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June 1, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT/NOTICE OF PROJECT CHANGE

PROJECT NAME : BJ's Planned Unit Development
(formerly BJ's Wholesale Club)
PROJECT MUNICIPALITY : Revere
PROJECT WATERSHED : North Coastal
EOEA NUMBER : 13717
PROJECT PROPONENT : **BJ's Wholesale Club and Rumney Marshview LLC**
DATE NOTICED IN MONITOR : April 25, 2007

As Secretary of Energy and Environmental Affairs (EOEEA), I hereby determine that the Draft Environmental Impact Report (EIR) submitted on this project **does not adequately and properly comply** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00). Therefore, I am requiring that the proponent submit a Supplemental Draft EIR to respond to the issues identified in this Certificate.

Project Description

As described in the Draft EIR and the Notice of Project Change (NPC), the proposed project consists of construction of a 121,635 square foot (sf) BJ's Wholesale Club building, a gas station and a 281-unit housing development (in 3 buildings) on a 19.85 acre site in Revere. The project will include associated access drives, parking spaces and utility infrastructure. The site (consisting of three parcels) is located on Ward Street and is bounded to the west by an apartment building and the City of Revere Department of Public Works (DPW) facility, to the north by Rumney Marsh (an Area of Critical Environmental Concern (ACEC)) and Diamond Creek, to the east by Broadway (Route 107) and to the south by a US Postal Service (USPS) facility and multi-family housing. The site contains several drainage ditches and wetlands areas and, in the southeastern area, an auto salvage facility.

The project is undergoing MEPA review and subject to preparation of a mandatory EIR pursuant to Section 11.03 (1)(a)(2) and 11.03 (6)(a)(6) because it requires a state permit and will create more than 10 acres of impervious area and generate more than 3,000 new average daily trips (adt). The project may require an Access Permit from the Department of Conservation and Recreation (DCR) and a Sewer Connection Permit from the Department of Environmental Protection (MassDEP).¹ The project requires an Access Permit from the Massachusetts Highway Department (MassHighway). Also, it requires an Order of Conditions from the Revere Conservation Commission. An Order of Conditions was issued by the Revere Conservation Commission and then appealed by MassDEP and therefore requires a Superseding Order of Conditions. The proponent is not seeking financial assistance from the Commonwealth for the project, therefore MEPA jurisdiction extends to those aspects of the project that may cause significant Damage to the Environment and that are within the subject matter of required or potentially required state permits. These include traffic, wetlands, drainage, water quality, wastewater and contaminated soils.

Review of the Draft EIR

The Draft EIR includes a thorough description of the project and project elements. It includes an existing conditions plan illustrating resources and abutting land uses for the entire project area and proposed conditions plans. As required, it includes a site circulation plan illustrating how motor vehicles, pedestrians and cyclists will be accommodated on the site. The Draft EIR includes a description of state permits required for the project and asserts that the project will be consistent with applicable performance standards. Agency comments indicate that further analysis is required to determine whether a Sewer Connection Permit and a DCR Access Permit is required.

It provides a detailed traffic and air quality analysis and proposes measures to mitigate associated impacts. Comments from the Executive Office of Transportation (EOT) indicate that the analysis is consistent with the EOEEA/EOT Guidelines for EIR/EIS Traffic Impact Assessments and proposed mitigation is generally adequate. The Draft EIR includes an analysis of wetlands impacts and associated mitigation, including a stormwater management plan. Comments from MassDEP indicate that the proposed stormwater management plan is not consistent with the MassDEP Stormwater Management Policy. The local Order of Conditions, issued by the Revere Conservation Commission, was appealed by MassDEP for inconsistency with the Stormwater Management Policy. The Draft EIR provides an estimate of wastewater generation but it does not describe or depict on plans the sewer system serving the project site, confirm that capacity is available to serve the project or quantify the benefits of proposed mitigation. The Draft EIR did not include a section on site remediation and clean-up activities, although these issues were generally addressed in the Response to Comments section.

The scope of the project and its impacts have increased since the ENF filing. The NPC submitted with the Draft EIR describes the proposed changes. The ENF filing referenced a conceptual housing development, containing 180 units, on the southeastern portion of the site.

