commission means that there are fewer flat-out denials and that the commission spends a great deal of time negotiating and working with new construction proponents. In his view, the reason for the South End Landmark District’s success is this latitude, which has allowed the commission to finesse better design out of various proposals.

*The South End is an exception in this respect, as most historic districts have only one set of criteria, or their subcategories are based on use and geography, such as the Back Bay’s commercial and residential subdistricts. **Both of the buildings that I have selected to use as case studies in the South End are category A buildings. Because the rowhouse fabric is such an important component of the South End historic district, an examination of buildings that directly touch this fabric is particularly informative in assessing the role of regulation in historic contexts.
I have tried to describe the regulatory environment in the South End, characterizing its moderately restrictive impact on new construction. Yet, it is also important to acknowledge that while there is a great deal of structure in the regulatory process, approval and design decisions are still to some degree the product of individuals’ thoughts and preferences. Pinard believes that the application of the standards depends greatly on who serves on the commission. The broad goals of the commission are outlined, but, the fact that contemporary construction is now very much encouraged is a result of the people who serve as commissioners.27 In the South End, following the rules will get you a long way in developing an acceptable design, but it is not always enough. In Freeman’s view, successful new projects reflect a “good understanding of the commission’s interpretation” of the regulations.28 And each commissioner’s interpretation may be different. For Freeman, there are four major qualities he looks for in proposed new construction: 1) proportion; 2) similarity to, but not an exact copy of, South End materials; 3) “attitude” toward the scale; and 4) an understanding of the diversity of South End buildings and details that can serve as inspiration. Finally, as I have heard from almost all the interviewees in this study, the ultimate objective is for new buildings to reinterpret in a contemporary fashion the features of their historic architectural context. Even though this goal is universal across historic districts, it is carried out with strikingly different results. I now turn to two such results in the South End.

Case Study 3: 424 Massachusetts Avenue (easy approval)

424 Massachusetts Avenue is located on a former BRA-owned lot that is roughly the size of two rowhouses, between Columbus Avenue and St. Botolph Street, near the Mass. Ave. Orange Line T station. The lot is bounded on either side by typical South End red brick rowhouses of different heights. The building that resulted in this case is roughly 15,000 square feet with ten condominiums and seven parking spaces located in an underground garage. Clad in red brick, the building’s shape evokes two bowfront townhouses. As in all the neighborhoods discussed in this study, there are no clear examples of building designs that have been simply approved or rejected; the distinction between a difficult and an easy approval process is more on point but admittedly murky. Nonetheless, I have chosen to classify 424 Mass. Ave. as a case that represents an easy approval process in the South End. Although the building’s architect, Doug Dolezal, assured me that the process was by no means “easy,” he agrees with my characterization of this building as an example of a project that succeeded in the approval process.

According to John Freeman, the South End Landmark District Commission was happy with this project’s design from the very beginning of the process. In fact, Dolezal notes that the reason he agrees with my characterization of this building as an “easy” approval process is his personal knowledge that the commission was very pleased with the outcome. Freeman, who was serving on the commission at the time of the building’s proposal and was also one of the two members of the design subcommittee for this project, attributes the design’s success to Dolezal’s understanding of how the current commission interprets the landmark district’s standards and criteria. Dolezal is an architect who, in Freeman’s words, “gets it.” Alexa Pinard notes that in her opinion this is the most successful contemporary infill building she has seen built in the South End during her six years as the district’s preservation planner. Why is this building
described so positively? What were the strategies, design elements, and compromises that made this a successful approval process? Finally, what does this project elucidate about the impact of moderately restrictive design regulations on new construction?

Despite the accolades that Dolezal and his building have received from reviewers, there were a number of differences between the designer and the commission that had to be worked out in the approval process. The first step, Advisory Review, mostly considers the massing and height of the proposed building, after which the proponents can begin a more detailed design for further review. Notes from the October 2, 2001 advisory review hearing for 424 Mass. Ave. are indicative of the commission’s application of the regulations. Reflecting the immediate context was a primary concern. One commissioner wanted the cupola “to resemble something on one side or the other.” Another asserted that the balance between the two adjacent buildings was very important, while yet another praised its contextualism, stating that the “integration is great.” In addition to the specific context on either side of the lot, the commission considered whether this
building sufficiently represented the style of the neighborhood—a concern that would continue throughout the process. The commissioners commented that the “entry doesn’t look South End enough” and that the “vocabulary is too foreign.” Thus the major points of concern at this stage of the review were the entryway, the cupola, and the type and detailing of the windows. The commission granted conceptual approval to the design, supporting the increased massing and FAR that the BRA had previously approved.

Minutes from the first design review application hearing, held on June 4, 2002, indicate a more detailed discussion of many of the same problems that were raised earlier. The commissioners leaned on the difference between category A and category B buildings in calling for the greater use of known South End-style elements. They commented that the building would pass in category B, but it did not “fit into the neighborhood” or “have the key elements of a category A building.” Specifically, the commissioners preferred the use of more traditional double hung windows to the casement windows that Dolezal had included in the design. The width of the windows, which increased at every story, was questioned. The commission also questioned the shape, material, and placement of the cupola.
A new question that surfaced at this hearing was the shape of the bays, one of which was somewhat bulbous and skewed. Dolezal wanted the “undulation of the bays to be adventurous,” with the appearance of “wrinkled skin” in order to emphasize the “veneer-like” quality of the façade. Advocating his design, Dolezal produced a study showing that all the bays on this Mass. Ave. block were different from one another. The existing variety in bay shapes was not a convincing argument for the commission. This new bay did not “work” in the district, they felt, because it introduced a new shape. One commissioner stated that the “shapes should be more South End,” adding that because there was so much variety on the block Dolezal should select an existing shape rather than add a new one. Dolezal questions the relevance of emulating a bay shape from “three blocks away” but chose to modify his design toward a more traditional curve. Referring to the shape of the bays, Dolezal told me, “the fight was way too long...You can choose the path of least resistance, which is to make it more traditional.”

The June 4, 2002 application was denied without prejudice. Rather than a rejection of the proposal, this denial simply meant that there were outstanding design issues that the commission felt required further review.* In an official letter informing the developer of the commission’s decision, Pinard explained that the design “does not incorporate enough of the South End’s architectural vocabulary in its overall appearance...[and] the proposed design does not conform to an acceptable degree with adjacent fabric.” The issues raised in this review indicate a strict adherence to the notion that infill buildings in the South End must first and foremost reflect their setting.

At the next review hearing on July 2, 2002, the South End Landmark District commission granted a Certificate of Design Approval to the developer of 424 Mass. Ave. By this point, Dolezal had altered his design to include windows of uniform width and a more traditionally shaped bowfront façade. According to Dolezal, these were concessions he was willing to make in order to gain approval. Dolezal made the case for retaining the use of casement windows by arguing that double hung windows would not provide sufficient protection from air and noise pollution from heavily traveled Mass. Ave. At the final review, several commissioners expressed their aesthetic preference for casements, even though the regulations—and their previous comments—call for more traditional windows. In the formal letter, Pinard explains that “[t]he commission found casements more appropriate to this design...as they emphasize the verticality of the façade design.” Hearing minutes throughout the process indicate a back and forth dialogue between the reviewers and the architect, which led to compromises and concessions on both sides. This is common of design review in Boston. What is unique among the cases in this study is that only until the end, when modern windows were permitted, did the commission consider the aesthetic features of the design over historic accuracy.

Many aspects of Doug Dolezal’s design approach take the form of strategies for navigating the regulatory environment of the South End. One of the most important strategies, as indicated earlier, was knowing which components of the design to give up for the sake of a

*Michael Cannizzo notes that because historic district commissions’ only options are to deny or to approve, they use denial as a procedural mechanism to remain involved in the process. He points out that the number of denials is not a good measure of how easily the project is approved.
smooth approval process. Another strategy was couching his contemporary design proposals in
detailed studies of the historic fabric. As in the instance of the bay, Dolezal prepared examples
of precedents at the site and throughout the South End in order to clearly demonstrate the
historical ties to his new interpretations. This presentation technique assisted in justifying the
brick detailing underneath the windows, which the commissioners praised later in the review
process. Several features were inspired by South End architecture and anticipated—I might even
say assuaged—the concerns of the commissioners. For instance, Dolezal designed high first
floor windows to emulate the traditional scale of parlor floor windows. The key, it seems, was
providing enough recognizable South End characteristics to counterbalance what is otherwise a
contemporary building. This characterization of Dolezal's design is particularly interesting in
light of his assessment that 424 Mass. Ave. is by far his most conservative building.

Finally, it is important to know what aspects of the building the reviewers most liked.
The BRA and BLC's praise for 424 Mass. Ave. points to the goals of the regulations. Michael
Cannizzo praised the building for its contemporary expression of important surrounding
elements. John Freeman attributes the design's success to a wide scope of features, from the
brick detailing where the bay meets the flat portion of the façade to the discrete nature of the
single entry. Instead of competing with the raised entries of surrounding buildings and putting a
"grand entry in the wrong place," Dolezal's design doesn't draw much attention to itself.

Case 4: Minot Hall, 1732 Washington Street and 68-84 West Springfield Street (difficult
approval)

Unlike 424 Mass. Ave, which is embedded in the classic rowhouse fabric of the South
End, this project consists of the addition of two buildings to a large, freestanding historic
structure. Built in 1859, Minot Hall is located on the corner of Washington Street and West
Springfield Street. For much of its life, the building served as a function hall with retail on the
ground floor. The developer's current marketing materials list the wide variety of uses once
housed in the building: "Records indicate that the upper floors and ballroom were also used as
a theatre, social club, and a billiards hall. Over the years, the businesses that have occupied the
first floor storefron's include a newstand, barbershop, Chinese restaurant, diner, pawn shop, and
jewelry [sic] store."33 Several fires in the early 1980s destroyed much of the building's interior.
The South End Landmark District was eager to see this building renovated and in the late 1990s
approved a plan that would convert the building to an antiques market. John Freeman notes
that in cases where preservation is direly needed, the commission can allow more latitude in
the design in return for the privately funded restoration of an historic asset. The renovation of
Minot Hall is an example of such a decision; the commission allowed the future possibility of
an addition in return for the restoration, which included uneconomic but historically important
details such as the rebuilding of non-functional fireplaces.34 In 1999, Doug Dolezal began the
design for two adjoining buildings that would convert Minot Hall into a complex with 68,000
square feet of housing in 44 residential units.

For the purposes of this study, Minot Hall represents projects that undergo a difficult
approvals process. Several city staff members that I interviewed concur that this project
underwent a longer and more complicated approval than did 424 Mass. Ave. Part of the way
through the process, a new architect was brought on to the project to substantially change the
design. Discrepancies between the approved design and what was actually built led to
further review and involvement by regulatory authorities. In Freeman’s view, one reason for the
greater level of difficulty is that the Minot Hall project involved a unique “signature” building, as
opposed to unexceptional brick rowhouses. There is an expectation, though not stated explicitly
in the Standards and Criteria, that new construction adjacent to iconic buildings should be more
“background” in nature. 35

Minot Hall as seen from Washington Street

Dolezal’s design was very contemporary but early on received conceptual approval,
which granted greater FAR and height than normally permitted.36 Yet, Alexa Pinard characterizes
the commission as having felt uncomfortable with the “contemporary nature” of the design. In
particular, the façade of the Washington Street addition posed a problem by not sufficiently
addressing and visually connecting to the mansard roof of Minot Hall.37 Freeman adds to this
point by noting that the new design was so “contemporary” that it competed for the viewer’s
attention with Minot Hall against the skyline. He notes that the architect of such an addition is
in the position of having to satisfy a difficult objective: designing a discernibly contemporary
backdrop that nonetheless remains secondary to the historic structure in the foreground. The
commission encouraged Dolezal to design a building that would be more of a backdrop but
continued to feel that the addition “loomed” over the historic Minot Hall. In addition, Freeman notes that the detailing was not as representative of South End styles as it could have been.

