



# Citizens' Advisory Committee for MassDOT Turnpike Parcels 12-15

*Appointed*

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Marty Walz  
Representative  
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City Councilor

BY HAND

June 29, 2012

Secretary Richard Davey  
Department of Transportation  
State Transportation Building  
10 Park Plaza, Suite 4470  
Boston, MA 02116

Re: Recommendations of the Citizens' Advisory Committee for  
MassDOT Parcels 12-15

Dear Secretary Davey and members of the Board:

The Massachusetts Department of Transportation (MassDOT) and the City of Boston convened this Citizens' Advisory Committee (CAC) to make recommendations about which proponent, if any, should be designated as the developer of each of Parcels 12-15 of air rights over the Massachusetts Turnpike. Conducted under the auspices of the Boston Redevelopment Authority (BRA), this advisory process arises from a 1997 Memorandum of Understanding (MOU) between the City of Boston and the Turnpike Authority (now part of MassDOT) and a two-year planning effort culminating in the publication in 2000 of "A Civic Vision for Turnpike Air Rights in Boston" (Civic Vision). When a developer is selected, the CAC will review proposals as they go through the MEPA (if required) and Article 80 review processes.

Four proponents made six proposals in 2008, but the recession caused MassDOT to put the process on hold until early 2011, and the CAC held its first meeting in August 2011. From the outset, MassDOT stressed that a successful proposal would need broad public support and that community preference would be one of the most important considerations guiding developer-designation decisions. One of MassDOT's aspirations is that these air rights projects will link the Fenway and Back Bay neighborhoods, ending a separation established by railroad tracks and widened by the Turnpike Extension. MassDOT emphasized the technical difficulty of air rights development and advised the CAC that each of the development proposals should reflect the principles set forth in the Civic Vision and must minimize adverse impacts on the surrounding area, improve and increase public benefits, and be both constructible and economically feasible.

An overarching consideration in selecting a developer is the likelihood that over time the project will evolve as the economy and the local real estate market change. Air rights projects have particularly long gestation periods as demonstrated by the experience with Parcel 7 (Fenway Center) and Parcels 16-19 (Columbus Center). Designation of a developer should reflect an endorsement not just of a proponent's overall package today but also of its commitment to stay true to the Civic Vision as the project evolves. While the CAC's advisory role will, under the MOU, continue throughout the development and permitting stages, and the BRA's Article 80 review provides opportunity for neighborhood input, it all starts with the developer. We and MassDOT should favor proponents who

- demonstrate commitment to the Civic Vision,
- recognize, based on their own experience, that community process is not simply a box to be checked but has the potential to improve a proposal, and
- have demonstrated experience building in Boston's mixed-use neighborhoods with historic character.

Each proponent has presented preliminary designs and development programs, and these have provided a lens for us to evaluate the suitability of each proponent and its vision for the parcel. In this letter we address the merits of the projects as proposed both (a) to illustrate our views on what is important for the parcels and what works and doesn't work, and (b) to help us assess what types of projects the proponent is comfortable building and what solutions it might turn to in the event that changed circumstances necessitate a changed project. We are not, however, recommending the projects themselves beyond making a preliminary judgment that they demonstrate reasonable consistency with the Civic Vision. For the most part, matters of design and impact will be studied and addressed in the Article 80 process, at which time the CAC will assume the additional role of an Impact Advisory Group (IAG).

Although not privy to the financials of the bids, the CAC members remain aware of the distinct possibility that a bid based on competition and today's optimism may prove infeasible or financially marginal, and a proponent may become unable or unwilling to build the kinds of projects we are recommending. We must rely on MassDOT to analyze the bids objectively and thoroughly, weighing carefully the risk that the financial considerations, including those imposed by the lease, will thwart the achievement of the planning goals inherent in our recommendations.

