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September 14, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : Cornerstone Square  
PROJECT MUNICIPALITY : Westford  
PROJECT WATERSHED : Merrimack  
EOEA NUMBER : 13978  
PROJECT PROPONENT : Westford LC, LLC  
DATE NOTICED IN MONITOR : August 8, 2007

As Secretary of Energy and Environmental Affairs (EEA), I hereby determine that the Final Environmental Impact Report (EIR) 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 Environmental Notification Form (ENF) and updated in the Draft and Final EIR, the proposed project consists of a 232,560<sup>1</sup> square foot (sf) retail development including restaurants, office space, a fitness center and associated infrastructure. The uses will be located in ten buildings (including the redeveloped MassBank building). Primary access to the site will be provided via a signalized intersection from Littleton Road (Route 110). Secondary access will be provided via additional access drives on Littleton Road and a single driveway on Boston Road. The project will include construction of 990 additional parking spaces for a total of 1,040 spaces. It will include construction of a private, on-site wastewater treatment facility. The project will be served by municipal water.

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<sup>1</sup> The building program has been reduced from 246,800 sf proposed in the Draft EIR and Building K has been eliminated.

The 31-acre site is bounded on the northwest by Route I-495, to the east by Boston Road and to the north and south by wetlands. Littleton Road (Route 110) runs through the southern area of the site from west to east. The site contains approximately 2.2 acres of impervious surfaces including parking lots, two commercial buildings, a bank and three single family homes. The undeveloped portion of the site is primarily wooded and contains wetlands, including a certified vernal pool and a potential vernal pool. In addition, a certified vernal pool is located within bordering vegetated wetlands (BVW) that extend onto the southwest border of the site.

### Jurisdiction and Permitting

The project is undergoing MEPA review and subject to preparation of a mandatory Environmental Impact Report (EIR) pursuant to Section 11.03 (6)(a)(6) because it requires a state permit and will generate more than 3,000 average daily vehicle trips (adt). The project requires a Groundwater Discharge Permit from the Department of Environmental Protection (MassDEP)<sup>2</sup> and an Access Permit from the Massachusetts Highway Department (MassHighway). In addition, it requires an Order of Conditions from the local Conservation Commission (and hence a Superseding Order of Conditions from MassDEP in the event the local Order is appealed).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state agency permits, and that may cause significant Damage to the Environment. In this case, these include land alteration, traffic, transportation, wetlands/drainage, water quality and wastewater.

### Review of the Final EIR

The Scope for the Final EIR directed the proponent to analyze how to further reduce environmental impacts associated with the project and demonstrate consistency with state standards and regulations related to wetlands, stormwater and wastewater. The proponent was encouraged to further explore means of reducing impervious surfaces (and the impacts associated with it) and provide a greater buffer between the project and existing wetlands. In addition, the Scope required additional analysis of and mitigation for traffic impacts.

Comments from the Executive Office of Transportation and Public Works (EOTPW) indicate that the traffic study prepared for this project conforms with the EEA/EOTPW Guidelines for EIR/EIS Traffic Impact Assessments and that the proponent has proposed adequate mitigation. The traffic analysis indicates that the project will generate approximately 9,257 adt on a weekday and identifies two intersections that will be significantly impacted by

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<sup>2</sup> Previous Certificates and the Draft EIR indicate that the project requires a 410 Water Quality Certificate from MassDEP; however, the elimination of previously proposed wetland alterations have eliminated the need for this permit.

project-generated traffic. These include the Boston Road/I-495 southbound ramps and the Route 110/Boston Road/Carlisle Road (Minot's Corner) intersection. The Draft EIR proposed roadway improvements, including implementation of the Route 110 Corridor Study recommendations, signalization of the site drive and consolidation of curb cuts.