Discussion with the commission and Alexa Pinard took place over the course of at least five months, and Dolezal recalls presenting this project to the commission five or six times. With every meeting he would gain more ground, receiving acceptance on certain aspects of the design, but never complete approval. Dolezal interpreted the context of Washington Street as “eclectic” and created a design that in his view added to this character. Simultaneously, certain elements of the design, such as the use of brick on the first four floors of the Washington Street façade, made reference to and complemented Minot Hall. Dolezal characterizes his work as “very contemporary”; he consciously chose not to design a Victorian-style building because he believed it would be a superficial way to deal with the diversity of buildings types on Washington Street. Several months into this process, the developers sold the project and hired a new architect. In the summer of 2000, architect Phil Hresko was hired on the recommendation of the project’s contractor, Paton Construction. I have been offered various explanations as to why the developer chose to hire a new architect, ranging from prohibitively high costs of the original design to the mayor’s alleged dissatisfaction with the modern style of the additions. Regardless of the reasons, it is clear that the new architect approached the design with very different objectives, particularly with respect to how it addressed South End regulations and how it would fare in review.

Dolezal’s proposed Washington Street addition (Courtesy of Dolezal Architecture)
Freeman emphasizes that in his view both designs were given the same level of scrutiny; the reason that Hresko’s design encountered less resistance was that Hresko was able to adjust his design to the commission’s critiques of the first proposal.* It is telling, however, that Hresko’s design received a certificate of design appropriateness after the first time he presented it to the commission on October 3, 2000. Hresko attributes this comparatively fast approval to his “interpretive” design and to the renderings and models he used at the presentation, which situated the new buildings in a neighborhood-wide context.

Minutes from the October 3, 2000 meeting indicate that one of the commission’s main concerns with the proposed design was the use of materials. One commissioner noted concern that there were “too many different colors of brick, cast stone, etc.,” while another urged the design subcommittee to evaluate and approve the brick, mortar, and window colors by visiting the site.40 The commission approved the design but requested another hearing to review the West Springfield façade. The concerns raised by Hresko’s design are noticeably different in scope from the issues that the original design raised. The first design stalled because its overall impact was too contemporary in scale and style to reconcile with the South End Landmark

*It is interesting to note that Dolezal, as the first designer, holds a different view of the situation. He states that his design received a greater level of scrutiny because of its contemporary aesthetic. In his mind, the South End regulations appear to be more burdensome for projects that are more obviously modern.
District's standards. The second design avoided these problems, and was met with regulatory scrutiny primarily on the articulation of the agreed upon details. The formal letter granting approval underscores the successful way in which the second design approached the district's standards, stating that the commission found "that the proposed design will complement, but not overshadow, the 19th century commercial block." The letter goes on to stress, as was the case with 424 Mass. Ave., that the top floor must be designed to "resemble cupolas found in the South End."

Although using much of the same massing, the second design for the Minot Hall additions is much more replicative of traditional South End Victorian architecture. Hresko is very explicit about his desire to create a building that did not "impose" on the streetscape. For instance, he says, if everything on the block is brick, a metal and concrete building will draw greater attention to itself and impose more on the streetscape. As a result, Hresko chose a style that was more directly informed by the literal context of the South End. That said, he notes the commission's strong preference for a building that was not an "imitation" of the styles or materials of the adjacent buildings. The commission urged a streetwall rhythm that was harmonious with the bowfront rowhouses of W. Springfield Street, as well as the use of colors and materials that made evident the contrast between new and old. Hresko's characterization of
his design approach suggests a straightforward strategy for addressing the commission’s desires: he designed specific elements that responded to the commission’s goals and produced specific images to support his decisions. For instance, with respect to the rhythm of the W. Springfield façade, Hresko affirms, “I took that to mean making the vertical windows close together. And, I made drawings that showed just that.” Hresko seems to have considered the individual pieces of the building that add up to an acceptable South End addition, rather than Dolezal’s approach, which was more top-down.

There are many design features that illustrate the interpretive approach of the second design. On the Washington Street façade, Hresko sought to evoke the grander scale of architecture on Washington Street by placing the windows within a larger metal mass, as opposed to using merely punched windows in the brick surface. On W. Springfield, in contrast, he lightened the color of the window sills and lintels to better match the adjacent rowhouses. In addition, a four-inch recess in the middle third of the building’s mass was intended to reflect the rhythm of the rowhouses. Precast concrete banding and a front-hall style window were added to the resident entrance on W. Springfield in response to the commission’s desire that this doorway more closely resemble a rowhouse entrance.

Hresko’s proposed West Springfield Street addition (On file at the Environment Department)
The BRA's involvement in the design review of Minot Hall is another indicator of the difficult approval process for this project. Whereas the BRA took a back seat to the South End Landmark District commission in the approval of 424 Mass. Ave., David Carlson, the BRA staff member assigned to Minot Hall, was present at several commission hearings and took a greater role in this project. The texture and color of materials was perhaps the commission's greatest concern regarding the second design. Nonetheless, Carlson notes that the commissioners were uneasy about the extent to which they could dictate and enforce the choice of materials, so the BRA added its authority—presumably through its position as the variance-granting agency—to the request for the use of certain materials. In addition, Hresko notes that the BRA advised the commission to accept a greater height on the Washington Street building because the neighboring parcel, at the corner of Mass. Ave., would likely hold a tall corner building in the future. Finally, the BRA and the commission worked together to request a redesign of a large arched window on the Washington Street façade. Hresko notes that this window was intended to pay homage to the arches of Minot Hall, but reviewers felt that it "trivialized" the detailing of the historic building. The fenestration was changed, and Hresko believes that the building is better off with this change. When asked about the overall process of working under the design regulations in the South End, Hresko indicated that he enjoys working with both the BRA and the BLC.

Complicating the already lengthy review process was an unexpected construction problem. On July 10, 2002, the commission asked the development team to attend a hearing to discuss a discrepancy between the construction and the approved drawings: "As approved, the façade was to be organized vertically into three bays to reflect the rhythm in a typical rowhouse block. As built, the West Springfield Street façade does not incorporate any of the proposed setbacks." The commission felt that this error had not been committed intentionally and chose to find a solution rather than require the demolition of the façade. The contractor, Dick Collari of Payton Construction, suggested copper downspouts to visually break up the mass of the façade. The commission felt ambivalent about incorporating "dummy elements" that resulted in a "simplification of the design" but eventually agreed. This event signifies an important characteristic of the South End's design regulations: the commitment to historic forms is firm, even in circumstances where exceptions might be justifiable.

The approval process for this building brings to light some of the strategies and values that surround regulatory system in the South End. Although many of the commissioners favored contemporary architecture, it appears that what is variously called "interpretive design," "replicative design," or even "mimicry" is nonetheless better suited to rapid approval. Rapid approval, however, is not necessarily the best ultimate objective for the overall success of a historic district. In fact, there remains disagreement about whether the first or the second proposed design would have produced the "best" new building. The two proposed designs for the Minot Hall additions are the result of two very different architects; Dolezal describes his work as "very contemporary," while Hresko's "interpretive" designs seek to minimize "impositions." In the case of Minot Hall, the South End regulations seemed to facilitate the construction of a more traditionally contextual building. That is not to say, however, that contemporary architecture has no place. On the contrary, John Freeman suggested that the
The success of 424 Mass. Ave. came from the lessons Dolezal learned in working on Minot Hall, which taught him how to interpret the regulations—an expensive, though perhaps effective, way to learn.

In contrast with the North End, the importance of historically inspired design is striking in the South End. The key factor that led to a more complicated approval process for Minot Hall was the commission’s concern that the design did not sufficiently reflect South End forms. Addressing this concern directly through more traditional designs ultimately proved to be the best strategy in gaining approval for both of these projects.
Chapter 4: The Back Bay
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Chapter 4: The Back Bay

Background

Like the South End, the Back Bay developed mostly in the second half of the 20th century in response to, among other pressures, Boston's rapidly escalating population growth. However, the urban design, architecture, and social character of the two neighborhoods evolved quite differently. The Back Bay is the most intense regulatory environment in this study. The design regulations in place in the Back Bay are noticeably stricter than those applied to the South End, reflecting in part the distinct built fabrics that came out of these neighborhoods' unique histories. The Back Bay is commonly thought of as the neighborhood bounded on the east by the Boston Public Garden, on the west by Charlesgate East and Massachusetts Avenue, on the north by the Charles River Basin/Beacon Street, and on the south by Stuart and St. Botolph Streets. Virtually the entire neighborhood is situated on landfill.*

The first major project that began to shape the Back Bay was the 1818 construction of the Mill Dam, a dike and toll road running roughly from Charles Street and Beacon Street to the current intersection of Mass. Ave. and Commonwealth Ave. The Boston and Roxbury Mill Corporation intended this dam to create a basin in the Back Bay by which the tidal flow could be harnessed to generate power for mills, offering Boston "more mill sites than any other seaport in the United States." The mill project was a failure, as the steam engine soon outpaced the water mill industry.

In 1834, the state allowed two railroad lines to be built through the bay, increasing pollution and further detracting from the water-driven mills' capacity. By the middle of the century, the Back Bay had become a filthy marsh "producing noxious odors. By 1849 the Health Department demanded the fill of the area in the interests of Public Health." Bunting explains that all the parties involved benefited from filling and developing the Back Bay: the mill corporation would profit more from real estate development than power-generation; adjacent property owners expected increased value from the removal of the toxic dump; real

*In his 1967 book *Houses of Boston's Back Bay*, Bainbridge Bunting presents an exhaustive history of the area's development, which informed a great deal of the following summary.
estate interests saw potential business opportunities; the city saw the prospect of greater land within its jurisdiction; and the state hoped to profit from its share of the land that until then had remained unused under the water. The state, the city, and the mill company made a profit sharing agreement in 1856, and filling of the Back Bay began in 1857, administered by a commission that the three parties had formed. Filling proceeded from the edge of the Common towards what is now Kenmore Square. By 1900, Back Bay and the Fenway were filled.

Unlike the South End, whose street grid was inspired by English garden parks, the plan for the Back Bay was decidedly French-influenced. Attributed to Arthur Gillman, the Back Bay plan called for four new streets that ran parallel to the dam, with intersecting streets and service alleys behind the buildings. Reminiscent of Parisian boulevards, the parallel avenues provided the views and framework needed to achieve the monumental district that planners had in mind. As I have alluded to earlier, the regulations and deed restrictions gave further shape and consistency to the elegant form of development. Manufacturing was prohibited throughout the district; stables were discouraged in residential areas; commercial uses were banned along Commonwealth Avenue; all houses had to be set back 20 feet from the property line; there was a minimum height requirement of three stories; and masonry construction was required for all buildings. The layout of the street and the deed restrictions facilitated the rapid development of the Back Bay in the French-inspired styles of architecture that were growing in popularity in the late 1850s.

