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December 15, 2006

DRAFT RECORD OF DECISION

PROJECT NAME: Jackson Square
PROJECT MUNICIPALITY: **Boston (Roxbury and Jamaica Plain)**
PROJECT WATERSHED: Charles River
EOEA NUMBER: 13901
PROJECT PROPONENT: Jackson Square Partners LLC
DATE NOTICED IN MONITOR: November 8, 2006

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed this project and hereby **propose to grant a waiver** from the categorical requirement to prepare an Environmental Impact Report (EIR). In a separate Certificate to be issued on December 15, 2006, I have set forth the outstanding issues related to the project that can be addressed by permitting agencies.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project includes the construction of multiple buildings and facilities in five phases over six years between 2007 and 2013. The construction program will entail 429 units (452,010 square feet (sf)), of housing, approximately 67,700 sf of ground floor retail space, approximately 13,500 sf of office space, and approximately 50,600 sf of community facilities, including a Youth and Family Center and an indoor active recreation facility. The housing element will consist of 251 units (59%) designated as affordable to households earning up to 80% of the area median income (AMI), and an additional 39 units designated as affordable to moderate income households (earning less than 110% of the AMI). The project also includes streetscape improvements, public infrastructure and open space enhancements, and added parking. Finally, the project will include the relocation (on-site) of a Division of Youth Services building and a salt storage shed operated by the Boston Department of Public Works.

The project site includes approximately 9.1 acres of land in Boston's Jamaica Plain and Roxbury neighborhoods. The land is concentrated in three areas (Site I, Site II and Site III) surrounding the existing Jackson Square T Station. Under current conditions, the project site is divided by Columbus Avenue and Centre Street and features a combination of open spaces, parking areas, brownfields sites, mid-rise buildings, and industrial uses. The proponent has been engaged in a lengthy public participation and visioning process with the local neighborhood to create a shared vision for the Jackson Square project; the results of which have culminated in the proposed plan presented in the EENF.

The proposed project will require the transfer of properties from the Massachusetts Bay Transportation Authority (MBTA) and the Massachusetts Division of Capital Asset Management (DCAM) to the project proponent. The EENF states that Jackson Square Partners LLC was granted a Tentative Designation by the Boston Redevelopment Authority (BRA) for the public land in the Jackson Square development area. It is my understanding that the proponent has been involved with coordinating these land transfers with the MBTA, DCAM and the BRA in order to redevelop the project area. The project will require the upgrade of existing roadway, wastewater, water and stormwater infrastructure to accommodate the increased development intensity. The EENF has indicated that sufficient wastewater capacity is available and mitigation will be provided for potential infrastructure impacts.

Epsilon Associates Inc. (Epsilon), acting as the proponent's consultant, has submitted supplemental materials, dated December 13, 2006, that outline and clarify additional project mitigation commitments related to Transportation Demand Management and specific items requested by MassDEP within their EENF comment letter. The commitments outlined in the Epsilon letter have been incorporated into this Draft Record of Decision.

Jurisdiction

This project is subject to the preparation of a mandatory EIR pursuant to Section 11.03(6)(a)(6) because the project will require a State Permit and will generate 3,000 or more new traffic trips per day (unadjusted). The project requires a Major Sewer Connection Permit from the Massachusetts Department of Environmental Protection (MassDEP). The project will require a National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Construction Activities from the United States Environmental Protection Agency (U.S. EPA). The project also requires numerous approvals from the BRA, including Article 80 Large Project Review, Planned Development Area Approval. Other related local approvals will be necessary from: the Boston Civic Design Commission, the Boston Zoning Commission, the Boston Transportation Department, the Boston Inspectional Services Department, the Boston Water and Sewer Commission, the Boston Committee on Licenses, the Boston Public Works Department/Public Improvement Commission, and the Boston Parks Commission.

It should be noted that given the proximity of the project to public transportation and its urban setting, adjusted traffic trips utilizing numbers approved by the Boston Transportation

Department (BTD) result in approximately 2,888 new vehicle trips per day; a volume below MEPA's mandatory EIR threshold.

The project will require the transfer of land from state agencies (MBTA, DCAM) and will receive financial assistance from the Massachusetts Department of Housing and Community Development (DHCD), the Massachusetts Executive Office of Transportation (EOT), and the Office for Commonwealth Development (OCD). Therefore, MEPA jurisdiction for this project is broad and shall extend to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment.

