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March 28, 2008

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
THIRD SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME: Depot Business Park (formerly Westminster Business Park)
PROJECT MUNICIPALITY: Westminster
PROJECT WATERSHED: Nashua
EEA NUMBER: 8074
PROJECT PROPONENT: Westminster Business Park, LLC
DATE NOTICED IN MONITOR: February 20, 2008

As Secretary of Energy and Environmental Affairs, I hereby determine that the Third Supplemental Environmental Impact Report (TSEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00).

Project Description

The project consists of the construction of 1.57 million square feet (sf) of industrial space to be developed on approximately 312.2 acres of land. The project site includes 254.3 acres of industrial zoned land, 1.2 acres of commercial property, and 55.6 acres of residentially zoned land. The project site is located near the intersection of Batherick Road and Route 2A, and stretches from Batherick Road to North Common Road in Westminster. The project will include the development of industrial zoned land; at this time no development is proposed for the residentially zoned land. The project will create a 9,526 linear foot roadway (connecting Batherick Road to North Common Road) that will establish frontage for a total of ten (10) industrial development lots (Lots I-2, I-3, I-4A, I-4B, I-5, I-6, I-7, I-8, and I-9). The project site also contains two residential lots (Lots R-4 and R-5).

The project will create 1,787 new parking spaces and will generate approximate 6,555 vehicle trips per day. Upon completion of the project build-out, approximately 184.7 acres of land will be altered and 76.6 new acres of impervious area will be constructed. Total alteration of Bordering Vegetated Wetlands (BVW) will be approximately 2,257 sf, mostly associated with stream crossings for the subdivision roadway. The project site contains an area of historical and archaeological significance, the Cowee-Smith Complex (MHC #WST-HA-9), identified by the Massachusetts Historical Commission (MHC).

Project History

The project has a lengthy history under MEPA, commencing in 1989 with the filing of an Environmental Notification Form (ENF) for a commercial rock crushing and gravel operation in advance of an industrial park development, with a full build-out potential of about 1,680,000 square feet (sf). The project categorically required the preparation of an Environmental Impact Report (EIR). In 1990, a Draft Environmental Impact Report (DEIR) was prepared in response to the scope issued by the Secretary of Environmental Affairs. Subsequent documents prepared included a Final Environmental Impact Report, (FEIR) submitted in December 1990, and a Supplemental Final Environmental Impact Report, (SFEIR) submitted in 1991. Each document and subsequent scope strived to clarify the project, potential environmental impacts, and necessary mitigation.

While the SFEIR was found to be adequate in 1991, there were several issues that were considered to be unresolved, including aspects of traffic generation and mitigation, archaeological/historical impacts, wetlands impacts, wastewater disposal, and drainage. Therefore, given the necessary resolution of environmental impact assessments and the challenges associated with a project with a lengthy build-out schedule, the Secretary of Environmental Affairs directed the proponent to prepare and submit Five-Year Updates for public review. These updates were given the status of an EIR and were meant to allow for ongoing analyses of environmental impact issues, present revised and updated Section 61 Findings, and resolve those issues unaddressed by the Certificate on the SFEIR.

In 2001, the proponent filed a Notice of Project Change (NPC) to reduce the overall build-out of the industrial park by 60,000 sf to 1.57 million sf, to reduce proposed land alteration from 236 acres to 164 acres, and to relocate the subdivision roadway. Between the period of 1989 and 2001, the project changed ownership, and then changed ownership again in 2003. The first of the Five-Year Updates was submitted in June 2007. This submission was given the status of a Supplemental Environmental Impact Report and was found to not adequately and properly comply with MEPA in a decision issued by the Secretary on August 1, 2007. The Secretary issued a scope for a Second Supplemental Environmental Impact Report (SSEIR). The proponent filed the SSEIR in November 2007. The Secretary found that the SSEIR did not adequately and properly comply with MEPA and issued a scope for a Third Supplemental Environmental Impact Report (TSEIR) on January 2, 2008. This Certificate has been issued in response to the submission filed in accordance with that scope.

