



# The Commonwealth of Massachusetts

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December 15, 2006

## DRAFT RECORD OF DECISION

PROJECT NAME	: Westborough Office Park
PROJECT MUNICIPALITY	: Westborough
PROJECT WATERSHED	: Concord and Sudbury
EOEA NUMBER	: 4396
PROJECT PROPONENT	: West Park LLCs
DATE NOTICED IN MONITOR	: October 25, 2006

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) and **propose to grant a waiver** from the requirement to prepare a mandatory Environmental Impact Report (EIR).

### Project Change Description

As described in the Notice of Project Change (NPC), the project change entails the construction of 327,000 square feet (sf) of office/research and development space and 1,145 new **structured** parking spaces, on a 154-acre site located in the southwest quadrant of the interchange of I-495 with Route 9. The project site contains 1,403,643 sf of existing office/research and development space in several buildings and 4,913 surface parking spaces. With the project change, the site will contain a total of 1,730,643 sf of floor area and 6,058 parking spaces.

According to the NPC, the project change will not entail the creation of any additional impervious areas on-site because the additional floor area and parking spaces will be provided in areas that have been altered previously. The proposed addition of more than 1,000 parking spaces exceeds MEPA review threshold at 301 CMR 11.03(6)(a)(7) requiring the mandatory submission of an EIR.

### MEPA History and Jurisdiction

The project was the subject of previous review under MEPA, beginning in the early 1980s. In 1982, an Environmental Notification Form (ENF) describing the construction of 1,050,000 sf of office/research and development space on a 139-acre site was reviewed. Draft and Final EIRs were subsequently reviewed and both were found to be adequate and in compliance with MEPA. The project was the subject of a NPC in 2000 that described the addition of 15 acres to the project site and the addition of 350,000 sf of office/research and development space, for a total build-out of 1,403,643 sf of floor space, some of which has been constructed. The Certificate on the NPC issued on September 22, 2000 did not require any further review under MEPA.

The current project change is undergoing MEPA review pursuant to 301 CMR 11.03 11.03(6)(b)(14) and (6)(a)(7) of the MEPA regulations because it will result in the generation of 1,000 or more new average daily trips (adt) and construction of 150 or more new parking spaces. The project change will require a revised Sewer Connection Permit from the Department of Environmental Protection (MassDEP) and a revised State Highway Access Permit from the Massachusetts Highway Department (MassHighway).

The proponents have not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project change 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 and wastewater.

### Waiver Request

The proponents have requested a waiver from the requirement to prepare an EIR. A NPC was submitted in conjunction with this request that identifies the environmental impacts associated with the project change, including estimates of increased traffic and wastewater generation. It also includes a traffic analysis prepared in conformance with the Executive Office of Environmental Affairs (EOEA)/EOT Guidelines for Traffic Impact Assessments and describes measures to be undertaken by the proponents to avoid, minimize and mitigate project impacts.

### Criteria for Waiver

Section 11.I1 of the MEPA Regulations provides that a waiver may be granted upon a finding that strict compliance with the regulations will result in undue hardship and will not serve to minimize or avoid damage to the environment. In the case of requiring the submission of a mandatory EIR, this finding shall be based on the following circumstances: 1) the project is likely to cause no Damage to the Environment; and 2) ample and unconstrained infrastructure exists to support the project or those aspects of the project within subject matter jurisdiction.

### Proposed Mitigation

The traffic and wastewater impacts of the project change will be fully mitigated according to the terms laid out by the state permitting agencies in the State Highway Access Permit and Sewer Connection Permit to be issued for the project. The proponents have committed to undertake traffic capacity improvements at the intersection of Connector Road and Research Drive by designing and constructing an additional right-turn lane on the Connector Road northbound approach. The proponents have also committed to undertake traffic capacity improvements at the intersection of Research Drive and the Route 9 eastbound on-ramp by designing and constructing an additional right-turn lane on the Research Drive westbound approach. In its comments on the NPC, EOT states that the proponents should commit to additional mitigation to address unfavorable operating conditions at the intersection of the Route 9 eastbound ramps and Research Drive. Additionally, the proponents will be required to design and construct an auxiliary lane on Route 9 westbound between the I-495 southbound off-ramp and Computer Drive in accordance with the Section 61 Finding issued by MassHighway for this project on February 21, 2003 to the previous proponents, the Archon Group. Accordingly, mitigation at these locations will be a requirement of the revised State Highway Access Permit to be issued by MassHighway. Additionally, in its comments, MassDEP indicates that the proponents will be required to evaluate and perform any necessary rehabilitation to the sewers in Flanders Road of its revised Sewer Connection Permit.

### Findings

Based upon the information submitted by the proponents and after consultation with the state permitting agencies, I find that the Waiver Request has merit and that the proponents have demonstrated that the proposed project change meets the standards for a Full Waiver from the requirement to submit a mandatory EIR at 301 CMR 11.11(1), (2) and (3). The NPC indicates that the project change would be constructed on portions of the site that are currently used for surface parking and, as a result, no new land alteration and impervious surfaces would occur. Additionally, with mitigation in place, ample and unconstrained infrastructure facilities would exist to support the proposed project change. As a result, the proposed project change is likely to cause no Damage to the Environment. Accordingly, a requirement that the proponents submit an EIR would not serve to avoid or minimize Damage to the Environment and would result in undue hardship.

### Conclusion

The state permitting agencies have sufficient permitting authority to ensure that the proponents comply with the findings in this Record of Decision and I am confident that the proponents will work diligently with MassHighway and MassDEP to resolve any outstanding issues. In order for the state permitting agencies to issue Section 61 Findings and revised permits for the project, the proponents must commit to the mitigation requirements specified by the state

permitting agencies in their comments on the NPC. Therefore, I propose to grant the waiver requested for this project, subject to the above findings. This Draft Record of Decision (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.

December 15, 2006

Date

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Robert W. Golledge, Jr.

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