



# The Commonwealth of Massachusetts

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April 14, 2006

## CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME :South Station Air Rights  
PROJECT MUNICIPALITY :Boston  
PROJECT WATERSHED :Charles River  
EOEA NUMBER :3205/9131  
PROJECT PROPONENT :TUDC, LLC and South Union Station LLC  
DATE NOTICED IN MONITOR :March 8, 2006

As Secretary of Environmental Affairs, I hereby determine that the Final Environmental Impact Report (FEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00). The project may proceed to permitting.

South Station is the preeminent mass transit gateway to downtown Boston. The Station plays an irreplaceable role in ensuring the efficient and environmentally responsible operation of our regional transportation system. Over 110,000 train, subway, and bus passengers will soon be passing through the station on an average weekday. The availability of transit access makes the South Station area a logical focus for transit-oriented development and this project is now designed to protect and enhance this resource. Further review and refinement of the design and associated mitigation will ensure it maximizes the benefits of transit-oriented development.

As required in the certificates on the Draft EIR (DEIR) and the Notice of Project Change (NPC), the proponent has made significant changes to the project to avoid, minimize and mitigate potential impacts on the regional transportation infrastructure, neighborhoods and historic resources and has established a process to address issues as the project moves through final design and construction. These include:

- Minimization of permanent long-term impacts on the South Station operations of Amtrak, commuter rail, subways and buses. The office tower has been redesigned to support horizontal expansion of the bus station towards South Station and a pedestrian connection between the two. In addition, the proponent has committed to construct this \$40 million bus station expansion project and to provide \$2 million to the Massachusetts Bay Transportation Authority (MBTA) for renovation of the existing station required to support this expansion.
- Avoidance of any major construction within the South Station Head House and a reduction in the schedule from more than 39 months to 36 months. In addition, the proponent has agreed to move existing track signals at the southern end of the railyard prior to construction to allow shortening of the tracks while maintaining track capacity. Upon project completion, the area between the tracks and the Head House will be larger than it is today.
- Minimization of impacts on flight operations and historic resources by redesign of the office tower. The tower has been reduced in size from over 1,000 feet to a maximum of 621 feet above grade level (AGL)<sup>1</sup> consistent with the size of other towers in the area. The design provides a generous setback from the Head House, a slender profile and a simplified aesthetic more consistent with its role in this historic district. In addition, programming changes have resulted in less traffic impacts and the potential inclusion of a greater percentage of residential uses may further reduce traffic impacts.
- Establishment of a Development Agreement between the proponent, the MBTA and the Boston Redevelopment Authority (BRA) to create a process for design and construction review and management, including approval of Construction Management Plans (CMPs).

### Project Description

As proposed in the FEIR, the project is a 1.765 million sf mixed-use development. It will be constructed in three phases over a seven year period from 2007 to 2014. Phase I (2006 – 2010) consists of a 40-story, 621 foot, office tower to be located directly above the rail tracks at the South Station Head House containing 1.05 million square feet (sf) of office space (Option A) or a 41-story, 621 foot office tower containing 620,000 sf of office space and 300,000 sf of residential space (Option B). This phase includes the construction of 530 spaces and a loading dock within the parking garage. Phase II (2010 – 2012) consists of a 7-story 220,000 sf hotel (with 200 rooms), and associated restaurant, health club, ballroom and meeting space and a 170,000 sf 13-story residential building. This phase includes the construction of the remaining 225 parking spaces. Phase III (2012 – 2014) consists of a 9-story, 430,000 sf office building and associated loading dock.

The project includes an upper level connection between all phases (Sky Street) and approximately 27,000 sf of ancillary retail spaces. It includes construction of a 3-level parking garage consisting of 750 new spaces to serve the project's parking needs and includes 188 spaces reserved for MBTA use. Also, it includes the 70,000 sf expansion of the bus terminal including

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<sup>1</sup> Previous heights measurements were based on Above Sea Level (ASL). All heights noted in the FEIR are based on Above Grade Level (AGL) and measured to top of the highest occupiable floor.

a convenient pedestrian connection between it and the train station. Vehicular access to the project is proposed via the South Station Tunnel Connector (SSTC) and via Atlantic Avenue.

### Jurisdiction

The project will require multiple federal, state, and local permits, including air-rights easements and/or approvals from the MBTA, a FAA determination regarding hazards to air navigation, DEP sewer connection permit, MHD highway access permit and review by the Massachusetts Historical Commission (MHC). In addition, it requires large project review by the BRA under Article 80 of the Boston Zoning Code and will require approval from the Federal Highway Administration (FHWA) for use of restricted HOV lanes. MEPA jurisdiction over the air-rights development project is broad in scope and applies to all significant environmental impacts potentially resulting from the project.

