

TOP DOWN AND BOTTOM UP

Design and Public Good

Urban Design a Consequence of a Larger System:
Analysis of the Case of the Fan Pier Development
at Boston

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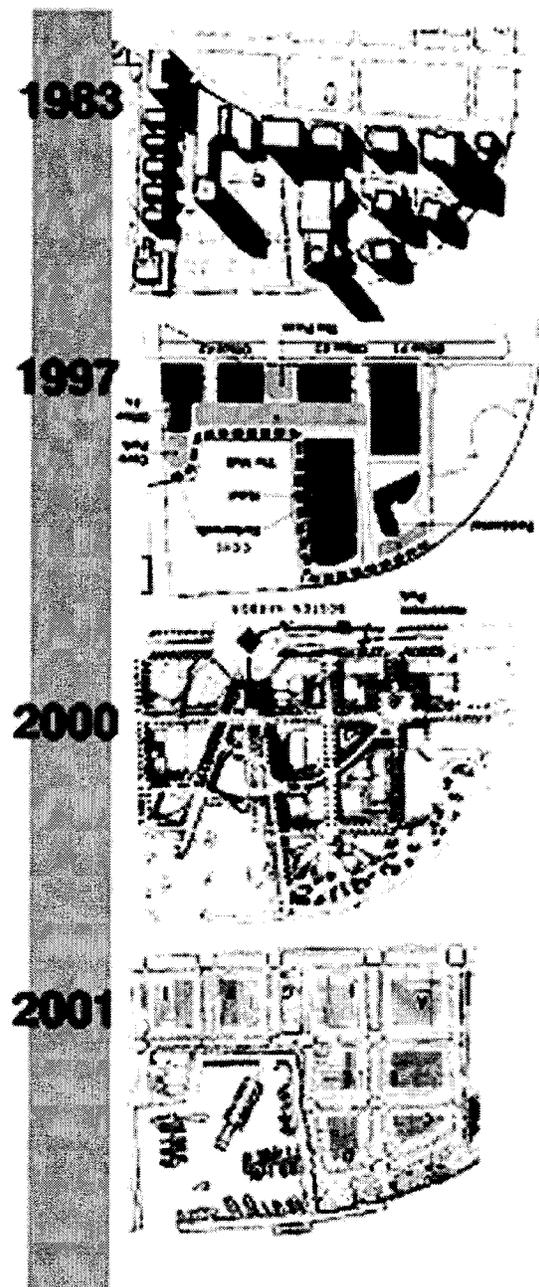
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THE FORCES THAT DETERMINE VALUE IN DEVELOPMENT

In the domain of real estate the value of the project is of crucial importance. William Poorvu of Harvard University defines, the value of a project as a function of four critical factors: Product supply, market demand, regulatory process and financial issues. The value of a project depends on the supply of a type of property in a market. In a given market oversupply over builds the market and the value of the property drops. Similarly the converse is also true. Each product in a market however should also be understood to be unique in terms of design and construction, land use and other physical conditions. The product supply is dependent on the demand for development, which depends on local issues such as wage rates, transportation, tax policies etc. Thus 'value' gets shaped by the demands of tenants or owners with the indirect effect of several national and local issues. At the local level there are several regulatory processes in development that also affect the value of the project or property. Regulatory processes determine the extent of the product supply and the rate of product delivery within a local market demand. Development regulatory processes are powers that the public sector enjoys and thus it becomes directly responsible for creating or removing value from developments. At the local level (which usually involves the city and the community) zoning, building codes and property tax assessments are the key regulatory issues for the developer. At the national level depreciation allowance, tax credits; environmental laws are some of the regulatory powers that dictate or contribute to the value of properties. Financial or Capital Concerns such as lending patterns, availability of the cost of financing a project, interest rates and availability of public subsidies is the final force that controls the value of properties.

This thesis focuses on the thrust of these forces of regulatory processes as they affect development. The responsibility for this role of regulations is with the public sector, usually defined by the government at a national, state or local level. Interesting situations arise when this sector engages with private sector, which is predominantly

the sector that 'conceives, develops and delivers the project' to create value for the product, through out the process of development.



TRADED ISSUES IN PUBLIC-PRIVATE DEVELOPMENT: FROM PARTNERSHIPS TO DEVELOPMENTS - EXTERNALLY DRIVEN BY PUBLIC SECTOR

The design of urban spaces are a direct consequence of these development regulations and these regulations are seen to be "traded" between the players in large projects, as in the case of the analyzed example. Thus design in a public process and in a context of the market economy is often seen a traded commodity, and this is demonstrated in the analyzed case in this paper.

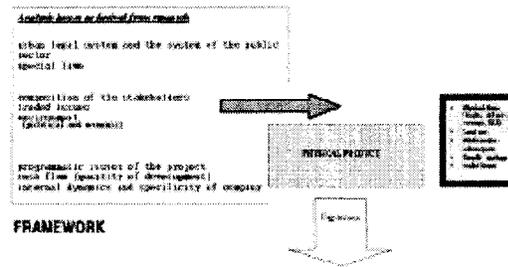
The *traded issues* in these public-private developments are traded between the stakeholders. This could happen at any stage of the development and often done to neutralize the effect of the development onto affected stakeholders of the development or on the other hand in certain instances, they are incentives given to developers by the public sector to follow a particular model of development based on public sector policy.

