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March 28, 2008

PUBLIC BENEFITS DETERMINATION  
OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS

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

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. This determination accompanies a Final Record of Decision (FROD) that I am also issuing today.<sup>1</sup>

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.

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<sup>1</sup> I have convened a Technical Advisory Committee (TAC) to assist me in developing a formalized process to implement the "public benefit review" process. In the interim, the approach to the Public Benefits Determination reflected by this document should be considered provisional.

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 does not require a Chapter 91 License.

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.

### Landlocked Tidelands

Consistent with the provisions of *An Act Relative to Licensing Requirements for Certain Tidelands* (2007 Mass. Acts ch. 168, sec.8), which was enacted on November 15, 2008, I *must* conduct a Public Benefits Review for projects in tidelands that are required to file an EIR, and I *may* conduct a public benefit review for projects in tidelands that file only an ENF. I infer from this that the legislature wished to ensure that projects that are large enough to trigger a mandatory EIR threshold receive a Public Benefit Determination. In this instance, the project exceeds a mandatory EIR threshold, but the proponent has requested a Waiver of the requirement to prepare an EIR. In my view, it is consistent with the MEPA regulations and the spirit and intent of the legislation that a Public Benefits Determination be conducted for a project that exceeds a mandatory EIR threshold, but is not required to file an EIR due to a waiver.

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 and the 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 residential and retail development on a vacant parcel of land located within the Bulfinch Triangle. The project will provide 283 residential units including 10 affordable housing units. 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 December 20, 2007, 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 project identify any specific concerns regarding impacts to abutters or the community that require additional mitigation. 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 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 additional residential units 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 project includes vehicular and pedestrian access through the site in the form of a porte cochere. 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 475 feet from Boston Inner Harbor. It is located on the landward side of Commercial Street 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 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.

The project provides benefits to the public trust rights in tidelands.

5. *community activities on the development site*

The project will provide 283 residential units including 10 affordable housing units on-site. The building will include active ground-level uses including retail and restaurant uses which will be open to the public. A two-story restaurant will include public open space and outdoor dining overlooking the Zakim Bridge. In addition, it will provide approximately 60 spaces for bicycle parking within the garage.

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 LEED certifiable. 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, 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. 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.

Comments received from the Massachusetts Historical Commission (MHC) and the Boston Environment Department (BED) indicate that the proposed building will exceed height limits developed to protect historic resources. Comments from MHC note 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 Boston Landmarks Commission (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. The proponent will be required to provide more detailed design documents to MHC as a condition of the DROD. In a separate Certificate issued on February 29, 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. 61-62H) and the MEPA Regulations (301 CMR 11.00). In the FROD, also issued today, I have granted a Waiver from the requirement to prepare an EIR.

#### *7. public health and safety*

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

#### Conclusion

Based on the foregoing, I hereby determine that the project will have a positive public benefit.

To meet the public publication requirements of the legislation, this Determination will be published in the next edition of the Environmental Monitor on April 9, 2008

March 28, 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  
1/23/08 Sierra Club

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