

RULES OF THE GAME:  
REZONING BOSTON, 1984-1989

by

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# TITLE

*Rules of the Game: Rezoning Boston, 1984-1989*

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# ABSTRACT

The rezoning of Boston has been the centerpiece of the Flynn administration's planning and development policy. Almost 30 years old, the underlying zoning is known to be obsolete in many areas, and the Boston Zoning Board of Appeals has been one of the main political theaters of conflict for Boston's neighborhoods for a generation. After five years of meetings, hearings, and debate, Boston's zoning is still in a state of flux. Nonetheless, it is not too early to begin to examine the city's rezoning strategy, as well as its tactics.

Zoning may be the most powerful tool in an American city's regulatory kit. It sets the city's scale through height and density limits, and its rough layout through the use table; it also sets the rules for making exceptions to the rules. Thus, not just the Boston Zoning Code but the rules of the Boston zoning game are being rewritten, in an extraordinary display of political entrepreneurship by Boston Redevelopment Authority (BRA) director Stephen Coyle. Although Coyle maintains that a new master plan for Boston will be the outcome of a "community-based" process with numerous advisory groups reviewing zoning district by district, this thesis argues that Boston's rezoning strategy is designed to serve three related purposes:

- to divide neighborhoods into protected residential territory and potential growth areas,
- to recapture some of the value of the Boston real-estate market in targeted, near-term assessments of development in order to make growth politically palatable, and
- to extend municipal control, through the claim of zoning rights, over the development of key state-owned parcels in the city, which are among these growth areas.

A new set of zoning techniques, including interim zoning, allows the city to screen proposed projects and assert local control even before permanent new zoning has been passed, while bargaining with neighborhoods over trade-offs for new development. This thesis examines the rezoning process and its results so far in two neighborhoods, Chinatown and East Boston, with reference to other communities.

Zoning is both a technical and a political exercise; this thesis reviews the premises and politics of zoning, as well as the mechanics. It uses urban renewal as a backdrop for the rezoning process, comparing Coyle to his BRA predecessor Edward J. Logue. Revisiting *The Zoning Game* (Babcock, 1966), it relies heavily on the "social construction of cities" outlined in *Urban Fortunes: The Political Economy of Place* (Logan and Molotch, 1987) and draws on the idea of political entrepreneurship as defined in *The Contested City* (Mollenkopf, 1987).

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# INTRODUCTION

In 1984, even the *Boston Globe* was worried about how much more development Boston could take. Downtown was booming, the service sector filling the new office towers as fast as they went up. Housing prices were skyrocketing all over town; any real estate close to the waterfront -- or with a waterfront view, however obstructed -- was at a premium. "Gentrification," "yuppie," and "condominium" had become new epithets in residential neighborhoods, heightening racial and class tensions in an already divided city. The 1983 mayoral election had turned into a poll on development policy, on the underlying questions of who would live and work in Boston. The two surprise finalists in the preliminary election, black activist Mel King and

former City Councilor Ray Flynn, were both seen as neighborhood advocates; both had campaigned on the theme of harnessing downtown development for the benefit of the city's neighborhoods. Moreover, two nonbinding referendum questions calling for housing "linkage" funds attached to new commercial development as well as community control of neighborhood development won overwhelming support on Election Day. Now, Allston/Brighton was threatening to declare a moratorium on development; rent-control and condominium-conversion legislation were on the City Council agenda, with tenuous majority support; a group of Roxbury advocates -- fed up with arson, disinvestment, and general municipal neglect -- were quietly meeting to debate the merits of secession.

The *Globe* offered some advice to the new administration. In the spring of 1984, along with MIT and other local institutions which had helped to shape the city's previous development agenda, the newspaper co-sponsored "The Boston Conference," a symposium of national "urbanologists," and in November, it published the conference proceedings in a special Sunday magazine section nervously entitled "The Livable City?" According to this portrait of the city, Boston's residents were "fewer, poorer, and more diverse," and the neighborhoods were "in flux," feeling the effects of growth and neglect unevenly.<sup>1</sup> One participant, former Boston Redevelopment Authority (BRA) director Ed Logue, harbored fewer doubts than others; by comparison to his tenure during the urban-renewal era, he commented, "This is a wonderful new problem and I'm enjoying very much this afternoon hearing about it, because it sure as hell wasn't the problem when I started out in 1960."<sup>2</sup> But state transportation secretary Fred Salvucci, a veteran of the

Kevin White administration and a former East Boston Little City Hall manager, eloquently captured local fears of development:

There are people in the South End who say, "Don't let them plant any trees on this street. The minute you get trees, all those white folks will move in." Well, it's a crime when people have to feel, "Let's keep our neighborhoods unsafe and ugly because they will take it all away from us if it starts to look like something."<sup>3</sup>

Developers had \$3 billion in proposed new projects on the table, "more than 20 percent of the city's total taxable property value of \$14.4 billion as recorded in January." But, the *Globe* warned, the city was faced with a choice: to be a model of "the healthy, clean, livable, prosperous, post-industrial city" or a failed example of "chaotic and thoughtless overbuilding."<sup>4</sup> In case any reader were left unconverted by the text, the newspaper cast its vote: "*The Boston Globe* believes the City of Boston must have a new master plan and a tough zoning code to guide development."<sup>5</sup>

Still new in town, BRA director Steve Coyle was much less visible in the supplement than his predecessor Logue; his comments, headlined "Boston needs a new master plan," were relegated to a brief profile at the back of the section. Born in Southie, raised in Waltham, the first "townie" to get a full Brandeis scholarship and a graduate of the Kennedy Institute of Politics at Harvard as well as Stanford Law School, Coyle had been recruited from a prestigious private planning and architecture firm in San Francisco. A former HUD official during the Carter administration, he was also a veteran of Dublin's Abbey Theater and a once-aspiring playwright; his sense of theater would serve him well on the Boston stage. Coyle told a *Globe* reporter that he had returned to his birthplace with "no preconceived notions about height

limits for downtown Boston skyscrapers or land-use changes in Brighton or zoning needs for Roxbury and Dorchester," and gave a disingenuously mild signal of his approach:

Coyle said he will not impose his own directives but will manage the process and work towards consensus instead...Ultimately, Coyle believes the master-plan process will be more important than the final document: "I don't look at a master plan to be the Rosetta stone. It is a way of disciplining the government to be more responsive to people, to be more analytical, to put together questions that are now perceived to be unrelated." <sup>6</sup>

Only a careful reader might have discerned the hand of a political entrepreneur who would proceed to rewrite the rules in the middle of the game. In fact, Coyle was already one step ahead of the newspaper. At about the same time the special *Globe* section appeared, the Boston Zoning Commission quietly approved a new zoning instrument the city would use to intervene in the development process, with the unspectacular title of the "interim planning overlay district." The rules had just changed.

## OVERVIEW OF THE ARGUMENT

The rezoning of Boston has been the centerpiece of the Flynn administration's planning and development policy. The vehicle of what the mayor has called a "new social contract" between City Hall and the city's residents, it has been an exercise in political entrepreneurship. After more than five years of meetings, hearings, and debate, much of Boston's zoning is still in flux. Nonetheless, it is not too early to begin to examine the city's rezoning strategy.

When the real-estate market is strong, zoning may be the most powerful growth-management tool in a city's regulatory kit. Through height and density limits, and through control of land uses, it sets the city's scale as well as its rough economic layout. Although it has been largely separated from infrastructure planning, it defines the form of the city. It also sets the rules for making exceptions to the rules: for exemptions and amendments. This control of discretion is a central issue. In a market dominated by individual investor and private-sector decisions, zoning determines land values -- but only until someone changes or waives the rules. As both a market signal and a political process, zoning is among the most important of "the institutional forces that constantly organize prices and structure people's ability to escape paying them" in the competition for urban space.<sup>7</sup> As the instruments which confer value on a given property, zoning rules are a powerful device for setting the terms under which development may occur: in what locations, in what order, and with what dividends to the city.

To Coyle, the Boston Zoning Code was an untapped well of valuable public assets as well as an obvious target. Almost 30 years old, the underlying zoning was known to be obsolete in many areas, and the Zoning Board of Appeals had been a main political theater of conflict for Boston's neighborhoods for a generation. Because of the sharp election-year focus on the costs and benefits of economic growth in the city, the new administration had a once-in-a-political-lifetime opportunity to rewrite the rules of the city's development game. That Coyle did: a number of innovations have been embedded in the city's zoning code over the past five years. New zoning regulations now exact

linkage fees from large commercial developments for affordable-housing and job-training programs, as well as additional compensations for other impacts following an aggressive environmental and transportation review. New interim zoning districts, drafted by neighborhood-based advisory committees together with BRA staff, have been imposed over the old zoning in those districts, adding a protective layer of regulation to many residential areas and restoring the downtown height restrictions which had been lifted in the days of urban renewal. By inserting a set of screens between the old zoning map and the intense development pressures of the mid-1980's, interim zoning has allowed the city to capture and shape proposed projects, even in advance of a formal and complete zoning process. Growth would continue, but in certain sites and at a price -- both brokered by the Boston Redevelopment Authority. At least in the heady days before the stock-market collapse in 1987, the BRA had a new role to play in the capital web.

Ordinarily, planning anticipates zoning. Since the 1920's, zoning has rested its legal case on the principle that it corresponds to and carries out an overall municipal or "master" plan, through which a polity has expressed the public interest; a zoning code is usually described as a way to implement the "goals and objectives" of such a plan. Coyle has reversed the textbook order of planning and zoning, maintaining that any new master plan for Boston will emerge from the rezoning process, as the result of new zoning rather than its genesis. The Flynn administration's watchword in the groundrules for development under the Flynn administration was "balanced growth;" the groundrules for development, published as *A Plan to Manage Growth* in 1987, set out as policy the principles that

- some of the value of the rapidly inflating Boston real-estate market should

be recaptured and spread through other means than property taxes:  
through the near-term, targeted assessments of linkage and other benefits;

- growth should be decentralized out of the downtown core;
- environmental impacts should be outweighed by community benefits;
- and
- the city should engage in an open planning process with the neighborhoods, as well as other constituencies.

Moreover, the *Plan* proclaimed, "The central premise of this is that all knowledge about what is best for the city does not reside with the government." <sup>8</sup>

Like Coyle's statement to the newspaper that process would be more important than product, this declaration leaves the impression that a master plan would be stitched together from a patchwork of local zoning plans, each independently generated and individually negotiated. On the contrary, while *A Plan to Manage Growth* is not a comprehensive plan in the traditional sense, its policies embody a citywide economic plan which is the unacknowledged underpinnings of the rezoning process. Growth decentralized out of downtown, by definition, must go somewhere in Boston's residential neighborhoods, where resistance to development and its secondary effects is strong. It is here in his strategy toward the politics of growth that Coyle's qualities of political entrepreneurship stand in high relief. Offering near-term, tangible tradeoffs in linkage and community benefits is one element; mandating neighborhood participation in the rezoning process is another; pulling a tighter rein on planning for the city's educational and medical institutions is a third. Another important part of the

strategy was embedded in the zoning itself: the division of each neighborhood into what might be called "backyards" and "gray areas:" between the sacred turf of residential neighborhoods (and their local business centers) on the one hand, and larger institutional or industrial sites -- often on the fringe of the residential community and already in transition -- on the other. Even though the fate of these "gray areas" may arguably be more determinate to the future of the nearby neighborhoods than the zoning for these residential districts, protecting the "backyards" has enabled the city to defer and sometimes neutralize negotiations over the "gray areas."

Coyle may have identified these gray areas as Boston's growth opportunities, but there was one obstacle: the city did not have zoning control over most of these sites. As the real-estate market boomed, the city rediscovered the undeveloped sections of the waterfront, and rediscovered that the state controlled most of them. Some of the city's most prominent unbuilt spaces were in air rights over highway or transit facilities controlled by one of the state's transportation agencies. To channel development into these sites meant asserting a claim through zoning over state-owned (and state-authority-owned) property in the city, a claim the state rejects but which the BRA has embedded in interim zoning in several forms.

Despite all these implications, Coyle has avoided the lightning-rod label of "master plan" for his approach. His strategy has demonstrated a sophisticated -- if not flawless -- understanding of Boston's development politics, an appreciation for the political memory of the city's neighborhoods as well as the ways in which new rules could allow economic expansion, metered and

mediated by the BRA.

## **THE POLITICS OF GROWTH VS. THE POLITICS OF GROWTH MANAGEMENT**

Although it is important to look at Boston's previous zoning codes and to understand the politics of zoning, the backdrop for Boston's rezoning process must also include the city's urban-renewal experience. Urban renewal is a touchstone for the rezoning process because Coyle inherited its bureaucratic apparatus in City Hall and its political legacy in the neighborhoods. In addition, there are parallels between some aspects of the urban-renewal planning process and the rezoning process: in both cases, the city has engaged in a bargaining process with the individual neighborhoods; in both cases, a political entrepreneur in the same key position in the city administration zeroed in on the source of the economic energy of the moment -- whether the market or the federal government -- and seized the opportunity to direct it. Urban renewal was the political and strategic ancestor of the rezoning game.

Although they are radically different strategies, urban renewal can be regarded as the inverse of zoning. Urban renewal was a series of attempts to promote growth, while zoning is a means to manage it. They exert their leverage at opposite ends of the regulatory spectrum, while maintaining at least some municipal control over the results:

As a reactive and "negative" control, the police power of zoning is essentially an instrument of long-term public policy aimed at guiding pluralistic and incremental market development of urban land...To be effective...[zoning] requires a competitive market for development that would override any

disincentive posed by regulation...The power of eminent domain contrasts with the police power as a means for positive or initiative planning control. Its use in such project-oriented programs as Urban Renewal assumes a strong fisc as well as a public commitment to invest in physical development and design.<sup>9</sup>

To rewrite the zoning rules actually combines these two powers, taking the "instrument of long-term public policy aimed at guiding pluralistic and incremental market development" and using it as "initiative planning control." Thus it can be said that rezoning is to the hot real-estate market of the mid-1980's what urban renewal was to the dead real-estate market of the 1950's and '60's.

The urban-renewal backdrop is also important to the institution at the center of this story: the powerful Boston Redevelopment Authority (BRA). A creature of the city's desperate attempts to revive its central business district as well as its neighborhoods (and to capture the federal funds available for those purposes), the BRA was also a creature of Logue's contract. Originally handled by the city's public-housing authority, renewal responsibilities were handed over in the late 1950's to a separate agency which could float bonds and take property by eminent domain. Logue made it a condition of his contract that these renewal powers be merged with the city's planning agency -- then the City Planning Board -- and that he be made director of the combined unit.

"Urban renewal" is really an umbrella term for a variety of projects, federally funded and locally sponsored, aimed at revitalizing downtowns and upgrading residential neighborhoods. The original 1949 federal urban-redevelopment bill focused on clearing "slums"; later legislation put more

emphasis on salvaging residential communities as well as community participation in the planning process. "Renewal," however, often included clearance of residential areas for hospital and university expansion, and for new market-rate housing. Under Hynes came the wholesale and traumatic clearance of the West End for the Charles River Park luxury apartment towers, while the New York Streets in the South End were emptied for industrial development, including the headquarters of one of the city's daily newspapers. In addition, tax-abatement legislation passed at the State House underwrote the Prudential complex over the abandoned Back Bay railroad yards (and the Massachusetts Turnpike Extension).

Collins and Logue emphasized neighborhood rehabilitation with more limited demolition, although the proportion of clearance to redevelopment was sometimes finessed by adjusting the boundaries of the project area. Their neighborhood renewal program covered a full 25 percent of the city's land area, and the downtown element focused on Government Center, Quincy Market/Faneuil Hall, and the waterfront. Because of federal requirements for neighborhood consensus expressed at a public hearing on each community's plan, the BRA and the local communities engaged what one student of Boston's urban-renewal experience called the "rehabilitation planning game:"

In simplified terms the game is one in which the LPA [local planning agency] guarantees certain forms of public expenditure -- schools, community facilities, new roads, easily accessible improvement loans and mortgages -- in return for private investment in rehabilitation of residences, businesses, and institutions, and for support of clearance and willingness to express that support at a public hearing...The neighborhood rehabilitation planning game is basically a political one in which the LPA bargains with the project area citizens over the nature of the proposal to be developed for their neighborhood.<sup>10</sup>

Despite the protracted bargaining, urban renewal-era community conflicts

with the BRA, particularly over institutional expansion, would resurface later in the neighborhood rezoning battles. Together with the state agencies responsible for demolition of homes and businesses for highway and airport construction, the BRA carried an indelible sanction. As a 1972 study noted, "To this day, many neighborhoods have resisted any involvement with the Authority, fearing condemnation of their homes and outsiders moving in."<sup>11</sup> One of Coyle's primary objectives was to distance his agency from that past association; he has been careful to say that his expansive interpretation of the reach of zoning

contrasts with earlier approaches to economic development, which rested the future of Boston's economy on a few public sector decisions. Planning and development activities of the past twenty years were often well meaning but just as often were disastrous for neighborhood residents, destroying 14,073 homes throughout the city. Past planning also allowed for the destruction of many architecturally and historically significant buildings.<sup>12</sup>

The urban-renewal era was officially over by the early 1970's. Logue was gone, after an unsuccessful run for mayor in 1967, and large-scale redevelopment grants were a thing of the past, replaced by the new federal "block grants" doled out by the mayor's office. A series of caretaker directors at the BRA focused on closing out existing projects and undertook more traditional planning and zoning activities in the neighborhoods, while the downtown office market began to take off in earnest. By the time the newly-elected Mayor Flynn hired Coyle to run the BRA, the city had growth and gentrification rather than stagnation or recovery to manage.

Coyle and Logue have been compared, mainly as blunt, clever personalities whose ability to talk their way into and out of tough situations is the stuff of

legend. Although they were responding to different markets, their attitudes and their techniques have a lot in common. Logue's "1965-75 General Plan for Boston and the Regional Core" was driven by the notion of the "capital web," his philosophy of targetting public facilities and funds to places where private investment would follow. In the environment of urban renewal, when the energy was from (in his contagious vernacular) the "feds," Logue treated zoning as more or less irrelevant. But his aggressive, entrepreneurial approach set an institution and an institutional culture in place. As the market picked up and zoning again became the nexus between the city, the developers, and the neighborhoods, Coyle saw the potential for the agency he inherited to function as strongly in the context of zoning -- or rezoning -- as it had in the context of urban renewal. He also recognized that he would have to reckon with the political process in the city's neighborhoods; like Logue, to get his job done, he would have to deliver constituencies in substantial harmony to the BRA board, and to his ultimate boss. Unlike Logue, however, he had to contend with another variable in Boston's neighborhoods -- their own hardwon bargaining power, in part as a result of the urban-renewal experience.

