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April 13, 2007

DRAFT RECORD OF DECISION

PROJECT NAME : Assembly Square Mixed Use Development
PROJECT MUNICIPALITY : Somerville
PROJECT WATERSHED: : Boston Harbor
EOEA NUMBER : 13989
PROJECT PROPONENT : Federal Realty Investment Trust
DATE NOTICED IN MONITOR : March 7, 2007

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed this project and hereby **propose to grant a waiver** to allow Phase I of the project, as defined in the Expanded Environmental Notification Form (ENF) to proceed to the state permitting agencies prior to completion of an Environmental Impact Report (EIR) for the project as a whole. In a separate Certificate issued today, I have provided the scope for the EIR.

Project Description

This project consists of a \$1.3 billion dollar mixed-use redevelopment on a 50.2 acre site within Assembly Square in Somerville. The proposed redevelopment includes approximately 2,100 residential units, 1.75 million square feet (sf) of office space and 852,000 sf of retail space (including a 340,000 sf IKEA home furnishings store, a restaurant and a cinema) and a 200-room hotel. Residential and smaller scale retail and restaurant uses will be located on the waterfront portion of the site. Office uses are proposed within the central part of the site. The proposal relocates the IKEA store proposed as part of the IKEA at Assembly Square project (EOEA #12672) from a waterfront location to the southern end of the site near the Orange Line tracks and closer to Interstate-93. The project will include the re-construction and extension of Assembly Square Drive and construction of an internal street network designed to provide walkable blocks with an active pedestrian environment. It includes the construction of 9,174 parking spaces consisting of structured, on-street and surface parking. It will require the removal and demolition

of several existing industrial buildings and the reconfiguration of existing parking lots.

The project will be constructed in several phases. The first phase consists of the construction of the IKEA store and a 7,000 square foot restaurant on a 19.5 acre parcel. The EENF does not describe subsequent phases although it does indicate that these phases will be built out in completed sections over 10 to 15 years and that each phase will include appropriate mitigation. The EENF indicates that the project is based on four key principles that are consistent with the City's long-standing goals for the Assembly Square District: improved access to the Mystic River, transit-oriented planning, mixed-use development, and pedestrian oriented public places and streets. The project includes a commitment to expand parkland along the Mystic River Reservation, to provide for its long-term maintenance and to construct bicycle and pedestrian paths along the River and to the River from adjacent neighborhoods. It includes a \$15 million contribution towards the design and construction of an Orange Line station at the southern end of the site.¹

The site consists of 50.2 acres, made up of approximately 20 separate parcels, within Assembly Square. It is bounded by the Mystic River to the north, the Orange Line tracks and Draw 7 Park to the east, Assembly Square Drive (also referred to as Sturtevant Street) and the existing Home Depot, Assembly Square Marketplace and other businesses to the south and the west, and by Route 28 and Interstate-93 to the west and northwest. It includes direct access to Route 28 via an existing access drive. The site includes retail/entertainment, industrial and commercial uses as well as vacant lots and surface parking lots. The site is in close proximity to two Somerville neighborhoods, the Ten Hills area and East Somerville. The entire project site has been altered over time and it contains 26.1 acres of impervious area. The site has been regulated under the Massachusetts Contingency Plan (MCP) and remediation has been completed or is ongoing at multiple parcels within the project area. Access to the Mystic River Reservation and Draw 7 Park are limited due to poor site conditions and a lack of connectivity to adjacent parks. Two buildings on the site are listed in the Inventory of Historic and Archaeological Assets of the Commonwealth. The site contains several wetland resource areas associated with the Mystic River including Inland Bank, Coastal Bank, Land Subject to Coastal Storm Flowage (LSCSF), Bordering Land Subject to Flooding (BLSF), and Riverfront Area. Also, it contains Commonwealth and private filled tidelands.

