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May 18, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME	: True North Commerce Center
PROJECT MUNICIPALITIES	: Salisbury
PROJECT WATERSHED	: Merrimack River
EOEA NUMBER	: 14002
PROJECT PROPONENT	: True North, LLC
DATE NOTICED IN MONITOR	: April 11, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR). In a Draft Record of Decision (ROD) issued today, I propose that a Phase I Waiver be granted to allow a portion of the project to proceed to state permitting prior to completion of the EIR for the entire project. The Draft ROD will be published in the May 23, 2007 issue of the *Environmental Monitor* and subject to a 14-day public comment period, after which I will issue a Final ROD with a determination regarding the Phase I Waiver request.

The proposed project consists of the construction of 600,000 square feet of industrial park space (including light manufacturing, product distribution and office space), and 266 associated parking spaces. Phase I will include the construction of an 18,000 square foot distribution facility; Phase II development will include the remaining 582,000 square feet of industrial space. The project is located on a 51-acre undeveloped parcel, within the I-95/Route 110 northeast quadrant and southeast of the I-495/I-95 interchange. Access to the site is provided via a full-access driveway on Rabbit Road.

The project is undergoing MEPA review and 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 involves creation of 10 or more acres of impervious area and it will result in generation of 3,000 or more new average daily trips (adt). In addition, the project exceeds ENF thresholds for wastewater and wetland alterations. The project requires an Access Permit from the MassHighway Department (MHD). Other permits required include a 401 Water Quality Certificate and a Sewer

Connection/Extension Permit from the Department of Environmental Protection (MassDEP). The project may also require a Water Supply Distribution System Modification Permit from MassDEP. The project requires an Order of Conditions from the Town of Salisbury (and, on appeal only, a Superseding Order from MassDEP). The project may require pre-construction permits pursuant to MassDEP Air Quality Control Regulations. The project will require a National Pollutant Discharge Elimination System (NPDES) Construction Activities Permit from the US Environmental Protection Agency (EPA).

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required state permits with the potential to cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to transportation, air quality, wastewater, wetlands, water supply, land, stormwater and drainage.

In accordance with Section 11.05(7) of the MEPA regulations, the proponent has submitted an Expanded ENF with a request that I grant the proponent a Phase I Waiver. The Expanded ENF received an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. I have reviewed the proponent's request for a Phase I Waiver and I hereby find that the expanded ENF meets the regulatory standards.

The Expanded ENF includes significant information on project impacts, particularly with respect to traffic. The review of the Expanded ENF has thus served to narrow the focus of the scope of the EIR. I will therefore allow the proponent to incorporate by reference into the EIR those portions of the Expanded ENF that do not require additional analysis or explanation.

SCOPE

As modified by this scope, the EIR should conform to the general guidance for outline and content contained in section 11.07 of the MEPA regulations. The proponent should circulate the EIR to those who commented on the Expanded ENF (EENF).

General

The Draft EIR (DEIR) should follow the general guidance for outline and content contained in Section 11.07 of the MEPA regulations, as modified by this Scope. The DEIR should include a copy of this Certificate and a copy of each comment received. The proponent should circulate the DEIR to those parties that commented on the EENFs; to the Town of Salisbury; 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 public review at the Salisbury Public Library.

Project Description and Permitting

The DEIR should include a thorough description of each project, including a detailed

description of construction methods and phasing. The DEIR should include a brief description of each state permit or agency action required or potentially required, and should demonstrate that the projects will meet applicable performance standards. The proponents should provide an update on the local permitting process for each project. In accordance with Executive Order No. 385, "Planning for Growth" and Section 11.03 (3)(a) of the MEPA regulations, the DEIR should discuss the consistency of the projects with the local and regional growth management and open space plans.

Alternatives

The alternatives analysis should clearly demonstrate consistency with the objectives of MEPA review, one of which is to document the means by which the proponent plans to avoid, minimize or mitigate Damage to the Environment to the maximum extent feasible. The EENF described that the project will require a 401 Water Quality Certificate for the future alteration of 26,580 square feet (sf) of isolated wetlands which requires an alternative analysis. As a condition of the Phase 1 Waiver I have requested that prior to permitting for the Phase 1 portion of the project the proponent should design a narrower road width alternative within the project site to minimize the amount of imperviousness and reduce stormwater runoff. The proponent should work closely with MassDEP and design a road width no wider than the minimum allowed by municipal regulation. The DEIR should describe the result of these discussions.

