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May 10, 2006

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DRAFT RECORD OF DECISION - CORRECTED

PROJECT NAME : Canton Comprehensive Water Resources Management Plan\The Village at Cedarcrest

PROJECT MUNICIPALITY : Canton

PROJECT WATERSHED : Boston Harbor

EOEA NUMBER : 12172

PROJECT PROPONENT : JMS Realty Trust

DATE NOTICED IN MONITOR : April 10, 2006

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 an initial phase of the project to proceed, pending the preparation of a Draft Environmental Impact Report (DEIR) for the project.

Project History:

The Town of Canton is preparing a Comprehensive Water Resources Management Plan (CWRMP) to determine the most effective disposal methods for existing and future wastewater disposal flows within the town. Approximately 60% of Canton is connected to the existing sewage collection system, which discharges to the Massachusetts Water Resources Authority (MWRA) system. The remainder of the Town uses individually owned on-site Title 5 septic systems. The Town plans to extend sewer service to unsewered areas and to increase potable water supplies through construction of a new well, Well #9, to meet anticipated future demand.

In May 2004, the Town of Canton submitted a Phase I report as required by a Special Review Procedure for MEPA review created in accordance with 301 CMR 11.09. The Phase I document defined the wastewater disposal needs of the community and included a proposed scope for the Phase II report. The Phase I report included a needs analysis that identified high needs areas and neighborhoods where on-site wastewater disposal may not be a realistic long-term option. The Phase I report also indicated that Infiltration/Inflow (I/I) is a significant wastewater problem.

In addition, as a condition for approval of an increase in the interbasin transfer rate, the WRC required that the Town of Canton offset withdrawals from Well #9 that are discharged out of the Neponset River Basin on a 2:1 basis. The Secretary's Certificate (June 14, 2004) on the Phase I Report, required the proponent to submit a Phase I Waiver Request to the MEPA Office for any future proposals for sewerage in the Town prior to the completion of an approved CWRMP/Final EIR under the Waiver provisions at 301 CMR 11.11.

Phase I Waiver Request:

Pursuant to Section 11.10 (2) of the MEPA Regulations, the proponent filed a Notice of Project Change (NPC) requesting a Phase I Waiver Request (NPC/Phase I Waiver) to construct a 500 linear foot (lf) extension of the Town of Canton's 8" sewer main, and a 700 lf extension of Canton's water supply main to serve a proposed 10-lot residential subdivision (4,400 gallons per day (gpd)) located off Cedarcrest Road in Canton. According to the information provided in the NPC/Phase I Waiver, the project area is located within the service limits of the Town's existing sewer system. As a result, the project will be served by the Town of Canton's municipal water supply system and municipal sewer collection by the Town of Canton for treatment by the Massachusetts Water Resources Authority's (MWRA) Deer Island Wastewater Treatment Facility (WWTF). In their comments, DEP has requested that the proponent provide DEP with a letter from the Town of Canton explaining why the project site was not identified as a priority area for sewerage under the Town of Canton's Sewer Needs Survey. The proponent has committed to re-constructing approximately 950 lf of municipal water main, and two municipally-owned stormwater quality units located within the Town's existing drainage system.

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 Village at Cedarcrest project will involve the construction of approximately 500 lf of sewer main and 700 lf of water main within existing municipal roadways rights-of-way. According to the proponent, the project has been designed to meet DEP's Stormwater Management Policy standards and practices. The proponent will need to employ appropriate erosion and sedimentation control measures during project construction. The proponent's 10-lot residential subdivision project will not impact bordering vegetated wetlands resource areas.
2. The wastewater flows from the residential subdivision project (4,400 gpd) will be serviced by the Town of Canton's municipal sewer collection for treatment by the Massachusetts Water Resources Authority's (MWRA) Deer Island Wastewater Treatment Facility (WWTF). According to the proponent, the Town's sewer collection system and MWRA's treatment system have the capacity to accommodate the additional total wastewater flows anticipated from the five individual sewer expansion infill projects.
3. As a condition of my approval of the Phase I Waiver Request, I am requiring that the proponent provide DEP with a letter from the Town of Canton explaining why the project site was not identified as a priority area for sewerage under the Town Canton's Sewer Needs Survey.

According to DEP, the proponent must work closely with the Town of Canton to develop and implement an infiltration/inflow (I/I) removal program to enable sewer extension applicants to commit to the 4:1 removal of I/I (17,600 gpd) to mitigate the project's water supply and wastewater impacts. The Town of Canton's Phase II submittal to the MEPA Office must include a detailed description of Canton's I/I program. The proponent will also need to satisfactorily address DEP's comments pertaining to the project's proposed stormwater management plan.

The project will require a Sewer Extension Permit from the Department of Environmental Protection (DEP). I anticipate that DEP'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 one waiver request does have merit, does meet 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 I Waiver subject to the aforementioned findings and conditions.

This Draft Record of Decision (DROD) 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.

May 10, 2006

Date

Stephen R. Pritchard, Secretary

Comments received:

03/27/06 Water Supply Citizens Advisory Commission (WSCAC), MWRA
04/30/06 MA Department of Environmental Protection – NERO

DROD – Corrected #12172 Village at Cedercrest
SRP/NCZ/ncz