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December 22, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : 585 Commercial Street
PROJECT MUNICIPALITY : Boston
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 13894
PROJECT PROPONENT : GA 585 Commercial Street LLC
DATE NOTICED IN MONITOR : October 25, 2006

Pursuant to the Massachusetts Environmental Policy Act (M.G. L., c. 30, ss. 61-62H) and Sections 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the proposed project consists of the redevelopment of an existing site at 585 Commercial Street in Boston. The 32,148 square foot (sf) parcel is composed entirely of filled tidelands. The parcel includes a vacant three-story building (most recently used for office and retail) and a small parking lot. The project is bounded by the Prince Street Park to the southwest, Commercial Street to the south and southeast, the Steriti Rink site to the northeast and Boston Harbor waterfront to the northwest. It is in close proximity to North Station and associated commuter rail, subway and bus service.

The project will demolish the existing building and replace it with an 8-story (85-foot high) residential building with approximately 62 units and facilities of public accommodation (FPAs). The project includes a subsurface parking garage designed to accommodate approximately 135 parking spaces. Proposed FPAs include a restaurant with café and bar, a spa and a fitness center with an indoor lap pool.

Potential environmental impacts associated with the project include .48 acres of nonwater dependent use of filled tidelands, generation of 1,002 average daily vehicle trips (adt), use of 25,823 gallons per day (gpd) of water and generation of 23,475 gpd of wastewater. Proposed measures to avoid, minimize and mitigate impacts include the following: design of a high-efficiency, sustainable building that is certifiable through Leadership in Energy and Environmental Design (LEED) including a green roof; replacement of the existing fishing pier with a public marina and public landing on property to the north of the site that is owned by the Department of Conservation and Recreation (DCR); and construction of 415 feet of Harborwalk just east of the site in front of Puopolo Park.

The project is undergoing MEPA review pursuant to Section 11.03 (1)(b)(3) and (3)(b)(6) because it requires a state permit and will require conversion of land held for natural resources purposes in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth to any purpose not in accordance with Article 97 and it consists of new or existing unlicensed nonwater dependent use on tidelands. The project requires a Chapter 91 License, a Sewer Connection Permit and a 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP). It requires approval of an amendment to the Municipal Harbor Plan (MHP) by the Executive Office of Environmental Affairs (EOEA) and review by the Massachusetts Historical Commission (MHC). It may require approval by the state legislature for changes to Article 97 land and federal consistency review by Coastal Zone Management (CZM). Also, it requires an Order of Conditions from the Boston Conservation Commission (and a Superseding Order of Conditions from DEP in the event the local Order is appealed).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state agency permits, and that may cause significant Damage to the Environment. In this case, the subject matter of the required state permits (i.e. the Chapter 91 License) is sufficiently broad to confer MEPA jurisdiction over virtually all of the potential environmental impacts of the project.

Joint MEPA/BRA Review

At the request of the proponent, the MEPA review of this project will be coordinated with the local review procedure conducted by the Boston Redevelopment Authority (BRA) in accordance with Article 80 Section 80B (Large Project Review) of the Boston Zoning Code. City review will also require review and approval of a Transportation Access Plan Agreement (TAPA) and a Construction Management Plan (CMP) by the Boston Transportation Department (BTD). The proponent will prepare a joint Project Impact Report (PIR)/EIR that addresses the requirements of both MEPA and the BRA. The proponent should coordinate this joint review process with both agencies to establish the necessary review periods.

As noted previously, the project, as proposed, would require an amendment to the MHP and the proponent has indicated that it will work with the City to amend the MHP. In accordance with the MHP regulations at 301 CMR 23.04, such an amendment requires a public review process, prior to a decision on the amendment by the Secretary of Environmental Affairs. The public process must be coordinated by the City of Boston under the guidance of CZM.

The proponent has the ability to coordinate the MEPA and MHP amendment processes to provide a timely and efficient mechanism to review project design, programming, and decision-making. Although the proponent may secure an amendment, I encourage the proponent to carefully consider the many agency and neighborhood comment letters prior to pursuing this course of action. There is very little support for a change in the existing height restriction and the input received to date clearly supports the development of a project consistent with zoning and the prior 1991 MHP Approval. If the proponent chooses to pursue as a preferred alternative a project that requires amending the MHP, the DEIR should be used as the vehicle for publishing a public hearing draft of the City's proposed amendment(s). Second, the proponent is directed not to submit an FEIR for the proposed project until the MHP process has been completed, to ensure that all relevant terms and conditions of this approval effectively informs the MEPA review process.

SCOPE

The EIR should follow Section 11.07 of the MEPA regulations for outline and content, as modified by this scope. It should include a copy of this Certificate and all comment letters. The format of the EIR can be largely determined by this Certificate and the requirements of Article 80 and the scope issued by the BRA.

