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October 3, 2008

DRAFT RECORD OF DECISION

PROJECT NAME: Waterfront Square at Revere Beach
PROJECT MUNICIPALITY: Revere
PROJECT WATERSHED: North Coastal
EEA NUMBER: 14080
PROJECT PROPONENT: Eurovest Development, Inc.
DATE NOTICED IN MONITOR: August 27, 2008

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62I) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed the Draft Environmental Impact Report (DEIR) submitted on this project and **propose to grant a Phase 1 Waiver**, allowing the construction of a proposed relocated Massachusetts Bay Transportation Authority (MBTA) busway prior to the completion of a Final Environmental Impact Report (FEIR) for the entire Waterfront Square at Revere Beach (Waterfront Square) mixed-use project. In a separate Certificate issued today, I have outlined a scope for the FEIR for the Waterfront Square project.

Project Description

As described in the DEIR, the project includes approximately 1.366 million square feet (sf) of mixed-use transit-oriented development, including hotel, commercial and residential uses, with multiple buildings and facilities, including off-street parking and other improvements on 8.77 acres of land adjacent to the Wonderland MBTA Station (Wonderland Station) in Revere. The project also includes an additional 7.7 acres of adjacent MBTA-owned land on the western side of Wonderland Station. The project contains approximately 1.094 million sf of residential space (approximately 902 units), approximately 145,500 sf of office space, approximately 98,000 sf of hotel space (approximately 100 rooms), approximately 28,000 sf of retail space, as well as

1,087 structured parking spaces located below the plaza level and 973 off-street parking spaces in two garages containing a total of 3,000 parking spaces on the MBTA land west of the site. The project also includes additional major public infrastructure improvements including a publicly accessible plaza connecting Wonderland Station to Revere Beach Reservation and a pedestrian bridge connecting the publicly-accessible plaza across Ocean Avenue to the western side of Revere Beach Boulevard.

As part of the redevelopment efforts for the project, special legislative acts were adopted by the Massachusetts General Court in 1975 (1975 Mass. Acts 841) and 1977 (1977 Mass. Acts 877). The proposed project has been advanced in accordance with these Acts, as well as the provisions of Article 97 (Article XCVII of the Amendments of the Massachusetts Constitution), several Memoranda of Agreement, and the Executive Office of Energy and Environmental Affairs (EOEEA) Article 97 Policy. The entire project is located within Land Subject to Coastal Storm Flowage (LSCSF) as defined and regulated by the Massachusetts Wetlands Protection Act and its associated Regulations. The project is located adjacent to a man-made drainage ditch, the Eastern County Ditch, which facilitates drainage flows within the sub-watershed. The project will directly impact these wetland areas, both through the construction of the project and the construction of a compensatory flood storage area.

The project site does not contain historic resources; however the project is in the vicinity of properties included in the State and National Registers of Historic Places or included in the Inventory of Historic and Archaeological Assets of the Commonwealth. Adjusted traffic trip predictions include the generation of approximately 5,428 new vehicle trips on an average weekday, and 4,252 new vehicle trips on an average Saturday. The anticipated maximum daily wastewater discharge will be 201,182 gallons per day (GPD) and domestic water usage is estimated at approximately 221,300 GPD. Water consumption and wastewater generation estimates have increased since the filing of the ENF due to use of a different calculation methodology.

Phase 1 Project Description

The Phase 1 project is approximately 61,000 sf in area and will include the relocation of the Wonderland Station busway with a one-way access drive off Butler Circle, creation of a new passenger kiss-and-ride facility on the western side of Wonderland Station, reconstruction of the traffic control signal at the Wonderland Station main entrance, lane modifications on Route 1A and Butler Circle, and modified access to existing MBTA parking lots. Improvements to operations at Wonderland Station are being undertaken by the MBTA, with consideration for the related improvements slated as part of the Waterfront Square project.

The DEIR included a description of existing and proposed conditions for Phase 1, information on the busway design, its overall purpose, construction impacts and methodology, and a discussion of how Phase 1 meets the MEPA standards for a waiver. Under existing conditions, bus service at Wonderland Station is split between two locations: 1) a busway on Ocean Avenue on the east side of the station; and 2) bus pull-overs with shelters on the northbound and southbound sides of Route 1A near the station entrance. The existing

configuration leads to safety conflicts with pedestrians and existing vehicle traffic.

According to the DEIR, the relocation of the busway to a location on the west side of Wonderland Station accessed from Butler Circle will consolidate bus, train, and customer services in one central location, allowing for safer, more efficient, and more accessible transfers between service modes. The Proponent has indicated that construction of the relocated busway in a timely manner will enable Waterfront Square project construction to proceed without detrimental impacts to ongoing MBTA operations. Advancement of the Phase 1 project will also provide public benefits early in the project schedule.