MEPA Review of Previous Redevelopment Proposals

The redevelopment of this site has long been a priority for the City and its development has been guided by multiple planning efforts. Several proposals for redevelopment of the site have undergone MEPA review including, but not limited to, IKEA at Assembly Square (EOEA # 2672) and the New Main Street Development (EOEA #13649). IKEA at Assembly Square included the construction of a 277,000 sf IKEA abutting the Mystic River Reservation, 29,000 sf of additional

¹ The Massachusetts Bay Transportation Authority (MBTA) will manage design and construction of the Orange Line Station. If the project is subject to MEPA review, it will undergo an independent review.

retail, 204,000 sf of office space and 27,500 sf of restaurant space. The Final EIR was found to adequately and properly comply with MEPA and its implementing regulations and state permits were issued for the project. Administrative and judicial appeals were filed against state and local permits and approvals, including an appeal of the Chapter 91 License, which is under review. An ENF was filed for the New Main Street Development (EOEA #13649), by the same project proponent, Federal Realty Investment Trust (FRIT), in 2005. This proposal included the construction of four mixed-use buildings containing 42,000 sf of ground level retail, 60,000 sf of office space and 239 residential units. The project was proposed adjacent to the westerly edge of the IKEA at Assembly Square site and included construction of a roadway that is the basis for the currently proposed Assembly Square Drive

Since the filing of the previous proposals, FRIT has acquired additional parcels within Assembly Square and expanded its redevelopment plans. It has collaborated with the City, IKEA and the Mystic View Task Force (MVTF) on a long-term vision for redevelopment that includes the re-located IKEA. These efforts have led to a legal settlement between the project proponent, IKEA and the Mystic View Task Force, a copy of which was provided in the April 7, 2007 letter. This agreement establishes goals and mitigation commitments for the revitalization of the Assembly Square area as a transit-oriented, mixed-use development. Because the current project proposal entails a significantly expanded project site and a significant increase in office, residential and retail use, and associated impacts, the proponent filed a new ENF for the project.

I commend the project proponent, IKEA, the City of Somerville and the Mystic View Task Force for their significant efforts to reach agreement on goals for redevelopment of the site. Comment letters reflect overwhelming support for this long-term vision and a strong interest in ensuring the vision is realized through careful design and planning.

Permits and Jurisdiction

The project is undergoing MEPA review and subject to preparation of a mandatory EIR pursuant to Section 11.03 (1)(a)(2), (3)(a)(5) and (6)(a)(6) because it requires a state permit and will create more than 10 acres of new, impervious area, alter more than one acre of tidelands for non-water dependent use and generate 3,000 or more new average daily vehicle trips (adt) providing access to a single location. The project requires a Chapter 91 License, a 401 Water Quality Certificate and a Sewer Connection Permit from the Department of Environmental Protection (MassDEP). It requires land dispositions and approval/review of roadway improvements on state parkways from the Department of Conservation and Recreation (DCR), review by the Massachusetts Historical Commission (MHC) and an 8M Permit from the Massachusetts Water Resources Authority (MWRA). It requires consent to construct on former railroad property from the Executive Office of Transportation (EOT). It requires a Non Point Source Discharge Elimination System (NPDES) permit for Stormwater Discharge and a NPDES Remediation General Permit (RGP) from the U. S. Environmental Protection Agency (EPA). It requires a Category II Programmatic General Permit under Section 10 and Section 404 from the U.

S. Army Corps of Engineers (ACOE). Also, it requires a Land Disposition Agreement with the Somerville Redevelopment Authority (SRA) and an Order of Conditions from the Somerville Conservation Commission.

Phase I of the project requires a Chapter 91 License, a Sewer Connection Permit, an 8M Permit from the Massachusetts Water Resources Authority (MWRA) and consent to construct on former railroad property. It requires a NPDES Permit for Stormwater Discharge and a NPDES RGP. Also it requires a Land Disposition Agreement with the SRA and an Order of Conditions. Mitigation associated with Phase I requires construction easements and a permanent drainage easement from DCR.