These are usually in a form of some 'financial incentive' to the private. These could be variations of floor area ratios, height limits, land use modification etc. The public sector on the other would typically require some public benefit in return. These could be open spaces, specific land uses, below-market rate housing, neighborhood amenities, schools and many others off site amenities. There could also be non-physical issues also which are provided to the private sector by the public sectors. Some examples of these are tax-incentives, low-interest debt, and availability of publicly owned land, favorable approval process and many more that could reduce the financial burden of the developer. The private sector developer could similarly provide some non-physical amenities such as 'funds' for the betterment of neighborhood or provide with impact fees etc. The *dollar value* of these traded issues are crucial in determining to what extent compensation packages are extended to the public sector and to the stakeholders in the community by the developer, or in converse, the value of the incentives prepared by the public sector to initiate the development.

In effect this exchange is what intends to balances the cost-benefit analysis of the project. It is the way in which the players harness these traded issues are facts of concern and there are various methods, which are important points that need a policy level analysis and decision. These traded issues, which are in fact the result of the stakeholder demands, significantly affect the physical form of the project.

ESTABLISHMENT OF THE FRAMEWORK OF ANALYSIS

A frame work is established through discussions with all stakeholders in large urban development projects that outlines some of the forces that affect the design outcome



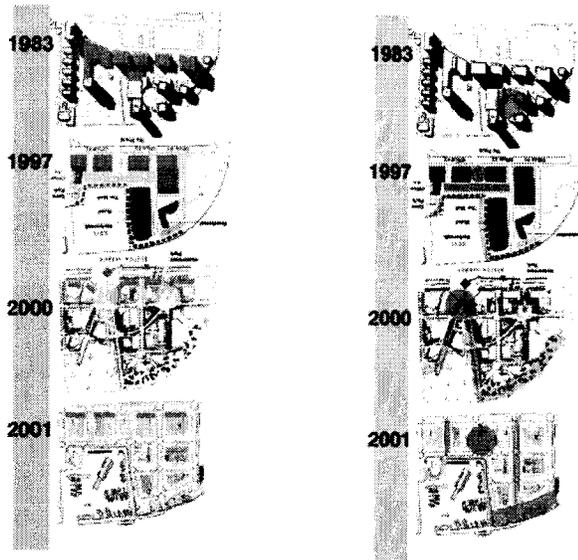
- Urban legal system (external)
 - **Planning and design regulations** in sub district
 - **Special laws** dealing with issues form, heights, setbacks, covered/open spaces, and land use.
- Stakeholders (internal deals) and public sector's approach.
 - **Composition of the stakeholders** with idiosyncratic demand and the **traded issues** in the process.
 - Issues that arise out of **local politics** - political will and comfort levels of negotiations issues as a result of development impact i.e. qualitative and quantitative issues of development.
- Cash flow necessities for the *private sector*
 - **Programmatic issues of the project**, composition of use representing cash flow also implicating **quantity of development**
 - Internal issues of company ...Corporate goals and Real Estate Strategy {Strength and Weakness}
 - **External economic environment** ...space demand /supply in context of macro space needs issue

The impact of these "larger issues" can be analyzed on a few identified aspects in public-private development transaction, such as the urban laws and specific zoning that is the resultant of the public sector, stakeholder concerns that emphasize local issues of affected parties reflecting the dynamics of the development problem and private sector cash flow concerns that are reflected in terms of programmatic aspects also outlining the quantity of development which brings out the real concerns of a developer.

These are various kinds of forces that are manifested in the physical form of the project - which can be seen in the plans of the projects over time. A change in these aspects creates modifications and transformations in the physical form, space and organization. The dynamic overarching forces are seen to be in constant action to alter the physical environment.

THE ANALYZED CASE FACTS

This case analyzed in this thesis is the case of a proposed development on the waterfront of South Boston. This piece of property was owned by a person called Anthony Anthanas who built a restaurant



in this property in 1963. This 16.4 acre site was not feasible for any form of development till the growth of downtown Boston in the late 1970's. The first steps towards the development was taken in 1979 when the initial efforts began with Hyatt corporation and Athanas agreeing to create a joint venture partnership and begin feasibility studies for real estate development in the name of 'HBC'. The January 1981 agreement defined roles for the two partners. HBC acted as the developer and Athanas retained some of the reviewing rights and future development rights on the undeveloped portion of the Pier four.

The *first proposal* was on a total development of 14 acres comprising of housing and office, developed over two phases over an estimated span of ten years. The (Floor Area Ratio) FAR of the site was increased from 2.0 to 4.2 by Mayor Kevin White, who was identified as a pro-growth mayor. The commercial ground lease was set at \$90,000 per acre per year in 8 acres of land zoned for commercial use. The residential component was on a 6-acre piece, which was set to be sold to HBC for \$1 million. The closing deal structured in 1983 where the two partners entered in a deal had stated Athanas would receive ten percent of the net share of sale and net rental profits apart from the land sale and ground lease amounts.

The whole project¹ in this stage had a development cost of \$ 1.1 billion dollars where the functions (fan pier project as well as the smaller *pier 4* project developed solely by Athanas) comprised of 2.1 million square foot of office development 250,000 square foot of retail, 900,000 square foot of hotel space, 1.4 million square foot of housing with 5150 parking spaces supporting them. This comprised of more than a dozen buildings on the site.

