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CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME	: Northgate Retail Plaza
PROJECT MUNICIPALITY	: Haverhill
PROJECT WATERSHED	: Merrimack
EOEA NUMBER	: 13960
PROJECT PROPONENT	: Feran Development, LLC
DATE NOTICED IN MONITOR	: February 6, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of a mandatory Environmental Impact Report (EIR).

As described in the Environmental Notification Form (ENF), the project entails the construction of up to 128,860 square feet (sf) of retail/restaurant/convenience market floor space in nine (9) buildings on an undeveloped parcel on Broadway (Route 97) opposite the Broadway/Computer Drive intersection in Haverhill. The project will include one primary access drive from Route 97 for eight of the proposed buildings and a separate driveway access from Route 97 for the gasoline station/convenience market building.

The project site is approximately 61.45 acres in area and located adjacent to and south of Route 97 and east of Interstate 495. The project site is located opposite Computer Drive, which contains various commercial uses, including a proposed Lowe's Home Improvement Store and Target (EOEA No. 13609 – Haverhill Commons). Route 97 and Interstate 495 are within the State Highway layout and maintained by the Massachusetts Highway Department (MassHighway). The project will result in the creation of 12.48 acres of new impervious area and alter approximately 15 acres of land. The project will alter approximately 1,585 sf of

Bordering Vegetated Wetlands (BVWs) and may impact additional wetland resource areas. The ENF states that the project is anticipated to generate 10,496 new vehicle trips on an average weekday and 13,292 new vehicle trips on an average Saturday. Approximately 780 new parking spaces will be constructed to accommodate the various retail and restaurant uses.

This project is subject to a mandatory EIR pursuant to Section 11.03(1)(a)(2) and Section 11.03(6)(a)(6) of the MEPA regulations because it requires a State Agency action and will result in the creation of ten or more acres of impervious area and generate 3,000 or more new vehicle trips. The project will require a MassHighway State Highway Access Permit for access to Route 97 and a MassHighway Traffic Signal Permit for construction of a new traffic signal. The project may require a Sewer Connection Permit from the Department of Environmental Protection (MassDEP) for wastewater discharges. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit from the U.S. Environmental Protection Agency (U.S. EPA) for stormwater discharges from a construction site of over one acre. A Conservation and Management Permit may be required from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP) under the Massachusetts Endangered Species Act (MESA) if work is conducted within mapped *Priority* or *Estimated Habitats*.. The project will require an Order of Conditions from the Haverhill Conservation Commission (or a Superseding Order of Conditions from the MassDEP if the local Order is appealed) for work within wetland resource areas.

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 traffic, land, wetlands, wastewater, rare species, and stormwater.

The proponent must prepare a Draft and a Final EIR in fulfillment of the requirements of Section 11.03 of the MEPA regulations.

SCOPE

General

The Draft Environmental Impact Report (DEIR) should follow the general guidance for outline and content contained in section 11.07 of the MEPA regulations, as modified by this Certificate.

Project Description and Permitting

The DEIR should include a detailed description of the proposed project and characterization of the existing environment in compliance with 301 CMR 11.07(e) and (g). The

DEIR should identify and describe any project phasing. The DEIR should characterize adjacent uses (commercial, residential and open space) and their relationship to the proposed project.

The DEIR should briefly describe each state permit required for the project, and should demonstrate that the project meets any applicable performance standards.

Alternatives

The DEIR should analyze the following alternatives:

No-Build Alternative;

- Preferred Alternative (maximum build out under zoning) as proposed by the proponent; and

A Low-Impact Design (LID) Alternative, incorporating the use of low-impact design development techniques to reduce stormwater runoff and wetland impacts.

The DEIR should identify the impacts for each of the alternatives on land alteration (impervious area), traffic, parking, drainage, wastewater, rare species, 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 DEIR should identify and explain any project phasing, including potential impacts on construction sequencing and traffic patterns. It 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 proposed project will alter approximately 15 acres of land and create 12.48 acres of impervious area on the 61.45 acre project site. The DEIR should present existing and proposed grades at a reasonable scale on site plans, and summarize conceptual cuts and fills to prepare development parcels and to construct stormwater management facilities. The DEIR should summarize assumptions used to calculate anticipated land alteration and impervious areas within the ENF.