The technical and political aspects of zoning are almost impossible to separate, but it is important to recognize each and distinguish between them. Cloaked in technical garb, Boston has spent as much of its rezoning energy on rearranging power among public actors at the city, state, and neighborhood levels as it has on land-use planning *per se*. "Boston is not a model in terms of draftsmanship," said former BRA official and zoning attorney Edith Netter, adding, "The genius of Boston's zoning [was in] the adaptation of the techniques to the political climate."<sup>13</sup> Some important changes in height and

density have been settled in a few discrete areas, including the downzoning of the "High Spine" of Boylston Street in the Back Bay and the "capping" of downtown Boston; some important changes in use, particularly along the waterfront, have been addressed through new zoning classifications. The instruments of land-use policy, however, have been subordinated to issues of control over decisionmaking. This thesis, therefore, is not primarily a study in zoning techniques, although it tries to make some of that dry science familiar to the reader and, of necessity, details the novel methods Coyle has deployed. Instead, it puts Boston's rezoning efforts between 1984 and 1989 in a political framework. Thus, it begins in Chapter 1 (*Zoning in Theory*) by looking at the advent of zoning in America and its original premises, as well as some theoretical aspects of zoning as a land-use intervention. Chapter 2 (*The Old Rules*) describes Boston's two previous zoning codes and their images of the city. Chapter 3 (*The New Rules*) reviews the new zoning techniques the city has used as well as the various neighborhood-level committees which have been engaged in the rezoning process, and takes a closer look at the zoning claims on state-owned properties in the city. Finally, Chapter 4 (*Two Neighborhoods*) describes and analyzes how the rezoning process has played out in two neighborhood arenas: in Chinatown and in East Boston.

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NOTES

1. *Boston Globe*, "The Livable City? Surging Growth Confronts Boston's Legacy," special section published November 11, 1984, p. 2.
2. *Ibid*, p. 6.
3. *Ibid*, p. 21.
4. *Ibid*, p. 2.
5. *Ibid*, p. 3.
6. *Ibid*, p. 40.
7. John R. Logan and Harvey L. Molotch, *Urban Fortunes: the Political Economy of Place* (Berkeley and Los Angeles: University of California Press, 1987), p. 29.
8. *A Plan to Manage Growth* (Boston: Boston Redevelopment Authority, 1987), p. 1.
9. Richard Tseng-Yu Lai, *The Invisible Web: Law in Urban Design and Planning* (New York: Van Nostrand Reinhold Co., 1988), p. 358.
10. Langley C. Keyes, Jr., *The Rehabilitation Planning Game: A Study in the Diversity of Neighborhood* (Cambridge: MIT Press, 1969), p. 7.
11. John Stainton, *Urban Renewal and Planning in Boston* (Boston: Boston Redevelopment Authority and the Citizens Housing and Planning Association, 1972), p. 8.
12. *Downtown Interim Planning Overlay District*, (Boston: Boston Redevelopment Authority), May 21, 1987 draft, p. 3.
13. Interview with author, December 26, 1989.

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# CHAPTER ONE: ZONING IN THEORY

Since zoning exerts its leverage at the point where the private market meets the public domain, it highlights the tensions between private property rights and public purpose in American political thought and practice. The contradictory impulses of zoning have been present since its first appearance in the US. Seymour Toll's book *Zoned American* describes how zoning, hailed by the social reformers of the early twentieth century as the triumph of rational planning over the chaos of the industrial city, was immediately pressed into service of New York City's Millionaire's Row, to protect Fifth Avenue from the advance of the garment district. Promoted as a way to stabilize land values and thus to protect residential neighborhoods by making

development predictable, zoning has often fueled wild speculation and price inflation. Meanwhile, it has been honored far more in the breach than in the observance; some argue that the zoning appeals process -- and the bargaining which has accompanied it -- has effectively replaced planning altogether.

Zoning in America has bred what Toll calls "an important and increasingly disturbed body of law," raising and never quite resolving some of the central conflicts between property rights and public power.<sup>1</sup> Before the landmark *Euclid* Supreme Court ruling in 1926, zoning was an excursion into the legal wilderness of the "police power" of the state -- a derivative of nuisance law said to guard the health, safety, welfare, and morals of the community.<sup>2</sup> It tested the boundary between legitimate governmental regulation and the uncompensated "taking" of property; at the end of that spectrum is the practice of eminent domain, where a public claim can be made but must be compensated for. The extent of the public claim grew incrementally. For example, the New York state law setting limits on the length of the work week was challenged by a bakery owner who took New York to the US Supreme Court claiming an infringement of his property rights. Arguing that New York had in effect taken his property without "due process" of law, thus violating the Fourteenth Amendment, Mr. *Lochner* equated his property with "his unfettered right to buy as many hours of bakery labor as he chose," and the court agreed.<sup>3</sup> As Toll observed, "Zoning as an institution was raised in the *Lochner* era. It appeared in the midst of a legal fight over the limits of the police power, in reality law's lesser version of a great political fight in 1912 over the extent to which government could intervene in social issues."<sup>4</sup> In asserting a broad interpretation of the public interest at the heart of the city's

zoning prerogatives, Boston would invoke the gradual judicial expansion of the police power:

The Courts have interpreted zoning power to encompass the broad concept of public welfare stating that "the values it (zoning) represents are spiritual as well as physical, aesthetic as well as monetary."<sup>5</sup>

Zoning has a dizzying array of special procedures and jargon, but like all land-use measures it operates within a larger framework of law, policy, and political action; as a technique, it is really the subject of political theory rather than an independent object of theory. A zoning controversy is a debate over the character of a public intervention into a city's social and economic life, and its justification -- over the form that the public interest takes in a democratic society with a market economy. This chapter will look at that ongoing debate.

## THE PREMISES OF ZONING

Zoning was introduced to the American landscape as cities began to dominate the country's economic and demographic life. In 1893, Frederick Jackson Turner took the 1890 census data which described continuous settlement across the continent for the first time, with a record number of city-dwellers, and declared the American frontier officially closed. "In laying stress on the disappearance of the frontier," observed historian Toll, "Turner was in effect saying that the nation's future could no longer be sought there or even in its farms and villages. For better or worse, it was going to be in the American

city."<sup>6</sup> The powerful forces of rapid industrialization and immigration were behind this shift; the rise of the planning movement was an attempt to control the increasing complexity of the urban frontier. It was no historical accident that Turner delivered his paper at the American Historical Association meeting held at the Chicago World's Fair, which kicked off the City Beautiful movement with Daniel Burnham's definitive demonstration of the publicly-controlled "good" city. Burnham's city had aesthetic unity, but its implications were that rational physical planning could resolve the other burgeoning contradictions of American life, and zoning was its primary medium.

The first American zoning advocates were an odd coalition of social reformers, who sought to improve the housing and health conditions of urban tenement-dwellers, and social Darwinists -- free-marketeers who, reading Darwin through the eyes of Herbert Spencer, sought better masses by improving their surroundings. Evolution made strange bedfellows: in Toll's words, "While the social Darwinists were using it to justify the absence of public restraints on [economic] conduct, evolution offered a theory for imposing restraints in the concept of controlling the environment through public planning. According to the developing theory, if man's environment is decisive in his evolution, then the intelligent shaping of the environment ought to insure that evolution will bring improvement."<sup>7</sup> In 1909, New York housing reformer Benjamin Marsh published a book promoting city planning -- and the German "Zone System" in particular -- as a wise government intervention to "prevent the direful conditions of congestion, maladjustment, and pre-eminently land speculation which have reached their horrible limit in Manhattan."<sup>8</sup> Yet the first National Conference on City

Planning, organized by Marsh in that same year, was opened by New York real-estate speculator and financier Henry Morgenthau, his keynote address laced with Darwinist overtones:

There is an evil which is gnawing at the vitals of the country, to remedy which we have come together -- an evil that breeds physical disease, social depravity, discontent, and socialism -- and all these must be cured and eradicated or else our great body politic will be weakened. This community can only hold its pre-eminence if the masses that compose it are given a chance to be healthy, moral, and self-respecting. If they are forced to live like swine they will lose their vigor.<sup>9</sup>

A similar convergence of reformers and real-estate interests backed the precedent-setting comprehensive zoning code passed in New York a few years later.<sup>10</sup>

The reformers meant to equip municipal government with the kind of planning power European cities had, but they could not import European political culture, nor its notions about property or public enterprise. In Germany, for instance, cities owned 50 to 60 percent of the land and had broad taxing powers: strong weapons against land speculation and for the implementation of plans. With such leverage over private owners, German planners could, in fact, control the timing and location of development.<sup>11</sup> In America, the fledgling planning movement was up against "the frontier hatred of public controls," in an uneasy alliance with the propertied.<sup>12</sup> Zoning would always chafe against the peculiar American spirit of individualism tied to private property -- what Sam Bass Warner, Jr., called the American tradition of "privatism:"

Its essence lay in its concentration upon the individual and the individual's search for wealth. Psychologically, privatism meant that the individual should seek happiness in personal independence and in the search for wealth;

socially, privatism meant that the individual should see his first loyalty as his immediate family, and that a community should be a union of such money-making, accumulating families; politically, privatism meant that the community should keep the peace among individual money-makers, and, if possible, help to create an open and thriving setting where each citizen would have some substantial opportunity to prosper...The tradition assumed that there would be no conflict between private interest, honestly and liberally viewed, and the public welfare.<sup>13</sup>

Even though it was an intervention driven in part by reformist zeal against the excesses of industrialism, zoning was framed in this "privatist" tradition of keeping the peace among individual money-makers. The segregation of uses was certainly expected to "help to create an open and thriving setting where each citizen would have some substantial opportunity to prosper."

Zoning was also founded on the rational-planning principle that pre-established, codified standards corresponding to a comprehensive municipal plan could provide what legal scholar Richard Tseng-Yu Lai called "constitutional certainty" -- protection against the tyranny of arbitrary, *ad hoc* decisions by a public authority.<sup>14</sup> Seen in this light, the municipal master plan takes on the character of an "impermanent constitution," a commitment which "enables a property owner or land developer to foresee with reasonable certainty the direction of governmental reaction to his private initiatives."<sup>15</sup> Implicit in this approach is not just the value of certainty but a faith that certainty is possible:

The idea that planning could be made fixed and certain beforehand is inherent to Euclidean zoning...[A] city plan could be embodied in a zoning map just as a work of architecture could be described in a blueprint. Like a blueprint, the zoning map defined a predetermined, physical end state that would be essentially permanent and need little administrative discretion in implementation.<sup>16</sup>

But the authority to impose a municipal plan and a zoning code is only one half of the police power; the other half is the power to exempt, to make exceptions and changes. The local planning commissions and boards of appeal were originally vested as a legal backstop, but with discretion as their domain, they became the locus of power itself. Lai has stated the dilemma neatly: "Although public hearings are a cornerstone of democratic process, such forums on variance applications also permit the intrusion of political influence into a decision that should theoretically be a result of technical and legal determination."<sup>17</sup> Even without the out-and-out corruption that favoritism implies, critics decried the gradual erosion of the zoning code (and by extension, the municipal plan behind it) by variances and amendments. The tensions between the theoretical offers of certainty and objectivity on the one hand, and the realities of administrative discretion on the other, has generated a ceaseless round of conflicts.

Zoning was an expression of rational planning's search for certainty and objectivity, of its confidence that the public interest could be captured in a plan and displayed in the zoning map which implemented the plan. It also assumed that the physical end state projected in such a plan was fundamentally knowable: that rational planners could discover a Platonic map hovering over a municipality consonant with the public interest. The US Supreme Court has circumscribed the reach of zoning since Boston began its rezoning efforts, a judicial move which may open some measures to new challenges. But there is another, more difficult issue: the enduring question of whether there is such a singular thing as "the public interest" which a zoning map might hope to embody.

## **THE ZONING GAME AND THE PUBLIC INTEREST**

In 1966, when it was published, *The Zoning Game* was, apparently, a revelation. Primarily occupied with suburban experience, Richard Babcock's groundbreaking study opened up the procedural and substantive indiscretions of American zoning practice. Babcock let out America's dirty little zoning secret: that it was a holding action at the urban fringe, a bulwark protecting parochial suburban enclaves not only from incompatible commercial and industrial development but also from their idea of incompatible neighbors -- particularly lower-income and non-white neighbors. "Zoning is the urban renewal (or more accurately the urban reversal) of the village," he charged.<sup>18</sup> Having become a "game," zoning was a flawed and sometimes anti-democratic instrument, willfully manipulated according to the race and class prejudices of local planning commissions.

Babcock did the public service of identifying the players and interests in the zoning game: the landowner, the municipality, and the metropolis as "the interested parties," as well as the lawyers, the judges, the planners, the neighbors, and the local planning boards, who all get to play. His sarcastic style is refreshingly down-to-earth, his anecdotes juicy and apt. But beneath the wit is a set of serious concerns: not only that the public interest has been violated by the narrowmindedness of local planning boards, but that it has been invoked at the wrong level. Babcock argues that the criteria for zoning decisions should be larger-than-local, and that a new larger-than-local vehicle for the public interest is needed:

The trouble...is that by deifying the municipal plan it enshrines the municipality at a moment in history when every social and economic consideration demands that past emphasis on the municipality as the repository of the "general welfare" be rejected.<sup>19</sup>

Babcock also deified a plan, not at the urban but at the regional level, a plan which identifies highest and best uses globally but which is ignored or subverted locally. Embedded in Babcock is a Platonic notion of a zoning map which he thinks municipalities could see if they had more peripheral vision, if they were not so blindered by their parochial claims. From his repeated assertion that "[m]unicipal boundaries are probably not coextensive with a welfare that is truly general," it can be inferred that, to Babcock, metropolitan boundaries probably are.<sup>20</sup>

Babcock's argument is a variation on the debate over the public interest engaged by James Q. Wilson, among others, in the days of urban renewal. Wilson praised as "public-regarding" those who supported urban renewal in their neighborhoods -- who were "more likely to think in terms of general plans, the neighborhood, or community as a whole, and long term benefits (even when they might involve immediate costs to themselves)" -- and condemned as "private-regarding" the lower-class opponents who were "more likely to see which matters in terms of specific threats and short-term costs."<sup>21</sup> The metropolitan definition of the "general welfare" is never quite articulated in *The Zoning Game*, but apparently it is less "private-regarding" and more "public-regarding" than either the turf-conscious municipalities or their residents.<sup>22</sup> It is an interesting twist that in Babcock's construction, the middle and upper-class suburbs, which use the zoning code to guard their municipal borders, are comparable to Wilson's private-regarding lower

classes. Any and all local opposition to zoning changes is characterized as protection of the tribal interests of race and class: "Many zoning disputes ignore other valid interests...The immediate neighbors are permitted to invoke the constitutional power of the municipality to achieve what are in fact only private ends."<sup>23</sup>

Babcock's complaint was that the local planning boards had betrayed the original promise of the zoning movement to offer certainty and objectivity in public decisionmaking in an essentially impersonal, anonymous process. Even so, he maintained the faith that the public interest could still be defined in a singular fashion (although he set that interest at the metropolitan rather than the municipal level) and, properly defined, defended. Later observers have questioned whether there really is such a thing as a Platonic map which expresses a single public interest. In a more recent book, *Urban Fortunes: The Political Economy of Place*, authors John Logan and Harvey Molotch pose an alternative. Proposing that "local conflicts over growth are central to the organization of cities," they make "the case for an interest-driven social construction of cities."<sup>24</sup> Zoning is only one of the urban land-use regulations they see as an ordinary form of conflict management, the "conflict which closely determines the shape of the city, the distribution of people and the way they live together."<sup>25</sup> To them, the zoning game is a prime example of the "many strategic manipulations of the sites of decisionmaking in order to influence distributional outcomes among and within places."<sup>26</sup> The zoning map is not determined by some independent reading of the public interest but by the "making and unmaking of coalitions among neighborhood and entrepreneurial actors," in an "urban drama" whose outcome cannot be predicted by either conventional market assumptions or by neo-Marxian

analysis.<sup>27</sup> The function of political entrepreneurship -- as John Mollenkopf uses the term in *The Contested City* to tell the story of urban policymaking from the New Deal to the Great Society -- is to preside over that coalition-building process.

Babcock's metaphor persists: more than twenty years later, planners and commentators are still moved to exhort that "the rules of the game should be made certain in advance and be known by all participants before play commences."<sup>28</sup> But the idea that it is a game no longer comes as a shock. That politics and economics interact to shape the outcome is no surprise; how they do it is still a matter for discussion.

### ***URBAN FORTUNES AND THE URBAN DRAMA***

Logan and Molotch locate a different source for neighborhood resistance to urban growth. Instead of dismissing it, like Babcock, as a reflex of race and class, they regard it as a logical expression of the difference between residential "use value" and entrepreneurial "exchange value" in the property market: "The sharpest contrast...is between residents, who use place to satisfy essential needs of life, and entrepreneurs, who strive for financial return, ordinarily achieved by intensifying the use to which their property is put."<sup>29</sup> Moreover, this "contrast" is not resolved by the market, because the two valuations are by nature incompatible: "The pursuit of exchange values does not *necessarily* result in maximization of use values for others. Indeed, the simultaneous

push for both is inherently contradictory and a continuing source of tension, conflict, and irrational settlement." <sup>30</sup>

Despite their heightened awareness of the often irresolvable conflict between use and exchange values, they question whether the outcome of this contest is as automatically tilted toward "capital" as Marxian theorists might predict: "Both property entrepreneurs and residents make great efforts, often organized ones, to guarantee that various kinds of production and consumption occur in one place, and that other activities occur in another." <sup>31</sup> The *Urban Fortunes* analysis is radically non-deterministic: the dialectics of the "urban drama" are in the "making and unmaking of coalitions among neighborhood and entrepreneurial actors." <sup>32</sup>

Local government serves as both regulator and mediator of conflict, although Logan and Molotch regard its participation -- unlike its role in pluralist theory -- as far from neutral: "[T]he pursuit of exchange values so permeates the life of localities that cities become organized as enterprises devoted to the increase of aggregated rent levels through intensification of land use. The city becomes, in effect, a 'growth machine.' " <sup>33</sup> The visible hand of government adjusts the market in critical ways since public decisions crucially influence which parcels will have the highest rents, as well as aggregate rent levels for larger areas. "In zoning, planning, environmental protection, and more broadly, national urban policies, the overall thrust of urban programs has been to bolster development and rents, and rarely to enhance use values." <sup>34</sup> Government intervention is characterized by use-value rhetoric and exchange-value policies, "albeit sometimes in the face of use-value

counterdemands" and even "use value revolt," such as the environmental movement.<sup>35</sup>

The overall result is, as the book's subtitle suggests, "the political economy of place." Where people live and work is

not the simple reflection of summed preferences of discrete consumers bidding freely for wares of autonomous producers. Locational behavior cannot be explained as responses to price "signals" without an awareness of the institutional forces that constantly organize prices and structure people's ability to escape paying them. Both buyers and sellers use non-market resources as they pursue their separate urban goals. A given market is their tool or their encumbrance; it is not, as orthodox economics would imply, their guide.<sup>36</sup>

Zoning is a central example of an institutional force which organizes prices; zoning relief is a central example of how the same institutional force "structures people's ability to escape paying them." The "non-market resources" they can bring to bear on and through the political system -- locally or at City Hall, formally or informally -- are what will finally determine the success or failure of their "escape."