Project Description & Permitting

The EIR should include a detailed description of the project, and should briefly describe each state agency action required for the project. It should demonstrate how the project is consistent with applicable performance standards. The EIR should contain sufficient information to allow the permitting agencies to understand the environmental consequences of their official actions related to the project.

The EIR should identify and explain any project phasing. It should discuss how this project is compatible with Executive Order 385 – Planning for Growth, by discussing its consistency with Boston zoning requirements, the Metropolitan Area Planning Council's Metro Plan 2000, Chapter 91, and the Municipal Harbor Plan.

The EIR should include surveyed plans so that the precise locations of important features (Mean High Water, project shoreline) include an accurate existing conditions plan at a suitable scale (e.g. 1" = 40') that includes complete extent of the existing pile-supported wharf and seawall, the mean high and low water marks, all flood zones as currently identified by FEMA, and detailed existing topography. The EIR should include an overlay of the proposed project (at the same scale) to compare the location of the proposed building footprint and proposed topography to the existing features.

Alternatives Analysis

I am requiring an EIR primarily to evaluate project design alternatives that are consistent

with the Secretary's 1991 MHP Approval and will ensure excellent and unfettered access to the waterfront and the adjacent parkland. The EIR should identify the impacts of each of the alternatives including impacts on tidelands, open space, and traffic. The alternatives analysis should clearly demonstrate consistency with the objectives of MEPA review, one of which is to document the means by which the proponent plans to avoid, minimize or mitigate Damage to the Environment to the maximum extent feasible.

The EIR should compare the following four alternatives:

- Alternative 1 - No-Build Alternative;
- Alternative 2 – ENF Preferred Alternative;
- Alternative 3 – Alternative Consistent with Secretary's 1991 MHP Approval
- Alternative 4 – DCR Land Swap

As noted previously, the primary purpose of this EIR is to explore an alternative that is consistent with the 1991 MHP Approval. In addition, comments from the BRA Impact Advisory Group (IAG) propose a land swap to move the development closer to the North Washington Street Bridge while grouping recreational resources together (i.e. tennis courts, skating rink, basketball courts). Such a proposal is worthy of consideration but must be carefully developed to ensure public access to and along the waterfront and use of recreational facilities and open space is a priority. I recommend that the proponent consult with DCR regarding the feasibility and desirability of this alternative prior to filing the EIR.

Chapter 91/Tidelands

If well planned and designed, this project could bring vitality and pedestrian activity to complement recently completed and planned public and private investments in this area. The project, as designed, is not consistent with zoning or the Secretary's 1991 MHP Approval Decision including requirements for open space, FPA's and building massing/height. Significant revisions are needed to ensure that the project improves the parcel's connectivity to the public resources and open space surrounding it and serves to complement those uses.

This parcel is the only parcel within the North and is subject to the City of Boston municipal harbor plan approved by the Secretary on May 22, 1991 (MHP). The ENF indicates that the building footprint and ground-level use program of the proposed project are allowable under substitute provisions in the 1991 Approval Decision relating to interior FPAs, open space, and setback and indicates that the proposed height, although inconsistent with zoning, will be allowable by a substitute height limit in an amendment to the MHP for the End Business Subdistrict. CZM indicates that Chapter 91 requirements for open space, density and programming have been modified only slightly by the Secretary's decision to approve the 1991 MHP and MassDEP comments are consistent with this statement. The proponent should review carefully comments from state agencies, particularly MassDEP, CZM and DCR, and ensure that alternatives and project plans address the issues identified by the agencies.

As noted previously, the site is surrounded on three sides by recreational resources owned by DCR and has pedestrian access from the street on either side of the property as well as a

section of Harborwalk along the waterfront. CZM, MassDEP and many other commenters have indicated that proposed open space does not meet the 50% open space requirement of the Chapter 91 and the approved MHP. DCR comments express concern with the height and width of the project and its potential shadow and massing impacts on Prince Street Park and on the Harborwalk. Alternatives should provide, on the project site, an expansion of the existing walkways that connect Commercial Street (and the Freedom Trail) to the Harborwalk and should minimize wind and shadow impacts on open space. The EIR should include a landscaping plan for the entire site and, particularly, for the proposed walkways. The EIR should clearly evaluate impacts to DCR land and the proponent should consult with DCR prior to filing the EIR to discuss mitigation.

DEP and CZM have noted that the River Room, a private meeting and function space, does not appear to meet the FPA classification. The room will need to be re-located or the space re-programmed to meet FPA standards.

