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Vanasse Hangen Brustlin, Inc.

October 15, 2008

Ian A. Bowles, Secretary
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

Attn: Deirdre Buckley; EEA No. 14126

Re: 1021 Kingston's Place, Kingston, Massachusetts
Notice of Project Change

Dear Secretary Bowles:

On behalf of Thorndike Development Corporation (the "Proponent"), Vanasse Hangen Brustlin, Inc. (VHB) is pleased to file herewith a Notice of Project Change (NPC) for the inclusion of a 44 apartment unit development within five residential buildings on a 10± acre parcel located adjacent to the proposed 1021 Kingston's Place in Kingston, Massachusetts. The project is to be developed in compliance with the provisions of M.G.L. Chapter 40B.

We anticipate that notice of the availability of the NPC will be published in the October 22, 2008 edition of the *Environmental Monitor*. Requests for copies of the NPC should be directed to Doug Vigneau at VHB by phone (508-752-1001 ext 1869) or via e-mail at dvigneau@vhb.com. We look forward to working with the MEPA staff during the review of this NPC.

Very truly yours,

VANASSE HANGEN BRUSTLIN, INC.

Douglas E. Vigneau
Senior Project Manager

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2 Washington Square
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MEPA Analyst:
 Phone: 617-626-

NPC

Notice of Project Change

The information requested on this form must be completed to begin MEPA Review of a NPC in accordance with the provisions of the Massachusetts Environmental Policy Act and its implementing regulations (see 301 CMR 11.10(1)).

Project Name: 1021 Kingston's Place		EOEA #: 14126	
Street: Marion Drive			
Municipality: Kingston		Watershed: South Coastal	
Universal Transverse Mercator Coordinates: Pond Properties Location: 1351778.2 E 4697759.2N (NAD 83)		Latitude: 41° 58' 10" N Longitude: 70° 43' 34" W	
Status of project construction: 0 %complete			
Proponent: Thorndike Development Corporation			
Street: 7 Barker Lane			
Municipality: Norton		State: MA	Zip Code: 02766
Name of Contact Person From Whom Copies of this NPC May Be Obtained: Doug Vigneau			
Firm/Agency: Vanasse Hangen Brustlin, Inc.		Street: 2 Washington Square	
Municipality: Worcester		State: MA	Zip Code: 01604
Phone: 508-752-1001	Fax: 508-752-1276	E-mail: dvigneau@vhb.com	

In 25 words or less, what is the project change? The project change involves . . .

The addition of 44 apartment units, by an affiliated entity, within five residential buildings on a 10± acre parcel located adjacent to the proposed 1021 Kingston's Place. The project is to be developed in compliance with the provisions of M.G.L. Chapter 40B.

See full project change description beginning on page 3.

Date of ENF filing or publication in the Environmental Monitor: November 12, 2007

Was an EIR required? Yes No; if yes,
 was a Draft EIR filed? Yes (Date:) No (expected filing 12/08)
 was a Final EIR filed? Yes (Date:) No
 was a Single EIR filed? Yes (Date:) No

Have other NPCs been filed? Yes (Date(s):) No

If this is a NPC solely for lapse of time (see 301 CMR 11.10(2)) proceed directly to "ATTACHMENTS & SIGNATURES" on page 4.

PERMITS / FINANCIAL ASSISTANCE / LAND TRANSFER

List or describe all new or modified state permits, financial assistance, or land transfers not previously reviewed: No state permits have been issued for the overall Project thus far. With the potential exception of review under the Massachusetts Endangered Species Act (MESA), no new state permits will be required as a result of the proposed modification. The addition of this 40B project does not require financial assistance or a land transfer from the Commonwealth, other than the use of an approved subsidy program as required under MGL Ch. 40B.

Are you requesting a finding that this project change is insignificant? (see 301 CMR 11.10(6))
 Yes No; if yes, attach justification. The DEIR to be submitted at the conclusion of this NPC review process for the 1021 Kingston's Place project will include an analysis of the 40B Project in both a stand-alone and cumulative (i.e., with the 1021 Kingston's Place) nature. It is not foreseen that the inclusion of the 40B Project into the overall Project development will significantly increase project impacts or materially affect the "Scope" of the Secretary's Certificate issued on the Expanded Environmental Notification Form (ExENF), dated January 16, 2008. In fact, when taken in comparison to the overall Project, the inclusion of the 40B Project would not typically rise to the level of requiring an NPC. Nor, when taken alone, would the 40B Project likely trigger MEPA review. However, the Proponent is presenting the proposed 40B project to MEPA prior to the filing of the DEIR in the interest of full disclosure.

Are you requesting that a Scope in a previously issued Certificate be rescinded?
 Yes No; if yes, attach the Certificate

Are you requesting a change to a Scope in a previously issued Certificate? Yes No; if yes, attach Certificate and describe the change you are requesting:

Summary of Project Size & Environmental Impacts	Previously reviewed	Net Change	Currently Proposed
LAND			
Total site acreage	Phase 1 – 13.2 Phase 2 – 109 Total – 122.2	10.0	132.2
Acres of land altered	Phase 1 – 2.1 Phase 2 – 15.7 Total – 17.8	5.2	23
Acres of impervious area	Phase 1 – 6.6 Phase 2 – 57.0 Total – 63.6	2.2	65.8

Square feet of bordering vegetated wetlands alteration	Total – 0	0	0
Square feet of other wetland alteration -riverfront area	Phase 1 – 21,177 Phase 2 – 21,490	0	Phase 1 – 21,177 Phase 2 – 21,490
Acres of non-water dependent use of tidelands or waterways	Total – 0	0	0
STRUCTURES			
Gross square footage	Retail – 50K Office – 250K Resid. – 1.5M Total – 1.8M	Resid. – 74.8K	Retail – 50K Office – 250K Resid.– 1.58M Total – 1.88M
Number of housing units	730	44	774
Maximum height (in feet)	30-50	0	30-50
TRANSPORTATION			
Vehicle trips per day	Phase 1 – 0 Phase 2 – 12,410 Total – 12,410	440	12,850
Parking spaces – surface spaces only	1,500	49	1,549
WATER/WASTEWATER			
Gallons/day (GPD) of water use	235,000	9,680	244,680
GPD water withdrawal	28,700	3,950	32,650
GPD wastewater generation/ treatment	235,000	9,680	244,680
Length of water/sewer mains (in miles)	Water – 5.0 Sewer – 4.4	Water – 0.2 Sewer – 0.2	Water – 5.2 Sewer – 4.6