The important issue in this case was that, such a large develop-

ment project was the first project, on a piece of property in this part of South Boston, which had been till then occupied by acres of barren lands with parking lots or vacant industrial warehouses for years. This proposal thus naturally resulted in the emergence of strong local political implications. South Boston has always been a strong community with an identifiable history. Local politics and community groups thus were powerful and vocal in the demands of benefit packages to mitigate the effects of this development. Local representative politicians were also involved in this bargaining process, to leverage from the market conditions that favored development in these days of early 80's. The strategic stances the groups took had an interesting combination of intents. On one hand they were essentially in favor of the development to occur, at the same time they were concerned about the development impacts. The benefit package comprised of a linkage of \$15.4 million in donation by the developer to a housing trust fund, the construction of 100 affordable housing units, \$3 million to job training funds construction of public buildings, cultural centers etc. These benefits were requested by the Citizens Advisory Committee, the official and politically appointed community body represented by the Larry Dwyer. The CAC had the responsibility of being the official voice of the community and they analyzed urban design, job growth and traffic mitigation issues. Apart from this local group, a second group also emerged which comprised of other residents representing artists and residents of the newer residential areas. The City of Boston, represented by director Stephen Coyle was also actively involved in the development review process, to bargain the benefits the city was interested in receiving. The approval process in this 'un-zoned' stretch of land was expected to be very complex but despite apprehensions the project was supposed to begin in the year 1988 based on the first design.²

What started the *long negotiated process* in the development then on was the powerful voice of the community groups that gradually involved several more focus groups. The city was faced not only with bargaining benefits, but were also involved in framing zoning laws for this part of the city which did not have a clear laws in this regard. The dynamic environment of changing legal contexts with changing community needs and negotiation stances resulted in *growing rounds of negotiations*. It became popular that the fate of real estate development in South Boston at large had its roots in the processes followed in this piece of property. Meanwhile, the deal between Athens and HBC as previously mentioned collapsed with Athanas changing his demand and asking for a greater share of the profits and HBC moving this case to the legal battlegrounds of the superior courts of the State of Massachusetts. HBC Development Company filed a damage suit against Athanas and after two years in the courts of Judge Abrams won the case on April 18th, 1989. The

decision of the court ordered Athanas to pay \$13 million, an amount HBC claimed it had invested to date plus damages. Thus the date for the lift off of the project as a result was severely hampered and at the same time multiple disputes with the community groups failed to structure a consensus. The negotiations went on... and as the various identifiable aspects that affect real estate transactions in public-private development changed rapidly, directly or indirectly transforming the physical form. It is important to understand that these causative forces on the physical form were in a state of dynamic flux. When a few of these critical issues aligned, a consensus was reached and in effect was felt on the physical form and organization of the project.

The next few sections describe the various moving parts in this dynamic equation. With this dynamic representation one can understand that real issues that affect the physical attributes of the project. Deal structuring and a negotiated process in development thus is a bargaining process where issues are traded in a domain where the environment is in a state of transformation. Any attempt to map this system is almost analogous to taking a snapshot in time, to record these issues in flux and observe the transforming physical form through recording a few physical attributes.

a) The changing political economic context

In the political sphere, during the same time Boston elected a new mayor, Mayor Raymond Flynn in 1984, who promised to decentralize the system and give back more power to the neighbourhoods.³ He was primarily responsible to establish the Community Advisory Committee. This meant more power to local community issues. Furthermore since he was from South Boston, the appropriate benefit package became even more crucial not to mention adequate representation of all the groups and recognition of all the voices in the negotiated process in the development. Local politics became a strong part of the traded issues.

As these transformations occurred in the political spheres the economy slowly started to wither away in the late 80's. Vacancy rate had a slow climb up effect on all markets and the demand of the spaces dropped sharply. It became natural for the developers to gear down the process and they knew that this project would not lift off in that economic cycle. The downtown office market that once in the 80's tended to spill over in the South Boston, now recorded greater vacancies than ever before. This broke down the speed of events and the deal making and rounds of negotiations started to slow down. These took the project out of the limelight for a few years. The upturn occurred again after 1995, which changed the course of action with renewed demands of office space in the booming age of information economy, which created a huge pressure on the office markets. The

housing demands were simultaneously reaching an all time high. In my opinion this was one the crucial forces that had a strong indirect effect on the physicality of the project. This is because not only the political context defined issues of negotiating terms, issues of local concern was also responsible in validating and debating contentious issues while the economy naturally would guided absorption rates. These together affected the development compositions as well as the phasing of the project.

b) The zoning laws and the public sector

When Caesar Pelli's proposal (the first one as described) was presented to the public there was significant criticism by the public. The public and the media questioned the island and the 90' wide canal with 20 stories high buildings. The hotel was particularly questionable, "a tall thin spire, which critics feared would permanently damage the skyline of Boston Harbor". Other objections were that 'the style, scope, density and height of the proposed project'. It was considered to be insensitive to the low-density urban fabric of South Boston.