We believe that designation decisions should *not* be based solely on choosing the highest bids. Air rights development can provide benefits to the state, city and local community beyond direct monetary benefits, such as bringing new and complementary uses to the neighborhood, creating additional housing, and enhancing urban vitality. MassDOT must consider the value of these additional benefits when making its designation decisions. We are also aware, however, that MassDOT faces ever-increasing financial pressure and has recently asked the proponents to revise their bids. We urge MassDOT not to succumb to the lure of near-term money at the expense of development that will support the community over the long run.

## **The CAC's Recommendations**

For the reasons set forth below, we recommend that MassDOT designate the following proponents for the indicated parcels:

- Parcel 12: Samuels/Weiner (S/W)
- Parcel 13: Trinity Financial
- Parcel 15: Samuels/Weiner

## **THE CAC'S REVIEW PROCESS**

Since the CAC's first meeting on August 9, 2011, and at each of the subsequent ten meetings, members of the CAC have used the Civic Vision as the guiding planning document. As developers detailed plans for each parcel, the CAC viewed each presentation through this lens. The criteria below outline critical goals for the development of Turnpike Air Rights. In final discussions, the CAC used these points to evaluate each development proposal and how closely each project adhered to the criteria.

### ***Civic Vision Criteria—air rights development should:***

- Emphasize housing and other low-traffic-generating uses, with careful attention to transportation improvements (including mass transit) and impacts in this highly congested area.
- Line public sidewalks along Massachusetts Avenue and Boylston Street with shops and other pedestrian-friendly uses, avoiding internal retail malls.
- Improve transportation infrastructure if applicable.
- Reestablish the broader sidewalk widths across the turnpike.
- Allow Parcels 14 and 15 south of Boylston Street to create a transition from the low scale of Back Bay and the Fenway to the towers of the Prudential Center.
- Assure that any density premium reasonably reflects any foundation premium.

### ***General Criteria—each project should:***

- Fill in the air rights parcels appropriately.
- Demonstrate site control and the ability to move forward with construction if designated.
- Demonstrate the developer's experience in working in mixed use neighborhoods of Boston.
- Occupy a location suitable for the proposed use.
- Have appropriate height and setbacks.
- Enhance neighborhood connectivity.
- Achieve the highest level of LEED certification possible for all air rights locations.
- Incorporate multi-modal transportation options wherever possible, including bus shelters, bicycle racks in garages, car-sharing spaces, Hubway stations and electrical "fueling" stations.

Not all criteria are deciding factors or even applicable to all parcels, and some are more appropriately handled during Article 80 review, so we don't address each one for each parcel, but we urge the designated developers to strive to meet them all as their plans continue to evolve.

## **THE CAC'S RECOMMENDATIONS**

### ***Parcel 13 Recommendation: Trinity Financial***

Trinity Financial is the only bidder for Parcel 13. The CAC has reviewed the proposal for this parcel, and finds that it fits many of the criteria for the Civic Vision and has other attractive features for the neighborhood. Most members of the CAC support the project for these reasons:

- Development of Parcel 13 is crucial to addressing the void between Back Bay and the Fenway.
- The project uses include ground-floor retail, dormitory space, rental housing and parking, uses that are (1) appropriate in this area, (2) modest traffic contributors and (3) consistent with the Civic Vision.
- The provision of dormitory space to Boston Architectural College strengthens the college and benefits the neighborhoods by freeing up non-dormitory housing space and potentially reducing commuting traffic to and from the school.
- New retail on this block will add to the vitality of Boylston Street.
- The height and massing on Parcel 13 should be sensitive to the site's location within the Back Bay Architectural District and follow current zoning.
- The proposed building massing is adequately modulated to allow for a variation in the building footprint, which adds spatial interest, and forms varied open space conditions along Boylston Street.
- While we generally prefer to avoid curb cuts along sidewalks, the placement of the garage curb cut, proposed for the east end of the project, is acceptable.
- Although they have no experience developing in the Back Bay or the Fenway, Trinity Financial does have a history of working in Boston's residential neighborhoods, which is an important criterion for the CAC.
- Proposed improvements to the Hynes MBTA Station that would bring it into compliance with the Americans with Disabilities Act would be a great benefit.
- The proposed new bus shelter on Massachusetts Avenue is also welcome and presents an opportunity to visually fill the gap between the proposed project and 360 Newbury Street. How that is best accomplished needs considerable study, though, and members of the CAC are not comfortable with Trinity's current suggestions.