Significant additional detail will be needed on the proposed mitigation including the marina and the extension of the Harborwalk. DCR comments indicate that this mitigation may not be necessary or appropriate. The EIR should identify preliminary designs, permitting requirements, maintenance needs to support the evaluation of these proposals.

Traffic and Transportation

The ENF states that the project will generate approximately 1,002 average daily trips (adt) on a typical weekday based on Institute of Transportation Engineers (ITE) unadjusted trip rates. Because of its proximity to transit and commercial areas, the project has the potential to minimize vehicle trips. To build on this potential, the proponent should redesign its access plan, significantly reduce the proposed amount of parking and develop a strong Transportation Demand Management (TDM) Program.

The EIR should provide a breakdown of parking needs by land use category, times of day and likely users. It should identify BTM's parking supply recommendations and the project's consistency with them. Any valet parking operations for the proposed project should be described in the EIR as well as valet routes to the parking garage. The EIR should describe how parking ratios were developed. The EIR should consider reserved parking for ZipCar or a similar service within the garage. The EIR should include details on the proposed TDM Program and the proponent should consider offering free transit passes to residents.

The EIR should include the Traffic Impact Study prepared in accordance with a scope to be issued by the BRA and the Boston Transportation Department (BTD). It should identify appropriate mitigation measures for areas where the project will have a direct impact on traffic operations. In addition, the proponent should carefully consider comments from Walk Boston addressing pedestrian access along Commercial Street as well as to the waterfront.

The EIR should describe how the project intends to accommodate service and loading functions, and the requirements of the project for service/loading infrastructure (e.g., projected demand, circulation, required turning radii, etc.). It should analyze the impacts of service and

loading functions on the area traffic network. The EIR should identify efforts to coordinate with BTD and the neighborhood to address traffic concerns.

Drainage

The project will result in a relatively small increase in impervious surfaces on the site. The ENF asserts that the project will improve water quality over existing conditions as a result of upgrades to the on-site stormwater collection system and outfall to Boston Harbor. The EIR should present drainage calculations and detailed plans for the management of stormwater. It should include a detailed description of the proposed drainage system design, including a discussion of the alternatives considered along with their impacts. The EIR should identify the quantity and quality of flows. The rates of stormwater runoff should be analyzed for the 10, 25 and 100-year storm events. The EIR should address the performance standards of DEP's Stormwater Management Policy and demonstrate that the design of the drainage system is consistent with this policy. The proponent should also address comments from the Boston Water and Sewer Commission (BWSC) including investigation of retaining stormwater and dewatering drainage on-site.

Any dewatering of the construction site should include monitoring to ensure that there is minimal impact to the groundwater level. The EIR should summarize pre-construction groundwater conditions and outline how it will monitor groundwater levels. In addition, the EIR should address how contamination encountered during construction will be addressed.

Water Use

The proposed project will use approximately 25,823 gpd of water. The site is served by a connection to the existing 16-inch water main in Commercial Street. The EIR should describe any proposed changes to the existing system and provide an updated on its consultations with the BWSC. The EIR should outline the proponent's efforts to reduce water consumption.

Wastewater

The proposed project will generate approximately 23,475 gpd of wastewater. The wastewater system in the project area is comprised of a 15-inch combined sewer in Commercial Street. The ENF states that the sewer system has sufficient capacity to accommodate the increase in flows from the project. MassDEP, MWRA and BWSC indicate that the proponent will be expected to eliminate extraneous water from the system (Infiltration/Inflow (I/I)), or reduce stormwater discharge, at a minimum ratio of 4:1. The proponent should coordinate closely with the BWSC, the MWRA and MassDEP regarding this program.

Historic Resources

The ENF indicates that the site lies within the North End area which is eligible for listing in the National Register of Historic Places. The proponent should consult with MHC regarding potential impacts to historic resources and provide an update on this consultation in the EIR.

Construction

The EIR should present a discussion on potential construction period impacts (including but not limited to noise, vibration, dust, and traffic maintenance) and analyze feasible measures, which can avoid or eliminate these impacts.

Installation of in-water work would be constrained from February 15 through July 15 due to the anadromous fish run. I strongly encourage the proponent to consult with DEP's Waterways Regulation Program, the Division of Marine Fisheries, and the Boston Conservation Commission regarding in-water work. The DEIR should propose and include commitments to implement appropriate mitigation measures based on these consultations.

The proponent should consider participation in DEP's Clean Air Construction Initiative to mitigate the adverse diesel emissions associated with the construction period. The EIR should present a discussion of measures to implement construction-period diesel emission mitigation including retrofit of construction equipment and use of on-road low-sulfur diesel (LSD) fuel.

