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September 8, 2003

DRAFT RECORD OF DECISION PHASE I WAIVER

PROJECT NAME : Green Street Development & Route 117
Connector
PROJECT MUNICIPALITY : Waltham
PROJECT WATERSHED : Stony Brook
EOEA NUMBER : 13071
PROJECT PROPONENT : Sam Park and Company
DATE NOTICED IN MONITOR : July 8, 2003

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I hereby propose to **approve** a Phase I Waiver to allow the first phase of the project to proceed, pending the preparation of an Environmental Impact Report (EIR) for the project. In a previous certificate, dated September 8, 2003, I have issued a scope for the EIR.

Project Description

As described in the Environmental Notification Form (ENF), the project involves the phased (Phase I, Phase II) development of approximately 640,000 square feet (sf) of office space in two eight-story buildings, 2133 enclosed parking spaces, and associated infrastructure on a 9.4 acre-site located on Green Street on the west side of the Interstate I-95/Route 20 Rotary in Waltham.

The project also includes number of proposed roadway improvements in each development Phase. In Phase I, the proponent proposes to construct: a connector road between Route 117 and the Route 20 Rotary (Route 117 Connector"); traffic signalization at the Route 117/Route 117 Connector Road intersection, traffic signalization at the Route 20 eastbound with the Route 20 rotary; modifications to the Route 20 Rotary, and improvements at the Route 20/Stowe Street intersection.

Roadway improvements in Phase II include the to construction of a northbound bridge over Route 95 connecting to Route 117 Connector (Route 95 Bridge), installation of traffic signalization on both ends of the proposed Route 95 bridge, and geometric improvements and new traffic signals at the Route 20 westbound/Route 20 Rotary and at the Route 117 Connector Road.

As described in the ENF, this project will consume approximately 61,870 gallons per day (gpd) of water and will generate approximately 47,880 gpd of wastewater flow. The proponent proposes to discharge the wastewater generated from the project to the City of Waltham's municipal sewer collection system for treatment by the Massachusetts Water Resources Authority's (MWRA) Deer Island Wastewater Treatment Facility (WWTF).

The project is undergoing review and requires preparation of an EIR pursuant to sections 11.03 (1)(b)(2) of the MEPA regulations because the project requires state permits and will involve the creation of more than 5 acres (5.08 acres total) of new impervious surfaces. The project as currently designed also requires a Groundwater Discharge Permit from DEP, and an Order of Conditions from the Waltham Conservation Commission (and hence a Superseding Order from DEP if the local Order were appealed). Because the proposed project will generate more than 3,000 new vehicle trips per day (5,320 total), and requires a Highway Access Permit from the Massachusetts Highway Department (MHD), and it will require the preparation of an EIR pursuant to Sections 11.03 (6)(a)(6), and (6)(a)(7) of the MEPA regulations.

The project also requires a Construction Dewatering Permit, a Fossil Fuel Emission Permit and a Groundwater Discharge Permit from the Department of Environmental Protection (DEP). 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 and for a Construction Site Dewatering Discharge Permit from the U.S. Environmental Protection Agency. Using the Institute of Traffic Engineers Trip Generation land use codes 750 for Office Park, the project is estimated to generate a total of approximately 5,520 vehicle trips on the average weekday. An air quality mesoscale analysis for ozone will be needed for this project to assess the total volatile organic compounds (VOC) and nitrogen oxides (NOx) emissions associated with all project-related vehicle trips.

Phase I Waiver Request

The proponent is requesting a Phase I Waiver to construct 280,000 sf of office space, and 933 enclosed parking spaces in one eight-story building on a portion of the 9.4 acre-site located on Green Street on the west side of the Interstate I-95/Route 20 Rotary in Waltham, and thereby allowing its construction to proceed in advance of the preparation of an Environmental Impact report (EIR) for the full build-out of the site. As described in the ENF, the proponent proposes to expand the Phase I office building by an additional 90,000 sf (370,000 sf total) as part of the Phase II component of the project.

According to the ENF, the Phase I portion of the project site is located within the Stony Brook Watershed. Stony Brook conveys water from the Hobbs Brook Reservoir to the Stony Brook Reservoir and forms part of the water supply system for the City of Cambridge. The wetlands and waterways located within the project site are classified as Outstanding Resource Waters (ORW).

As described in the ENF, work to be performed in Phase I would include construction of a single-story 280,000 sf office building, 933 enclosed parking spaces, municipal water and sewer connections, a stormwater management water quality detention basin, and a comprehensive erosion and sedimentation control program. Proposed roadway improvements in Phase I include a connector road between Route 117 and the Route 20 Rotary (Route 117 Connector"); installation of traffic signalization at the Route 117/Route 117 Connector Road intersection, installation of traffic signalization at the Route 20 eastbound with the Route 20 rotary; modifications to the Route 20 Rotary, and improvements at the Route 20/Stowe Street intersection. Phase I will result in the creation of approximately 1.0 acre of impervious surface area, and the generation of approximately 2,725 new vehicle trips per day. The Phase I roadway improvement work will involve construction activities within the Riverfront Area and will impact approximately 8,600 sf of Riverfront Area, 2,500 sf of Bordering Land Dsubject to Flooding, 300 sf of land under water, and 40 lf of inland bank. Phase I work will not impact any wetland resource areas located within the project site. Phase I will require a Groundwater Discharge Permit from DEP, and an Order of Conditions from the Waltham Conservation Commission (and hence a Superseding Order from DEP if the local Order were appealed).