Traffic and Transportation

The ENF states that the project is expected to generate 10,496 new vehicle trips on an average weekday and 13,292 new vehicle trips on an average Saturday. A State Highway Access Permit and Traffic Signal Permit are required from MassHighway for access to Route 97 from the project site. The project site also abuts I-495.

The DEIR should include a transportation study prepared in conformance with EOEA/EOT Guidelines for EIR/EIS Traffic Impact Assessments. The DEIR should present capacity analyses and a summary of average and 95th percentile vehicle queues for each intersection within the study area. In addition, the DEIR should present a merge and diverge analysis for each ramp junction at the I-495 ramps intersection with Route 97. Any proposed traffic signal along Route 97 must include a traffic signal warrant analysis according to the Manual of Uniform Traffic Control Devices (MUCTD) standards. I strongly encourage the proponent to work with the Executive Office of Transportation's Public/Private Development Unit and the MassHighway District 4 Office during the preparation of the DEIR to confirm traffic study methodologies and assumptions, particularly related to potential on-site uses such as drive through restaurants or drive-through/convenience/gas stations. While I recognize that specific site uses are conceptual, the traffic generation information presented in the DEIR should reflect a worst-case scenario of reasonable higher traffic generating uses.

Traffic Study Area

The traffic study should analyze the following state highway and local roadway locations:

- the I-495/Route 97 interchange;
- the Route 97 (Broadway)/Computer Drive intersection;
- the Route 97 (Broadway)/Research Drive intersection;
- the Route 97 (Broadway)/Carleton Street intersection;
- the Route 97 (Broadway)/North Broadway intersection;
- the Route 97 (Broadway)/Forest Street intersection; and
- the Route 97 (Broadway)/Lake Street intersection.

MassHighway has requested that the proponent update the ENF traffic study to reflect a five-year planning horizon. This horizon should be consistent with the future traffic conditions that were evaluated for the Haverhill Commons project (EOEA No. 13609).

The DEIR should include conceptual plans for the proposed roadway improvements that should be of sufficient detail, preferably 80-scale, to verify the feasibility of constructing such improvements. The conceptual plans should clearly show proposed lane widths and offsets, layout lines and jurisdictions, and the land uses (including access drives) adjacent to areas where improvements are proposed. Any mitigation within the state highway layout must conform to MassHighway standards, including but not limited to, provisions for land, median and shoulder widths, and bicycle lanes and sidewalks. The DEIR should demonstrate that the traffic signals along the Route 97 corridor between the I-495 northbound ramps and the site access will be coordinated and can adequately accommodate the proposed traffic without excessive queues.

Environmental impacts associated with each roadway improvement location should be identified and quantified within the DEIR (i.e. stormwater, wetlands, flood storage and

compensation areas (if applicable), etc.). The DEIR should address MassHighway's concerns about project impact to the existing MassHighway restricted access designation and the MassHighway maintenance facility. The DEIR should provide an update on coordination with MassHighway's Right of Way Bureau in association with the proposed modification of the current access restrictions and changes affecting the MassHighway maintenance facility.

Additionally, the project proponent should present information demonstrating that internal site driveways and intersections can satisfactorily convey internal traffic volumes in a safe and effective manner. If additional turning lanes are necessary, the proponent should discuss additional environmental impacts associated with additional lanes or road widening.

Parking

The DEIR should describe opportunities for shared parking, structured parking or low-volume parking areas as a means of reducing impervious area and stormwater runoff. The DEIR should discuss the feasibility of an alternative with either fewer spaces or reserve parking on-site that may be used only if demand warrants, and could be left in an unimproved (i.e. non-altered or landscaped) condition, in lieu of pavement. The DEIR should identify reserve parking areas for employee ridesharing or other comparable Transportation Demand Management (TDM) measures.