Because the proponent may seek financial assistance from the Commonwealth for the project, MEPA jurisdiction is broad in scope and extends to all aspects of the project that may cause significant Damage to the Environment. These include traffic/transportation, tidelands, wetlands, drainage, water quality, wastewater, water use, contaminated soils and historic resources.

Phase I Waiver Request

The proponent has requested a Phase I Waiver to allow Phase I of the project to proceed prior to the completion of the EIR for the entire project. Section 11.11 of the MEPA Regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: a) result in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phases; and 4) the agency action on Phase I will contain conditions that ensure due compliance with MEPA.

The waiver request was discussed at the consultation session held on March 27, 2007. As required, an Expanded ENF (EENF) was provided in conjunction with this request and it includes an analysis of alternative development scenarios proposed for the site, analysis of environmental impacts including estimates of traffic generation, tidelands impacts, wetlands impacts, water use, wastewater generation, contaminated soils and impacts to historic resources and addresses how the project meets the Phase I Waiver criteria.

Phase I consists primarily of the re-location and reduction in scale and scope of the IKEA at Assembly Square project. Because the IKEA at Assembly Square project has been reviewed and approved and may ultimately be constructed in the waterfront location, it is logical for the purpose of MEPA review to evaluate the impacts of Phase I within this context. Both projects consist of redevelopment of a brownfields site with minimal impacts to wetlands. Potential environmental impacts associated with Phase I include creation of approximately 1.5 acres of new impervious surfaces, non-water dependent use of 1 acre of tidelands, generation of approximately 6,260² average daily vehicle trips (adt) on a weekday and 10,240 adt on a Saturday, water demand of 40,150 gpd and generation of approximately 36,500 gallons per day (gpd) of wastewater. The project includes construction of 1,401 parking spaces, 1,218 of which will be located underneath the building. The majority of parking for the restaurant will be provided through shared parking with the Assembly Square Marketplace. Impacts within wetland resource areas are limited to excavation, re-grading and paving associated with construction of Assembly Square Drive. Review of the Expanded ENF and the Secretary's Certificates on the IKEA at Assembly Square project provide a comparison of project impacts. Phase I represents a 86% (or 8.3 acre) reduction in tideland impacts, a 55% (or 5,070 adt) reduction in traffic generation on a weekday, and a 29% (or 16,620 gpd and 14,780 gpd) reduction in water demand and wastewater generation. In addition, parking associated with the IKEA building will be reduced by 11% (or 159 spaces) and the number of spaces located in structured parking will be increased from 800 to 1,218.

The EENF describes how the project will be designed and managed to avoid, minimize and mitigate environmental impacts. The majority of these mitigation commitments were required as mitigation by MEPA and state agencies as part of the IKEA at Assembly Square review. Additional information regarding project mitigation was provided by the proponent during the review period and includes a memorandum dated April 5, 2007 and a letter dated April 2, 2007 that describes the long-term vision for redevelopment of the site and commitments included in the settlement agreement between the project proponent, IKEA and MVTF.

Traffic generation, and related impacts on air quality, is the major environmental impact associated with this project. The majority of comment letters received on this project identify concerns with traffic impacts, the adequacy of the traffic analysis and the adequacy of proposed mitigation. The EENF includes a phased traffic analysis that identifies the impacts associated with Phase I as well as long-term build out of the site. It was prepared in conformance with the Executive Office of Environmental Affairs (EOEA)/EOT Guidelines for Traffic Impact Assessments.

This analysis indicates that, with completion of proposed mitigation projects, level-of-service at most area intersections can be maintained for Phase I. The Route 28/Broadway intersection will continue to operate over capacity. The EENF notes that improvements to this

² The trip generation estimate is based on a weighted average trip generation rate developed from observed trip rates at 7 IKEA stores. This trip generation rate did not include the IKEA store in Stoughton, MA; however, the observed trip rate for this 366,000 sf store is included in the EENF. It indicates that the observed trip rate is 4,670 adt.