While the Phase 1 project will not generate increased traffic volumes, it will reroute buses from Ocean Avenue to Route 1A. Additionally, Phase 1 includes the creation of a new southbound left-turn lane from Route 1A into the south parking lot at Wonderland Station. The ability to make this turning movement will reduce the number of vehicles that must use Butler Circle to reverse direction from Route 1A southbound to access the Wonderland Station south parking lot. The DEIR notes that this roadway improvement has the potential to remove up to 236 vehicles from Butler Circle during the peak commuter hours. Bus routing and limited access points to the busway remain to be coordinated between EOT and the Proponent to ensure that safety issues related to Butler Circle are addressed. Approximately 279 parking spaces from the existing south parking lot and 25 spaces from the existing north parking lot will be displaced to implement the Phase 1 project. Replacement parking will be provided in the existing DCR parking lots on Ocean Avenue.

MEPA History

An Environmental Notification Form (ENF) for the project was submitted in August 2007. The Secretary's Certificate on the ENF (September 7, 2007) presented the Scope for the Draft EIR (DEIR). The proponent submitted the DEIR in August 2008. The Secretary's Certificate on the DEIR has been issued concurrently with this Draft Record of Decision (DROD) on October 3, 2008. The Certificate on the DEIR concluded that the DEIR adequately and properly complies with MEPA and established a scope for the Final EIR (FEIR).

Jurisdiction

The project is undergoing review pursuant to Sections 11.03(1)(b)(3), 11.03(3)(a)(1)(b), 11.03(5)(b)(4)(a), 11.03(6)(a)(6), and 11.03(6)(a)(7) as the project will require State agency action and a transfer of Article 97 lands, alteration of ten (10) or more acres of "other" wetlands, result in the new discharge or expansion to a sewer of 100,000 or more gallons per day (GPD) of sewage, generate 3,000 or more new average daily trips on roadways providing access to a single location, and the construction of 1,000 or more new parking spaces at a single location. The project will require sewer connection permits from the Massachusetts Department of Environmental Protection (MassDEP) and the Massachusetts Water Resources Authority (MWRA). The project will require a Highway Access Permit and a Traffic Signal Permit from the Massachusetts Highway Department (MassHighway). Approval will also be necessary from the Executive Office of Transportation and Construction (EOTC) pursuant to M.G.L. c.40

Section 54A. Permits for roadway improvements will be required from the Department of Conservation and Recreation (DCR). An Order of Conditions will be required from the Revere Conservation Commission, or in the case of appeal, a Superseding Order of Conditions from MassDEP. The project will need a Chapter 91 (c.91) approval for the construction of the compensatory flood storage area. The project will require a Surface Water Discharge Permit under the National Pollutant Discharge Elimination System (NPDES) program from the United States Environmental Protection Agency (U.S. EPA). The project will require a Notice of Proposed Construction for Alteration from the Federal Aviation Administration (FAA), Section 4f Approval from the Federal Highway Administration, and Section 106 Review. Numerous local approvals will also be required from the City of Revere.

The project will be receiving financial assistance from the Commonwealth of Massachusetts, including but not limited to, Transit Oriented Development funding, MORE Jobs funding, Community Development Action Grant (CDAG) funding, and Public Works for Economic Development (PWED) funding. The project also requires a transfer of lands from two agencies of the Commonwealth; the MBTA and DCR. Because the project is receiving financial assistance and requires a transfer of state lands, MEPA jurisdiction is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined by the MEPA regulations.

Waiver Request

The proponent has requested a waiver that will allow the proponent to proceed with Phase 1 of the project prior to completing the mandatory Environmental Impact Report (EIR) process for Waterfront Square. A waiver request was submitted in conjunction with the DEIR that identifies the environmental impacts of the project and describes measures to be undertaken by the proponents to avoid, minimize and mitigate project impacts.

Standards for All Waivers

The MEPA regulations at 301 CMR 11.11(1) state that I may waive any provision or requirement in 301 CMR 11.00 not specifically required by MEPA and may impose appropriate and relevant conditions or restrictions, provided that I find that strict compliance with the provision or requirement would:

- (a) result in an undue hardship for the Proponent, unless based on delay in compliance by the Proponent; and
- (b) not serve to avoid or minimize Damage to the Environment.

Determinations for a Phase 1 Waiver

The MEPA regulations at 301 CMR 11.11(4) state that, in the case of a partial waiver of a mandatory EIR review threshold that will allow the proponent to proceed with Phase 1 of the project prior to preparing an EIR, I shall base the finding required in accordance with 301 CMR 11.11(1)(b) on a determination that:

- (a) the potential environmental impacts of Phase 1, taken alone, are insignificant;
- (b) ample and unconstrained infrastructure facilities and services exist to support Phase 1;
- (c) the project is severable, such that Phase 1 does not require the implementation of any other future phase of the project or restrict the means by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated; and
- (d) the agency action(s) on Phase 1 will contain terms such as a condition or restriction, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Findings

Based upon the information submitted by the Proponent and after consultation with the state permitting agencies, I find that the waiver request has merit and that the Proponent has demonstrated that the proposed project meets the standards for all waivers at 301 CMR 11.11(1). I find that strict compliance with the requirement to submit the FEIR prior to completion of the proposed busway and related improvements would result in an undue hardship for the Proponent. The relocation of the busway to a location on the west side of Wonderland Station accessed from Butler Circle will consolidate bus, train, and customer services in one central location, allowing for safer, more efficient, and more accessible transfers between service modes. The Proponent has indicated that construction of the relocated busway in a timely manner will enable future project construction to proceed without detrimental impacts to ongoing MBTA operations. Advancement of the Phase 1 project will provide tangible public benefits early in the overall project schedule and facilitate a construction process for the project that will limit detrimental impacts to the daily operations of this multi-modal transit facility. The MBTA has submitted a comment letter strongly supporting the Phase 1 waiver. As a condition of this waiver, the Proponent must submit a limited access design alternative analysis to the Office of Transportation Planning Public/Private Development Unit for approval prior to initiating their permitting process for the busway.