### Procedural History

MEPA review of the South Station Intermodal Transportation Center (EOEA #3205) began in the late 1970s. Phase I of the project, undertaken by the MBTA in conjunction with the Federal Railroad Administration (FRA), involved renovation of the Head House, reconstruction of tracks and platforms for inter-city and commuter rail use. It included placement of the bus terminal/parking garage structure and foundations for the anticipated Phase II air rights development over the railroad tracks. MEPA review of Phase I concluded in 1991 and construction was complete around 1995.

MEPA review of Phase II, the South Station Air Rights Development Project, began with the filing of an ENF in 1992. The program at that time involved approximately 2.1 million square feet including 1,000,000 sf of office space in a 40-story building located on the existing Phase I foundations. A DEIR for an initial phase of approximately 365,000 sf was submitted and found adequate in 1994. No FEIR was ever submitted.

In June 1998, a NPC was filed for a revised configuration of the current project. The 1998 NPC proposed to locate the 753-foot office tower directly above the South Station passenger concourse and would also have required a reconfiguration of the previously planned bus terminal expansion. Public comments and the scope for the DEIR focused on the direct impacts of the development, including traffic, wind, shadows and effects on historic resources.

Upon the review of the DEIR in 2000, an NPC was required prior to submission of the FEIR to address the following four issues: permanent impacts on the operations of the South Station Intermodal Transportation Center, construction mitigation, impacts of structure height upon Logan Airport operations and coordination with the abutting United States Postal Service (USPS) facility.

The NPC was submitted on October 31, 2002 and a Certificate was issued on December 16, 2002. The Certificate indicated that the NPC adequately and properly complied with MEPA and indicated the proponent could submit the FEIR for review.

Review of the FEIR

The FEIR includes revised and updated traffic analysis based on current land uses and updated projections, wind and shadow studies, air quality analysis for traffic impacts and other emission sources, including diesel exhaust, noise analysis, renderings and perspectives of the new buildings, updated descriptions of infrastructure and revised mitigation commitments.

The overall project will be in construction for a minimum of seven years, including a three year construction period for the office tower. Construction of the tower will be the most disruptive portion of the project in terms of its impacts on the operations of South Station and abutting neighborhoods. Given the significant concern and multiple issues to be managed during this construction, the FEIR includes a revised CMP for tower construction to address construction period impacts. It includes a pedestrian flow analysis that evaluates the implications for passenger circulation during each phase of the tower construction and in the event of an emergency. The MBTA has reviewed and approved the first phase of the CMP.

MHC has indicated that the project will have an adverse effect on the South Station Head House. In addition, the project will create new wind and shadow impacts on open spaces and pedestrian corridors surrounding the project, including the Rose Kennedy Greenway, the Fort Point Channel and the Harbor Walk.

The traffic analysis was revised based on consultations with the Boston Transportation Department (BTD). It reflects changes in the project programming and design and updated traffic counts and land use assumptions. Based on this analysis, the project is estimated to generate approximately 3,170 vehicle trips on an average weekday for Option A or 2,996 vehicle trips for Option B. It includes an analysis of impacts both with and without project use of the SSTC ramp system and demonstrates that the project will not degrade traffic conditions.

As required, the project provides information regarding impacts on the North/South Rail Link project (EOEA #10270). The project will have an impact on the Central Artery Alignment through the addition of eight piles for the tower foundation. The proponent of the North/South Rail Link would need to address these new pilings (as well as the existing pile foundations installed under the SSTC) and coordinate closely with the South Station Air Rights development regarding station design. The project does not affect the Dorchester Avenue alignment.

Overwhelmingly, comment letters on this project have noted the positive progression of the project and its design through MEPA review. The MBTA has indicated that the FEIR addresses its major concerns and notes that remaining issues include ongoing design development and development of the CMP. The BRA has indicated that mitigation will be further detailed through the ongoing BRA urban design and environmental review process. Comments from other organizations and agencies are generally consistent with the BRA and the MBTA. MHC, Boston Environment Department and the Boston Preservation Alliance (BPA) have highlighted progress on protection of historic resources. Project abutters have called for additional coordination on real estate and construction management issues but acknowledged that many of these can be addressed outside of the MEPA process.

The proponent has addressed the majority of the issues identified in the NPC and the DEIR and provided updated and detailed information about most aspects of the project. This is a very complex project, both in its design and construction, and it is widely acknowledged that many issues remain to be addressed and resolved, including the development or refinement of additional mitigation. I expect that the proponent will consider the many thoughtful comments provided on the FEIR and address them, to the extent possible, as the project is developed further.

