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February 14, 2003

DRAFT RECORD OF DECISION PHASE I WAIVER

PROJECT NAME : Hillside-at-495 Center
PROJECT MUNICIPALITY : Northborough
PROJECT WATERSHED : Assabet
EOEA NUMBER : 12916
PROJECT PROPONENT : Northborough Land Realty Trust /The
Gutierrez Company
DATE NOTICED IN MONITOR : November 23, 2002

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I hereby propose to **grant** a Phase I Waiver to allow the first phase of the project to proceed, pending the preparation of an Environmental Impact Report (EIR) for the project. In a separate certificate, dated February 14, 2003 I issued a scope for the EIR.

Project Description

As described in the Environmental Notification Form (ENF), the project involves the phased development of 2,000,000 square feet (sf) of office space in four buildings, a separate 260,000 sf warehouse building, approximately 6,700 parking spaces and associated infrastructure on a 175-acre site south of Bartlett Street and east of Lyman Street in Northborough. As described in the ENF, the proposed project will consume approximately 172,040 gallons per day (gpd) of water and will generate approximately 156,400 gpd of wastewater flow. The proponent proposes to discharge the wastewater generated from the Phase I warehouse portion of the project (6,400 gpd) to a private on-site Title 5 septic system. The wastewater generated from the project's Phase II Office Park development (150,000 gpd) will be discharged to the Town of Northborough's municipal sewer collection system for treatment at the City of Marlborough's Westerly Wastewater Treatment Facility.

The project is undergoing review and requires preparation of an EIR pursuant to Sections 11.03 (1)(a)(1) and (1)(a)(2) of the MEPA regulations because the project will result in the alteration of more than 50 acres of land (111.7 acres total) and the creation of more than 10 acres of impervious surface (91.6 acres total). The project is also undergoing review pursuant to Section 11.03 (5)(b)(4)(a) of the MEPA regulations, because the project involves the discharge of more than 100,000 gallons per day (gpd) to a sewer system. I note that although the proposed project will generate more than 3,000 new vehicle trips per day (22,720 total), and provide more than 1,000 new surface parking spaces (6,700 total), it does not appear to require a Highway Access Permit from the Massachusetts Highway Department (MHD), and therefore does not require the preparation of a mandatory EIR pursuant to Sections 11.03 (6)(a)(6), and (6)(a)(7) of the MEPA regulations.

The project as currently designed also requires a Groundwater Discharge Permit from DEP, and an Order of Conditions from the Northborough Conservation Commission (and hence a Superseding Order from DEP if the local Order were appealed). The project also requires a Fossil Fuel Emission Permit from DEP, and may require a DEP Construction Site Dewatering Discharge Permit. The project must comply with the U.S. Environmental Protection Agency's National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over five acres.

Using the Institute of Traffic Engineers Trip Generation land use codes 750 for Office Park (21,410 vtd) and 150 for Warehouse/Distribution (1,310 vtd), the project is estimated to generate a combined total of approximately 22,720 vehicle trips on the average weekday. An air quality mesoscale analysis for ozone will be needed for this project to assess the total volatile organic compounds (VOC) and nitrogen oxides (NOx) emissions associated with all project-related vehicle trips.

Phase I Waiver Request

The proponent is requesting a Phase I Waiver to construct the proposed warehouse facility on a 25-acre portion of the project site abutting Lyman Street, and thereby allowing its construction to proceed in advance of the preparation of an Environmental Impact report (EIR) for the full build-out of the site. The majority of the Phase I project site has been disturbed by past sand and gravel extraction activities.

According to the ENF, the Phase I portion of the project site is located within a designated Area 1 Wellhead Protection Area for the Town of Northborough's Groundwater Protection Overlay District (GPOD), and within a DEP designated Interim Wellhead Protection Area (IWPA). These designations have been established to protect the recharge areas surrounding an existing municipal water supply well site (Lyman Street Well) located to the west of the Phase I site.

As described in the ENF, work to be performed in Phase I includes the construction of a single-story 260,000 sf warehouse and distribution facility, 326 surface parking spaces, 26 loading docks, an on-site septic system, a stormwater management system, and a comprehensive erosion and sedimentation control program. Phase I will result in the creation of more than 10.0 acres of impervious surface area, and the generation of approximately 1,300 new vehicle trips per day. Phase I work will involve construction of a stormwater detention basin within the 100-foot buffer zone for Bordering Vegetated Wetlands (BVW), but will not impact any wetland resource areas located within the project site. Phase I will require a Groundwater Discharge Permit from DEP, and an Order of Conditions from the Northborough Conservation Commission (and hence a Superseding Order from DEP if the local Order were appealed).