I also find that compliance with the requirement to submit the FEIR prior to the completion of Phase 1 would not serve to avoid or minimize Damage to the Environment. In accordance with 301 CMR 11.11(3), this finding is based on my determination that:

1. The potential environmental impacts of Phase 1, taken alone, are insignificant;:
 - The Phase 1 waiver elements do not independently meet or exceed MEPA review thresholds.
 - The Phase 1 waiver elements will be located on urban property that does not contain wetland resource area, habitat for state-protected species, historic properties, or other sensitive resources. The Phase 1 project is located on existing impervious area. The Phase 1 waiver elements will not result in the generation of new vehicle traffic trips.
To ensure the development of the safest design possible for the proposed limited access off of the Butler Circle Rotary, the Proponent will work with MassHighway

and the MBTA in advance of the permitting process to determine the safest feasible access scheme for this location. The potential environmental impacts of these modified design alternatives are anticipated to remain insignificant, as they will remain in the same impact footprint as that presented in the Request for Phase 1 Waiver.

- The access design alternatives analysis may include, but not be limited to, redesigning the Wonderland Station busway circulation patterns within the site so that the driveway functions as an entrance to the rotary, or providing a right-turn bay or deceleration lane within Butler Circle.
The limited access design alternatives analysis for the busway and its outcome will be included in the FEIR.

2. Ample and unconstrained infrastructure facilities and services exist to support Phase 1:

- The Phase 1 waiver project includes minor infrastructure improvements; however given the minor nature of these improvements and their location concurrent with existing impervious surfaces, I do not consider them to conflict with the goal of avoiding or minimizing Damage to the Environment.
- Infrastructure improvements include the addition of a left-turn lane on the Route 1A southbound approach to the Wonderland Station driveway. This improvement has been added as an amenity and is not directly required to accommodate the Phase 1 waiver. It will result in measurable benefits to traffic operations and safety at Butler Circle and the primary Wonderland Station driveway.
- The second infrastructure improvement includes the creation of a right-turn in and right-turn out driveway from Route 1A northbound into the north parking lot at Wonderland Station to improve traffic flow patterns.
The Phase 1 waiver elements will not generate additional water demand or wastewater generation and existing water and wastewater infrastructure have adequate capacity.

3. The project is severable, such that Phase 1 does not require the implementation of any other future phase of the project or restrict the means by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated.

- The proposed busway relocation and related improvements are severable from the remainder of the Waterfront Square project in that it does not rely on any elements of the future project to proceed.
- Construction of the Phase 1 elements will not limit the construction of area-wide infrastructure or the implementation of the proposed Waterfront Square mitigation measures.
- The Phase 1 waiver elements will not hinder the future construction of off-street parking garages proposed on MBTA property located west of Wonderland Station.

4. The Agency Action on Phase 1 will contain terms such as a condition or restriction in a Permit, contract or other relevant document approving or allowing the Agency Action, or

other evidence satisfactory to the Secretary, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to Commencement of any other phase of the Project:

- The Phase 1 waiver elements will require that MassHighway issue a permit for the work due to its location on Route 1A. I anticipate that this Agency Action will reflect a condition that subsequent project phases will require due compliance with MEPA and 301 CMR 11.00.

Conclusion

Based on these findings, I have determined that this waiver request has merit, and am issuing this Draft Record of Decision (DROD), which will be published in the next edition of the Environmental Monitor on October 8, 2008 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days and will end on October 22, 2008. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision (FROD) or amend the Scope for the FEIR within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6).

I hereby **propose to grant** the waiver requested for this project, which will allow the Proponent to proceed with Phase 1 of the project prior to preparing the FEIR for the entire project, subject to the above findings, and conditions, if applicable.

October 3, 2008

Date

Ian A. Bowles

Comments Received:

09/23/2008	United States Environmental Protection Agency
09/24/2008	Alphonse A.J. D'Amico
09/25/2008	City of Revere, Office of the Mayor
09/26/2008	United States Environmental Protection Agency (2 nd comment letter)
09/26/2008	Massachusetts Department of Environmental Protection – NERO
09/26/2008	Massachusetts Bay Transportation Authority
09/29/2008	Office of Coastal Zone Management
09/29/2008	Executive Office of Transportation
09/30/2008	Department of Conservation and Recreation
09/30/2008	WalkBoston
10/01/2008	Executive Office of Transportation (2 nd comment letter)

IAB/HSJ/hsj