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 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.

In the case of a partial waiver of a mandatory EIR review threshold that will allow the proponent to proceed with phase one of the project prior to preparing an EIR, the Secretary, at a minimum, must base this finding on a determination that:

1. the potential impacts of phase one of the project, taken alone, are insignificant;
2. ample and unconstrained infrastructure facilities and services exist to support phase one of the project;
3. the project is severable, such that phase one 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

4. the agency action on phase one 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.

Findings

I have carefully reviewed the ENF and supporting documentation, written comments and comments received at the scoping session.

1. The air quality impacts of the Phase 1 portion of the project do not exceed any thresholds for a mandatory EIR. The proposed office building and parking garage have been sited within the project site to avoid alteration to any wetlands resource areas. Finally, according to the proponent, the project has been designed to meet DEP's Stormwater Management Policy standards and practices and will include a 100-year storm stormwater detention basin, oil/water separators, and water quality swales. I therefore find that the potential environmental impacts of the project are insignificant.
2. As described in the ENF, the project's potable water needs (approximately 61,870 gallons per day (gpd)) and wastewater treatment needs (approximately 47,880 gpd) will be serviced by the City of Waltham. According to DEP's comments the proponent will be required to work closely with DEP and the City of Waltham to implement I/I mitigation measures for this project that will result in the minimum removal of approximately 192,000 gpd (minimum 4:1 removal ratio) of I/I to offset the need for additional water withdrawals. I therefore find that ample and unconstrained infrastructure facilities and services exist to support the project. I am requiring the proponent to develop and implement an I/I program to remove a minimum of 192,000 gpd of I/I as a condition of my approval of the Phase I waiver request.
3. According to the comments received from MHD, the proponent has adequately documented the Phase I project's traffic impacts in the ENF. The EIR should include an Area Traffic Planning Study, prepared in conformance with the EOEA/EOTC Guidelines, for the full-build (Phase I and Phase II) project. MHD's support of the proponent's Phase I Waiver request is conditioned on a number of commitments provided by the City of Waltham to MHD including: the City of Waltham's commitment to pursue and fund the Phase II project improvements without state transportation funds or federal funds using state obligation authority; the City of Waltham's commitment for all project-related right-of-way acquisitions, and the City of Waltham's commitment not to proceed with the Phase II portion of the project until the proposed Phase II roadway improvements have been completed. I adopt MHD's conditions as my own in granting the proponent's Phase I Waiver request.

I therefore find that the agency action on phase one will contain terms so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

I strongly encourage the proponent, and the City of Waltham to continue to work closely with MHD to further refine the project's proposed roadway improvements to ensure that they are designed in accordance with MHD's standards

Based on these findings, it is my judgment that the Phase I waiver request, as conditioned above, has merit, meets the tests established in 301 CMR 11.11, and will serve to advance the interests of the Massachusetts Environmental Policy Act. Therefore, I propose to grant the phase one waiver subject to the aforementioned findings and conditions. This Draft Record of Decision (DROD) shall be published in the September 24, 2003 issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the waiver.

September 8, 2003

Date

Ellen Roy Herzfelder, Secretary

Comments received:

07/15/03	Town of Weston
07/16/03	Christene D. Newbold
07/18/03	Waltham Council of Neighborhood Advocates
07/18/03	Christene Newbold
07/18/03	Dwyer Newbold
07/20/03	Thomas D. Quirk
07/21/03	Christene Newbold
07/22/03	Megan K. Whyte
07/24/03	Town of Weston
07/25/03	Rails-to-Trails Conservancy – New England Office
07/26/03	Mary T. Early
07/28/03	John S. Allen
07/28/03	Waltham Council of Neighborhood Advocates
07/28/03	Representative Thomas M. Stanley
07/28/03	Ingeborg Uhler
07/28/03	Frank Tripoli
07/28/03	Mass Central Rail Trail
07/28/03	Arthur Uhler, Jr., PE, PhE
07/28/03	Metropolitan Area Planning Council (MAPC)
07/29/03	Rails-to-Trails Conservancy – New England Office

07/30/03 Goulston & Storrs
07/31/03 Janet Smith Flaherty
08/01/03 Thomas D. Quirk
08/06/03 City of Waltham - Planning Department
08/08/03 Li Deng
08/11/03 Representative Alice Hanlon Peisch
08/11/03 Roland O. Peterson
08/11/03 Massachusetts Highway Department (MHD)
08/12/03 Department of Environmental Protection – NERO
08/12/03 Arthur Uhlir, Jr., PE, PhD
08/12/03 City of Cambridge
08/13/03 Andrea Carr-Evans

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