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January 20, 2012

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : First Bristol Mixed Use Center
PROJECT MUNICIPALITY : Westport
PROJECT WATERSHED : Westport River, Buzzards Bay
EEA NUMBER : 14838
PROJECT PROPONENT : Westport Legion, LLC
DATE NOTICED IN MONITOR : December 21, 2011

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF) for this project and have determined that it requires an Environmental Impact Report (EIR). I am declining to allow a Single EIR as requested by the Proponent because the EENF does not include a Greenhouse Gas (GHG) emissions analysis. However, upon review of the Draft EIR (DEIR), if there are no substantial issues that remain to be addresses, I may allow the DEIR to be reviewed as a Final EIR in accordance with 301 CMR 11.08(8)(b)(2)(a).

Project Description

The proposed project entails the redevelopment of a 2.19-acre site, the location of the former Alhambra nightclub and motel. The Alhambra building had been vacant for several years and was recently demolished. The site is partially paved with an existing curb cut onto Route 177 (American Legion Highway). The EENF proposes a mixed-use development consisting of a 6,136-square foot (sf) medical office building, a 3,995 sf convenience store, four gasoline dispenser islands and one diesel dispenser, and a 1,080 sf retail store. The unadjusted traffic generation estimate is 3,487 vehicle trips per day. The adjusted number, taking into account pass-by and internal trips is 2,788 new vehicle trips on an average weekday. A total of 58

parking spaces are proposed. The project includes relocation of the existing site driveway to move it farther away from the Route 88 on and off-ramps. The Proponent intends to use an existing on-site water supply well to serve the project's potable water needs and proposes construction of an on-site sewage treatment system. Water demand and wastewater flows are estimated to be 3,200 gallons per day. The stormwater management system is being designed to provide on-site recharge to groundwater.

Permits and Jurisdiction

The project is undergoing environmental review because it requires a State Agency Action and exceeds a MEPA review threshold. The project requires a Vehicular Access Permit from the Massachusetts Department of Transportation (MassDOT) and exceeds a mandatory EIR threshold (301 CMR 11.03(6)(a)(6)) because it will result in generation of 3,000 or more new average daily trips (unadjusted) on roadways providing access to a single location. The project requires approval from the Massachusetts Department of Environmental Protection (MassDEP) of a reduction in the maximum allowed water withdrawal and the associated Zone I and Interim Wellhead Protection Area (IWPA) for the on-site public water supply well.

The project is not seeking or receiving Financial Assistance from the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project that are within the subject matter of any required or potentially required state permits and that may cause Damage to the Environment as defined in the MEPA regulations. In the case of this project, MEPA jurisdiction extends to transportation, water supply, and greenhouse gas emissions.

Review of the EENF

Traffic Impact Study

The EENF includes a Traffic Impact and Access Study (TIAS) that generally conforms with the EEA/MassDOT Guidelines for Traffic Impact Assessments. The study analyzed impacts associated with the project under existing (2011) conditions, future 2016 no-build conditions and 2016 full-build conditions. The analysis was based on Land Use Codes (LUC) 720 (Medical-Dental Office Building); 820 (Shopping Center); and 853 (Convenience Market with Gas Pumps) and applies a 25 percent pass-by trip rate based on the expectation that a significant portion of trips will be from vehicles already travelling along Route 177 for other purposes. In addition, internal trips are expected to account for ten percent of total trips. The analysis in the EENF concludes that the project will generate approximately 2,788 new vehicle trips (adjusted) on an average weekday with approximately 174 new trips during the weekday morning peak hour, and 199 vehicle trips during the weekday evening peak hour. On an average Saturday, the project is expected to generate approximately 2,178 new vehicle trips, including 198 trips during the Saturday mid-day peak hour.

Overall, the additional trip generation is not expected to significantly degrade traffic operations within the project study area. All lane groups and turning movements at study area intersections will currently operate within acceptable standards for Level of Service (LOS) and will continue to do so in 2016 with or without the project.

