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February 29, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Simpson Parcel 1
PROJECT MUNICIPALITY : Boston
PROJECT WATERSHED : Boston Harbor
EEA NUMBER : 14153
PROJECT PROPONENT : SHLP-Bulfinch LLC
DATE NOTICED IN MONITOR : **December 24, 2007**

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF) for this project and hereby determine that it **does not require** further MEPA review. In a separate Draft Record of Decision (DROD) also issued today, I have proposed to grant a Waiver from the requirement to prepare a Mandatory Environmental Impact Report (EIR).

Project Description

As described in the Expanded Environmental Notification Form (EENF), the proposed project consists of the design and construction of a 361,450 gross square foot (sf) mixed-use development on a 45,394 sf parcel in the Bulfinch Triangle. The parcel is owned by the Massachusetts Turnpike Authority (MTA). The proponent was designated as the developer of this parcel by the MTA following a public Request for Proposal process that included public presentations and meetings. The proponent will lease the property from MTA through a ground lease. The project will include approximately 14,910 sf of retail space on the ground floor (including 11,940 sf of restaurant space), a 142-space parking garage on the second, third and fourth floors and 283 residential units on the remaining floors.

The site is bounded by Haverhill Street, Causeway Street, Beverly Street and Valenti Way. The site consists primarily of impervious surfaces. It is located above the Massachusetts Bay Transportation Authority (MBTA) Green and Orange Line Stations and directly across from the commuter rail at North Station. The site includes utility corridors, emergency tunnel access, MBTA station access and MBTA air shafts. It is located on landlocked tidelands approximately 475 feet from the shoreline of Boston Inner Harbor and within the City of Boston Groundwater Conservation Overlay District. The parcel was created through the Central Artery/Tunnel (CA/T) project and is owned by the MTA.

Permitting/Jurisdiction

The project is undergoing MEPA review and subject to preparation of mandatory Environmental Impact Report (EIR) pursuant to Section 11.03 (6)(a)(6) because it requires a state permit and will generate 3,000 or more new average daily vehicle trips (adt). The project requires a Sewer Connection Permit from the Department of Environmental Protection (MassDEP) and a ground lease from the MTA.

The project is subject to Article 80 Large Project Review by the Boston Redevelopment Authority (BRA) which was completed prior to filing of the EENF Certificate. In addition, it requires the development of a Transportation Access Plan Agreement (TAPA) and Construction Management Plan (CMP) for review by the Boston Transportation Department (BTD), a Curb Cut Permit from the Boston Public Works Department (PWD) and Boston Parks and Recreation Commission approval for construction of a building within 100 feet of a park.

Potential Environmental Impacts

Potential environmental impacts are associated with the generation of approximately 3,054 average daily vehicle trips (adt) based on the Institute of Transportation Engineers (ITE) Trip Generation Manual, use of 63,860 gallons per day (gpd) of water, generation of 58,000 gpd of wastewater and use of landlocked tidelands. Re-development of this site that is located in close proximity to transit will minimize overall impacts. The ENF indicates that measures to avoid, minimize and mitigate environmental impacts include: incorporation of sustainable design elements as required by Article 37 of the Boston Zoning Code; development of a Transportation Demand Management (TDM) program and a limited parking supply to minimize traffic trips; and support for streetscape improvements including a \$300,000 contribution to the City of Boston Crossroads Initiative.

Because the proponent is seeking a land transfer, in the form of a ground lease, MEPA jurisdiction extends to those aspects of the project within the area subject to the land transfer that are likely, directly or indirectly, to cause Damage to the Environment. Pursuant to 301 CMR 11.01(2)(a)(3), MEPA subject matter jurisdiction is functionally equivalent to full scope jurisdiction.

Waiver Request

The proponent has requested a Waiver of the requirement to prepare an EIR. An EENF was submitted in conjunction with this request and it was subject to an extended comment period as required.

Review of the EENF

The EENF provides a detailed project description and plans that provide a clear understanding of the proposed project within its context. The EENF identifies the potential environmental impacts of the project and describes measures to be undertaken by the proponents to avoid, minimize and mitigate project impacts. The EENF includes a traffic study and additional information regarding impacts to historic resources. Supplemental information, submitted on February 27, 2008 provides additional information regarding the project's consistency with the Commonwealth's Sustainable Development Principles and efforts to minimize greenhouse gases associated with the project design and long-term operation.

