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DRAFT RECORD OF DECISION

PROJECT NAME : Myles Standish Industrial Park Expansion and
Life Science Center
PROJECT MUNICIPALITY : Taunton
PROJECT WATERSHED : Taunton
EOEA NUMBER : 14527
PROJECT PROPONENT : Taunton Development Corporation
DATE NOTICED IN MONITOR : December 23, 2009

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 Expanded Environmental Notification Form (EENF) and hereby **propose to grant a waiver** that will allow the Proponent to proceed with the design and permitting of Phase I of the project prior to preparing a mandatory Environmental Impact Report (EIR) for the entire project.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project consists of the phased (Phase I and Full Build) redevelopment of a 220-acre segment of the former Paul A. Dever State School, owned by the Commonwealth, to expand the existing Myles Standish Industrial Park (MSIP) and construct a new Life Science Center in Taunton. The school was operated by the Massachusetts Department of Mental Retardation (DMR), now called the Department of Developmental Services (DDS), until the facility was closed in 2002. The entire 220-acre site is state surplus land to be sold by the Department of Capital Asset Management (DCAM) to the Proponent. The site includes about 45 structures previously used to support the facility that are in varying degrees of deterioration, a network of paved roadways and pathways, parking lots, and vegetation comprised of lawn and small forested areas.

Approximately 145 acres will be utilized for the expansion of the MSIP and the remaining 75 acres will be dedicated to the development of the Life Science Center. The proposed project consists of approximately 24 building lots and 1.8 miles of roadway. Phase I of the project includes 250,000 square feet (sf) of commercial/industrial space and 650,000 sf of life science center space. The Full Build involves the additional construction of approximately 1,040,000 sf of industrial park buildings on the site for a total of 1,940,000 sf. Access to the site would be provided by three driveways off Constitution Drive, John Hancock Road and Bay Street. The project includes the construction of buildings, access driveways and internal roadways, related utilities and stormwater management infrastructure, grading, a recreational

trail and landscaping. The project site is located within the Canoe River Aquifer Area of Critical Environmental Concern (ACEC) and Zone II Aquifer Protection District. The proposed project abuts Lake Sabbatia, Watson Pond and Watson Pond State Park.

Anticipated environmental impacts associated with the entire project include approximately 90 acres of land alteration, 46 acres of new impervious area, 10,300 new average daily trips (adt), 2,200 new parking spaces, and approximately 145,500 gallons per day (GPD) of new water usage and wastewater generation. The project also includes the construction of approximately 1.8 miles of new water and sewer mains within proposed on-site roadways. Wetlands impacts associated with the project may include alteration of Buffer Zone. The project also involves the demolition of inventoried historic and/or archaeological resources.

MEPA Jurisdiction and Required Permits

The project is undergoing review and requires the preparation of a mandatory EIR pursuant to Sections 11.03(1)(a)(1), 11.03(1)(a)(2), 11.03(6)(a)(6), and 11.03(6)(a)(7) of the MEPA regulations because it requires a State Agency Action and it will result in the direct alteration of 50 or more acres of land, the creation of ten or more acres of impervious area, the generation of 3,000 or more new adt 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 is also undergoing MEPA review pursuant to Sections 11.03(5)(b)(3)(c), 11.03(5)(b)(4)(a), 11.03(6)(b)(1)(a), 11.03(10)(b)(1), and 11.03(11)(b) because it involves the construction of one or more new sewer mains one-half or more miles in length, new discharge to a sewer system of 100,000 or more GPD of sewage, the construction of a new roadway one-quarter or more miles in length, the demolition of a Historic Structure listed in or located in any Historic District listed in the State Register of Historic Places or the Inventory of Historic and Archaeological Assets of the Commonwealth, and it is located within a designated ACEC. The Proponent will receive \$5 million in state funding for construction of the Life Science Center per state legislation (Chapter 130 of the Acts of 2008).

The project (Phase I and Full Build) requires: an Order of Conditions (OOC) from the Taunton Conservation Commission (and on appeal only, a Superseding Order of Conditions (SOC) from the Massachusetts Department of Environmental Protection (MassDEP)); a Sewer Extension Permit from MassDEP; a Section 106 review by the Massachusetts Historical Commission (MHC); an Access Permit from the Massachusetts Department of Transportation (MassDOT); a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the United States Environmental Protection Agency (US EPA); and consultation and coordination with Indian Tribal Governments pursuant to Executive Order 13175. The project is subject to the EEA/MEPA Greenhouse Gas Emissions Policy and Protocol.

Because the Proponent is seeking financial assistance from the Commonwealth for the project and it involves a Land Transfer from the Division of Capital Asset Management (DCAM), 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 in the MEPA regulations.