In December 1986, when the developers to the State of Massachusetts filed the Joint draft environmental impact statement, the community, primarily on the grounds of height and density, rejected the proposal. While the Fan Pier was an isolated development the real fear was the large-scale development that was to follow similar trends. In March, BRA chief Stephen Coyle limits on the commercial economy. Limits would include parking freeze; limits on additional linkage requirements and temporary restricted zoning districts. What came into being was the IPODs, which was an Interim Planning Overlay District. 'The area singled out for development restrictions was not clear as of March 1987, but was called the 'Northern Avenue Corridor / South Boston Residential Fringe'. Approximately 600 acres were included in the two zones. The IPOD was designed to help the city restrict density and heights of the project, protect residential areas from encroachment and preserve open spaces. With IPOD, it became clear that Coyle could, at least for the time being addressed all the concerns of the community. By encouraging economic development and job growth and protecting the residential lower ends this interim law attempted to address public concerns.'⁴

What thus evolved was a preliminary form of zoning. The professional planners and architects who were far ahead of the times raised important questions in regard to the effective details of the area. The 'blue-green' organization was set up as a focus group that spent long hours trying to carve out a vision for this new-old part of the city. The IPOD however was definitely an 'interim state of affairs'. Constructive focus meetings and intellectual contributions from the architects, urban designers and planners and real estate specialists

with the help of the Boston Society of Architects drafted an urban design plan which became a the genesis of the Sea-port public realm plan.

Re-evaluating the importance in the mid 90's BRA became aware of the importance of a clearly defined urban policy and design guideline and with the initiation of the BSA focus team, Sea Port Public Realm plan was commissioned by the Boston Redevelopment Authority which was ultimately released by Mayor Menino in February 1999. It essentially outlined key policy level issues taking stock of the developments of this entire region in taking into account the events of the past several years and at the same time with macro urban considerations to outline values of urban design that takes into account policies that takes definite stands on urban life of citizens, ecological and environmental issues and socioeconomic concerns of a rapidly growing city. The key objectives were 1) to connect to the Boston Harbor as a shared resource 2) Preserve and enhance the industrial port 3) Plan the sea-port as a vital mixed-use neighborhood 4) Development of this sea-port as an integral part of Boston's economy. 5) Enhance the South Boston community. This plan further outlined issues of height and density as well as view corridors, transportation networks etc. With the development of a defined policy level framework the developers found the urban context of Fan Pier changed from the early 80's.

The document was the first comprehensive effort to create a vision for growth in South Boston. Creating categorical sub-districts, a vision for land use planning was suggested in these pieces. Building heights were specified on each parcel with a well-defined transportation strategy for the spine streets and the secondary streets. The Northern Avenue and Congress Street would become the two main spines that would connect South Boston with downtown. The plan also incorporated the new federally funded 'TedWilliam's tunnel' along with specific locations of the silver line subway stops.

These defined urban legal guidelines gave a new dimension to the Fan Pier property, which directly would affect the physical plan. View corridors were framed to create pedestrian access and view corridors to the waterfront. The main idea was that the notion of a vibrant public realm, which is an indelible aspect of the urban environment with public spaces that would be visible and accessible to the public. This piece of city was seen as the next biggest new addition and at this stage a clear definition of urban public policy that would shape the private development was more important than ever before.

The idea of the 'Harbor walk' with a system of open space also emerged through the public realm plan. The prime means of achieving this goal was to have a waterfront public access and have a continuous walk with varying experiences. Open spaces were to be de-

signed in different forms through out the plan and the concentration was supposed to far greater in the waterfront areas to encourage this place as an activity center. The critical concern to organize activity nodes and spaces around the waterfront thus was of great importance. In this regard again the form and the function of the built mass had to be defined.

This brings us to another legal urban guidelines, which was specific to water front developments. The 'Chapter 91' was such a specific regulation that had been introduced by the state environmental department and was a requirement for all waterfront developments. It is important to analyze the sequence of events in terms of a gradual development of urban laws in this context. From 'IPOD' to the 'sea port public realm plan' was a long process, and this Chapter 91 was a part of this evolving land use policy. Introduced with the current amendments in the early 1990, the use guidelines stated the functions needed to be sensitive to water dependent uses and imposed open space requirements on this overlay zone. A 100' setback was required from the shoreline with a 12' wide promenade. A height limit of 55' within 100 ft setback and an increase of 2:1 progressively, with a maximum at 300' were the other specifications. Access was another issue of Chapter 91, which specified for 100' at the ground level a 24 hr public access. This regulation also had the possibility framed along of specific variations according to the needs of the local governments. The comprehensive plan that could modify some of the requirements keeping the larger concerns and spirit of the law. These were all triggered to shape the physical form of the private development that was to occur along the water edge of Massachusetts.

As the legal contexts changed, the Municipal Harbor plan emerged which modified some of the prior concerns of this overlay district. It kept the 50% open space requirement with a minimum 1/3 residential and 1/3 office facilities on the new developments with civic and cultural uses. The no-build zone was increased from 30' to 140' The gradual step back was suggested to be from a height of 175' to a maximum height of 300' at the rear end of the waterfront parcels. With changing rules and changing governmental concerns, legal contexts as defined by the public sector also changed.

c) The community groups, CLF and the challenge to the fan pier land development corporation

The changing nature of the attitudes and demands of the community groups is another issue of concern. As mentioned before the Citizen's advisory committee was appointed as the official voice of the community in the early years of the project⁵. In February 1987 they had presented a rejection of the first Caesar Pelli plan. The primary cause of concern was the height and density of the project. Despite BRA's

approval of the plan with modifications, the Massachusetts Environment Protection Agency had put the project on hold keeping the community quiet for the next few years. Economic downturn and its effects on property markets had removed the debated issues of the project from the front pages of *The Boston Globe*.

