

<i>For Office Use Only</i> Executive Office of Environmental Affairs
MEPA Analyst:
Phone: 617-626-

Notice of Project Change

The information requested on this form must be completed to begin MEPA Review of a NPC in accordance with the provisions of the Massachusetts Environmental Policy Act and its implementing regulations (see 301 CMR 11.10(1)).

Project Name: Intercontinental Hotel/500 Atlantic Avenue and Central Artery/Tunnel Project		EOEA #: 10546 4325/8721
Street: 500 Atlantic Avenue		
Municipality: Boston	Watershed: Boston Harbor	
Universal Transverse Mercator Coordinates: UTM 19 330956E 4691054N (WGS84/NAD83)	Latitude: 42.3536° N Longitude: 71.0525° W	
Status of project construction: 15 %complete		
Proponent: Extell/Intercontinental Hotel and Central Artery/Tunnel Project		
Street: One International Place, 14th Flr.		185 Kneeland Street
Municipality: Boston	State: MA	Zip Code: 02110/02111
Name of Contact Person From Whom Copies of this NPC May Be Obtained: Wendy Landman		
Firm/Agency: WalkBoston	Street: 45 School Street	
Municipality: Boston	State: MA	Zip Code: 02108
Phone: 617.367.9255	Fax: 617.367.9285	E-mail: wendy_landman@walkboston.org

<p>In 25 words or less, what is the project change? The project change totally eliminates – for 125 feet – the 15 1/2 foot-wide continuous public sidewalk mandated for the Greenway in the public right of way (and shown in the developer’s Final EIR plans) in the area directly outside the Intercontinental Hotel/500 Atlantic Avenue entrance and replaces it with two vehicle drop-off lanes and 4 – 6 inch curbs.</p> <p>See full project change description beginning on page 5.</p>
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Intercontinental Hotel/500 Atlantic Avenue

Date of ENF filing or publication in the Environmental Monitor:

Was an EIR required? Yes No; if yes,
was a Draft EIR filed? Yes (Date: 10/10/98) No
was a Final EIR filed? Yes (Date: 4/30/01) No
was a Single EIR filed? Yes (Date:) No

Have other NPCs been filed? Yes (Date(s):) No

If this is a NPC solely for lapse of time (see 301 CMR 11.10(2)) proceed directly to
“ATTACHMENTS & SIGNATURES” on page 4.

PERMITS / FINANCIAL ASSISTANCE / LAND TRANSFER

List or describe all new or modified state permits, financial assistance, or land transfers not
previously reviewed:

Are you requesting a finding that this project change is insignificant? (see 301 CMR 11.10(6))
Yes No; if yes, attach justification.

Are you requesting that a Scope in a previously issued Certificate be rescinded?
Yes No; if yes, attach the Certificate

Are you requesting a change to a Scope in a previously issued Certificate? Yes No; if
yes, attach Certificate and describe the change you are requesting:

Summary of Project Size & Environmental Impacts	Previously reviewed	Net Change	Currently Proposed
LAND			
Total site acreage		0	2.8
Acres of land altered		0	
Acres of impervious area		0	
Square feet of bordering vegetated wetlands alteration		0	
Square feet of other wetland alteration		0	
Acres of non-water dependent use of tidelands or waterways		0	
STRUCTURES			
Gross square footage		0	
Number of housing units		0	

Maximum height (in feet)		0	
TRANSPORTATION			
Vehicle trips per day		0	
Parking spaces		0	
WATER/WASTEWATER			
Gallons/day (GPD) of water use		0	
GPD water withdrawal		0	
GPD wastewater generation/ treatment		0	
Length of water/sewer mains (in miles)		0	

Does the project change involve any new or modified:

1. conversion of public parkland or other Article 97 public natural resources to any purpose not in accordance with Article 97? Yes No
2. release of any conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction? Yes No
3. impacts on Estimated Habitat of Rare Species, Vernal Pools, Priority Sites of Rare Species, or Exemplary Natural Communities? Yes No
4. impact on any structure, site or district listed in the State Register of Historic Place or the inventory of Historic and Archaeological Assets of the Commonwealth?
Yes No; if yes, does the project involve any demolition or destruction of any listed or inventoried historic or archaeological resources? Yes No
5. impact upon an Area of Critical Environmental Concern? Yes No

If you answered 'Yes' to any of these 5 questions, explain below:

PROJECT CHANGE DESCRIPTION (attach additional pages as necessary). The project change description should include:

- (a) a brief description of the project as most recently reviewed
- (b) a description of material changes to the project as previously reviewed,
- (c) the significance of the proposed changes, with specific reference to the factors listed 301 CMR 11.10(6), and
- (d) measures that the project is taking to avoid damage to the environment or to minimize and mitigate unavoidable environmental impacts. If the change will involve modification of any previously issued Section 61 Finding, include a proposed modification of the Section 61 Finding (or it will be required in a Supplemental EIR).

See pages following form.

