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September 24, 2008

Ms. Alicia McDevitt
Assistant Secretary and Director
Massachusetts Environmental Policy Act Office
Executive Office of Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

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MEPA

Re: The Commons at Prospect Hill, Waltham, MA (EOEA No. 13952)

Dear Alicia:

I am writing on behalf of our client WCD Property LLC, proponent of The Commons at Prospect Hill in Waltham, Massachusetts (the "Project"), to request an advisory opinion under G.L. c. 30, § 8 and 301 CMR 11.01(6).

As you know, the Project consists of our client's proposed redevelopment of the former Polaroid Corporation site, located at 1265 Main Street in Waltham (the "Site"), into The Commons at Prospect Hill, which will consist of mixed-use retail and commercial office space. The Project has already begun MEPA review, having been the subject of an ENF and a Draft EIR; our client expects to file its next EIR before year-end.

The Site is traversed by NSTAR's existing electric transmission lines and related facilities; at our client's request as owner of the Site, NSTAR has filed a Petition (D.P.U. 08-1) with the Massachusetts Department of Public Utilities (the "DPU") for approval to reconfigure these facilities from overhead to underground and to construct a new switching station on the Site (collectively, the "NSTAR Reconfiguration").

In order to facilitate the DPU's review of NSTAR's petition, our client respectfully requests an advisory opinion from the MEPA Office confirming that the NSTAR Reconfiguration: (i) is not, for MEPA purposes, part of the The Commons at Prospect Hill Project; and (ii) constitutes a "Replacement Project," as defined at 301 CMR 11.02(b), and therefore is exempt from review thresholds under 301 CMR 11.01(2)(b)(3).

While the NSTAR Reconfiguration will facilitate development of The Commons at Prospect Hill, it is, in fact, an "independent undertaking," with utility wholly unrelated to any particular aspect or characteristic of our client's Project. See 301 CMR 11.01(2)(c). The existing NSTAR overhead transmission lines encumber much of the usable commercial land on the Site. The NSTAR Reconfiguration will ensure the continuation of reliable electric service to customers in the region while permitting the Site to be developed to its full potential, by our client or otherwise. In addition, the new switching station may in fact enhance system reliability near the Site by allowing NSTAR to sectionalize overhead and underground transmission systems to

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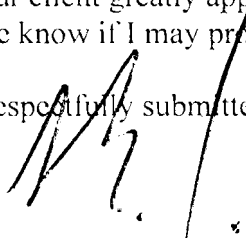
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allow for isolation in the event of a system contingency. The NSTAR Reconfiguration therefore is best viewed as an independent undertaking, to be considered separately from the Project for MEPA purposes.

The NSTAR Reconfiguration is, in its own right, subject to MEPA jurisdiction as a result of the need for DPU approval. As a "Replacement Project," however, it is exempt from MEPA's review thresholds, although I also note that the NSTAR Reconfiguration does not trigger the MEPA review threshold for Energy under 301 CMR 11.03(7)(a) or (b) or review thresholds for wetlands or other environmental resources. As noted above, the NSTAR Reconfiguration consists of the replacement of NSTAR's existing, in-use, overhead transmission lines with underground facilities. This replacement will not materially increase potential environmental impacts (the areas where it is located are largely already developed or disturbed and, other than two intermittent streams, contain no wetlands or other environmentally sensitive resources), nor will it result in a substantial Expansion of the current use (the capacity of and connections from and to the NSTAR Reconfiguration will be functionally unchanged), as that term is defined in 301 CMR 11.02. The NSTAR Reconfiguration therefore meets the definition of "Replacement Project," *see* 301 CMR 11.02(b), and is exempt from MEPA's review thresholds under 301 CMR 11.01(2)(b)(3).

Our client greatly appreciates your consideration of this request for advisory opinion. Please let me know if I may provide any additional information or analysis.

Respectfully submitted,



R. Jeffrey Lyman

cc: Mr. Chad E. Cooley, The Related Company, LP
Neven Rabadjija, Esq., NSTAR
David Rosenzweig, Esq., Keegan Werlin LLP