



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT GOVERNOR

Ian A. Bowles
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1181
<http://www.mass.gov/envir>

October 17, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : 720-770 Broadway
PROJECT MUNICIPALITY : Saugus
PROJECT WATERSHED : North Coastal
EEA NUMBER : 14041
PROJECT PROPONENT : Northbound LLC
DATE NOTICED IN MONITOR : September 10, 2007

As Secretary of Energy and Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (DEIR) 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). The proponent must prepare a Supplemental Draft Environmental Impact Report (SDEIR).

As described in the DEIR, the project includes the construction of two, single-story retail buildings on two adjacent parcels of land (Parcels A and B), with approximately 612 total parking spaces, associated utilities, and site improvements on Route 1 in Saugus. The total gross square footage of retail space within the two buildings is approximately 138,418 square feet (sf). The 17.34-acre project site is presently unoccupied and undeveloped though it has previously been occupied by a landscape construction company. The project site was subject to a MEPA filing in 1985 (EOEA No. 5447) for a proposed 93,000 sf office building. This project never

commenced and a separate review under MEPA will be conducted for the currently proposed project.

The DEIR presented a Reduced Impact Alternative, which the proponent is now putting forth as the "Preferred Alternative". The project will alter approximately 15 acres of land and create approximately 11 acres of new impervious area. Considerable amounts of site grading, blasting and earth materials processing will be necessary to achieve proposed building and parking area grades. Approximately 2,662 sf of Bordering Vegetated Wetlands (BVWs) and 16,580 sf of locally-jurisdictional Isolated Vegetated Wetlands (IVWs) will be altered under the Preferred Alternative. The proponent will create wetland replication areas in the amount of 30,935 sf on Parcel A (720 Broadway) and 4,600 sf on Parcel B (770 Broadway). It has been estimated that the project will generate approximately 8,350 vehicle trips on an average weekday and 11,920 vehicle trips on an average Saturday. Two new curb cuts, as well as a modified curb cut, will be constructed along Route 1 along the site frontage. The project will connect to water and sewer mains presently in place near the project site.

The project is undergoing review pursuant to Section 11.03 (1)(a)(2) and Section 11.03 (6)(a)(6) because the project requires a state permit and will involve creation of ten or more acres of impervious area and the generation of 3,000 or more new average daily trips on roadways providing access to a single location. The project will require a Highway Access Permit from the Massachusetts Highway Department (MassHighway) for access onto Route 1 and modifications to the state highway layout. The project will require a Surface Water Discharge Permit under the National Pollutant Discharge Elimination System (NPDES) program from the United States Environmental Protection Agency (U.S. EPA). The project will also require an Order of Conditions from the Saugus Conservation Commission, and in the case of an appeal, a Superseding Order of Conditions from the Massachusetts Department of Environmental Protection (MassDEP). Finally, the project will require a Site Plan Review Special Permit and Hillside Protection Special Permit from the Town of Saugus.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over land, stormwater, transportation, and wetlands.

Review of the DEIR

The DEIR presents an alternatives analysis outlining the impact of a No-Build Alternative, an Original Alternative, and a Reduced Impact Alternative. It appears that the Original Alternative was an alternative presented during the local permitting process with the Town of Saugus and is not congruous with the original "Preferred Alternative" presented and commented on in the EENF. The proposed conditions plan for the Reduced Impact Alternative presented in the DEIR appears to be identical to the "Preferred Alternative" proposed conditions plan presented in the EENF; however, the narrative states that this Reduced Impact Alternative now results in fewer wetland impacts. The supporting plans and narrative do not effectively

convey the impacts of the Reduced Impact Alternative, nor does the narrative sufficiently explain the origin of the "Original Alternative". This matter must be clarified as part of the SDEIR scope.

The DEIR provides a summary of the local and State permitting processes, as well as a history of MEPA filings on the property. While the DEIR discusses project consistency with local zoning regulations, it does not elaborate sufficiently on the project's consistency with local land use *plans* or applicable regional planning documents. General land impacts, including quantification of anticipated exportation of earth materials and a conceptual cut and fill analysis were provided, confirming cuts in excess of 50' in some portions of the property. The DEIR did evaluate an alternative that reduced wetland impacts by slightly reducing parking spaces and associated impervious areas. Furthermore, the proponent has indicated that integration of some types of Low Impact Design (LID) design techniques are not consistent with local Saugus Zoning Bylaws. I acknowledge the limitations faced by the proponent in further altering site development layouts given the preferred building square footage due to the location of adjacent properties, Route 1, and the benefits of providing an internal connection driveway between 720 Broadway, 770 Broadway, and adjacent fast food restaurants.

