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October 10, 2008

PUBLIC BENEFITS DETERMINATION
OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS

PROJECT NAME : Bulfinch Triangle Project
PROJECT MUNICIPALITY : Boston
PROJECT WATERSHED : Boston Harbor
EEA NUMBER : 14194
PROJECT PROPONENT : Hines Raymond LLC
DATE NOTICED IN MONITOR : August 6, 2008

Consistent with the provisions of *An Act Relative to Licensing Requirements for Certain Tidelands*, I hereby determine that the above-referenced project will have a public benefit.

Project Description

As described in the EENF and the Single EIR, the project consists of the design and construction of a 488,000 gross square foot (sf) mixed-use development on a 1.46 acre parcel in the Bulfinch Triangle. It will include a 57,000 sf supermarket, 6,000 sf of ground floor retail uses, approximately 295,000 sf of either commercial office space or research and development (R&D) space and a 200-space parking garage (on two floors). The site includes parcel 2A, 2B and 2C. Parcel 2A and 2C are owned by the Massachusetts Turnpike Authority (MTA). Parcel 2B is owned by the Massachusetts Bay Transportation Authority (MBTA).

The site is bounded by Canal Street (including the existing Terra Cotta Building), Valenti Way, Beverly Street, North Washington Street and New Chardon Street. It is located on landlocked tidelands approximately 940 feet from Boston Inner Harbor in a mixed use area that includes entertainment, retail and residential uses. It is located within the City of Boston Groundwater Conservation Overlay District. Parcel 2C is located within the boundaries of the Bulfinch Triangle Historic District which is listed in the National and State Registers of Historic

Places. Parcel 2A and 2B are located adjacent to the Bulfinch Triangle Historic District and the Causeway/North Washington Street Historic District which meets the criteria of eligibility for listing in the National Register of Historic Places. Parcel 2B and 2C are located adjacent to the Canal Street building (also referred to as the Terra Cotta building) which is a contributing resource in the Bulfinch Triangle Historic District. The site contains a MBTA Transformer Vault and MBTA Vent Building and is located over MBTA tunnels and MTA tunnels. Access to the MBTA Green/Orange Line Superstation is located across Valenti Street and access to the MBTA Haymarket Station, including bus service, is located across New Chardon Street. Also, it is located in close proximity to the commuter rail at North Station. The proponent will lease the site from the MBTA and the MTA through separate 99-year ground leases.

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 ground lease from the MTA and a ground lease for land and air rights from the MBTA. The project requires review by the Massachusetts Historical Commission (MHC). The project may require a Sewer Connection Permit from the Department of Environmental Protection (MassDEP) and a Sewer Use Discharge Permit from the Massachusetts Water Resources Authority (MWRA).

The project requires surplus approval, approval of non-highway use of Right-of-Way (ROW) and Section 106 review by the US Department of Transportation's (DOT) Federal Highway Administration (FHWA). Also, it requires a National Pollution Discharge Elimination System (NPDES) Construction General Permit from the US Environmental Protection Agency (EPA).

The project is subject to Article 80 Large Project Review by the Boston Redevelopment Authority (BRA) which has been coordinated with the MEPA review. It requires review by the Boston Civic Design Commission (BCDC), development of a Transportation Access Plan Agreement (TAPA) and Construction Management Plan (CMP) for review by the Boston Transportation Department (BTD), Site Plan Approval and Utility Connection Permits by the Boston Water and Sewer Commission (BWSC), review by the Boston Public Improvements Commission (PIC), Curb Cut Permits and Street Occupancy Permits from the Boston Public Works Department (PWD), review by the Boston Air Pollution Control Commission (BAPCC), a permit to operate a parking garage and fuel storage license from the Boston Committee on Licenses, a Building Permit from the Boston Inspectional Services Department and review by the Boston Landmarks Commission (BLC). In addition, it requires zoning relief from the Boston Redevelopment Authority.¹

¹The project requires zoning relief for height and accessory office parking. It requires confirmation that the supermarket is an allowed use. In the event that the project does include R&D uses, the project will require additional zoning relief because R&D is not considered an allowed use.

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 as defined in the MEPA regulations. Pursuant to 301 CMR 11.01(2)(a)(3), MEPA subject matter jurisdiction is functionally equivalent to full scope jurisdiction.

Landlocked Tidelands

Consistent with the provisions of *An Act Relative to Licensing Requirements for Certain Tidelands* (2007 Mass. Acts ch. 168, sec.8) (the Act), which was enacted on November 15, 2007, I *must* conduct a Public Benefits Review for projects in tidelands that are required to file an EIR.

The legislation states the following regarding the Public Benefits Determination:

“In making said public benefit determination, the secretary shall consider the purpose and effect of the development; the impact on abutters and the surrounding community; enhancement to the property; benefits to the public trust rights in tidelands or other associated rights, including, but not limited to, benefits provided through previously obtained municipal permits; community activities on the development site; environmental protection and preservation; public health and safety; and the general welfare; provided further, that the secretary shall also consider the differences between tidelands, landlocked tidelands and great pond lands when assessing the public benefit and shall consider the practical impact of the public benefit on the development.”

To support the Public Benefits Determination, I have reviewed the EENF, the supplemental information provided on February 27, 2008, the Single EIR and comments received on the project. The following addresses each of the considerations identified in the legislation.

1. purpose and effect of the development

The proponent proposes to construct a commercial development on a vacant parcel of land located within the Bulfinch Triangle. As noted previously, community design standards for the Bulfinch Triangle and the subject parcel have been developed and reviewed over the past decade as part of the joint development process related to the Central Artery/Tunnel (CA/T) Project. Most recently, the project has been reviewed and approved by the Boston Redevelopment Authority (BRA), which includes a significant public participation component as part of its review process. The BRA Board approved the project on May 15, 2008, thereby indicating that the project has provided an adequate description of and mitigation for potential community impacts. Comments provided by Downtown North Association (DNA), an active participant in the joint development process and other planning efforts within the Bulfinch Triangle, indicate their full support for the project because of its consistency with design standards and the proponent's responsiveness to community concerns. The purpose and effect of the development is consistent with city and community planning and will support longstanding local and state planning goals.