Transportation Demand Management/Air Quality

The DEIR should include a comprehensive Transportation Demand Management (TDM) plan that investigates all feasible measures aimed at reducing site trip generation. The TDM plan should included specific measures that have been successful in reducing trip generation for retail projects. The TDM plan should also identify the existing modes along the corridor such as public transportation, walking, and bicycling; analyze their existing and future conditions based on the project's impacts; and propose realistic improvements to encourage increased mode usage. The DEIR should specifically address the feasibility of incorporating bus service to the project site. The site plan should also accommodate transit and provide amenities to encourage transit usage such as bus shelters and bus turnouts as well as provide pedestrian connection to existing land uses within close proximity to the project site. The proponent should develop transportation and parking demand management measures to reduce single passenger automobile trips to the project and encourage ridesharing by employees to the site through the use of preferential parking. MassDEP implements the Rideshare Regulation (310 CMR 7.16), a clean air program that applies to employers with 250 or more daily employees. The DEIR should indicate if this program is applicable to the development project and if so, outline incentives to be implemented to reduce the number of trips made by employees who drive alone to work. The proponent should provide a clear commitment to implement and continuously fund any evaluated TDM measures deemed feasible to sustain and increase mode usage.

The DEIR should include an air quality mesoscale analysis of Build and No Build condition conducted in accordance with MassDEP's "Guidelines for Performing a Mesoscale Analysis of Indirect Sources". The proponent should confirm analysis methodologies with MassDEP prior to completion and inclusion in the DEIR. Emission increases due to the project must be mitigated and the DEIR should include the proponent's commitment to implement these mitigation measures. The DEIR should discuss how the project will comply with DEP's anti-idling regulations (310 CMR 7.11), which prohibits unnecessary idling over five minutes. When discussing mitigation measures, the proponent may reference the TDM section to the extent that the TDM program and mesoscale air quality mitigation overlap.

Wetlands

The project site is located proximate to Bradley Brook (a tributary of the Merrimack River) and contains expansive areas of Bordering Vegetated Wetlands (BVW). The DEIR should provide plans of appropriate scale to accurately discern the location of each wetland area regulated under the Wetlands Protection Act (WPA) located on the project site or in the vicinity of proposed roadway improvements. Each wetland resource area and riverfront area should be characterized according to 310 CMR 10.00. The text should explain whether the local conservation commission had accepted the resource area boundaries, and any disputed boundary should be identified. Furthermore, the DEIR should discuss the influence of local wetland bylaw requirements on project design. The DEIR should provide an accurate measurement of each wetland resource area that will be affected by the project.

The DEIR should demonstrate that all wetland impacts have been avoided, and where unavoidable impacts occur, impacts are minimized and mitigated. The DEIR should illustrate that the project will be accomplished in a manner that is consistent with the Performance Standards of the Wetlands Regulations (310 CMR 10.00). The DEIR should address the significance of the wetland resources on site, including public and private water supply; riverfront areas; flood control; storm damage prevention; fisheries; shellfish; and wildlife habitat.

Proposed activities, including construction mitigation, erosion and sedimentation control, phased construction, and drainage discharges or overland flow into wetland areas, should be evaluated. The locations of any detention basins and their distances from wetland resource areas, and the expected water quality of the effluent from said basins should be identified. The DEIR should specifically address the impact, if any, to the removal or placement of stormwater outfalls within resource areas. The DEIR should clarify what portions of the project will result in the permanent alteration of wetland resource areas versus temporary impacts to facilitate roadway construction. The DEIR must also address current and expected post-construction water quality of the predicted final receiving water bodies and demonstrate compliance with applicable water quality regulations or guidelines.

The proponent will need to provide wetlands replication at a ratio of at least 1:1 for any unavoidable impacts to wetlands. For any amount of wetlands replication, a detailed wetlands replication plan should be provided in the DEIR that, at a minimum, includes: replication location(s) delineated on plans, elevations, typical cross sections, test pits or soil boring logs, groundwater elevations, the hydrology of areas to be altered and replicated, list of wetland plant species of the areas to be altered and the proposed wetland replication species, planned construction sequence, and a discussion of the required performance standards and monitoring.

