



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
 100 Cambridge Street, Suite 900
 Boston, MA 02114

Deval L. Patrick
 GOVERNOR

Timothy P. Murray
 LIEUTENANT GOVERNOR

Ian A. Bowles
 SECRETARY

Tel: (617) 626-1000
 Fax: (617) 626-1181
<http://www.mass.gov/envir>

December 29, 2008

PUBLIC BENEFITS DETERMINATION
 OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS

PROJECT NAME : The Merano
 PROJECT MUNICIPALITY : Boston
 PROJECT WATERSHED : Boston Harbor
 EEA NUMBER : 14304
 PROJECT PROPONENT : Boston Development Group
 DATE NOTICED IN MONITOR : August 27, 2008

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.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project consists of the design and construction of a 463,000 square foot (sf) mixed use development in Boston, MA. The project includes approximately 190,000 sf of hotel uses (short-term and long-term), 206,000 sf of office space, 10,000 sf of retail and 13,000 sf of restaurant space. It will include a parking garage on the second floor that will provide 203 spaces (93 double stacked and 17 single). The project requires demolition of a one-story commercial building at 88 North Washington Street.

The project site includes Parcel 1B, Parcel 1C and 86-88 Washington Street. Parcel 1B was created by the demolition of the elevated I-93 highway structures and 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. Parcel 1C and 86-88 Washington Street are owned or will be owned by the proponent.

The 1.26-acre site is bounded by Causeway Street, Beverly Street, Valenti Way, North Washington Street and buildings along Medford Street, including 239 Causeway Street and 98 North Washington Street. It is in close proximity to the Massachusetts Bay Transportation Authority (MBTA) Green Line and Orange Line and the commuter rail at North Station. The parcel, which is located over MTA tunnels, is vacant with the exception of an area used for surface parking. It is located on landlocked tidelands approximately 415 feet from the shoreline of Boston Inner Harbor and within the City of Boston Groundwater Conservation Overlay District. The site is located immediately adjacent to the Causeway/North Washington Street District, which is eligible for listing on the National Register of Historic Places. It is located in the vicinity of the Bulfinch Triangle District, which is listed in the State and National Registers of Historic Places and in the vicinity of the North End Area, an area included in the Inventory of Historic and Archaeological Assets of the Commonwealth.

Permitting/Jurisdiction

The project is undergoing MEPA review and subject to preparation of a Mandatory EIR pursuant to 11.03 (6)(a)(6) because it requires a state permit and will generate 3,000 or more new average daily vehicle trips (adt) on roadways providing access to a single location. The project requires a Sewer Connection Permit from the Massachusetts Department of Environmental Protection (MassDEP), a long-term ground lease from the MTA and review by the Massachusetts Historical Commission (MHC). The project may require authorization from the Executive Office of Transportation and Public Works (EOTPW) for use of former railroad right of way (ROW). The project is subject to the MEPA Greenhouse Gas Emissions Policy and Protocol and will require a Public Benefits Determination for use of landlocked tidelands. Also, it requires a Sewer Use Discharge Permit and Construction Dewatering Permit from the Massachusetts Water Resources Authority (MWRA).

The project is subject to Article 80 Large Project Review by the Boston Redevelopment Authority (BRA) pursuant to Article 80 of the Boston Zoning Code. The BRA issued a decision on the Project Notification Form (PNF) on September 23, 2008 indicating that no further review was required. In addition, it requires multiple permits and reviews by the City of Boston including development and review of a Construction Management Plan and a Transportation and Access Plan Agreement by the Boston Transportation Department (BTD). The project will require zoning relief including relief for dimensions and setback requirements as well as the proposed hotel and parking.

Because the proponent is seeking a land transfer in the form of a ground lease, MEPA jurisdiction extends to those aspects of the project within the area subject to the land transfer that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations. Pursuant to 301 CMR 11.01(2)(a)(3), MEPA subject matter jurisdiction is functionally equivalent to full scope jurisdiction.

Landlocked Tidelands

Consistent with the provisions of *An Act Relative to Licensing Requirements for Certain Tidelands* (2007 Mass. Acts ch. 168, sec.8) (the Act), which was enacted on November 15, 2007, I *must* conduct a Public Benefits Review for projects in tidelands that are required to file an EIR.

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 greenhouse gas emissions (GHG) analysis provided on December 10, 2008 and comments received on the EENF. The following addresses each of the considerations identified in the legislation.

1. purpose and effect of the development

The proponent proposes to construct a mixed use development on a vacant parcel of land located within the Bulfinch Triangle. 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 September 23, 2008, thereby indicating that the project has provided an adequate description of and mitigation for potential community impacts. Comments on the EENF 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.

3. enhancement to the property

The project site is a vacant parcel that has been identified as a development parcel as part of the CA/T Project. The development of this parcel will provide hotel, office, retail and restaurant uses in an area of the City targeted for growth and revitalization. Proposed lighting and signage, incorporation of active retail/commercial uses and a hotel, widened sidewalks, and provision of pedestrian amenities will create a safer and more attractive pedestrian environment. 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 415 feet from Boston Inner Harbor. It is located on the landward side of Causeway 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 two hotels within the site and include active ground-level uses including retail and restaurant uses which will be open to the public. The project includes a plaza area that directly across from Portal Park.

6. environmental protection and preservation

The project consists of redevelopment of a vacant lot that 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. The project has been designed to be certifiable by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) at the Silver level and to lower the project's energy use by at least 14% from the ASHRAE

90.1-2004 standard. Measures to minimize GHG emissions associated with the project include redevelopment of an existing site in close proximity to transit, a low parking ratio, a TDM program including bike storage, high albedo roofing, high efficiency HVAC systems, daylighting, energy efficient lighting, refrigerants with a low global warming potential, dedicated space for recycling infrastructure, use of construction materials with recycled content, use of regionally manufactured construction materials, duct sealing, water conservation measures and fundamental building commissioning performed by a third-party.

Because the project will be constructed over 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 July 23, 2008) do not identify any significant concerns with impact of the project on groundwater levels.

Comments received from MHC on the EENF note that the proposed buildings exceed the height limits established by the JDG and indicate that the project will have an adverse effect on the Bulfinch Triangle and Causeway/North Washington Street historic districts through the introduction of visual elements that are out of character with and alter the setting of these historic districts. MHC comments request consideration of design alternatives for the proposed height and massing. To address MHC concerns, the proponent will be required to consult with MHC regarding alternatives as a condition of the FROD. In addition, the proponent will be required to provide more detailed elevation drawings that depict proposed materials and sketches or more detailed descriptions of the proposed fenestration reveals as well as depths/dimensions of other applied or structural exterior details.

6. 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 January 7, 2009.

December 29, 2008

Date



Ian A. Bowles