*Urban Fortunes* also offers a useful way to understand why different neighborhoods fared differently during Boston's rezoning process. "Although growth is portrayed as beneficial to all residents of all places," Logan and Molotch observe, "in reality the advantages and disadvantages of growth are unevenly distributed."<sup>37</sup> "Neighborhood stability...is dependent on the area's strategic utility to the growth-machine apparatus," while "[s]uch attributes as the mode of interpersonal supports, the presence or absence of an indigenous business class, and race and racism all shape specific outcomes."<sup>38</sup> How the particular urban dramas of Boston's neighborhoods unfolded has depended

heavily on these factors. A community's place not just in the city but in the regional system has compounded its development pressures; the attributes of its residents has determined their capacity to bargain successfully and influenced their choice of bargaining issues.

### ***THE CONTESTED CITY AND THE POLITICAL ENTREPRENEUR***

*The Contested City* adds an important character to the scenario sketched by Logan and Molotch: the "political entrepreneur" who mobilizes support for the "growth machine," a figure at the center of the urban drama who nonetheless

should not be equated with "politician," for "political entrepreneur" is one who gathers and risks political capital or support in order to reshape politics and create new sources of power by establishing new programs (or "products"). He or she does not simply play by the rules of the game, but attempts to win the game by changing them.<sup>39</sup>

Mollenkopf uses this term in a specific historical context, describing an arc in which federal resources were used to mobilize an urban constituency for the Democratic Party from Franklin D. Roosevelt to Lyndon B. Johnson; BRA director Logue and Mayor Collins provided two of Mollenkopf's Great Society examples. But his notion can be extended beyond the environment of urban renewal and into a zoning regime. Positioned at the strategic crossroads between the public and the private sectors and animated by the same entrepreneurial spirit, Coyle saw that he could perform a similar intermediary function by changing the rules of the Boston zoning game. This

notion underlies the parallels between the Logue era and the Coyle era, between two political entrepreneurs managing similar constituencies under different economic circumstances.

Stressing "the need to examine how politics and economics interact," Mollenkopf shares Logan and Molotch's skepticism about "economic determinism, whether on the Right or the Left" as the "'dependent variable' of urban development," and states it even more strongly: "By themselves, economic factors explain relatively little. They are necessarily mediated through, and influenced by, the political system," he argues, adding, "the specificity of urban form, it is claimed here, arises more out of political factors than any purely economic functional requirements."<sup>40</sup> In other words, given a set of economic circumstances -- be it the post-war world of suburban growth and urban departure, or the more recent burst of downtown development and neighborhood gentrification -- the policy responses are by nature opportunistic rather than inevitable, and shaped by an assessment of what the political market will bear:

Political entrepreneurs are always looking for ways to use government authority or government revenue to build up supportive constituencies. They rarely do so in a strictly economically rational manner, however...Politicians will frequently impose widely dispersed costs on the many to create friends among a powerful few beneficiaries, especially when they can be cloaked in the public interest, regardless of any resulting economic inefficiencies. Moreover, politicians will even impose costs on the powerful few in order to create a broad class of beneficiaries when the political circumstances demand it...[T]he construction of progrowth coalitions is thus driven by a political logic even more strongly than an economic one...<sup>41</sup>

Boston's rezoning effort matches this description in some important respects. The neighborhood-by-neighborhood negotiation process over the specific character of interim and final zoning has been a struggle over tradeoffs

between citywide economic goals and local political gains. Coyle sought to create a system in which economic growth could continue to occur, but its costs would be identified and exchanged for substantive targeted benefits for the neighborhood constituency which was Flynn's political base; this was the primary function of the neighborhood-level councils. The linkage program was a particularly high-profile cost imposed on the "powerful few" meant to please this "broad class of beneficiaries."

Mollenkopf's insight leaves room for the apparently inconsistent or even contradictory elements in a single program. To hold together a coalition which would support the New Deal or the urban-renewal agenda required "a progrowth programmatic framework with a jumbled character because [political entrepreneurs] had to accommodate and logroll among many different interests, none of whom -- even the most powerful corporate chieftains -- could control the entire process or even assume that its interests would be taken fully into account." <sup>42</sup> In the rezoning scenario, the "programmatic framework" is organized around the idea of "controlled" or "balanced" growth, growth tempered by other demands for tangible benefits for local residents, sometimes including the recognition of "sacred" residential space. For example, while the health-services economy has been touted as a key part of the city's future growth, Boston's hospitals and universities are far more constrained by the rezoning process than they were in the eminent-domain era: in Chinatown, the medical institutions have been told directly that their physical expansion will be subsumed by neighborhood needs; that any new construction will happen only within a larger negotiation over direct local tradeoffs; and that some of it will have to

happen elsewhere, in places where growth will be accommodated.

Urban renewal provided a model of public intervention and political innovation, a way of doing business, but it was not a model that could be repeated intact: for one thing, federal money for urban projects had disappeared under a series of Republican presidents, and private capital now drove the market rather than public investment; for another, Flynn's mayoral victory was in part what Logan and Molotch might call a "use value revolt," the culmination of reactions to urban renewal. A generation of neighborhood activism had created a new "political space" for local communities which Coyle and Flynn had to acknowledge, and which gave them part of their own leverage.<sup>43</sup> As Flynn's BRA director, Coyle had to deal with the political history of his agency as well as the economic circumstances of his time, and to reconstitute a coalition which could sustain growth without dismantling the mayor's ideological and political base.

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NOTES

1. Seymour I. Toll, *Zoned American* (New York: Grossman Publishers, 1969), p. 117.
2. *Euclid v. Ambler*, 272 US 365 (1926).
3. Toll, *Zoned American*, p. 16.
4. *Ibid*, p. 18.
5. *A Plan to Manage Growth*, p. 1 (original diction and punctuation, unreferenced allusion to the "Courts").
6. Toll, *Zoned American*, p. 199.
7. *Ibid*, p. 18.
8. Quoted in Toll, *Zoned American*, p. 123.
9. Quoted in Toll, *Zoned American*, p. 126.
10. Toll tells the whole story in *Zoned American*.
11. The motives behind the German "Zone System" may have been closer to Morgenthau's than to Marsh's: in Germany, as in England, concern for the city environment arose because military authorities were finding their urban draftees to be physically unfit for service.
12. Toll, *Zoned American*, p. 119.
13. Sam Bass Warner, Jr., *The Private City, Philadelphia in Three Periods of Growth* (Philadelphia: University of Pennsylvania Press, 1968), p. x, 3-4.
14. Lai, *The Invisible Web: Law in Urban Design and Planning*, p. 89 ff *passim*.
15. *Ibid*, p. 90, referring to Charles M. Harr, "The Master Plan: An Impermanent Constitution," *Law and Contemporary Problems* 20, no. 3 (1955), p. 353.
16. *Ibid*, p. 177.
17. *Ibid*, p. 128.
18. Richard F. Babcock, *The Zoning Game, Municipal Practices and Policies* (Madison: University of Wisconsin Press, 1966), p. 17.
19. *Ibid*, p. 123.
20. *Ibid*, p. 134.
21. Keyes, *The Rehabilitation Planning Game*, p. 9, James Q. Wilson, "Planning and Politics: Citizen Participation in Urban Renewal," p. 247.
22. To be fair to Babcock's argument, his definition of the public welfare is also closely related to the distributions of costs and benefits of local infrastructure.
23. Babcock, *The Zoning Game*, p. 138.
24. Logan and Molotch, *Urban Fortunes*, p. vii, 4
25. *Ibid*, p. 2.
26. *Ibid*, p. 36-7.
27. *Ibid*, p. 39; note that entrepreneurship has its traditional meaning here.
28. Lai, *The Invisible Web*, p. 425.
29. Logan and Molotch, *Urban Fortunes*, p. 2.
30. *Ibid*, p. 2.
31. *Ibid*, p. 9.
32. *Ibid*, p. 39.
33. *Ibid*, p. 13.
34. *Ibid*, p. 14.
35. *Ibid*, p. 37, 14.
36. *Ibid*, p. 28-9.
37. *Ibid*, p. 13.
38. *Ibid*, p. 14.

39. John Mollenkopf, *The Contested City* (Princeton, NJ: Princeton University Press, 1983) p. 8, 9.
40. Ibid, p. 5.
41. Ibid, p. 9.
42. Ibid. p. 190; also discussed at greater length on p. 210.

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## CHAPTER TWO: THE OLD RULES

In 1965, Boston eliminated height limits in downtown Boston, and in many other parts of the city. Height restrictions had been part of the Boston landscape since the battle to preserve the decorum of Copley Square in 1898, and were instituted citywide in 1904.<sup>1</sup> Other controls on property rights were through private covenants until the first "sidewalk-sunlight laws" of the 1880's, mainly fire-related bylaws adopted after the great Boston fire of 1872. The 1904 legislation limiting the highest new buildings to 125 feet survived a US Supreme Court challenge and helped establish the argument that cities in fact had the power to regulate private property.<sup>2</sup> New York City was the first to put height, use, and density rules in a comprehensive zoning package,

passed in 1916, but during their deliberations, worried New York commissioners toured Boston as an example of advanced city planning; one reported that "the Boston real estate men [who] ten years earlier had been the most active opponents of height limits for their city [were] by 1913 staunchly in favor of the controls as 'an unqualified success.' " <sup>3</sup> Despite the reported enthusiasm of the brokers, however, Boston's own zoning did not arrive until after more than 250 other American cities had followed New York's lead.

This code was intact until after World War II, when efforts to revive the declining city and its shrinking economic base began to take shape. *The Boston Plan* of 1950 proposed to transform Boston into the ideal post-war city through "slum clearance" and large-scale reconstruction, and the zoning drafted in its wake reflected that goal. By the time the new zoning actually passed in 1965, urban renewal was the vehicle for Boston's transformation, and the main task for zoning was to clear the way -- primarily by removing the barrier of height limits in the dormant downtown and simplifying the permit process in urban-renewal districts.

To illuminate the changes introduced in Boston over the past five years, this chapter briefly reviews the arcane jargon of zoning and its routine administration, and then takes a closer look at Boston's two previous zoning codes.

## THE MECHANICS OF ZONING

Under traditional Euclidean zoning, a municipality is divided into districts in which all private development is restricted to certain types, usually grouped together into residential, industrial, commercial, and (outside of urbanized areas) agricultural categories. Each functional type is often further subdivided into different classes to reflect the intensity of use: residential districts may be separated into multi-family and detached single-family houses; industrial into light and heavy; commercial into neighborhood, central business district, and highway (or strip). So, for example, the 1965 zoning code for Boston had regulations for ten residential districts, eight commercial districts, and six industrial districts. Public property is ordinarily exempt from these regulations, the assumption being that the public welfare overrides whatever conflicts might arise.

In addition, each of the classifications in these "zones" may specify minimum lot sizes and setbacks from property lines, and sometimes requirements for on-site parking and loading. Density is ultimately controlled by height limits and rules for how much bulk can be built above a site -- a critical control known as the "floor-area ratio," which often is one of the keys to the parcel's ultimate market value. Another refinement on the control of activities in a given district is the specific roster of allowed, conditional, and forbidden uses. This list may also determine market value: for instance, an empty lot in East Boston would be worth more if it were allowed to become a parking lot. The thick 1965 Boston Zoning Code book included a 60-page chart of which uses were and were not allowed in what districts. For individual property-owners to avoid any of these restrictions legally, they must apply for "relief" -- either

a variance or a conditional-use permit -- from the Boston Zoning Board of Appeals.

Any zoning code includes standards for granting variances and other permits; even nominally "forbidden" uses have criteria for making exemptions, although stricter conditions than "conditional" uses. Both are meant to guard the integrity of the zoning -- and the plan it represents -- while allowing some administrative flexibility. The original function of a zoning variance was to allow the "relaxation of the zoning code where strict enforcement would result in an unusual and 'unnecessary hardship,' " and appeals boards were expected to hold each request up to scrutiny. As legal scholar Lai has pointed out,

Over the years, the legal definition of the qualifying term "unnecessary hardship" has been relatively well established by the courts. The hardship must derive from the specific circumstances of the property in question, such as its dimensions or topography, that would prevent the owner from obtaining a fair and reasonable return on his investment. It cannot be construed in financial terms alone in order to create a greater profit...<sup>4</sup>

But it is here that the day-to-day, incremental decisions have been made which ultimately cause the "leakage" of the original code, leaving planners to despair that "the zoning tail [is] wagging the planning dog."<sup>5</sup> Cumulatively, these interstitial acts of discretion have tended to undermine the credibility of both the plan and the zoning-appeals process.

From the start, zoning systems have provided for an appellate body to hear individual requests for zoning relief and a separate body for permanent zoning amendments. Boston's Zoning Commission, as distinct from its Board of Appeals, has a different and a less visible role. It is a legislative

rather than an administrative body, which votes on actual changes to the zoning code's map or text, such as new classifications of districts and uses, shifts in district boundaries, or new dimensional requirements. For example, the official designation of the "adult entertainment district" on the edge of Chinatown (commonly known as the "Combat Zone") was formally adopted into the zoning map of the city by the Zoning Commission in 1974.

Technically separate from the BRA, the Zoning Commission is housed and staffed by that agency, and almost invisible to the public. While the Zoning Commission is the last stop before the mayor's desk, it rarely challenges measures which the BRA board has approved and forwarded. Its membership is appointed by the mayor from nominees submitted by professional, business, and construction industry groups specified in the code, plus one homeowner, the only mandated residential voice. The Zoning Board of Appeals has a five-member board selected by the mayor from candidates nominated by a real-estate, professional, contracting, and labor associations as well as one open seat, each for five-year terms.

Meeting weekly in Boston City Hall, the appeals board is the place most Boston neighborhood residents associate with the zoning process, because it is there that they trek to attend hearings and testify in support or opposition of their neighbor's first-floor sub-shop or a new parking garage nearby. It is there that the letter and the spirit of the zoning code is tested, and where it is sometimes redefined -- or obscured -- by the action of the board.

**THE 1924 BOSTON ZONING CODE:  
"SCIENTIFIC REGULATION IN THE GROWTH OF THE CITY"**

Adopted in 1924, Boston's first code responded not only to the zoning movement then sweeping the country but also to the strains on the city as it outgrew its colonial and industrial framework. Cars and the roads to accommodate them were beginning to make their impact, as well as steel-frame highrise construction: in the words of urban historian Blake McKelvey, "The skyscraper rivaled the automobile as the symbol of success in the 1920's. One was the sign of a prosperous community, the other of a prosperous family. Few among the planners realized how opposed these symbols were and how sharp their rivalry would become."<sup>6</sup> Even with the nineteenth-century landfill projects which added over a thousand acres to Boston proper, the city was congested, and the City Planning Board established in 1913.<sup>7</sup> After a long gestation and an elaborate public campaign, the code was passed on Beacon Hill, which had to approve Boston's zoning as a home-rule petition and where supporters testified "until the members of the Legislative Committee actually wearied of the practically unanimous indorsements [sic] based upon the different points of view."<sup>8</sup> Foreshadowing both the well-orchestrated support and the dissident protest of future zoning hearings in Boston, the report admitted, "One organization stood alone in opposition to the passage of the law on the ground that the plan should be subjected to further study and consideration." The planning board report does not specify which group it was, but both Beacon Hill and Back Bay residents lobbied for another decade to keep their residential enclaves "free from undesirable businesses and apartment houses."<sup>9</sup>

Even though it had become almost a national craze, zoning was still a municipal novelty item, and along with the 1924 code the City Planning Board issued a report to present its case "for directing a more orderly growth of the city during the centuries to come than has prevailed in the past three hundred years" -- an earnest document which exemplifies the rational planning spirit.<sup>10</sup> Not to be outdone by New York, the board dated its first zoning efforts back to 1915, having "early recognized the need for scientific regulation in the growth of the city."<sup>11</sup> It characterized its intervention in the private market as "a reasonable invocation of the police power not for personal preference or private gain," promising,

With equal rights for all and special privileges for none, the Plan will protect every district from detrimental property uses, preserving home neighborhoods, encouraging the most valuable development of business and promoting sound industrial expansion.<sup>12</sup>

State-owned properties were specifically exempted, as though by definition the public sector were to act in a broadly public-regarding manner, transcending any possible challenge. Similarly, the report casts the City Planning Board in the non-partisan role of arbiter and steward of the public interest -- or if partisan, for the democratic end of equalizing against privilege:

Zoning is protection for the poor man. It gives by law to the citizen of modest means, both in his house and in his business, the protection the citizen of larger means is able to secure by litigation or by private restrictions. The rich man can often protect himself against various forms of nuisances by legal action. The poor man cannot indulge in the luxury of a law suit; he cannot afford to hire a lawyer to prevent a garage being built next door, and he has no recourse when a factory hums about him and reduces the light and air circulation about his home.<sup>13</sup>

The board also recited the zoning credo of stabilizing real-estate values, its paradoxical ability to shelter investments amid change: "Like good

housekeeping, it provides a place for everything and tries to keep everything in its place...It insures permanence of character to districts once established, permitting and encouraging the orderly enlargement of residential areas, of business centers, and of industrial zones."<sup>14</sup> The report was illustrated with photographs of residential neighborhoods suffering industrial or commercial encroachment. In spite of these claims of residential sanctity, the mayor had appointed a Zoning Advisory Commission "composed of eleven members nominated by leading civic, business, and professional organizations," with only one representative of exclusively residential interests, and out of this report emerges a portrait of "the good city" as envisioned by this group: an industrial and commercial core with residential sanctuaries in the outlying areas, the existing residential neighborhoods then in the core transforming -- through the action of the market -- to higher value business-related uses.<sup>15</sup>

In the new zoning code, residential districts account for more than half of the total ground area, a jump from about 23 percent estimated to be in residential use before zoning (including "apartments and hotels"). But the board expected the new residential uses to occur in the outlying areas:

Zoning should be a help to the natural decentralization process already going on in Boston, by which the more intensive enterprises occupy the high value land close in and gradually push other business and residential uses farther away from the central district.<sup>16</sup>

This "natural decentralization" is expressed as inevitable and determinate: "As property becomes necessary for business land values go up, so that it is natural that new dwellings should be built in the outlying districts where land values are lower."<sup>17</sup> The report thus presents a contradiction in terms, never addressed in the text: that with zoning, residential districts will be

protected, but that change already underway in central-city residential areas -- deemed "necessary for business" -- is to be encouraged.

Even though many of the illustrations show an "intrusion" or "invasion" into residential areas, the report's thrust is industrial and commercial capacity-building.<sup>18</sup> The report's assessment of the city's existing conditions opened, "One of the big problems which Boston faces today, as one of the leading cities in the United States, is the adjustment of its business and industry to the physical layout of the city."<sup>19</sup> It also implied that the competition for space between residential and other uses was not serious, arguing that despite the crowded central-city neighborhoods, the city was not congested in the aggregate -- that if Boston's population were evenly distributed, the density would be about the same as "the average number of families allowed per acre in English garden cities."<sup>20</sup> The garden-city comparison evoked the benign image of a Sunnyside Gardens or one of the British alternatives to the industrial-city phenomenon, whose passionate supporters had helped generate the first serious modern debates over the need for planning and zoning.