ATTACHMENTS & SIGNATURES

Attachments:

- 1. Secretary's most recent Certificate on this project
- 2. Plan showing most recent previously-reviewed proposed build condition
- 3. Plan showing currently proposed build condition
- 4. Original U.S.G.S. map or good quality color copy (8-1/2 x 11 inches or larger) indicating the project location and boundaries
- 5. List of all agencies and persons to whom the proponent circulated the NPC, in accordance with 301 CMR 11.10(7)

Signatures:

Date	Signature of Responsible Officer or Proponent	Date	Signature of person preparing NPC (if different from above)
_____	_____	_____	_____
Name (print or type)		Name (print or type)	
_____		_____	
Firm/Agency		Firm/Agency	
_____		_____	
Street		Street	
_____		_____	
Municipality/State/Zip		Municipality/State/Zip	
_____		_____	
Phone		Phone	
_____		_____	

Pedestrian-Unfriendly Design Features

Since the Intercontinental Hotel/500 Atlantic Avenue (Developer) and the Central Artery Project's (CA/T) Final EIR's were filed and received their MEPA Certificates, the sidewalk design along Atlantic Avenue has undergone a significant design change that substantially degrades the pedestrian environment and causes hazards for pedestrians. The new design is in violation of the pedestrian-friendly intent envisioned for the Rose Kennedy Greenway. The new design and construction, which apparently has been permitted by the City of Boston's Public Improvements Commission, neither adheres to the letter, nor follows the spirit of the Rose Kennedy Greenway pedestrian streetscape plans that were approved and required by MEPA as part of the CA/T Project and the Developer's and the Artery's EIRs. Key changes in the sidewalk design are:

- An 18-foot wide, two-lane vehicular valet parking/drop-off/taxi area now occupies the entire sidewalk area mandated for the continuous public right of way along Atlantic Avenue, and shown in the Developer's Final EIR submission.
- The new project design requires a curb running across the continuous sidewalk area, replacing the flush sidewalk surface required by the Certificates with 2-6 inch drops.
- The project design now includes three driveways/curb cuts along 500 Atlantic Avenue in front of the entrance to the Intercontinental Hotel.
- A row of bollards crossing the previously dedicated continuous sidewalk area to warn pedestrians that they will be stepping into a vehicle zone present additional obstruction to pedestrians.
- While the Developer's design provides for a pedestrian easement, it is not on the public Atlantic Avenue right-of-way but on the hotel's private property behind building columns (and beneath the building's upper stories) directly in front of the hotel and condominium entrances. Pedestrians who approach the area may not recognize the path provided by the easement.
- The so-called "public easement" on the hotel's private property follows the interior face of the building as it is set back from the property line and forces pedestrians to walk in an area that inevitably will be in constant active use by the hotel and condominiums for luggage carts, luggage handling and live drop-off/pick-up by private vehicles, taxis and limousines.
- The "public easement" passes much closer to the garage entrance/exit than the continuous public sidewalk in the Final EIR, and the pedestrian area is split in two by a building column which may well obstruct views of exiting vehicles.
- The "public easement" presents significant hazards for pedestrians that are inconsistent with the planning and design goals of the CA/T Project, the STAF recommendations incorporated in the Secretary's Certificate dated September 11, 1996 and the City of Boston Streetscape Guidelines. These hazards are not present in the unobstructed or clear zone for pedestrians intended for the public right-of-way along Atlantic Avenue and the Rose Kennedy Greenway.

Central Artery STAF Design Requirements

The Surface Transportation Action Forum (STAF) was the venue which developed a framework for the final design of the surface streets and sidewalks to be built over the CA/T Project highway tunnel. STAF was jointly chaired by Move Massachusetts 2000, WalkBoston, the City of Boston, and the CA/T (Massachusetts Highway Department). As stated in the STAF Consensus Plan, "The recommendations include a new consensus Central Artery Surface Street Plan for the corridor between Causeway and Summer Streets in downtown Boston. The Consensus Plan documents broad agreement among City and State agencies and community interests as to the specific design and functions of the streets within the corridor." The STAF Plan notes that "the CA/T Project seeks to facilitate and encourage downtown

pedestrian movement” and describes many measures needed to create a “pedestrian-friendly” environment.

The STAF Guidelines call for a minimum sidewalk width of 15’7” to be followed throughout the Greenway to allow for continuous tree planting and a minimum unobstructed sidewalk width of 8 feet. The Central Area STAF Plan was filed jointly by the CA/T and the City of Boston with EOEAs as a Notice of Project Change to the CA/T Project, and was accepted as such in the Secretary’s Certificate dated October 11, 1996. (A STAF South Plan was filed separately and received its own NPC and Certificate.) The Secretary’s Certificate on the Central Area STAF Plan requires the CA/T to continue coordination with other parties during “the process of final design and beyond, to ensure that the surface corridor realizes its full urban design potential.”

Notice of Project Change Requirements

The Certificate also notes that any changes in the surface corridor design presented in the NPC will require a filing of another Notice of Project Change. An example of changes that the Secretary deemed worthy of another NPC were “the deletion of a neckdown or elimination of street parking.” The changes that the Intercontinental Hotel/500 Atlantic Avenue design has made are of the scale and detriment that require public notification and opportunity for comment through the mechanism of Notices of Project Change. The tenor of the language and the degree of concern in the Certificate addressed to the CA/T for the pedestrian environment during “the process of final design and beyond” mandate that the changes in the Intercontinental Hotel/500 Atlantic Avenue design that occurred after the Developer’s Final EIR/PIR must be embodied in a Notice of Project Change as regards the Atlantic Avenue pedestrian environment.

