



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

Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT GOVERNOR

Ian A. Bowles
SECRETARY

March 1, 2007

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

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
 ON THE
 FINAL ENVIRONMENTAL IMPACT REPORT/NOTICE OF PROJECT CHANGE

PROJECT NAME : Borgatti Property
 PROJECT MUNICIPALITY : Northborough
 PROJECT WATERSHED : Assabet River
 EOEА NUMBER : 13708/12348
 PROJECT PROPONENT : Brendon Property Two, LLC
 DATE NOTICED IN MONITOR : January 23, 2007

As Secretary of Environmental Affairs, I hereby determine that the Final Environmental Impact Report (FEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00). A Notice of Project Change (NPC) requesting a Phase I Waiver was reviewed concurrent with the overall project. In a separate Draft Record of Decision (DROD) issued today, I propose to grant the Phase I Waiver.

Project Description

As described in the Environmental Notification Form (ENF) and updated in the EIR filings, the proposed project entails construction of 575,000 square feet (sf) of retail/restaurant space and a 350-unit apartment complex on a 157-acre site in Northborough, MA. The project includes construction of two 2,200-foot access drives from Route 20 and 3,410¹ parking spaces (2,710 for retail and 700 for residential). Utilities, including water and sewer, will be located within the layout of the access driveway. Water and sewer will be extended off-site to connect with existing municipal services. Sewer service will be provided via a connection to the Northborough municipal sewer system for treatment and discharge at the Marlborough Westerly Wastewater Treatment Facility.

¹ An additional 290 spaces will be banked for future use if warranted by demand (and subject to local approval).

The site consists of wooded areas, wetlands, a temporary roadway and a cart path. The site is currently classified as recreational land and included in the Commonwealth's Chapter 61B Program. It is bounded to the west by a residential area in Shrewsbury, to the north by land owned by the Water Resources Commission, Bigelow Nurseries and additional land owned by the Borgatti's, and to the east and south by the Southwest Cutoff (Route 20), Route 9 and residential, commercial and vacant land located on these roadways. The site abuts Hop Brook (to the north and east) and Little Bummet Brook (to the south and east), both of which are tributaries to the Assabet River. According to the Division of Fisheries and Wildlife's Natural Heritage and Endangered Species Program (NHESP), the site is located within Estimated Habitat and Priority Habitat for *Glyptemys insculpta* (Wood Turtle), a Species of Special Concern.²

Potential environmental impacts are associated with the alteration of 115 acres of land, creation of 75 acres of impervious surfaces, alteration of 1,700 sf of bordering vegetated wetland (BVW),³ generation of 23,198 average daily trips (adt) on a weekday and 30,018 adt on a Saturday, use of 182,190 gallons per day (gpd) of water and generation of 151,810 gpd of wastewater. Efforts to avoid, minimize and mitigate impacts include roadway improvements and construction of a stormwater management system.

Procedural History

On March 24, 2006, the Secretary of Environmental Affairs issued a Certificate indicating that the project requires the preparation of an Environmental Impact Report (EIR). In addition, the Secretary denied the Phase I Waiver Request that was presented within the ENF and as an NPC to the Assabet River Consortium Comprehensive Wastewater Management Plan/Environmental Impact Report (CWMP/EIR) (EOEA# 12348). The Town of Northborough, together with the Towns of Hudson, Maynard, Shrewsbury, and Westborough, and the City of Marlborough, have joined to form the Assabet River Consortium to prepare the CWMP to address short-term and long-term regional issues relating to the wastewater treatment and disposal and nutrient loading in the Assabet River on a basin-wide basis. This process requires that an NPC/Phase I Waiver Request be filed to allow proposed projects to proceed pending the completion of the EIR. The Phase I waiver request was denied pending the provision of a wastewater alternatives analysis and adequate mitigation within the EIR reviews.

On August 16, 2006, I issued a Certificate on the DEIR requiring the filing of a narrowly focused SDEIR to address issues that were not analyzed sufficiently in the DEIR. The Certificate included a Scope for the SDEIR and the Final EIR. The SDEIR was filed in October, 2006 and I issued a Certificate finding the SDEIR adequate on November 16, 2006.