The EENF proposes a new driveway that will intersect the south side of Route 177 approximately 330 feet east of the Route 88 northbound ramps. The existing driveway, which is closer to the Route 88 ramps, will be closed. The EENF recommends installation of a left-turn lane on Route 177 westbound at the project driveway, based on the warrants for installation specified in *A Policy on Geometric Design of Highways and Streets*, fifth edition, published by the American Association of State Highway Transportation Officials (AASHTO). As noted in the comment letter from MassDOT, any improvements within the state highway layout facilitated by the new driveway connection, as well as all internal site circulation, must be consistent with a Complete Streets design approach that provides adequate and safe accommodation for all roadway users, including pedestrians, bicyclists, and public transit riders.

There is no public transportation provided in the project study area. No sidewalks or marked bicycle lanes are provided along Route 177 in the study area. The Southeastern Regional Transit Authority (SRTA) provides transit services elsewhere in the Town of Westport and operates bus routes on weekdays and Saturdays between Fall River and New Bedford terminals via Route 6 through Westport.

The EENF proposes the following Transportation Demand Management (TDM) measures:

- Sidewalks will be constructed throughout the project site and will accommodate a connection with a future sidewalk along Route 177 or a bus stop if one is located along the project frontage.
- Bicycle racks will be installed near building entrances;
- The Proponent will work with the Town of Westport and SRTA to establish future bus service along Route 177 to serve the project and residential and commercial developments in the area;
- Employee services including lunch rooms and an ATM will be provided;
- Designated parking spaces for car and vanpools, alternatively fueled vehicles, and zip cars;
- Guaranteed ride home for employees in the medical office building that car/van pool to work; and
- Incentive for walking, biking, and carpooling to work (monthly raffle for employees).

Wastewater

The EENF proposes a reduction in wastewater flows compared to the previous facility that was on the project site and installation of a Bioclere sewage treatment system which, according to the comment letter from the Buzzards Bay Coalition, establishes a 25 milligram per liter (mg/l) total nitrogen effluent limit. In its comment letter, the Coalition commends the Proponent for its efforts, highlights ongoing nitrogen pollution problems in the Westport River Watershed, and encourages the Proponent to consider additional opportunities to reduce the nitrogen load to achieve 10 mg/l total nitrogen in project-related effluent.

Water Supply

Based on the comment letter from MassDEP, the public water supply (PWS) well on the project site has been inactive for fourteen years. The well has been assigned a Zone 1 protective radius of 219 feet and an Interim Wellhead Protection Area (IWPA) or Zone II radius, of 538 feet. The EENF plan shows a Zone I of approximately 173 feet and an IWPA of approximately 465 feet. The proposed underground gasoline and diesel fuel tanks are located within the 538-foot radius of the IWPA area of record, which is a violation of the Drinking Water Regulations at 310 CMR 22.00. During the MEPA site visit, the Proponent indicated that it intends to request that MassDEP approve a smaller protective radius for the well given that the proposed water withdrawal is almost half the amount previously permitted for the Alhambra nightclub and motel. The Proponent is aware of the need to locate the tanks outside of the wellhead protection area. In an email dated January 12, 2012, the Proponent committed to voluntarily reduce the well capacity to 1,500 gallons per day, which will result in a Zone 1 protective radius of 126.7 feet and a Zone 2 (IWPA) radius of 459 feet. The proposed fuel tanks are 466 feet away from the well. As noted in MassDEP's comment letter, the Proponent should submit a formal written request to reduce the maximum allowed withdrawal and associated Zone I and IWPA for MassDEP review and approval.

Stormwater Management

The EENF includes a description of the proposed stormwater management system which includes a collection system with catch basins and deep sumps, stormceptor treatment systems, and 500 infiltration chambers. As described in the EENF, hydrocad modeling using Hydrocad Version 7.10 was conducted to determine the appropriate sizing and outflow characteristics for the design of the proposed ponds. The system is being designed to attenuate the 2-year, 10-year, and 100-year storm events and comply with MassDEP stormwater standards.