Does the project change involve any new or modified:

1. conversion of public parkland or other Article 97 public natural resources to any purpose not in accordance with Article 97? Yes No

2. release of any conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction? Yes No

3. impacts on Estimated Habitat of Rare Species, Vernal Pools, Priority Sites of Rare Species, or Exemplary Natural Communities? Yes No

The Pond Properties site could potentially include Estimated Habitat of Rare Species and Priority Sites of Rare Species.

4. impact on any structure, site or district listed in the State Register of Historic Place or the inventory of Historic and Archaeological Assets of the Commonwealth?

Yes No; if yes, does the project involve any demolition or destruction of any listed or inventoried historic or archaeological resources? Yes No

5. impact upon an Area of Critical Environmental Concern? Yes No
If you answered 'Yes' to any of these 5 questions, explain below:

PROJECT CHANGE DESCRIPTION (attach additional pages as necessary). The project change description should include:

- (a) a brief description of the project as most recently reviewed
- (b) a description of material changes to the project as previously reviewed,
- (c) the significance of the proposed changes, with specific reference to the factors listed 301 CMR 11.10(6), and
- (d) measures that the project is taking to avoid damage to the environment or to minimize and mitigate unavoidable environmental impacts. If the change will involve modification of any previously issued Section 61 Finding, include a proposed modification of the Section 61 Finding (or it will be required in a Supplemental EIR).

As presented in the ExENF, the 1021 Kingston's Place project is a 40R smart growth transit-oriented development, comprised of 730 dwelling units, 250,000 square feet of commercial space, and 50,000 square feet of neighborhood retail space. The mixed-use project is to be phased over an approximately eight-year construction period. The Project is currently under MEPA review and no project construction has begun.

This Notice of Project Change is submitted to inform MEPA of the Proponent's proposed development of a second property adjacent to 1021 Kingston's Place. The site, noted as "Pond Properties", is a 10-acre 40B site located on the opposite side of Raboth Road from the 1021 Kingston's Place 40R project. Please refer to the Proposed Conditions figures included in Attachment C. This additional site is to be included in the overall development scheme for environmental disclosure purposes, but presented as a separate and distinct project from the 40R development. In this regard, all impacts will be disclosed as 40R impacts, 40B impacts, and finally as cumulative impacts.

The existing Pond Properties site is undeveloped woodland, with the exception of a small dilapidated cabin on site. It is located south of and adjacent to the proposed 1021 Kingston's Place, which is presently a mined sand and gravel pit. Smelt Pond is located to the south and west of the Pond Properties site, with Raboth Road and Smelt Brook are to the east. The site is currently accessed by Raboth Road. There is also a permanent access easement on the property leading to the dilapidated cabin and providing access to two properties previously carved out of the Pond Properties parcel, which easement will remain in effect. Public access to Smelt Pond, a Great Pond, will be enhanced through the 40B development. The Proponent is also investigating the possibility of providing public trail-head parking, new walking paths to the waterfront recreation area, and a public dock. There are no direct impacts to the surrounding land, other than clearing and grading for the development.

Pond Properties will be developed as a 40B residential project consisting of five buildings containing a total of 44 apartments. The development and construction of Pond Properties will proceed independently of 1021 Kingston's Place; however, it will connect to the new 1021 Kingston's Place access road, water main and sewer when available. In connection with the development of the Pond Properties project, the Proponent is committed to moving forward with the initial infrastructure of the 40R, which will facilitate the construction of the 40B. This 40R basic infrastructure work includes earthwork, installing the water main loop, and construction of the main access road sufficiently to provide adequate access to the Pond Properties parcel. The commencement of this work will also serve to begin to fulfill the Proponent's commitments to the Town of Kingston. Taking advantage of the 40R infrastructure will provide the residents of Pond Properties with a direct route to the MBTA commuter rail station and Marion Drive, and will minimize any collateral affects on Raboth Road. Raboth Road will be available for secondary and/or emergency access only, as well as connecting dry utilities to the site.

The Proponent is committed to building the 40B site in accordance with the high design standards established with the Town for the 40R. Attendant to the building development will be the construction of 49 surface parking spaces (with an additional 44 garage spaces underneath the buildings) and accompanying typical site features, including stormwater management facilities, an onsite wastewater septic system, lawn areas and landscaping. The buildings will initially be fitted with propane for heat. In the future, the Proponent will connect the 40B project to the new natural gas line at 1021 Kingston's Place.

The traffic generation and wastewater volume associated with the new buildings would increase the aggregate totals by 3.5% and 4.2%, respectively. The traffic impact and access figures included in this NPC consider the existing area traffic volumes and concludes that the existing transportation infrastructure within the study area is adequate to support the proposed development.

