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January 29, 2010

DRAFT RECORD OF DECISION

PROJECT NAME : Two Brookline Place  
PROJECT MUNICIPALITY : Brookline  
PROJECT WATERSHED : Charles  
EEA NUMBER : 14522  
PROJECT PROPONENT : Children's Brookline Place, LLC  
DATE NOTICED IN MONITOR : December 23, 2009

Pursuant to the Massachusetts Environmental Policy Act (M.G.L.c.30, ss. 61-62I) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed this project and hereby **propose to grant a waiver** from the categorical requirement to prepare an Environmental Impact Report (EIR). In a separate Certificate also issued today, I have set forth the outstanding issues related to the project that can be addressed by permitting agencies.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project consists of the demolition and redevelopment of a mixed-use complex (Two and Four Brookline Place) into commercial medical office and retail space. The project includes the development of an eight-story, 252,000 square foot (sf) building with 586 underground parking spaces, a pedestrian plaza and pathways, and open space. The project site is located at Pearl Street and Washington Street in Brookline, adjacent to the Brookline Village Massachusetts Bay Transportation Authority (MBTA) Green Line Station and MBTA local bus routes. The project will result in the creation of 0.13 acres of additional impervious area on the 1.45-acre project site, for a site total of 1.29 acres of impervious area. Estimated water usage will increase by 19,067 gallons per day (gpd) for a total project demand of 34,921 gpd. Wastewater generation is

estimated to increase by 17,333 gpd, for a project total of 31,796 gpd. New unadjusted traffic trips associated with the project are estimated at 4,724 vehicle trips per day. However, given the proximity of the project site to public transit and its location with an urban landscape, adjusted vehicle trips are estimated at 2,321 new trips, with consideration given to transit, walk, and bicycle modes of travel. The project site does not abut the State Highway layout.

### Jurisdiction

This project is subject to MEPA review and requires the preparation of a mandatory EIR because it requires a State Agency Action and will generate 3,000 or more unadjusted new average daily trips on roadways providing access to a single location (301 CMR 11.03(6)(a)(6)). The project will require a National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) from the United States Environmental Protection Agency (U.S. EPA).

The Proponent may seek financial assistance from the Commonwealth in the form of Health and Educational Facility Authority (HEFA) bond proceeds. Therefore, MEPA jurisdiction for this project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations.

### Waiver Request

The proponent submitted an Expanded Environmental Notification Form (EENF) for the project with a request for a waiver from the requirement for the preparation of an EIR. The EENF described how the project proposes to meet the waiver criteria outlined in 301 CMR 11.11. The waiver request was discussed at the consultation/scoping session for the project which was held on January 5, 2010.

### 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 an EIR Waiver

The MEPA regulations at 301 CMR 11.11(3) state that, in the case of a waiver of a mandatory EIR review threshold, I shall at a minimum base the finding required in accordance with 301 CMR 11.11(1)(b) stated above on a determination that:

- (a) The project is likely to cause no Damage to the Environment; and,
- (b) Ample and unconstrained infrastructure facilities and services exist to support those aspects of the project within subject matter jurisdiction.

### Findings

Based upon the information submitted by the Proponent and after consultation with the relevant State 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 prepare a Mandatory EIR for the project would result in undue hardship for the Proponent. This transit-oriented redevelopment project will provide improved pedestrian connections to the public transit system, remediate hazardous materials on an existing contaminated site, implement traffic mitigation measures consistent with Town corridor policies and plans, and result in the construction of a building anchored in green design principles.

I also find that compliance with the requirement to prepare an EIR for the project 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 project is not likely to cause Damage to the Environment. The project will employ the following mitigation measures to ensure the impacts of the project are avoided, minimized and mitigated:
  - The project will implement traffic intersection improvements to mitigate project-related impacts to roadway network levels of service (LOS), operations, and safety (described later in this Record of Decision).
  - The project will implement a comprehensive Transportation Demand Management (TDM) program to reduce single occupancy vehicle trips to the project site. The following measures will be implemented:
    - Provide information on MBTA transit services in Brookline to employees, residents, and visitors in a lobby display;
    - Provide 50% transit subsidies to employees;
    - Institute on-site MBTA transit pass sales;
    - Extend the Medical Academic Scientific Community Organization (MASCO) shuttle services as well as Children's Hospital shuttle services to the project site;
    - Provide spaces in the garage for a car-sharing service such as Zipcar;
    - Provide showers and locker room facilities;
    - Provide ample bicycle storage on-site;
    - Charge employees and visitors market rates for parking;
    - Provide preferential parking for car and vanpool vehicles;