The growth rates built into the zoning code are astronomical for commerce and industry. Heavy industry then accounted for about 2 1/2 percent of Boston's land inventory; the zoning plan set aside "10 times more room for industrial purposes than is now being utilized, or 25 percent of the total area of the city."<sup>21</sup> The area zoned for commercial activities would quadruple the area then occupied by them, although in absolute terms covering only about 16 percent of the city. Institutional space would stay exactly the same, a

proportion which does not anticipate significant expansion. Railroad properties were separately zoned, also at their existing square footage -- a full 5 percent of the city. The report failed to mention where the new commercial and industrial areas would lie in relation to existing residential neighborhoods -- particularly those which might have been undergoing the transformation "necessary for business." One illustration, entitled "A Natural Location for Industry," pointed out a "building in foreground being converted from residential to commercial use."<sup>22</sup> The residents of the core of the city could expect more of this conversion under the new code, despite its claims to "preserving home neighborhoods."

The implication is that there is plenty of room for growth, as long as it was properly placed, and the key to this was the then-vacant land and tidelands:

...[T]he zoning survey shows that 25 per cent of the entire area of Boston, exclusive of streets, is vacant land. In addition 11 per cent of the entire city consists of tidal flats under water, but available for development -- mainly for industrial purposes. How to efficiently develop this 36 per cent of the area of Boston that is not at present utilized is one of the problems which zoning will aid in solving by classifying all real property in the city according to its more appropriate and valuable use.<sup>23</sup>

This location of industry is by topography, while very likely a reflection of industrial practice at the time, was a choice that would have lasting impacts:

Under the zoning law such heavy industries as chemical plants, boiler works, and the like will be required to locate in unrestricted districts near the waterfront on low-lying land -- usually not valuable for other purposes.<sup>24</sup>

From the vantage point of 1990, it is hard to imagine that waterfront property was considered "usually not valuable for other purposes."

For the residential neighborhoods of the central city -- including the two

neighborhoods of particular concern in this thesis -- the land-use policies built into the 1924 code had far-reaching implications. These neighborhoods were considered transitional, gradually turning over to more valuable commercial and industrial activities, their residents presumably moving from the core to the outlying "streetcar suburbs." But for most of the core neighborhoods, that transition did not happen so neatly. With an entirely industrial coastline, East Boston would find itself squeezed between a deteriorating seaport and an international airport built out over a series of harbor islands. Chinatown, sandwiched between downtown Boston and the railroads, and home to a thriving medical institution, would struggle to maintain its functional and ethnic identity. Devalued as residential properties, they became the "slums" which urban renewal was meant to clear.

#### **THE 1965 ZONING CODE: ZONING FOR A CITY THAT NEVER WAS**

The 1965 zoning code took the lid off downtown Boston, removing height restrictions in the name of sparking economic redevelopment. It was a conscious -- if in retrospect, misguided -- strategy: Boston since the Great Depression had seen its port decline, its manufacturing base flee to the cheaper labor markets of the South, its neighborhoods age. Victim of a Yankee capital strike, the city looked like the aging dowager it was.<sup>25</sup> Logue, recruited from the urban-renewal vanguard of New Haven, remembers Boston this way:

When I arrived in Boston in the beginning of 1960 to talk to the newly-elected

mayor, John Collins, the tallest downtown building was the Customs House Tower, and it stood all by itself. There was nothing around it. Furthermore, there had only been three buildings built in Boston, commercial buildings, of consequence between 1930 and 1960. One of them is...Paul Rudolph's Blue Cross building. Another is the building that was blown up [Travelers Insurance, demolished in 1988]. The third is the Hancock headquarters before the present Hancock 60-story tower. So that's what I came to -- a very discouraged city, I guess, with not much confidence in its future...That was the difference between the time when there's no private investment around, when Boston banks were not only redlining residential neighborhoods but redlining downtown.<sup>26</sup>

The anxiety of the business community was behind the campaign for a "New Boston," the urban-renewal era which began under former Mayor John Hynes in the 1950's but is memorialized as the legacy of Logue.

Not formally updated until 1965, the second Boston zoning code was shaped by *The Boston Plan* issued 15 years before. The 1950 plan is revealing in its aspirations for the post-war city; it imagined suburban-scale neighborhoods of detached single-family homes nestled around private backyards, with a rehabilitated central-city core of towers and parks. The zoning drafted in its wake, although not adopted until 1965, was largely cast in the same image. As Clark Broida noted in his 1987 MCP thesis, it was not a code aimed at rehabilitation of Boston's aging housing stock but at new construction -- that is, urban renewal. Existing neighborhood dwellings would be considered unfit by the new standards, which explicitly envisioned "replacing Boston's physical plant." These standards were embodied in a dimensional table first proposed in 1958, a table adopted intact in the 1965 zoning code and almost unchanged in 1987, except for height limits in certain residential zones.<sup>27</sup> Because the dimensional table yearned to bring into being the "1950's image of Boston that never materialized," it is almost impossible for an existing building to meet the 1965 code's requirements for residential rehabilitation,

"regardless if the land owner is increasing or decreasing the unit density."<sup>28</sup>  
In part because of these stringent terms, in part because of economic trends, by the end of the 1970's zoning in Boston was routinely an appellate process.

Since the city had begun by 1965 to emphasize rehabilitation over clearance, it is remarkable that Logue pushed through a zoning code whose terms were remarkably hostile to -- and, as Broida argues, unrealistic for -- Boston's neighborhoods. But zoning was a minor player in the "1965-1975 General Plan for Boston and the Regional Core," treated as just another code, lumped together with the "building and mechanical" standards.<sup>29</sup> It was clearly overshadowed by the imperatives of urban renewal, which was highlighted as "a means of achieving the plan:" planners were mobilizing to encourage new development in Boston, rather than to restrain or manage it through zoning restrictions. Broida posed the question, "What zoning model was developed during the 1960's to regulate the bulk of Boston not lying within an urban renewal district?" and recorded as Logue's response:

According to Logue, no new zoning regulations were developed for the neighborhoods outside urban renewal districts. He acknowledged the BRA did not change the zoning for non-urban renewal areas because of a lack of development activity within those neighborhoods. The BRA had no reason to address the land use regulations for those areas.<sup>30</sup>

Logue regarded the zoning code as a floor, rather than a ceiling, in a market hardly straining at the edges of the zoning envelope. He was more concerned with streamlining the zoning code in urban-renewal districts, to offer developers a "one-stop delivery process" for their permits.<sup>31</sup> But the 1965 code was far from the dense, tripledecker reality of much of blue-collar Boston, and when the Boston economy rebounded in the late 1970's, it could not serve as an effective regulator of local development.

## **PLANNING AND ZONING ADMINISTRATION AFTER 1965**

The 1965 zoning code distributed planning and zoning responsibilities according to a traditional format. The BRA kept the planning functions it had inherited from the City Planning Board in 1960, and maintained its urban-renewal tasks. Zoning enforcement was the purview of the Inspectional Services Department; before issuing a building permit, it would first check the code to see if the proposed project needed any action first by the Zoning Board of Appeals. Zoning changes -- as opposed to zoning appeals -- would be reviewed by the BRA and heard by the Zoning Commission, formerly known as the Board of Zoning Adjustment. The membership of the Zoning Commission, as listed in the enabling legislation, is almost identical to the 1924 Zoning Advisory Commission, which sanctioned the city's original zoning code -- forty years later, the same interests were being represented.<sup>32</sup>

Neighborhood input into the review and negotiation process was left informal. Since abutters alone were officially notified of hearings on applications for variances and use permits, input was ordinarily mediated by BRA district planning staff, unless an abutter brought the application to a neighborhood forum. In the early days of former mayor Kevin White's 16-year regime, he instituted the decentralized system of Little City Halls, each with a local advisory council to serve as the neighborhood sounding board and a BRA district planner to provide the professional problem-solving tools.

An informal agreement stood with the Zoning Board of Appeals that the local councils were the unofficial brokers of neighborhood business, an agreement based largely on the assumption that the Little City Hall managers had already negotiated on behalf of the mayor's interests. By the end of the administration, however, the appeals board no longer asked applicants to show support from the local council, nor seemed to respond when those councils -- or even when the BRA district planner -- actively opposed the petition. By the end of White's tenure, the councils themselves had disbanded, except in West Roxbury and East Boston, where they were incorporated as Land Use Advisory Councils.

Overlapping with recovery, White's first two terms were associated with a period of tremendous energy, talent and purpose in the newly-opened City Hall building at Government Center as well as in the Little City Halls. By contrast, his last two terms were regarded as a season of politicking and influence-peddling, a time of ward bosses ascendant and of what one experience observer called "oilers," a generation of attorneys who greased the wheels of development.<sup>33</sup> After the Roxbury secession question had been defeated in the 1986 referendum, White was quoted on the implications of the Mandela movement, saying, "Maybe Mandela isn't even what they meant to say."<sup>34</sup> Or maybe it was. Ray Flynn had inherited a city embittered by White's final years. The 1983 linkage and community-control referenda were public expressions of fatigue and frustration, of the sense that Boston's neighborhoods were being sold out from under the city's residents. When Steve Coyle returned to his hometown in 1984, the "paradigm we had to face," as he put it, was "downtown versus the neighborhoods."<sup>35</sup> The old

zoning rules had deteriorated almost beyond recognition: "There were no rules," Coyle said, and he came intent on writing new ones.

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## NOTES

1. Coyle says that Boston's first height controls date back to 1637, and were imposed because of concerns about fire. Interview with the author, April 24, 1990.
2. *Welch v. Swasey*, 214 US 91 (1909).
3. Toll, *Zoned American*, p. 167.
4. Lai, *The Invisible Web*, p. 123-4, reference to *Model Code, Tentative Draft No. 1*, 219.
5. "Leakage" is Lai's phrase; the zoning tail is Babcock's, p. 120, referring to Walter Blucher, "Is Zoning Wagging the Dog?," *Planning*, 1955, p. 96.
6. Blake McKelvey, *The Emergence of Metropolitan America, 1915-66* (New Brunswick, NJ: Rutgers University Press, 1968), p. 48.
7. For a history of Boston's landfill projects as well as the "New Boston" movement between 1909 and 1915, see Alex Kreiger's *Past Futures*.
8. *Zoning for Boston, A Survey and a Comprehensive Plan*, A Report of the City Planning Board (City of Boston, 1924), p. 30.
9. *Organized Citizen Participation in Boston*, Boston Urban Observatory (Boston: Boston Urban Observatory, 1971), p. 5.
10. *Report on the 1924 Boston Zoning Code*, p. 3, 9.
11. *Ibid*, p. 13.
12. *Ibid*, p. 3.
13. *Ibid*, p. 13
14. *Ibid*, p. 12.
15. *Ibid*, p. 8. Other than the United Improvement Association, the roster of groups represented included the Associated Industries of Massachusetts, the Boston Central Labor Union, the Boston Chamber of Commerce, the Boston Real Estate Exchange, the Boston Society of Architects, the Boston Society of Landscape Architects, the Boston Society of Civil Engineers, the Master Builders' Association, the Massachusetts Real Estate Exchange, and the Team Owners' Association.
16. *Ibid*, p. 33.
17. *Ibid*, p. 20.
18. *Ibid*, illustrations p. 12, 13 ("Intrusion of junkshops in a residential district"), 14, 18, ("Factory invasion of an old residential street"), 20, 28.
19. *Ibid*, p.15, Sec. IV, "Boston Conditions."
20. *Ibid*, p. 20.
21. *Ibid*, p. 22.
22. *Ibid*, p. 22.
23. *Ibid*, p. 20. The report's map of vacant property on p. 23 notes that it excludes "[s]treets, parks, cemeteries and other public spaces. This implies – but does not specify – that the same is true of the report's arithmetic for what is considered "vacant" land.
24. *Ibid*, p. 22.
25. See Alan Lupo, *Liberty's Chosen Home: The Politics of Violence in Boston* (Boston: Beacon Press, 1977, reprinted 1988) for an economic and ethnic.
26. 1988 interview with author.
27. Clark D. Broida, *Updating the Outdated Boston Zoning Code* (unpublished MIT thesis, 1987).
28. *Ibid*, p. 57-8.
29. *Summary, 1965-1975 General Plan for the City of Boston and the Regional Core*, (Boston: Boston Redevelopment Authority, 1965), p. 74.

30. Broida, *Updating the Outdated Boston Zoning Code*, p. 29.
31. *Ibid*, p. 28.
32. Associated Industries of Massachusetts, the Boston Central Labor Union, the Boston (now Greater Boston) Real Estate Board, the Boston Chamber of Commerce, the Boston Society of Civil Engineers, the Massachusetts Motor Truck Association, the Master Builders Association, a joint representative of the Boston Society of Architects and the Boston Society of Landscape Architects, and three at-large commissioners, one of whom must be a homeowner (in a residence with no more than three units).
33. The term is from Larry DiCara, former city councilor and unsuccessful mayoral candidate in 1983 turned real-estate lawyer; interview with author, 1986.
34. Charles Kenney, "The Politics of Turmoil," *Boston Globe Magazine*, April 12, 1987, p. 37.
35. Both this and the following statement are from an interview with the author, April 24, 1990.

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## CHAPTER THREE: THE NEW RULES

Three years into his first term, after considerable groundwork, in May 1987, Mayor Flynn made a major speech on new zoning and development rules, announcing "A New Blueprint for the Future." He asked the handpicked crowd of business and community leaders seated in John Hancock Hall a series of provocative questions: "First, can we maintain economic growth without destroying the unique character of Boston? Second, can we control and manage growth without stifling or killing the economy? And third, can we carry out a grassroots, neighborhood-based planning process without stalling in discord or getting paralyzed by factionalism and special interests?"<sup>1</sup> Flynn's blueprint, published as *A Plan to Manage Growth*, was carefully

designed *not* to be what City Beautiful or urban renewal-era planners would have considered a master plan. Rather than a description of the physical city, it was a description of a process and a set of policies being used to arrive at development decisions both downtown and in the neighborhoods. Flynn's *Plan* enumerated a set of development principles to promote "balanced growth:" Boston's neighborhoods should share, in the near term, in the city's economic development; growth should be spread out of the downtown core; environmental impacts should be matched and mitigated by community compensations; and the city should engage in an open neighborhood planning process along with other constituencies.

The primary and most visible instrument of rezoning has been the "interim planning overlay district" -- known universally by its acronym, "IPOD" -- which split the zoning process into two phases and imposed temporary controls in anticipation of final zoning. An IPOD lays out new parameters for development in its area, setting out a new zoning envelope and effectively constraining the Zoning Board of Appeals in its deliberations over permits. It inserted what one former BRA planner called a "net" over proposed new development in an IPOD community, allowing the city as well as the neighborhood an opportunity to screen and influence a proposed project.<sup>2</sup> Through the IPOD process and through the creation of new use-district classifications, the BRA also asserted zoning control over state properties and projects within the city limits.

This chapter will review the techniques the city has used as well as the various neighborhood-level committees which have been engaged in

drafting interim and final zoning. It will also examine in detail how zoning has been deployed in the city/state confrontation over the re-use of state-owned (and state authority-owned) parcels in the city limits.

## **IPODS AND THE CONTROL OF DISCRETION**

Coyle had a real planning problem. If he announced that the BRA was about to rezone the city, he risked setting off a stampede of new development trying to get in before the rules changed. In an overheated market, the city might end up with an extra load of development, at a scale and of a type set by whatever developers could get "as of right" -- according to the underlying zoning. The new administration also faced a political dilemma. Under unexpected heat from the Back Bay neighborhood, Coyle forced a major local insurance company to scale down its new building on Boylston Street, but confronting developers was legally risky and potentially expensive in political capital; meanwhile, ignoring the development pressures on the residential communities that had just elected the new mayor was clearly unacceptable. Interim zoning solved several problems at once. Short of a moratorium, it allowed the city to screen development while the actual terms of new zoning were being negotiated out with neighborhoods, developers, institutions, and other interests.

The Interim Planning Overlay District (IPOD) Coyle introduced in 1984 is now a common feature on the Boston landscape.<sup>3</sup> Most of the city's neighborhoods either have adopted or are in the process of adopting IPODs, and downtown

Boston is covered by as IPOD as well; several other, thematic IPODs cover areas which cross geographic boundaries, such as the seven-mile "Harborpark" along Boston's waterfront and the new "Midtown Cultural District." These IPODs are not contiguous with a single neighborhood: the Harborpark district stretches from Charlestown to Dorchester, and the Midtown Cultural District runs from Boston Common through Park Square and the Theater District to the Lower Washington Street shopping area and the Combat Zone along the edge of Chinatown. The thematic IPODs create competing jurisdictions and conflicting imperatives between neighborhoods and a range of citywide interests, and within neighborhoods themselves. In Chinatown, for instance, residential advocates maintain that the seven million square feet of redevelopment envisioned for the Midtown Cultural District threatens to overwhelm their community, while local business promoters anticipate new high-visibility storefront space and rising real-estate values. In East Boston, the relationship between the Harborpark advisory committee and other community groups working on waterfront issues has been problematic. How the signals issuing from the geographic and the thematic IPODs will be cross-referenced in a final master plan -- and where they are in conflict, in whose favor they will resolved -- is still an open question.

At the neighborhood level, each IPOD is tailored for the community it covers by a BRA planner and by a neighborhood-level committee usually appointed by the mayor. Out of that drafting process comes the IPOD document, setting out the "characteristics of the district that make the current zoning inappropriate," goals and objectives, and interim land-use controls. These

"characteristics" might include current heights or predominant uses, and the "goals and objectives" make the argument on which the "interim land-use controls" rest. In a district where an IPOD is in force, it supercedes the underlying zoning and re-casts the criteria for the judgment of the Zoning Board of Appeals: "The Board must find that the proposed action is consistent with the land use objectives of the Interim Planning Overlay District, and that the proposed changes will not adversely affect the comprehensive planning process."<sup>4</sup> Thus, while the "interim" in IPOD flags all parties that both the text and the map in each district are likely to change before permanent new zoning, it prevails during the rezoning period.<sup>5</sup>

Besides their nominal task of setting groundrules for an interim planning period, IPODs have been used as a communications device, to mark which locations in the city -- and in each neighborhood -- would be considered growth areas and which would not. The language about height standards is an explicit example of this function:

Height standards send a clear signal to the developers and the community on the growth and density that can be accommodated in an area; they also serve to direct growth to sites of greater capacity, as well as protect existing scale and character.<sup>6</sup>

This signalling function is not restricted to the neighborhood proper; it also crosses geographic boundaries. The Downtown IPOD states clearly that one of its goals in re-establishing height limits in downtown is to "redirect the city's expanding market potential to unoccupied or underutilized areas of downtown Boston and to certain areas of outlying neighborhoods that would benefit from development," naming not only North and South Stations but also Roxbury's Parcel 18 and the Charlestown Navy Yard (leapfrogging over

Chinatown, which was shielded as a "Housing Priority Area" within the Downtown IPOD before it began its own community planning process).<sup>7</sup>

Nor is this signalling function incidental: it pervades the logic of the IPOD process. IPODs sort zoning issues into categories, picking and choosing among the land-use battles brewing in each community. The IPODs simply put off some of the knottiest zoning problems in each neighborhood as "Special Study Areas," subject to further analysis and debate. These sites are often owned by a hospital or university, or a city or state agency, and their re-use is usually in dispute. In East Boston, for instance, the entire waterfront is separated into six of these areas, including the piers owned by the Massachusetts Port Authority (Massport); a seventh runs along the abandoned Consolidated Rail Corporation (Conrail) tracks. Some see the Conrail corridor -- currently lined with parking lots and car-rental agencies -- as a future piers access road and others envision it as a linear park, but the question of what public agency might underwrite either use is far from settled. The waterfront has a long and sometimes bitter history of controversy, and on the Massport piers, a protracted planning process has been in progress since 1981; moreover, the city's zoning authority is itself in dispute. The Special Study Areas are a way to acknowledge the outstanding land-use controversies in a given district without resolving them -- often without even describing the process for resolving them -- in the first iteration.