Summary of Potential Environmental Impacts for Phase I

As indicated in the EENF, the Proponent is seeking a Phase I Waiver for Phase I of the project. Phase I of the project does not exceed EIR thresholds. Based on conservative Phase I

assessment parameters, Phase I will result in 35.8 acres of direct alteration and 9.4 acres of impervious area, including buildings roadways and parking lots. Phase I of the proposed project also includes the construction of 1.8 miles of new water and sewer main within new onsite roadways. Water use and wastewater generation are estimated at 18.750 GPD, respectively. Water for public domestic use will be supplied by the three Dever Wells. While no wastewater thresholds are exceeded by Phase I of the project, the Proponent is seeking a Sewer Extension Permit from MassDEP to construct a portion of the sewer main for the Full Build of the project as part of Phase I of the project.

Phase I of the proposed project will generate 1,988 adt which was described in the Traffic Impact Study. Phase I will also include the construction of 392 parking spaces to support the commercial use of the project. The Proponent also proposes to construct 1,840 linear feet of new roadway to support the commercial use of the project during the first Phase of the project.

Mobile source emissions were also modeled for Phase I using data gathered as part of the mesoscale study. The emissions of CO₂ for the Phase I 2014 No-Build case are predicted to be 57,202.4 tons/year (tpy). The emissions of CO₂ for the Phase I 2014 Build case without mitigation are predicted to be 58,246.6 tpy. The difference between the Phase I 2014 Build without mitigation and the Phase I 2014 No-Build CO₂ emissions, 1044.2 tpy, represents the CO₂ emissions released by project-generated trips, without any mitigation. The transportation mitigation measures are predicted to reduce Phase I transportation CO₂ emissions by approximately 4.5%, such that the difference between the Phase I Build with Mitigation emissions and the Phase I Build without mitigation emissions is 26.1 tons/year.

The greenhouse gas (GHG) analysis estimated the stationary source Base Case total CO₂ emissions, for Phase I of the project, to be 1,199 tpy. For the Preferred Alternative, these energy figures are reduced to 879 tpy. The Enhanced Mitigation Alternative further reduces energy use to 808 tpy. The total Phase I GHG emissions for the Base Case, the Preferred Alternative, and the Enhanced Alternative are 8,740 tpy, 8,400 tpy, and 8,330 tpy, respectively. The Preferred Alternative and the Enhanced Alternative reduce emissions by approximately 4.0% and 4.8%, respectively, compared to the Base Case.

Summary of Proposed Mitigation

According to the EENF, the Proponent will mitigate the impacts of the impervious area by designating approximately 11.4 acres of open space between the development and Watson Pond which will serve to provide buffer to avoid impacts to adjacent land uses.

Mitigation measures for transportation emissions include a number of transportation demand management (TDM) strategies and roadway improvements to reduce vehicle trips for Phase I of the project. These measures would improve traffic operations, and reduce the Phase I project-related vehicle trips and CO₂ emissions by an estimated 4.5%.

Mitigation measures for stationary source GHG emissions include: providing permanent protection for open space on project site; design project to support alternative transportation to site including transit, walking and bicycling; use Low Impact Development (LID) techniques for storm water design; using high-albedo roofing materials; installing high efficiency HVAC systems; maximizing interior day-lighting; incorporating window glazing to balance and optimize day-lighting, heat loss and solar heat gain; incorporating motion sensors in lighting and

climate control; using energy efficient, directed, exterior lighting; installing EPA Energy STAR-rated appliances; and providing for storage and collection of recyclables in building design.

In addition, the project will be designed to comply with the Massachusetts Stormwater Management Regulations. An effort has been made through the site planning and preliminary design phases to minimize or reduce the overall impacts to wetlands resource areas and proposed work is proposed only in the Buffer Zone. An Order of Conditions will be required from the Taunton Conservation Commission. Finally, the proposed project will require a NPDES Permit for the construction phase of the project.

Waiver Request

The Proponent has requested a waiver that will allow the Proponent to proceed with Phase I of the project prior to preparing a mandatory EIR for the entire project. Consistent with this request, an EENF was submitted and it was subject to an extended review period. The EENF identifies the environmental impacts of the project and describes measures to be undertaken by the Proponent to avoid, minimize and mitigate project impacts. They include a discussion of the project's consistency with the criteria for granting a Phase I Waiver, identification of environmental impacts associated with Phase I and identification of measures to avoid, minimize and mitigate impacts associated with Phase I.

Criteria for a Phase I Waiver

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.

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 I 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 I, taken alone, are insignificant;
 - (b) ample and unconstrained infrastructure facilities and services exist to support Phase I;
 - (c) the project is severable, such that Phase I 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 I 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

The Proponent has met the tests for a Phase I Waiver. My determination is based on the information submitted by the Proponent, consultation with the relevant state agencies, and consideration of comment letters received. As further outlined below, I have determined that compliance with the requirement to prepare an EIR prior to Phase I would not serve to avoid or minimize Damage to the Environment, that adequate and unconstrained infrastructure exists to support the project, that the project is severable, and that agency actions on Phase I can be conditioned to ensure compliance with MEPA.