The Parisian style boulevards, such as Commonwealth Ave., provided grand vistas that were not only different from the South End but entirely new to Boston. Along these avenues and the intersecting streets, wealthy Bostonians built fashionable homes that departed from the traditional English style that had dominated Boston’s architecture. Bunting argues that the South End, with its isolated parks and crooked avenues, was not suitable for the French design that was growing in popularity. He explains that the development of the Back Bay coincided with a change in architectural fashion: “No longer content...with her old position on the periphery of the British world of architectural fashion, Boston, during the late fifties and sixties, seems to have discovered the cosmopolitan art of France.” As such, the Back Bay developed a very distinct architectural character from that of the South End, which, begun only a few years earlier, continued to evolve in a less fashionable style and with less wealthy residents.

Bunting separates the Back Bay’s architectural development into three main categories. From 1857-1869, a French Academic style prevailed. With one third of the entire district built up by 1869, this style is a noticeable component of the district’s current historic architecture. Although it is difficult to summarize the look of this style verbally, it is marked by more elaborate detailing, a mansard roof, a thick, projected cornice, and clearly articulated courses at each story. Buildings from this period, according to Bunting, were homogenous and were intended to appear as whole blocks, which is particularly evident in contrast with the period of “Individualism,” which followed from 1869-1885. Buildings from these years employed a wide variety of styles and proportions that defied a monolithic appearance: “During the seventies it is no longer possible to specify a characteristic proportion of the facade because of the many variations caused by the different roof styles.” The final period of Back Bay architecture occurred from 1885-1917. This period saw a return to homogenous facades and a revival of classical styles. Individual owners were largely responsible for building on Commonwealth

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Avenue and Beacon Street, which led to a greater degree of quality and individuality. Speculative development was more common on Newbury and Marlborough Streets, particularly on the later blocks west of Dartmouth Street.\textsuperscript{14}

Residences on Commonwealth Avenue

This residential architectural fabric comprises the bulk of the buildings in the Back Bay historic district. Early in its history, however, the Back Bay began to experience a change from residential to commercial uses along some of its avenues. Although originally a residential street, Boylston Street saw most of its houses converted to, or replaced by, stores or offices by 1900. The street's close proximity to the Boston and Providence Railroad Station made the consequently higher land values more attractive for commercial uses.\textsuperscript{15} Today, Boylston Street
is virtually 100% commercial, and new commercial buildings have been built along this corridor throughout the 20th century. Newbury Street experienced a later shift to commercial activity following WWII, yet its rowhouse residential fabric is largely intact, albeit with retrofitted shopfronts on most ground floors. The public certainly identifies these streets as part of the Back Bay, but the context they provide is slightly different from other streets in the district that remain entirely residential. The two buildings I will examine in this study were built on Boylston Street and Newbury Street, respectively, as almost all recent new construction in the Back Bay has occurred here.

**Design and Preservation Regulations**

Although Newbury and Boylston Streets no longer have a residential character in terms of use, this has not led to a constant stream of new construction. In fact, only three new buildings have been erected in the Back Bay in the last 15 years. This small number is due to two intertwined factors: the strength of the regulatory environment and the limited amount of buildable space. The Back Bay developed as a dense series of rowhouses and only experienced a relatively minor economic depression and loss of prestige, while the South End was falling into serious decline. As a result, the Back Bay saw almost none of the arson and abandonment that produced vacant land within a formerly dense neighborhood. In addition, as with any affluent neighborhood, it was profitable to develop in the Back Bay, accounting for the lack of developable land.* Furthermore, current regulations essentially forbid any demolition, severely limiting the opportunity for creating new vacant land.

Unlike the South End and the North End, the Back Bay does not have its own tailored zoning district. Falling under the older city-wide code, the zoning for this neighborhood does not contain language that specifically addresses aspects of historical design compatibility, as is the case in the other neighborhoods considered in this study. The portion of the Back Bay from Commonwealth Avenue to the Charles River is zoned for residential use, while the Newbury Street and Boylston Street corridors fall under three different general business districts. These use districts reflect the reality of uses on the ground but do not intuitively reflect the building stock; there is a great deal of historic residential, institutional, and religious architecture within these business districts.

Dimensional requirements are the feature of the applicable zoning that most influences design in these districts. The various limits in these portions of the Back Bay merely establish a building envelope. Specifying bulk, setbacks, and open space, this portion of the zoning addresses the historic context only indirectly. These limits provide a very general baseline upon which regulators and reviewers layer additional restrictions. Although the historic context presumably informed the parameters of permitted building envelopes, designating an approximate bulk is not at all sufficient to ensure compatibility. Such requirements do not deal with the details of historic preservation but rather provide very basic minimum and maximum standards for the shape of buildings. That said, BRA Deputy Director of Zoning Rick Shaklik

*However, architecture critic Robert Campbell reminds us that by mid century most Back Bay buildings had been divided into apartments for a decidedly less wealthy population.
asserts that the zoning for the Back Bay is very “customized,” as a result of neighborhood concern in the 1970s and 1980s that the area was becoming the city’s new entertainment district at the expense of residents. The BRA lowered heights and made certain commercial uses, such as restaurants, conditional in order to slow the neighborhood’s transition. It appears that the zoning in the Back Bay, though a blunt instrument, is intended to address the historic and residential fabric, albeit in a roundabout manner.

As I have indicated earlier, the BRA maintains an active involvement in the design of new construction primarily through Article 80 and staff design review, rather than through the city’s zoning bylaws. The thresholds that trigger review from the BRA are very sensitive, and, as I will show in the following cases, the BRA is particularly involved in Back Bay projects. Shaklik characterizes the zoning in all three of my study areas as “tight,” suggesting that few changes are permitted by right. Construction over 50,000 square feet triggers article 80 review, but the mechanism that brings most projects to the BRA is the provision that requires staff review of any project that seeks zoning relief. And, because the zoning is so “tight,” almost all changes, and certainly all new construction in the Back Bay, are subject to BRA staff review. Shaklik points out that the BRA does not receive many petitions for zoning relief in the residential portions of the Back Bay; most zoning relief occurs in the commercial areas along Newbury and Boylston Streets, where there is more building activity.

In neighborhoods with historic commissions, Shaklik notes that the BRA tends to defer to the BLC commission, only becoming involved in larger projects. In theory, the procedural relationship between the BRA and the Back Bay Architectural Commission (BBAC) seems virtually identical to the way the BRA and the South End commission operate. The difference lies in the fact that, given the limited stock of developable spaces and the infrequency of new construction in the Back Bay, all new construction is, in effect, “large,” and thus the BRA is of necessity a major part of the review process. In the North End, the BRA is the sole regulatory authority; in the South End, the BRA generally takes a back seat to the South End Landmark District Commission; but in the Back Bay, both the BBAC and the BRA are active in regulating the design of new construction, each imposing their procedures and objectives on the process. In addition, given the magnitude or special impact of the projects in this neighborhood, the Boston Civic Design Commission is more likely to review projects in the Back Bay, adding yet another layer of regulatory oversight. Thus I arrived at my characterization of the Back Bay as the most restrictive of the three neighborhoods from a regulatory point of view.

The Commonwealth of Massachusetts created the Back Bay Architectural District in 1966, nine years prior to the creation of the Boston Landmarks Commission. At the time, the only other historic district in Boston was the Beacon Hill Historic District, created by the state in 1955. Although both of these districts now operate out of the city’s Environment Department along with the five other historic districts, their discrete legislative origin remains visible in the scope and objectives of their regulations. Still, Alexa Pinard, the South End preservation planner, notes that from a technical and procedural standpoint, all historic districts now operate in the same manner. But, the BBAC’s mission is noticeably broader, and some might say loftier, than that of the South End commission:
“(a) to promote the economic, cultural, educational and general welfare of the public through high standards of design throughout the Back Bay and through the preservation of the residential portion of the Back Bay area in the City of Boston; (b) to safeguard the heritage of the City of Boston by preventing the despoliation of a district in that city which reflects important elements of its cultural, social, economic and political history; (c) to stabilize and strengthen residential property values in such area; (d) to foster civic beauty; and (e) to strengthen the economy of the Commonwealth and the City of Boston.”

The impetus for creating this district in 1966 was presumably the historic significance and quality of the architecture. Nonetheless, Michael Cannizzo points out that while the BBAC has generally acted like a historic district it really has more authority to review design.

There are other key differences between the Back Bay district and the city’s other historic districts that attest to the BBAC’s strength as a regulatory body. The BBAC has purview over the entire exterior of a building, while the South End Landmark District regulates only façades that are on a major public way. Not only does this provision literally give the commission more surface area to review, but it also means that the commission has a greater ability to impact the whole of the building. Another feature that sets the BBAC apart from other Boston historic commissions is that, according to William Young, the BLC’s Back Bay preservation planner, the BBAC insists on “the highest level of design and workmanship.” He acknowledges that this may not be reflected in the text of the regulations, but the level of on-site scrutiny applied in the Back Bay is greater. Although unwritten, this is a standard that is understood in the design community; Alfred Wojciechowski, an architect who was worked in the Back Bay, also asserts that the BBAC pushes for the use of high quality materials.

Perhaps the most important distinction is the specificity of the design guidelines. Intuitively, one would expect that a more restrictive district would possess more detailed design guidelines: the more restrictive, the more that would be demanded. However, opposite appears to be the case. All the people interviewed for this study concurred that the Back Bay is clearly the most restrictive of the three case study locations, yet the Back Bay Architectural District’s guidelines are noticeably less detailed. The business sector guidelines for the Back Bay Architectural District, which contains Newbury and Boylston Streets, do not contain any explicit requirements or suggestions for new construction. The only reference arises in respect to demolition on Boylston Street, which is “[a]llowed only if it is clearly demonstrated that any replacement is justifiable architecturally and economically as well as in its urban design impact on the street.” The residential guidelines are equally unspecific, stating only that “All new construction, whether of entire buildings or additions to existing buildings, should be designed to harmonize with the predominant characteristics of the district in height, mass setback, rhythm, scale, proportions and materials.” It thus appears that greater restrictiveness somehow affords a greater case-by-case discretion on the part of the commissioners. Therefore, a better description might be “the more restrictive, the less is spelled out.” In fact, it is easier for the commission to exercise its power if building proponents have fewer specific standards to meet, and this power can translate into greater restrictiveness whether or not that restriction is spelled out explicitly in
the regulations. In short, the BBAC employs a discretionary model more than the administrative model of regulation.

The Back Bay’s “guidelines” are clearly less detailed than those for the South End. However, according to Young, the BBAC benefits from operating, and intentionally seeks to operate, in this manner. In his view, the more specific the guidelines, the more the regulation will predetermine the built outcome. He adds that because the vast majority of the commission’s work relates to alterations of historic buildings, the language specifically addressing new construction is so brief that it seems like a haiku. Yet, by not having to provide too much direction about the design and materials for new buildings, Young argues, the commission avoids a “less than ideal outcome.” That outcome would be “new construction that is simply replicative or slavishly historicist,” which he asserts “would not be viewed by the commission as a favorable response to the design challenge.” This sentiment is familiar; almost all of the interviewees indicated that the proper design is one that does not simply copy the old. In its current iteration, the commission seeks new buildings that “can speak unapologetically about their moment in history without being supplicated to the context.”