One of the recurring questions about the IPOD process is how long "interim" really lasts. The original 1984 mandate from the Zoning Commission set out a

two-year timeframe for the second, post-IPOD phase of planning in each community. Nonetheless, once the contentious planning process was underway, the BRA's two-year schedule proved to be too optimistic. In fact, the time limit has already been stretched, and most of the outstanding IPODs have now been extended from their original two-year spans to an additional third year. Chinatown is one of the few communities (besides a small Dorchester neighborhood which was the first "test case") to have completed its new zoning, although Roxbury is expected to be finished by the end of the spring.<sup>8</sup> East Boston is pushing up against its third year with no final zoning in sight.

#### **PZACS AND OTHER PLAYERS: THE POLITICS OF CITIZEN PARTICIPATION**

The rezoning process has not been uniform in all neighborhoods, but adapted in response to the political pressures of each community. In no respect is this more evident than in the structures of community participation. The text of *A Plan to Manage Growth* pronounces:

Boston is in the midst of an unprecedented community-based planning process. The Flynn administration is dedicated to a balanced growth approach to economic development that is predicated on an open community planning process. The central premise of this is that all knowledge about what is best for the community does not reside with the government. Plans work best when they are fashioned by the community.<sup>9</sup>

Despite the participatory theme of the rezoning campaign, the IPOD process has involved considerable politicking -- and sometimes open confrontation -- over who would be represented through the neighborhood-level committees:

not only which local and larger-than-local interests but also in what proportion to each other. Moreover, it has raised questions about how the neighborhood advisory councils related to other advisory committees in overlapping jurisdictions.

The Flynn administration was swept into office on a tide of populist feeling, but the mayor was reluctant to arm neighborhoods with veto power over BRA prerogatives or with exclusionary devices. As a middle ground, Flynn proposed appointing neighborhood councils in a strictly advisory capacity, much like his predecessor's local advisory councils, although without the Little City Halls which had decentralized services and played something of an advocacy role as well (and which had been discredited finally as part of the mayoral "machine").

Flynn's neighborhood councils, however, got off to a rocky start. Many residents and local organizations were suspicious of a select group of mayoral appointees being delegated to speak for their community, and some told the mayor's emissaries at local meetings that they refused outright to be pre-empted. In East Boston, for instance, with its longstanding Land Use Advisory Council and that group's tradition of voluntary membership, no neighborhood council was ever formed.<sup>10</sup> However, a Planning and Zoning Advisory Committee (abbreviated "PZAC" and immediately dubbed "PEE-ZAK") was later appointed. Included in the first round of appointees, the chair of the Land Use Council promptly resigned in protest during the first PZAC meeting.<sup>11</sup> By comparison, the West Roxbury Land Use Advisory Council was retained with a split membership of mayoral appointees and elected representatives.

A similar struggle over the implications of elected or appointed memberships has occurred in other neighborhoods; simply voluntary involvement has not been an option. In Roxbury, after extensive negotiations, the neighborhood council idea was accepted but the community elected a majority of its members and -- in a gesture of compromise -- "ratified" the mayor's appointments; a PZAC then was spun off as a subcommittee of the council. The residential representatives of the Fenway/Kenmore PZAC mutinied over what they saw as the disproportionate majority representation of the medical institutions and commercial interests (flanked by the Red Sox) and resigned *en masse* last summer. The original committee has not disbanded, but the renegades have re-organized as the Kenmore-Audubon-Fenway Neighborhood Initiative (KAFNI), which is drafting its own alternative to the IPOD.<sup>12</sup>

The Harborpark and Midtown Cultural District advisory committees were selected from the multiple interest groups in their respective territories. The Harborpark group includes representatives of the Boston Shipping Association and the longshoremen's union, the department heads of the city's transportation and environment agencies, and two neighborhood members. With its putative emphasis on reviving the city's historic theaters in the area, the Midtown committee has representatives of real-estate, arts, preservation, and City Hall interests, as well as a plethora of subcommittees.

The councils have been staffed by BRA planners, with occasional consultant support hired by the agency. Chinatown was an exceptional case in getting

BRA funding for a separate executive director and outside consultants. Other groups have complained that, as volunteer organizers or independent staff support, they have been swamped with work, especially when also reviewing project proposals, and unable to put adequate time into such basic efforts as educating local residents -- beyond the council membership -- on planning and zoning issues.

Besides presiding over the IPOD process, these committees were also asked to review project proposals in the name of the neighborhood, a powerful and sometimes conflicting role. Some special problems arose from combining the tasks of project review and IPOD production. While neighborhoods were clamoring for input into review of proposed projects, the councils sometimes were asked to review projects before criteria had been established formally in an IPOD document, making the council a straw poll without clear standards but which carried the neighborhood's imprimatur. Such a vote prompted the second resignation from the East Boston PZAC.

Perhaps because of this stormy history, the BRA has characterized the *ad hoc* nature of neighborhood committees working on planning and zoning issues as a sign of its responsiveness to local needs, perhaps better described as local pressures. Even before the Fenway/Kenmore rebellion, the BRA emphasized the fact of community participation over its form:

Today, portions of Boston that were not addressed through urban renewal are operating under obsolete zoning that, in many cases, has not been updated since 1956. Clearly these old rules do not respond to the land use pressures confronting each of Boston's neighborhoods. Neighborhood-based planning offers each community in this city immediate protection from growth pressures and allows communities to shape new ground rules themselves. This open, community based process involved Neighborhood Councils, Planning and Zoning Advisory

Committees, and neighborhood associations. Yet the form of this community input is less important than the outcome that it leads to. By starting with zoning, communities develop a familiarity with complex land use issues, and acquire the ability to determine themselves lasting ground rules to govern development in their community.<sup>13</sup>

Boston now has a patchwork of "neighborhood councils" and "planning and zoning advisory committees" (and in one case, a reconstituted Land Use Advisory Council). In addition, an array of "project area committees," "citizen advisory committees," and "task forces" have been named (or in cases where such a group already existed, usually retained) for individual large projects, often with Special Study Area status, or straddling two communities: the Prudential Project Advisory Committee (PruPAC) is a current example, as is the Parcel 18+ Task Force, which predated the Roxbury Neighborhood Council by ten years. When the question of overlapping jurisdictions is raised, the city's position is that it will listen to all concerns and take heed of all recommendations. Although some of these groups have mandated tasks, this system emphasizes the political over the legal status of the committees.

## **THE CITY/STATE CONFRONTATION**

The Flynn administration has used zoning to challenge the prerogative of state agencies and authorities as the owners and prospective developers of strategically-located properties within the city limits. Arguing that these state agencies are effectively setting land-use policy in Boston without consulting the city, the BRA has asserted its claim over the re-use of these sites through zoning in a campaign Coyle has described as "modified guerilla warfare"

against the state of Massachusetts (and by extension, the Dukakis administration).<sup>14</sup>

The state has a significant real-estate presence in the city, established primarily through its transportation facilities. The Massachusetts Port Authority (Massport) operates Logan International Airport in East Boston and seaport facilities in East Boston, Charlestown, and South Boston. The Massachusetts Bay Transportation Authority (abbreviated MBTA and also known as "the T") runs the transit system, including the subway stations and bus terminals scattered throughout Boston's neighborhoods. The Massachusetts Turnpike Authority governs the Turnpike, which slices an east-west path from Allston/Brighton through Chinatown, and the Sumner/Callahan Tunnels, which cross the harbor between the North End and East Boston; the state's Department of Public Works (DPW) is responsible for the rest of the state's highway system, including the Central Artery through downtown Boston. In addition, state entities -- the whole constellation of transportation agencies as well as the Massachusetts Water Resources Authority -- are in charge of the two big infrastructure projects on which the city depends for much of its future growth, the Third Harbor Tunnel/Central Artery project and the Boston Harbor cleanup.

There is some historical irony in the fact that the city had turned the airport and seaport over to the state earlier in the century, when Logan was running a deficit; the then-booming seaport was meant to carry the airport financially. The state handed them on an independent authority, which could float bonds to absorb the costs of reviving and expanding them. Now, with a growing airport and a declining seaport ripe for redevelopment, the city is re-asserting

a claim on these state-owned sites, since they represent potential growth areas in the city's scheme. They are already in transition: Massport has converted some of its derelict piers to commercial uses, including the World Trade Center on the old Commonwealth Pier in South Boston and the Constitution Plaza office complex on the former Hoosac Pier in Charlestown. Massport also owns a large swath of formerly industrial land adjacent to the World Trade Center, an area eyed as a potential growth corridor for the downtown office market. Some of the MBTA yards are out of service, and a number of stations are also being rebuilt. The tunnel/artery project will leave 21 new acres through the heart of downtown Boston along the path of the dismantled elevated highway, and another 14 acres at the intersection of the Massachusetts Turnpike, the new artery, and the access road to the new tunnel.

The two sides have staked out their respective positions. The state has maintained that any land owned by any of its agencies (including Massport, the Turnpike Authority, and the MBTA) is exempt from municipal zoning. The city has countered that legal precedent exists for its position that if state land is not being used specifically for the agency's mandated purpose (for example, for port or highway expansion), then city zoning prevails. In 1986, the BRA produced a "briefing book" on the Port of Boston which was a thinly-veiled assault on the state's holdings in the city, opening with a letter from the mayor to the governor proposing a "summit conference" for "immediate and coordinated action" on the transition of the waterfront, the impacts of the tunnel/artery project, airport expansion, and cross-harbor water transportation; it closed with a legal memo refuting "state zoning

immunity." With control of the Boston waterfront and some of the most valuable real estate in the city at stake, both sides have threatened to defend their positions in court. As a practical political matter, it is more likely that groundrules for future air-rights construction projects will eventually be negotiated rather than litigated.<sup>15</sup>

Meanwhile, the BRA has been employing other zoning tactics to strengthen its grip on the state-controlled sites, designating these state-owned (or authority-owned) sites as IPODs, Special Study Areas, or new "reserve" districts, as though the city had an unambiguous claim through zoning. An IPOD for the Central Artery parcels, for example, has now been drafted. In the Downtown IPOD, the Turnpike air rights along the southern edge of the Chinatown and the 14-acre site at the new Turnpike/artery interchange were labelled Special Study Areas; in Chinatown's final zoning, these areas are designated Planned Development Areas which still must have studies conducted before a proposed plan will be accepted.

The "reserve" districts are a series of new zoning use classifications written to send a strong signal of the preferred land uses for these sites. By identifying some pressing need they would fulfill, the city implies that the neighborhood's interests would be served by these uses, making it hard for the state to object:

Adjacent to some existing areas are large parcels of underutilized publicly-owned land that have the capacity to accommodate residential development and relieve pressure on the existing housing stock. Such parcels would be proposed as Affordable Housing or Mixed Use Reserve Zones.<sup>16</sup>

Similar arguments have been put forward for preserving portions of Boston's

working waterfront in "Marine Economy Reserves," implicating Massport's territory. Before the Chinatown zoning was completed, the Turnpike air rights had already been designated an "Open Space Reserve," which required at least 50 percent of any development to "provide parkland for already-dense neighborhoods."<sup>17</sup> Unlike previous redevelopment projects on state-owned land within the city, the BRA's planning paradigm is not a case-by-case negotiation; instead, it is making a general, pre-emptive assertion of control across the state's holdings, unilaterally laying out a platform from which such negotiations might -- or might not -- begin.

It is instructive to compare the city's treatment of state holdings with its approach to the city's non-profit educational and medical institutions. The BRA has floated the idea of special institutional zoning, and in 1987 put forward a draft zoning ordinance requiring institutions to submit complete new master plans before any new construction would be allowed; that measure was withdrawn in the face of well-organized opposition by the schools and hospitals. Appointed with fanfare early in the administration, the mayor's Institutional Expansion Board has been largely dormant. So far, the institutions have been able to avoid the blanket requirements which are accumulating, sometimes in several layers, over the state-owned properties.

The vehicle for assembling all of these signals in each area is the IPOD. It is there that the various use categories, Special Study Areas, and other mechanisms are brought together and -- mediated by the local advisory committees and the BRA -- fitted to the particular features of each district. There are considerable variations among the IPODs, based not only on the

local geography but also on the issues raised by the local advisory committees. The next chapter will look at the rezoning process in two neighborhoods, Chinatown and East Boston, to examine how these disparate elements have been brought together in their "community-based master planning process."

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## NOTES

1. Speech by Mayor Raymond L. Flynn at the John Hancock Hall, "New Zoning and Development Rules for Boston: A Blueprint for the Future," May 11, 1987 (text distributed to the press by BRA).
2. Emilio Favorito, interview with author, March 12, 1990.
3. Although the IPOD is a Boston invention, the technical components were already available: the existing zoning code had provisions for a "special purpose overlay district"; for instance, since 1983 East Boston has been covered by a "limited parking overlay district," which made additional commercial parking a forbidden use anywhere in the neighborhood. Nor was the notion of an "interim" district new to zoning lore: tested in other cities, the courts had been friendly to the idea as long as the final zoning were to be resolved within some specified period of time. The BRA just merged the two. Credit goes to Linda Bourque, who said, "I invented the IPOD, and I may live to regret it." Interview with the author, February 7, 1990.
4. *East Boston Interim Planning Overlay District Workbook* (Boston: Boston Redevelopment Authority, July 1986), p. 4-5, boilerplate language.
5. Whichever is more restrictive, the underlying zoning or the IPOD, is what holds, unless otherwise specified; the Downtown IPOD, for example, has a provision which exempts North and South Stations from the underlying zoning.
6. *Roxbury Interim Planning Overlay District*, (Boston: Boston Redevelopment Authority, 1987) under "Neighborhood Planning and Zoning," no page numbers, boilerplate definition.
7. *A Plan to Manage Growth*, May 1987, p. 3.
8. Port Norfolk, a section of Dorchester along the Neponset River with 200 households and a paper factory along its waterfront, gave the BRA its first opportunity to test new waterfront zoning strategies; the Port Norfolk IPOD was completed in 1986, and its final zoning in 1988.
9. *A Plan to Manage Growth*, p. 18.
10. According to the Land Use Council's bylaws, any resident who attended more than three meetings in a row was considered a member, but could not cast a vote without attending two consecutive meetings prior to the vote in question. The residency requirement was fiercely protected, although periodically violated. In addition, the council was prohibited from voting on a measure on the night of its presentation to the group. These rules were meant to prevent partisans from stacking a meeting – on the principle that getting a political army to attend three meetings in a row was sufficiently daunting – and to prevent voting members from being overly swayed by the heat of the moment. The Land Use Council also made a point of holding hearings on individual proposals in the vicinity of the project – often in the local parish hall – to test local sentiment, which it was philosophically committed to upholding. Whether or not the Land Use Council had been pre-empted by the East Boston PZAC remained a live issue for both groups.
11. Jean Riesman, "Activist Quits Committee," *Boston Globe*, August 18, 1986.
12. Ralph Ranalli, "Fen/Ken Activists in Revolt vs. Flynn," *Boston Herald*, August 13, 1989. KAFNI is currently being aided and abetted by the 1990 MIT Urban Design Studio.
13. *A Plan to Manage Growth*, p. 23, punctuation and capitalization as in the original.
14. Interview with the author, April 24, 1990.
15. *Port of Boston Briefing Book*, Boston Redevelopment Authority, July 1986. The Central Artery air-rights is a counter-example where cooperation is being enforced, mostly because no one party can build anything without the cooperation of the others.
16. *Roxbury IPOD*, no page numbers, boilerplate language.
17. *Downtown IPOD*, April 9, 1987 draft, p. 11.

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## CHAPTER FOUR: TWO NEIGHBORHOODS

Chinatown and East Boston have much in common. Land-use conflicts have dominated their respective agendas for a generation. Both ethnic working-class enclaves in a strategic geopolitical position in the city and the regional system, they each have a core of sophisticated, well-connected political activists within a larger, fragmented community which can sometimes coalesce into a powerful force. Because of their strategic locations -- one on the harbor and the other at the advancing edge of downtown -- they overlap with "thematic" IPODs and have had to compete with other constituencies in the city to define the borders of their residential communities.

But the stories of Chinatown and East Boston are polar opposites in terms of both process and product. To judge from either one of these cases by itself, it would be possible to conclude the rezoning of Boston had either been a model of success or merely a symbolic gesture. The tremendous range between their results suggests that there are other factors at work, reflecting both how the city approached the rezoning process in each arena and how the neighborhood played the rezoning game.

## EAST BOSTON

In May 1984, a handpainted sign went up in an empty lot in East Boston. On the corner of a residential street as it ran down Eagle Hill into a congested crossroads near Logan International Airport, the lot belonged to the owner of an adjacent air-freight company. The sign was a dedication of sorts:

To all my friends and neighbors in the Eagle Square area who were so kind to support my application for a building permit to expand my business facilities on this site, I wish to thank you publicly.

However, my application was not allowed due to the objections of the *E.B. Land Use Council* and three of its members who were *Lucy Ferullo, Ann DeFronzo, and Mr. LeBell*.

Your voice in this matter as neighbors was totally disregarded in favor of a non-elected group who seeks to control the destiny of E. Boston regardless of the individual rights of E. Boston residents.

Therefore this site will remain a memorial to the action of this group, as it collects garbage and refuse and dog feces, and don't forget the rats.

*Your friend and neighbor, Armand Donati*<sup>1</sup>

Donati may have blamed the Land Use Council, but his building permit really was a casualty of East Boston's ongoing border war with Logan. Since the early 1960's, when the airport first expanded from an inauspicious airstrip to a jet-age complex, Logan had not only absorbed a series of harbor islands but also annexed sections of the neighborhood, including Wood Island Park, the northern end of Frederick Law Olmsted's "Emerald Necklace" of parks through the city. After the neighborhood then lost 700 feet of a local street to a runway, local residents began to protest the expansion plans of the Massachusetts Port Authority (Massport). In 1968, a persistent group of East Boston mothers mobilized with baby carriages on Maverick Street to stop the dumptrucks of Logan-bound landfill, and the White administration (at the urging of then-East Boston Little City Hall manager Fred Salvucci) began to support the anti-airport movement. After a long political fight, the 1976 Logan Airport Master Plan set a firm western boundary to the airport's property. But airport encroachment took more subtle economic form in the Logan-related businesses on the community side of the Massport property line. The object of Donati's attack, the East Boston Land Use Advisory Council, had made countless trips to the Zoning Board of Appeals to stall the creep of parking lots, car-rental agencies, and air-freight companies into the residential community.