The Parcel 13 site poses significant engineering challenges, and the proposed uses may create financial challenges. Trinity has met such challenges before and should be given the opportunity to meet these challenges again. The CAC endorses designation of Trinity for this parcel and we urge MassDOT to concur, especially since there is no other bidder.

Members of the CAC expressed concerns and suggestions that highlight issues for further study during the Article 80 process:

- Members of the CAC are concerned that the proposed development leaves a substantial “gap” over the Massachusetts Turnpike. The full impacts of this gap in terms of air quality and noise remain an unaddressed concern for the CAC and nearby residents. Further review is needed under the Article 80 and MEPA (if required) review processes.
- Consideration must be given to the building design and placement from all angles, ensuring no blank walls or gaps in the street wall.
- The building must fit well in its context. Some members of the CAC are concerned about the massing of the building and impacts to Newbury Street.
- The impacts on 360 Newbury Street residents and on the north side of Newbury Street have not been explored in detail.
- Concerns have been expressed about the risk of construction jeopardizing adjacent foundations. Also, the permanent loss of light, air, and views are a major concern for some members of the CAC. The potential for the parallel walls and the partially covered roadway to amplify sound or concentrate pollution should be studied. Representatives of 360 Newbury have separately elaborated on these concerns in a letter to MassDOT.
- Some CAC members and other participants and observers are concerned that no development on this parcel is feasible, and that Trinity will seek public subsidy in order to move forward. Most members of the CAC do not support any subsidy from the City or State unless it results in a specific, demonstrable public benefit specific to the project.
- One member of the CAC opposes any designation of a developer for Parcel 13 at this time because of too many ill-defined and/or unknown site-specific issues and the complexity of the engineering required to complete a successful development. He would prefer that MassDOT flesh out some of these issues prior to making any designation for this parcel.

**Parcel 12 Recommendation: *Samuels/Weiner***

Parcel 12 is critically important to knitting together the Back Bay and the Fenway, and the CAC recommends that Samuels/Weiner be designated as developer.

Members of the CAC support the Samuels/Weiner proposal because:

- The low-scale retail development spanning the Turnpike on Massachusetts Avenue will add vitality on the street.
- This project appears likely to improve the conditions for pedestrians, especially in terms of wind, by creating a barrier that would block winds from the Massachusetts Turnpike.
- The establishment of housing on the south side of the Turnpike is appropriate and the massing works well for this parcel.

- Some members of the CAC suggest that the parking located in Parcel 12 work in tandem with parking at Parcel 15, if under common ownership.

Members of the CAC expressed two specific concerns:

- S/W says it will not develop Parcel 12 unless it is also designated to develop Parcel 15. The CAC is concerned that Parcel 12 will not be immediately built and could be sidelined after Parcel 15 is complete. The CAC requests assurances from MassDOT and the BRA that binding agreements will require S/W to build both projects and do so in a timely fashion.
- The sidewalks will be too narrow unless widened as outlined in the Civic Vision.

**Recommendation 2** The CAC, with one dissent, believes that MassDOT should reject the Trinity Financial proposal for Parcel 12. Most members believe the project as described is too large in scale for this location, creates a visual barrier for residents of 360 Newbury Street, and may engender a canyon effect on Mass. Ave. with a mid-rise building proposed directly across the street on Parcel 13. Some members believe its size would interfere with the view from the west as one enters the city. The S/W proposal is an excellent response to the Civic Vision and, in the event that S/W fails to move forward, the CAC recommends that Trinity Financial be reconsidered for designation provided it incorporates similar massing to that of S/W and otherwise addresses the CAC's other concerns with the present proposal. The CAC would then review the revised submission and make a recommendation to MassDOT.