- Provide a 'Guaranteed Ride Home' for employees using alternative modes of transportation;
- Continue the 'Three for Free' program that provides three free months of transit passes to employees who give up their parking spaces at Children's Hospital. If they remain in the program, they can receive a \$500 bonus;
- Provide shuttles to Back Bay Station and North Station;
- Explore offering flex-time schedules;
- Continue to provide a full-time transportation coordinator;
- Offer an employee tax benefit program through the Federal Transit Administration (FTA) that allows employers to receive a tax deduction for providing transit subsidies and allow employees to pay for transit expenses out of their pre-tax income.
- The project will limit construction worker parking on-site, encourage car pooling, provide storage on-site for equipment and tools, establish a community liaison, and maintain access to both the MBTA Brookline Village Station and existing bus service stops.
- The project will comply with the 1990 Clean Air Act Amendments (CAAA) and the Massachusetts State Implementation Plan (SIP). The CAAA and the SIP require that a project not cause any new violation of the National Ambient Air Quality Standards (NAAQS), increase the frequency or severity of any existing violations, or delay attainment of any NAAQS.
- Total GHG emissions for the preferred project alternative, including indirect and direct emissions attributable to stationary sources and indirect emissions attributable to mobile sources, are estimated at 4,059 tpy, a 637 tpy net reduction from the Base Case total of 4,696 tpy (a 13.6 percent overall project reduction).
- Mitigation measures proposed to reduce project-related GHG emissions include:
  - Partial use of highly-reflective (high-albedo) roofing materials;
  - Maximization of interior daylighting;
  - Installation of a high-efficiency HVAC system with an EER of 12.0;
  - Sealing of all HVAC ducts to reduce air leakage;
  - Use of increased roof insulation (R-40);
  - Use of increased insulation in exterior walls (R-30);
  - Use of increased insulation in exterior ground floor (R-16);
  - Use of double Low-E, U-0.21, S.H.G.F.-0.37 exterior windows and doors;
  - Installation of high-efficiency lighting (10 percent reduction from base code);
  - Incorporation of motion sensors in bathrooms and utility rooms;
  - Installation of programmable thermostats;
  - Maintenance of an Energy Management team responsible for control of Energy Management Systems, including heating, cooling, lighting;
  - Utilization of environmentally friendly buildings materials;
  - A 30-percent reduction in water demand and wastewater generation;
  - Traffic intersection improvements; and
  - Implementation of a TDM program.
- The project will include remediation efforts conducted in accordance with the Massachusetts Contingency Plan (MCP) (M.G.L c.21E/21C) and Occupational Safety and Health Administration (OSHA) regulations as part of the redevelopment process.

- The project will include removal of inflow and infiltration (I/I) at a 4:1 ratio and will be conducted in manner consistent with local and state policies and regulations.
  - The project will mitigate potential stormwater impacts through the use of Best Management Practices (BMPs), including: use of floor drains and gas and sand traps within the underground parking garage; collection and conveyance of clean roof drainage for irrigation purposes; use of an underground storage tank to control peak rates of runoff; use of deep sump catch basins with hoods; execution of an operations and maintenance plan; and implementation of erosion and sedimentation control measures.
  - The project will be constructed in a manner consistent with applicable conditions and regulations associated with the Muddy River project, the Town's MS4 NPDES Phase II Stormwater General Permit (MS4 Permit), and the NPDES CGP.
  - The project will include coordinated design and construction of new stormwater and wastewater infrastructure with the Town of Brookline to ensure consistency with the Brookline Sewer Separation project timelines.
  - The project will require the preparation of a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the NPDES Construction General Permit to outline BMPs to control erosion and sedimentation during the construction period.
2. Ample and unconstrained infrastructure facilities and services exist to support those aspects of the project within subject matter jurisdiction:
- The project includes intersection improvements; however given the minor nature of these improvements, their location concurrent with existing impervious areas, and their consistency with Brookline's Gateway East Plan (Gateway East), I do not consider them to conflict with the goal of avoiding or minimizing Damage to the Environment.
  - The Preferred Mitigation intersection improvement option includes the construction of a traffic signal at the intersection of Washington Street and Pearl Street, creating a four-way intersection as part of the Gateway East Plan. This new intersection will also merge Juniper Road and Walnut Street and relocate the westbound left turn from its existing location adjacent to the fire station to the new intersection. The Preferred Mitigation option will also include the installation of a traffic signal and pedestrian crossing at the Pearl Street and Brookline Avenue intersection and the establishment of right-turn only vehicle movements from the on-site parking garage.
  - The Alternative mitigation intersection improvement option considers the effect on traffic with the project built, but without the Gateway East improvements at Pearl Street and Washington Street. Under this alternative, a traffic signal and pedestrian crossing will be placed at the intersection of Brookline Avenue and Pearl Street and vehicles exiting the on-site garage will be allowed to make both left and right turning movements.
  - The EENF demonstrated that the project can be successfully coordinated with Gateway East, but if Gateway East is delayed or not realized, the project can still be integrated into the transportation network.

In order to ensure that project-related impacts are minimized and mitigated to the maximum extent feasible, I ask that the project proponent consider the comments received on the EENF and consider whether there are additional mitigation measures that are feasible for the proposed project. In particular, I ask that the proponent consider:

- whether it is feasible to include additional energy efficiency measures as outlined in the comments from the Department of Energy Resources (such as, for example, the use of LEDs for exterior lighting);
- whether it is feasible to incorporate additional low impact development or best management practices for stormwater reuse and infiltration as recommended by the Charles River Watershed Association; and
- whether it will commit to the purchase of green power or renewable energy credits (REC's).

The proponent should provide information to the MEPA Office during the comment period on this Draft Record of Decision (DROD) concerning which if any of these additional measures are feasible.

### Conclusion

Based on these findings, I have determined that this waiver request has merit, and am issuing this DROD, which will be published in the next edition of the Environmental Monitor on February 10, 2010 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 February 24, 2010. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision (FROD) or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6).

January 29, 2010

Date

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Ian A. Bowles

### Comments received:

01/05/2010	Town of Brookline – Department of Planning and Community Development
01/15/2010	Massachusetts Historical Commission
01/19/2010	Kenneth G. Lewis
01/22/2010	Massachusetts Water Resources Authority
01/22/2010	Massachusetts Department of Environmental Protection – NERO
01/22/2010	Charles River Watershed Association
01/22/2010	Walk Boston

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