Comments from state permitting agencies do not identify objections to the granting of the Phase I Waiver. However, MassDOT and the Department of Energy Resources (DOER) have requested additional analysis of environmental impacts associated with the Phase I Waiver request. This additional information should be submitted during the comment period on this DROD. In addition, the MHC has requested additional information concerning the impacts of Phase I on historic and archaeological resources prior to the construction of Phase I. I note that the Proponent has already committed to consult with MHC for each phase of the project and therefore I have determined that impacts to historic and archaeological resources can be further addressed through consultation with MHC and in the Draft EIR.

Requiring the preparation of an EIR in advance of undertaking Phase I would cause undue hardship and would not serve to minimize Damage to the Environment:

I find that a requirement to complete MEPA review prior to initiating the permit process for Phase I is not necessary in order for the Proponent to demonstrate that it will avoid, minimize, and mitigate potential Damage to the Environment to the maximum extent practicable, and that a requirement to do so would therefore cause undue hardship and would not serve to minimize Damage to the Environment.

1. The potential environmental impacts of Phase I, taken alone, are insignificant.

Phase I of the project does not independently meet or exceed MEPA review thresholds for a mandatory EIR. The review of the EENF has demonstrated that the impacts of Phase I can be avoided, minimized and mitigated through the state permitting process and the conditions outlined below. Based on the foregoing, I find that the potential environmental impacts of Phase I, taken alone, are insignificant.

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

The local transportation infrastructure is adequate to serve Phase I of the project; however the Proponent should address MassDOT comments to confirm that the transportation system will function properly. The water supply system (Dever Wells) has more than adequate capacity to accommodate Phase I. The Taunton Wastewater Treatment Facility also has ample capacity to accommodate the wastewater flows from Phase I. Based on the foregoing, I find that ample and unconstrained infrastructure exists to support Phase I.

- 3. The project is severable, such that Phase I 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.**

Phase I does not require the implementation of the Full Build or restrict the means by which potential environmental impacts from the Full Build may be avoided, minimized or mitigated. Phase I and the Full Build are both economically viable without the other Phase. There is sufficient frontage for Phase I such that subdivision approval is not required for Phase I, but the design will incorporate elements required under the subdivision provisions to provide an adequate foundation for future work. Based on the foregoing, I find that Phase I of the project is severable and 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.

- 4. The Agency Action(s) on Phase I 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.**

Traffic

The project will require a Permit from MassDOT for access to Interstate 495 (I-495) and Route 140. The Proponent should work to address the comments from MassDOT during the comment period on this DROD and provide the MEPA Office with an update on the resolution of the items below prior to the close of the comment period. The Proponent should:

- consult with the MassDOT Highway Division to determine whether traffic signal coordination with the I-495 ramps/Bay Road intersections and approval from MassDOT will be required for the implementation of the proposed traffic timing and phasing plan at the Bay Street/Industrial Park Road/Northwoods Drive intersection;
- provide a composite illustration of queues at these signalized intersections to demonstrate that the project will not create safety problems;
- explore the potential of an additional access from Watson Street instead of Constitution Drive that could reduce site traffic and improve operating conditions at the Bay Street/Industrial Park Road/Northwoods Drive intersection;
- work with the Highway Division District 5 Office to investigate whether separate left-turn and right-turn lanes for the westbound approach at the Norton Avenue/Route 140 intersection would improve operating conditions at this intersection;
- indicate whether it will commit to providing a full-time transportation coordinator in case the City of Taunton does not obtain grants financing to establish a coordinator;
- provide sidewalks along the length of the proposed new roadway, and provide a comprehensive bicycle and pedestrian network within the project site and connecting to the adjacent transportation network; and
- submit to MassDOT a plan that shows that bicycling and walking to and from the site would be safe and not compromised by the high expected volumes of large truck freight traffic.

Greenhouse Gas Emissions

The Proponent should re-check the modeling performed to support the results of the GHG analysis for Phase I as requested by DOER and should submit additional information to the MEPA Office and DOER confirming the results of this review.

Historic Resources

The Proponent is required to engage in consultation with MHC for each phase of the project in order to determine whether the project will have significant impacts on historic and archaeological resources.

Based on the foregoing, I find that through compliance with the conditions listed above and the applicable performance standards for permitting the agency actions for Phase I will contain such terms and conditions as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Conclusion

I have determined that this waiver request has merit, and issued a Draft Record of Decision (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 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 I of the project prior to preparing a mandatory EIR for the entire project, subject to the above findings and conditions.

January 29, 2010

Date

Ian A. Bowles, Secretary

Comments Received on the EENF:

- 01/04/2010 Natural Heritage and Endangered Species Program
- 01/19/2010 Massachusetts Historical Commission
- 01/22/2010 Massachusetts Department of Conservation and Recreation
- 01/22/2010 Massachusetts Department of Energy Resources
- 01/22/2010 Greater Attleboro-Taunton Regional Transit Authority
- 01/25/2010 Southeastern Regional Planning and Economic Development District
- 01/26/2010 Massachusetts Department of Environmental Protection – SERO (revised)
- 01/26/2010 Massachusetts Department of Transportation

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