¹ The ENF indicated that the project may require a 401 Water Quality Certificate and a Chapter 91 License. The Draft EIR indicates that the proponent has confirmed that these permits are not required.

Changes since the ENF filing include the identification of a 281-unit housing development and the re-location of proposed uses on the site. The BJ's Warehouse building and associated parking is proposed to be constructed on the southeastern portion of the site. The housing is proposed adjacent to an existing apartment building to the west of the drainage ditch.

The Draft EIR/NPC describes changes in potential environmental impacts. Land alteration has increased from 14.1 acres to 17.10 acres. Creation of impervious surfaces has increased by 2.84 acres for a total of 14.6 acres, which is approximately 86% of the site. The impact on land subject to coastal storm flowage (LSCSF), or coastal floodplain, has increased by 198,920 sf to 207,820 sf. Traffic impacts have increased by 358 adt to 7,604 adt (adjusted for dual purpose and pass-by trips).² Parking has increased from 788 spaces to 1,021 spaces.³ Water use and wastewater generation have increased from approximately 29,950 gallons per day (gpd) to 34,410 gpd.

The Draft EIR Scope required the proponent to analyze a narrowly tailored reduced build alternative to explore how impervious surfaces and wetlands impacts could be avoided and minimized. In addition, the proponent was encouraged to evaluate sustainable design alternatives such as Low Impact Development (LID) techniques in site design and stormwater management plans with the objective of conserving natural systems and hydrologic functions. The Scope did not require that the proponent reduce the amount of square footage available for development.

The Draft EIR includes a summary of off-site alternatives, original build alternatives (Single Retail Store and the Retail Store with Potential for Multifamily Residential (the ENF Alternative)), the 2012 Build Alternative – No Mitigation for Traffic/Air Quality Impacts and the Preferred Alternative - 2012 Build Alternative with Mitigation. It compares overall impacts for the Preferred Alternative and the ENF Original Build Alternative. Also, it assesses the transportation and air quality benefits of mitigation proposed in the Preferred Alternative.

The Draft EIR briefly addresses the requirement for a Reduced Build Alternative by suggesting that a reduction of the building program cannot be supported given the required floor area for the BJ's Wholesale Club. While the Draft EIR describes a commitment to salt marsh restoration and provides a stormwater management plan to mitigate the large volume of stormwater that will be generated by the site, it does not include an exploration of alternative designs to avoid and minimize these impacts by reducing the amount of impervious surfaces and, as noted previously, the stormwater management plan is not consistent with the MassDEP Stormwater Management Policy.

I have fully examined the record before me, including but not limited to the Scope issued on February 24, 2006; the Draft EIR filed in response; and the comments entered into the record. Based on this record, I find that the Draft EIR is not sufficiently responsive to the requirements of the MEPA regulations and the Scope to meet the regulatory standard for adequacy. At the heart of the MEPA process stands the requirement to evaluate feasible alternatives to a proposed project, to ensure that all state agencies can find, pursuant to Section 61 of the statute, that all feasible means to avoid, reduce, or mitigate environmental damage have been considered and incorporated into

² Unadjusted trip generation is estimated at 8,866 adt.

³ The Draft EIR identifies the amount of parking spaces as 1,021 and 1,081 in different sections of the report. The number of parking spaces associated with the project should be clarified.

the project design. In the case of this large retail and housing development that consists of significant filling, grading and high pollutant load activities within an ACEC and the coastal floodplain, I am concerned that the proponent has not sufficiently analyzed alternatives and that this project will result in otherwise avoidable impacts.

Therefore I am requiring the filing of a Supplemental Draft EIR that will include an alternatives analysis and address wetlands and wastewater issues. In addition, I have summarized the issues that should be addressed when the project proceeds to the Final EIR stage. The Scope for the Final EIR will be updated and revised upon review of the SDEIR.

Scope for the Supplemental EIR

Project Permitting

The Supplemental Draft EIR should identify whether a Sewer Connection Permit is required and identify whether the salt marsh restoration proposed for the northeastern edge of the property will require an Access Permit from DCR. The Supplemental Draft EIR should include a copy of the MassDEP determination indicating that a Chapter 91 License is not required.