The Scope for the Final EIR identified the need for additional analysis of specific roadway segments and identification of adequate mitigation at locations where the project will contribute to a degraded level-of-service (LOS). The Final EIR includes a revised weaving analysis for the I-495 interchange to evaluate concerns with weaving distances as well as capacity issues related to the Boston Road site drive right-out movement. The Final EIR indicates that the movement can be retained and will not contribute to congestion or cause a safety issue. Comments from the Town and the Northern Middlesex Council of Governments (NMCOG) support this conclusion. EOT comments indicate that that driveway may conditionally serve both the right-in and right-out movement; however, the proponent will need to monitor crash data at this location and, in the event it presents a hazard, the right out movement will be restricted. The Final EIR indicates that interim improvements at the Minot's Corner intersection, to address concerns with congestion between completion of this project and construction of MassHighway improvements, are not feasible. The proponent proposes the design and xx of the full-build improvements as mitigation. EOTPW comments indicate that the conceptual design will be incorporated into the plans for the MassHighway project at Minot's Corner. The proponent should continue its consultations with MassHighway and the Town regarding proposed improvements and necessary design refinements. I encourage MassHighway to carefully consider the Town's traffic and transportation comments on the Final EIR as the project is proceeds through the permitting process.

The Final EIR indicates that the Lowell Regional Transit Authority (LRTA) is considering the feasibility of providing service to the site. The proponent has indicated its commitment to providing infrastructure to support this service including bus connections, bus turnouts and improved pedestrian access from adjacent sites. I encourage the proponent to consider financial support for the service to support its success as a means of further minimizing the air quality impacts of the proposed project. In addition, the proponent should provide adequate pedestrian infrastructure to support trips between adjacent uses, including access to transit.

The Final EIR indicates that the building program has been reduced since the Draft EIR from 246,800 to 232,560 (although it remains a small increase from what was proposed in the ENF) through elimination of Building K and provision of an open space area at the main entrance to the project. Although this reduces the creation of impervious surfaces slightly (from 885,625 sf to 856,977 sf) and provides additional open space, it does not address concerns expressed by MassDEP and the Town for a larger buffer between the project and wetlands.

As required, the Final EIR quantifies and describes impacts within the buffer zone of state regulated BVW and it includes revised wetlands resource boundaries that emerged out of the local wetlands review process. The project includes approximately 434 sf and 2,187 sf of alteration within 25 feet of Wetlands D, E and G respectively. It includes a total of 38,616 sf, 36,506 sf and 27,812 sf of alteration within the 100-foot buffer zone for Wetland D, E, and G.

Despite comments from the Town and MassDEP that expressed significant concern with proposed work within the 25-foot buffer zone to wetlands, the proponent has not revised the Preferred Alternative to minimize this impact. The Final EIR continues to assert that the project will not have an adverse impact on the vernal pools although removal of vegetation and construction is proposed within 25 feet of the on-site vernal pool (VP742) and within 50 feet of the off-site vernal pool. Comments from MassDEP and the Town related to wetlands issues reiterate concern with the amount of disturbance and impervious surfaces proposed in close proximity to wetlands and vernal pools. MassDEP comments note that the wetlands regulations in 310 CMR 10.02 (2)(2)(e) identify the significance of buffer zones for the protection of the resource area for outstanding resource waters (ORWs), including vernal pools. Comments from the Town of Westford assert that the project, as proposed, is not consistent with its Non-Zoning Wetlands Bylaw and Regulations, including the 25-foot No Disturb Zone.

The project includes construction of a stormwater management system that consists of deep-sump hooded catch basins, water quality treatment units (Hydroguard), underground detention basins and infiltration of clean roof-top runoff. As required, the Final EIR provides the dimensions of the proposed infiltration systems and, where stormwater infiltration is proposed, test pit data. Several of the comments related to stormwater management have been addressed; however, MassDEP comments indicate that the Final EIR does not address its previous comment that the Hydroguard system is not an accepted best management practice for compliance with Standard 6 (critical areas) of the Stormwater Management Policy. In addition, MassDEP comments indicate that TSS removal rates used in the Final EIR are not supported by reliable testing and data.