However, in contrast to the North End and South End, the Back Bay contains a regulatory system that can deny historicist designs if it wishes. The BBAC’s broader oversight allows it to avoid the dilemma of having to approve an unappealing building, a situation that John Freeman and his fellow commissioners face in the South End.

In addition to the BRA and the BBAC, developers and architects of new buildings in the Back Bay also interact with the Neighborhood Association of the Back Bay (NABB). This group has no legal standing in regulatory decision-making, but, based on all the cases in this study, it appears to be involved in the approval process to a degree that North End and South End groups are not. Developers generally seek community support for their proposals prior to submitting designs for review, and gaining NABB support, though by no means mandatory, demonstrates to city regulators a developer’s willingness to accommodate the public interest. Made up mostly of Back Bay residents, NABB is in many ways treated as the voice of the community. Every month, NABB representatives meet with William Young to review the upcoming hearing’s agenda for projects that NABB would like to see presented first at its own meetings. Proponents generally agree to this community meeting—the downside of not agreeing to meet appears far too great—after which NABB members vote on their support of the proposed project. Members then express support or opposition with letters and comments at BBAC hearings. Janet Hurwitz, who is stepping down after eight years as the co-chair of NABB’s architecture committee, suggests that the organization’s aesthetic objectives for new buildings in the Back Bay are different from those of the BBAC. She states that members want buildings that “blend” into the existing fabric. Elaborating further, she explains that NABB members prefer buildings that “if you squint would fit in with the streetwall and streetscape.”

Case Study 5: 801 Boylston, the Planet Hollywood Building (easy approval)

For the North End and South End case studies, I have tried to lay out a thorough sequence of events, noting all the major meetings and decisions. In the Back Bay, where the approval process is much more protracted and rigorous, such a comprehensive history of each building would be excessive. Thus, I will try to describe the general evolution of each project as gleaned
from interviews with the architects and reviewers, citing hearing notes and official documents only to illustrate the tone of the dialogue. There have simply been too many meetings and hearings to construct a complete but meaningful story for either of my Back Bay cases. The physical size of the case files at the BLC offices is a testament in and of itself to the level of regulation applied in each historic district: the South End files were each about an inch thick, while the Back Bay dossiers were more than six inches thick.

801 Boylston Street is located at the northwest corner of Boylston and Fairfield Streets. Formerly the site of a gas station, this lot is adjacent to a row of 45-foot high 19th century brick townhouses on Fairfield Street and an early 20th century five story building that is currently unoccupied. This project, like most in the Back Bay, was neither flat-out rejected or approved.* While 801 Boylston appears to have gone through a less difficult review process than the other case in the Back Bay, Alfred Wojciechowski, the building’s architect, cautions that “difficult” is a relative term. In his view, the Back Bay is one of the “more challenging environments” in

*Young notes that in 2004-2005, the BBAC had a denial rate of only 2%, indicating that most proposals undergo a lengthy negotiation process rather than being rejected outright.
which to work in the United States. Within this context, however, Wojciechowski agrees that negotiating the approvals process for 801 Boylston was not very difficult, likening the task to the strategic method one might use in writing an academic paper. It is a complex task that can nonetheless be mastered. Wojciechowski, a partner with the local architecture firm CBT, served as project manager for this building, whose client was a developer representing the restaurant chain Planet Hollywood. Although Planet Hollywood exited the project near the end of the building’s completion, the restaurant was the main client and determined the building’s program through the approval and design process.

The building’s proposed height and fenestration were the major points of contention. Situated in the B-8-120a district, this site allowed a structure as high as 120 feet. On June 11, 1997, at the first presentation of the proposal to the BBAC, the proponents offered both 120-foot and 92-foot designs. The lower height was intended to reflect a more “recognizable Back Bay scale.” Both proposals were within the zoning envelope. Wojciechowski believes that the BBAC’s response to the proposals indicates that it used the zoning as more of a suggestion or guideline than a fixed standard. Several commissioners voiced concern with the building’s height, indicating that a tall building would cut off views and was incompatible with the Fairfield Street houses. Other commissioners did not object to the height, and David Carlson, once again the BRA staff person assigned to the project, advocated a taller building because of its conformity to the zoning. Following this meeting, at which no consensus on the height was reached, the then director of the BRA, Thomas O’Brien, sent a letter to the BBAC urging the approval of the higher building on the grounds that the zoning had been set with a great deal of community input. In addition, O’Brien argued, “It must concern every potential developer and investor in the City of Boston when no certainty of ability to develop is granted despite adherence to zoning limits and the schematic presentation of an extremely promising and appropriate building.”

Wojciechowski commented that the confusing relationship between the BRA and BBAC positions on the height of the building was the most difficult part of the approval process. An unintended consequence of greater regulation appears to be balancing the demands of the different regulating bodies. Initially, the attorney for Planet Hollywood, Dennis Quilty, asserted that it was “not possible for the applicant to entertain” a building below 90 feet. It appears that the BBAC eventually formed a consistent opinion in favor of reducing the height. Carlson objected to this decision but notes that “they [BBAC] can do whatever they want.” In the end, he adds, Planet Hollywood was able to make this concession and ease the approvals process because it required only four floors for the restaurant. And, presumably, the developer could accept the bottom line that would result from the shorter building. Wojciechowski elaborates by explaining that after the BBAC set the allowable dimensions, the floor plates of the top floors had been reduced to a point where the two additional stories would not have added sufficient value.

There are two important aspects of the height debate that are worth noting. The first is that the historic houses on Fairfield Street were the reference point for only one of several

*Quilty appeared frustrated with this regulatory conflict, noting at the first hearing that there were “as many different opinions as people you ask” regarding the appropriate height.
arguments in this discussion. Wojciechowski characterizes the BBAC’s motivation for lowering the height as “urbanistic reasons,” as opposed to the more precise justification of historic compatibility or contextualism. Commissioners argued that the problem was not merely the height, but the height in relation to the design. In all, it appears that historic preservation was not the sole—or perhaps even the principal—factor. The second interesting lesson is that the proponents’ willingness to lose a great deal of floor space (and value) is what ultimately led to an agreement. Carlson explains that this design was relatively easy to pass because Planet Hollywood was not “worried” enough about the height to contest it. Nonetheless, the compromise required by the regulators was great, perhaps more substantial than what would be demanded in a less strictly regulated district. The total square footage was ultimately reduced from 48,000 to 34,000 square feet.

After denying the initial application, the BBAC granted conceptual approval to a 90 story building on June 26, 1997. However, at three subsequent meetings with the design subcommittee, the maximum height was reduced further, effectively capping the allowable height to six stories. From an original height of 120 feet, the building was constructed at approximately 79 feet, with five stories and a basement. Once the height was agreed upon, further design elements were delegated to a subcommittee, which was charged with reviewing “massing, fenestration pattern, materials, and details.”

According to William Young, the proposed fenestration was the most difficult aspect of the design. To accommodate the specific décor of Planet Hollywood, the original scheme called for few windows, and most of these windows were to be covered with displays that prevented a
view into the building. The BBAC rejected the original design without prejudice in part because “the commission had sought a new building whose conventional fenestration pattern would not only respond to the historic context but would facilitate potentially adaptive future uses.”

This request brings to light the role of historic preservation in the BBAC’s decision-making. Aesthetic and economic concerns operate alongside historic arguments. The issue of fenestration appears to have been less of a stumbling block than the question of height. Wojciechowski indicated that the design was adapted to include greater portions of glass—increasing visibility—in parts of the building that would not interfere with the restaurant’s internal decorations. The proportions of the Fairfield Street façade windows were reduced to a more “residential scale.”

Prior to Planet Hollywood’s sale of the project, the city requested the removal of displays that would have been placed on the exterior of the building. William Young notes that the BBAC was lucky that it was able to enforce these fenestration changes because, when Planet Hollywood pulled out of the project, the building’s window design was much more suitable to another tenant. When Fidelity Investments took over the space, the windows were adapted to allow even greater views into the interior of the building.

As with any major project in a highly regulated environment, there were other aspects of the design that came under discussion. David Carlson notes that he requested some minor changes to the massing and detailing. Internally, the BBAC debated the presence of an awning and a curved corner entrance. The commissioners’ comments seem more akin to an architecture studio review than a historic conservation meeting: “Indented corner doesn’t work for us. It might on a more monumental building,” “The Boylston façade is not strong. It looks secondary. Windows are too small. Needs to be strengthened;” “[I] don’t have an emotional response one way or another.” Although more specific conversations undoubtedly took place between the commission and the architects, this dialogue is indicative of the level of design changes requested. The changes seem to be informed by large, academic ideas that allude to but do not focus directly on the details of the historic context.

Perhaps this is the case because CBT’s design adequately addressed the historic context from the outset. Sue Prindle, then the chair of NABB’s architecture committee, acknowledges that the designer probably anticipated many of her group’s concerns, which led to minimal discussion and conflict surrounding the building’s interaction with its historic context. Prindle notes that NABB’s members generally believed that this building fit in well with the neighborhood. She adds that the fact that 801 Boylston is a mostly masonry building satisfied one of NABB’s primary criteria. In comparison to the reviews in the South End, it is striking how little discussion there was regarding certain aspects of the design, such as the choice of materials. Michael Cannizzo commented that the final outcome could have benefited from being more interpretive of its surroundings, and that the choice of material was particularly derivative, but this does not appear to have been CBT’s primary design concern.

Wojciechowski admits that it is debatable whether 801 Boylston is a great piece of architecture, but he asserts that the building achieved its goals. In Wojciechowski’s view, one of the major factors to which the design responded was the neighborhood and the commission’s distaste for chain stores. He believes that historic districts, such as the Back Bay Architectural District, seek to promote a sense of individuality, and, while it might be technically outside their
purview, historic commissions try to protect small local business from heavily promoted chains. However, promotion and expressiveness are key components of the business model of tourism and entertainment companies, such as Planet Hollywood. CBT had to create a design that expressed that model but respected the subtlety demanded by the public. Wojciechowski points to the metal panel ornaments with images of movie lights located near the top of the building as an example of how the design attempted to reconcile these two contradictory goals. In addition, he adds that the building has helped enliven a corner of Boylston Street that was very rundown. And, it does all this "without screaming." Finally, it is important to note that like all the architects in this study, Wojciechowski told me that working under the existing regulations had had a beneficial impact on the building.

Case 6: 200 Newbury Street, the Niketown Building (difficult approval)

200 Newbury Street is located on the southwest corner of Newbury and Exeter Streets. On Newbury Street, the property is adjacent to an early 20th century four-story building that houses Emporio Armani. Its Exeter Street neighbor is an early 20th century, brick six-story building with retail and offices. Over the course of its history, the site has contained a variety of successive uses: two churches, an elementary school, an art-teacher training school, and most
local architecture firm CBT, began the formal process of attaining approval for the construction of a building to house a Niketown store. This project is indicative of a difficult approval process for new construction in the Back Bay. It underwent the most lengthy and challenging approval process of all six of the example cases in this study; several architects and city staff members I interviewed concur with this characterization of the project. David Hancock, a principal at CBT and the project manager for this building, states that working on 200 Newbury had been an “intense, intense” process. Only half-joking, he calculates that his firm spent six minutes per square foot of façade working on this building; a typical project takes microseconds.