Based on a review of the FEIR, a review of comment letters received and consultation with public agencies, I find that the FEIR adequately and properly complies with MEPA and its implementing regulations. While issues have not been fully resolved within the FEIR and additional mitigation will be required of the proponent, they can be addressed appropriately through state and local permitting, through final design and through coordination of development issues.

#### Traffic, Parking and Transportation Demand Management

Based on a review of the traffic analysis and related information, it appears there are two opportunities to better reflect the proponent's strong commitment to the avoidance of single occupancy vehicles (SOV) and to develop a real model for transit-oriented development. First, the parking supply can be reduced further and managed more efficiently and, second, the Transportation Demand Management (TDM) program should be strengthened.

As noted previously, the project includes 943 parking spaces, 750 of which are reserved for the project. The FEIR indicates that the amount of parking is consistent with the BTM parking ratio for the downtown district (0.4 parking spaces per 1,000 square feet of commercial office development and per hotel room); however, as noted by the Conservation Law Foundation (CLF), the Boston Environment Department and other commentors, this does not account for the project's location over a major transit hub or the ability to provide shared use spaces because of the mixed use nature of this development. I strongly encourage the proponent to further reduce its parking supply

The TDM program detailed in the FEIR makes many specific commitments that will reduce the amount of SOV trips to the site such as providing parking preference to vanpools and other HOVs, participation in the Seaport and Artery Business Committee (ABC) Transportation Management Association (TMA) and hiring of a full-time on-site transportation coordinator. While these measures are important, many commentors have noted the importance and value of subsidies for transit passes to provide employees and tenants a very effective incentive to use transit. The proponent should strengthen its TDM program by incorporating a transit pass subsidy program consistent with what has been provided by other air rights development projects (e.g. Columbus Center EOE #12459) and should consider incorporation other TDM measures identified by CLF and the Boston Environment Department.

I expect both of these issues will be addressed in further detail during project review and permitting.

### Coordination and Construction Management

The successful implementation of the CMP will require careful coordination, adequate staffing and development of appropriate emergency management measures. While acknowledging the progress represented by the FEIR filing, commentors continue to stress the challenge of managing the large volumes of pedestrians during the construction period. Subsequent permitting and review and the establishment of the Developer Agreement described earlier will provide the MBTA and the City with additional opportunities to review and revise the CMP to ensure it minimizes impacts on commuters and that it adequately addresses emergency situations. I expect that the MBTA and the City will solicit input from abutters and affected stakeholders and ensure valid concerns are addressed as the CMP continues to be developed. Such action will be an important step towards facilitating the project's construction.

To further minimize the noise, dust and air quality impacts of this major construction project within this dense, urban area and consistent with what residents and businesses have come to expect during construction of the CA/T Project and other major projects, the proponent should incorporate additional mitigation for construction impacts. I encourage the proponent to adopt construction-period noise control specification and policies similar to those in effect for the Central Artery/Tunnel (CA/T) Project contracts. In addition, the proponent should require contractor participation in the DEP Clean Construction Equipment Initiative consisting of an engine retrofit program, to reduce exposure to diesel exhaust fumes and particulate emissions.

### Streetscape, Open Space and Public Access

As proposed, the project will have significant temporary and permanent impacts on Atlantic Avenue. The CA/T Project has constructed a high quality streetscape that includes broad sidewalks (26 feet in most location), a double row of street trees, plantings and street furniture consistent with the Surface Transportation Action Forum (STAF) requirements for CA/T streets and sidewalks and the CA/T Project commitment to provide a tree-lined boulevard. The entire length of Atlantic Avenue in front of the proposed development is currently designated for taxi stands that serve the bus station and South Station and a public drop-off/pick-up area. All project phases include construction staging from Atlantic Avenue and, for a minimum of two years during construction of the office tower, the staging will include the sidewalk and extend into the Atlantic Avenue parking lane.

If built as designed, the existing continuous sidewalk would be interrupted by several curb cuts (for a loading dock, access to the parking garage and a drop-off/pick-up area for the hotel) and several street trees would be removed directly adjacent to Atlantic Avenue. The drop-off/pick-up area would reduce the existing sidewalk to 12 feet in an area of heavy pedestrian volume that will increase due to the development and service expansion at South Station. As such, the proposed design is not consistent with the Surface Transportation Action Forum (STAF) requirements for CA/T streets and sidewalks and it impacts the CA/T commitment for a tree-lined boulevard. This project will be reviewed through the City's Enhanced Public Review Process for the Greenway Streets and Sidewalks. STAF participants and other interested parties will have several opportunities to review and comment on proposed changes through review and permitting by the BRA, the Boston Transportation Department (BTD), the Public Improvement

Commission (PIC), the Mayor's Central Artery Completion Task Force and/or the Rose Kennedy Greenway Conservancy.