Alternatives Analysis

The SDEIR must include analysis of a Reduced Build Alternative to ensure the state permitting agencies can make their Section 61 Findings that all feasible means to avoid, reduce, or mitigate environmental damage have been considered and incorporated into the project design. The Reduced Build Alternative should decrease the amount of impervious surfaces and impacts to wetlands by minimizing alteration within the coastal floodplain and incorporating LID techniques. The Supplemental DEIR should quantify the amount of land altered, the amount of earth work involved in meeting final grades and the amount of impervious surfaces created.

This analysis does not necessarily require a reduction in the development's building program to be considered adequate but it does require an analysis of alternative designs and techniques for minimizing the impacts associated with the project. I note that alternative approaches could have positive impacts on site development costs by reducing the amount of grading, paving and/or reducing the size of stormwater infrastructure. The analysis should consider use of narrower roadways and reductions in impervious surfaces associated with parking (e.g including parking under buildings, inclusion of structured parking, reduction in the amount of parking, and/or phased construction of parking as warranted by demand). I note that several large retail stores of similar sizes have committed to building parking underneath their buildings to avoid impacts to wetland resource areas, including IKEA (EOEA #13182) and Target (Shoppes at Page Point EOEA #13602). The proponent should re-consider whether the fueling facility is an essential part of this project. Its elimination would avoid impacts to the ACEC and coastal floodplain as well as result in a significant reduction in vehicle trips (1,012 adt). At a minimum, this use should be relocated out of the coastal floodplain.

Wetlands/Drainage

As noted previously, the site is located within the Rumney Marsh ACEC and adjacent to a salt marsh. The Draft EIR indicates wetlands resource areas affected (directly or indirectly) by the project include Salt Marsh, Coastal Bank, LSCSF and Land Subject to Tidal Action. Impacts within the buffer zone of salt marsh consist of construction and site grading associated with access drives, parking, a loading dock and a residential building. The loading dock, building and stormwater management structures will be located within the buffer zone. Over 200,000 sf of coastal floodplain (defined as the 100-year flood elevation, or elevation 9 NGVD datum) will be filled to an elevation of 12 to 14 feet to construct a gas station (including 2 20,000 gallon underground storage tanks and 6 dispensers) and a paved parking area. The proponent asserts that the proposed filling of the coastal floodplain will have no adverse effect; however, it will permanently alter flood storage area and replace it with uses that have high potential pollutant loads. Avoidance and mitigation of this impact is necessary to avoid adverse impacts on the Rumney Marsh ACEC, which is considered significant to flood damage prevention (pursuant to the wetlands regulations in 310 CMR 10.24 (5)).

The Draft EIR includes a commitment to salt marsh restoration in the northeast section of the site and restoration of land adjacent to the drainage ditch but it does not identify the location or quantity of restoration, nor does it provide detailed plans. It proposes to remove the rubble fill and debris in these areas, create a coastal bank along the salt marsh and restore the buffer zone in these areas with native vegetation.

MassDEP, DCR and the Saugus River Watershed Council have indicated that analysis of alternative site designs is necessary to avoid and minimize impacts to wetland resource areas. In addition, they have indicated that proposed mitigation does not appear sufficient to adequately mitigate impacts. As noted previously, the Supplemental Draft EIR will need to analyze alternatives to the proposed project. In addition, the Supplemental Draft EIR should address whether the filling of coastal floodplain will increase impacts from storms to adjacent properties. For impacts that cannot be avoided, the Supplemental Draft EIR should identify adequate mitigation. The proposed salt marsh restoration should be clearly identified, including the amount and location of restoration, and detailed restoration plans (including profiles and proposed vegetation/fill materials) should be provided to assist agencies in determining the adequacy of proposed mitigation. Proposed open space should be described and identified on project plans.

The Draft EIR includes a section on stormwater that describes how the stormwater management system is designed to comply with the MassDEP Stormwater Management Policy and the City of Revere's Nonpoint Pollution Discharge Elimination System (NPDES) Storm Water General Permit during construction and post-development. The system includes construction period erosion control measures (including silt fences and a stabilized construction entrance), construction of loam and seed slopes, oil/water separators, 4-foot deep sump catch basins, Downstream Defender particle separators and energy dissipaters at culvert outlets. Stormwater will discharge primarily to the existing drainage ditch. The Draft EIR also includes a stormwater operations and management plan.

