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September 9, 2005

PHASE I DRAFT RECORD OF DECISION

PROJECT NAME : Old English Square
PROJECT MUNICIPALITY : Holbrook
PROJECT WATERSHED : Weymouth and Weir Rivers
EOEA NUMBER : 13587
PROJECT PROPONENT : Old English Square LLC; c/o Mullins Company
DATE NOTICED IN MONITOR : July 23, 2005

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** to allow Phase I of the project as defined in this Record of Decision to proceed to the state permitting agencies pending preparation of an Environmental Impact Report (EIR) for the project as a whole. In a separate Certificate issued today, I have allowed the proponent to prepare an EIR for the project as a whole and laid out the scope for the required EIR.

Project Description

The proposed project consists of the two distinct phases. Phase One (Phase I) is the redevelopment and building of a retail-commercial component and Phase Two has three separate phases of residential housing. Phase I will consist of the construction of a "Retail Village" in the upland northern portion of the project site adjacent to Union Street (Route 139), previously developed as a bowling alley and golf driving range. Approximately 50,300 square feet of new retail/commercial space in a one-story building and four two-story buildings will be constructed with associated bituminous access driveways, utilities and landscaping. The 12,060 square foot one story building currently housing a bowling alley will be renovated and 280 surface parking spaces will be provided. Phase Two of the project is divided into three more phases (Phase II, III and IV). Phase II consists of approximately 211 residential condominium units of which 84

units will be senior affordable housing. Phase III consists of a 3 lot single family subdivision, and Phase IV will consist of 50 affordable rental units for 55 years and older. Phases II-IV will have internal access roads and associated driveways, utilities, landscaping and parking.

Jurisdiction

This project is subject to a mandatory EIR pursuant to Sections 11.03(1)(a)(2), 11.03(6)(a)(6), 11.03 (10)(b)(2), 11.03(2)(b)(1), and 11.03 (3)(b)(d) of the MEPA regulations because it creates ten or more acres of impervious area, generates 3,000 or more new vehicle trips, destruction of any part of any Archeological Site listed in the Inventory of Historic and Archeological Assets of the Commonwealth, alteration of designated significant habitat, and includes the alteration of 5,000 or more square feet of bordering or isolated vegetated wetlands. The project will require a Sewer Connection/Extension Permit and a 401 Water Quality Certification from the Department of Environmental Protection (DEP). The project will also require a Conservation and Management Permit from the Natural Heritage and Endangered Species Program (NHESP). It must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. The project requires approval from the Holbrook Planning Board, an Order of Conditions from the Holbrook Conservation Commission and a Comprehensive Permit from the Holbrook Zoning Board of Appeal pursuant to M.G.L. Chapter 40B (and hence an approval from the Massachusetts Housing Appeals Committee in the event of an appeal of the local Comprehensive Permit). Because the proponent is seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to all aspects of the project that may have significant environmental impacts.

Waiver Request

On July 15, 2005, the proponent requested that I grant a waiver to allow Phase I of the project to proceed in advance of completion of the EIR. The waiver request was submitted with the Expanded Environmental Notification Form (EENF), and it was discussed at the consultation/scoping session that was held on August 17, 2005. As proposed, Phase I consists of the construction of a "Retail Village" in the upland northern portion of the project site adjacent to Union Street (Route 139), previously developed as a bowling alley and golf driving range.

Criteria for Waiver

Section 11.11 of the MEPA Regulations provide that I may grant a waiver from any provisions of the MEPA regulations not specifically required by the MEPA statute 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. Further, when a proponent seeks to proceed with Phase I of a project pending the preparation of an EIR for the project as a whole, the Phase I waiver request must meet additional tests including a test of insignificance and a test of severability.

Criteria for a Phase I Waiver

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 undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phases; and 4) the agency action on Phase I will contain conditions that ensure due compliance with MEPA.

Findings:

1. The potential impacts of the project for Phase I are insignificant. The impacts on land, wetlands, traffic and rare species do not trigger mandatory EIR thresholds.
 - Phase I will create less than 3.5 acres of new impervious surface area;
 - No wetland resources have been identified within the work limits of the Phase I area and activities will not result in alteration of wetland resources;
 - The proponent has consulted with NHESP on both Phase I and Phase Two (Phase II-IV) to ensure protection of the Spotted Turtle (*Clemmys guttata*) and habitat. The proponent has also committed to ongoing consultation with the Natural Heritage and Endangered Species Program (NHESP), to minimize impacts the impacts of Phase 1 and Phase Two (Phases II-IV).
 - Phase I will generate approximately 2,646 new vehicle trips during a typical 24 hour period and create 280 parking spaces on the site. The Town Department of Public Works Director has confirmed that no other projects are planned within the site vicinity that would add further traffic volume. The proponent has committed to implement a number of capacity and safety modifications for Union Street to be completed as part of Phase I based on discussions with the Holbrook Planning Board and the recommendations in the Traffic Impact Assessment including: widening Union Street to provide westbound left-turn storage lanes at the two proposed access driveways; installation of a traffic signal system at the main access drive; construction of new sidewalks along Union Street in front of the project site.
2. Ample and unconstrained infrastructure currently exist to support Phase 1.

3. The project is severable. Construction of Phase 1 does not require completion of Phase Two (Phases II-IV).
4. The permitting associated with Phase I can include sufficient conditions to ensure due compliance with MEPA prior to implementation of later phases.
5. The proponent must submit an EIR addressing the wastewater, wetlands, water, archaeology, rare species, transportation, and construction impacts of the entire project and propose appropriate mitigation.

Based on these findings, it is my judgment that the waiver request has merit, meets the tests established in Section 11.11 of the MEPA Regulations, and will serve to advance the interests of the Massachusetts Environmental Policy Act. Therefore, I propose to grant the waiver for Phase I of the project as defined in this Record of Decision. This Draft Record of Decision shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

September 9, 2005

Date

Stephen R. Pritchard

Comments received:

08/09/05	Massachusetts Historical Commission
08/09/05	Division of Fisheries & Wildlife, NHESP
08/09/05	Katherine Connolly
08/11/05	Town of Holbrook's Conservation Commission
08/11/05	Massachusetts Water Resources Authority
08/23/05	Moehrke, Mackie, & Shea, PC, John Shea
08/29/05	Town of Holbrook, Town Administrator
08/30/05	Stephen Wright
08/30/05	Sue Wright
08/31/05	Department of Environmental Protection, NERO
09/06/05	Metropolitan Area Planning Council

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