East Boston functions something like a medieval Italian town, where different rules applied in different precincts: here, instead of the church and the barons, the community often is caught in the crossfire between different administrative and political jurisdictions. As part of the city of Boston, neighborhood land uses are governed by the Boston Zoning Code. But on the

airport side of the fence, Massport has its own domain, which also prevails at the Massport-owned piers facing downtown Boston. The Turnpike Authority controls the Sumner and Callahan Tunnels, whose tollplazas cut the community in two, and the state Department of Public Works is responsible for the viaduct between the tolls and the airport, and the highway to points north. The Federal Aviation Administration decides how low the planes can come to the rooftops, and in 1975, under the Clean Air Act, the federal Environmental Protection Agency imposed a parking freeze on the airport and on downtown Boston, but not on East Boston -- a lapse which has since attracted close to 3000 commercial parking spaces to many of the empty lots along the edge of the airport, particularly in the industrially-zoned strip along the old Conrail tracks. The zoning code -- or the zoning board -- has offered little protection to the residential community.

There were additional pressures on the neighborhood in the early 1980's: skyrocketing rents accompanied by a frightening trend of fires as the housing market escalated. In August 1984, a local newspaper described the fate of three fire-damaged buildings within a few blocks of each other: one apartment house with a partial waterfront view became the first recorded condominium conversion in the neighborhood, while another on an inland lot sat unsecured and vacant; a third was expected to go back on the rental market but at a much higher price.<sup>2</sup> By the end of 1985, the neighborhood had its first \$200,000 dwelling. One of the few Boston neighborhoods then still largely untouched by gentrification, East Boston was suddenly discovered to be only two subway stops away from the Financial District on the Blue Line, with an unsurpassed view of the Boston skyline. East Boston was caught between two

separate pressures: Logan Airport's sphere of land-use influence on one side, the housing market driven by waterfront views and proximity to downtown Boston on the other.

Expectations were running high in East Boston that the Flynn administration would accomplish through rezoning what the Land Use Advisory Council had fought in vain to achieve at the Zoning Board of Appeals. Ferullo, an active council member who had chased an illegal auto-body shop through Boston Housing Court for nine years and helped set new height limits for her harborside neighborhood, was one of Flynn's early hires; the mayor also named another East Bostonian to the sensitive post of assistant transportation commissioner. Both appointees were members of the East Boston-based Coalition Against the Third Tunnel (CATT), a group which Flynn had joined as a city councilor. That Donati's variance was denied pending the outcome of the long-awaited land-use inventory -- first promised as part of an out-of-court settlement with Massport in 1981, later taken on as a joint city-Massport project -- was also interpreted to be a positive sign of the changing of the guard at City Hall.

**The Process:**

**The East Boston Planning and Zoning Advisory Committee (PZAC)**

When a 475-unit market-rate condominium development proposal came forward in late 1985 for a former urban-renewal site on the East Boston waterfront, a coalition of East Boston groups lobbied Coyle for the protective shield of an IPOD, at one point storming his office to present their demands.<sup>3</sup>

The Harborpark advisory committee had been appointed in 1984 to draw up a plan for the city's waterfront; apprehensive that the city might treat the local waterfront as an upscale precinct separated from the rest of the inland neighborhood, the coalition was adamant that the East Boston IPOD cover the entire community as a single district, and considered it a victory when Coyle agreed.<sup>4</sup>

In July 1986, the mayor at last appointed the East Boston Planning and Zoning Advisory Committee (PZAC). It was no surprise that Land Use Council chair Anna DeFronzo was on his list: then in her late seventies, an original Maverick Street Mother and one of the community's most prominent activists, DeFronzo would have been conspicuous by her absence. She soon was. Charging that the group was topheavy with public employees and other political appointees, DeFronzo resigned in protest at the group's first meeting. "I can see the writing on the wall," she said before walking out. "I don't like these kinds of games. It's not fair to my community. I don't think there are enough community people. We'll always get outvoted."<sup>5</sup> Five of the 21 members were city employees, two were state employees with ties to other local officials, and two had previously been appointed by Flynn to other city advisory committees. The chair and the vice-chair were both firmly allied with the local city councilor, Robert Travaglini; the vice-chair had been Travaglini's campaign manager and was still one of his closest advisors.

The first item on the PZAC's agenda was not rezoning but project review: whether or not to endorse, in advance of formal planning and zoning criteria, an 89-unit condominium-conversion project proposed by former state Sen.

Joseph Timilty for an old gumball factory along with 20 more units in a nearby parochial school. Timilty promised that nine of the units would be set aside for elderly occupants at affordable rates; these units would be managed by the East Boston Community Development Corporation, whose executive director, Albert F. Calderelli, had been Timilty's East Boston campaign manager in 1979 race and now sat on the new PZAC. The local neighborhood association strongly opposed the project, although some residents were anxious to have building re-occupied; an uproar followed when the parish priest -- also a PZAC member -- seemed to encourage the formation of a new parish association supportive of the project. At an emergency meeting in August, the PZAC voted to endorse the project, over the objections of some council members that the committee had yet to establish any standards.

The PZAC met intermittently through the fall to discuss how to approach their rezoning task, finally holding a marathon two-day planning session in early December. The committee went through the map of East Boston in detail, identifying land-use priorities and problem areas in each of the residential and commercial areas and on the East Boston waterfront. A number of Special Study Areas such as the Conrail corridor and Suffolk Downs racetrack, then rumored to be closing and since closed, were tentatively set aside for closer scrutiny. The BRA staff could not answer the group's question -- an urgent one in the wake of the divisive Timilty vote -- about what kind of review powers the committee would have over the proposed condominium development, then known as Clippership Wharf and since renamed Harbor Landing.<sup>6</sup>

When the BRA staff came back the following May and handed out only a

generic "workbook" which had been compiled the previous summer, with a questionnaire attached, PZAC members were furious. "Where is all the specifics we gave you before? Nothing's there," fumed the frustrated vice-chair.<sup>7</sup> The "workbook" also included a 55-foot waterfront height limit, 15 feet higher than anything then permitted in residential areas near the harbor. Meanwhile, a draft version of the East Boston Interim Planning Overlay District (IPOD) dated May 5 already being circulated at the BRA, although none of this information was distributed to the PZAC until late September.

Once released to the community, the East Boston IPOD was taken to each of the nine residential subdistricts named in the document for a local hearing. After those meetings, it was quickly turned around and sent back to the BRA board for approval in March 1988. When the Clippership project came up for review in the meantime, however, another disgusted member quit -- Jack Scalcione, a longtime community activist and then city purchasing agent -- saying the PZAC was being used to sanction projects in the name of the community but without criteria for the height or overall density of a particular proposal, or to measure what an appropriate package of community benefits might be.<sup>8</sup>

### **The Product:**

#### **The East Boston Interim Planning Overlay District (IPOD)**

The main features of the East Boston IPOD are a total ban on airport-related uses during the life of the planning process, a 40-foot-maximum cap on

residential structures, a demand for a new Logan Airport master plan, and new "use districts" for two publicly-owned properties, one owned by the city. In addition, the entire waterfront (including the Massport piers) and the Conrail corridor were covered in a series of seven separate Special Study Areas. In addition, each of East Boston's major squares were declared Neighborhood Business Districts, due for individual studies, and its major streets identified as Boulevard Planning Districts, where site-plan review would be required for most projects. Residential parking ratios have also been raised.

East Boston follows the pattern of state parcels being set aside in special zoning categories: besides the specific challenges to the Massport properties, a set of unused MBTA carbarns were declared a Mixed Use Reserve. However, the BRA is now backpedalling on the Affordable Housing Reserve designation for the city's parcel (known locally by the name of a failed development proposal of the early 1970's as the "old Boston East site"), since it would be so expensive to build on its deteriorated landfill, and looking for a replacement site to designate. In a separate zoning effort, not included in the IPOD but approved by the PZAC, the BRA has also established "Maritime Economy Reserves" as yet another overlay on waterfront properties, including the Massport piers.

Now that the IPOD is in effect, the question of the PZAC's proper role in project review is moot. But questions about the PZAC's relationship to its counterpart in the Harborpark Advisory Committee and in other local, project-specific committees such as the East Boston Piers Project Advisory

Committee (Piers PAC) have not yet been answered -- nor have questions about how the Piers PAC and Harborpark are meant to interact. The Piers PAC had been established in 1981 in a three-way agreement between the BRA, Massport, and the neighborhood to design a redevelopment plan for the four remaining Massport piers and the adjacent 22 acres of backland; in 1986, the BRA had opted out of the contract. Technically, the PZAC now has jurisdiction because the Massport piers are a Special Study Area in the IPOD, which anticipates "building on the work of the Piers Project Advisory Committee" (or Piers PAC).<sup>9</sup> But the Harborpark committee was established early in the Flynn administration to review all waterfront projects and to draft an appropriate IPOD, and has already tried to interfere with the Piers PAC's planning process.

Looking across the harbor at the North End and its effective segregation into the upscale waterfront and the gradually-gentrifying interior, the East Boston coalition which stormed Coyle's office felt it was important not to divide East Boston effectively into two similar zones. In terms of gentrification, the Harborpark committee may have seemed a natural ally. But with strong representation from shipping interests as well as city agencies and some neighborhood members, the Harborpark group's strong working-waterfront orientation made it generally hostile towards any proposal which would "preclude" the use of the piers' deep-water channel -- including mixed-use development. It was on that basis that the Harborpark group -- spearheaded by the Boston Shipping Association and the longshoremen's union -- helped delay state legislation to fund the first phase of the East Boston piers redevelopment plan. This unexpected broadside was an open challenge to the

Piers PAC for political if not administrative authority over the piers planning process. Coyle sidestepped the issue at a face-to-face meeting in the neighborhood, saying that the Harborpark committee would continue to have input on planning issues affecting the East Boston waterfront.<sup>10</sup>

In the two years which have passed since the IPOD was adopted, however, the PZAC has not encountered much in the way of planning. While the Land Use Council survives, the PZAC has become the semi-official neighborhood catchbasin for most land-use related issues, as well as reviewing projects requiring an Interim Planning Permit from the zoning board. The life of the IPOD has been extended by an additional year, but little progress has been made on permanent new zoning. The BRA's current planner for East Boston (the fourth since the IPOD process began) Ann Voorhees Morgan described the PZAC as having "a very short attention span," adding, "The community is very committed, but very reactive. There's no working group...they're not into details...If planning on the agenda, nobody shows."<sup>11</sup> The next series of tasks includes a Transportation Master Plan for the neighborhood as well as a study of the overall impacts airport-related uses. While the IPOD declared a temporary moratorium on airport-related businesses, Voorhees said a permanent flat prohibition would probably be legally challenged, but if the studies show disproportionate impacts, the BRA can rework use tables for forbidden and conditional uses. Those studies, as well as the required work for the Special Study Areas, have yet to begin.

## CHINATOWN

On May 1, 1985, the mayor's new Asian liaison, Marilyn Lee-Tom, spent her first day on the job dealing with a fullblown crisis. A Boston vice-squad detective had beaten up a Chinese-speaking laborer in the Combat Zone, maintaining that the 56-year-old, 125-pound Long Guang Huang had resisted arrest for soliciting a prostitute. Chinatown was outraged. The crisis had a catalytic effect, bringing ordinarily adversarial Chinatown factions into an unprecedented coalition: the conservative and traditional old guard in league with the younger progressives: the Taiwan loyalists and the PRC supporters, the radical labor organizers and the established restaurateurs all part of the Committee to Elect Long Guang Huang. While fragile at times, these neighborhood alliances formed in crisis had enduring effects on the community's relationship to the Flynn administration, carrying over into subsequent rounds of Chinatown land-use politics.

Surrounded by downtown and the Combat Zone on its northern and eastern edges, growing medical institutions in its midst, and highways along its eastern and southern boundaries, Chinatown has been a neighborhood under siege. Boston's densest neighborhood, its community gardens tucked into tiny plots of open space, Chinatown has retreated into a core area one BRA staff member called a "giant neighborhood business district," a congested commercial district north of Kneeland Street to Boylston Street and a residential area squeezed into the blocks south of Kneeland. The predominance of lowrise brick bowfront housing belies the neighborhood's origins as a nineteenth-century enclave of Chinese workers who were brought to Boston to build the Pearl Street telephone exchange and settled in

the landfill along Washington Street still known as South Cove (as "Beach Street" was once a beach). By 1890, the garment and leather industries had moved in, and when other ethnic groups left, the area became identified as Chinatown.

In the heyday of urban renewal, Chinatown lost 50 percent of its land area to highway and hospital expansion. Residents were dispersed to the South End and beyond by the construction of the Massachusetts Turnpike Extension as well as the Southeast Expressway: after the Central Artery sliced the Chinese Merchants Association building in half, loyal members hung a wall-length mirror in the auditorium to create the illusion that the full room still stands. Some residential parcels taken by eminent domain under 1966 urban-renewal agreements and cleared for the Tufts University Medical School and its affiliated hospital, New England Medical Center (NEMC), are still vacant. Meanwhile, the population grew steadily, doubling between 1970 and 1980, and again by 1987.<sup>12</sup>

In the mid-1980's, after many years of marginality, Chinatown found itself in one of the most strategic locations in the city, at the heart of an area undergoing rapid conversion to higher-intensity uses. Under pressure from a Flynn administration crackdown on licensing violations, the Combat Zone had begun to tip away from the "adult entertainment" for which it had been zoned, opening a previously-barricaded development corridor to the rest of downtown Boston. The adjacent Financial District was expanding into the Leather District and toward South Station. Downtown Crossing, Park Square, and the Theater District were all being absorbed into the new "Midtown

Cultural District," the city's attempt to hasten the revival of these areas and to channel the downtown office market away from the waterfront (particularly in anticipation of the disruptions of the Central Artery/Third Harbor Tunnel project). Washington Street would soon be free of the Orange Line elevated track, opening another development corridor from Chinatown through the South End and into Roxbury. The adjacent air rights over the Massachusetts Turnpike could be a link to new development in the South End; an additional local Turnpike exit in conjunction with the tunnel/artery project could make the air rights even more attractive. In addition, Chinatown flanks the Kingston-Bedford-Essex block, downtown anchor of the cameo "Parcel-to-Parcel 1" linkage program; paired with Parcel 18 in Roxbury for development by a "minority/majority" team of white, black, and Asian-American developers, the high-profile project was important not just to the mayor but also to Governor Dukakis, then contemplating his presidential run. If some of these anticipated projects were to occur, local residents were aware that the neighborhood's brick bowfronts would appeal to young professionals who might want the convenience of walking to their new office jobs; housing prices were already climbing. Chinatown was facing the triple threat of downtown expansion, gentrification, and institutional encroachment.

Chinatown pundits are fond of noting that the Chinese character for "crisis" doubles as the word for both "danger" and "opportunity." This idiom captures the neighborhood's response to these pressures: Chinatown was in danger of being swamped by the new upscale development in every direction, but at the same time it had the opportunity to hold up a lot of different high-stakes projects. Chinatown demonstrated its ability to exercise this power after

New England Medical Center (NEMC) unveiled plans in 1986 for a 750-car garage on a parcel partly owned by the BRA. Against a backdrop of ongoing controversy with the hospital/medical school complex, the proposal proved to be the catalyst for Chinatown's planning process.

The most recent institutional-expansion row dated from 1977, when Tufts had begun to acquire garment-factory buildings outside its urban-renewal-area boundaries, putting at risk 800 jobs on which many Chinatown families depended. Subsequent negotiations with a Chinatown task force ran until 1983, when the institutions agreed to provide a substantial sum for housing, jobs, and scholarships; the agreement also allowed Tufts to proceed with its projects. In addition, some of the garment-workers' old jobs were eventually housed at a city-owned industrial site in South Boston, and a number of Chinatown employees went with them. Even with these positive outcomes, however, the battle raised the neighborhood's level of suspicion about the two institutions' future expansion plans -- suspicions which the garage proposal only confirmed. The garage proposal also appeared at a time when the community was already saturated with traffic from downtown commuters and hospital visitors.

At the BRA's suggestion, NEMC began discussions with the Chinatown/South Cove Neighborhood Council (CNC). Set up soon after the Huang incident, the group had broad representation from across Chinatown's political camps, and focused quickly and sharply on development issues in the community; Lee-Tom had since been appointed its first executive director. After a year of wrangling over the size of the garage and the appropriate use of remaining public land in the neighborhood, the CNC voted in March of

1987 to cut off all negotiations. On the heels of this impasse came a story in the *Boston Herald* that Tufts and NEMC might absorb St. Margaret's Hospital, a project which would have moved the financially-troubled archdiocesan maternity unit in Dorchester to a new Chinatown facility.<sup>13</sup> That Chinatown was even being considered as a possible site heightened the community's animosity towards Tufts, NEMC, and the city.

In July, the BRA suddenly reversed its policy orientation towards the NEMC garage and towards Chinatown planning imperatives as a whole. Citing the residential community rather than the hospitals as the "reference point" and rejecting his own staff's recent recommendations, the director told his board:

A previous planning analysis about the NEMC garage came to the wrong conclusions about land uses in Chinatown because it failed to shape the policy questions appropriately. With respect to NEMC's garage proposal, the central issues in formulating the decision framework were not where to locate a garage, how to finance it, or how large it should be. Rather, the appropriate planning principles were to maintain and improve the quality of life in Chinatown, and to strengthen its residential character. This analysis represents a change in the perspective which held that land use decisions in Chinatown should be analyzed in the context of institutional expansion plans. A shift to the community needs and values as the standards of reference changes both the nature of the questions posed, and the resulting answers. On a broader level, this analysis shows a need for a community-based comprehensive planning process to guide future land use decisions in Chinatown.<sup>14</sup>

Coyle also made a commitment to use city-owned land in Chinatown for housing rather than parking, saying that "the need to dedicate publicly-owned land to a use other than housing must be compelling."<sup>15</sup> For the purposes of zoning, Chinatown had been considered part of the Downtown IPOD, but Coyle announced that a separate "community-based master-planning process" would be undertaken, and that no institutional proposals would be

approved until it was complete.

For an agency born out of urban renewal, a document arguing that "the legitimate organizing principles in land use decisionmaking in Chinatown do not depend on the programmatic needs of the institutions" is extraordinary. For any institution to admit a mistake -- and a mistake made under its current administration -- is even more amazing. The lengthy planning and zoning process that followed, under the aegis of the neighborhood council, reflected some dramatic changes in the balance of power in the community.