The DEIR included a graphic of past and proposed areas of wetland impact and replication, and the Reduced Impact Alternative presented a reduction in overall direct wetland alteration on the project site. Additional wetland information will be necessary in the SDEIR to allow for a more thorough evaluation of potential wetland impacts associated with the project. The DEIR provided a summary of stormwater impacts, but did not include supporting data calculations for consideration by permitting agencies. The DEIR did include a draft operation and maintenance plan for the stormwater management system. Again, additional supplemental information will be necessary with regard to the types of BMPs to be used, the potential for stormwater infiltration and clarification regarding treatment of stormwater flows from Route 1 will be required in the SDEIR.

A Traffic Impact Assessment Study (TIAS) was included in the DEIR, prepared in accordance with EOEEA/EOTPW requirements. This study included a revised traffic study that included the potential impacts associated with the nearby Shops at Saugus project, project plans for improvement areas along Route 1 and a Transportation Demand Management (TDM) Plan. A mesoscale air quality analysis was performed to calculate the potential regional air quality effect of the proposed project, using as a measure the total daily emissions of volatile organic compounds (VOC) and oxides of nitrogen (NOx) in the study area. The proponent presented a conclusion that the project would not have a negative impact on air quality within the study area.

The DEIR provided a brief discussion of construction period impacts and potential sustainable design elements that may be incorporated on site, but no specific commitments were made given the uncertainty of final tenants for the retail space. A response to comments was provided to each of the comment letters received on the EENF. A summary of mitigation measures was included, however, they must be modified in the SDEIR/FEIR into a format suitable for use by State permitting agencies.

I have fully examined the record before me, including but not limited to the Scope issued on July 18, 2007; the DEIR filed in response; and the comments entered into the record. Based

on this record, I find that the DEIR 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 the project design. In the case of this large retail development that consists of earth removal activities, the creation of large areas of impervious surfaces, and the filing of wetland resource areas, I am concerned that the proponent has not sufficiently provided supporting documentation that this project will not result in otherwise avoidable impacts. Therefore I am requiring the filing of a Supplemental DEIR that will require additional analysis of wetlands, stormwater, traffic and land alteration issues.

Scope for the Supplemental DEIR

General

The SDEIR should discuss any changes to the project since the filing of the DEIR and provide an update on the local and state permits required for the project. The SDEIR should provide a clear summary and description of the preferred project alternative (i.e. what is slated for construction). The SDEIR should include any supporting graphics, data or supplemental materials to support information noted in the narrative portion of the document. The SDEIR should include an update on permits that have been issued, and which have been applied for to date.

Alternatives

The DEIR evaluated several project alternatives and presented a new Preferred Alternative with a reduced impact to BVW. However, the graphics and narrative in the DEIR did not present a clear picture of previously reviewed alternatives under the MEPA process (i.e. the EENF) for comparative purposes with the new Preferred Alternative (the Reduced Impact alternative that was studied in response to the Secretary's Certificate on the EENF). The SDEIR must provide additional clarity to allow for an accurate comparison of the alternative presented and evaluated during the EENF process with the preferred alternative forwarded within the DEIR. The plans submitted outside of MEPA review during the initial Planning Board review by the Town of Saugus are inconsequential at this phase of the MEPA process. While they may be discussed to provide insight into the overall site design process, they were not evaluated as part of the EENF process and should not have been categorized as the "Original Alternative" in the DEIR. This has led to confusion by State permitting authorities and must be rectified within the SDEIR.

The SDEIR should clarify the impacts for both the alternative reviewed in the EENF and the Preferred Alternative presented in the DEIR (which may be modified based on comments received on the DEIR) on land alteration (impervious area), stormwater, transportation, and wetlands in a tabular format. This table, along with a supporting narrative and conceptual site

plans, should provide a comparative analysis that clearly shows the differences between the environmental impacts associated with each of the alternatives. The SDEIR should graphically display where the Preferred Alternative has succeeded in reducing impervious areas, parking spaces and wetland impacts showing the relationship between proposed development areas and areas of potential environmental impact.

While the DEIR discussed consistency of the project with local zoning bylaws, the SDEIR should discuss how this project is compatible with Executive Order 385 – Planning for Growth, by discussing its consistency with local land use plans and applicable regional plans.

Land

The project will require substantial amounts of earth removal, ledge blasting, and regrading under the Preferred Alternative. The SDEIR should provide additional clarification as to potential areas of blasting on Parcel A, and how materials would be processed when activities transfer from Parcel B to Parcel A during site preparation. Additionally, the SDEIR should describe the amount and type of soils that may need to be imported to facilitate the wetlands replication process on-site.