The interviewees who participated in this project attribute the difficulty of approval and review to a number of factors. The overriding explanation that becomes evident in compiling the comments of the architects and reviewers is that the principal problem came from the fact that Nike would be the tenant. David Carlson, the BRA staff member assigned to this project, recalls that there was a great deal of concern in the community regarding the type of clientele a Nike store would bring: primarily young people. Hancock appears to share this belief and frames his explanation in terms similar to those Alfred Wojciechowski used to describe the corporate identity issues surrounding 801 Boylston. Niketown, while still a store, is intended to function more as an advertising, brand-enhancing promotional device than a retail outlet. Niketown uses “shopping as entertainment” to promote sales of Nike products throughout the Boston area. As such, the developers sought a building that would directly communicate the tenant’s identity and products.

In Hancock’s view, Nike did not possess an identity that was palatable to Back Bay residents or, to a lesser degree, to the members of the BBAC. He notes an “effete” attitude that Newbury Street was “high-class,” and that Nike was not the right sort of presence. Hancock claims that this belief often took the more politic form of a complaint against the invasion of chain stores into the Back Bay. Nonetheless, the designers and regulators were faced with arriving at a design that balanced the local community’s sentiments with the developer’s fundamental objectives and doing so through the crude device of design review. Achieving this balance proved difficult in a community with vocal and organized residents who could call upon and utilize the extensive regulatory infrastructure to apply the highest influence on the approval process.

The BRA supported this project because it met the agency’s primary regulatory concerns. In a letter to the BBAC, Carlson explains the BRA’s approval:

“The proposed development fits within the massing envelope (height and FAR) mandated by the zoning and is predominantly retail, echoing the current state of the evolution of this street... The BRA has worked with the development team, the Civic Design Commission, the Boston Transportation Department, and the members of the BBAC subcommittee reviewing the project to address the extensive neighborhood issues raised in hearings. The issue, for example, of window scale and proportion has been addressed; the proponent has agreed additionally to adhere to any lighting standards promulgated and enforced uniformity by the Commission. The landscaping and garage entry have been refined to make the streetscape attractive and user(pedestrian)-friendly.”

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The scope and reach of the BRA's design regulations are evident from this excerpt. The BRA does not address the architectural historic context directly, focusing instead on general physical proportions, compliance with other agencies, and the interference with public users. Aesthetics is not evident as a deciding factor. The BRA's direct references to the historic quality of the Back Bay are minimal and vague: BBAC hearing notes include Homer Russell, then a senior design staff person at the BRA, affirming that he “is comfortable” with this building “in a historic context.”

In this case, the BCDC was involved in the review of this building, in addition to the BRA and the BBAC. (200 Newbury Street is the only one of my six cases that underwent BCDC review.) However, it appears that rather than imposing additional demands on the design, the BCDC actually attempted to lessen the burden of the Back Bay’s restrictiveness. Carlson notes that the BCDC board voted to review and approve the project during the same meeting, forgoing the usual subcommittee review and follow-up presentation. The commissioners wanted to use their voice as the protectors of the public realm to emphasize that it was possible to build good contemporary buildings in the Back Bay. It appears that the BCDC sought to quell the community and NABB’s concerns by affirming unequivocally that the proposed design improved the quality of the public realm. Carlson explains that the BBAC effectively ignored BCDC’s recommendations, choosing to work on and debate many aspects of the proposed design. Later, the BCDC chose not to review the proposed design of 801 Boylston Street because its comments were similar in nature to those given to 200 Newbury Street, and commissioners suspected they would once again be ignored.

David Hancock casts the Back Bay’s regulatory process in a new light by explaining the developer’s approach to Article 80 review. The proposed building did not require zoning relief, merely minor approvals for bay windows and an underground garage that projected very slightly into the public way. There was no zoning variance needed that would trigger BRA staff review. By reducing the size of the building by only a few hundred square feet, the proponents would also have been able to avoid BRA Large Project Review.* However, the developer chose to build out to a greater square footage because, as Hancock notes, “political” pressures would have required the building to undergo a virtually identical community review process regardless of its size. It appears that in the Back Bay it would not be possible to slip in underneath the city’s thresholds, as was the case for 50 Fleet Street in the North End.

In contrast to 801 Boylston, 200 Newbury received a great deal of scrutiny that pertained to the Back Bay’s traditional context. At an early advisory BBAC hearing, one commissioner argued against the use of curved glass and square bays because they were not “typical.” Certain elements were considered “out of character,” “inappropriate,” and “uncharacteristic.” These comments allude to a formal conception of the context but do not stress the need to emulate 19th century elements, per se. In fact, the commissioners’ suggestions address aesthetics more than preservation and are thus somewhat ambiguous. For instance, the hearing minutes include the following comment from one commissioner: “As to site context, building seems very cold and austere—should be warmer, more inviting. Choose warmer looking materials.” At the

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*Although, the reported total square footage, 45,000, falls below 50,000 square foot Large Project Review threshold, this project appears to have gone through this process.
first public hearing, one commissioner contended that the proposal was still “not a Newbury building.” Nonetheless, the formal letter informing the applicants of the hearing’s outcome—denial without prejudice—makes no mention of the historic context, or even of the Back Bay as a neighborhood context.

William Young’s detailed notes of the BBAC’s hearings indicate that the approval process for 200 Newbury Street sparked what might be called an identity crisis for the commission. There was disagreement about the merits of the design, but, more surprisingly, there appears to have been some question as to the BBAC’s goals and the application of its vast authority. The following succession of commissioners’ comments at a March 8, 2005 public hearing illustrate this dilemma:

“Concept has not changed, still doesn’t work. Applicant should get serious—respect character of Newbury Street: punched windows, masonry expression, amount of glazing, dominant corner drum & its visibility from street.

This is architect’s concept—commission should interpret what of the concept is appropriate. How is new concept required when existing concept can be fine-tuned to fit the context? We don’t want to kill the project…

Commission should be able to arrive at an appropriate design that is modern. [I] have become more comfortable with it.

Architect’s work can be preserved by reshuffling some of the elements.

We may close the door on the project unless we can give clear direction as to significant change.”

The first commissioner in this excerpt seems to ask for greater attention to the historic fabric. Yet, Young explains that the commission was firm in its desire for a modern building and “had no appetite for a literal historicist approach.” The principal issues, then, are the extent to which the commission should dictate the design and how it should deliver this information. This confusion is illustrative of how the broad, unspecified mandate of the BBAC coupled with its considerable authority led to a protracted approval process.

As I mentioned earlier, another factor in the difficulty the proponents experienced in attaining approval was the vociferous participation of the community, chiefly through NABB. Prindle recalls that her group’s main objection to the proposed design was that the building was “too glassy.” NABB feared that the building would produce too much light and that it had a “lack of context.” Hearing minutes indicate a variety of other complaints. NABB meeting notes from a CBT presentation held a few days prior to a BBAC advisory review indicate additional concerns. The group “wish[ed] to see more articulation along the ground floor…consistent with the architectural pattern in the Back Bay and Newbury Street.” This group also acknowledged a disagreement with the designers as to how to balance the historic context and the developer’s commercial objectives.
Discussions with NABB did not secure community approval prior to the city process; NABB merely voted not to oppose the project. NABB holds no official power to approve or deny, but as a highly organized community group, it fits in well with the duty of the BRA and BLC to listen to and consider community input. Given the outpouring of protest from NABB members and other community residents, the BBAC made its design subcommittee review meetings open to the public and announced four dates between March and April 1995, when the public could attend. For six months, CBT maintained full-scale mockups. Every Friday representatives from the firm were present to answer the public’s questions. NABB’s vigilant involvement certainly lengthened the approvals process and likely reinforced some of the commissioners’ views. The neighborhood participation aspect of the regulations is not highly regarded by either city staff or the architects. Interviewees described the public as “ignorant” and the process as “hysteria.”

According to Hancock, CBT’s goal for this project was “to produce an appropriate ‘modern’ (i.e. clearly of its time at the end of the 20th century) and not a ‘historicist’ work (i.e. a design so dripping with references to the past that it might simply devolve into a stage set for a documentary movie, or a copy book of all the details of the old buildings in the neighborhood).” While this design approach is compatible with the tenets of the BBAC, the list of design elements that were debated and changed throughout the approval process is very long. There are four specific features of the building’s design that merit discussion in order to better understand how the Back Bay regulations impacted the design process in this case.

![Image of proposed Newbury and Exeter Street facades]

CBT’s proposed Newbury and Exeter Street facades, indicating more glazing than was ultimately used (On file at the Environment Department)
The “glassiness,” or the solid-to-void ratio, of the building was a major contention for both the BBAC and NABB. Indeed, at the first advisory hearing on December 14, 1994, CBT presented what it called an “All-glass Tower.” In an email, Hancock describes the earliest design advanced by Nike: “They brought a concept sketch which featured a great five story high inverted glazed conical drum supporting a stylized globe surmounted by a statue of Athena Nike rampant all in statuary bronze or gold tone anodized aluminum -- a really extravagant Hollywood stage set of an affair. This is not an entirely accurate recollection, but it was certainly a shocking bit of west coast glam architecture and that was where we started.” The commission expressed a desire to see more masonry on the Newbury and Exeter Street elevations and more glazing on the alley wall. Over the course of the approval process, the designers added more masonry. At one point, the BBAC asked for a transfer of 20% of the glazing in the bays and corner to the alley elevation. In addition, mullions were added and thickened, breaking up the visual impact of the glass.

It is difficult to determine how much of the commissioners’ concern can be attributed to their affinity for the historic context of Newbury street or to a desire to hide what was ostensibly deemed a giant, glowing advertisement. Hancock states that CBT consciously chose to reflect the building’s context by creating the appearance of a masonry load-bearing structure. Once the building was covered, the texture and color of the materials gained greater importance. The BBAC chose to support a contemporary material, lead-coated copper, over the more traditional slate for the mansard elements. The primary masonry is considered a particularly successful element of the building because of its simultaneous uniqueness and similarity to the ubiquitous brownstone of the Back Bay.

The second feature of the design that underwent a great deal of debate was the underground parking garage entrance. Hancock explains that the service loading entrance was located in the alley, as alleys in the Back Bay in particular had been traditionally designed for such purposes. Locating the garage entrance in the rear would cause too much congestion, CBT argued, but placing a curb cut and garage door on Exeter Street faced considerable opposition from the community. BBAC agreed with this concern, insisting on either a single-width entry or “enhancing its design and materials” to “mitigate the impact of the garage entrance upon the Exeter streetscape.” CBT chose the latter option because in their view the problem was not the curb cut and automobile presence but the fact that garage doors often appear to be “black holes in a building’s façade.” In order to make it look like a place that “somebody cares about,” the designers added light and assured the BBAC that the door would be kept open from 8:00AM to midnight. In Young’s view the garage door debate was the most notable sticking point in the approval process for 200 Newbury. It appears that the solution was achieved by assuring the regulators of high-quality materials and maintenance, which are not necessarily within the BBAC’s mandate.