#### **The Process:**

##### **The Chinatown/South Cove Neighborhood Council and Other Players**

The CNC formed an Ad Hoc Master Plan Committee which included council members, other community leaders, and the BRA director of Chinatown planning. The BRA in turn sponsored a four-part Chinatown survey on housing conditions, business and employer characteristics, land uses, and user characteristics. Another survey on employment needs, including English-language training and child care, was sponsored by the CNC and funded out of jobs-linkage funds. City Hall also provided technical assistance and support from BRA and other city staff, and funded consultants in strategic organizing and transportation. Out of these studies and strategies came the draft Chinatown Community Plan, sketching broad goals for housing and land use, business and economic development, community services, and traffic and transportation. The draft community plan later was ratified at a neighborhood meeting.

The second phase of planning focused on implementation strategies. The MIT urban design studio in the spring of 1988 worked with the neighborhood council on the *Chinatown 2000* plan, emphasizing the potential for the air-rights parcels to provide economic redevelopment benefitting core Chinatown; the report details the possibilities for a 14-acre site now covered by highway ramps which will become the new intersection of the Turnpike, the Central Artery, and the access road to the new tunnel. (Dubbed "the infield" by the tunnel/artery planners, the BRA has now adopted the studio's name for the site: the "Gateway.") The report also outlined an ambitious housing plan. In addition, it targetted the "Hinge Block" -- a transitional block now at the edge of the Midtown Cultural District, long coveted by developers waiting for the Combat Zone to turn -- as an additional expansion area for Chinatown. Meanwhile, the BRA was putting together the Chinatown Housing Improvement Program, expected to generate up to 500 new units; out of that initiative, a site was split between two local teams and linkage funds dedicated to their projects. While the city's transportation office was drafting a Chinatown traffic program, CNC consultants did studies on housing rehabilitation and entrepreneurial development. Another consultant team was retained by the BRA to work with the council on community-services facility for the site originally targetted for NEMC parking.

The BRA continued to take on the medical institutions over the parameters of their development plans. Even after the garage issue, another round was fought over a small building at 34 Oak Street, used for many years as a day-

care center and home of several local organizations, including the CNC. The BRA was preparing to turn the building over for a nominal fee to the Quincy Community School when NEMC protested that it was entitled to the property under a 20-year-old "cooperation agreement." Coyle immediately challenged both the legal and the practical basis for NEMC's claim, which was not upheld in court. Coyle publicly aligned the BRA with Chinatown and isolated the institutions, saying that NEMC had used the issue "to assert its future rights to expand. This was not about 34 Oak, but about institutional expansion, institutional planning, and the future of the community." <sup>16</sup>

Chinatown advocates were reassured by the BRA's position on the medical institutions, but they were less comfortable with the relationship of Chinatown to the Midtown Cultural District, whose enormous volume of office space loomed over the neighborhood, despite the promised benefits to the community, and they were less certain of Chinatown's bargaining position with the BRA. At a meeting with Coyle about Midtown meeting, Chinatown activists lobbied for a separate Chinatown subcommittee of the Midtown Cultural District Task Force, which had a strong representation of real-estate, arts, preservation, and City Hall interests. Coyle declined to add such a committee, saying that Chinatown's input could occur less formally. Acknowledged the election results, he said, "I respect the community's decision but I expect others to stay involved." Drawing a comparison explicitly to East Boston, where, he said, "70 people are involved on the Land Use Council, the PZAC, the Piers PAC," he asked, "Who do we listen to? Everyone." <sup>17</sup>

**The Product:****The Chinatown Community Plan and the Chinatown District Zoning Plan**

Chinatown's new zoning was produced in a series of documents which took several different forms. At the time of Coyle's original 1987 announcement, the neighborhood was subsumed by the draft Downtown IPOD. Much of Chinatown was covered as a "Priority Preservation Area" (where present uses were to be encouraged, and heights allowed to 65 feet), and the rest of it as a "Restricted Growth Subdistrict" (where uses were already in transition and would be allowed to continue, with heights to 100 feet). The neighborhood was also divided into three "Housing Priority Areas," where between 25 and 75 percent of most projects would have to be devoted to housing. The Downtown IPOD also identified the Turnpike and tunnel/artery air rights parcels as Special Study Areas.

The Downtown IPOD had mandated a community-based comprehensive development plan for Chinatown and South Cove before permanent zoning amendments could be adopted for the neighborhood. The draft versions were circulated and ratified at a community meeting in 1988; the final community plan and the final zoning were issued together in December 1989 and passed by the BRA board in March 1990.

The zoning is detailed and specific on the heights, densities, and uses for residential and commercial activities in each subarea of the neighborhood. Several areas are designated as "protection areas" with limited heights (although not as limited as they might be in a historic preservation district)

and some other restrictions. Open space is also carefully monitored. The possibility of large-scale mixed-use development is pushed out to the periphery, on the air-rights sites which are Special Study Areas in the near term and become Planned Development Areas -- requiring another round of zoning review by the BRA -- as development proposals are later generated. In addition, the zoning requires each institution to submit a master plan "which will be approved by the city only if it is consistent with the Chinatown Community Plan." <sup>18</sup>

NEMC's new master plan could be fairly described as an indirect product of this process. With a set of pressing development projects, the hospital was willing to trade autonomy for certainty. NEMC director of planning Anne Levine said, "We built a case for our square footage needs. We made a commitment for 250,000 square feet on campus." If her office had not calculated a project-by-project number as part of an up-to-date master plan, she would have been left to worry later, "'Can we get the half million square feet we *might* need?' " <sup>19</sup> Tufts, on the other hand, has strongly resisted meeting the BRA's or the community master-planning requirements, thus missing the cycle of concurrent planning. The medical school is now being sent a strong signal not to expect to grow within core Chinatown but to go to the new biotechnology research center the city has proposed for the South Station area instead. <sup>20</sup>

Not everyone in Chinatown is satisfied with the results of the land-use tug-of-war of the last several years. The political framework in Chinatown did not remain stable throughout this process: the first CNC election, marred by

charges of voting irregularities, had turned most of the progressive voices on the council out of office. Some activists are still worried about the ultimate spillover effects of the Midtown Cultural District, arguing that the few benefits in storefronts, cultural space, and day care are not adequate compensation. Some, more bitter, feel the community has been distracted and worn down by the participation process, with few if any tangible benefits to show for it. But at a meeting on the final zoning package, Coyle maintained, "This document is closer to being a social contract than any other [in Boston] because of community participation."<sup>21</sup>

## **A COMPARATIVE ANALYSIS**

The cases of East Boston and Chinatown stand at opposite ends of a spectrum. Chinatown emerged from the rezoning process with a set of commitments on what development would occur where, even what criteria would be used for evaluating community benefits. It was a planning watershed for the city's medical and educational institutions as well: for the first time, institutional master plans had to conform to a prior community plan and, if necessary, wait for that plan to be completed. By comparison, the relatively lean East Boston IPOD was merely exhortative, asserting the primacy of the residential neighborhoods and declaring a temporary ban on airport-related commercial activities anywhere in the neighborhood. It left no instructions for the unfinished planning process within the community, even though it set large chunks of the neighborhood aside for further study -- and little progress on those studies has been made. It demanded a new master plan from Logan

Airport, yet despite the city's aggressive posture on the other side of the harbor, the IPOD was silent on the impacts of the tunnel/artery project on the community. Except for the marathon meeting in December 1986 and the subsequent round of IPOD hearings by subdistrict, the individual areas of East Boston have had little concentrated attention.

The phrase "community-based master planning" glosses over the very real differences in the level and kind of resources doled out to different communities: after the Chinatown "community-based master-planning process" was underway, that title could be attached to any process in any other neighborhood arena -- even one without any independent staff or resources, and without the planning activity dedicated to Chinatown in advance of rezoning. It also glosses over how the neighborhoods played. For a neighborhood to play to "win" under the new rules means understanding where it stands in the unwritten growth map of the city, enlarging and buffering the "sacred" residential areas, and detailing both the conditions for growth and the sequence of decisionmaking on the "gray areas." Where communities have identified certain locations or issues, and lobbied, the zoning is more detailed and the criteria for development more rigorous. These plans reflect the community's assessment that the more definitively an IPOD is articulated, the harder it would be to abrogate either during the interim period (at the appeals board) or during the final planning process. It reflects the recognition that the planning process is both a political and a technical game, and that both sides must be played strategically.

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## NOTES

1. Jean Riesman, "A Memorial to Community Concern," *East Boston Community News*, May 29, 1984. The zoning board had put Donati's application on hold -- it was not an outright rejection, but the board said it was waiting for a local inventory on airport-related uses before it would act. Sign contains two misspellings; names should read "Anna" DeFronzo and Robert "Lebel."
2. Jean Riesman, "A Tale of Three Buildings," *East Boston Community News*, August 7, 1984.
3. Julie Catalano, "CAPABLE Plays Coyle a Surprise Visit," *East Boston Community News*, April 26, 1986.
4. "City Agrees to Help Plan Development," by Julie Catalano, *East Boston Community News*, February 25, 1986.
5. Jean Riesman, "Activist Resigns from Committee," *Boston Globe*, August 18, 1986.
6. Jean Riesman, "Planning Board Meets Through Weekend to Map Out Rezoning Effort," *Boston Globe*, December 8, 1986.
7. Jean Riesman, "Advisory Group Blasts Zoning Staff," *East Boston Community News*, June 2, 1987.
8. A subcommittee of the PZAC continued discussions with the Clippership developers, negotiating for fewer units, reduced building heights near an adjacent elderly public-housing complex, the location and number of affordable units, below-grade parking, and a secure future for a lobster wholesaler who leased space at the edge of the site. A compromise was reached, but when the real-estate market softened, the developers put the project on hold; they are now trying to re-open those negotiations.
9. East Boston IPOD, Section 27-G.1, "Special Study Areas, p. 33.
10. Julie Catalano, "City Puts Brakes on Eastie Development," *East Boston Community News*, May 29, 1986.
11. Interview with author, January 16, 1990.
12. *Chinatown 2000*, p. 8: in 1970, population stood at 1475; in 1980, at about 3500; and in 1987, at an estimated 5100. Figures come from US Census data and the 1987 Chinatown household survey conducted by the BRA. The historical information in this section is also culled from the *Chinatown 2000* report; the author was a member of the 1988 Urban Design Studio which produced it. Note that in the urban-renewal era, Tufts and New England Medical Center formed a joint development corporation known as T/NEMC for its construction projects; they now operate as separate development organizations and do increasingly separate planning.
13. Jean Riesman, "Hospital Weighs Tufts Merger," *Boston Herald*, May 24, 1987.
14. *Report of the Director to the BRA Board on the New England Medical Center Garage Proposal*, July 16, 1987.
15. Ibid.
16. Personal notes from July 13, 1988 public meeting at the Chinese Cultural Institute.
17. Ibid.
18. *Chinatown Community Plan*, p. 18
22. Interview with author, March 1, 1990.
23. footnote citations from RFP; Footnote Coyle quote on Tufts from 1/90 meeting.
24. "Technopolis: South Station Air Rights Request for Proposals," Boston Redevelopment Authority, November 30, 1989, "Development Objectives," p. 8: "To reduce impacts of institutional expansion within Chinatown."
25. Personal notes from the January 24, 1990 public meeting sponsored by the Chinese Consolidated Benevolent Association on the final Chinatown zoning.

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# CONCLUSIONS

The image of the city emerging from the rezoning process is that of a city divided into negotiable and non-negotiable turf. Like urban-renewal's "rehabilitation planning game," the rezoning of Boston has been a political process in which the BRA bargains with neighborhood residents over the nature of the plan for their area. Rezoning, however, has been a more sophisticated game, in which several layers of bargaining are conducted simultaneously: with state, with institutions, and with citywide or "thematic" interests, keeping BRA in central brokering role. In addition, the IPODs are part of an economic plan Coyle is piecing together in fragments because of the political risks of a more fully articulated version.

Not just the Boston Zoning Code but the rules of the Boston Zoning Game are being rewritten, in an extraordinary display of political entrepreneurship by Coyle. Lee-Tom and others credit the transformation of BRA policy in Chinatown to walking Coyle through its crowded local streets, where the sight of a kid riding a tricycle in the NEMC parking lot brought home the realities of life in Chinatown. However, a set of other reasons converge to help explain the shift. Playing the Chinatown card distanced the agency from its urban-renewal history in the most dramatic way possible. If a strategy were to be designed to detoxify the community's relationship to the BRA while putting the institutions on notice that they had to play by new rules, that would be it: announcing that no development would occur until the community had completed its own master plan, and then challenging NEMC in court on the vestiges of its urban-renewal agreements. The NEMC campaign put institutions all over the city on notice that the BRA was not to be bound by old agreements from another time and another way of doing business; the rules for the hospitals and universities had changed, too. It also stood to change the dynamics of the relationship between institutions and their surrounding communities, so that the institution's word -- and the BRA's word -- might come to have some credibility. In addition, if the BRA could broker a good deal in Chinatown, it could be used later as model for other institutions and other neighborhoods. Moreover, by flagging South Station as an acceptable growth area, it showed that the city was both serious about protecting "backyards" and committed to growth in its targeted locations.

If this thesis has made an accurate assessment of the city's new zoning game,

an observer should be able to look at the rezoning experience of other neighborhoods across the city, ask a few questions, read their IPODs, and locate them somewhere on the spectrum between Chinatown and East Boston's experience. Who was on the local advisory committee, and how were they selected? Do they conform to the "backyards"/"gray areas" paradigm? How did state-owned and institutional properties fare? What remains to be done in the planning process, and who is responsible?

The pattern seems to hold: for example, in the Allston/Brighton IPOD, height restrictions are now intact in the residential areas of the community while the Allston Landing area, a 10-acre site where the Turnpike tolls straddle railroad yards and trucking depots, is a Special Study Area, whose future uses a BRA consultant is now investigating. In the Fort Point Channel IPOD, all of Massport's waterfront holdings and the backland on Commonwealth Flats are Special Study Areas, while the warehouse district pioneered by artists and made safe by them for gentrification is more tightly controlled, with protective new zoning for the artists' loft spaces; this was the price of the community's cooperation on the ill-fated Fan Piers project, a "gray area" *extraordinaire*. The Roxbury IPOD is remarkable for its thoroughness, with an array of height, parking, demolition, and use controls as well as a plan for determining the disposition of public lands, setting affordable-housing requirements, and drawing up an open-space plan (which has now been finished). The MBTA-owned properties along the Southwest Corridor were already under redevelopment agreements (Parcel 18 is a Special Study Area), but two smaller T sites are identified as Affordable Housing Reserves, while the Dudley Terminal of the old Orange Line (now dismantled) is a Special

Study Area; the third Special Study Area is the Dudley Triangle, where the Dudley Square Neighborhood Initiative (DSNI) has been given eminent-domain powers to assemble land for redevelopment. Roxbury also initiated "Sub-PZACs" (commonly known as "SPEE-ZAKS"), to do even more fine-grained planning at the next level. Roxbury, however, was not only home of a simmering secession movement but also the site of one of Coyle's earliest and biggest miscalculations: a plan leaked to the Roxbury community early in 1985 which envisioned a new High Spine marching down Melnea Cass Boulevard, bringing an estimated \$750 million in new investment to the Dudley area. The response to the plan was so overwhelmingly negative that it sparked the formation of the Greater Roxbury Neighborhood Authority, a series of court battles over the zoning, and a stalemate over neighborhood council representation. Even a political entrepreneur makes mistakes, and has to change his game plan. But even there, by dividing the neighborhood into protected residential territory and potential growth areas, Coyle was able to pursue his flagship parcel-to-parcel linkage project on Parcel 18.

A portrait of political entrepreneurship emerges from the story of Boston's rezoning. Coyle has used zoning to challenge the autonomy of state ownership in the city, to try and bring public property under the same planning purview as private and institutional holdings. He has used zoning to try to erase the memory of urban renewal -- to allay the fears of neighborhoods that, in his phrase, they might be randomly "West-Ended," and to wipe out the expectations of institutions that 20-year-old plans and agreements still hold.<sup>1</sup> He has used it to trade growth for a linkage fee and for other community benefits. He has used the interim phase to give the city a legal and political handle on development, to signal the locations and the

terms for negotiation over development. Taking a leaf from Logue's book while repudiating his era, Coyle seized the economic energy of the early 1980's and traded it against the political capital of the Flynn administration. He is still in the process of rewriting not just the Boston Zoning Code but the rules of the Boston zoning game.

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NOTES

1. Interview with author April 24, 1990.

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# APPENDICES

- A. Use of Property in Boston Before and After Boston's First Zoning Code
- B. Who's Who in the Zoning Process
- C. Community Based Planning in Five Steps
- D. Zoning Map of East Boston Before the IPOD Process
- E. East Boston's Special Study Areas
- F. East Boston's Affordable Housing and Mixed Use Reserves
- G. Chinatown Final Zoning: Special Districts
- H. Representation on Boston's Zoning Commissions, 1922-1990

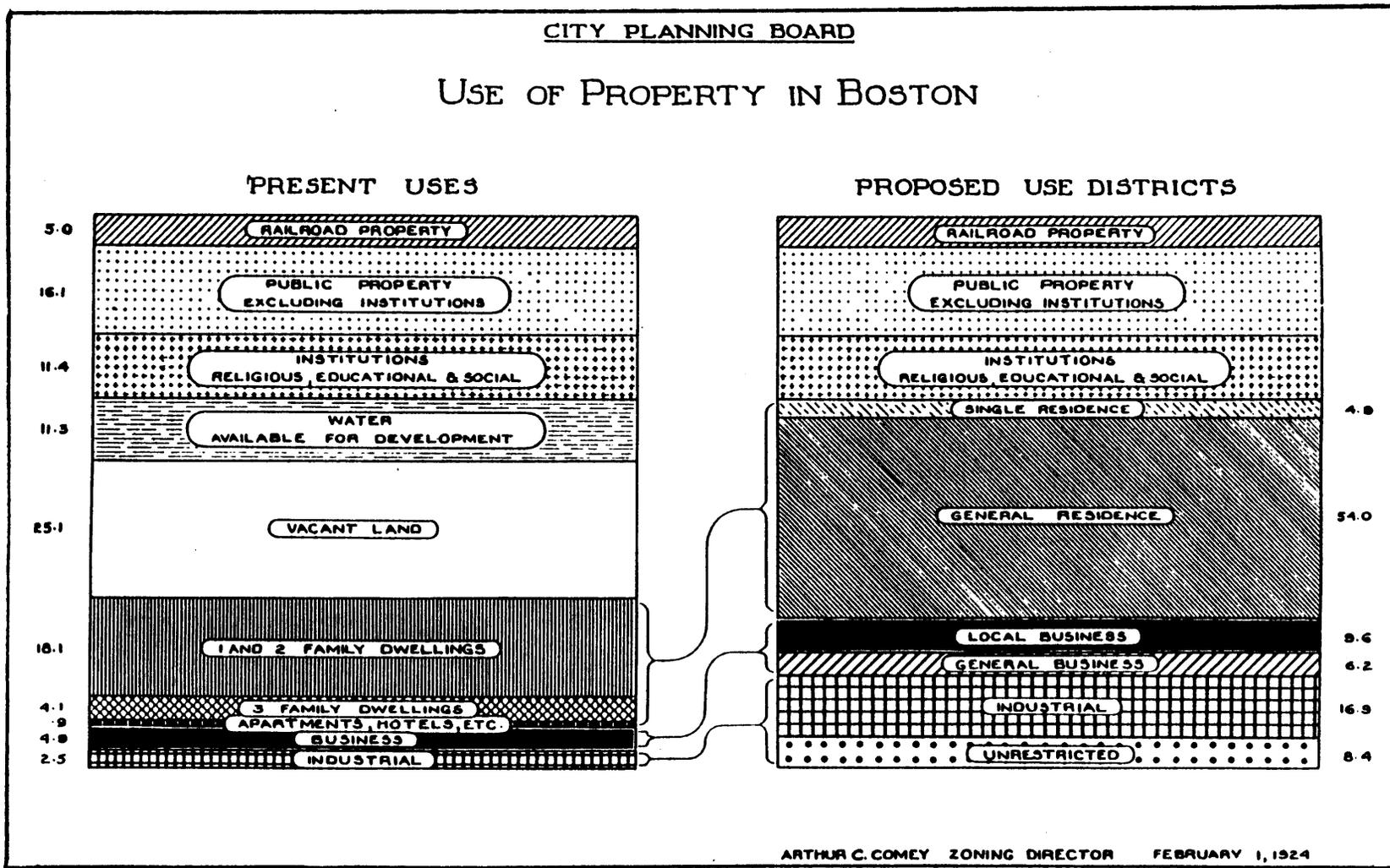


FIG. 10a.—SHOWING OCCUPANCY OF AREAS UNDER FORMER CONDITIONS.