The EENF and comments from Downtown North Association (DNA) identify the extensive amount of land use, urban design and transportation studies conducted within the Bulfinch Triangle over the past decade. The North Area Planning Initiative and the Bulfinch Triangle Design and Development Guidelines emerged from these studies and articulate a comprehensive vision for urban design and development. Comments from DNA indicate that the project has involved substantive and continuing community participation, through the Bulfinch Triangle Community Advisory Committee (BTCAC), in the developer selection and ongoing permitting processes that were based on those guidelines.

Transportation

As noted previously, trip generation is estimated at over 3,000 adt based on the ITE Trip Generation Manual. According to the EENF, use of the BTM mode shares to adjust this estimate results in an estimate of 702 adt. This estimate is significantly lower than the mandatory EIR threshold of 3,000 adt and also below the ENF threshold of 2,000 adt.

The EENF describes measures to reduce transportation related impacts and identifies a TDM Program to minimize trips. The TDM Program includes limited parking, designating a transportation coordinator, providing orientation packets to residents regarding transit options, and bicycle racks that can store more than 90 bicycles. The EENF indicates that the parking ratio associated with the project is .5 spaces per unit. Also, the project may include a partnership with a car sharing service. These efforts will leverage the range of transportation resources available in the district and the relatively low parking ratio increases the likelihood that residents will use transit.

In addition, the project will contribute \$300,000, or perform a comparable amount of work, to the Boston Crossroads Initiative. This City initiative was developed to redesign and revitalize the roads that cross the Rose Fitzgerald Kennedy Greenway and connect people to

neighborhoods and destinations on either side. These funds will be targeted towards improvements to Causeway Street that will extend from Lomansey Way/Merrimack Street to Prince Street. Also, the project will contribute \$12,000 to the Bulfinch Triangle Streetscape Improvements Initiative.

Historic and Cultural Resources

As part of the environmental planning and “joint development” process of the CA/T Project, the MHC, as State Historic Preservation Officer, must review and approve the design of development parcels in compliance with the Central Artery Memorandum of Agreement (MOA), pursuant to Section 106 of the National Historic Preservation Act (36 CFR 800). Under the terms of the Section 106 MOA, the MHC, in consultation with the Boston Landmarks Commission (BLC), must review and approve the new design of any new construction on any of the air rights parcels to ensure they meet established guidelines that include height limits, design issues, massing, materials, siting and setback requirements.

Comments received from MHC and the Boston Environment Department (BED) indicate that the proposed building will exceed height limits developed to protect historic resources. MHC indicates that the height is acceptable given the site constraints (for access to utilities and to the tunnels) and the fact that the massing of the building components step back from the Bulfinch Triangle Historic District. Comments from BED indicate that the BLC shares the viewpoint of MHC that the overall scale and massing minimize the impact and the architectural design is sympathetic to the neighborhood context. As requested by MHC, the proponent will be required to provide more detailed design documents to MHC as a condition of the Draft Record of Decision.

Greenhouse Gas Emissions

This project is not subject to the EEA Greenhouse Gas Emissions Policy and Protocol.¹ However, to support its request for a Waiver, the proponent has identified measures to avoid, minimize and mitigate greenhouse gas emissions associated with the building design and its long-term operation.

The project will comply with Article 37 of the Boston Zoning Code by constructing a LEED Certifiable building. In addition, the EENF indicates that the project will be designed to meet or exceed the Energy Star Homes program standards for energy efficiency. The Energy Star Homes program generally improves on energy efficiency of building code by approximately 15%. Sustainable design elements include the redevelopment of an existing site in close proximity to transit, a low parking ratio, a TDM program including transit subsidies and bike storage, incorporation of a green roof or use of cool roofing materials, re-use of stormwater for

¹ Projects are subject to the Policy if an EIR is required and the project falls into one of four categories, the first and second of which being that the Commonwealth or a state agency is either the proponent or is providing financial assistance. EEA's intent is to require analysis of greenhouse gas emissions in those instances where MEPA has full scope jurisdiction (or, as here, the functional equivalent of full scope jurisdiction). EEA will publish a clarification of the applicability of the Policy in a forthcoming Environmental Monitor. This project is not subject to the Policy.

irrigation, water conservation and building commissioning. In addition, it may include the purchase of renewable energy credits, low emitting materials and enhanced daylighting.

MassDEP comments note that the proponent has agreed to incorporate construction and demolition debris (C&D) recycling activities into the project. These comments encourage the proponent to incorporate recycling and source reduction into the building design to support long-term recycling and source reduction efforts.