This intent is specifically reflected in a January 21, 1997 letter from the MEPA Director to the CA/T Project Director where the MEPA Director notes that if there is “consensus that any changes are indeed insignificant,” based on a letter that has been distributed to “participants in the [STAF] plan process” then a determination can be made very quickly upon whether an NPC is required. No notice was given concerning the sidewalk design change in front of the Intercontinental Hotel/500 Atlantic Avenue project to the “participants in the [STAF] plan process.” Had there been such a notice, there is no question that the changes would have been deemed significant to the pedestrian environment and the intent of the Greenway design as a whole.

Developer’s Final EIR

The Intercontinental Hotel/500 Atlantic Avenue project occupies a prominent location along the Rose Kennedy Greenway, and is the first major private development project to be built on the Greenway. Its original design as approved met the urban pedestrian design criteria for the Greenway. As described in the project Developer’s Final EIR:

- “The Project is consistent with the planning and design goals of the CA/T project surface restoration for Atlantic Avenue.” (page 4-1)
- “Sidewalks along the front of the site will be constructed as part of the CA/T Project and will provide an active pedestrian environment that will be parallel to the Harborwalk connection. The design of these improvements will be consistent with the Surface Transportation Action Forum (STAF) North recommendations and the City of Boston’s Streetscape Guidelines.” (page 4-3)
- “The project proponent proposes to include curbside valet parking. The physical constraints of the site limit the ability to provide off-street areas for drop-off/pick-up activity associated with hotel or

residential valet parking operations. Vehicles would stop in the Atlantic Avenue curb lane in front of the entrance, which is south of the parking garage entrance.” (page 4-4)

- “The Hotel project includes two driveways/curb cuts that will provide two-way access and egress from Atlantic Avenue to the loading docks/service area and the parking garage. Access into and out of the site will use Atlantic Avenue, a three-lane one-way roadway in the northbound direction. The driveways/curb cuts will have minimum dimensions to accommodate vehicular demand in a manner that is sensitive to the pedestrian and urban environment of the project.” (page 4-4)
- “The driveways will also be designed with minimum width to reduce impact on the sidewalk.” (page 4-12)

The Developer’s plans incorporated in the Final EIR are consistent with the foregoing written descriptions and the illustrations show the intended continuous 15’7” pedestrian sidewalk along the public right of way along Atlantic Avenue. The Project sits at the heart of the new Rose Kennedy Greenway, and is governed by the planning for pedestrians that is an integral part of the CA/T Project.

City Streetscape Guidelines

In addition to claiming consistency with the STAF Plan, the developer’s Final EIR also cites the City’s Streetscape Guidelines (July 1999) as one of the documents with which the design will be consistent. Those Guidelines call out the following elements that are not followed in the changed sidewalk design:

- “It is desirable that sidewalk widths accommodate a minimum 8-foot unobstructed or clear zone for pedestrians in the public right-of-way.” (emphasis added, p. 17).
- “Sidewalk widths should be adjusted to provide a continuously aligned curb edge and street wall.” (page 17)
- “The number of curb cuts across the sidewalk must be minimized and located so as not to conflict with sidewalk activity.” (page 18)

The Developer’s subsequent Chapter 91 filings with the Department of Environmental Protection, and the Chapter 91 process, focused exclusively on waterfront, waterfront access, and Facilities of Public Accommodation issues, not on Atlantic Avenue or the Greenway criteria and standards. The City of Boston’s Public Improvement Commission process was essentially a technical traffic engineering process that involved only agency personnel and the developer’s representatives.

Effect of Failure to File Notice of Project Change

The absence of a Notice of Project Change filing subverted the public process contemplated by all agencies concerned in that it not only inhibited, but precluded, public review and comment on this very important element of the public realm. The level of public interest in this site and these issues is clear from the public record and EOEAs regarding the pedestrian environment of the CA/T

Damaging Precedent

The site-specific issues presented in this Notice of Project Change concerning the Developer’s changed sidewalk design in front of the Intercontinental Hotel/500 Atlantic Avenue site is in fact not only site specific, but also has broad, crucial implications for the future. It will serve as precedent for the many developments that will occur along the Rose Kennedy Greenway. If one such development – here the Intercontinental Hotel – is permitted to flout the guidelines and standards established for the Greenway,

then other developers along the Greenway will believe, and argue that they are entitled to the same treatment from the City of Boston, regardless of the guidelines, standards and mandates established through the MEPA process for both the CA/T and the Developer after lengthy periods of consideration, consultation, negotiation and decision. The design change at issue in this Notice of Project Change is not an isolated instance, but rather stands as precedent for abrogation of the decision-making process for the Rose Kennedy Greenway. It will ill-serve all the participants in the process, and will particularly ill-serve the pedestrians whose enjoyment of the urban Greenway environment was deemed paramount in the course of the original deliberative MEPA process.