#### **Parcel 15 Recommendation: Samuels/Weiner**

The CAC has found that the S/W proposal for Parcel 15 is consistent with the Civic Vision, with acceptable massing and proposed uses that will enliven the neighborhood. The S/W team has a demonstrated track record of working with neighborhoods throughout the development process and incorporating community feedback as designs evolve. S/W has also agreed that, if it wins designation for Parcel 15, it will also develop Parcel 12 (if so designated by Mass DOT). For these reasons and those outlined below, the CAC strongly recommends that MassDOT designate S/W as the developer for Parcel 15.

Members of the CAC support the S/W proposal because:

- The proposed massing creates a setback for a tower with an appropriate dimension that would place the tallest part of the building on the "St. Cecilia parcel" which is now owned by the developer. The building's orientation, with the narrow side facing north, should minimize shadows on the surrounding neighborhoods.
- Housing and hotel uses are appropriate for the site. The CAC feels that the hotel use is an exciting and appropriate use, given the site's proximity to the Hynes Convention Center, the Berklee College of Music, and other hotels. The combination of housing and hotel uses would enliven the site and activate the adjacent streetscape throughout

the day and evening, adding vitality to the neighborhood. Both housing and hotel produce less traffic than comparably sized office buildings.

- Retail activity will encourage vitality on the block and encourage pedestrians to cross Boylston Street.
- S/W has created a viable project on a difficult air rights parcel by incorporating the adjacent terra firma St. Cecilia parcel. The resulting combined development site creates valuable flexibility for the team in allocating massing, entrances, and uses in and around the site, allowing the team to be more responsive to community concerns. If S/W is designated, the CAC strongly suggests that it seek site control of the Prudential air rights in order to fill in the street wall on Dalton and Boylston streets with a low-rise structure.
- Individual members of the CAC have frequently worked on mixed-use projects proposed by members of the S/W team in both the Back Bay and the Fenway. The S/W team has demonstrated a commitment to working with the neighborhoods throughout the project review process, listening to community feedback and revising proposals accordingly. The team has a history of continuing to engage with the community, remaining good neighbors long after permits are obtained and buildings constructed. The CAC is confident that the team would work collaboratively with its neighbors throughout the development process and beyond.
- The S/W team has agreed that, if it is designated to develop Parcel 15, it will also build its Parcel 12 proposal thereby spreading its risk across both parcels by using Parcel 15 to in essence subsidize Parcel 12 if necessary. Because of the importance of Parcel 12, this is a crucial attribute of the S/W proposal.

Members of the CAC expressed concern about two issues:

- S/W has committed from the outset that, should it be designated for Parcel 15, it would also build Parcel 12. MassDOT should include in the development agreement binding language committing S/W to develop Parcel 12 within a reasonable period of time after development of Parcel 15 or during the construction on Parcel 15, if feasible. Various CAC members have suggested mechanisms to enforce this obligation, such as specifying two years as a “reasonable time,” or requiring that S/W build decks for Parcels 12 and 15 simultaneously, or barring S/W from building on the Prudential air rights until Parcel 12 is irrevocably underway, requiring S/W to build Parcel 12 first. However it is accomplished, MassDOT and the BRA must hold the developer accountable to ensure that both parcels are developed.
- St. Cecilia Parish faces special impacts due to its proximity to the project and its function. The BRA’s Article 80 process should address these potential problems, which include disruptive noise and exhaust from loading docks that face the church; loss of on-street parking, and similar issues. The CAC understands that the parish endorses the designation of S/W and looks forward to consulting with them to minimize both the short term and long term impacts of the development on St. Cecilia’s facilities and mission.