The third problematic feature was the articulation of the Newbury Street façade. In this instance, the designer appears to have taken the lead on addressing the historic context. Hancock states that the inspiration for the building’s bays comes directly from research indicating that bays in the Back Bay are commonly 26 feet apart. CBT appears to have used bays at this
familiar rhythm to anticipate the commission’s interpretation of the design in its historic context. The designers employed the historic character of the Back Bay (but not of the abutters) to inspire and justify aesthetic choices. In keeping with its general urban design principals, the BRA sought to have multiple entrances along this elevation, primarily in order to match the rhythm of the shops in the rowhouse buildings. Debate continued throughout the process about how best to make this façade more lively and more comfortable to pedestrian passersby. There was “lots of discussion, and minor changes here and there, but no big major change.”

CBT used a similar approach in advocating for the fourth feature: a cylindrical corner entrance with a revolving door. The designers drew on historical precedents to justify this design. The BBAC and NABB questioned the drum shape entrance primarily because of its unusual location, on the corner of the building, and because of the amount of glass in the original proposal. One commissioner likened an early design of the entrance to a theater, claiming that
it was too exuberant. An acceptable compromise was found in covering more of the building with masonry, and ultimately a more subdued entrance was built.

The revolving door, however, faced stiff opposition. Hancock pointed out that there were two other instances of revolving doors on Newbury Street, at the Ritz and at Tower Records (now the Virgin Megastore). Hancock recalls that the commissioners were not swayed by these precedents and persisted in asserting revolving doors were better suited for Boylston Street. Two examples do not constitute overwhelming evidence, but it is telling that the BBAC regulated the door based on contemporary aesthetics as opposed to the existing context. The BBAC cannot be accused of disregarding the preservation of historic Back Bay. Nonetheless, resting new construction designs on historic analysis does not appear to have been an entirely successful strategy for the proponents. Hearing notes indicate the Hancock began many meetings with a brief introduction to the context, explaining the changing, eclectic history of Back Bay architecture. Still, the BBAC had many concerns regarding this design. Acknowledging the context might have softened the commissioners, but it does not appear to have been the silver bullet in any argument.

These four features of the design are by no means a comprehensive list of the issues that were raised during the regulatory approval of 200 Newbury Street. From my interviews and analysis of the documentation, they do appear to be among the most important concerns, and they are certainly emblematic of the types of comments this design elicited. The most salient characteristic of this building’s review process is the detailed degree and non-historical nature of the BBAC’s decision making. It appears that this project underwent such a difficult, protracted approval process because more was at stake than at 801 Boylston: the design was more expressive of the tenant; the neighborhood was more vocal; the location was more prestigious.

It is important to note that even though 200 Newbury Street represents a “difficult” example, this is perhaps one of the most recognized and lauded new buildings in a historic neighborhood of Boston. Virtually everyone I have interviewed for this study, either formally or informally, quickly came to the topic of this building. And, their comments are generally positive. Hancock believes the regulatory process had a good impact on the building, and that the building has had a positive impact on the neighborhood. The latter is certainly true to the extent that this building is recognized by many in the city as a successful contemporary building in a historic context. At last I had an inkling that it was possible to build “good” contemporary buildings in a historic context, but I had discovered it in the most restrictive place that I had studied.
Chapter 5: Analysis
How does the restrictiveness of design regulation affect contemporary construction in historic areas? The cases in this study correspond to three different levels of design regulation: the North End is the least restrictive; the South End is moderately restrictive; and the Back Bay is the most restrictive. Both practitioners and city officials agree with this categorization. As I noted at the outset, one might expect that three increasingly regulatory schemes would produce predictably ordered effects on the process of design and construction of new buildings. My hypothesis was that there would be a direct relationship between the level of regulation and several outcomes: historicism, inflexibility, and contextualism would rise with the restrictiveness of regulation. However, these cases studies suggest that, while some of these relationships do exist, the level of design regulation used in Boston’s historic neighborhoods has some unexpected—and perhaps unintended—consequences.

Support for Design Regulations

One way in which all the cases turned out to be similar is in the architect’s attitude toward regulation. The architects of all six projects believe that the design regulations and review process had a positive impact on their buildings. Other architects that I interviewed for this study, as well as the writings of Brenda Case Scheer, characterize design review and regulations as an unnecessary burden that restricts good architects. Thus, one might expect the architects in my study would express increasing frustration (or decreasing regard) for the approval/review process as the level of regulation increased. This was not the case. They were certainly aware of the different levels of regulation—and agreed with my characterization of the restrictiveness in each case—but all of them were reluctant to characterize the regulations as “burdensome.” Although this might be a sign of unyielding optimism, it is more likely that the level of restrictiveness is accepted as an intrinsic part of designing in Boston. These architects’ relatively consistent support for design review corroborates Schuster’s 1990 findings and refutes the notion that increased regulation will be met by increased resistance from the design community.

All of the architects in this study were willing to engage in the process. While it is not accurate to say that all of the designers in this study were eager to undergo the various forms of design review in evidence here, the architects’ testimony provides no indication of trying to avoid regulation or to question the city’s regulatory authority. Even 50 Fleet Street in the North End, which did not require regulation, voluntarily underwent a process that was essentially Article 80 Small Project Review. In addition, a sentiment that many of the architects expressed was that design regulations helped them argue with developers for the use of better materials. Architects could point to the requirements when developers wanted to use a less expensive alternative.

It is interesting, however, to note that architects working in each neighborhood describe the positive role of the regulators in a different manner. In the North End, Jack French and John Downie appreciated the BRA’s help in facilitating other parts of the approval process. In the South End, Doug Dolezal and Phil Hresko focused on the architectural details that the reviewers supported or improved. Alfred Wojciechowski and David Hancock, the architects for the Back Bay cases, were aware that their district could be difficult to work in, but both of them explained, in surprisingly similar words, that the Back Bay was an important architectural asset worth
protecting and, by extension, regulating. As I will discuss later, it appears that design regulation is not just about the government telling an architect how the building should look.

Easy v. Difficult Approvals

This study was structured with three pairs of case studies that were selected to represent easy and difficult design approval processes under regulatory systems of varying restrictiveness. My goal was to isolate the factors that eventually facilitated or complicated the process. This distinction between easy and difficult turned out not to be as clear as I had hoped, but the people interviewed for this study generally agreed that each pair of cases contained one project that had faced a harder approval process than the other. In recording these projects’ histories I have gathered a great deal of information that fits outside of this rubric, but it has become evident that there are a few key factors in each case that led to an easy or difficult approval. These factors, in turn, shed light on the fundamental differences between the three levels of regulation. Regulators in all three districts would—not incorrectly—affirm that their goal is to help produce the best possible design for their historic contexts. Yet in addition, more nuanced factors seem to play a greater role in the decision making process. Table 1 summarizes the factors that led to each of the cases being easy or difficult.

Table 1: Key factors that led to an easy or difficult approval process

<table>
<thead>
<tr>
<th>North End</th>
<th>South End</th>
<th>Back Bay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easy 50 Fleet Street Size reduced to avoid Small Project Review</td>
<td>Easy North End 44 Prince Street Large Project Review involved many stakeholders, community impact mitigation</td>
<td>Easy 801 Boylston Street Developer willing to reduce size and eliminate part of the program; masonry design anticipated NABB concerns</td>
</tr>
<tr>
<td>Easy 44 Prince Street</td>
<td>Past experience helped architect understand how the current commission interprets the design guidelines</td>
<td>Easy 200 Newbury Street</td>
</tr>
<tr>
<td>Difficult 424 Mass. Ave. Difficult Minot Hall First design was too contemporary, detracted attention from historic building; second design inconsistently represented South End styles</td>
<td>Difficult South End Minot Hall</td>
<td>Difficult Back Bay 200 Newbury Street NABB/community actively involved, concerned about Nike as tenant; original design “too glassy”</td>
</tr>
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Table 1 greatly simplifies the stories of each of the six buildings, but it captures the essence of what made each of these processes difficult or easy. In the North End, as we have already seen, the design regulations did not result in any great physical change for either of the buildings. In fact, neither of these projects underwent a particularly difficult approval process; there was not a great deal of conflict. It appears, then, that the main distinction has less to do with anything particular about the style of the architecture than simply with the size of the building. As one might expect of the least regulated study area, approval difficulty is a function of size and overall impact of the proposed development, as opposed to the details of the design.
It could be argued that the reason 50 Fleet Street passed through easily is that it was designed well—no doubt this was the architects’ intention. However, the underlying reason that this “review” proceeded so easily is that the developers were willing to greatly reduce the size of their program. Neither Jack French, the architect of 44 Prince Street, nor David Carlson, the reviewer, described the approval process as contentious or unpleasant. Yet French noted that a large part of the process involved reaching compromises and providing mitigation (often in the form of payments) to neighborhood residents. The community involvement mandated by Article 80 Large Project Review had a noticeable impact on the overall process of securing approval for this design.

Commissioner John Freeman believes that Doug Dolezal’s design for 424 Mass. Ave. received approval relatively easily because the architect had a good understanding of how the commission interpreted the South End Landmark District’s Standards and Criteria. But it is difficult to articulate exactly what this statement means without putting words in the mouths of people I have not interviewed. Given my interviews with Alexa Pinard, Freeman, and Dolezal, it seems that this design was favored because it was a discernibly modern translation of the well-known South End vocabulary. Dolezal did not achieve this balance to the commission’s liking with his design for the Minot Hall additions. The approval process for Minot Hall stalled because it was too “contemporary.” The commission quickly approved Hresko’s “interpretive” redesign. Yet, the commission required changes to the second design that reflected the South End fabric more faithfully—such as the removal of the large arch window and the addition of the downspouts to create a bowfront-inspired façade on West Springfield Street. It is clear that the factors that lead to easy or to difficult approval are related to design—and to fulfilling the landmark district’s guidelines.

In the Back Bay, the factors that made the two cases difficult or easy are more complex. It is not possible to contend that the 801 Boylston and 200 Newbury went through approval processes exactly like the two North End cases; nonetheless, I would argue that very similar factors impacted the ease of review in the North End and Back Bay cases. 801 Boylston Street went through a relatively easy review process in large part because the proponents were willing to forego much of the allowable buildable floor space. This compromise is remarkably similar to what happened with 50 Fleet Street, in the North End. Reducing the size of the building did not release the project from its obligations, but it appeased the regulators. The height of the building was the major impasse, and once it was lowered, the remaining issues became a matter of relatively simple negotiation.

It is hard to encapsulate the many points of contention that made the approval of 200 Newbury Street so difficult. The aesthetics of the building seem to have been more of an issue in this case than in 801 Boylston, whose more conservative appearance elicited fewer objections. In my view, the arguments against the design were actually a function of extreme neighborhood pressure about the building’s program. The “glassiness” of the building was a problem not just because it was stylistically contemporary but because it would enhance the presence of a flamboyant corporate retailer, which the commissioners and the neighborhood disliked. Criticisms of the design were vague and rarely made precise reference to the Back Bay’s architectural traditions. Commissioners invoked the history of the district to challenge the
revolving door and to modify the bays on the Newbury Street façade, but these concerns appear to have arisen from a desire to achieve a design that hides the program, rather than to create a Back Bay-style building. Finally, perhaps the most important reason that 200 Newbury Street had a difficult review process was that the local community, particularly NABB, was very vocal and exerted its full force, prompting many additional meetings and continually raising certain issues, irrespective of the actual issues that each step in the review process was responsible for. Public hearing notes for this project contain pages and pages of NABB-member and community comments—many reiterating the same concerns about Nike, chain stores, and “glassiness.” Community involvement brought these issues to the forefront, making them important factors in the approval of the design.