MassDEP has recommended that the potential for water supply contamination be taken into consideration in selecting blasting materials. The SDEIR should address how blasting of ledge on the project site will be conducted in accordance with state standards for perchlorate in blasting materials. Additional information on the state standards for perchlorate is available at the following website: <http://mass.gov/dep/water/drinking/percinfo.htm> and <http://mass.gov/dep/cleanup/laws/blasting.htm>.

Wetlands

At the direction of MassDEP, the SDEIR must address the outstanding requirement to obtain a 401 Water Quality Certificate (401 WQC) for cumulative wetlands impacts on the project site (whether already completed or anticipated to accommodate future development). MassDEP has indicated that the proponent's conclusion in the DEIR that the project is subject to a Programmatic General Permit (PGP) is not correct for this project, which has altered more than 16,580 sf of isolated vegetated wetland (IVW) and will alter 2,662 sf of BVW. The SDEIR must demonstrate that the project can be constructed in compliance with 401 WQC performance standards and documents should be revised to reflect the need for a 401 WQC. The proponent should work with MassDEP to ensure that a 401 WQC application is filed in accordance with the project.

The SDEIR should include hydrologic data to support the wetland replication plans, as well as a discussion of consistency with MassDEP's Inland Wetland Replication Guidelines (dated March 2002). Finally, the SDEIR should explain how existing areas of Phragmites in wetland resource areas will be removed in accordance with invasive species removal Best Management Practices as part of the wetlands replication process.

Stormwater

The project will introduce a significant amount of impervious area and alter existing drainage patterns. As noted by MassDEP, the DEIR did not contain sufficient supporting documentation to demonstrate that the project would be in compliance with the MassDEP Stormwater Management Policy and standards. The SDEIR must include calculation sheets for peak rates or runoff, water quality volume, infiltration volume, and total suspended solids (TSS) removal. The SDEIR should include not just a summary of the calculations, but all supporting data printouts, calculation sheets, etc. The SDEIR should demonstrate that stormwater flows from Route 1 will be adequately conveyed and treated prior to discharge.

The DEIR included a Stormceptor 450i particle separator unit for treatment of stormwater in certain portions of the site. MassDEP had indicated in their EENF comment letter that this BMP would not qualify for 80% TSS removal credit; however in the DEIR this unit and catch basins are proposed prior to discharging stormwater runoff to the proposed wetland replication area from the main driveway at 720 Broadway. MassDEP stated in its DEIR comment letter that such a subdrainage system is not adequate to protect the water quality of the water resource. Additionally, two Stormceptor 450i units are shown on the drainage plans for 770 Broadway, but supporting TSS calculations were not included to confirm if compliance with MassDEP policies has been achieved. The SDEIR must clarify what types of BMPs will be used to treat stormwater runoff and provide data to confirm compliance with MassDEP stormwater policies. I strongly encourage the proponent to confer with MassDEP prior to completion of stormwater calculations for the SDEIR to ensure consistency with MassDEP standards and policies.

The SDEIR should include information on source reduction and pollution prevention for compliance with MassDEP Stormwater Management Policy Standard 4 for control of TSS. The source control and pollution prevention plan for this project should specify that snow shall not be plowed toward the wetlands and that snow shall be managed in accordance with the MassDEP Snow Disposal Guidelines. The SDEIR should include a draft plan that demonstrates that adequate space on or off-site is available to dispose of snow, to demonstrate that the minimum amount of deicing and abrasive agents will be used, to include catch basin stenciling to discourage illicit discharges to storm drains on-site, and to ensure that parking lot sweeping will be timed to occur a minimum of twice per year in October and March for removal of leaves and sand.

Low Impact Development

The SDEIR should address how and why Low Impact Development (LID) techniques suggested in the MassDEP EENF comment letter may or may not be integrated into the overall site design and stormwater management system. The SDEIR should also address the comments conveyed by MassDEP in their DEIR comment letter and clarify the proponent's responses to comments.

The SDEIR should provide information to demonstrate the feasibility of infiltration basins to recharge stormwater as this is touted as a BMP in accordance with the MassDEP Stormwater Management Policy, despite a lack of data testing soil infiltration capacity. Without water quality volumes and estimates of soil recharge capacity in accordance with the Stormwater Management Policy, it is unclear if this is a feasible method to recharge groundwater. If feasible, the SDEIR should include test pit data in the area of the recharge system to demonstrate that there would be an adequate depth to groundwater from the bottom of the detention basins to the seasonal high groundwater table. If test pit data is not provided, the BMP's and stormwater management system included in the SDEIR must demonstrate compliance with MassDEP Stormwater Management Policy standards without the use of infiltration basins. This alternative should not preclude the inclusion of infiltration basins should appropriate soils be determined at a later date, as originally proposed by the proponent for recharge of stormwater in excess of that required in by MassDEP.