ATTACHMENTS & SIGNATURES

Attachment A - Secretary's Certificate on the 1021 Kingston's Place Expanded ENF

Attachment B - Project Maps and Figures from ExENF

Figure 1.1 – USGS Site Location Map with Proposed Ramp Location

Figure 1.2 – Existing Conditions with Proposed Ramp

Figure 1.3 – Existing Conditions Aerial with Proposed Ramp


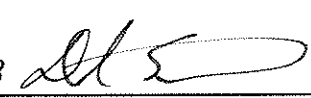
Figure 1.4 – Proposed Conditions Graphic

Attachment C - Project Plans & Figures with Pond Properties 40B

- Figure C.1 – Site Location Map (USGS) with Pond Properties
- Figure C.2 – Locus Plan (Aerial) with Pond Properties
- Figure C.3 – Existing Conditions – Pond Properties
- Figure C.4 – Layout Plan – Pond Properties
- Figure C.5 – Sewer Main Plan – Pond Properties
- Figure C.6 – Water Main Plan – Pond Properties

Attachment D – NPC Distribution List

Signatures:

<u>10-14-08</u>	<u></u>	<u>10-14-08</u>	<u></u>
Date	Signature of Responsible Officer or Proponent	Date	Signature of person preparing NPC (if different from above)
<i>for:</i>			
<u>Lloyd Geisinger, President</u>		<u>Douglas E. Vigneau</u>	
Name (print or type)		Name (print or type)	
<u>Thorndike Development Corp.</u>		<u>Vanasse Hangen Brustlin, Inc.</u>	
Firm/Agency		Firm/Agency	
<u>7 Barker Lane</u>		<u>2 Washington Square – Suite 219</u>	
Street		Street	
<u>Norton, MA 02766</u>		<u>Worcester, MA 01604</u>	
Municipality/State/Zip		Municipality/State/Zip	
<u>508-285-9814</u>		<u>508-752-1001</u>	
Phone		Phone	

Attachment A

**1021 Kingston's Place
Kingston, Massachusetts**

**Secretary's Final Record of
Decision and Certificate on the Waiver
and Expanded ENF**



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT GOVERNOR

Ian A. Bowles
SECRETARY

Tel: (617) 626-1000
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<http://www.mass.gov/envir>

February 13, 2008

FINAL RECORD OF DECISION

PROJECT NAME : 1021 Kingston Place
PROJECT MUNICIPALITY : Kingston
PROJECT WATERSHED : South Coastal
EOEA NUMBER : 14126
PROJECT PROPONENT : Thorndike Development Corporation
DATE NOTICED IN MONITOR : January 23, 2008

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (ENF) and hereby **grant** a waiver that will allow the proponent to proceed with design and permitting of Phase 1 of the project prior to completing the Environmental Impact Report (EIR) process for the entire project.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project consists of the design and construction of a 1.8 million gross square foot (sf) mixed-use development in Kingston and construction of access roads including a slip ramp to Route 3 southbound. The Expanded ENF indicates that the project is proposed consistent with the Kingston Smart Growth District, an overlay district adopted pursuant to M.G.L. c. 40R Smart Growth Zoning. The development is proposed on a 109-acre parcel adjacent to the MBTA commuter rail station. At full-build, the project will include 50,000 square foot (sf) of retail space, 250,000 sf of office space and 730-residential units. The project will include significant roadway improvements including geometric and signalization improvements along Smiths Lane at the Route 3 interchange (Exit 8) and northbound and southbound ramps and extension and reconstruction of Cranberry Road.

The project is proposed in two phases. Phase 1 consists of the off-site roadway improvements. Phase 2 consists of the site development. The proponent proposes to construct the roadway improvements prior to the occupancy of the development.

The project site is bounded by the MBTA commuter rail station to the north, Marion Drive and existing commercial development to the northwest, a sand and gravel pit to the south, Smelt Brook and its associated buffer zone to the southwest, and the Davis parcel to the northwest. The site has been altered significantly through sand and gravel removal operations. According to the Department of Fish and Game's (DFG) Natural Heritage and Endangered Species Program (NHESP), a portion of the project site is mapped as Priority Habitat of Rare Species. The project is located within the 2nd Brook Water District. The roadway improvements will extend from Smith's Lane to Marion Drive via the extension of Cranberry Road and include the construction of a loop ramp that will extend from Cranberry Road around the existing transfer station and the Kingston Wastewater Treatment Facility (WWTF) until its connection with Route 3 southbound. The current alignment of Cranberry Road crosses Smelt Brook and associated riverfront area and runs adjacent to the capped landfill. Wetland resource areas are located to the northeast of the proposed Route 3 slip ramp.

MEPA Jurisdiction and Required Permits

The project is undergoing MEPA review and subject to preparation of a mandatory EIR pursuant to Section 11.03 (1)(a)(2) and (6)(a)(6) because it requires a state permit and consists of creation of ten or more acres of new impervious surfaces and generation of 3,000 or more new average daily trips (adt) on roadways providing access to a single location.¹ The project requires a Sewer Connection Permit, a Major Post Closure Use Permit, Major Modification Permits (for the Landfill and for the Transfer Station) and a modification of a Small Handling Facility from the Department of Environmental Protection (MassDEP). It requires a Conservation and Management Permit from the Natural Heritage and Endangered Species Program (NHESP) and a Dam License from the Department of Conservation and Recreation (DCR). It requires a Construction and Access Permit from the Massachusetts Highway Department (MassHighway) and will require a land transfer between MassHighway and the Town of Kingston. The project will require temporary access easements and curb cut approvals from the MBTA.² The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site greater than one acre. Also, it requires numerous local permits and approvals including an Order of Conditions from the Kingston Conservation Commission (and hence a Superseding Order of Conditions from MassDEP in the event the local Order is appealed).

Phase 1 requires a Major Post Closure Use Permit, Major Modification Permits (for the

¹ The EENF indicates that the project is subject to a mandatory EIR threshold pursuant to Section 11.03 (6)(a)(2) because it includes construction of a new interchange on a completed limited access highway. The project, as proposed, consists of a slip ramp to Route 3 and is not considered an interchange for the purpose of MEPA review.
² As required in the Draft Record of Decision (DROD), a letter dated January 30, 2008 was submitted to the MEPA Office by the proponent to clarify whether approvals or permits were required by the MBTA.

Landfill and for the Transfer Station), modification of a Small Handling Facility and a Sewer Connection Permit from the Department of Environmental Protection (MassDEP). It requires a Construction and Access Permit from the Massachusetts Highway Department (MassHighway) and includes a land transfer between MassHighway and the Town of Kingston. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over one acre. Also, it will require an Order of Conditions from the Kingston Conservation Commission.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over land alteration, traffic/transportation, air quality, wetlands, drainage, rare species, wastewater, water supply and solid/hazardous waste.