Stormwater

The project will create 12.48 acres of new impervious surfaces within the 61.45 acre project site. The project contains considerable areas of impervious surface proximate to wetland resource areas. As part of the alternatives analysis, the DEIR should investigate the feasibility of reducing impervious surfaces and implementing Low Impact Development (LID) techniques within the project site to reduce impacts to land and water resources by conserving natural systems and hydrologic functions. The drainage calculations provided in the DEIR should present an alternative that reflects the use of feasible LID measures and quantify their ability to manage and treat stormwater to meet MassDEP Stormwater Management Policy standards. The primary tools of LID are the use of landscaping features and naturally vegetated areas in site design, which encourage the detention, infiltration and filtration of stormwater on-site, and the in-basin recharge of groundwater resources. Other tools include water conservation and use of pervious surfaces. Clustering of buildings is an example of how LID can preserve open space and minimize land disturbance. LID can also protect natural resources by incorporating wetlands, stream buffers and mature forests as project design features. For more information on LID, visit http://www.mass.gov/envir/lid/. Other LID resources include the national LID manual (Low Impact Development Design Strategies: An Integrated Design Approach), which can be found on the EPA website at: http://www.epa.gov/owow/nps/lid/.

The DEIR should include existing and proposed conditions stormwater drainage calculations, including clear plans at a reasonable scale delineating drainage areas, stormwater flow patterns, best management practices (BMP) designs, and discharge points. It should include a description of the proposed drainage system design, including a discussion of the alternatives considered along with their impacts. The drainage analysis should ensure that on- and off-site wetlands are not impacted by changes in stormwater runoff patterns. The DEIR should evaluate stormwater runoff impacts during construction and post-construction, and demonstrate that source controls, pollution prevention measures, erosion and sediment controls, and the post-development drainage system will be designed in compliance with the MassDEP Stormwater Management Policy (SMP). The DEIR should demonstrate that water quality and quantity impacts will be controlled in compliance with the SMP. The DEIR should discuss the feasibility of maximizing stormwater infiltration and identify associated quantity and quality of infiltrated flows.

The DEIR should demonstrate that the project will be constructed and operated in a manner consistent with the anticipated NPDES Construction General Permit. The DEIR should present an operation and maintenance plan for the drainage system to ensure its effectiveness. This plan should be consistent with the Stormwater Pollution Prevention Plan required under the NPDES Construction General Permit and should outline the actual maintenance operations, sweeping schedule, responsible parties, and back-up systems.

The project proponent is reminded that every effort should be made to maximize the retention and infiltration of stormwater runoff on-site, in lieu of discharge to the State Highway drainage system. If connections to the State Highway drainage system are necessary, the DEIR should identify discharge points and demonstrate compliance with MassHighway or other applicable performance standards.

The DEIR should address impacts of salt and sand associated with parking lot snow removal on the quality and quantity of stormwater runoff, functionality of BMPs, and viability of wetland areas for each alternative. Snow disposal areas should be graphically depicted on a site plan showing relationship to catch basins, wetland areas, or other sensitive receptors.

Wastewater

The proponent has indicated that a sewer connection permit is required from MassDEP for the conveyance of 3,225 gallons per day (gpd). The DEIR should confirm that a state permit is necessary for the project and provide updated or revised information related to necessary permits, existing and proposed locations of infrastructure within the project vicinity, discuss estimated water demand and wastewater generation volumes, and capacity for treatment at local wastewater treatment facilities.

Rare Species

Portions of the project site are presently mapped by NHESP within the *12th Edition of the MA Natural Heritage* Atlas as containing *Estimated and Priority Habitat.* Based on a review of information provided in the ENF and the NHESP database, NHESP has determined that this area is mapped for the Shortnose Sturgeon (*Acipenser brevirostrum*). The Shortnose Sturgeon is state-listed as "Endangered" in accordance with the Massachusetts Endangered Species Act (MESA, MCL c.131A) and is federally protected as "Endangered" pursuant to the U.S. Endangered Species Act (ESAS, 50CFR 17.11).