With emerging concerns of waterfront access few years later as the project recovered from its stagnant status the community renewed its demands of its share of benefits. The key factor that was debated on was traffic mitigation issues, water front access issues, density of development and provision of affordable housing issues. As more focus groups, such as the Boston Harbor Association, Sea-Port alliance for neighborhood development and individual community activists, like Shirley Kresel, got involved the public approval process became growingly complex. More deficiencies in the plans were tabled and it became clear that the Fan Pier master plan at its present state needed to be completely revised. The chapter 91/MHP considerations and renewed benefit package deals demanded a new plan formulations, under different market /political considerations. The negotiations with the community had been primarily concerning the quantity of development that was supposed to occur in the two projects together. The FAR in the first proposal was 4.7 and after successive rounds of negotiations this was brought down to 4.25 with a meager 2.97 % shrinkage in the size of the project. In terms of the *height*, the first proposal had all the twelve buildings rising to a height of more than 150 ft., which after revisions was reduced to seven. The height reduction of these buildings were always from the very beginning an important cause of concern in its original form, as the community felt that the height of these buildings would cast shadows at the same time obliterating the water front view of the public. Waterfront access was critical to public good. The *Harbor park* proposal was released in the year 1984, but the form and access was such that it became important for the community to pursue specific negotiations on this regard, which later forced the developer to expand and outline specific details of the park.

It is important to note from these issues of negotiations that the path was often unclear for the players. Although focused with clear objectives they took different postures with changing priorities. Once the heights of the buildings were satisfied the focus shifted to waterfront access, quality of retail and finally to concerns of public accessibility to the waterfront. An array of public policy related issues were constantly being raised. In the profound complexity of the project these facts were often buried beneath the quantitative analysis and consultant studies.

The emergence of a powerful non-profit legal agency was also critical in understanding the community context in this moving equation. Conservation Law Foundation raised concerns about the valid-

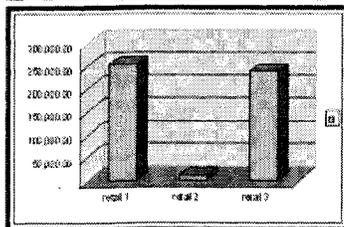
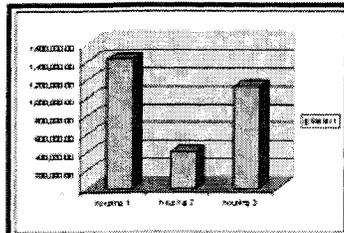
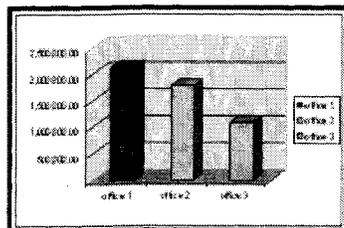
ity of one of the later plans from the point of view of an impacted neighboring landowner. Not only did this organization challenge the developer; in terms of the proposal it also challenged the City authorities charging to favor the developer. With the help of the neighbor, Frank McCourt, they produced yet another plan. To further complicate things the state government was involved to arbitrate over the allegations. Environmental secretary Robert Durand was involved to address concerns of environmental impact along with demands of sufficient green space. The project therefore moved beyond the domain of the city government with the state authorities now becoming arbitrators of a complex multiparty litigation. This shows us how the representation and the role of the community changed over time with changing demands and involving new stakeholders in the public process of development approvals.

d) The private developer perspectives, a countering effect

To deal with these changing forces the land owner the Pritzkers also decided to change its competitive position. Initially the development was a sole venture of the HBC development company. After its financial collapse and after the downturn of the economy, they decided to maintain a low profile. During this time a strategic move was made to sell a large piece, 4.56 acres, of the property land for a financial remuneration to the US General Services Administration. They also appointed a new development company, the *Beacon Group* to propose another plan and project a new look to the entire deal in a changed context. Soon after the refusal of this plan by the community, they appointed yet another development company called the Spaulding and Slye for the same purpose. S&S was not only a local developer their development strategy was far more tactical with a superior comprehension of development issues. They preferred to follow a ground-up approach which later became far more effective than other earlier attempts. They adopted the phenomenon of mixed-use development not only to create the synergy of uses; they also calculated different profits approaching a wider target market. Thus it could be seen that the developer and its development company also changed its stances during this course of action to re-negotiate to a strategic deal.

FINDINGS FROM THE PHASES OF THE ANALYZED CASE

The analysis in these last four stages of the plan demonstrates the distinct transformations in the physical form of the projects, over the four phases. The changes in the various physical attributes occurred because of specific reasons. These can be understood to be the impacts of the 'changing critical aspects' that are affected in transactions of public-private real estate development projects. The funda-



Office

Housing

Retail

mental rationale behind these moving parts can be seen understood to be 'time'.