Summary of Potential Environmental Impacts

Potential environmental impacts for Phase 1 are associated with alteration of 2.1 acres of land, the creation of 2.1 acres of new impervious area and alteration of 21,177 sf of riverfront area. Potential environmental impacts for the entire project are associated with the alteration of 17.8 acres of land, the creation of 57.7 acres of new impervious area, alteration of 42,667 sf of riverfront area, generation of 12,410 average daily vehicle trips (adt), use of 263,700 gallons per day (gpd) of water (including 28,700 gpd for irrigation) and generation of 235,000 gpd of wastewater.

Summary of Proposed Mitigation

As noted previously, the project consists of redevelopment of an existing gravel pit with a mixed use development in close proximity to the MBTA commuter rail station. The EENF and subsequent correspondence identify a range of measures to ensure adequate environmental protection. The project proponent has identified measures to avoid, minimize and mitigate project impacts including the following:

- Avoidance of direct wetland alterations;
- design, construction and maintenance of a stormwater management system consistent with the MassDEP Stormwater Management Policy and LEED-ND standards;
- design and construction of a project consistent with LEED-ND design standards;
- permanent protection of 42 acres of open space;
- leaching fields for groundwater discharge of sewage and for stormwater recharge to Smelt Brook;
- development of a Transportation Demand Management (TDM) program to minimize single occupancy vehicle (sov) trips associated with the project including transit subsidies;
- construction of bicycle and pedestrian facilities and trails to connect with existing land

- uses and open spaces;
- measures to minimize construction period impacts including use of on-road ultra low sulfur diesel fuel (ULSD) to minimize air quality impacts and;
- development of a construction management plan, in consultation with the MBTA, to minimize impacts upon the operation of the Kingston commuter rail station during construction of Phase 1.

Waiver Request

The proponent has requested a waiver that will allow the proponent to proceed with Phase 1 of the project prior to preparing an EIR for the entire project. Consistent with this request, an Expanded ENF was submitted and it was subject to an extended review period. At the request of the project proponent, the review period was extended an additional 14 days. As required by the Draft Record of Decision (DROD), the proponent submitted a letter, dated January 30, 2008, indicating that it accepts the conditions of the Phase 1 Waiver identified in the DROD. In addition, this letter identifies permits and approvals required by the MBTA. The EENF identifies the environmental impacts of the project and describes measures to be undertaken by the proponents to avoid, minimize and mitigate project impacts. The EENF and a letter from the proponent dated December 12, 2007 provide a discussion of the project's consistency with the criteria for granting a Phase 1 Waiver, provide an alternatives analysis for roadway improvements, 25% design plans for the Preferred Alternative, identification of environmental impacts associated with Phase 1, a detailed traffic study and identification of measures to avoid, minimize and mitigate impacts. The alternatives analysis identifies 12 alternatives that were previously reviewed by MassHighway.

Criteria for a Phase 1 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 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

My determination is based on the information submitted by the Proponent, consultation with the relevant state agencies, and consideration of comment letters received. Three comment letters were provided on the DROD which I have carefully considered. These comments are consistent with concerns that were originally expressed with the overall review of the project and, specifically, the issuance of a Phase 1 Waiver. The comment letters from Anne Bingham and Helen Gavin continue to assert that the Town should be a co-proponent of the project. This issue was addressed in the Certificate on the EENF; however, the ROD has been revised to include a specific requirement that the Town specifically authorize the proponent to act as its agent when filing the EIR and information related to permits that will be obtained by the Town. While I appreciate the perspectives provided in the comment letters, I find that subject to conditions described below, the proponent has met the tests for a Phase 1 Waiver.

As further outlined below, I have determined that issuance of the Phase 1 Waiver would not serve to 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 1 can be conditioned to ensure compliance with MEPA.

1. Requiring the preparation of an EIR in advance of undertaking Phase 1 would cause undue hardship and would not serve to minimize Damage to the Environment:

As noted previously, the EENF identifies the environmental impacts of the project, includes an alternatives analysis and 25% design plans for Phase 1 improvements, a traffic study and describes measures to be undertaken by the proponents to avoid, minimize and mitigate project impacts. The EENF provides a summary of 12 alternatives that were previously reviewed by MassHighway. These alternatives included provision of full on- and off-ramps to Route 3, redesign of the Independence Mall access routes and geometric and signalization improvements (stand alone and in conjunction with access to Route 3) and were based on their consistency with state and federal design criteria, transportation benefits, environmental impacts and feasibility. The EENF includes a more detailed analysis of three of these alternatives (Alternative 2, Alternative 9 and Alternative 11) which were selected based on input from MassHighway. Comment letters from the Executive Office of Transportation and Public Works (EOT) and the MBTA indicate support of the Preferred Alternative. Comments from the MBTA and OCPC indicate that it will provide regional benefits.

State agency actions associated with Phase 1 are limited to traffic, solid waste and wastewater. The Proponent has provided an extensive amount of information on the potential impacts and proposed mitigation for the construction and operation of the project in the EENF. The EENF contained sufficient information to allow state permitting agencies to understand the environmental consequences of their permit decisions.

As noted previously, comments from the Executive Office of Transportation and Public Works (EOT) indicate its support of the Preferred Alternative and indicate that it has no objections to the waiver request. Comment letters from other state agencies, town officials, the MBTA, the Old Colony Planning Council (OCPC) and the Jones River Watershed Association (JRWA) also indicate support for the Phase 1 Waiver or indicate that they have no objections to it being granted, predicated on the basis that additional design and environmental analysis will be provided through the EIR process. MassDEP comments do not identify any additional information that should be provided regarding changes to the landfill and transfer station prior to permitting. None of the comment letters from state resource agencies or the local Conservation Commission identify additional alternatives that should be evaluated by for their ability to further avoid or minimize environmental impacts.

Given the foregoing, and subject to the conditions described above, I find that a requirement to complete MEPA review prior to initiating the permit process for Phase 1 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.