Waiver Request

The EENF submitted on the project was noticed in the November 8, 2006 Environmental Monitor. The waiver request was discussed at the consultation/scoping session for the project which was held on November 30, 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. 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 the relevant state agencies, I find that:

1. The project consists of a community based on the principles of smart growth, green design and transit oriented development. The project is located in a presently vacant or underdeveloped area and will seek to remediate brownfields sites, provide affordable housing, and improve pedestrian safety in and around the Jackson Square T Station.
2. There is ample and unconstrained infrastructure to support the project. While the project will increase transportation trips within the project area, its proximity to public transportation and urban location will facilitate bus, rapid transit, pedestrian and bicycle transit trips; lowering potential vehicle traffic trips associated with the development. This transit oriented development will reduce impact to existing transportation infrastructure and will include enhancement of streetscape and pedestrian amenities. Additionally, the project area is presently served by water, wastewater and drainage infrastructure. These facilities will be upgraded and expanded to accommodate new flows generated by the project and meet MassDEP, Massachusetts Water Resources Authority (MWRA) and

Boston Water and Sewer Commission (BWSC) policy requirements.

3. The project involves the transfer of approximately 2.0 acres of land owned by DCAM and 1.7 acres of land owned by the MBTA to the project proponent to compile the project land area. The BRA has granted a Tentative Designation to the proponent to develop these publicly owned parcels in the Jackson Square Development Area. The proposed use of these parcels will serve the public interest through the creation of affordable housing, improved streetscape, remediation of hazardous waste sites, and the incorporation of smart growth and green design initiatives.
4. The proponent will prepare a NPDES stormwater pollution prevention plan to mitigate potential secondary effects of land alteration and stormwater runoff associated with project construction and on-going operations. The proponent will establish erosion and sedimentation control measures, as well as an operations and maintenance plan outlining long-term Best Management Practices (BMPs), as part of the NPDES permitting process. The proponent will create BMPs to address snow removal on site.

The proponent will verify that no additional NPDES permits or related MassDEP permits will be necessary for an updated and reconfigured salt storage facility. Enhanced stormwater treatment may be necessary for stormwater discharges directly related to the salt storage shed. The proponent will coordinate with MassDEP and the City of Boston to ensure that appropriate standards are met.

5. The project will generate 2,888 new adjusted vehicle trips per day. The proponent used 2000 U.S. Census data and BTD data to derive modal splits between trips by automobiles, transit trips (bus or rapid transit), and bike/walk. The project will add 570 new parking spaces through a combination of structured, at-grade on-site and on-street parking. A total of 628 parking spaces will be available in association with the redevelopment project.
6. The proponent has indicated in the EENF, and subsequent documentation dated December 13, 2006, a commitment to implementing Transportation Demand Management (TDM) measures to minimize automobile usage and reduce project traffic impacts. The TDM program will include: encouragement of subsidized transit passes for employees; a 50% subsidy on transit passes for residents during their first three months of residence; secure bicycle parking areas for residential and commercial buildings; distribution of transit maps and schedules; extensive streetscape improvements to facilitate pedestrian movement; and collaborative efforts with the MBTA to enhance services provided at the Jackson Square station.
7. The project will generate approximately 95,199 gallons per day (gpd) of wastewater and require approximately 104,719 gpd of water supply. The proponent will confirm that there is sufficient capacity available from the City of Boston to accommodate the project. The proposed buildings will connect to sewer mains owned and operated by the BWSC. Connection points and the size of service mains will be determined upon final building

design and coordinated with the BWSC.

8. The proponent will work with BWSC, MWRA and MassDEP to ensure that any potential discharges to existing combined sewer overflows (CSOs) meet approved guidelines to limit and/or mitigate additional combined sewer and stormwater flows associated with the project. The proponent will work with the City of Boston, MassDEP and MWRA requirements to meet the minimum 4:1 ratio for Inflow and Infiltration (I/I) removal to new wastewater added.
9. The EENF identifies several parcels within the project area that are presently regulated under Massachusetts General Law (M.G.L.) Chapter 21E or the Massachusetts Contingency Plan (MCP). These parcels include:
 - 1540 Columbus Avenue (Site II) is listed under Release Tracking Number (RTN) 3-12084 for the release of arsenic and lead into the soil;
 - 1542 Columbus Avenue (Site II) is listed under RTN 3-21935;
 - MBTA Parcels 69,70, and 71 (Site III) are currently listed under RTN 3-3573 for a release of petroleum to soil and groundwater; and
 - 41 Amory Street (Site III) is listed under RTN 3-21430 for a release of lead and petroleum hydrocarbons.