Sustainable Design

The proponent has stated in the ENF that it intends to design a building that can be certified by the United States Green Building Council (USBGC) Leadership in Energy and Environmental Design (LEED) program. The EIR should summarize the proponents' efforts to ensure that this project is a LEED Certified building or the equivalent.

Mitigation

The EIR should include a separate chapter on mitigation measures. It should develop transportation and parking demand management measures to reduce single passenger automobile trips and encourage walking and transit use. This section should include a Draft Section 61 Finding for all state permits. The Draft Section 61 Finding should contain a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation, and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation should also be included.

Comments

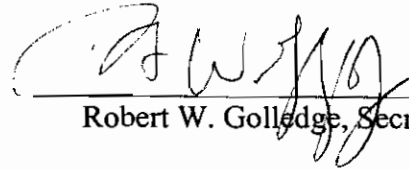
The EIR should respond to the comments received to the extent that the comments are within the subject matter of this scope. Each comment letter should be reprinted in the EIR. I defer to the proponent as it develops the format for this section, but the Response to Comments section should provide clear answers to questions raised.

Circulation

The EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below and to City of Boston officials. A copy of the EIR should be made available for public review at the Boston Public

Library. The proponent should provide a hard copy of the EIR to each state and city agency from which the proponent will seek permits or approvals.

December 22, 2006
Date


Robert W. Gollidge, Secretary

Comments received:

12/12/2006	Coastal Zone Management (CZM)
12/12/2006	Department of Conservation and Recreation
12/12/2006	Department of Environmental Protection/Northeast Regional Office (MassDEP NERO)
12/12/06	MassDEP Waterways
11/14/2006	Division of Marine Fisheries (DMF)
11/10/2006	Massachusetts Water Resources Authority (MWRA)
12/18/2006	Salvatore F. Dimasi, Speaker of the House
12/11/2006	Department of the Army
12/15/2006	Boston Redevelopment Authority (BRA) Impact Advisory Group (IAG)
11/14/2006	Boston Water and Sewer Commission
11/17/2006	Boston Groundwater Trust
12/12/2006	Conservation Law Foundation
12/13/2006	North End Waterfront Neighborhood Council (NEWNC)
12/12/2006	North End/Waterfront Residents' Association (NEWRA)
12/12/2006	Residents of the North End Petition
12/11/2006	Strada 234 Condominium Trust
12/14/2006	The Boston Harbor association
12/11/2006	The Committee to Save the North End Waterfront Recreation Area
11/15/2006	WalkBoston
12/11/2006	Michael and Angela Aquilino
12/15/2006	Sue Benveniste
12/12/2006	Victor Brogna
12/13/2006	Peter Bullock
12/12/2006	Paul Cangiano
12/11/2006	Christopher Carlis
12/11/2006	Donna Carlis
12/10/2006	Stephen Cartisano
12/12/2006	John Casamassima
12/06/2006	Sandra Caso
12/12/2006	Ernest Cavicchi
11/16/2006	Corrine Colarusso
12/11/2006	Antonette Crugnale

12/12/2006 Diane Curry and Peter Stokes
12/11/2006 Patrick Cutter
12/10/2006 Bernard Doherty
12/12/2006 Joseph P. Foley
12/11/2006 Stephen Goldberger
12/11/2006 Rose-Marie Gomez
12/12/2006 Reginald Greene
12/11/2006 Marcia Head
12/11/2006 Jennifer Hertz
12/12/2006 Fredda Hollander
12/11/2006 Juliet C. Jacobsen
12/12/2006 Lina Klebaner
12/11/2006 Shirley Kressel
12/12/2006 David Kubiak
12/11/2006 Tara Kuglen
12/11/2006 Haley Lamond
12/19/2006 Lucila Leone
12/11/2006 Andrew Leong
12/12/2006 Barbara & Tony LoVuolo
12/12/2006 Sanjoy Mahajan
12/12/2006 Mary McGee
12/12/2006 Susan Mulholland
12/12/2006 Paul Nelson
12/10/2006 Annick Perrillat-Boiteux
12/12/2006 Anne Pistorio
12/11/2006 Mark A. Routhier
12/12/2006 Sean Sanger
12/12/2006 Robert Sarno
12/12/2006 Thomas Schiavoni
12/01/2006 Pasqua Scibelli
12/09/2006 Harry Sevioor
12/13/2006 Nancy Sonnabend
12/11/2006 Robert Skole
12/06/2006 Joyce Stephens
12/12/2006 John Stitzer
12/10/2006 Anne Devlin Tagliaferro
12/12/2006 Todd Thomas
12/04/2006 Marylou Trojano
12/13/2006 Chad Wolfson
12/11/2006 Paul B. Yu, M.D

Form letter (100)

RWG/CDB/cdb