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April 6, 2007

RECORD OF DECISION

PROJECT NAME : Bartlett @ 495 Center
PROJECT MUNICIPALITY : Northborough
PROJECT WATERSHED : Assabet
EOEA NUMBER : 12348/13557
PROJECT PROPONENT : Assabet River Consortium/Northborough Land
Realty Trust, an affiliated entity of the Gutierrez
Company
DATE NOTICED IN MONITOR : January 9, 2007

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 **grant** a Phase I Waiver to allow an initial phase of the project to proceed, pending the preparation of a Draft Environmental Impact Report (DEIR) for the project.

The project site is one of several parcels of land owned by the proponent in the Northborough/Marlboro area. An ENF was filed by the proponent for a development on an adjacent property, Hillside @ 495 Center (EOEA# 12916). The Secretary's Certificate on the ENF for that project (February 14, 2003) required preparation of an Draft and Final EIR (DEIR, FEIR) to discuss the full impacts of the Hillside at 495 project as well as the potential cumulative infrastructure impacts and site planning issues arising from the full build-out of the remaining four development parcels owned by the proponent. I note that on February 6, 2007 the proponent submitted a DEIR for the Hillside @ 495 Center project to the MEPA Office. That DEIR is currently under MEPA review.

Assabet River Consortium – NPC/Phase I Waiver Request

The Town of Northborough and the City of Marlborough, together with the Towns of Hudson, Maynard, Shrewsbury, and Westborough have joined to form the Assabet River Consortium to prepare a Comprehensive Wastewater Management Plan/Environmental Impact Report (CWMP/EIR, EOEAE# 12348) to address short term- and long-term regional issues relating to the wastewater treatment and disposal and nutrient loading in the Assabet River on a basin-wide basis. The goals of the CWMP/EIR are to identify environmentally sustainable treatment alternatives that respond to the communities' needs, meet water quality and public health standards, reduce phosphorous loading, and increase water levels in the Assabet River and its tributaries. The Certificate on the ENF for the Consortium required that prior to completion of MEPA review for the Consortium CWMP, projects located within the Consortium communities that seek sewer extension permits from the Massachusetts Department of Environmental Protection (MassDEP) will also require a Phase I waiver from the EIR requirement for the Consortium. The project proponent has requested such a waiver in a Notice of Project Change (NPC) published in the Environmental Monitor on January 9, 2007 and has provided additional information in support of that request. I note that all development projects located within the Consortium communities requesting municipal sewer service must satisfactorily demonstrate: 1) that the proposed project is located in an area proposed for municipal sewer; 2) an on-site solution is not feasible; and 3) the proponent has committed to contribute to ongoing infiltration and inflow removal (I/I) projects within the Town of Northborough and will provide mitigation (2 - 4:1) for every gallon of wastewater generated by the proposed project and exported out of the basin, before being allowed to connect to the sewer system.

Bartlett @ 495 Center

The proposed project involves construction of a one-story warehouse/distribution facility of approximately 220,000 square feet (sf) on a 32-acre site located on Bartlett Street in Northborough. Other components of the project include construction of a site access driveway, 213 parking spaces, stormwater management facilities, utilities, and landscaping. Municipal water and sewer will be provided to serve the development. The project's wastewater will be conveyed from Northborough to the Marlborough sewer system. Traffic impacts are estimated at 1,160 vehicle trips per day. Water use is estimated at 4,900 gallons per day (gpd) and wastewater generation is estimated at 4,500 gpd. The July 22, 2005 Secretary's Certificate on the Environmental Notification Form (ENF) submitted for this project required the proponent to submit a Notice of Project Change (NPC) for the sewer extension component of this project as also required by the Secretary's Certificate on the ENF for the Assabet River Consortium Comprehensive Wastewater Management Plan (CWMP), issued on January 24, 2001 (EOEA# 12348). The wastewater flow from the project site will be conveyed to the Marlborough municipal sewer system for treatment and disposal at the Marlborough Westerly Waste Water Treatment Facility (Westerly WWTF). The proponent must provide MassDEP with a detailed description of the water use and wastewater generation characteristics associated with the proposed warehouse/distribution facility.

I note that the Town of Northborough and the Town of Marlborough have a joint agreement to share the capacity of the Marlborough Westerly Wastewater Treatment Plant (WTP). The Town of Northborough has agreed to allocate capacity from their allotment under the agreement to accommodate the proposed project.

The City of Marlborough has initiated efforts to create additional capacity at its Westerly Treatment Facility through the use of flow diversion projects. These include the Lake Williams Pump Station wastewater flow diversion project, which, upon completion, will divert approximately 120,000 gpd of wastewater flow from the City's Westerly Wastewater Treatment Facility (which discharges wastewater to the Assabet River) to its East Wastewater Treatment Facility, which is operating sufficiently below its permitted capacity and discharges to Hop Brook, a tributary to the Sudbury River.

Notice of Project Change

As described in this NPC submittal, the project change consists of the construction of approximately 850 linear feet (lf) of 8 inch gravity sewer main extension (Northborough - 790 lf, Marlborough - 60 lf) to serve the proposed warehouse/distribution facility located on Bartlett Street in Northborough. The proposed sewer extension will connect to existing municipal sewer facilities located within the Bartlett Street right-of-way in Northborough and Marlborough. The proposed sewer extension project does not exceed any MEPA review thresholds.

Phase I Waiver Request

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:

1. the potential impacts of phase one of the project, taken alone, are insignificant;
2. ample and unconstrained infrastructure facilities and services exist to support phase one of the project;

3. 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,
4. 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 Phase I Waiver Request, supporting documentation, and written comments.

1. As described by the proponent, the Bartlett @ 495 Center project will involve the construction of approximately 850 linear feet (lf) of 8-inch gravity sewer line within the Bartlett Street right-of-way in Northborough and Marlborough.
2. The wastewater flow from the project (4,500 gpd) will be conveyed to the Marlborough municipal sewer system for treatment and disposal at the Marlborough Westerly Waste Water Treatment Facility (Westerly WWTF). The proponent must employ appropriate erosion and sedimentation control measures during project construction. The project will not impact bordering vegetated wetlands resource areas.

The Natural Heritage and Endangered Species Program (NHESP) anticipates issuing a Conservation and Management Permit for the project subject to the proponent's implementation of the proposed Rare Species Conservation Plan and the proponent's submission of a final Conservation & Management Permit application to NHESP. I am conditioning my granting of the waiver request on the proponent's implementation of the proposed Rare Species Conservation Plan and the proponent's submission of a final Conservation & Management Permit application to NHESP.

3. The project will require a Sewer Extension Permit from MassDEP. I anticipate that MassDEP's permit review process will contain terms such as a condition or restriction so as to ensure due compliance with MEPA and 301 CMR 11.00.

Based on these findings, it is my judgment that the Phase 1 waiver request has merit, and meets the tests established in 301 CMR 11.11. Therefore, I grant the Phase I Waiver subject to the aforementioned findings and conditions.

April 6, 2007
Date

A handwritten signature in black ink, appearing to read 'Ian A. Bowles', is written over a horizontal line. The signature is cursive and somewhat stylized.

Ian A. Bowles, Secretary

Comments received on the DROD: None

ROD #12348/13557 – Assabet Consortium CWWMP/Bartlett @ 495 Center
IAB/NCZ/ncz