The granting of a Phase 1 Waiver is being conditioned to enhance the review process and ensure the environmental impacts of the project are minimized. These conditions include:

- Construction of Phase 1 cannot be initiated until completion of the MEPA review process for the entire project.
- Additional design and analysis of the project, its environmental impacts and mitigation measures will be included in the EIR.
- The proponent must demonstrate to MassDEP and the Conservation Commission how the state and local stormwater standards will be achieved.
- The proponent will develop, in coordination with the MBTA, a construction management plan to minimize impacts to the MBTA commuter rail station.
- The EIR will include documentation that the Town has authorized the proponent to act as its agent when filing the EIR and information related to permits that will be obtained by the Town.
- The proponent must prepare draft Section 61 Findings for each agency action outlining all the proposed mitigation measures associated with Phase 1 for consideration during permitting.
- The entire project will be subject to the EEA Greenhouse Gas Policy requiring analysis of greenhouse gas (GHG) emissions and identification of measures to minimize GHG emissions. I strongly encourage the proponent to incorporate on-site clean, renewable

energy into the project design.

Therefore, the requirement for completion of an EIR prior to Phase 1 is not necessary and would not serve to avoid or minimize Damage to the Environment. According to the comments from EOT and the OCPC the project will provide regional transportation benefits.

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

The granting of the Phase 1 Waiver request will not result in any environmental impacts because it is structured to allow the proponent to initiate design and permitting of the project. Actual construction, if permitted and approved, would not begin until the conclusion of the MEPA review process. The project is designed to avoid wetlands areas and does not require any direct wetland alterations. Widening of the Smelt Brook Crossing can be accomplished without significant impact because of the sizing of the existing culvert. Subsequent MEPA review and the permitting process will provide sufficient opportunities to address outstanding issues and the development of additional, specific mitigation.

Based on the foregoing, I find that the potential environmental impacts of Phase 1, taken alone, are insignificant.

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

The project is designed to alleviate existing congestion and poor access to the MBTA commuter rail station as well as provide access to the site. It does not require any infrastructure to support it. The extension of Cranberry Road does include impacts to Town facilities.

Based on the foregoing, I find that ample and unconstrained infrastructure exists to support Phase 1.

4. 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.

Phase 1 is a self-contained project that is not dependent upon completion of the overall project. Its impacts can be permitted and mitigated separately from the full-build of the project. Completion of the alternatives analysis has thoroughly evaluated options for addressing existing congestion, providing access to the commuter rail station and providing access to the project site. Phase 2 of the project is dependent upon the completion of Phase 1 and the roadways will include water and wastewater infrastructure to support Phase 2.

The alternatives analysis included in the EENF identifies a broad range of alternatives for the ability to address the project purpose and avoid and minimize environmental impacts in addition to other criteria.

Based on the foregoing, I find that Phase 1 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.

5. **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.**

The project requires a Construction and Access Permit from MassHighway and several permits from MassDEP related to the alterations to the landfill, the transfer station and the installation of sewer pipes within the roadway. These permits can be conditioned to ensure that the full-build of the project complies with MEPA and its implementing regulations. The proponent has indicated that it will not initiate construction until the MEPA review process for the entire project is complete. In addition, the proponent must prepare draft Section 61 Findings outlining all the proposed mitigation measures associated with Phase 1 for consideration during permitting.

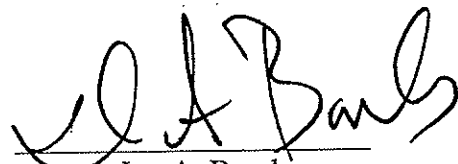
Based on the foregoing, I find that the agency actions on Phase 1 will contain terms such as a condition or restriction, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Conclusion

I have determined that this waiver request has merit, and issued a Draft Record of Decision (DROD), which was published in the Environmental Monitor on January 23, 2008 in accordance with 301 CMR 11.15(2), which began the public comment period. The public comment period lasted for 14 days and ended on February 6, 2008. Based on the proponent's confirmation that it accepts the conditions of the Phase 1 Waiver, written comments received concerning the DROD and consultation with the permitting agencies, I hereby **grant** the waiver requested for this project, which will allow the proponent to proceed with design and permitting of Phase 1 of the project as identified in the EENF prior to preparing a mandatory EIR for the entire project, subject to the above findings, and conditions.

February 13, 2008

Date


Ian A. Bowles

EEA# 14126

Final Record of Decision

February 13, 2008

Comments Received:

2/8/08	Anne Bingham
2/5/08	Helen Gavin
2/9/08	Mildred and William Leonardi

IAB/CDB/cdb



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January 16, 2008

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

PROJECT NAME : 1021 Kingston Place
PROJECT MUNICIPALITY : Kingston
PROJECT WATERSHED : South Coastal
EOEA NUMBER : 14126
PROJECT PROPONENT : Thorndike Development Corporation
DATE NOTICED IN MONITOR : November 12, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR). In a separate Draft Record of Decision (DROD) also issued today, I propose to grant a Phase 1 Waiver to allow design and permitting of Phase 1 to proceed to permitting prior to the completion of the EIR. A condition of the Phase 1 Waiver is that the cumulative environmental impacts of the project will be addressed in the EIR and construction of the proposed roadway improvements will not be initiated until the EIR process is complete.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project consists of the design and construction of a 1.8 million gross square foot (sf) mixed-use development in Kingston and construction of access roads including a slip ramp to Route 3 southbound. The Expanded ENF indicates that the project is proposed consistent with the Kingston Smart Growth District, an overlay district adopted pursuant to M.G.L. c. 40R Smart

Growth Zoning. The development is proposed on a 109-acre parcel adjacent to the MBTA commuter rail station. At full-build, the project will include 50,000 square foot (sf) of retail space, 250,000 sf of office space and 730-residential units. The project will include significant roadway improvements including geometric and signalization improvements along Smiths Lane at the Route 3 interchange (Exit 8) and northbound and southbound ramps and extension and reconstruction of Cranberry Road.