In addition, the alternatives analysis should include the no-build alternative, which should clearly describe baseline conditions, and a reduced-build alternative that demonstrates a significant reduction in land alteration and impervious area. The DEIR should provide a rationale for the selection of a preferred alternative. The DEIR should include an evaluation of Low Impact Development (LID) techniques and other sustainable design alternatives and describe how LID will be incorporated in project design to the maximum extent feasible. The LID alternative should consider clustering of buildings and site configurations to maximize retention of undisturbed and unfragmented habitat areas. The alternatives analysis should also consider design modifications to ensure an adequate buffer of trees and vegetation between residential areas and the proposed development,

The alternative analysis should include a clear comparison of the impacts of each alternative and its project components (including but not limited to acres of land use and alteration, volume of earthwork, impervious area, wetlands resource areas and buffer zones, undisturbed open space/habitat, water use and wastewater generation, traffic and parking).

The DEIR should consider sustainable development alternatives as mitigation measures for project impacts, including impacts associated with construction and land use, traffic, and building operations. I strongly encourage the proponent to require Leadership in Environmental Design (LEED) Certification for new construction. The incorporation of high performance/green building elements in project design will help reduce the environmental footprint of the final project in terms of energy and water consumption, ambient and indoor air quality, habitat alteration, and resource consumption.

Transportation

The EENF included a limited traffic study that generally conforms to EOEA/EOT Guidelines for EIR/EIS Traffic Impact Assessments. Based on ITE Land Use Code 130 (Industrial Park), the project is expected to generate 126 new vehicle-trips on an average weekday for Phase I and 4,050 for Phase II, for a total of 4,176.

The DEIR should include a revised traffic study that addresses:

- the Rabbit Road/Main Street/Pike Street intersection,
- the Main Street/Toll Road intersection and
- the Route 110/Merrill Street intersection.

In addition, particular attention should be given to the tuning movement requirements for W-50 design vehicles at these locations.

The DEIR should include information that maximizes the retention and infiltration of storm water runoff on site. Specifiaclly, connections to the State Highway drainage system should be avoided if possible. In addition, any future noise abatement devices such as sound barriers will be the proponent's responsibility and should be described in the DEIR.

The Town of Salisbury is planning to construct a bicycle and pedestrian trail along a portion of the abandoned railroad right-of-way and utility easement which traverses the southern boundary of the project site. To assist the town, the proponent has proposed to reserve the necessary property for this use. In addition, the proponent should commit to fund the construction and promotion of this segment of trail. An EOT Railroad Right-of-Way permit for alteration and use of the property will be required for the project and should be included in the DEIR.

The EENF includes an inventory of the transportation infrastructure in the area and suggests Transportation Demand Management (TDM) measures which may encourage alternative travel to and from the site. However, in the DEIR, the proponent should provide a clear commitment to implement the TDM program, which may include but not be limited to, hiring a transportation coordinator to manage the TDM program, posting transit information and schedules onsite for the Merrimack Valley Transit Authority 51 and 83 buses and the Massachusetts Bay Transportation Authority Commuter Rail station linkages and providing safe pedestrian and bicycle connections to Rabbit Road and the proposed trail.

Parking

According to the ENF, a total of 266 parking spaces are proposed at full build-out. The DEIR should identify opportunities to minimize the amount of parking and impervious area.

Air Quality

The DEIR should describe air quality mitigation commitments. The proponent should also consult with MassDEP regarding participation in the MassDEP Diesel Retrofit Program which is a way to mitigate adverse construction-period impacts from diesel emissions. The proponent should also discuss with MassDEP the use of fossil fuel-fired equipment, emergency generators or other project components that may be subject to pre-construction air quality permitting requirements. The DEIR should include an update on consultations with MassDEP regarding air quality impact analysis and permitting issues.