Because this project is still at a conceptual design phase, ample opportunity exists to fully explore what appear to be workable alternatives to the proposed design. The proponent should consider alternatives including: 1) a curbside drop-off/pick up area in front of the hotel or 2) incorporation of valet service within the parking garage (which would have the added benefit of removing additional vehicles from Atlantic Avenue). In addition, the proponent should consider the many thoughtful and detailed comments on this and other pedestrian related issues provided by Walk Boston, Adaptive Environments and the Mayor's Central Artery Completion Task Force and the Central Artery Environmental Oversight Committee (EOC).

As noted previously, the project will create new shadow and/or wind on existing and proposed public open spaces and pedestrian corridors surrounding the project, including Parcel 22 of the Rose Kennedy Greenway, the Fort Point Channel and the Harbor Walk. In addition, it will extend existing shadows on Atlantic Avenue. While the building has been designed to minimize wind and shadow impacts, the FEIR does not describe any mitigation for these new impacts. The proponent should work with the City, the Greenway Conservancy and the CA/T Project to develop appropriate mitigation for these impacts including maintenance of trees and landscaping on Atlantic Avenue and the Greenway.

Several commentors, including the USPS, The Boston Harbor Association (TBHA), the Boston Environment Department and CLF have noted the importance of ensuring pedestrian connections to the Fort Point Channel. Chapter 235 of the Acts of 2000 places an emphasis on the promotion of public access over and through the site to flowed tidelands and the Fort Point Channel Watersheet Activation Plan lists a strengthened pedestrian link through South Station to the Channel as a key public goal. The FEIR includes a description of two alternative pedestrian links, one at-grade and one via an elevated crossing over the tracks. Comments clearly indicate a preference for an at-grade crossing. This issue will be addressed during planning and review of the USPS re-development and I expect that the proponent will participate constructively in planning and design of this connection at the appropriate time.

#### Mitigation and Section 61 Findings

The FEIR included proposed Section 61 Findings which will be updated and revised to reflect the commitments required by this Certificate as well as additional commitments and/or more detailed information identified during subsequent review and permitting. Additional commitments include participation in the Clean Construction Equipment Initiative, inclusion of transit pass subsidies in the TDM program and consultation regarding appropriate mitigation for impacts to the Greenway. Consistent with DEP's comments, the proponent must participate in removing extraneous flow from the sewer system (Inflow/Infiltration (I/I)) on a 4:1 basis, at a minimum. In addition, the proponent should coordinate regularly with the Massachusetts Turnpike Authority (MTA) through final design to resolve outstanding issues (including monitoring of air quality impacts on ventilation building 1 and impacts of lateral loading on tunnels).

Finally, as demonstrated by the FEIR, a development the size of the proposed project presents a host of opportunities for incorporating sustainable design elements and sustainable construction into project design. The proponent has indicated that the building may qualify for LEED certification of Silver by the U.S. Green Building Council for the office components of the project. I echo comments from MAPC, the Boston Environment Department and Adaptive Environments regarding the ability to maximize the sustainability of this project. I strongly encourage the proponent to add this project to its portfolio of LEED certified projects.

April 14, 2006

Date

  
Stephen R. Pritchard

Comments received:

4/7/06	Department of Environmental Protection (DEP)
4/7/06	Massachusetts Bay Transportation Authority (MBTA)
4/11/06	Massachusetts Historical Commission (MHC)
4/14/06	Massachusetts Turnpike Authority (MTa)
4/7/06	Massachusetts Bay Transportation Authority (MBTA) Advisory Board
4/7/06	United States Postal Service (USPS)
4/7/06	Metropolitan Area Planning Council (MAPC)
4/10/06	Boston Redevelopment Authority (BRA)
4/5/06	Boston Water and Sewer Commission (BWSC)
4/13/06	City of Boston Environment Department
4/7/06	Mayor's Central Artery Completion Task Force and the Central Artery Environmental Oversight Committee (EOC)
4/7/06	Adaptive Environments
4/6/06	Artery Business Committee (ABC)
4/7/06	Boston Preservation Alliance (BPA)
4/6/06	Conservation Law Foundation (CLF)
4/12/06	Downtown North Association (DNA)
4/7/06	Partnership for New England
4/7/06	Regional Plan Association
4/7/06	Rhode Island Policy Council
4/7/06	Sierra Club
4/10/06	The Boston Harbor Association (TBHA)
4/7/06	Walk Boston
4/7/06	Fidelity Investments
4/6/06	WilmerHale
4/7/06	George B. Bailey
4/6/06	Steven H. Olanoff

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