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August 29, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
SUPPLEMENTAL FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : True North Commerce Center
PROJECT MUNICIPALITIES : Salisbury
PROJECT WATERSHED : Merrimack River
EEA NUMBER : 14002
PROJECT PROPONENT : True North, LLC
DATE NOTICED IN MONITOR : July 23, 2008

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

Project Description

The proposed project, as originally described in the Expanded Environmental Notification Form (EENF), consisted of the construction of 600,000 square feet of industrial space (including light manufacturing, product distribution and office space), and 266 associated parking spaces. Phase I will include the construction of an 18,000 square foot distribution facility; Phase II development will include the remaining 582,000 square feet of industrial space. As described in the EENF, the project was proposed to be located on a 51-acre undeveloped parcel, in the northeast quadrant of the I-95/Route 110 interchange and southeast of the I-495/I-95 interchange. Access to the site would be provided via a full-access driveway on Rabbit Road. The proponent requested and was granted a Waiver to allow Phase 1 of the project to proceed to state permitting prior to completion of the EIR.

The proponent submitted a Notice of Project Change (NPC) in March 2008 that described a reduction in the proposed build-out from 600,000 sf to 500,000 sf of industrial space and the

addition of a 2.68 acre parcel to the project site. This parcel had been previously developed and is currently used as an overflow paved parking area. On April 11, 2008 a Certificate was issued on the NPC.

As described in this Supplemental Final EIR, the proponent has further modified the project design by decreasing the impacts to Isolated Vegetated Wetlands (IVWs) from approximately 21,300 square feet to 4,026 square feet. The proponent has proposed to replicate 7,395 square feet of wetlands.

Traffic generation associated with project will result in approximately 3,480 average daily trips (adt), and approximately 344 new parking spaces. Water and sewer infrastructure will extend approximately 0.5 miles. The FEIR estimates that the project's water use will average approximately 23,650 gallons per day and wastewater generation will average approximately 21,500 gallons per day.

Regulatory Environment

The project is undergoing MEPA review and was subject to a mandatory EIR pursuant to Section 11.03 (1)(a)(2) and Section 11.03(6)(a)(6) of the MEPA regulations because it involves creation of 10 or more acres of impervious area and will result in generation of 3,000 or more new average daily trips (adt). In addition, the project exceeds ENF review thresholds for wastewater and wetland alterations. The project requires a Vehicular Access Permit from the MassHighway Department (MHD). Other permits required include a 401 Water Quality Certificate and a Sewer Connection/Extension Permit from the Department of Environmental Protection (MassDEP). The project may also require a Water Supply Distribution System Modification Permit from MassDEP. The project requires an Order of Conditions from the Town of Salisbury (and, on appeal only, a Superseding Order from MassDEP). The project may require pre-construction permits pursuant to MassDEP Air Quality Control Regulations. The project will require a National Pollutant Discharge Elimination System (NPDES) Permit from the US Environmental Protection Agency (EPA). The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required state permits with the potential to cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to transportation, air quality, wastewater, wetlands, water supply, land alteration, and stormwater management.

Review of the Supplemental Final EIR

I allowed the proponent to structure the Supplemental Final EIR as a response to the comments received during the review of the Final EIR. I note that the Final EIR included a detailed description of the project with a summary/history of the project, and described each state agency action required for the project and how the project is compatible with the performance standards. The major shortcoming of the Final EIR concerned issues primarily related to wetland and stormwater issues.

Wetlands

As described in this Supplemental Final EIR, the proponent has modified the project design by decreasing the impacts to Isolated Vegetated Wetlands (IVWs) from approximately

21,300 square feet to 4,026 square feet with 7,395 square feet of wetlands replication proposed. I commend the proponent for making changes to reduce direct wetlands impacts significantly. According to the comments received from MassDEP on the Supplemental FEIR, there is an opportunity to reduce those impacts even further specifically on Lot 5, by moving the parking lot to the east side of the building in the location of the stormwater basin.

Stormwater

The Supplemental EIR includes a detailed description of the project's stormwater management plan which demonstrates that source controls, erosion and sediment controls, and the post-development drainage system will be designed in compliance with MassDEP's Stormwater Management Policy (SMP). I note that MassDEP has provided specific comments on the stormwater management system designs proposed that will need to be addressed during permitting.

According to the comments received from MassDEP on the Supplemental FEIR, the proponent must provide additional information regarding the Operations and Maintenance Plan (O&M) and its compliance with MassDEP's Stormwater Management Policy (SMP). This entire site has high seasonal groundwater, within 15-18 inches below existing grade. However, the construction phase of the O&M plan has not addressed the need for groundwater dewatering when installing building footings, and utilities such as water and sewer lines. The construction phase of the O&M plan also must demonstrate that all temporary settling basins will be sited in areas away from the locations proposed for the infiltration best management practices (BMPs).