intersection were not required for IKEA at Assembly Square because it appeared that the maximum lane use and signal accommodations have been provided within the available right of way. The traffic analysis does not include an assessment of the impact of peak shopping periods (i.e. opening of the store, holidays and sales events) on the traffic network and, as many commentors have noted, the study does not assess the potential impact of the project on Sullivan Square or Wellington Circle. The construction of Assembly Square Drive, will improve pedestrian and bicycle conditions within the site, and the proposed intersection improvements include upgrading of pedestrian signals and re-stripping of crosswalks. The proponent has provided \$100,000 to the City of Somerville for design and construction of pedestrian improvements to the site. The EENF does not propose improvements to pedestrian and bicycle access along the Mystic River although the proponent is committed to provide \$100,000 towards design of this connection.

Air quality impacts were assessed through the IKEA at Assembly Square project and the roadway mitigation and a TDM Program were developed to minimize air quality related impacts and are included as part of Phase I. The IKEA at Assembly Square project included a commitment to fund a feasibility study for the Orange Line Station. The project proponent and IKEA have made a commitment to provide \$15 million towards construction of the Orange Line Station, although its construction is not proposed as part of Phase I.

Findings:

Based upon the record before me, including public comment letters and after consultation with state agencies, I find that:

- 1) Provided that the conditions set out below are satisfied, strict compliance with the requirement to develop an EIR would result in undue hardship to the proponent by requiring a reanalysis of issues that were previously reviewed and approved by MEPA and permitted by state agencies, and could, based on the unique time constraints to which the project is subject, result in the loss of the opportunity to relocate the IKEA store. In addition, requiring the proponent to re-produce and further refine the analysis of the environmental impacts of Phase I in an EIR is not warranted in consideration of the following:
 - Phase I reduces impacts associated with the previously reviewed project including impacts to tidelands, traffic generation, stormwater, wastewater and construction period impacts;
 - Phase I will shift this large retail project farther from the waterfront and will facilitate the overall development of this brownfields site as a mixed-use development with improved public access; and
 - Phase I includes mitigation for impacts associated with the project that were previously reviewed and approved.

- 2) Delay in implementing Phase I would not serve to avoid or minimize Damage to the Environment. The major environmental impacts associated with this project have been analyzed and adequate mitigation identified and approved by MEPA. The EENF adequately addresses any new impacts associated with this project. Outstanding issues can be addressed through state and local permitting and review processes.
- 3) Subject to the proposed mitigation and conditions described below, the potential environmental impacts of Phase I are insignificant. As noted previously, the potential impacts of Phase I, including impacts to tidelands, traffic generation, stormwater, wastewater and water use, are lower than those identified for the IKEA at Assembly Square project. The EENF and supplemental materials identify the following commitments to avoid, minimize and mitigate Phase I impacts:

design and construction of a sustainable building to achieve Leadership in Energy and Environmental Design (LEED)TM Certification by the U. S. Green Building Council at the Basic Level, including a green roof, structured parking and water conservation measures (including retention of stormwater for irrigation);

- financial contribution of \$100,000 to the City of Somerville for design of the Mystic River Reservation Route 28/Wellington Bridge underpass;
- construction of a new Assembly Square Drive to provide safe vehicular, pedestrian and bicycle access
- improvements to state and local intersections to minimize the impacts of traffic generation and improve safety for drivers, pedestrians and cyclists, including
 - signalization of the U-turn underpass ramp extending from the Mystic Avenue /Route I-93 southbound off-ramp to Mystic Avenue northbound
 - signal interconnection between Broadway/Lombardi, Mystic Avenue/Lombardi, Mystic Avenue/New Road, Middlesex/Foley and Assembly Square/Foley
 - safety improvements at Mystic Avenue/Route 28/I-93 including installation of mast arms and improved signage and optimization of the signal phasing and timing
 - upgrade traffic signals, install loop detectors and restripe pavement markings and crosswalks at the Foley Street/Middlesex Avenue intersection
 - installation of vehicle loop detectors, upgrade pedestrian signal infrastructure, upgrade/install emergency vehicle pre-emption and restripe pavement markings at the Broadway at Mt. Vernon Street/Lombardi Street intersection
 - installation of vehicle loop detectors, upgrade pedestrian signal infrastructure, upgrade/install emergency vehicle pre-emption, restripe pavement markings and reduce the Assembly Square Drive southbound approach to a single lane to provide adequate width for bicycles at the Mystic Avenue/Lombardi Street/Assembly Square Drive intersection