Permits and Jurisdiction

The project is undergoing MEPA review and subject to preparation of a mandatory EIR pursuant to Section 11.03 (1)(a)(1), (1)(a)(2), (6)(a)(6) and (6)(a)(7) because it requires a state

² This designation is based on the 12th edition of the Massachusetts Natural Heritage Atlas (effective October, 2006). The previous edition did not identify habitat in this location.

³ This figure includes 700 sf of alteration associated with the construction of the temporary roadway. The project includes restoration of this wetland area.

permit and will alter more than 50 acres of land, create more than 10 acres of impervious surfaces, generate more than 3,000 adt and create more than 1,000 parking spaces. The project will require a Distribution System Modification Permit and a Sewer Connection Permit from the Department of Environmental Protection (MassDEP). It requires review by NHESP to determine compliance with the Massachusetts Endangered Species Act (MESA). It requires a Highway Access Permit from the Massachusetts Highway Department (MHD). Also, it requires Orders of Conditions from the Northborough Conservation Commission (which were issued on September 18, 2006) and a Comprehensive Permit Approval from the Northborough Zoning Board of Appeals (ZBA) (which was issued on May 23, 2006.) The proponent is not seeking financial assistance from the Commonwealth for the project, therefore MEPA jurisdiction extends to those aspects of the project that may cause significant Damage to the Environment and that are within the subject matter of required or potentially required state permits. These include traffic, wetlands, drainage, water quality and wastewater.

Review of the FEIR

The FEIR provides additional information and analysis on the issues identified in the Scope on the DEIR and the SDEIR. In particular, it provides additional analysis of the viability of an on-site wastewater system and additional information on transportation mitigation. The project provides updated measures to avoid, minimize and mitigate project impacts.

Previous filings included detailed traffic analysis, a description of roadway mitigation (for state highway and local intersections) and a proposed Transportation Demand Management (TDM) Program. Comments from the Executive Office of Transportation (EOT) indicate that the proposed mitigation is adequate to address traffic impacts on state roadways. Both EOT and MassDEP previously identified the need to strengthen the TDM Program and directed the proponent to further analyze the possibility of providing transit service to the site. The FEIR summarizes meetings between the proponent, the Central Massachusetts Regional Planning Commission (CMRPC), the town of Northborough Planning Department and the Worcester Regional Transit Authority (WRTA) to explore the extension of transit service to the site. The proponent indicates that the extension of service does not appear feasible at this time; however, the proponent has indicated willingness to provide bus shelters in the future if transit service becomes viable over time. EOT comments express concern with the design for the Route 20/Route 9 interchange and identify the need to address this issue during project permitting. Comments from Alex Lotoski, a Northborough resident, reiterate concerns with the impacts of this project on the local roadway network, which were raised by other commentors previously. While mitigation for local roadways is outside of MassHighway jurisdiction, I encourage the proponent and the Town to work together to address the concerns expressed by residents.

The FEIR provides the results of percolation tests conducted in the southeastern portion of the site, as required, and addresses the feasibility of an on-site wastewater system. The FEIR indicates that only half of the flow of the proposed project could be treated by an on-site system. To mitigate the impacts of this added flow, the proponent is committed to fund, in the amount of \$200,000, a comprehensive town-wide study of extraneous clean water (infiltration and inflow (I/I)) associated with the wastewater system. In addition, the FEIR indicates that the proponent will fund, up to \$150,000, the removal of 140,000 gpd of I/I. This commitment is based on a ratio of 2:1 of I/I removed to capacity of an on-site system. MassDEP comments indicate support for

the proposed wastewater system while noting that the I/I mitigation must be based on 140,000 gpd of verified removal (i.e. not based on a specific monetary contribution). In addition, the proponent should work with MassDEP to develop the protocol for the I/I study. These requirements will be incorporated into the Section 61 Findings for this project.

The DEIR indicated that the project will develop a water savings strategy (including demand management measures, a leak detection and repair program and employee education) and incorporate the following water conservation measures: flow restrictors for plumbing fixtures (including aerators for faucets, low-flow toilets and low-flow showerheads), rain shut-off devices and use of drought tolerant and native species in landscaping. MassDEP comments note that these commitments are not reflected in the Section 61 Findings and should be incorporated during permitting.