Jurisdiction and Permitting

The project required the preparation of a mandatory EIR because it exceeded MEPA thresholds (in effect in 1989) associated with the number of new vehicle trips, new parking spaces and land alteration. The project, as currently proposed, continues to exceed current thresholds related to these areas of impact. Additionally the project requires several State Agency actions, notably the issuance of a State Highway Access Permit from the Massachusetts Highway Department (MassHighway) and a Sewer Connection/Extension Permit from the Massachusetts Department of Environmental Protection (MassDEP). The project has received several Orders of Condition from the Westminster Conservation Commission. A Construction General Permit issued by the United States Environmental Protection Agency (U.S. EPA) under the National Pollutant Discharge Elimination System (NPDES) program will also be required.

Because the proponent is not seeking financial assistance from the Commonwealth, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts or those that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over land alteration, traffic, wetlands, wastewater, and stormwater.

Five-Year Updates

In accordance with the Certificate on the SFEIR issued in 1991, the proponent will be required to file Five-Year Updates with the MEPA office. The next Five-Year Update should be filed no later than five years from the issuance of this Certificate on the TSEIR. I remind the proponent that the scope and content of the Five-Year Update has been outlined in the 1991 SFEIR Certificate, the Secretary's Certificate on the SSEIR issued on January 2, 2008, and as referenced or modified within this Certificate on the TSEIR. The Five-Year Update should respond to this guidance, to the extent that an item is within MEPA jurisdiction and the subject matter of a State Agency action. The proponent should contact the MEPA office prior to the preparation and submission of the next Five-Year Update.

Review of the TSEIR

Land Alteration/Earth Removal

The TSEIR indicated that no blasting has occurred to date in association with earth removal activities on-site. Limited blasting may occur in association with utility extensions or to crush large boulders into a size suitable for transportation. If blasting will need to occur for the installation of utilities or for the reduction of large boulders, the proponent will apply for a local blasting permit from the Westminster Fire Department. The TSEIR included a

revised earthwork graphic that showed existing and proposed grades at a legible scale and provided an explanation of how the data were derived.

Historical/Archaeological

The project site contains a known area of historical and archaeological significance, the Cowee-Smith Complex (MHC #WST-HA-9). The Massachusetts Historical Commission (MHC) indicated in its comment letter that a Preservation Restriction has been recorded for the site and that it was listed in the State Register of Historic Places on December 17, 2007. The proponent should incorporate the requested items in the MHC comment letter on the TSEIR regarding identification of fenced areas and protection of the Preservation Restriction area into pertinent project construction and contract documents.

The TSEIR acknowledged that the proponent provided MHC with scaled project plans of the proposed roadway improvements at the 25 percent design level for review. The MHC has indicated in their comment letter that the 25 percent design plans do not depict all of the historical structures near the Depot Road/Route 2A intersection. As such, MHC has noted that it is unclear what the effects of the proposed road widening would have on the structure located in the northeast corner of the intersection. The proponent should provide the MHC with supplemental information to allow them to effectively evaluate potential impacts.

I remind the proponent again that the subsequent Five-Year Updates for this project should address how roadway improvements have avoided, minimized or mitigated impacts to historic or archaeological resources, with supporting documentation as necessary.

Wastewater

The TSEIR included flow calculations documenting how wastewater flows from both the Phase I portion of the project and the remainder of the project build-out were derived. Wastewater generation rates were based on the proposed uses in accordance with MassDEP regulations. Phase I will generate approximately 3,473 gallons per day (GPD) of wastewater and the remainder of project build-out will generate approximately 22,785 GPD or wastewater. The TSEIR also detailed the requirement for a future sewer extension permit for the build-out of lots I-6, I-7, I-8 and I-9A. The proponent has indicated that buildings on lots I-8 and I-9A will have their own individual pump stations on-site. As part of the wastewater permitting process with MassDEP, the proponent should clarify why a 4-inch diameter force main has been proposed and the possibility of incorporating a centralized pump station on-site in lieu of individual pump stations.