Transportation / Traffic

The project is expected to generate approximately 8,350 vehicle trips on an average weekday and 11,290 vehicle trips on an average Saturday. Access to the project site will be provided by three driveways on Route 1. A permit from MassHighway will be required for access to Route 1 for the project. The Executive Office of Transportation and Public Works (EOTPW) has stated that the traffic study included in the DEIR generally conforms to the EOEEA/EOTPW Guidelines for EIR/EIS Traffic Impact Assessments.

The proponent must meet with the Public/Private Development Unit (PPDU) and MassHighway District 4 Office prior to filing the SDEIR to discuss mitigation measures necessary to offset the potential impact of the project on the regional roadway network. The DEIR did not satisfactorily address the negative impact to capacity at the Route 1 northbound ramps/Lynn Fells Parkway intersection. EOTPW has requested that the proponent prepare a joint agreement with the Shops at Saugus, to fund the construction of the Route 1 northbound ramps/Lynn Fells Parkway intersection. Furthermore, EOTPW has recommended that the southerly site driveway be eliminated, or restricted to an exit only, with the center driveway reconfigured as a main access. The SDEIR should evaluate this recommendation, subsequent to documented discussion with the PPDU and District 4 Office, and present modified proposed conditions plans as necessary (both on-site design modifications and Route 1 intersection design plans).

The SDEIR should include a modified TIAS if necessary given any proposed design changes or mitigation measures. The SDEIR should include draft Section 61 findings in a suitable format for use by MassHighway during the Highway Access permit approval process.

Construction Period

The SDEIR should expand upon the proponent's commitment to mitigate construction related air quality impacts. Given the extended period of site preparation and building construction (the DEIR indicate up to *two* years of earth blasting and removal) a commitment to

limit the impact of diesel emissions requires further consideration. The SDEIR should explain how the proponent would give greater consideration to contractors that use equipment such as oxidation catalysts. Air quality mitigation measures should be outlined within project Section 61 Findings.

The SDEIR should confirm and demonstrate as necessary, that the extended period of site preparation (rock blasting, processing, etc.) will comply with State noise policies or regulations, if applicable. Furthermore, the SDEIR should discuss how construction-related blasting activities may impact traffic flows on Route 1 and outline mitigation measures or protocols to limit impact. The proponent should consult as necessary with MassHighway to confirm if additional mitigation measures will be necessary to offset potential impacts of blasting near a State highway.

Sustainable Design

The proponent did not commit to any specific sustainable design measures in the DEIR, citing the unknown nature of future tenants. I encourage the proponent to reconsider the feasibility of sustainable design features and make commitments as part of building construction within the SDEIR. As indicated by MassDEP, there are measures the proponent can take to ensure that recycling will be part of the project, regardless of tenant types. The SDEIR should outline measures that could be incorporated into site design to facilitate recycling activities. The proponent is reminded that the solid waste, waste disposal ban regulations in 310 CMR 19.017 prohibit disposal of certain materials including recyclable paper, which will likely be a significant portion of the waste stream for future retail uses at the project site. Additional information is available on the following MassDEP website:
<http://www.mass.gov/dep/recycle/laws/bansreg.htm>.

Mitigation

The SDEIR should include a separate chapter summarizing and updating proposed mitigation measures. This chapter should also include draft Section 61 Findings for *each* state agency that will issue permits for the project. The draft Section 61 Findings should contain clear commitments to implement mitigation measures, estimate the individual costs of each proposed measure (including funding sources, if any), identify the parties responsible for implementation, and a schedule for implementation.

Response to Comments

The SDEIR should contain a copy of this Certificate and a copy of each comment received. The SDEIR must present additional narrative and/or quantitative analysis necessary to respond to the comments received. To the extent that the text of the SDEIR specifically and thoroughly responds to certain comments, the proponent may reference sections of the SDEIR.

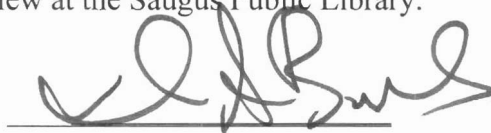
However, the proponent should make a strong effort to completely answer the questions raised in comments through tailored narrative and supporting additional documentation as necessary.

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 and to those who submitted comments on the EENF or DEIR. A copy of the SDEIR should be made available for review at the Saugus Public Library.

October 17, 2007

Date



Ian A. Bowles

Comments received:

10/10/2007 Executive Office of Transportation and Public Works (EOTPW)
10/10/2007 Massachusetts Department of Environmental Protection - NERO

IAB/HSJ/hsj