development of a Transportation Demand Management (TDM) program including the

- establishment (and a commitment to fund) the Assembly Square Transportation Management Association (TMA), funding of a shuttle service from the Orange Line at Sullivan Square or Wellington Station (until the Orange Line Station is constructed), identification of an on-site TDM coordinator, coordination with CARAVAN for COMMUTERS, preferential parking for carpools, parking space for a shared car service (e.g. ZipCar), packaging designed to facilitate transit use and affordable delivery rates;
- commitment to long-term traffic monitoring to identify traffic impacts and assess the effectiveness of mitigation measures;
 - compliance with Chapter 91 requirements and replacement of a non-water dependent use in filled tidelands with a half-acre of publicly accessible green space; and
 - design of a stormwater management system consistent with MassDEP Stormwater Management Policy and incorporation of Low Impact Development (LID) techniques into the stormwater design (including a green roof and bioretention swale);
 - replacement of the existing 12-inch sewer line in Assembly Square Drive with an 18-inch sewer line; and
 - provision of infiltration/inflow (I/I) mitigation at a greater than 4:1 ratio through the replacement of clay vitrified sewer lines on the project site and the construction of a new stormwater drainage system (to separate stormwater from wastewater flows) in the Ten Hills neighborhood.
- 4) Phase I is severable from the rest of the project. Phase I activities do not require, presume, or unduly restrict any action relative to the remainder of the project. The project can be constructed without implementation of any future phases. While construction of Assembly Square Drive and utility infrastructure will support later phases, they are not required to support this development.
- 5) Comments from state agencies identify the merits of the proposed waiver while requesting additional information to confirm that project design and proposed mitigation related to stormwater, wastewater, and traffic infrastructure are adequate to support the proposed Phase I development. To ensure full compliance with MEPA, pursuant to Section 11.11(4)(b) of the MEPA regulations, I am conditioning this DROD as follows. The proponent must:
- demonstrate to MassDEP and the MWRA that the project will not increase peak rates of stormwater flow to the MWRA system or, in the alternative, commit to construct the new stormwater outfall below the Amelia Earhart Dam prior to completion of Phase I of the project;
 - demonstrate to MassDEP and the MWRA that the project will not contribute to surcharging of the MWRA system or increase overflows to the Mystic River or, in the alternative, commit to construct the Ten Hills I/I mitigation prior to completion of the Phase I project;
 - provide additional information to DCR regarding Ten Hills I/I mitigation project

- alternatives and associated impacts on DCR parkland;
- fund the construction of the bicycle and pedestrian path under Route 28/Wellington Bridge to connect with the Ten Hills neighborhood;
 - coordinate with DCR, MassHighway and the City of Somerville to analyze traffic generation associated with peak shopping periods (i.e. opening of the store, sales events, holidays) and assess the ability of the roadway system and proposed improvements to support these flows;
 - analyze the project's impact on the Wellington Circle and Sullivan Square intersections and coordinate with DCR, MassHighway, the City of Somerville, the City of Medford and the City of Boston to assess the need for mitigation at these locations;
 - provide the Construction Management Plan (CMP) to DCR for review and approval;
 - strengthen the TDM Program through inclusion of T-pass subsidies for employees;
 - improve the sustainability of the building design to achieve the Massachusetts LEED Plus standard for state buildings; and
 - minimize the air quality impacts associated with construction by retrofitting construction vehicles with EPA certified emission control devices and use of on-road low sulfur diesel (LSD) fuel.
- 6) Agency action on Phase I will ensure compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project. Phase I requires a Chapter 91 License, a Sewer Connection Permit, an 8M Permit from the Massachusetts Water Resources Authority (MWRA) and consent to construct on former railroad property. Wastewater mitigation associated with Phase I will require approval from DCR. Phase I requires a NPDES Permit for Stormwater Discharge and a NPDES RGP. Also it requires a Land Disposition Agreement with the SRA and an Order of Conditions. These permits and approvals provide sufficient opportunities to address any outstanding information requests or the development of additional, specific mitigation.