The project is proposed in two phases. Phase 1 consists of the off-site roadway improvements. Phase 2 consists of the site development. The proponent proposes to construct the roadway improvements prior to the occupancy of the development.

The project site is bounded by the MBTA commuter rail station to the north, Marion Drive and existing commercial development to the northwest, a sand and gravel pit to the south, Smelt Brook and its associated buffer zone to the southwest, and the Davis parcel to the northwest. The site has been altered significantly through sand and gravel removal operations. According to the Department of Fish and Game's (DFG) Natural Heritage and Endangered Species Program (NHESP), a portion of the project site is mapped as Priority Habitat of Rare Species. The project is located within the 2nd Brook Water District. The roadway improvements will extend from Smith's Lane to Marion Drive via the extension of Cranberry Road and include the construction of a loop ramp that will extend from Cranberry Road around the existing transfer station and the Kingston Wastewater Treatment Facility (WWTF) until its connection with Route 3 southbound. The current alignment of Cranberry Road crosses Smelt Brook and associated riverfront area and runs adjacent to the capped landfill. Wetland resource areas are located to the northeast of the proposed Route 3 slip ramp.

Potential environmental impacts for the entire project are associated with the alteration of 17.8 acres of land, the creation of 57.7 acres of new impervious area, alteration of 42,667 sf of riverfront area, generation of 12,410 average daily vehicle trips (adt), use of 263,700 gallons per day (gpd) of water (including 28,700 gpd for irrigation) and generation of 235,000 gpd of wastewater.

Potential environmental impacts for Phase 1 are associated with alteration of 2.1 acres of land, the creation of 2.1 acres of new impervious area and alteration of 21,177 sf of riverfront area.

MEPA Jurisdiction and Required Permits

The project is undergoing MEPA review and subject to preparation of a mandatory EIR pursuant to Section 11.03 (1)(a)(2) and (6)(a)(6) because it requires a state permit and consists of creation of ten or more acres of new impervious surfaces and generation of 3,000 or more new average daily trips (adt) on roadways providing access to a single location.¹ The project requires

¹ The EENF indicates that the project is subject to a mandatory EIR threshold pursuant to Section 11.03 (6)(a)(2) because it includes construction of a new

a Sewer Connection Permit, a Major Post Closure Use Permit, Major Modification Permits (for the Landfill and for the Transfer Station) and a modification of a Small Handling Facility from the Department of Environmental Protection (MassDEP). It requires a Conservation and Management Permit from the Natural Heritage and Endangered Species Program (NHESP) and a Dam License from the Department of Conservation and Recreation. It requires a Construction and Access Permit from the Massachusetts Highway Department (MassHighway) and will require a land transfer between MassHighway and the Town of Kingston. The project may require an approval or easement from the Massachusetts Bay Transportation Authority (MBTA). The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site greater than one acre. Also, it requires numerous local permits and approvals including an Order of Conditions from the Kingston Conservation Commission (and hence a Superseding Order of Conditions from MassDEP in the event the local Order is appealed).

Phase 1, if presented as a separate project, would undergo MEPA review and be subject to preparation of a mandatory EIR pursuant to Section 11.03 (6)(a)(2) because it requires a state permit and consists of a new interchange on a completed limited access highway. Phase 1 requires a Major Post Closure Use Permit, Major Modification Permits (for the Landfill and for the Transfer Station) and a modification of a Small Handling Facility from the Department of Environmental Protection (MassDEP). It requires a Construction and Access Permit from the Massachusetts Highway Department (MassHighway) and includes a land transfer between MassHighway and the Town of Kingston. 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. Also, it will require an Order of Conditions from the Kingston Conservation Commission.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over land alteration, traffic/transportation, air quality, wetlands, drainage, rare species, wastewater, water supply and solid/hazardous waste.

Request for a Phase 1 Waiver

The proponent has requested a Phase 1 Waiver that will allow the proponent to proceed with Phase 1 of the project prior to preparing an EIR for the entire project. Based on a review of the EENF, consultation with state agencies and review of comment letters, I propose to grant a Phase I Waiver for this project. This decision is detailed in the DROD, also issued today, which will be published in the next issue of the Environmental Monitor for a fourteen-day comment period, after which I shall reconsider, modify or confirm the waiver.

interchange on a completed limited access highway. The project, as proposed, consists of a slip ramp to Route 3 and is not considered an interchange for the purpose of MEPA review.

Project Segmentation

The MEPA regulations include anti-segmentation provisions to ensure that projects, including any future expansion, are reviewed in their entirety. Proponents cannot evade, defer or curtail MEPA review by segmenting one project into smaller ones that, individually, do not meet or exceed MEPA thresholds. In determining whether work or activities constitute one project, the Secretary must consider whether the work or activities comprise a common plan or independent undertakings, regardless of whether there is more than one proponent, the timing of work and activities, and whether the environmental impacts caused by the work or activities are separable or cumulative.

Some commentors have expressed concern that the granting of a Phase I Waiver would constitute project segmentation and these commentors submitted a Request for Advisory Opinion requesting that the Town and MassHighway be identified as co-proponents of the project. Because the issues raised by the Request for an Advisory Opinion are within the subject matter of this ongoing review, a separate response will not be issued by the MEPA Office. These commentors assert that MassHighway and the Town should be co-proponents of the project because: 1) construction of the proposed slip ramp will take place on land belonging to the Town and MassHighway; 2) improvements are proposed to infrastructure owned by MassHighway; 3) the Town revised its zoning to support the development of the parcel as proposed and; 4) the significant infrastructure improvements required to support this project which will be implemented by the Town (i.e. expansion of Kingston's water supply, expansion of the Kingston WWTF, expansion and redesign of the Kingston transfer station and reuse of the capped landfill).