These aspects when grouped by stakeholder concerns indicated fundamentally three groups. The city, the developer and the community. Studying the life of a physical issue, in this case the public space, one can observe the players (stakeholders) responsible for the change and the underlying causes of these transformation. The negotiated process had allowed for the representation of the various groups, unlike in the rule based case of incentive zoning.

GENERAL OVERVIEW

The observation shows that design is here an impact of several larger forces and the detailed analysis of the phases, identified as "distinct" plans produced over time shows that the issues that control the design process. A better understanding of these can allow us to be

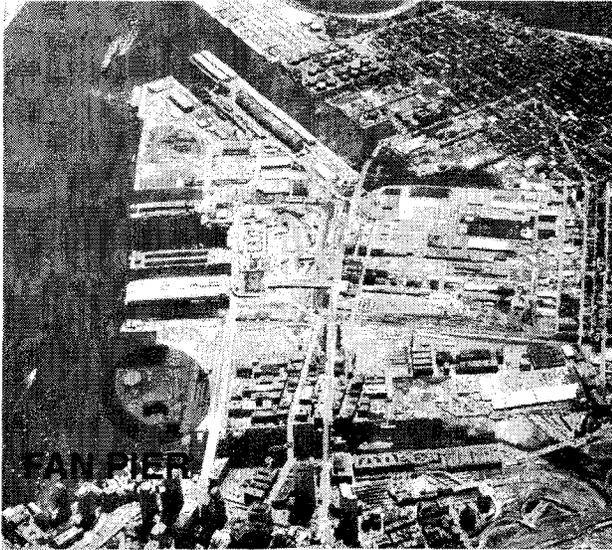
smarter designers, such that we can design with a better understanding of the system and participate effectively in this system of moving parts.

The *strategic deal-making phenomenon* is seen in several instances. When the city makes an agreement with the developer on urban legal guidelines or when the city organizes its powers to partner with the community, strategic intentions are revealed. The deal making however in this case can be seen as a gradual phenomenon, over a long time. The players can be seen to analyze the changing macro context to structure a deal to gain advantages. Just as the city had structured deals, the developer also had waited for opportunities to create agreements with the community and the city. The third plan demonstrated this community involvement in its development process as much as gathering support from the city to execute the modified Municipal Harbor Plan.

In the negotiated process one can see the physical representation of the stakeholder with the 'loudest voice'. This phenomenon is unknown in the rule-based cases of incentive zoning, where "definite laws define definite ends". Gradual modification along with the advantages of broad base representation also necessitated a long drawn process. Negotiation over physical attributes like the qualitative issues of open space as well as the amount of open space in the project was bargained over a long time, in this case more than eighteen years. These negotiated issues have been observed to be settled all along the long process and decisions are seen to have been also an ongoing phenomenon. An example of this had been the case of the Harbor walk, which did not exist in the first plan, came into being in the second after huge debates was consolidated in its present form in the third. All along the life of the project the community groups, city and developers have been discussing, the length of the walk, features on them, the width of the paving, associated functions, breaks in massing etc. This consensus building / negotiation, occurs over a long time with components of the debated issues being finalized in the various phases.

The *transference of risk / reward* is also evident in the cases analyzed. The creation of value for the project by development regulations involves not just the public sector, but also the interplay of all the stakeholders in this negotiated case. The development risk is taken up by the developers, in return receiving concessions to its advantage like the MHP or precise location advantages of transit stops. The community in order to gain its share of benefits takes on the offensive positions in the public process, which grants them their fair share of benefits. As issues are *traded* in this case one can see the exchange of community / city benefits e.g. a greater share of open space with the several variations, subsidized rents for community groups, urban design and form of development blocks coherent with the lo-

cal urban fabric and affordable housing for low income families. The gains for the developer were in terms of increased development areas and concessions in terms of CH 91 requirements along the waterfront. Negotiation and the advantages of this open ended solution helped to achieve these results, which was the attempt to create a win-win solution, which meant a fair share of benefits to the community and the city, contextual urban design and financially feasible project for the developer



SPECIFIC OBSERVATIONS: ANALYSIS OF THE QUANTITY OF DEVELOPMENT ALONG WITH TRANSFORMATION OF OPEN SPACES

Quantity of development

One can observe the changes in the quantity of development over the phases of the project. We must assume that this land use composition reveals the market demand of the development and assume that this gives the developer the highest return on their investment. The lower graphs show the change in the total quantity of development over time over the phases of negotiation. The development can be seen to have reduced from 4.8 million sf to 3.36 million SF over the phases.

However if one focus on the particular developed parcel, one finds that the development quantity increased over the negotiation. The question that this raises is what are the effects of public sector negotiations? The increase in the public benefit component argues a better development along with designed features that increases value of the project as well as a contextual, pedestrian friendly development.

The questions that these data raise reveal that a significant benefit package can pacify the local community and there could be develop-

ment gains over time. Definitely there had been sophistication in the form and organization of the development. But if one raises issues of the 'opportunity cost of time', in terms of development quantity, spreadsheets might indicate different conclusions. To create public benefit one might conclude the opportunity cost of private capital has resulted in the increase of square footage. Another view could be that a changed market and socio-cultural context suggested a higher density to represent a better form of development. In either case the net benefit from development can be derived to be progressively greater.