Section 11.11 of the MEPA regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: (a) result in an undue hardship for the proponent, unless based on delay in compliance by the proponent; and (b) not serve to avoid or minimize Damage to the Environment.

In the case of a partial waiver of a mandatory EIR review threshold that will allow the proponent to proceed with phase one of the project prior to preparing an EIR, the Secretary, at a minimum, must base this finding on a determination that:

- (a) the potential impacts of phase one of the project, taken alone, are insignificant;
- (b) ample and unconstrained infrastructure facilities and services exist to support phase one of the project;
- (c) the project is severable, such that phase one does not require the implementation of any other future phase of the project or restrict the means by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated; and
- (d) the agency action on phase one will contain terms such as a condition or restriction in a permit, contract or other relevant document approving or allowing the agency action, or other evidence satisfactory to the Secretary, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Findings

I have carefully reviewed the ENF and supporting documentation, written comments and comments received at the scoping session.

1. The air quality impacts of the warehouse portion of the project do not exceed any ENF thresholds, much less any thresholds for a mandatory EIR. The proposed warehouse building and on-site subsurface sewage disposal system have been sited within the project site to avoid alteration to any wetlands resource areas.
2. There are no impacts to wetlands resource areas from the warehouse portion of the project. According to comments received from DEP and others, a portion of the proposed warehouse development is located in the Zone 1 Wellhead Protection Area for the Town of Northborough's Lyman Street Well.

The proponent has estimated that approximately 900 sf of the main accessway for the proposed warehouse project is located in the Zone 1 area for the Lyman Street Well. In their comments, the Massachusetts Water Resources Authority (MWRA) has indicated that the proponent's proposed stormwater management plan and Title 5 design satisfactorily address any potential impacts from the project to Northborough's Lyman Street Well. I note that the proponent has offered, as mitigation, to connect an existing Lyman Street catch basin that currently discharges within the Zone 1 area to the Phase I project's proposed drainage system.

As described in the ENF, the project has been designed to meet DEP's Stormwater Management Policy standards and practices and will include a 100-year stormwater detention basin, and water quality swales. Finally, according to the information provided in the ENF, the proponent has met the requirements of Northborough's Wetlands Bylaws and the State's Wetlands Protection Act for the Phase I portion of the proposed project. I therefore find that the potential environmental impacts of the project are insignificant.

3. As described in the ENF, the potable water needs for Phase I will be provided by the Town of Northborough. The proponent proposes to discharge the wastewater generated from the Phase I portion of the project (6,400 gpd) to an on-site Title 5 septic system that meets all DEP requirements in accordance with Title 5 of the State Environmental Code (310 CMR 15.000). The project site will be accessed using existing roadways. I therefore find that ample and unconstrained infrastructure facilities and services exist to support the Phase I portion of the proposed project.

4. As a condition of my granting the Phase I Waiver, I am requiring the proponent to include in the EIR an Area Traffic Planning Study, prepared in conformance with the EOE/EOTC Guidelines, for the full-build scenario, along with the Area Traffic Planning Study for the Hillside-at-495 project that, according to the ENF, the proponent has voluntarily agreed to complete.

Based on these findings, it is my judgment that the phase one waiver request has merit, meets the tests established in 301 CMR 11.11, and will serve to advance the interests of the Massachusetts Environmental Policy Act. Therefore, I propose to grant the phase one waiver subject to the aforementioned findings and conditions. This Draft Record of Decision (DROD) shall be published in the February 26, 2003 issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

February 14, 2003

Date

Ellen Roy Herzfelder, Secretary

Comments received:

12/10/02	Town of Northborough Conservation Commission
12/12/02	Massachusetts Historical Commission (MHC)
12/13/02	Massachusetts Water Resources Authority (MWRA)
12/13/02	Department of Environmental Protection - CERO
12/13/02	Department of Environmental Protection - Boston
12/13/02	Water Supply Citizens Advisory Committee - MWRA
12/17/02	Massachusetts Highway Department (MHD)
12/19/02	Vanasse Hangen Brustlin, Inc.
12/20/02	Richard Bourre, Vanasse Hangen Brustlin, Inc.
12/24/02	Department of Environmental Protection - CERO
01/07/03	Sudbury Valley Trustees
01/21/03	Vanasse Hangen Brustlin, Inc.
01/24/03	Town of Northborough, Department of Public Works
01/27/03	Vanasse Hangen Brustlin, Inc.
01/28/03	Richard Bourre, Vanasse Hangen Brustlin, Inc.
01/31/03	Vanasse Hangen Brustlin, Inc.
01/31/03	Dan Cleary, The Gutierrez Company
02/04/03	Department of Environmental Protection - CERO

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