I continue to strongly encourage the proponent to explore further opportunities for incorporating additional sustainable design alternatives including Low Impact Development (LID) techniques into the project's site design and stormwater management plans. LID techniques incorporate stormwater best management practices (BMPs) and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions. The primary tools of LID are landscaping features and naturally vegetated areas, which encourage detention, infiltration and filtration of stormwater on-site. Other tools include water conservation and use of pervious surfaces. Clustering of buildings is an example of how LID can preserve open space and minimize land disturbance. LID can also protect natural resources by incorporating wetlands, stream buffers and mature forests as project design features. For more information on LID, visit <http://www.mass.gov/envir/lid/>. Other LID resources include the national LID manual (Low Impact Development Design Strategies: An Integrated Design Approach), which can be found on the EPA website at: <http://www.epa.gov/owow/nps/lid/>.

Mitigation

The Supplemental Final EIR included an update on proposed mitigation measures, to the extent that they have changed or been refined from those presented in the Draft EIR, including an updated draft Section 61 Finding. The draft Section 61 Finding contained a clear commitment to implement mitigation measures, an estimate of the individual costs of each measure, and identified the party responsible for implementing the mitigation. A schedule for the implementation of mitigation was also included. The proponent has committed to the following mitigation measures:

Stormwater

- Mitigation will include construction, planting, and monitoring of constructed wetlands, vegetated swales, and rain gardens / bioretention filters.
- Low-Impact Design (LID) stormwater management BMPs will be operated and maintained to adequately treat and maintain runoff associated with the impervious surfaces created.
- The LID features will mitigate runoff impacts at a “local” scale; reduce impacts to wildlife habitat and wetland resource areas; preserve existing site drainage patterns; and reduce runoff volumes and velocities.
- Mitigation will include installation, replacement, maintenance, and monitoring of temporary erosion control, temporary settling basins, temporary check dams, and stone entrance / exit pad.
- Qualified personnel will also conduct routine monitoring and subsequent reporting to ensure that the temporary BMPs are functioning as intended to prevent construction activities from potentially causing damage to the environment.

Wetland

- Mitigation will include construction, planting, and monitoring of wetland mitigation areas.
- The unavoidable impacts will be compensated by providing on-site wetland mitigation at a ratio of 1.5:1.
- Wetland mitigation areas will consist of vegetative communities similar to those found within the impacted wetlands.
- To ensure success of the wetland mitigation areas, a wetland scientist (or other qualified individual) will evaluate the development of the wetland resource areas for two consecutive growing seasons and /or upon the issuance of a Certificate of Compliance (COC).

Traffic

- Mitigation will include construction of off-site roadway lane widening / improvements to Rabbit Road and Preparation of Transportation Demand Management Program.
- Limited roadway widening and the construction of 12-foot wide left and right turning lanes will be provided on Rabbit Road and minor traffic light modifications.
- The proponent will employ a Transportation Coordinator to implement a Transportation Demand Management (TDM) Program.

Water/Wastewater

- To reduce demand on the water and wastewater infrastructure, the proponent will encourage building lot owners to install cisterns, or other similar devices, to recycle rooftop runoff for use in landscape irrigation.
- Building lot owners will also be encouraged to install low-flow appliances, toilets, and faucets.
- The proponent will limit landscape irrigation during periods of water bans that are administered by local officials.

Additional Mitigation

- The proponent will provide a payment of \$100,000 to upgrade a deficiency in the water main system.

- The proponent will get an easement approximately one acre of the Salisbury Rail Trail path (allowing connection to Amesbury).
- The proponent will provide an easement for five parking spaces adjacent to the Salisbury Rail Trail entrance.

The proponent should continue discussions with MassHighway and MassDEP to determine adequate mitigation to address the impacts from the project at this location. MassDEP and MassHighway should forward copies of the Section 61 Findings, once issued, to the MEPA Office for completion of the project files.

Based on the information provided by the proponent and consultation with relevant public agencies, I conclude that no further MEPA review is required. The review of the Supplemental Final EIR has served adequately to disclose potential impacts and mitigation, and to demonstrate that project impacts do not warrant the preparation of a Second Supplemental Environmental Impact Report. The proponent can resolve any remaining issues pertaining to stormwater management and traffic mitigation in the permitting process.

August 29, 2008

Date


for Ian A. Bowles

Comments Received:

08/21/2008 Town of Salisbury
08/22/2008 Department of Environmental Protection, Northeast Regional Office
08/22/2008 Executive Office of Transportation, MassHighway

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