The DEIR should provide a project history of correspondence and studies, if any, conducted regarding the presence of rare species on the property. The DEIR should provide a summary of the rare species identified on-site by NHESP, characterize preferred species habitat and potential impacts due to the proposed project, and outline mitigation measures, if any. The

DEIR should provide an update on consultation with NHESP and, if applicable, a determination as to whether a Conservation and Management Permit will be required under MESA.

NHESP has expressed concern regarding the proposed proximity of land alteration and subsequent development within 25-50 feet of on-site wetlands. Specifically, the NHESP is concerned about the negative impacts to water quality on the site which may impact the Merrimac River where Shortnose Sturgeon breed and spawn. As indicated elsewhere in this Certificate, the DEIR must provide sufficient stormwater management plans to demonstrate that potential alterations in the amount, quality, and temperature of stormwater runoff will not detrimentally impact water quality and Shortnose Sturgeon habitat. I encourage the proponent to work with NHESP to ensure that stormwater management plans included within the DEIR are adequate to facilitate a thorough evaluation of impact to Shortnose Sturgeon habitat.

Construction Period

The DEIR should discuss potential construction period impacts (including but not limited to noise, vibration, dust, and traffic flow disruptions) and analyze and outline feasible measures that can be implemented to eliminate or minimize these impacts. I encourage the proponent to incorporate construction waste recycling activities as a sustainable measure for the project. The proponent should consult with MassDEP for appropriate standards and guidelines for managing construction waste. The DEIR should describe how demolition activities will performed in compliance with both Solid Waste and Air Pollution Control regulations, pursuant to M.G. L. Chapter 40, Section 54.

I encourage the proponent to consider participating in MassDEP's Clean Construction Equipment Initiative / Diesel Retrofit Program consisting of an engine retrofit program and/or use of low sulfur fuel to reduce exposure to diesel exhaust fumes and particulate emissions during construction. If the proponent intends to participate in this initiative, a commitment should be outlined in the DEIR.

Sustainable Design

To the maximum feasible extent, the proponent should incorporate sustainable design elements into the project design. The DEIR should summarize the proponents' efforts to obtain a Leadership in Energy and Environmental Design (LEED) Certification for the buildings. The basic elements of a sustainable design program may include, but not be limited to, the following measures:

- Optimization of natural day lighting, passive solar gain, and natural cooling;
- Use of energy efficient HVAC and lighting systems, appliances and other equipment, and use of solar preheating of makeup air;
- Favoring building supplies and materials that are non-toxic, made from recycled

materials, and made with low embodied energy;
- Provision of easily accessible and user-friendly recycling system infrastructure into building design;
- Development of a solid waste reduction plan;
- Development of an annual audit program for energy consumption, waste streams, and use of renewable resources;
- LEED certification;
- Feasibility of "green roofs" to reduce stormwater runoff; and
- Water conservation and reuse of wastewater and stormwater.

The DEIR should include a narrative describing policies regarding waste reduction, water use, and other sustainable design initiatives that may be implemented on site.

Mitigation

The DEIR should include a separate chapter summarizing 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, identify the parties responsible for implementation, and a schedule for implementation. The DEIR should specifically address how mitigation for the proposed project will be coordinated with that proposed in accordance with the Section 61 Findings for Haverhill Commons (EOEA No. 13609). Additionally, the proponent should coordinate with the Office of Transportation Planning – Statewide Planning section to ensure that the mitigation proposed is consistent with the recommendations that may result from the on-going I-495 corridor study.

Comments/Circulation

The DEIR should contain a copy of this Certificate and a copy of each comment letter received. The DEIR should respond fully to each substantive comment received to the extent that it is within MEPA jurisdiction. The DEIR should present additional technical analyses and/or narrative as necessary to respond to the concerns raised.

The proponent should circulate the DEIR to those parties who commented on the ENF, to any state agencies from which the proponent will seek permits or approvals, and to any parties specified in section 11.16 of the MEPA regulations. A copy of the DEIR should be made available for review at the Haverhill Public Library.

March 8, 2007
Date

Ian A. Bowles

Comments Received:

02/23/2007	Department of Conservation and Recreation
02/26/2007	Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program
02/26/2007	Executive Office of Transportation – Massachusetts Highway Department

IAB/HSJ/hsj