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March 15, 2007

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

PROJECT NAME : "Turnpike Crossing" Mixed Use Retail and Office Project
PROJECT MUNICIPALITY : Westborough
PROJECT WATERSHED : SuAsCo
EOEA NUMBER : 13730
PROJECT PROPONENT : **The Richmond Company, Inc.**
DATE NOTICED IN MONITOR : February 6, 2007

As Secretary of Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (DEIR) 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).

Project Description

As described in the Draft EIR, the project involves development of a 135,000 square foot (sf) retail home improvement store (reduced from 140,000 sf) and a 50,000 sf office building. The project will also include construction of 825 parking spaces and generate 4,120 new vehicle trips per day on an average weekday and 4,870 vehicle trips per day on an average Saturday. The project is located on a 47-acre parcel, which is partially occupied by the Westborough Rotary Club Gold driving Range and bounded by the Boston Worcester Turnpike (Route 9) to the south, Lynman Street/Route 30 to the northwest and Park Street to the east. The proposed project site is located within the Cedar Swamp Area of Critical Environmental Concern (ACEC). Access to the site is proposed via a new signalized driveway to Route 9 and the existing Gannon Way.

Standard and Purpose of MEPA Review

The purpose of MEPA review is to ensure that a project proponent studies feasible alternatives to a proposed project; fully discloses environmental impacts of a proposed project; and incorporates

all feasible means to avoid, minimize, or mitigate Damage to the Environment as defined by the MEPA statute. After completion of the EIR process, the state permitting agencies must then issue substantive decisions on whether or not to permit those aspects of the project within their respective jurisdictions. If permits are issued, the state agencies must incorporate the information in the EIR process into their required Section 61 Findings, thus formalizing the mitigation commitments contained in the EIR.

Section 11.08(8)(b) of the MEPA Regulations requires me to find a Draft EIR adequate even if certain aspects of the project or issues require additional technical or descriptive analysis, so long as I find that "the draft EIR is generally responsive to the requirements of 301 CMR 11.07 and the Scope." I have fully examined the record before me, including but not limited to the Scope issued on March 10, 2006; the Draft EIR filed in response; and the comments entered into the record. I find that the Draft EIR is sufficiently responsive to the requirements of the MEPA regulations and the Scope to meet the regulatory standard for adequacy. The project review may therefore proceed to the stage of a Final EIR. Below I have specified the remaining issues that require additional analysis in the Final EIR.

Thresholds and Jurisdiction

This project is subject to a mandatory EIR pursuant to Sections 11.03(1)(a)(2), and (6)(a)(6) and of the MEPA regulations and involves state permitting. The project creates 10 or more acres of impervious area and generates 3,000 or more new vehicle trips. The project also meets an ENF threshold under Section 11.03(11)(b) of the MEPA regulations because it is located within an Area of Critical Environmental Concern (ACEC). A Massachusetts Highway Department (MHD) access permit will be required for access to Route 9. The proponent is consulting with the Natural Heritage and Endangered Species Program (NHESP) to determine if performance standards for Massachusetts Endangered Species Act (MESA) Regulations can be met and whether a Conservation and Management Permit can be issued. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over five acres. An Order of Conditions will be required from the Westborough Conservation Commission for work within a resource area.

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 alteration, traffic/air quality and wetlands.

SCOPE

General

The Final EIR should contain a copy of this Certificate and a copy of each comment received. The Final EIR may incorporate by reference those portions of the Draft EIR that do not require further analysis. At a minimum, the proponent should circulate the Final EIR to those parties submitting individual written comments on the Draft EIR, and to any state agency from which the proponent will seek permits.

Traffic

The transportation analysis submitted with the Draft EIR generally conforms to the EOEA/EOTC Guidelines for EIR/EIS Traffic Impact Assessment. However, the traffic study has not resolved all issues related to traffic. The Final EIR should include the information outlined below. I strongly encourage the proponent to meet with MHD during preparation of the Final EIR.

