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September 26, 2006

FINAL RECORD OF DECISION

PROJECT NAME : The Residences at Martins Brook and Edgewood Office Park
PROJECT MUNICIPALITY : North Reading and Wilmington
PROJECT WATERSHED: : Ipswich
EOEA NUMBER : 13842
PROJECT PROPONENT : Lincoln Property Southwest, Inc. & The Gutierrez Company
DATE NOTICED IN MONITOR : July 25, 2006

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed this project and hereby **grant a waiver** to allow Phase I of the project as defined in this Record of Decision to proceed to the state permitting agencies pending preparation of an Environmental Impact Report (EIR) for the project as a whole. In a separate Certificate issued on September 1, 2006, I have allowed the proponent to prepare an EIR for the project as a whole and laid out the scope for the required EIR.

Project Description

As described in the Expanded Environmental Notification Form (ENF), the proposed project involves the demolition of the former J.T. Berry Rehabilitation Center in order to construct 1,103,100 square feet of residential and office space on an 87-acre parcel in North Reading and Wilmington. The Expanded ENF plan includes 406 apartment units with 745 parking spaces in Phase I, and 605,000 square feet of office space with 2,300 parking spaces in Phase II. This is one of the first major projects to be proposed under the new Chapter 40R process, a local zoning tool designed to encourage development consistent with smart growth principles.



Jurisdiction

This project is subject to a mandatory EIR pursuant to Sections 11.03(1)(a)(1), 11.03(1)(a)(2), 11.03(6)(a)(6), 11.03(6)(a)(7), 11.03 (10)(b)(1), 11.03 (5)(b)(4)(c)(ii) and 11.03 (3)(b)(f) of the MEPA regulations because the project directly alters 50 or more acres of land; creates ten or more acres of impervious area; generates 3,000 or more new vehicle trips; construction of 1,000 or more New parking spaces at a single location; demolition of all or any exterior part of any Historic Structure listed in the State Register of Historic Places or the Inventory of Historic and Archeological Assets of the Commonwealth; New discharge to groundwater of 50,000 or more gpd of sewage within any other area; and includes the alteration of ½ or more acres of any other wetland.

The project will require a Groundwater Discharge Permit from the Department of Environmental Protection (DEP) and a Land Transfer (site disposition) from the Division of Capital Asset Management (DCAM). The proponent is also in the process of drafting a Memorandum of Agreement (MOA) with the Massachusetts Historical Commission (MHC). It must also comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state agency actions and that have the potential to cause significant Damage to the Environment as defined by the MEPA statute. In this case, MEPA jurisdiction extends to issues of land alteration, wastewater, wetlands/drainage, traffic/air quality, and historic/ archaeological impacts.

Waiver Request

On July 17, 2006, the proponent requested that I grant a waiver to allow Phase I of the project to proceed in advance of completion of the EIR. The waiver request was submitted with the Expanded Environmental Notification Form (EENF), and it was discussed at the consultation/scoping session that was held on August 2, 2006. As proposed, Phase I includes 406 apartment units within 11 buildings on 48 acres. Phase I of the project is expected to generate 2,650 new vehicle trips on an average weekday and create 745 parking spaces.

Criteria for a Phase I Waiver

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 undue hardship to the

proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phases; and 4) the agency action on Phase I will contain conditions that ensure due compliance with MEPA.

Findings:

I have carefully reviewed the Phase 1 Waiver request, supporting documentation, and written comments. In their comments, DEP indicates that it would support a Phase 1 Waiver contingent upon resolution of the water balance issues (wastewater, stormwater recharge, and water conservation), and wellhead issues. I adopt DEP's comments as my own to the extent they are reflected in the following conditions, and as a condition of my approval of this Phase 1 Waiver request, will require that the proponent provide additional information to DEP prior to permitting, including:

- **Water conservation:** A water conservation plan must be provided for the Phase I project that is in conformance with the *Ipswich River Watersheds Regional Water Conservation Plan, 2002*. The water conservation plan must also contain conservation measures and management techniques that support the town of North Reading's conservation commitments and the Performance Standards of the Water Resources Commission.
- **Stormwater recharge:** The project site is within the highly stressed Ipswich River Basin, according to the Water Resources Commission's Stressed Basins in Massachusetts report, which emphasizes the need for recharge of groundwater in medium and highly stressed basins. The stormwater must be managed to conform to the objectives for stormwater management contained in the DEP Stormwater Management Policy and the Phase I project should maximize stormwater recharge to the extent feasible.
- **Wastewater:** The town of North Reading is in the process of completing a Comprehensive Water Resources Management Plan (CWRMP), and this capacity will be key to meeting long-term wastewater management needs. Additional detail on the institutional arrangements and agreements being made among the proponents and the town of North Reading must be provided during the review of the Groundwater Discharge Permit. This should include the legal protection that

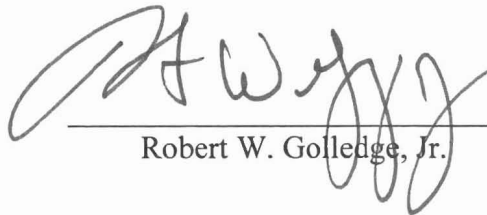
will be established for the wastewater capacity that is reserved for the town.

- Water quality and recharge: Information on the volumes proposed for compliance with Stormwater Management Policy must be provided. The site is within the Zone II of public water supplies, the proponent must include data and soil logs to show that the stormwater system design adheres to the site criteria, listed in the *Stormwater Management: Volume 2, Stormwater Technical Handbook* for infiltration basins to ensure adequate pollution removal (p.3.F-7).

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 grant the Phase I Waiver subject to the aforementioned findings and conditions.

September 26, 2006

Date



Robert W. Golledge, Jr.

Comments received:

- 09/14/06 State Representative Bradley H. Jones, Jr.
- 09/14/06 Town of North Reading, Conservation Commission
- 09/21/06 Town of North Reading, Board of Selectmen
- 09/21/06 Town of Wilmington, Planning and Conservation Department
- 09/25/06 League of Women Voters of Wilmington

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