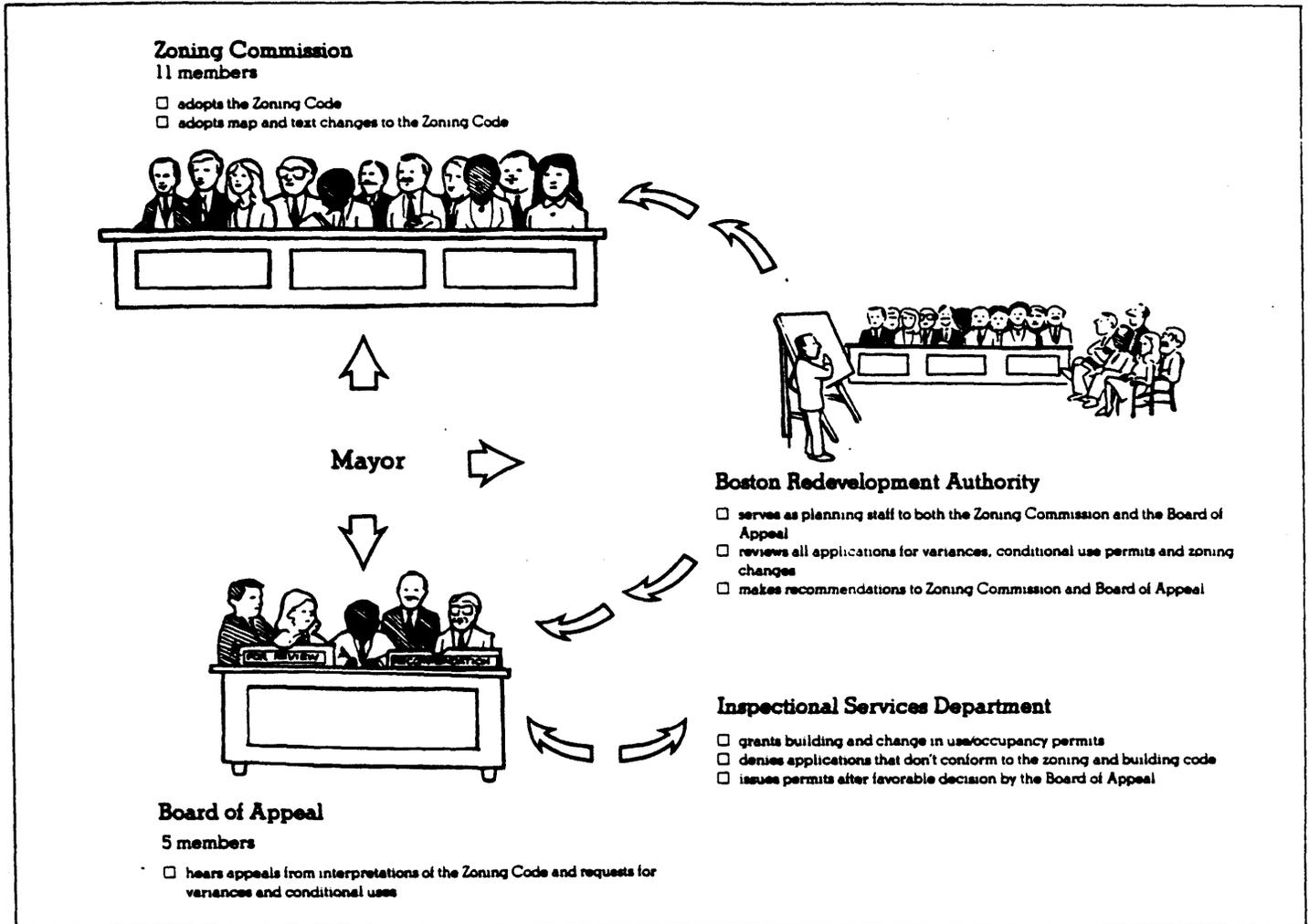
FIG. 10b.—SHOWING AREAS AVAILABLE FOR OCCUPANCY UNDER ZONING PLAN.

Exclusive of street area.

From *Zoning for Boston, A Survey and a Comprehensive Plan*, A Report of the City Planning Board, City of Boston, 1924, showing the allocation of space before and after Boston's first zoning plan.

# APPENDIX B.

## WHO'S WHO IN THE ZONING PROCESS



Source: *A Citizen's Guide to Zoning*, Boston Redevelopment Authority.

## APPENDIX C.

### **Community Based Planning**

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**STEP 1** Proposal of Zoning Guidelines

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**STEP 2** Community Review Process

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**STEP 3** Zoning-Interim Controls

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**STEP 4** District Planning

Special Studies

Project Reviews

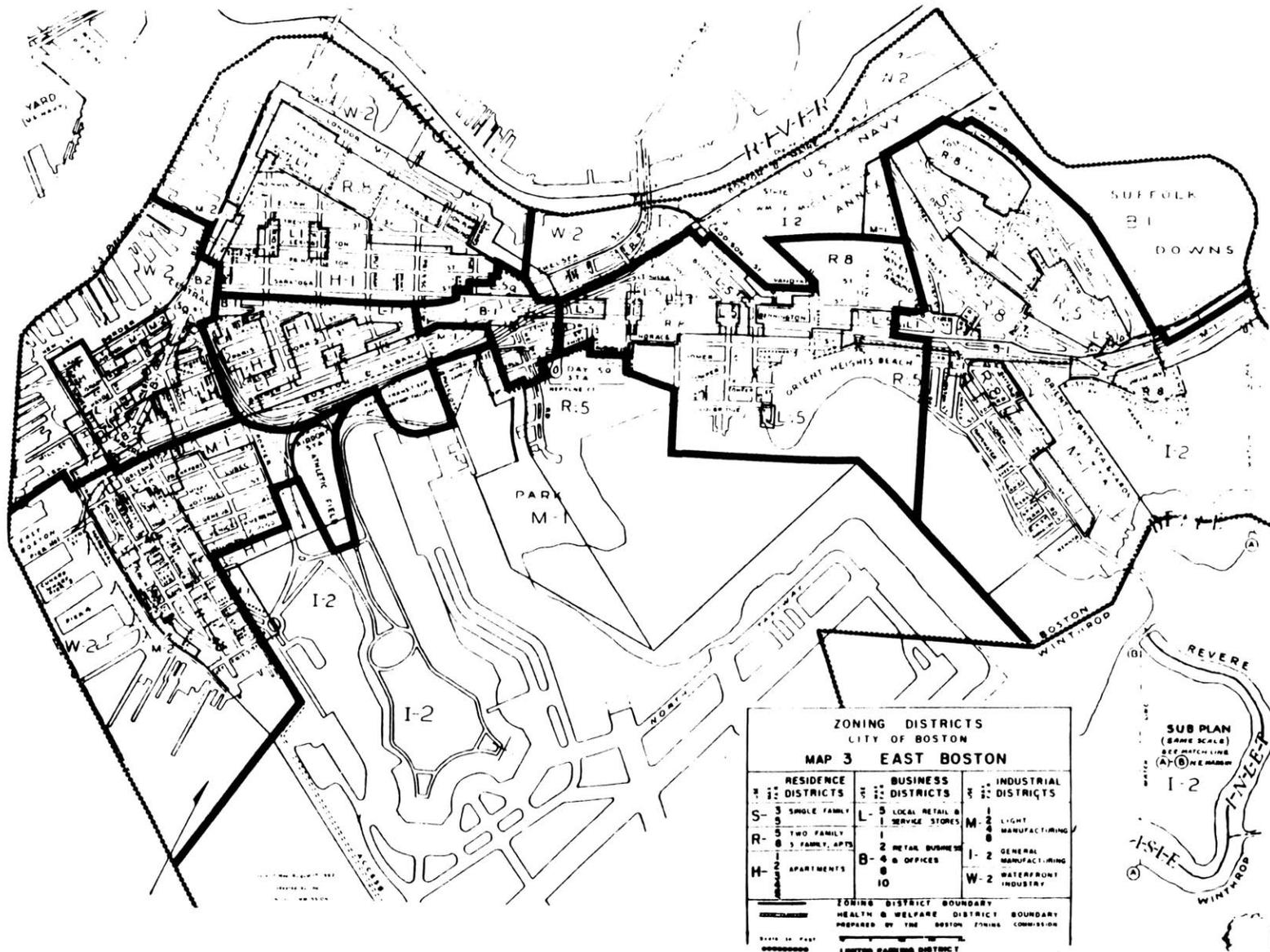
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**STEP 5** Final Zoning Ordinances

Final Plan

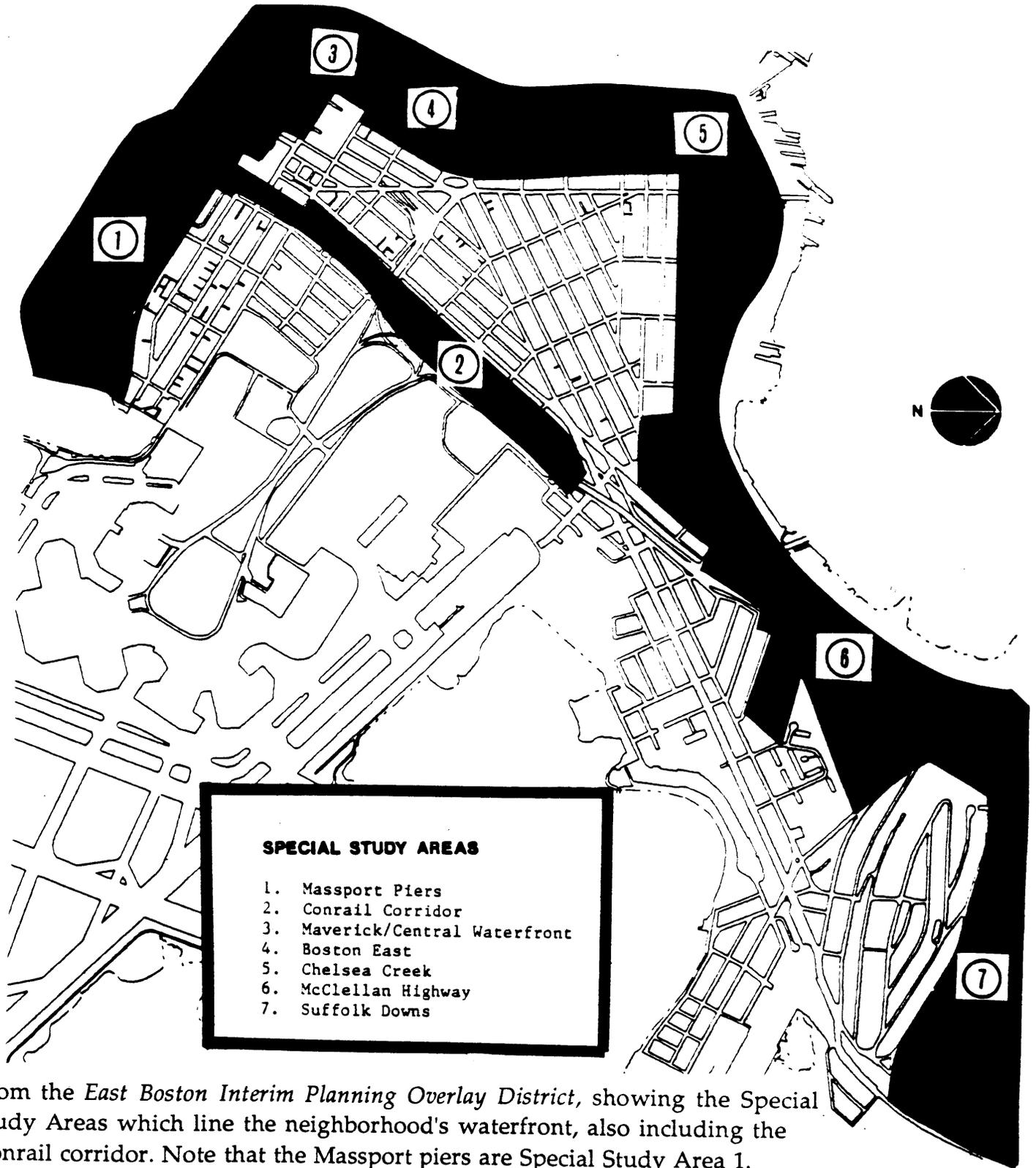
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From the East Boston *Interim Planning Overlay District*, but a standard feature of every IPOD document, showing the steps in the community-based planning process. [Note variant spelling of "guidelines."]



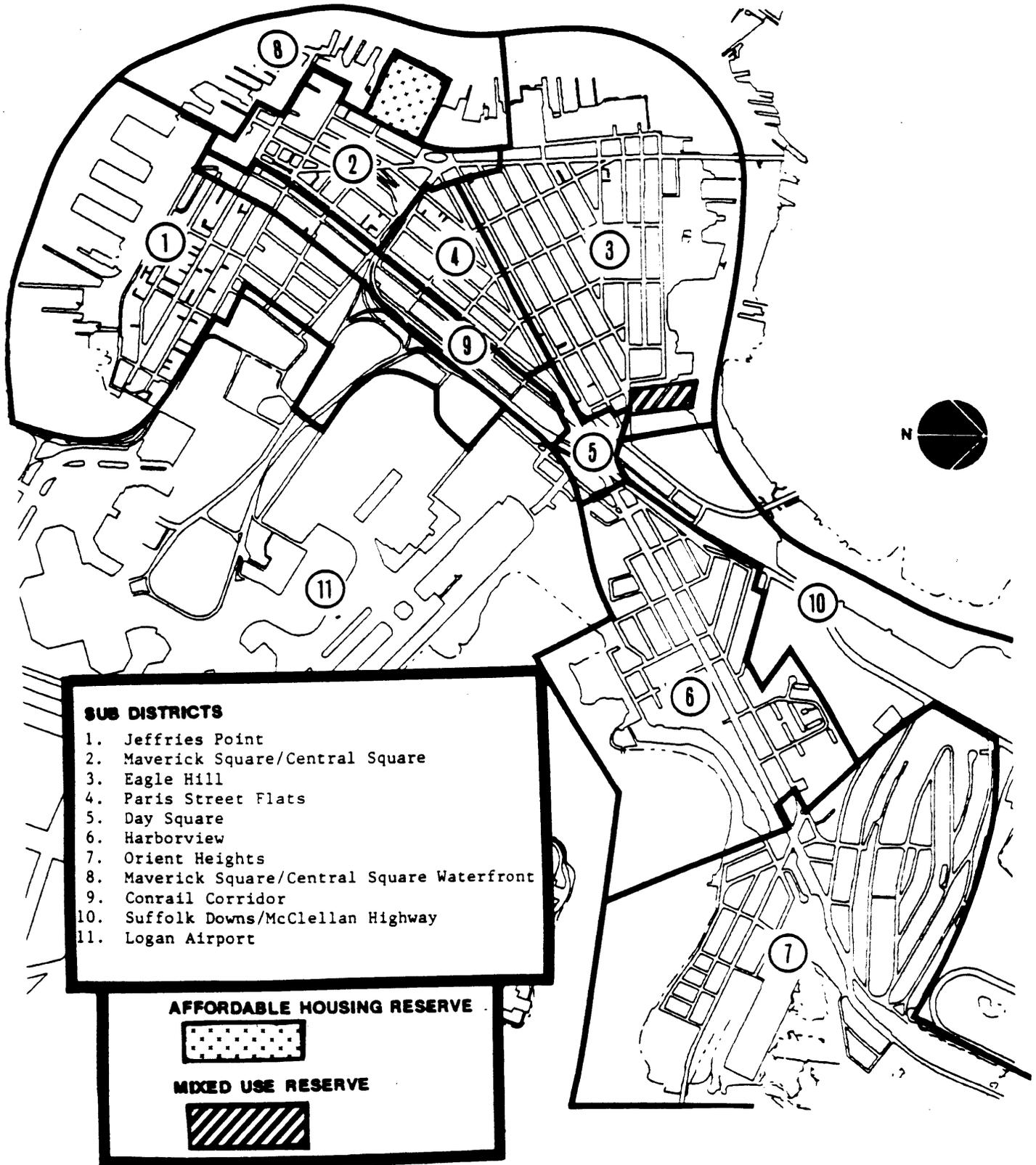
East Boston's previous zoning map, before the IPOD process.  
Source: Boston Redevelopment Authority.

# APPENDIX E.



From the *East Boston Interim Planning Overlay District*, showing the Special Study Areas which line the neighborhood's waterfront, also including the Conrail corridor. Note that the Massport piers are Special Study Area 1.

# APPENDIX F.





## APPENDIX H.

### Representation on Boston's Zoning Commissions 1922-1990

1922	1990
<b>ZONING ADVISORY COMMISSION</b> <b><u>(Appointed to write 1924 Zoning Code)</u></b>	<b>ZONING COMMISSION</b> <b><u>(Mandated by 1965 Zoning Code)</u></b>
1. Associated Industries of Massachusetts	1. Associated Industries of Massachusetts
2. Boston Central Labor Union	2. Boston Central Labor Union
3. Boston Chamber of Commerce	3. Greater Boston Chamber of Commerce
4. Boston Real Estate Exchange	4. Greater Boston Real Estate Board
5. Master Builders Association	5. Master Builders Association
6. Boston Society of Civil Engineers	6. Boston Society of Civil Engineers
7. Team Owners Association	7. Massachusetts Motor Truck Association
8. Boston Society of Architects	8. Boston Society of Architects*
9. Boston Society of Landscape Architects	Boston Society of Landscape Architects*
10. Massachusetts Real Estate Exchange	9 - 11: Three at-large commissioners, one of
11. United Improvement Association	whom must be a homeowner (in a
	residence of no more than 3 units)

\* One joint representative

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