The Draft EIR indicates that the installation of a traffic signal at the Route 9/site driveway intersection will improve traffic operations along Route 9 due to the number of vehicles from the Westborough Shopping Center that will choose to use the new signal in order to head westbound on Route 9. The proponent should continue to work with MHD to determine improvements at this location. I note that MHD has indicated in its comment letter a preference for the design improvements outlined in Section 3.5.3 Alternative Mitigation Scenario Two. The Final EIR should include a revised Draft Section 61 Finding or letter commitment which includes the commitment to fund the additional design at this location.

In order to support the full access and traffic signal installation at the Route 9/site driveway, MHD has stated, and I concur, that the internal roadway from Lyman Street through Westborough Shopping Center will be required to be a public roadway. The Final EIR should identify the party responsible for its construction, as well as for the long term maintenance. I advise the proponent that MHD should have an opportunity to review the design of this roadway to ensure that it is effective in drawing traffic from the Route 9/Lyman Street signalized intersection.

The Final EIR should include information about the signage throughout the proposed site and Westborough Shopping Center that will encourage traffic to use the site driveway to go to Route 9 West. I also encourage the proponent to investigate the feasibility of providing additional signage along Lyman Street.

Public Transit/ Pedestrian and Bicycle Facilities

The Draft EIR included a very limited discussion of Transportation Demand Management (TDM) measures. The Final EIR should present an expanded TDM program aimed at promoting ridesharing and bicycle and pedestrian alternatives. In addition, the site plan should incorporate a number of on-site amenities including a bus shelter, bus turnout and bicycle racks.

Wetlands

The wetlands and waterbodies of the Cedar Swamp ACEC are classified as Outstanding Resource Waters (ORW). Over 50% of the project site (27 acres) is indicated in the Draft EIR to be Bordering Vegetated Wetlands (BVW). The Draft EIR indicates permanent impacts to BVW have been reduced from 1,985 to 600 square feet (sf). However, the ACEC program has expressed concerns that further impacts will result from providing adequate access roads from the east and between uplands. I note that alteration of BVW within an ACEC may only be

permitted if the project is authorized as a limited project under the Wetlands Protection Regulations.

The Draft EIR did not include details on wetland replication location, area, size, and how the proponent plans to meet the General Performance Standards found at 310 CMR 10.55 (4). For the Final EIR, the replication area must include that area being shaded by the wetland crossing. In addition, the Final EIR should include more legible site plans with: the extent of wetlands that continue beyond property lines; distances from pervious pavement to wetlands and to 100- and 500-year flood zone; locations of culverts under easements and connecting to wetlands; existing and proposed stormwater treatment systems and discharges; clarified ACEC boundary at elevation 286' on every map; and NHESP priority habitat and estimated habitat for rare species, and living waters critical supporting watershed, vernal pool habitat.

The wetlands in the northeast quadrant of the property are not mapped as part of the Cedar Swamp ACEC according to the original 1973 map. However, these wetlands are hydrologically connected to the ACEC wetlands south of the sewer/pipeline easement via four culverts, provide flood storage and rare species habitat, and are similar types of wetlands, so should be considered as important as the rest of the ACEC. Filling 600 sf of these wetlands should be avoided. As required by the Department of Environmental Protection's (MassDEP) Wildlife Habitat Evaluation Guidelines, a wildlife habitat evaluation should be provided due to the proposed impacts to rare species habitat. MassDEP also strongly recommends that the proponent leave substantial unaltered vegetative buffer strips between the proposed work areas and the wetlands.

The proposed bridge between the northern and southern uplands is described as causing only temporary impacts related to construction. The ACEC program has expressed concern that 2200 sf of wetlands shaded by the bridge would not be considered as "no alteration" and therefore would not meet the performance standards of the Wetlands Protection Act Regulations for BVW in an ACEC. In addition, construction along the sewer/pipeline easement to create a safe and permissible road may have more than temporary impacts to the adjacent wetlands (BVW in an ACEC). I strongly advise the proponent to work closely with both the ACEC Program and MassDEP to resolve these issues. The Final EIR should describe the results of these discussions and possible design changes as a result of these discussions.