Several CAC members preferred the six-story height on Boylston Street of the now-withdrawn Carpenter proposal.

### **Other Parcel 15 Development Proposals**

#### The Chiofaro Company

The CAC reviewed The Chiofaro Company's proposal for Parcel 15 and found it did not adequately meet the key goals outlined in the Civic Vision. As described above, because changing economic conditions could render a developer's proposal subject to significant change after designation, it is important that a developer demonstrate commitment to the Civic Vision. The Chiofaro Company's proposed office use is not consistent with the Civic Vision. While at the end of the process the developer indicated a willingness to consider switching to a housing use, the CAC must respond to the proposal as written. The developer's background and experience in Boston is in developing office space, not housing. Nor does this developer have experience building in mixed-use historic neighborhoods in Boston, which we have identified as an important criterion. While the developer revised the proposal to respond to some of the informal CAC comments, other major concerns of the CAC, such as orientation of the tower in close proximity to the residential neighborhood, remained unaddressed. CAC does not recommend designation of The Chiofaro Company.

While the Chiofaro proposal would add to the vitality of Boylston Street, the CAC does not view the proposal favorably because:

- Office space in this location is not favored by the CAC, since it creates the highest traffic impacts and doesn't follow the use suggested by the Civic Vision.
- The proposed building's massing, featuring only a small setback, is located closest to Boylston Street and is at its widest looming over the adjacent neighborhood.
- The shadows cast by the proposed tower are likely to be wider and last longer than those cast by the other proposals.
- The Chiofaro team, which has developed office buildings in the Financial District, lacks experience navigating the complexities of developing in mixed-use neighborhoods, such as Back Bay and the Fenway.

The CAC had the following positive comments about the project:

- The Chiofaro team did an excellent job describing its engineering approach and illustrating the importance of building height transitions in the neighborhood.
- The Chiofaro team appears to have site control over the adjacent Prudential air rights parcel and proposed a development that would fill in the entire site with an attractive building form, creating a gateway to Boylston Street.
- The Chiofaro plan would expand the sidewalk on Boylston Street, as envisioned in the Civic Vision.

In the event that MassDOT ignores the CAC recommendation for Parcel 15, MassDOT should suggest that the designated development team seek to incorporate additional parcels to allow the massing to be distributed further away from Boylston Street, reorient the direction



of the tower, and incorporate housing or hotel uses. The CAC would review a revised Chiofaro Company proposal incorporating these elements.

Recognizing that choosing another developer could result in the loss of the CAC's favored development plan for Parcel 12 to join Back Bay with the Fenway, MassDOT should find a way to encourage a low-scale development like the one proposed by S/W.

### Carpenter & Company

While Carpenter & Company has withdrawn its bid, the proposal provided a valuable basis for comparison during the CAC review process. In reviewing the Carpenter proposal, the CAC came to a better understanding of both the challenges and the opportunities this parcel presents. Thus the CAC includes the following comments:

Carpenter & Company faced a distinct challenge, since it did not have control of adjacent privately held parcels that would facilitate its development. The CAC did not support the Carpenter & Company proposal because:

- Although members liked the proposed hotel use, the proposed office tower was less desirable in this location, primarily due to traffic concerns and other factors articulated in the Civic Vision.
- Carpenter & Company did not have site control of the garage or the Prudential air rights parcel; without at least one of these, the project would not be feasible.

Members of the CAC had the following positive comments about the proposal:

- Several CAC members liked the lower height along Boylston Street.
- The CAC viewed the proposed redevelopment of the garage favorably.
- The Carpenter & Company team has experience working in Beacon Hill, Brookline and Cambridge, all mixed-use areas with active residential populations.