The proponent has conducted subsurface investigations throughout the project area to identify the potential hazards on-site, their relationship to resource areas (i.e. groundwater), and to assist in the planning process for infrastructure and proposed future site uses. The proponent will conduct remediation activities in accordance with M.G.L. c.21E and the MCP and establish approved Activity and Use Limitations (AULs), if necessary. The proponent will coordinate remediation efforts with the MassDEP to ensure effective and timely remediation of existing hazardous conditions.

10. The project will establish BMPs to satisfy the MassDEP's Stormwater Management Policy to the maximum extent practicable given the limitations associated with a redevelopment site. The proponent will meet the MassDEP Stormwater Management Policy in its entirety on specific parcels that are presently pervious and incorporate other techniques to improve presently developed sites to the extent practicable. The proponent will confirm with MassDEP that the proposed stormwater BMPs are not in conflict with any hazardous materials remediation sites or current or future AULs. Additionally, the project will utilize low-impact design (LID) techniques such as rain gardens and green roofs to the extent practicable, to mitigate stormwater quality and quantity impacts.
11. In accordance with the City of Boston's policy, the project will include multiple green buildings certifiable under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) standards. The proponent will master plan green design guidelines applicable to the project area as a whole, allowing individual developers discretion to decide how to meet overall green design goals on a case specific basis.

12. The Massachusetts Historical Commission (MHC) has identified the property located at 51 Amory Street (Rockland Brewery – Robinson Brewery Outbuilding (MHC# BOS.12917)) as being listed on its' Inventory of Historic and Archaeological Assets of the Commonwealth. Portions of the project site adjoin the Roxbury Highlands Historic District, which is listed on the National Register of Historic Places, and Academy Homes I (BOS.11156), which is included in MHC's Inventory of Historic and Archaeological Assets of the Commonwealth. MHC has concluded that the project will have "no adverse effect" on these historic and archaeological assets of the Commonwealth.
13. The project will include the demolition of existing structures to make way for new construction activities. The proponent will implement a construction management plan that will specify recycling of construction and demolition material, including asphalt, brick, and concrete, to the extent feasible. The proponent will participate in the MassDEP's Diesel Retrofit Program to mitigate construction period impacts from diesel emissions. In addition, the proponent will, to the extent feasible, as requested by MassDEP, require the use of low sulfur fuel. The proponent will ensure that all demolition and construction activities will comply with both Solid Waste and Air Pollution Control regulations, pursuant to M.G.L. Chapter 40, Section 54.
14. Further, additional review in the form of an EIR is not likely to serve to minimize or avoid further damage to the environment. The developed nature of the project area, the adequacy of infrastructure and commitment by the proponent to offset new wastewater and water supply flows through I/I mitigation, and the green design, LID and smart growth elements of the project as presented in the EENF result in a unique situation where it appears the damage to the environment has been minimized or mitigated.

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established in Section 11.11. Therefore, I propose to grant the waiver requested for the Jackson Square project, subject to the above findings. This Draft Record of Decision (DROD) shall be published in the next issue of the Environmental Monitor (December 23, 2006) for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver. Should, based on the comments received on the DROD, I determine not to grant the full EIR waiver, a revised Certificate on the EENF will be issued to the proponent outlining a scope for the preparation of an EIR.

December 15, 2006

Date

Robert W. Golledge, Jr.

Comments received:

11/29/2006 Massachusetts Historical Commission
12/07/2006 Massachusetts Water Resources Authority

12/08/2006 Massachusetts Department of Environmental Protection – NERO
12/08/2006 Alison Pultinas
12/08/2006 **Boston Water and Sewer Commission**
12/08/2006 City Life / Vida Urbana
12/08/2006 Bill Perkins
12/11/2006 **Metropolitan Area Planning Council**
12/13/2006 Epsilon Associates Inc.

RWG/HSJ/hsj