Air Quality

I refer the Proponent to MassDEP's comment letter with information and guidance on potential pre-construction and operational permit requirements for facility heating and supplemental or emergency power generation.

Oil and Hazardous Materials

MassDEP indicates in its comment letter that no disposal sites have been identified in the vicinity of the project. I refer the Proponent to the MassDEP comment letter for information and guidance on notifications and evaluations that may be required if oil and/or hazardous material are found during project implementation, as well as regulatory requirements related to generation and management of industrial wastewater and hazardous waste or waste oil. The facility will require a Stage II Vapor Recovery System. The proper installation and compliance certification must be filed with the MassDEP, Bureau of Waste Prevention.

SCOPE

General

The Proponent should prepare a DEIR in accordance with the general guidance for outline and content found in Section 11.07 of the MEPA regulations as modified by this Scope. The DEIR should include maps, plans and other graphics at a reasonable scale to facilitate review and comment. The DEIR should include a list of permits and approvals required for the project, an update of any changes since the filing of the EENF, and a copy of this Certificate.

Transportation

The DEIR should include illustrations of peak hour 95th percentile queues and demonstrate that queues on Route 177 at the Route 177/site driveway intersection will not block upstream intersections with the Route 88 ramps. Appropriate mitigation measures should be proposed if any blockages are identified. The Traffic study suggests a left-turn lane into the site from the westbound approach of Route 177 as a possible mitigation measure. MassDOT's comment letter indicates the left-turn lane is warranted and the DEIR should clarify the Proponent's commitment to this mitigation measure.

The Southeastern Regional Planning and Economic Development District (SRPEDD) identifies a proposed residential development in the project area that is expected to begin construction in the spring of 2014. The DEIR should clarify if this project was considered in calculating background growth, and if not, discuss what effect it may have on the cumulative impact analysis for the project's 2016 full- build condition.

The DEIR should describe the Proponent's proposed traffic monitoring plan and specify its commitments to monitoring of traffic and TDM measures as recommended by MassDOT in its comment letter. The Proponent should consult with SRTA about provision of bus service to the site and include an update on discussions in the DEIR.

Greenhouse Gas (GHG) Emissions

The project exceeds a mandatory EIR threshold. Therefore, a GHG analysis is required. The DEIR should include a GHG analysis and mitigation proposal in accordance with the MEPA Greenhouse Gas Emissions Policy and Protocol. Potential GHG emissions associated with the project include building heating and cooling, lighting, and vehicle travel to and from the site.

The DEIR should include a comparative analysis of the project base case and the proposed design with mitigation case. Sufficient information should be provided to demonstrate that the Proponent has avoided and minimized, or mitigated GHG emissions as required by the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol. The Proponent must schedule a meeting with MEPA, MassDEP, and the Department of Energy Resources (DOER) during DEIR preparation to discuss the analysis and mitigation options.

The GHG analysis should describe all of the measures considered by the Proponent during project design and differentiate according to the following three categories:

- 1) measures included in the proposed design;
- 2) measures that are not included, but which will remain under consideration for adoption as the design progresses; and
- 3) measures which were considered but have been eliminated from further consideration, with a justification as to why they were eliminated.

The DEIR should include details on model inputs and results. Specifications should be provided for each mitigation measure with regard to its performance and/or efficiency as indicated in the comment letter from DOER. The Proponent should also provide DOER with a CD containing eQuest files as requested in its comment letter.