The Final EIR includes additional analysis of Low Impact Development (LID) techniques (including bioswales, naturalized detention basins and rain gardens), identifies constraints to incorporating LID into the project design (including the high pollutant loads and minimal amount of groundwater separation) and concludes that these approaches are not feasible. In addition, it indicates that the parking supply has been reduced further, through the use of shared parking, and consists of 188 spaces less than Town requirements. Comments from the Town of Westford indicate that, while distance to groundwater in some locations is a significant constraint, soil logs demonstrate that it show that it is not a constraint throughout the entire site and there are opportunities for incorporating LID techniques. Commentors also identify other LID techniques, such as use of filter strips and tree boxes for areas such as parking lot islands and sidewalks, which could be employed to minimize the volume of runoff that must be captured by conventional systems prior to being discharged.

The Westford Conservation Commission will assess consistency with its local bylaw and the Wetlands Protection Act and will further evaluate the adequacy of the proposed Stormwater Management Plan. I urge the proponent to alter its design to minimize the alteration of land within the buffer zone and, in particular, within close proximity to vernal pools. Based on comments from MassDEP and the Town, I expect that the proponent will be required to alter its design to further minimize associated with the Preferred Alternative.

The Final EIR provides a more detailed overview of the proposed wastewater system and its components and includes a draft geotechnical report. The Final EIR indicates that the project

will generate 41,000 gpd of wastewater, which is a slight reduction from the 46,000 gpd identified in the Draft EIR. MassDEP comments indicate that the proponent has consulted with them regarding the design of the treatment system and information and data necessary to support its Groundwater Discharge Permit application.

The project will include installation of an 8-inch ductile iron water main connected to the 12-inch main in Boston Road and the 12-inch main in Littleton Road. The Draft EIR indicates that the Town has 340,000 gpd of unallocated capacity through its Water Management Act (WMA) authorization.

The proponent has indicated that it will work with MassDEP to further develop mitigation for construction-period air quality impacts. Low Sulfur Diesel Fuel (LSD) will be used for construction equipment, as required by federal regulation. The proponent will evaluate the use of after-engine controls as well as Ultra Low Sulfur Diesel (ULSD) fuel, although the Final EIR indicates that its participation may be constrained by availability and cost. The proponent will be required to comply with MassDEP noise regulations (310 CMR 7.10) which limit sound sources to an increase of no more than 10 dBA above ambient levels.

### Mitigation

The Final EIR includes draft Section 61 Findings and a commitment to the following mitigation measures:

- reduced parking supply to minimize creation of impervious surfaces;
- development of a stormwater management plan consistent with the MassDEP Stormwater Management Policy;
- water conservation measures including water-saving devices (such as low-flow showerheads, faucet aerators and high efficiency toilets) and landscaping design and techniques;
- infiltration of clean rooftop runoff;
- signalization of the site drive and Route 110;
- widening of Route 110 westbound to two through lanes from Minot's Corner;
- revisions to the Minot's Corner intersection improvements to provide three eastbound left turn lanes onto Boston Road;
- widening of the Boston Road/I-495 northbound ramp to provide two lanes;
- widening of Boston Road northbound to allow a dedicated left hand turn lane onto the I-495 southbound ramp;
- implementation of the Transportation Demand Management (TDM) program including identification of a employee transportation coordinator, support for the Commuter Choice program and provision of infrastructure for cyclists and pedestrians;
- coordination with LRTA regarding extension of transit access to the site and provision of infrastructure to support transit service (assuming that the LRTA determines that such service is feasible); and
- work with MassDEP to identify specific measures to mitigate air quality impacts of

construction vehicles.

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. I have fully examined the record before me, including but not limited to the Certificates issued on March 22, 2007 and June 29, 2007, the Draft and Final EIR filed in response; and the comments entered into the record. I find that the Final EIR is sufficiently responsive to the requirements of the MEPA regulations and the Scope to meet the regulatory standard for adequacy although I expect that additional measures to avoid and minimize impacts to wetlands will be developed during project permitting.

September 14, 2007

Date



Ian A. Bowles

Comments received:

- 9/7/07 MassDEP/Northeast Regional Office (NERO)
- 9/11/07 Executive Office of Transportation and Public Works (EOTPW)
- 9/10/07 Northern Middlesex Council of Governments (NMCOG)
- 9/7/07 Town of Westford/Office of the Town Manager
- 9/13/07 Town of Westford/Office of the Town Manager (second letter)

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