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September 28, 2007

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DRAFT RECORD OF DECISION

PROJECT NAME : Proposed Retail Development
PROJECT MUNICIPALITY : 256 Washington Street (Route 85) – Hudson
PROJECT WATERSHED : Sudbury-Assabet-Concord Rivers
EOEA NUMBER : 14086
PROJECT PROPONENT : The Richmond Company
DATE NOTICED IN MONITOR : August 22, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L., c. 30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF) and propose to grant a Phase I Waiver (as defined below), allowing the first phase of the project to proceed prior to completion of the Environmental Impact Report (EIR) for the entire project.

Project Description

According to the Expanded Environmental Notification Form (EENF), the project consists of the construction of a three lot retail/commercial development containing approximately 17,200 square feet (sf). The project includes approximately 103 parking spaces. The 9.8-acre site presently contains a residence and a barn. The existing structures will be demolished. The proponent is proposing to construct the project in two phases. Phase I includes the construction of a 15,300 sf Walgreens Pharmacy and a 1,750 sf/30-seat Starbucks Coffee facility. Phase II includes the construction of a 16-vehicle fueling position gas station and an approximately 164 sf convenience mart.

The proponent is proposing a right-in/right-out access driveway onto Route 85 and a full-access driveway onto Technology Drive. Using the Institute of Traffic Engineers (ITE) Handbook and land use codes 881 (Pharmacy with a drive through 130), 934 (Fast food restaurant with drive through), and 945 (Gas station with convenience market), the proponent estimates that the project will generate approximately 4,820 new vehicle trips on weekdays. Phase I would generate approximately 2,216 new vehicle trips. The proponent is proposing to provide approximately 103 new parking spaces for the entire project.



The project will be supplied with potable water by the local municipal water system. Each lot will have its own Title 5 wastewater system. The proponent has estimated that the project will consume about 2,435 gallons per day (gpd) of potable water. The project will generate approximately 2,214 gpd of new wastewater flow.

Jurisdiction and Project Review

This project is subject to MEPA review and requires a mandatory EIR pursuant to Section 11.03(6) (a) (6) because it generates 3,000 or more new vehicle trips. The project will need to obtain a Permit for changes to the Route 85/Technology Drive intersection from the Massachusetts Highway Department (MassHighway). The project must comply with the U.S. Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges. It may need to obtain Orders of Conditions from the Hudson Conservation Commission for impacting a buffer zone.

Waiver Request

On August 15, 2007, the proponent requested that I grant a waiver to allow Phase I of the project to proceed without the preparation of a mandatory EIR (noticed in the August 22, 2007 *Environmental Monitor*). The waiver request was submitted with the Expanded ENF, and it was discussed at the site consultation/scoping meeting that was held on September 4, 2007. As proposed, Phase I of the project involves construction of the Walgreens Pharmacy and a Starbucks Coffee facility, and it is expected to generate approximately 2,216 vehicle trips.

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 requirements 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

Based upon the information submitted by the proponent and after consultation with MassHighway, I find that the Waiver Request has merit and that the proponent has demonstrated that the proposed project meets the standards for all waivers at 301 CMR 11.11(1). I find that strict compliance with the requirement to submit a mandatory EIR prior to implementation of Phase I of the project would result in an undue hardship for the Proponent because the Expanded ENF proposes measures to avoid and minimize Damage to the Environment, and commits to providing adequate mitigation for the Phase I project impacts. In addition, I have conditioned this proposed Phase I Waiver on compliance with MassHighway requirements as further detailed below and in the comment letter received. Therefore, the requirement for completion of an EIR prior to Phase I is not necessary and would not serve to avoid or minimize Damage to the Environment. In accordance with 301 CMR 11.11(3), the latter finding is based on my determination that: ...

1. The potential impacts of Phase I have been adequately minimized and mitigated to ensure that the environmental impacts are insignificant. The proponent has committed to roadway modifications at the Route 85 site drive by constructing a right-in and –out only driveway. The Technology Drive site driveway would be a full-access drive with geometric improvements by the proponent. The proponent has committed to donate approximately a 12,334 sf strip of land along project site’s frontage with Route 85 to MassHighway and the Town of Hudson for the future planned expansion of the Route 85 right-of-way.
2. The proponent will construct sidewalks along the project site’s frontage with Route 85 and Technology Drive (approximately \$40,000).
3. The proponent will construct its roadway widening to accommodate bicycles within the shoulder area and will provide a bicycle rack at the proposed development.
4. The proposed project was redesigned to be compatible with Hudson’s Master Plan for the Route 85 Corridor.
5. Ample and unconstrained infrastructure exists to support the project. There is adequate capacity in the local roadway system to accommodate the traffic for Phase I as the project is designed and adequate water service to supply the project. The proponent is proposing Title 5 wastewater systems for each building. No wetland resource areas are impacted by the project.
6. The project is severable, since Phase I activities do not require or presume any action relative to the development of the other parcel.
7. The delay in implementing this project would not serve to avoid or minimize Damage to the Environment.

8. The agency action (MassHighway Permit for changes to the Route 85/Technology Drive intersection) will contain conditions that ensure due compliance with MEPA.

Based on these findings, it is my judgement that the Waiver Request has merit and meets the tests established in Section 11.11. Therefore, I propose to grant the waiver requested for the Walgreens Pharmacy and the Starbuck's Coffee facility, subject to the above findings. I find that the potential impacts of Phase I do not warrant the preparation of an EIR. However, the proponent must address the cumulative impacts of the Full-Build project in the EIR. This 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.

September 28, 2007

DATE

Ian A. Bowles

Comments received:

MassDEP/CERO, 8/23/07

MDM Transportation Consultants, 9/11/07

EOT, 9/13/07

Hudson Planning Department, 9/18/07

MAGIC, 9/21/07

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