In many ways, the factors that lead to an easy or difficult review follow an unexpected pattern: places with the least and the most restrictive regulations end up having much in common. In the North End and Back Bay, reducing the size (and overall impact) of the building allowed for easy approval. Negotiation with an actively involved local community, on the other hand, slowed the approval process. In the South End, success in meeting the guidelines—and in achieving a contemporary interpretation of the local architectures—was the major factor determining ease of approval. This is not to say that design somehow becomes irrelevant at the extremes of the regulatory spectrum. Yet, it is important to note that under these two sets of regulations, the factors that affected the ease of approval tended to concern use, program, and quality more than historic accuracy.

**Most Restrictive = Least Restrictive**

The biggest surprise to emerge from this study is the striking similarity between development outcomes in the Back Bay and the North End. In many ways, the new construction processes that occur in these two neighborhoods resemble each other more than they resemble the process that takes place in the South End. Given the level of regulation in each neighborhood, one would expect that the South End would be a middle ground, a moderate version between two extremes, and that the North End and Back Bay would represent these extremes. After all, the Back Bay and the North End look very different from each other, and the South End, in a way, is the midpoint between the Back Bay’s elegance and the North End’s grit. Contrary to my hypotheses, historicism, inflexibility, and contextualism are comparable under the least and most restrictive policies. I did not find a direct (or inverse) relationship.

**Specificity, Subjectivity, and Flexibility**

A surprising similarity between the written regulations for the North End and those for the Back Bay is the low amount of specificity regarding the design of new construction. Article 54, the zoning rules for the North End Neighborhood District, makes reference to scale and materials but provides no detailed list of preferred characteristics. Similarly, the BBAC’s guidelines note abstractly that scale and massing must be appropriate; no criteria at all are provided for new construction in the commercial portions of the Back Bay. In contrast, the South End’s guidelines contain over three pages of specifications to which new buildings must adhere. For buildings in category A, height and setback must align with at least one abutter. Materials are specified in great detail—exterior walls must be masonry—and even the preferred
brick dimensions are listed (2 1/4" x 4" x 8"). Thus, specificity of design guidelines does not increase as the level of regulation increases. Rather, the most specific guidelines actually occur in the middle.

In the North End, the scope of the BRA’s design oversight is actually somewhat delimited by the absence of specifics. The BRA cannot make demands on the minutiae of the design because the zoning code directs the staff reviewer to consider only larger design factors. In the Back Bay, the absence of specifics simply means that the BBAC’s standards are not fixed (which is not to say that they are not well-established). Here, the commission’s purview extends to almost any level of detail it wishes to address, but there are no predetermined specifications. In both neighborhoods, however, the result is a regulatory system that gives a great deal of discretion to the individuals charged with performing design review. In both the North End and the Back Bay, the design standards are essentially created ad hoc for each project by the reviewer or the commission—some might say that the standards are even reinvented at every meeting. In the South End Landmark District, the commission’s review is undoubtedly the central component of the approval process, but designs are much more influenced by the written standards prior to entering review.

The lack of specificity injects a certain amount of subjectivity into the approval of new building designs in both the Back Bay and the North End. David Carlson admitted the modifications to each proposed project under the current regulations depend to a large degree on the BRA staff member assigned to a project. John Downie, the architect in charge of 50 Fleet Street, postulated that his project might have faced many more obstacles had someone other than Carlson been assigned to review his designs. Downie describes a certain amount of subjectivity in how the BRA’s preferred aesthetic changed from contextual to contemporary during the course of the 50 Fleet Street’s development. In the Back Bay, one need only read a few BBAC hearing notes to realize that there is a very fine line between a commissioner’s personal preferences and the legal, enforceable mandates of the commission. In the case of 801 Boylston, the zoning permitted a 120-foot height, but the commission chose to set a lower height for this parcel. Nothing in the code spelled out the specific height that was chosen; the height for this building was determined by the individuals serving on the commission at the time.

The South End Landmark District Commission is not obligated to allow any and all proposals that fit within the minimum requirements, e.g. using the right size of brick does not give an architect a free pass through the approval process. Still, the commission’s decisions reflect an assessment of the project in reference to the specifics laid out in the guidelines. In both the North End and the Back Bay, the reference point is essentially inside the reviewers’ heads. The result is that the design review process in the South End that is less subjective. In the South End preservation planner Alexa Pinard insists that the commission’s decisions have to be “definable and objective.” Objectivity is not a stated goal in the North End and Back Bay regulatory systems. The two South End cases in this study largely reflect an attempt to make decisions objectively. When the West Springfield façade of Minot Hall was constructed without the agreed setback, the commission worked to find a solution that would restore the appearance of traditional South End bays. The objective was to follow the guidelines, which strongly encourage the use of elements such as a “bay, bow, [and] oriel,” and to arrive at a solution that
fit these requirements. It could be argued that the commissioners personally preferred the look of the ultimate solution—the simple addition of two downspouts that visually break up the mass of the wall into bow-sized portions. However, a more likely explanation is that the commission felt pressure to accept this solution because it had fulfilled the stated objective of the guidelines: “It is recommended that...larger buildings avoid the appearance of monolithic apartment blocks through the use of design elements characteristic of the rowhouse blocks” (Standards & Criteria). In the absence of such specific guidelines, it is possible that historic district commission could have encouraged (or forced) a more creative solution.

Subjectivity adds flexibility to any new construction process. To a certain extent, specificity predetermines the submissions and the approval decisions. A less defined mandate allows regulators to make a broad range of approval decisions, leading hypothetically to a greater variety of buildings and architectural styles. One might expect specificity to increase with restrictiveness because a great amount flexibility might lead to one-off decisions that would endanger historic resources. Yet, in Boston, the least and most regulated districts share this quality of flexibility, which plays a role in how both architects and regulators approach the design process.

Abutters: Contextualism

Abutters play a greater role in the new construction process in the South End than in either the Back Bay or the North End. Both the architects and the reviewers for 424 Mass. Ave. and Minot Hall placed great emphasis on the immediate context of the site, while the reviewers in the North End and Back Bay paid comparatively less attention to the neighboring structures. Part of the reason this distinction appears so clearly is that the South End cases are both Category A buildings, which receive greater scrutiny because they share party walls with historic buildings. However, all of the other cases in this study either share party walls or are in close proximity to the abutting buildings. In the South End the adjacent buildings directly informed the design of the case study buildings, which was not the case in the other two neighborhoods.

During their review of 424 Mass. Ave., the commissioners encouraged Dolezal to draw on the existing design of other buildings in the immediate area. The design of the cupola should “resemble something on one side or the other;” the shape of the bay should be based on one of the bays that exist on the block. As applied, the regulations sought to make the design not simply compatible with but similar to the historic buildings. In the case of Minot Hall, the commission was explicit about its desire for the new building to draw inspiration from and complement the original historic structure. The use of brick, the massing, the window pattern, and many other features of the design are directly drawn from Minot Hall.

The zoning in the North End Neighborhood District also requires that “[n]ew or rehabilitated buildings should reflect and complement the patterns of siting and architectural character of the surrounding structures.” While this provision seems to suggest that the design of new buildings is to be influenced by their architectural context, neither 50 Fleet Street nor 44 Prince Street take any stylistic inspiration from their neighbors. Downie and French both demonstrated a very low regard for the adjacent buildings—calling them “dumpy,” “hideous,” and even “crappy”—which explains their choice not to make reference to these structures.
Further, French designed a British-style folly building to hide the view of some adjacent buildings. During the design review process, Carlson does not appear to have recommended that either of the buildings incorporate more of the architectural language of their abutters. The only related consideration was Carlson’s request that the 1960s library remain visible.

In the Back Bay, the most highly regulated district in this study, the design review hearing notes contain some comments regarding the adjacent buildings, but these are few in number. And the BBAC does not appear to have considered this issue when debating design changes. The Niketown building is constructed directly against the wall of the neighboring building on Newbury Street, and the buildings’ heights and setbacks are consistent. But, the fenestration, material, and color, while not glaringly incompatible with the setting, were not inspired by the buildings on either side of 200 Newbury. Rather, brownstone rowhouses located elsewhere on the street and throughout the district were the inspiration for the design. The site of 801 Boylston is located between the traditional residential and commercial building typologies of the Back Bay. During the review process, there was a great deal of discussion about how to arrange the massing of the building to preserve a large commercial presence on Boylston Street without dwarfing the block of 45-foot rowhouses on Fairfield Street. The approved result, however, bears few signs of inspiration from these buildings, either in materials, detailing, or other stylistic components.

It is surprising that both the most restrictive and the least restrictive of the historic areas considered here do not require new buildings to relate more directly to their abutters. The regulatory systems at either end of the spectrum effectively disregard the immediate setting, while the more moderate regulations use the setting as the primary basis for approval. As a result, designers in the Back Bay (at least in the commercial area) and North End can rely more on their own designs than those in the South End, who must incorporate many of the stylistic elements they see around them.

**Historicism: Quality v. Historic Accuracy**

Because the South End regulations require Category A buildings to reflect certain elements of their historic setting, the new construction process in this district necessarily produces buildings whose design is based on local historic precedents. In the North End and in the Back Bay, the more subjective, non-context-driven regulations seem to create an environment in which both reviewers and designers have more opportunity to design and approve new buildings in styles other than the familiar historical standard. Still, I suspect that some of the people I interviewed for this study would disagree with this conclusion. The South End commission, after all, does have a fair amount of latitude in its decision-making, and the Back Bay’s traditional 19th century residential rowhouse design is even more strongly guarded than is the South End’s. Nonetheless, in examining the overall history of each of the six projects in this study, it became evident to me that the Back Bay and North End regulations engender an approval process that ultimately prioritizes design quality over historical accuracy. In contrast, the regulatory environment in the South End produces a process in which historic faithfulness is the main consideration.

One way to measure the effect of regulations on the new construction process is to
compare the approach that each of the buildings’ architects took. At the risk of oversimplifying what were no doubt six very complex design processes, Table 2 attempts to summarize the design intent reported by the six architects during their interviews for this study.

**Table 2: Architects’ self-reported design approach**

<table>
<thead>
<tr>
<th>Neighborhood</th>
<th>Building</th>
<th>Design Intent</th>
</tr>
</thead>
<tbody>
<tr>
<td>North End</td>
<td>50 Fleet Street</td>
<td>Combination of modern and historic elements. Historic elements are inspired by “the idea of the North End” as a whole.</td>
</tr>
<tr>
<td></td>
<td>John Downie</td>
<td></td>
</tr>
<tr>
<td></td>
<td>44 Prince Street</td>
<td>Inspiration drawn from Italy/European motifs. Tries to capture the “spirit” and “flavor” of the North End.</td>
</tr>
<tr>
<td></td>
<td>John French</td>
<td></td>
</tr>
<tr>
<td>South End</td>
<td>424 Mass. Ave.</td>
<td>“Conservative” contemporary reinterpretation of traditional South End forms. Intended to recall the form of two rowhouses.</td>
</tr>
<tr>
<td></td>
<td>Doug Dolezal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minot Hall</td>
<td>“Interpretive” design with materials and elements that are “reminiscent” of Minot Hall. Not intended to be “striking.”</td>
</tr>
<tr>
<td></td>
<td>Phil Hresko</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Alfred Wojciechowski</td>
<td></td>
</tr>
<tr>
<td></td>
<td>200 Newbury Street</td>
<td>A balance between Nike’s “retailing desires” with “essence” of Back Bay design. Intended to be a “modern,” rather than “historicist” building</td>
</tr>
<tr>
<td></td>
<td>David Hancock</td>
<td></td>
</tr>
</tbody>
</table>

Within each of these three neighborhoods, the architects seem to have taken a similar design approach (although the built outcomes are, of course, very different). The design intent is indicative of how the design anticipated and was tailored to the regulations.