Wastewater

The project will generate approximately 58,000 gpd of wastewater. Comments from the Massachusetts Water Resources Authority (MWRA) and MassDEP note that the proponent should participate in efforts to remove extraneous clean water (Infiltration/Inflow (I/I)) from the sewer system on a 4:1 basis for a total of 232,000 gpd. The Draft Record of Decision (DROD) includes a condition that the proponent commit to offset I/I on a 4:1 basis. These comments also indicate that the proponent should consult with the Boston Water and Sewer Commission (BWSC) and the MWRA to ensure the project complements the Bulfinch Triangle Sewer Separation project.

Landlocked Tidelands

The project is proposed on landlocked tidelands and subject to the provisions of *An Act Relative to Licensing Requirements for Certain Tidelands* (2007 Mass. Acts ch. 168). Consistent with Section 8 of this legislation, I must conduct a Public Benefits Review as part of the EIR review of projects located on landlocked tidelands that entail new use or modification of an existing use and I must make a Public Benefits Determination in the Certificate on the Final EIR. Because the proponent has requested a Waiver of the requirement to prepare an EIR, I will refrain from issuing a Public Benefits Determination until reviewing comments on the DROD.²

Section 3 of this legislation requires that any project that is subject to MEPA review and proposes a new use or structure or modification of an existing use or structure within landlocked tidelands address the project's impacts on tidelands and groundwater within the ENF. It indicates that the ENF "*shall include an explanation of the project's impact on the public's right to access, use and enjoy tidelands that are protected by chapter 91, and identify measures to avoid, minimize or mitigate any adverse impacts on such rights set forth herein.*" If a project is located in an area where low groundwater levels have been identified by a municipality or by a state or federal agency as a threat to building foundations, the ENF "*shall also include an explanation of the project's impacts on groundwater levels, and identification and commitment to taking measures to avoid, minimize, or mitigate any adverse impacts on groundwater levels.*" The legislation notes that these provisions also apply to the filing of an EIR if an EIR is required.

² I have convened a Technical Advisory Committee (TAC) to assist me in developing a formalized process by which to implement those aspects of the statute that direct the involvement of EEA and the MEPA Office. In the interim, the approach to the Public Benefits Determination reflected in this document should be considered provisional.

The EENF submitted on this project addresses the project's impacts on the public's right to use landlocked tidelands and on groundwater levels. It notes that the project consists of redevelopment of an existing vacant parcel in an area of the City targeted for growth and revitalization. The site consists of impervious surfaces, utilities and access to transportation infrastructure. The landlocked parcel is located approximately 475 feet from Boston Inner Harbor on the landward side of Commercial Street in a mixed use area that includes entertainment, retail and residential uses. The project will not interfere with access to the waterfront or to open space. The project will provide adequate pedestrian access around and through the site and will improve access to the Charles River and Boston Harbor through investment in the Boston Crossroads Initiative. The building will include active ground-level uses including retail and restaurant uses which will be open to the public.

The EENF indicates that the project is located within the City of Boston Groundwater Overlay District. It indicates that, because it consists of construction over transit and highway tunnels, its impact on groundwater will be minimal. Pursuant to Article 32, Section 6 of the Boston Zoning Code, the proponent will certify that the project will not negatively impact groundwater levels on the site or on adjacent lots. Comments from the Boston Groundwater Trust provided to the BRA (dated December 3, 2007) do not identify any significant concerns with impact of the project on groundwater levels or request monitoring of groundwater levels at the site.

Conclusion

Based on a review of the information provided by the Proponent and after consultation with the relevant public agencies, I find that the potential impacts of this project do not warrant further MEPA review. Outstanding issues may be addressed during the permitting process.

I have also issued a Draft Record of Decision (DROD) today proposing to grant a Waiver from the requirement to prepare an EIR for the project. The DROD will be published in the next edition of the Environmental Monitor on March 12, 2008 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days and will end on March 26, 2008. Based on written comments received on the DROD, I shall issue a Final Record of Decision or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6).

February 29, 2008

Date



Ian A. Bowles

Comments received:

- 1/23/08 Department of Environmental Protection/Northeast Regional Office (MassDEP NERO)
- 1/16/08 Massachusetts Historical Commission (MHC)
- 2/21/08 Massachusetts Historical Commission (MHC) (second letter)
- 1/23/08 Massachusetts Water Resources Authority (MWRA)
- 1/23/08 City of Boston Environment Department
- 2/19/08 Downtown North Association

IAB/CDB/cdb