The existing sewer infrastructure associated with the current flows and sewer connections is sufficient to effectively convey and treat wastewater from Depot Business Park. The Town of Westminster is currently in the implementation phase of their Comprehensive Wastewater Management Plan (CWMP). The project was included within the CWMP analysis and certain improvements outlined within the CWMP will specifically

address the full build-out of the project site. The TSEIR has noted that there is one downgradient deficient sewer system component between the project site and the East Fitchburg Wastewater Treatment Facility where flows are treated. This component, the Whitman River Pumping Station, is proposed to be upgraded by the Town of Westminster, with monies appropriated at a recent town meeting. Upon completion of these upgrades (Phase A sewer improvements), there will be adequate sewer infrastructure in place to accommodate the entire build-out of Depot Business Park. The proponent has committed to not make a connection to the municipal sewer system in association with the second phase of the project until the upgrade improvements to the Whitman River Pumping Station have been made in accordance with the CWMP. Due to project phasing and roadway construction schedules, the proponent will submit a sewer extension permit application to MassDEP for the installation of a dry sewer during the Phase II roadway construction. Connection of this sewer main to the larger wastewater infrastructure would not occur until the Phase A sewer improvements are completed. During the MassDEP permitting process, the proponent should revise draft Section 61 findings to reflect the phased sewer extension process and the required CWMP Phase A sewer improvements.

Transportation

The proponent has made a commitment in the TSEIR to monitor traffic at the Route 2A/Batherick Road intersection annually and submit traffic signal warrant analyses and crash data to MassHighway for review and approval. The TSEIR included a 25 percent conceptual design plan showing these intersection improvements. Conduit and pullboxes for future signalization should be installed when the geometric improvements at the intersection are under construction. While existing site occupancy is limited, the proponent should consider implementation of on-site Transportation Demand Measures (TDM) to reduce single occupancy vehicle trips associated with the existing and Phase I site uses. A more robust TDM plan should be outlined as part of the Five-Year Update.

The Executive Office of Transportation and Public Works (EOTPW) comment letter on the SSEIR outlined specific requirements for subsequent MEPA filings for this project. The proponent has acknowledged in the TSEIR that this comment letter will be used as a guideline for the next Five-Year Update. These include the preparation of additional traffic assessments, revised draft Section 61 Findings and mitigation measures. The proponent must consult with the MassHighway District 3 Office and the Public/Private Development Unit prior to submission of the Five-Year Update. The Five-Year Update should also respond to the traffic related items referenced in the MassDEP comment letter on the SSEIR regarding Rideshare and Idling Regulations, delivery restrictions, and construction period air quality mitigation measures.

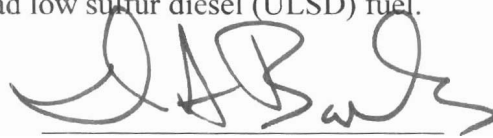
Air Quality

Within the TSEIR, the proponent has indicated that they will respond to the MassDEP's request for a full build-out mesoscale analysis as part of the next Five-Year Update, utilizing the guidance provided in the MassDEP comment letter on the SSEIR to determine the scope and scale of response necessary to meet MassDEP requirements. I

encourage the proponent to consider participating in construction period air quality mitigation measures, including participation in the MassDEP Diesel Retrofit Program. The proponent is reminded that off-road equipment engines must use low sulfur diesel (LSD) fuel as of July 2007. The proponent may also use on-road low sulfur diesel (ULSD) fuel.

March 28, 2008

Date



Ian A. Bowles

Comments received:

03/10/2008	Massachusetts Department of Environmental Protection – CERO
03/12/2008	Massachusetts Historical Commission
03/20/2008	Montachusett Regional Planning Commission
03/21/2008	Watchdogs for an Environmentally Safe Town (W.E.S.T.)
03/21/2008	Joshua R. Schonborg
03/21/2008	William D. Goodwin

IAB/HSJ/hsj