As noted previously, MassDEP has appealed the Order of Conditions based on the inconsistency of the proposed system with Standard 6 (protection of critical areas) of the

Stormwater Management Policy. MassDEP comments indicate that the Downstream Defender particle separators are not accepted as a primary best management practice for use in critical areas or for land uses with higher potential pollutant loads. The Supplemental Draft EIR should provide a revised stormwater management plan that is consistent with the MassDEP Stormwater Management Policy and should re-consider the incorporation of LID techniques to reduce imperviousness and related effects, including thermal impacts. Measures that would help to restore and mimic pre-existing runoff conditions should be adapted into the site design where feasible. Commentors have noted that the addition of green roofs, bioretention areas and landscaping within the parking lots and maintenance of a vegetated buffer between the project and resource areas could reduce the project's impact.

Wastewater

The Draft EIR indicates that the project will generate a total of 24,410 gallons per day (gpd) of wastewater. The Draft EIR indicates that the proponent will reduce extraneous clean water (Infiltration/Inflow (I/I)) in the sewer system by placing a camera in the sewer pipe in Ward Street to assess the impacts of I/I or identify whether a blockage needs to be corrected.

The Supplemental Draft EIR should describe and depict the proposed wastewater system and include confirmation from the City of Revere that existing and proposed infrastructure is sufficient to support increased wastewater flows. MassDEP comments indicate that the wastewater estimate appears low for the proposed project. The Supplemental Draft EIR should include additional information on the number of bedrooms and square footage used to develop the estimate and demonstrate that the estimates were calculated in accordance with standard MassDEP methodology. In addition, it should identify I/I reduction projects and quantify associated reductions.

Mitigation

The Draft EIR includes a section on mitigation and Draft Section 61 Findings. As noted previously, the Draft EIR does not demonstrate that the proposed project adequately avoids, minimizes and mitigates project impacts. The Final EIR should include a revised mitigation package, including revised Section 61 Findings for use by the state permitting agencies. As indicated in the Draft EIR Scope, it should include an estimate of the individual costs of the proposed mitigation, identification of the parties responsible for implementing the mitigation and a schedule for implementation based on the construction phases of the project.

Response to Comments

The Supplemental Draft EIR should contain a copy of this Certificate and a copy of each comment received. It should respond to the comments received, to the extent that the comments address the above noted Scope items and it should provide additional narrative and/or technical analysis as necessary to respond to the concerns raised.

Circulation

The SDEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to any state agencies from which the proponent will seek permits or approvals, to the list of “comments received” below, and to Revere officials. A copy of the Supplemental Draft EIR should be made available for review at the Revere public library.

Scope for the Final EIR

Traffic/Transportation

The Draft EIR includes a traffic analysis prepared in conformance with the EOEEA/EOT Guidelines for EIR/EIS Traffic Impact Assessments as required. This analysis indicates that the project will generate approximately 7,604 new adt and will construct 1,021 parking spaces. EOT has indicated that it concurs with the methodology used to calculate trip generation (including a 50% dual-purpose trip rate for the fueling facility and a 5% pass-by/diverted link trip rate). The traffic analysis indicates that capacity at area rotaries is significantly constrained under existing conditions, and will be more constrained under No-Build and Build conditions, and that vehicle crash rates exceed MassHighway District 4 averages. It also identifies capacity issues at several intersections, in particular during the Saturday peak hour.

The Draft EIR identifies roadway improvement measures (and includes conceptual plans for the proposed roadway improvements) as well as a Transportation Demand Management (TDM) Program to minimize impacts. Improvements are proposed for Copeland Circle, Brown Circle, Bell Circle, Route 60 at Sigourney Street and the Northgate Shopping Center Driveway, Route 60 and Charger Street, Ward Street at McCoba Street, Charger Street and Ward Street and Route 60 at Revere Street. Proposed improvements include signage and pavement marking installation and traffic signal timing and phasing adjustments. In addition, it includes a proposal to convert the one-way eastbound section of Ward Street to two-way to minimize the addition of traffic to Brown Circle by enabling vehicles traveling on Route 107 southbound to access the site via Ward Street. The proponent will institute a traffic monitoring program to evaluate the project's impacts and effectiveness of the TDM Program.