The proponent has disclosed, through the EENF, that it will design, fund and construct the proposed Route 3 southbound slip ramp and identified the approval process required by MassHighway for the implementation of this element of the project, including the need for a land swap between the Town and MassHighway. It has identified work that will be constructed on Town land, the municipal infrastructure improvements necessary to support the project and identified which elements require MEPA review, such as the expansion of the water supply and expansion of the WWTF. I agree with these commentors that MEPA review must be comprehensive and well coordinated. The Scope of the EIR and other MEPA review will be structured to achieve this objective. I do not find any evidence that the proponent is seeking to evade or defer MEPA review and, based on comment letters and consultation with the Town, it appears that the proponent and the Town are closely coordinating efforts. Improvements to MassHighway facilities are routinely funded, designed and/or constructed by project proponents. MassHighway ensures that these improvements are consistent with state and federal policy and design standards by participating in MEPA review and through its permit approval process.

The Scope outlined below will require the proponent to identify how municipal infrastructure expansion in more detail and provide sufficient information to demonstrate that the proposed changes are feasible, consistent with state policy and permit requirements/standards, and that adequate mitigation will be provided. In addition, the proponent will be required to

identify any secondary growth impacts resulting from the proposed project and disclose any additional land holdings in the vicinity of the project and plans for development.

SCOPE

General

The EIR should follow the general guidance for outline and content contained in section 11.07 of the MEPA regulations, as modified by this Certificate. Impacts and mitigation associated with each phase of the project should be included in the EIR.

Project Description

The EIR should include a thorough description of the entire project and all project elements and construction phases. The EIR should include an existing conditions plan illustrating resources (including water supply) and abutting land uses (including the commuter rail station, the transfer station, the wastewater treatment plant) for the entire project area and a proposed conditions plan (or plans) illustrating proposed elevations, structures, access roads, stormwater management systems, and sewage connections associated with each phase of the project. The EIR should also include a site circulation plan illustrating how motor vehicles, pedestrians and cyclists will be accommodated on the site for each phase of the project. The EIR should clearly identify proposed connections to existing open space, the MBTA commuter rail station and other locations. Plans must be provided for the entire site at a reasonable scale (e.g. 40 or 60 scale).

Project Permitting and Consistency

The EIR should briefly describe each state permit required for the project and each phase of the project and should demonstrate that the project meets applicable performance standards. The EIR should identify any and all interests in real estate that the developer may need or any other action required by the MBTA. In accordance with section 11.01 (3)(a) of the MEPA regulations, the EIR should discuss the consistency of the project with any applicable local or regional land use plans. The EIR should also address the project's consistency with the Commonwealth's Sustainable Development Principles and Executive Order 385 (Planning for Growth). The EIR should address any secondary growth impacts associated with the regional roadway improvements and identify developable parcels in the vicinity of the project site. This should include identification of any land within the project vicinity that the proponent owns or has an option to acquire, identify development allowed by underlying zoning and identify any plans for development of land in the project vicinity by other entities.

Alternatives Analysis

The construction of 1.8 million sf of development is proposed on the site of a sand and gravel operation. It proposes to incorporate many elements to reduce project impacts that are routinely recommended during MEPA review. The location of the project (adjacent to an existing commuter rail station) and mixed use nature of the development will minimize associated vehicle trips as identified in the traffic analysis. In addition, the local requirement that the project be developed consistent with the Leadership in Energy and Environmental Design for Neighborhood Development (LEED-ND) will further minimize the environmental footprint of the project. The EIR identifies other development proposals proposed for this site that were not supported by the Town. The Town of Kingston has clearly indicated its support of the project and the project's consistency with its zoning. None of the comment letters from state agencies or others identify additional alternatives that should be studied. Therefore, the Scope of the EIR will be limited to the review of the project proposed in the EENF. The EIR will require a more detailed project description and a comprehensive review of wetlands, water quality, rare species, water supply, wastewater and transportation impacts. In addition, the proponent will be required to evaluate additional transportation mitigation measures, provide an alternatives analysis that addresses the performance standards for work within the riverfront area and alter the project design or introduce measures to reduce impacts to rare species.

Greenhouse Gases

I am pleased that the project will be designed consistent with LEED-ND standards and applaud the Town for incorporating this requirement. As noted above, the siting, programming and design of the project will reduce the project's overall environmental impacts. MEPA has introduced a GHG Policy that is applicable to certain projects undergoing MEPA review. Because this project was filed prior to the adoption of the Policy, a GHG analysis would not be required. As a condition of the Phase 1 Waiver I am requiring that the proponent comply with the EEA GHG Policy. The proponent will be required to identify the total emissions of carbon dioxide (CO₂) associated with the project and evaluate measures to reduce GHGs. I encourage the proponent to consider designing the project consistent with the Massachusetts LEED Plus standard for new buildings (which emphasizes energy efficiency), to incorporate renewable energy technology (e.g solar, fuel cells, geothermal and combined heat and power) into the project design and incorporate Low Impact Development (LID) techniques into the site design. Comments from the MBTA and the Town of Kingston identify potential wind energy projects adjacent to the project. In addition, efforts to encourage source reduction and recycling through building design and operations could have a significant impact on GHG emissions. I encourage the proponent to explore partnering with the MBTA and/or the Town on these efforts. The proponent should consult with EEA staff regarding the development of the GHG analysis and mitigation measures.

Land Alteration

The EIR should quantify the amount of land alteration the amount of earth work involved in meeting final grades and the amount of impervious surfaces associated with the project. The EIR should investigate all feasible methods of avoiding, reducing or minimizing impacts to land. The EIR should identify how excavation and fill will be balanced across the site and include assess the impacts from earth moving and blasting on wetlands and rare species. The blasting plan should identify blasting locations and provide more information on technical specifications and/or operations to avoid perchlorate contamination.

Transportation

As noted previously, the project is estimated to generate approximately 12,410 unadjusted average daily vehicle trips (adt) using appropriate Institute for Traffic Engineers (ITE) land use codes and 7,668 adt when adjusted for internal shared trips, pass-by trips and transit trips. The project will include construction of 1,500 new parking spaces.