The change in the increase in office development can be attributed to the increase in the demand of class an office space in the 90's. Rapid growth in the office rents and demands of class A office space for software companies along with the macro economic growth can be accounted towards this change.

In a similar way the changes in residential and retail is observed over time. While residential change is understood as a result of the external public sector/ community concern where the character of a corporate office park was intended to be avoided, the reason for the drop in retail shows the second plan was much heavier on the office development with the four office blocks lined on the North Atlantic Street and the later plan explored the idea of mixed use development which would strategically balance cash flow goals along with issues of mixed-use development with urban life on retail fronted streets. Models of development analogous to the Back Bay became popular comparable

Transformation of public space

In the long drawn out negotiations over the two decades, as already analyzed there was transformation in the characteristics of the public realm. The public realm can be measured by the quantity of open space and the qualitative attributes of the same. The characteristics include the level of urban landscape detailing that increases the sense of place in these open spaces as much as the functions in the built edges of these spaces that define these spaces. The earlier Caesar Pelli plans treated open space as a residual space as can be seen from the underdeveloped spaces along the canal. The primary spaces are away from the cove, which is not highlighted in terms of activities and details as much as the people would have wanted. The development at Fan Pier was seen as an addition to the downtown instead of the opportunity to create an ideal waterfront development, which would also guide other developments in this new area to be developed in the city. The shift of location towards the cove and a stronger integration with the main spine street of South Boston can be seen as a transformation of the public space.

Private capital to create public benefit is an approach the public

sector has taken over time. The negotiated strategy can be regarded as a phenomenon that takes into consideration all the stakeholders views and attempts to execute the approach that would satisfy most of them. This is an interesting phenomenon, as the mechanism/rule-based strategy executes pre-defined views. The changing views in a dynamically changing macro context had resulted in the change of location of the primary open space progressively transforming this development to have a stronger integration with the rest of the city. Extending street networks to the waterfront is a conscious gesture with inviting streets and open spaces that allows direct visual links to the water body and the cove. The cove over the process now became an urban space by itself with boardwalk, water transport terminals, museums and retail. On the other hand the developer gained higher square footage in development with smart planning and locating important functions in further corners of the site. This not only gave a better anchor to the development but issues of percentage rents allowed developer to gain from the increased pedestrian traffic. The hotel development now located in on the main street and opposite the new transit stop poised to gain a better market share. Thus this slow but gradual process became beneficial for the public realm at large as much as for the developer in terms of property value.

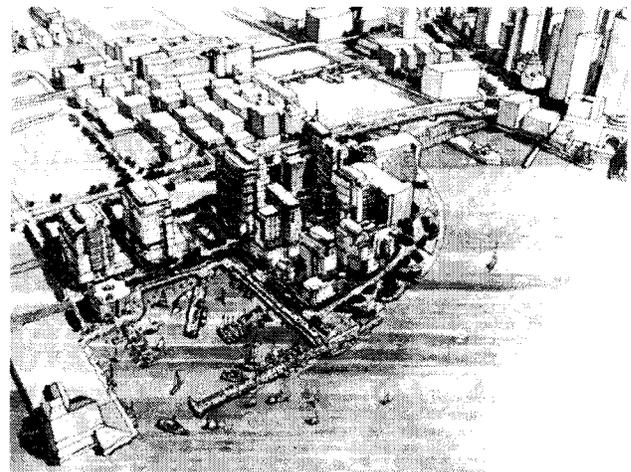
Issues that surface in the negotiated strategy

These facts without precise financial calculations indicates an apparent balanced phenomenon but the questions would surface if one would calculate "the opportunity cost of time" for this development. With detailed numbers, results would suggest a different picture. Over an eighteen-year exposure, other developers who do not possess the short term bearing capacity or financial prowess like the Pritzkers, would not have been able to continue the negotiation. This process may not remain a viable method to gain private capital in other similar cases.

The questions that this case study raises are complex issues concerning which would be a better choice in terms of a smarter development strategy, which the public sector should use to create public benefit. Since the developers also seem to have gained from this negotiated approach is some abstract way the questions become even more complex. In a long-term perspective a better urban designed development would create better value for its properties, in terms of higher occupancy and higher rents. The original development in retrospect seems to be an initial reaction in terms of a highest and best use solution. With the assumption that strategic solutions need a wider audience to negotiate with and arrive at a more refined solution, it seems that the assets of the negotiated strategy in the context of the life of a city is far superior. On the other hand it is difficult

to rationalize a process of development that underwent eighteen years with costs of consultants, public officials beyond possible to list, all being borne by the taxpayer's money.

The study however validates the framework of analysis used in the thesis. This framework allowed one to analyze the life of a physical issue beyond the domain of only design. *'The attempt to understand the effects of macro conditions and impacts in terms of financial advantages, community concerns and urban legal systems elucidating the strategic positions of the players or actors that were highlighted through the analyses.'* In this regard in the next section the strategic process of the stakeholders in negotiations is demonstrated to further elucidate this phenomenon.



STRATEGIC PROCESS IN THE PROCESS OF REAL ESTATE DEVELOPMENT

It is interesting to analyze the roles and the strategic positions the players take while negotiating in the process of development. In this example the instance of the role of the players and nature of the developments along the North Atlantic Avenue is studied along with the changing shape of the open space over the phases of the project.

