



# *The Commonwealth of Massachusetts*

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September 22, 2006

## DRAFT RECORD OF DECISION

PROJECT NAME : Congress Street Hotel  
PROJECT MUNICIPALITY : Boston  
PROJECT WATERSHED : Boston Harbor  
EOEA NUMBER : 13847  
PROJECT PROPONENT : Madison Seaport Holdings, LLC c/o Madison Properties  
DATE NOTICED IN MONITOR : August 8, 2006

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed the Expanded ENF (EENF) and **propose to grant a waiver** from the requirement to prepare a mandatory Environmental Impact Report (EIR).

### Project Description

As described in the EENF, the project consists of the construction of a 24-story hotel with 502 rooms and 168 parking spaces on a 30,435 square foot (sf) parcel in South Boston. The lobby and approximately 8,414 sf of retail space will be located on the ground floor. The ground floor will also contain areas for live parking, loading, bus parking and garage access. Structured parking will be provided on levels 2 through 5. Access to the site will be provided via a new curb cut on Congress Street approximately 90 feet east of the Congress Street/East Service Road intersections. Water and wastewater will be provided by the Boston Water and Sewer Commission (BWSC). In addition, the proponent may landscape an adjacent 27,502 sf parcel as a public benefit in cooperation with the Massachusetts Port Authority (Massport).

The site is an unpaved, vacant parcel located within the South Boston Waterfront District and surrounded by a series of roads and ramps recently constructed or reconstructed as part of the Central Artery/Tunnel (CA/T) Project (Congress Street, East Service Road, South Boston ramps to I-90 and I-93 and World Trade Center Avenue). The World Trade Center (WTC) office and hotel complex is located to the northeast of the site. The CA/T Vent Building #5 and the Boston Convention and Exhibition Center (BCEC) are located to the south. A surface parking lot and vacant parcel are located to the west. The site is in the vicinity of the Fort Point Channel Historic District and Commonwealth Pier 5 which are listed in the State Register of Historic Places.

Project impacts include the generation of approximately 1,558 average daily vehicle trips (adt), use of approximately 65,662 gallons per day (gpd) of water and generation of 59,693 gpd of wastewater. The proponent has indicated in the EENF and in additional information submitted to MEPA during project review that it is committed to the following measures to avoid, minimize and mitigate project impacts:

- incorporation of sustainable building design elements in the project to minimize overall impacts (including energy and water conservation measures, support for recycling and source reduction in design and operations, and use of local building materials) and to qualify for Leadership in Energy and Environmental Design (LEED) certification;
- construction of a stormwater management system including infiltration of groundwater;
- removal of extraneous clean water (i.e. Infiltration and Inflow (I/I)) from the system on a 4:1 basis (approximately 238,772 gpd);
- construction of a pocket left-turn lane into the site driveway from Congress Street westbound and active management of the parking and loading area to avoid contributing to congestion on Congress Street;
- development of an effective Transportation Demand Management (TDM) program to discourage driving while encouraging transit use, bicycling and walking by employees and patrons;
- installation of after-engine emission controls such as oxidation catalysts or diesel particulate filters and/or use of low sulfur diesel (LSD) fuel to minimize construction-period air quality impacts;

### Permits and Jurisdiction

The project is undergoing MEPA review and subject to preparation of a 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 adt (adt). The project requires an Access Permit from the Massachusetts Highway Department (MHD) and a Sewer Connection Permit from the Department of Environmental Protection (DEP). The project is subject to review by the Massachusetts Historical Commission (MHC). It may require a Temporary Construction Site Dewatering Permit from the Massachusetts Water Resources Authority (MWRA) and authorization from Massport for landscaping on the adjacent parcel. Also, the project is being reviewed by the Boston Redevelopment Authority (BRA) under Article 80B (Large Project

Review) of the Boston Zoning Code and by the Boston Civic Design Commission under Article 28. The project will require a Curb Cut Permit from the Boston Transportation Department (BTD).

The proponent is not seeking financial assistance from the Commonwealth for the project, therefore MEPA jurisdiction extends to those aspects of the project that may cause significant Damage to the Environment and that are within the subject matter of required or potentially required state permits. These include traffic and wastewater.

### Waiver Request

The proponent has requested a waiver from the requirement to prepare an EIR. As required, an Expanded ENF (EENF) was provided in conjunction with this request and it identifies environmental impacts associated with the project including estimates of water use, wastewater generation and traffic generation. It includes a traffic analysis prepared in conformance with the Executive Office of Environmental Affairs (EOEA)/EOT Guidelines for Traffic Impact Assessments and analysis of shadow, solar glare, air quality and noise impacts. The EENF describes design elements and measures that will be included in the project to avoid, minimize and mitigate project impacts. Additional information regarding project mitigation was provided by the proponent during the review period. The waiver request was discussed at the consultation session held on September 7, 2006.