The GHG analysis should include evaluation of renewable energy alternatives, Leadership in Energy and Environmental Design (LEED) and Energy Star elements that could be incorporated in project design and GHG mitigation commitments. For those energy efficiency measures that are not being incorporated, the DEIR should explain why such mitigation measures are not feasible. Design measures to consider include: building design and orientation for photovoltaic functions and day-lighting of interiors; insulation; duct sealing; high efficiency windows; green roofs; and high efficiency HVAC and lighting systems. In performing the GHG analysis, the Proponent should be aware that the effective energy code for this project is the 8th edition of the Mass Energy Efficiency Code (780 CMR 13:00) and the average annual CO₂ emission factor per the 2009 ISO New England Electric Generator Air Emissions Report is 828 pounds (lbs) per megawatt-hour.

The Proponent should consider construction of buildings with solar-ready roofs. The Proponent should explore state incentive and utility company incentive programs to support renewable energy use for the project, and report on these options in the DEIR. The Proponent should also evaluate energy efficiency/renewable energy technical, financial and contractual assistance and incentives that it can provide to tenants that will encourage tenants to minimize their carbon footprint.

Upon completion of project construction, the Proponent will be required to provide a certification to the MEPA Office signed by an appropriate professional (e.g. engineer, architect, general contractor) indicating that all of the GHG mitigation measures, or equivalent measures that are designed to collectively achieve the proposed stationary source GHG emission reduction committed to in the EIR, have been incorporated into the project. The certification should be supported by as-built plans. For those measures that are operational in nature (i.e. TDM, recycling, use of Energy Star-rated equipment), the Proponent will be required to provide an updated plan identifying the measures, the schedule for implementation and how progress toward achieving these measures will be achieved. The DEIR should include proposed Section 61 Findings for the MassDOT Permit that include self-certification language for GHG mitigation. The self-certification requirement will be incorporated by MassDOT into its final Section 61 Findings for the Project.

Water Supply

The DEIR should include an update on consultations with MassDEP and the Proponent's request for approval of a reduction in the maximum water withdrawal, the Zone I radius, and the IWPA. The DEIR should include sufficient information to describe how the project will comply with the Drinking Water Regulations.

Mitigation, Permitting and Draft Section 61 Findings

The DEIR should include a summary of the Proponent's mitigation commitments as well as detailed Draft Section 61 Findings for all State Permits required for the project. The draft Findings should describe all measures to avoid and minimize impacts, clear commitments to monitoring and mitigation, a schedule for implementation, and identification of parties responsible for funding and implementing the monitoring and mitigation measures. Draft Section 61 Findings for the MassDOT permit should include commitments to GHG self-certification. The draft Findings will serve as the primary template for permit conditions. Final Section 61 Findings will be prepared by State Agencies issuing permits for this project and will include conditions considered binding upon the Proponent as mitigation commitments.

Responses to Comments

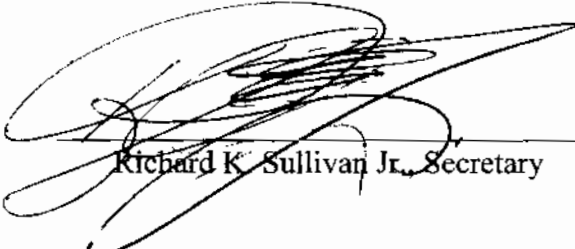
The DEIR should also include a copy of each comment letter submitted on the EENF. In order to ensure that the issues raised by commenters are addressed, the DEIR should include responses to comments to the extent they are within MEPA jurisdiction. This directive is not intended to, and shall not be construed to, enlarge the scope of the DEIR beyond what has been expressly identified in this Certificate.

Circulation

The DEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to all those that submitted comments on the EENF. A copy of the DEIR should be made available for public review at the Westport Public Library.

January 20, 2012

DATE



Richard K. Sullivan Jr., Secretary

Comments Received:

01/10/2012 Buzzards Bay Coalition
 01/10/2012 Southeastern Regional Planning and Economic Development District
 01/10/2012 Massachusetts Department of Environmental Protection
 01/13/2012 Massachusetts Department of Department of Transportation

RKS/AEO'S/aeo's