Wetlands

The EENF indicates that the project would alter 1,730 square feet of bordering vegetated wetlands (BVW) and 26,580 square feet of isolated vegetated wetlands, which would require a 401 Water Quality Certificate from MassDEP. The extent of wetland alteration for the project should be described, quantified, and shown on plans at a readable scale in the DEIR. I note that the wetlands resource delineation has been accepted by the Salisbury Conservation Commission and a Notice of Intent has been filed with MassDEP. The DEIR should also explain how the project would comply with the performance standards in the wetland regulations, and demonstrate that alteration of resource areas has been avoided and minimized. The wetlands replication areas should be quantified and depicted on plans, and information in the DEIR should demonstrate that altered wetland functions will be restored.

Stormwater and Drainage

The DEIR should contain a stormwater control plan that demonstrates that source controls, pollution prevention measures, erosion and sedimentation controls during construction, and the post development drainage system will be designed to comply with the MA Stormwater Management Policy and standards for water quality and quantity impacts with the Town of Salisbury's stormwater programs. The EENF did include a stormwater management plan for the entire subdivision roadway and the lot to be developed with an 18,000 square foot building. However, the stormwater management report in the EENF indicates that the post development peak rates of runoff are higher than existing peaks. This information shows that the project will not be in compliance with the MA Stormwater Management Policy Standard 2, which requires that peak rates of runoff not exceed pre-existing site conditions. Peak rate reductions can be achieved by eliminating road pavement and/or increasing the detention capacity of the stormwater control system. I advise the proponent to work closely with MassDEP to resolve this issue and the other issues raised in MassDEP detailed comment letter.

The DEIR should describe existing conditions and analyze impacts associated with changes in site topography and drainage patterns. The DEIR should compare pre-development and post-development conditions and discuss any changes anticipated in the context of wetlands ecological functions, surface water resources, potential flooding issues, and connections to the state highway drainage system. The DEIR should describe how stormwater drainage and run-off will be managed to avoid adverse impacts during construction and operational phases of the project. Every effort should be made to maximize the retention and infiltration of storm water runoff on-site, and connections to the state highway system should be avoided if possible.

The DEIR should include a detailed description of the proposed stormwater management system, including the size and location of its components. The DEIR should discuss operations and maintenance plans, and clarify responsibility for long-term management of the system. The DEIR should provide clear commitments to implement mitigation measures relating to stormwater and drainage impacts.

The DEIR should describe alternative designs (for overall site planning and the stormwater management system) in order to incorporate LID techniques and avoid adverse impacts to hydrological systems both on and off-site. I encourage the proponent to consider LID techniques in site design and storm water management plans. LID techniques incorporate stormwater best management practices (BMPs) and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions, and are well suited for constrained sites. The primary tools of LID are landscaping features and naturally vegetated areas, which encourage detention, infiltration and filtration of stormwater on-site. Other tools include water conservation and use of pervious surfaces. These practices offer alternative, micro-management techniques that are well suited for constrained sites; the redundancy of stormwater control functions is insurance against system failure and smaller systems also pose fewer safety concern. 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 provide a discussion of potential LID techniques that could be incorporated.

Wastewater

Each phase of the project will require a sewer extension permit from MassDEP, based on the EENF estimate that the sewer will be extended for more than 1,000 feet to the proposed distribution facility in Phase I and to the other proposed buildings in a later phase of the project. The DEIR should evaluate the water and sewer demand of the proposed commercial/industrial facilities and demonstrate that wastewater system is adequate for the project proposed. The DEIR should also explain water efficiency measures for the facilities and landscape irrigation to minimize the project's impacts on the municipal infrastructure.

Construction Period Impacts

The DEIR should include a discussion of construction phasing, evaluate potential impacts associated with construction activities, and propose feasible measures to avoid or eliminate these impacts. The proponent should implement measures to alleviate dust, noise and odor nuisance conditions which may occur during the construction activities.

Comments

The DEIR should also address the issues raised in the comment letters received and listed at the end of this Certificate. The DEIR should include a copy of each comment received.

Mitigation

The DEIR should contain a separate chapter on mitigation measures. It should include a Draft Section 61 Finding for all state permits that includes a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation, and the identification of the parties responsible for implementing the mitigation. The DEIR should provide a schedule for the implementation of the mitigation, based on the construction phases of the project.

May 18, 2007
Date

Ian A. Bowles

Comments Received:

05/11/07 Department of Environmental Protection, NERO
05/15/07 Executive Office of Transportation, MassHighway

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