### Criteria for Waiver

Section 11.11 of the MEPA Regulations provides that a waiver may be granted upon a finding that strict compliance with the regulations will result in undue hardship and will not serve to minimize or avoid damage to the environment. In the case of categorically included projects, this finding shall be based on the following circumstances: 1) the project is likely to cause no Damage to the Environment; and 2) ample and unconstrained infrastructure exists to support the project or those aspects of the project within subject matter jurisdiction. The terms agreed to as a condition of the waiver will bring about benefits in excess of those that could be achieved in the absence of a waiver.

### Findings

Based upon the information submitted by the proponent and after consultation with permitting agencies, I find that:

1. The project is consistent with Executive Order 385 "Planning for Growth" and the Commonwealth's Sustainable Development Principles. This compact development is located in an area targeted for growth by the City of Boston and it is located in close proximity to public transportation and destinations likely to be used by hotel patrons such as the BCEC and the WTC.

2. Based on Institute of Traffic Engineers (ITE) Handbook Land Use Code 310 (Hotel), the project is projected to generate 4,102 vehicle trips on an average weekday. When these trips are adjusted to factor in mode share for this area, the project is projected to generate 1,558 vehicle trips, 1,526 transit trips and 1,526 walk/bike trips. Because the project is relying on pedestrian and transit access to minimize traffic generation and project impacts, pedestrian access deserves particularly sensitive planning and design. Parking will be limited to .3 spaces per hotel room.
3. There is ample and unconstrained infrastructure to support the project. The roadways surrounding the project area were designed and built or reconstructed as part of the CA/T Project and intended to support significant levels of development in the South Boston Waterfront District. Development of this parcel was included in transportation modeling for the CA/T Project. MHD has indicated that, based on the analysis included in the EENF, the additional trips associated with this project will not significantly degrade traffic conditions.
4. The proponent will implement an effective TDM Program including the following measures: membership in the South Boston Seaport Transportation Management Association (TMA); provision of subsidized transit passes (at a minimum of 50% for full-time employees); creation of a program enabling employees to use pre-tax dollars to fund commuting expenses; identification of an on-site transportation coordinator responsible for promoting transit usage, providing transit information and purchasing and distributing transit passes for guests and employees; support for ride-matching, preferential parking for carpools and vanpools and a guaranteed ride home program; and inclusion of bicycle racks, showers, and lockers in the building design. In addition, the relatively small parking supply (.3 spaces per hotel room) will further discourage vehicle use.
5. The EENF notes that a major challenge to pedestrian circulation in the area is created by the grade separation between Congress Street and Summer Street and the separation of large blocks by the I-90 ramps. The proponent will continue its efforts to provide safe and accessible pedestrian access from the site to Summer Street and the BCEC. The proponent will work with the City of Boston and other landowners/stakeholders in the area to support the design and construction of this connection.
6. The proponent will develop a Construction Management Plan (CMP) and a Transportation Access Plan Agreement (TAPA) for review and approval by BTM. An important element of project mitigation is the proponent's commitment to actively manage the loading and live parking area to avoid vehicle back-ups along Congress Street. The proponent will continue to work with BTM, area stakeholders and commentators regarding design of the pocket left-turn lane and management of the loading/parking area to ensure its successful implementation.

7. Further, additional review in the form of an EIR is not likely to serve to minimize or avoid damage to the environment; however, commentors have expressed some concerns with the proposed mitigation that would benefit from additional consultation including advisability of the pocket left-turn lane and the safety and desirability of the pedestrian environment and its consistency with planning for the Seaport District. In addition, commentors have not had an opportunity to review the information provided to MEPA, the BTM and BWSC regarding additional mitigation commitments. Therefore, I am requiring the proponent, as a condition of this waiver, to distribute a response to comments document and additional information regarding updated mitigation commitments to all commentors prior to the close of the comment period on the DROD.

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in Section 11.11. The permitting agencies have sufficient permitting authority to ensure that the proponent complies with the findings of this Certificate and I am confident that the proponent will work diligently with the City and commentors to resolve any outstanding issues. Therefore, I propose to grant the waiver requested for this project, subject to the above findings. This Draft Record of Decision (DROD) shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

September 22, 2006  
Date



Robert W. Golledge, Jr.

Comments received:

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|---------|--|
| 9/15/06 | Department of Environmental Protection Northeast Regional Office<br>(MassDEP-NERO) |
| 9/18/06 | Executive Office of Transportation (EOT)   |
| 9/1/06  | Massachusetts Water Resources Authority  |
| 8/24/06 | Boston Water and Sewer Commission  |
| 9/19/06 | Boston Water and Sewer Commission (second letter)                                  |
| 9/15/06 | Massachusetts Port Authority (Massport)  |
| 9/12/06 | Walk Boston  |
| 9/15/06 | UNITE HERE Local 26  |
| 9/19/06 | The Boston Harbor Association  |

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