Based on these findings, it is my judgment that the waiver request has merit, can meet the tests established in Section 11.11 of the MEPA Regulations, and will serve to advance the interests of the Massachusetts Environmental Policy Act. Therefore, I propose to grant the waiver for Phase I of the project as defined in this Draft Record of Decision (DROD). This DROD shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period after which time I shall reconsider, modify, or confirm the waiver. The proponent shall provide to the MEPA office a response to the conditions outlined above and a plan identifying how these conditions will be satisfied.

April 13, 2007

Date

Ian A. Bowles

Comments Received:

4/6/07 Department of Conservation and Recreation (DCR)
4/6/07 Department of Environmental Protection/Northeast Regional Office
(MassDEP/NERO)
4/10/07 Executive Office of Transportation (EOT)
4/6/07 Massachusetts Historical Commission (MHC)
3/3/07 Massachusetts Bay Transportation Authority (MBTA)
4/9/07 Massachusetts Water Resources Authority (MWRA)
4/5/07 United States Environmental Protection Agency (EPA)
4/6/07 Senator Jarrett T. Barrios
4/6/07 Senator Patricia D. Jehlen
4/6/07 Representative Denise Provost
4/6/07 Somerville Mayor Joseph A. Curtatone
4/5/07 Somerville Redevelopment Authority (SRA)
4/6/07 City of Somerville/Office of Strategic Planning & Community Development
4/6/07 Alderman William Roche, City of Somerville
4/6/07 Alderman Dennis Sullivan, City of Somerville
4/6/07 Maureen Bastardi /City of Somerville School Committee
4/4/07 Councilor Salvatore LaMattina, City of Boston
4/6/07 Councilor Sam Yoon, City of Boston
4/4/07 Charlestown Waterfront Coalition
4/6/07 Conservation Law Foundation (CLF)
4/6/07 East Somerville Neighbors for Change
4/6/07 Metropolitan Area Planning Council (MAPC)
4/6/07 Mystic River Watershed Association (MRWA)
4/4/07 National Association of Industrial and Office Properties (NAIOP)
4/6/07 Somerville Bike Committee
4/6/07 Somerville Chamber of Commerce
4/6/07 Blatman, BoBrowski & Mead, LLC
3/29/07 Thomas Bent
3/29/07 Thomas & Roseanne Bent
4/6/07 Fred Berman
4/6/07 Jane Fair Bestor
4/6/07 Ronald Bonney
4/5/07 David Dahlbacka
4/6/07 Carrie Dancy
4/5/07 Dudley
4/5/07 Susan Fendell
4/6/07 Lisa Gimbel
4/5/07 Avi Green
4/6/07 Stephen Kaiser

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|--------|---------------------------|
| 4/6/07 | Todd Kaplan |
| 4/6/07 | Enid Kumin |
| 4/6/07 | Meridith Levy |
| 4/6/07 | Ayala Livny |
| 4/4/07 | Lynn McWhood (2 letters) |
| 4/6/07 | Alan Moore |
| 4/5/07 | Bob Nesson |
| 4/6/07 | Lawrence Paoella |
| 4/5/07 | Marjorie Polster |
| 4/6/07 | Barry Rafkind |
| 4/6/07 | Ellin Reisner (2 letters) |
| 4/5/07 | Eric Schwarz |
| 4/6/07 | William Shelton |
| 4/4/07 | Michael Trembicki |
| 4/6/07 | William White |
| 4/5/07 | Paula Woolley |

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