The Final EIR should explain how the project complies with the higher performance standards for ACECs and ORWs in the Wetlands Protection Act Regulations. If any wetland alteration is permissible under the regulations, full mitigation plans, including restoration of wetlands and ongoing monitoring of wetlands, should be included in the Final EIR.

Rare Species

The project site is located within priority habitat and estimated habitat for rare species, within living waters critical supporting watershed connected to BioMap core habitat, and includes vernal pool habitat. The proposed project is in an area of known rare species habitat. The proposed project has the potential to result in a "take" of the Blue-spotted Salamander (*Ambystoma laterale*). The proponent is consulting with the Natural Heritage and Endangered

Species Program (NHESP) to determine if performance standards for Massachusetts Endangered Species Act (MESA) Regulations can be met and whether a Conservation and Management Permit can be issued. The importance of undeveloped uplands and corridors as well as wetlands to the rare species is of prime concern.

NHESP remains concerned that the proposed project south of the existing sewer and gas pipeline will fragment Blue-spotted Salamander habitat and subject this species to increased road mortality. NHESP remains concerned that the bridge configuration and the revised layout of the access roadway does not provide an adequate migratory corridor for the Blue-spotted Salamander. NHESP is also concerned with the proposed access road from Lyman Street which will most likely hinder salamander migration between important habitat areas and also result in increased road mortality. The Final EIR should contain a description of how the final project design and associated mitigation will meet the standards for issuance of a Conservation and Management Permit.

Land Alteration

The project as currently designed results in significant alterations to land. The project is subject to MassDEP's Stormwater Management Policy. MassDEP has stated that the proponent has designed the project to meet the nine standards identified in the Department's Stormwater Management Policy. However, the proponent should attempt to use Low Impact Development design in the project. The Final EIR should include landscaped areas within the parking area to reduce impervious surfaces and increase rainwater recharge. The proponent should also evaluate other ways to minimize the impervious footprint for this site including reducing the total parking spaces (especially removing the parking proposed along the sewer/pipeline easement) and further reducing the size of the home retail building.

Wastewater

The estimated wastewater generation for this project is 10,312 gallons per day; therefore, a sewer connection or extension permit is not required from MassDEP unless a pump station will be constructed. The map in the Draft EIR shows two existing sewer lines running through the undeveloped property. It appears that the southern corner of the home improvement store will be constructed on top of this existing sewer line. The Final EIR must address this issue. In addition, the Final EIR should also address the issue of minimizing damage to the existing sewer line while using heavy construction equipment. The Draft EIR did not state whether these sewer lines are privately or publicly owned, which should be clarified in the Final EIR.

Construction Period

Given the size of the proposed project, MassDEP recommends, and I concur, that the proponent develop and implement a comprehensive erosion and sedimentation control plan for the construction phase of the project. This should be monitored and maintained until final stabilization of site soils is achieved.

Comments

The Final EIR should respond to the comments received, to the extent that the comments are within the subject matter jurisdiction of MEPA. The Final EIR should present additional narrative or technical analysis as appropriate to respond to substantive concerns.

Mitigation

The Section 61 finding presented in the Draft EIR were very limited and, therefore, must be redrafted to include environmental concerns raised in many of the comment letters. The Final EIR should contain a summary of all mitigation measures to which the proponent has committed, regardless of jurisdictional limitations. The Final EIR should provide an update of the local permitting processes for the project, particularly with respect to any state highway issues being discussed. The Final EIR should include a draft Letter of Commitment for use by MHD in preparing its Section 61 Findings.

March 15, 2007

Date



Ian A. Bowles

Comments Received:

03/07/07	Cedar Swamp Conservation Trust
03/08/07	Town of Westborough, Office of the Planning Board
03/08/07	Town of Westborough, Conservation Commission
03/08/07	Division of Fisheries and Wildlife, NHESP
03/08/07	Executive Office of Transportation/ Massachusetts Highway Department
03/08/07	Department of Conservation and Recreation, ACEC Program
03/09/07	Town of Westborough, Department of Public Works
03/13/07	Department of Environmental Protection-CERO

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