In the first phase of the project the developer in the desire to maximize the development capacity had built a series of high towers, creating a high mass all along this edge of this avenue. On one hand the developers, who were the sole players at this stage, had their focus on financial gain on the other hand their intent was to increase the value of the project by creating an 'secluded high end waterfront development'. In the next phase the physical change can be attributed to the market demand of office space with four office towers along the edge. However at the same time the effects of BRA (public sector) sponsored urban guidelines forced street networks to extend to the waterfront. The community negotiations had also convinced the developers to shift the primary open space near the street and

one can observe the beginnings of a connection to the waterfront.

On one end the bargaining powers of the community forced the developers to provide public benefits while the city through public meetings and its legal powers attempted orchestrated this process. On the other end the developers continued to counter to these pressures by placing retail spaces around public spaces to leverage from the percentage rent mechanisms. Again in the later challenged plan, the widening of the open space along with the water inlet revealed the strategic intents of McCourt, who planned to gain value for the six acre piece of property owned by him while the community groups who backed this proposal wished to multiply its share of benefits by locating public buildings and community space along this widened canal. The system of moving parts, a framework established to analyze the effect of negotiation on the physical design.

In this process, the counter move of Spaulding and Slye finalized the open space to its present shape. While they increased the size of the open space on 'parcel G', the shift of the hotel development from 'parcel H' to 'parcel A' justified their economic rationale. The advantages to the developers at the end of the negotiations were in terms of the heights of Building A, which exceeded 250', far greater than the restricted limits. At the same time the location of the Silver line stop were negotiated to their advantage. This would bring in more people to the development and create a much more convenient access to the residents in Fan Pier, increasing the asset value of the property. Location of the ICA on the farthest corner of the site to draw in people into the retail spaces was yet another moves to create financial gains for the developers as a response to the negotiations. Thus one can observe the physical attributes as seen today, were as a result of a series of strategic negotiations for all the players.

It also can be observed that in the last proposal the strategic use of the 'mixed use / high density development concept' one hand allowed the developers to gain square footage and create diversification in terms of uses and at the same time pacify the community by making a high density vibrant urban place. It was the contemporary trend of creating a high-density urban space, which saved the developers despite a higher net square footage.

CONCLUSIONS

The relationship between the governments and private business is a significant component of contemporary real estate development where the interface with the public sector is more than a simple approval process. In these cases of public-private developments the players in the act of development have different goals, with different risk preferences. Thus in the collective process, multiple values are ex-

pressed simultaneously. Conflicts amongst the players lead to debates, which in turn lead to negotiation, and finally a solution. They structure deals to validate an agreement or negotiate till they reach a conclusion. These underlying forces that affect the physical attributes of the project, which the analysis demonstrates, are mapped out in the paper. The responsible player as well as the aspect of transaction that led to its existence is diagrammed. It becomes important to understand the strategies at the disposal of the City, which are used to create public benefit from private capital. In the negotiated strategy of this analyzed case one can see the advantages and disadvantage of an approach such as this case. Though it becomes difficult to decide whether this is the best approach or not the thesis raises a few questions, which are listed as follows: -

- In urban public policy to regulate private economic development what kind of approach must the city take such that the positive attributes of a negotiated strategy is adopted which takes into account all the stakeholders at the same time the process being in projected time frames. Uncertainty exposes all the players, particularly the private capital investor to risks which is detrimental to all. It is important to note that *time* on one hand makes a process and finally the product richer but a long unpredicted time span creates uncertainties.
- The negotiated strategy despite its slow process of creating a possible win-win deal does not possess any mechanism that guides *rationales* regarding amounts of the benefit package or the time frame of the same. The process relies only on the bargaining powers of the players.
- Communication issues create conflict and dampen the process. Since time is of essence, the city or the developer misses possible development opportunities. If there could be possibilities to rationalize these issues, one could gain further from this kind of a strategy. Mechanisms to orchestrate issues of communication with viable use of Information Technology and dialogues mapping charts would further improve this process. The questions that arise are methods to achieve these apart from mere public meetings where discussions are professional and solutions are proactive.

The knowledge from this paper in terms of case facts, analysis and diagrams might allows planners, urban designers and real estate specialists to have a better understand the process and participate in the process of development more effectively. They can use the knowledge from this to have a larger understanding of the strategic game of real estate development. This would lead to a superior designed urban environment where the professionals will be able to negotiate and practice intelligently.

NOTES

¹The project during this time was really two different projects. The state of Massachusetts requested that the Fan Pier and Pier 4 project should be viewed together because both the projects involved Athanas and were linked physically and politically. Following this Athanas hired its own architect. *The Real estate Challenge. William Poorvu.*

²Caesar Pelli did this first design master plan. (Refer plates)

³Not only was Flynn the Mayor, but William Bulger another Southie native had risen to become Massachusetts Senate. *South Boston: Planning in a reluctant community. Susan Crow Siberberg*

⁴MIT Thesis- *South Boston: Planning in a reluctant community. Susan Crow Siberberg*

⁵The developers held over 200 meetings with the community and public agencies. *South Boston, Planning in a reluctant community. Susan crow Siberburg*