2. impact on abutters and the surrounding community

None of the comment letters received on the Single EIR identify any specific concerns regarding impacts to abutters or the community that require additional mitigation. Comments from Walk Boston identify the need for continued coordination between the City, the proponent of this project and other proponents in the Bulfinch Triangle area to address opportunities for providing an effective balance of traffic flow and pedestrian safety and access. As noted above, the development appears consistent with longstanding planning goals and is designed to provide community benefits. I also note that the developer was selected by the MTA after a public Request for Proposals process that included a Citizens Advisory Committee (CAC) in the developer selection. The impact on abutters and the surrounding community will be positive.

3. enhancement to the property

The project site is a vacant parcel, comprised primarily of impervious surfaces, that has been identified as a development parcel as part of the CA/T Project. The development of this parcel will provide a supermarket, retail and offices uses in an area of the City targeted for growth and revitalization. Proposed lighting and signage, incorporation of active retail/commercial uses, widened sidewalks, and provision of benches, planters and street trees will create a safer and more attractive pedestrian environment. The Single EIR indicates that the proponent will relocate street trees, tree grates and other street furniture to the curb-line (to the extent that subsurface conditions allow) to increase the effective width of the North Washington Street sidewalk. The project's construction will improve and enhance the property and its surrounding environment.

4. benefits to the public trust rights in tidelands or other associated rights

The landlocked parcel is located approximately 940 feet from Boston Inner Harbor in a mixed use area that includes entertainment, retail and residential uses. The building is designed to expand and enhance the visual and physical connections between the Bulfinch Triangle and the Charles River. This design will be reinforced through the significant contributions to implementation of streetscape plans that strengthen the visual and pedestrian links along Beverly Street between the Rose Kennedy Greenway to the south and Portal Park to the north. Portal Park marks the entry to the New Charles River Basin Parks immediately to the north. The view corridor between the Zakim Bridge and the historic Custom House will be retained along Beverly Street. Improvements will extend along Causeway Street to its intersection with North Washington Street and improve access to Boston Harbor. The proponent will contribute \$300,000 to the Crossroads Initiative and \$12,000 for streetscape improvements.

The project will not interfere with access to the waterfront or open space. As noted above, it will support access to the waterfront and to open spaces and parks in the area including Portal Park and the Rose Kennedy Greenway. In addition, the project includes an open space that will be programmed to educate the public about the history of the Middlesex Canal. It will be landscaped and include murals and interpretive displays. The project provides benefits to

the public trust rights in tidelands.

5. community activities on the development site

The project will provide a supermarket, ground-floor retail and office uses on the site. The City and community have been working for several years to find an appropriate site for a supermarket in this neighborhood. Active ground-level uses will include retail and a restaurant which will be open to the public.

6. environmental protection and preservation

The project consists of redevelopment of a vacant lot, comprised entirely of impervious surfaces. The site does not contain any significant natural resources or public protected open space or parkland. It is located within the City of Boston Groundwater Overlay District. Consistent with City of Boston requirements, the project will be certifiable by the United States Green Building Council's Leadership in Energy and Environmental Design (LEED). Sustainable design elements include the redevelopment of an existing site in close proximity to transit, a low parking ratio, a Transportation Demand Management (TDM) program including transit subsidies and bike storage, reduction of heat island effect through a white roof or a green roof, re-use of stormwater for irrigation, water conservation and building commissioning. In addition, it may include the purchase of renewable energy credits, low emitting materials and enhanced daylighting.

Because the project will be constructed 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. The proponent is exploring the feasibility of a groundwater recharge system. Boston Groundwater Trust did not provide comments on this project or otherwise identify any significant concerns with impact of the project on groundwater levels.

The proposed building will exceed height limits developed to protect historic resources. Comments from MHC indicate that the project will have an adverse impact on the Bulfinch Triangle Historic District and the Causeway/North Washington Street area through the introduction of visual elements that are out of character with and alter the setting of these historic districts. MHC comments note that the proponent provided an alternatives analysis and additional information regarding historic resources to MHC, Boston Landmarks Commission (BLC), MBTA and FHWA. Alternatives to reduce the height of the building were discussed at the subsequent MHC consultation meeting and the consulting parties concluded that the site and programmatic constraints limit further height reductions. Also, MHC comments recommend that a MOA be developed to mitigate the adverse effect of the project with the FHWA as the lead federal agency and suggest that mitigation measures could include the Middlesex Canal open space and continued design review of the project.

In a separate Certificate issued on September 12, 2008, I determined that the project has adequately avoided, minimized and mitigated potential impacts pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62I) and the MEPA

regulations (301 CMR 11.00).

7. *public health and safety*

The replacement of a vacant lot with active uses will promote public safety. The contribution to streetscape improvements will encourage walking and transit and improve the safety of the pedestrian environment.

Comments from MassDEP indicate that the public benefits proposed appear to be appropriate for the project's impacts on landlocked tidelands. The combination of interior public uses and pedestrian and open space improvements may serve to attract the public to the site and create a pedestrian link between the Charles River and the Rose Kennedy Greenway. Based on the foregoing, I hereby determine that the project will have a positive public benefit.

Conclusion

To meet the public publication requirements of the Act, this Determination will be published in the next edition of the Environmental Monitor on October 22, 2008.

October 10, 2008

Date



Ian A. Bowles

IAB/CDB/cdb