To varying degrees, all of the architects designed with an eye for what might lead to an efficient, successful design review. However, the developers and architects of the three cases that went through an easy approval process appear to have placed a greater emphasis on anticipating the regulations. Through architectural style and program, 50 Fleet Street, 424 Mass. Ave., and 801 Boylston demonstrate the proponents’ efforts to make concessions to the regulations from the outset. In contrast, the first design of Minot Hall ambitiously pushed the envelope. And the architects of 44 Prince Street and 200 Newbury Street were resigned to undergoing a long approval process and appear to have made fewer attempts to speed up the review process through design. Whether accurate or not, the developers’ and architects’ preconceived notion of the regulations—as opposed to the decisions that took place during the regulatory process—had an impact on the design and ease of the approval process.

In addition to representing his/her artistic expression, an architect’s design approach to any particular building indicates what the regulation means to him/her. Downie and French both sought to capture a general, somewhat undefined feeling of the North End in their design. This approach led to a very specific roster of “North End” design elements that they strove to
incorporate. Dolezal and Hresko chose understated designs that were derived from contextual and archetypical South End forms. In the Back Bay, Wojciechowski and Hancock consciously tried to design contemporary-looking buildings that accommodated their very modern clients. These cases suggest that in the most and least restrictive environments, the main objective is not conformity to historic norms.

This result is surprising because, as I have mentioned before, it seems logical to expect a direct relationship between these three levels of regulation and the level of historicism. Intuitively, the most highly regulated historic area should also generate the greatest amount of attention to historic accuracy. Yet, “restrictiveness” does not seem to operate the way I hypothesized. Perhaps something other than restrictiveness explains this result.

Confounding Factors

In all quasi-experiments, there is a danger that confounding factors may explain what might otherwise appear to be a valid conclusion. This problem is especially evident in the case study method, where it is impossible to control all the variables that comprise the case. The goal of this study was to describe the effect of different levels of regulation on the process of new construction; this research framework implicitly assumes that variations in the new construction process are the result of differences in the level of regulation. There are surely other forces that differ among the three study areas that might explain the patterns we have seen.

Perhaps the most important possible confounding factor is the historic built form of each neighborhood. Although I argue that the North End, South End, and Back Bay are similar in many ways, they are, as I have described, very different physically. It is possible that the age of the structures or the building typologies are responsible for the different design approaches and reviewer criticisms. Virtually any architect would assert and would like to believe that he/she would design differently depending on the site. However, I contend that the most important effect of these different fabrics is that to a great extent they inform the level of regulation that the city has chosen to apply. Thus, one follows from the other.

Other factors that merit attention are the uses in each of the cases and the character of their locations. The six buildings in this study are not similar in all ways: four are residential; two are commercial; two are freestanding; four are attached; three are big; the other three are small. It is possible that if I had drawn cases from Category B in the South End and the residential district of the Back Bay, my results would have been different. It could be argued that the review of the Back Bay cases focused more on design than historical accuracy because these particular cases were such visible, monumental commercial projects. However, in the last 15 years, there has been no new construction in the residential portion of the Back Bay, and the most recent Category B projects are located in the lower portion of the South End Landmark District, near Harrison Street, which consists mostly of former industrial buildings, not adjacent to the well-known brick rowhouses that were the impetus for forming the historic district.

A final confounding factor could easily constitute a separate thesis: neighborhood involvement. Boston Globe architecture critic Robert Campbell believes that “the angry citizen” affects the new construction process more than the level of regulation. This suggests the hypothesis that the reason designers and regulators act the way they do in each district is the result of the pressure from and power of local community groups, not of legal ordinances. My
analysis reveals that community participation is indeed an important factor, but I would argue that its influence is largely circumscribed by the regulations. NABB's monthly meetings with BLC preservation planner William Young, for example, effectively make this group part of the regulatory process.

An analysis of the factors that complicate or facilitate approval indicates that in the Back Bay and the North End community interaction and programmatic changes are key, whereas in the South End the historic accuracy of the design is the regulations' major concern. The architects' design approaches and the reviewers' design concerns and the specificity of the written regulations and the oral design review comments corroborate this. One question remains: Why did the impact of restrictiveness in these six cases turned out so unexpectedly?
Chapter 6: Conclusion
I chose this topic because I wanted to understand how Boston might achieve the best new buildings, particularly within historic neighborhoods. I soon realized that it is very difficult to define and measure the quality of a building. What would it mean to be the best? As a student of urban planning, I believe that regulation plays an important role in shaping development in historic districts. While planning is not synonymous with regulation, it is undeniable that the city of Boston attempts to effect many of its physical planning policies with regulatory tools. Before anyone can understand how historic Boston might encourage better new architecture, it is important to learn how the current regulatory tools work to impact the process and the environment. Thus, the question of this research became “how does the restrictiveness of regulation affect contemporary construction in historic areas?”

My answer is a somewhat surprising one: in Boston, the least restrictive regulations and the most restrictive regulations impact the process of new construction in similar ways, and only moderately restrictive regulation manages design as one might expect in a conventional historic district. Thus, the answer to getting better new buildings does not necessarily lie in the regulations—at least not in the way they are typically understood.

When I began my research, I defined “restrictiveness” vaguely. I had an idea that it was difficult to build in the Back Bay and much easier to build in the North End, with the South End falling somewhere in the middle. Architects and city officials agreed with this characterization, but it appears that the common consensus reflects a definition of restrictiveness that is more complex than I had originally imagined. Throughout my research and analysis, I have roughly equated “restrictiveness” with the number of regulations and regulatory bodies with which development proponents must deal. But this only partially explains the restrictiveness in the three neighborhoods. What seems to be happening is that all the people who corroborated my characterization of the “restrictiveness” of each neighborhood were responding to three elements they have observed in Boston’s regulations: the number of rules, the amount of procedural requirements, and the level of authority exercised by regulators. Restrictiveness is a function of the union of these three factors. The number of rules is simply the length and scope of the written guidelines in the regulation. The amount of procedural requirements refers to the number of meetings, presentations, and documents required of proponents. Authority is the power and latitude to determine and affect the design. Without a deeper understanding of what restrictiveness means, I originally hypothesized that dramatic departures in design would be less likely as restrictiveness increases. But that is not what I observed.

The North End is considered minimally restrictive because there are relatively few rules and procedures that proponents must follow, and because design reviewers exert little authority. In the South End, there are many more guidelines, and proponents must go through the bureaucracy of the historic commission as well as that of the BRA. This district is thus widely considered to be more restrictive by Boston’s standards. Yet, the Back Bay is considered a much more restrictive neighborhood because new construction in this district requires the most hearings and public meetings. In addition, the BBAC has taken it upon itself (and is permitted by its enabling legislation) to review many more aspects of design than does the South End historic commission. In this sense the Back Bay is undoubtedly the most restrictive neighborhood—there is more to deal with in the Back Bay. However, there is an unexpectedly high probability that new designs in the Back Bay will depart from traditional
historic architectural norms because the regulations add restrictiveness to the *process* but not necessarily to the style of the *outcome*. The number of meetings and the scope of the BBAC’s review transmit the message that the regulatory environment is very intense, but this does not necessarily translate into fewer design options. Thus, it is not the number of rules or procedural requirements but the level of authority that can help explain the unexpected results of this study. (In hindsight, it could be argued that design review authority, rather than restrictiveness, might have been a better variable to measure in this study.)

In the North End, the reviewers have the authority to regulate only a few aspects of design. Regulators make design decisions in an ad-hoc, subjective manner, but they have limited power. Developers and architects hold most of the authority over determining the aesthetics of the design. In the South End, the regulations grant government oversight over more elements of design, but only to the extent of meeting certain criteria. Faithfulness to the historic criteria in the regulations is the middle ground where regulators and proponents must meet and where they share more equally distributed authority. In the Back Bay, regulators make decisions in a subjective manner, but they also have wide power and latitude to make those decisions. As David Carlson says, “they can do whatever they want.”

At each extreme, authority over determining the design is concentrated mainly in the hands of one party. Because they have so much authority, regulators in the Back Bay can push a design in virtually any direction they want. Conversely, in the North End authority is concentrated in the hands of developers and their architects. Either way, the direction can be contemporary rather than historicist, which explains why the North End and Back Bay appear to have so many similarities. The BBAC is considered to be so restrictive because of the number of meetings it requires and the in-depth nature of its design review, but in the end it has the authority to allow a great range of designs.

The city’s moderately restrictive form of regulation seems to explicitly encourage conservative, contextual architecture. Critic Robert Campbell is quick to point out, “There’s enough red brick in the South End.” But, the current regulations strongly encourage the use of this material, and reviewers and architects strive to do their jobs and meet the guidelines. I am reluctant to assert simply that the South End regulations foment historicist design because I know this is certainly not the intention of the commission or its staff. Nonetheless, that is what the cases in this study suggest. When there is moderate restrictiveness, a developer or architect who is looking only for rapid approval can succeed with historicist design. In an environment with little restrictiveness, the proponent holds most of the authority and can thus pursue whatever design he/she wishes; design is not a consideration in speeding up approval. In a highly restrictive environment like the Back Bay, regulators hold authority over the design to such a great extent that compromising on design is not likely to speed up the approval process. But, in a moderately restrictive regulatory environment, where historic accuracy is the default point of compromise between a proponent and the regulators, design plays a significant role in determining the pace of the approval process.

And so moderate regulation becomes synonymous with historicist design. The two South End cases in this study show that regulators and designers alike try to fight this tendency, but the regulatory system inexorably pushes the design toward traditional forms. The realities of real estate development demand a speedy approval; thus, designing in a historicist manner is the
best way to do business in the South End. In both the North End and the Back Bay, designers and developers must struggle with the larger issues of urban design. The location of a garage, the appropriateness of a building’s program, pedestrian flow—these are fundamental aspects of urban design that the North End and Back Bay cases tackled.

Historicist, conservative architecture has been the norm in Boston for many years. But many of the people interviewed for this study believe that this attitude has recently begun to change. City employees, architects, and Robert Campbell explain that there is a new way of thinking in Boston; the city is ready for more contemporary, innovative buildings. David Hancock, the architect responsible for the Niketown building, believes that the proposed all-glass Apple flagship store on Boylston Street will easily receive regulatory approval. Perhaps Bostonians have decided that projects such as this one will now have a place in their city.

It is not for me to determine if the current regulations are achieving their long-term urban design and historic preservation goals. One might ask if the creators of Boston’s design regulations intended these consequences. Michael Cannizzo, who served as a staff architect for the Landmarks Commission for 14 years prior to working at the BRA, has always had a simple objective in regulating design in Boston: “We want new buildings that can be landmarked in the future.” How the Apple store and other inevitable development projects will impact the historic fabric that has for so long defined the city’s identity remains to be seen. What we do know is that the city will regulate this construction, and that these regulations can have a counterintuitive impact on the ultimate shape of Boston’s historic neighborhoods.
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