The FEIR addresses the wetlands comments on the DEIR and the SDEIR. The FEIR includes a commitment to further reduce the parking supply (from 3,700 to 3,410 spaces) to reduce impervious surfaces by approximately 1.1 acres (dependent upon local approval). A comment letter from NHESP indicates that the site is located within Priority Habitat and Estimated Habitat for wood turtles. The habitat is associated with Hop Brook and located in the northern area of the site. This issue was not previously evaluated within the MEPA review because it is based on a new edition of the Natural Heritage Atlas. NHESP has noted that the proponent may be required to explore alternatives to the proposed locations of the detention basins for the secondary access road and habitat restoration during project permitting.

The FEIR addresses construction period impacts in more detail than previous filings. The DEIR identifies trucking, noise, dust and stormwater management as potential construction period issues and summarizes measures that will be taken to minimize impacts. As noted previously, blasting operations may employ perchlorate-containing explosives. A comment from William Jeas and Alex Lotoski has requested that use of such agents be prohibited. I am sympathetic to their concerns regarding the use of these agents and potential impacts to water quality; however, the project is not located in a public water supply and the proponent has indicated that the use of blasting agents containing perchlorates will be limited to the extent practicable and that the project will be constructed consistent with DEP recommendations for minimizing potential impacts of these blasting agents. I recommend that the proponent establish a monitoring program (including establishment of a baseline) to demonstrate that the use of BMPs has successfully prevented the release of perchlorate into groundwater.

Based on review of the FEIR, consultation with state agencies and review of comment letters, I find that the FEIR adequately and properly complies with MEPA. In a separate DROD, also issued today, I propose to grant the Phase I Waiver request.

Mitigation

The FEIR includes an updated chapter on mitigation measures and updated Draft Section 61 Findings for all state permits. The FEIR describes the following mitigation commitments:

- implementation of traffic improvements at state highway locations including Route 20/Route 9 eastbound, Route 20/Route 9 westbound ramps, Route 20/South Site Drive, and Route 20 at Hitching Post Lane/North Site Drive and Tomblin Hill Road and West Main

Street/ Davis Street. In addition, the proponent will contribute \$35,000 to the installation of a traffic signal at the Route 20/Lincoln Street intersection;

- post-development traffic monitoring and reporting of results to MassHighway and the Town of Northborough;
- development of a Transportation Demand Management (TDM) program in conjunction with MassRides and tenants including identification of an On-Site Transportation Coordinator, development of a commuter choice program and development of bicycle and pedestrian facilities.
- provision of bus shelters if transit access is determined to be feasible by the WRTA;
- funding of a comprehensive town-wide I/I study in the amount of \$200,000;
- removal of 140,000 gpd of I/I from the wastewater system;
- flow restrictors for plumbing fixtures (including aerators for faucets, low-flow toilets and low-flow showerheads), rain shut-off devices and use of drought tolerant and native species in landscaping to minimize water use;
- reduction in creation of new, impervious surfaces by narrowing the width of the northern driveway from 48-feet to 32-feet and banking approximately 290 parking spaces that will only be used if warranted by demand;
- replication of 2,000 sf of wetlands, restoration of 700 sf of wetlands associated with the temporary wetland crossing and a minimum of two years of monitoring of the replication and restoration; and
- development of a stormwater management system consistent with DEP Stormwater Management Policy including infiltration of 1.8 acres of rooftop runoff.

I am satisfied that the proponent, through its various submissions under MEPA, has adequately assessed the potential impacts of the project and committed to measures that will avoid, minimize and mitigate adverse impacts. I am also satisfied that any remaining issues can be addressed through the state permitting processes. The proposed project requires no further review under MEPA and may proceed to permitting. The permitting agencies should forward a copy of their final Section 61 Findings to the MEPA Office for completion of the project file.

March 1, 2007

Date



Ian A. Bowles

Comments Received:

2/6/07	Department of Environmental Protection/Central Regional Office (MassDEP CERO)
2/22/07	MassDEP/Division of Consumer and Transportation Programs
2/21/07	MA Division of Fisheries and Wildlife/Natural Heritage and Endangered Species Program (NHESP)
2/22/07	Executive Office of Transportation (EOT)
2/23/07	William C. Jeas and Alex Lotoski
2/21/07	Alex Lotoski

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