Comments from EOT indicate that the trip generation summary should be updated to include the unadjusted number of vehicle trips during an average Saturday. In addition, EOT notes that the proposed widening of the Route 60 Charger Street intersection and signal interconnection with Sigourney Street may require updated signal equipment at both of these intersections. The proponent should consult with EOT regarding the scope of proposed changes prior to filing the Final EIR. The Final EIR should address EOT's comment regarding the importance of providing pedestrian and bicycle connections and safety throughout the corridor. The Final EIR should identify permits necessary to convert Ward Street to two-way traffic and indicate whether it will result in any direct or indirect wetland impacts.

The Draft EIR provides the total number of parking spaces associated with the project but it does not identify parking associated with each of the proposed uses, provide an analysis of parking demand or identify the parking ratios. The Final EIR should identify parking associated with each of the uses, identify parking ratios and identify how the ratios were developed. The mixed use nature of this development and the project's proximity to multiple transit routes, provides an important opportunity for reducing the total amount of parking to minimize impervious surfaces and encourage transit use. The Final EIR should evaluate opportunities for minimizing parking supply, including the use of banked parking (that will only be used if required by demand) or shared parking between the residential and the retail uses.

Air Quality

The Draft EIR includes a mesoscale air quality analysis to quantify the project's impact. This analysis indicates that the project will increase hydrocarbon emissions compared to the 2012 No-Build Alternative. Volatile organic compounds (VOC) emissions will increase by an estimated 2.1 kg/day above the 2012 No-Build case, and Nitrous oxide (NO_x) emissions will increase by 4.4 kg/day. Proposed mitigation will only provide minimal improvements. As a result of the increase, the proponent is required to develop a TDM Program to mitigate project impacts. The proposed TDM Program includes several traffic reduction strategies, including a ridesharing program and identification of a transportation coordinator responsible for the Program's implementation. The Draft EIR indicates that the proponent will consult with the Massachusetts Bay Transportation Authority (MBTA) regarding the potential for extending transit service to the site. The Draft EIR indicates that, if transit service can be extended, the site will include bus shelters and bus turnouts. The proponent should consider incorporating transit pass subsidies for residents and employees into its TDM Program to increase its effectiveness. Also, the Final EIR should clarify whether the project is subject to the Rideshare Regulation.

Because the project will take place in a densely developed area and is directly adjacent to residential buildings, the proponent is committed to participate in DEP's Clean Air Construction Initiative. The Final EIR should identify how the proponent will fulfill this commitment and confirm that verified EPA retrofit devices will be used.

Contaminated Soils

A preliminary risk characterization, consistent with the Massachusetts Contingency Plan (MCP) has been completed for the site, which contains two Release Tracking Numbers (3-14137 and 3-17964). The Draft EIR indicates that an ecological risk characterization will be completed, and that there are two options available to fulfill the MCP requirements: achieving a Class A-1 Response Action Outcome (RAO) or establishment of an Activity and Use Limitation (AUL) to achieve a Class A-3 RAO or a Class B-2 RAO. The Draft EIR indicates that achieving a Class A-1 RAO is unlikely because contaminants are not confined within a discrete area on the site. It is likely that an AUL will be established for the site.

The Final EIR should include a copy of the risk characterization report, the ecological risk characterization and further describe required remediation activities.

Mitigation

The Final EIR should include a revised mitigation package, including revised Section 61 Findings for use by the state permitting agencies. It should include an estimate of the individual costs of the proposed mitigation, identification of the parties responsible for implementing the mitigation and a schedule for implementation based on the construction phases of the project.

Response to Comments

The Final EIR should contain a copy of this Certificate and a copy of each comment received. The Final EIR should respond to the comments received, to the extent that the comments are within MEPA subject matter jurisdiction. The Final EIR should present additional narrative and/or technical analysis as necessary to respond to the concerns raised.

Circulation

The Final EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to any state agencies from which the proponent will seek permits or approvals, to the list of "comments received" below, and to Revere officials. A copy of the Final EIR should be made available for review at the Revere Public Library.

June 1, 2007

Date



Ian A. Bowles

Comments Received:

5/25/07	Department of Environmental Protection (MassDEP)/Northeast Regional Office (NERO)
5/25/07	Executive Office of Transportation (EOT)
5/25/07	Department of Conservation and Recreation (DCR)
5/25/07	Saugus River Watershed Council

IAB/CDB/cdb