### **Parcel 14:**

While MassDOT included Parcel 14 in the air rights competition, no developers incorporated the triangle area into their development plans. Berklee College of Music's Crossroads Project on the corner of Boylston Street and Massachusetts Avenue closely abuts Parcel 14, and its plan contemplates filling in Cambria Street at that location. The CAC supports Berklee's use of Parcel 14 if:

1. It does not impinge on development of Parcel 15 or requirements for accessing or servicing before, during, or after construction.
2. Traffic can safely access the Hynes Convention Center and neighborhood
3. The Boston Transportation Department approves the change in the street grid.

### **GOING FORWARD**

The CAC membership consists of leaders from area residents' organizations, business and professional organizations, local institutions and community organizations, and other civic

leaders and private residents. Three of our members served on the Civic Vision task force. Where appropriate, members who represent organizations have received specific authorization from their sponsors to sign on to this recommendation. There is remarkable unanimity among our members, and we are confident that our recommendations have the broad public support deemed essential by MassDOT.

The projects of the proponents we recommend aggregate almost one million square feet; other selections could increase this by 30%. Even the smaller projects will inevitably have an enormous impact on the area and, while we believe our recommendations are consistent with the Civic Vision, the extent of the impact will become apparent through the Article 80 process. Sponsor organizations and other individuals will participate in this process and, should MassDOT ignore their recommendations (made via the CAC), the proponents could face a difficult and protracted Article 80 process.

In addition to the projects under consideration here, Berklee College of Music is developing a new building on Massachusetts Avenue, and has plans for the parcel at the southeast corner of Boylston Street and Massachusetts Avenue. Taken together, these few blocks may see the addition of well over one million square feet in the next decade. The BRA must ensure that (1) changes to the water table don't adversely impact the area (especially flooding); (2) water and sewage systems have or will have adequate capacity; and (3) the electrical grid will be able to handle the additional loads. Because these infrastructure issues are bigger than any one project, we urge that, prior to the Article 80 process, the BRA engage with relevant government agencies and companies to scope out how such risks and capacities can best be measured, what data must be collected, and what analyses performed. The goal would be to develop a common understanding of these issues such that, when Article 80 gets underway, the contributions and demands of specific projects can be assessed in context. All of this, of course, would be in addition to the other significant issues that must be carefully addressed during Article 80 such as traffic, parking, shadows, wind, potential environmental impacts, in sum, protecting the interests of residents and businesses of Back Bay and the Fenway. Since our recommended developers have track records of supporting and producing affordable housing, the Article 80 review would also be a good forum in which to address the location and extent of affordable housing.

Members of the CAC are prepared to engage with MassDOT further as its leaders deliberate. We are well versed in the proposals for Parcels 12, 13, 14 and 15 and the Civic Vision that helped to guide this process. We believe this dialogue on behalf of the community would be helpful to MassDOT, as we both seek a long-term positive outcome.

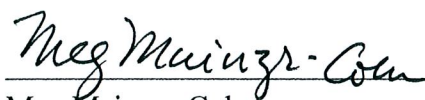
The CAC looks forward to playing a continuing advisory role after MassDOT designates a developer for each parcel. Our sponsors and neighbors have in many cases said quite clearly that they expect MassDOT to consult with the CAC on significant changes in the projects proposed to date, and we concur. The BRA assures us that it will include the CAC in its procedures for evaluating project changes.

We thank you for the opportunity to participate in the public process to date, and we appreciate your cooperation and that of the BRA. We look forward to continuing to work with you and your colleagues, both as you select developers for these parcels and during the MEPA (if required) and Article 80 reviews of specific projects for each parcel.

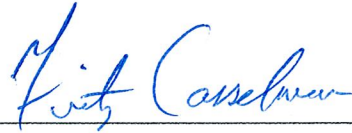
Respectfully submitted,

CITIZENS' ADVISORY COMMITTEE FOR  
MASSDOT TURNPIKE PARCELS 12-15

By:



Meg Mainzer-Cohen  
Co-Chair



Fritz Casselman  
Co-Chair