The EENF includes a traffic analysis and an alternatives analysis for evaluation of major roadway mitigation measures. The traffic analysis identifies existing and future safety and capacity issues and identifies roadway improvements planned by the project proponent to mitigate its contribution to increased traffic volume and address longstanding congestion issues. In addition, it indicates that the proponent will develop a Transportation Demand Management program to encourage transit use and minimize single occupancy vehicle (sov) trips. The alternatives analysis identified 12 alternatives that were previously reviewed by the Town and MassHighway. These alternatives included provision of on and off ramps to Route 3, redesign of the Independence Mall access routes and geometric and signalization improvements (stand alone and in conjunction with access to Route 3) and were based on their consistency with state and federal design criteria, transportation benefits, environmental impacts and feasibility. The EENF includes a more detailed analysis of three of these alternatives (Alternative 2, Alternative 9 and Alternative 11) that were selected based on input from MassHighway.

Comments from the Executive Office of Transportation (EOT) indicate that the traffic analysis generally conforms to the EEA/EOT Guidelines for EIR/EIS Traffic Impact Assessment and support the proponent's selection of the Route 3 southbound slip ramp as the Preferred Alternative to address existing transportation issues and mitigate transportation demand associated with the project. Also, comments from EOT and the Old Colony Planning Council (OCPC) highlight the regional benefits of the proposed roadway improvements.

The EIR should include conceptual designs for all roadway improvements of sufficient scale (i.e. 80-scale) to verify the feasibility of constructing such improvements. The plans should show proposed lane widths and offsets, layout lines and jurisdictions and the land uses (including access drives) adjacent to areas where improvements are proposed. Any mitigation within the state highway layout must conform to MassHighway standards, including but not limited to, provisions for lane, median and shoulder widths, bicycle lanes and sidewalks. The EIR should

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identify wetlands, drainage and other environmental impacts associated with off-site roadway improvements. All plans should incorporate infrastructure expansions associated with the project and the Town' long-term planning goals (i.e. expansion of the wastewater treatment plant and leaching fields and zoning for wind turbines).

The EIR should include a detailed response to the comments provided by EOT and provide a revised traffic analysis. EOT comments note that the trip generation includes significant credits for internal capture of trips and transit trips. Although the EENF documents the proponent's assumptions and includes a sensitivity analysis for the transit mode shares, EOT comments indicate concern with the adjusted trip generation rates. The proponent should consult with its staff regarding revised assumptions for the traffic analysis. In addition, comments from the MBTA identify capacity constraints on the existing service that will influence the amount of transit trips that can be accommodated during the peak period. The proponent should consult with the MBTA regarding appropriate assumptions for increasing capacity of its peak hour service and to develop a strong program to encourage off-peak ridership.

Comments from the EOT and the Old Colony Planning Council (OCPC) indicate that additional analysis of Smith's Lane, including the Smith's Lane Bridge and intersections with Crescent Street and Main Street (Route 3A) should be included in the EIR. EOT comments note that the bridge may need to be widened to further address traffic capacity issues along this roadway. In coordination with MassHighway and the Town of Kingston, the proponent should identify improvements to improve these intersections and consider incorporating them into its mitigation package. Comments from the Kingston Board of Sewer Commissioners indicate that designs must incorporate adequate site distances and turning ratios to support truck traffic to Town facilities.

Alternatives identified in the EENF do not include provision of access to the north of the project site. Providing such access could further balance the traffic flow from the project and provide vehicular access for residents north of the project site to the commuter rail station, Town facilities and new retail and commercial projects. The EIR should analyze the benefits of providing additional access and indicate whether such access can be incorporated into the project design.

The EIR should identify implementation of roadway improvements in the vicinity that will be completed by other project proponents (e.g. EEA #14024 Independence Mall Theatery) and identify how projects and mitigation can be coordinated to maximize air quality and transportation benefits and minimize construction period impacts.

The EIR should identify the parking ratios associated with each aspect of the project, explain how the number of parking spaces was determined and describe how shared parking has been incorporated into the project. The EIR should demonstrate that the parking supply is the minimum necessary to accommodate project demand.

The EENF indicates that a land swap between MassHighway and the Town of Kingston is

necessary to accommodate the ramp design and ensure adequate land available around the WWTF. EOT comments note that a MassHighway canvas must be circulated and approved prior to the land swap.

Air Quality

In accordance with the State Implementation Plan (SIP) for ozone attainment, the proponent must conduct an indirect source review analysis because the project includes non-residential uses that will generate 6,000 or more new adt. This analysis should be conducted in accordance with MassDEP Guidelines for Performing Mesoscale Analysis of Indirect Sources. The proponent should consult with MassDEP for guidance and for confirmation of the appropriate study areas. If hydrocarbon emissions are greater than the No Build scenario, the EIR should include appropriate mitigation including TDM measures.

The TDM program should explore all feasible measures to reduce site trip generation from all elements of the project. The EIR should identify the exiting modes along the corridor such as transit, walking and bicycling; analyze their existing and future conditions based on the project impacts; and provide improvements to attract mode usage. The proponent should consult with the MBTA to design a safe and direct connection to the commuter rail station. I note the proponent's inclusion of actual transit subsidies which is an effective measure to encourage transit use. EOT comments request additional information on this measure. If appropriate, the site should include amenities to encourage transit usage such as bus shelters and bus turnouts and provide pedestrian connections to existing land uses within close proximity to the site. The proponent should coordinate with the MBTA, the Greater Attleboro Regional Transit Authority (GATRA) and MassRides to reduce overall vehicle trips and achieve the transit mode shares identified in the traffic analysis.

Wetlands and Drainage

As noted previously, the project will require an Order of Conditions from the Kingston Conservation Commission. The Conservation Commission will review the project for consistency with the Wetlands Protection Act (WPA) and the MassDEP Stormwater Management Policy. The project area contains Bordering Vegetated Wetlands (BVW), Inland Bank, Land Under Water (LUW), Isolated Land Subject to Flooding (ILSF), Bordering Land Subject to Flooding (BLSF) and Riverfront Area associated with Smelt Brook. The project does not propose any direct alteration to wetlands. According to the EENF the total activity proposed in the Riverfront area is 42,667 square feet. Of this total, 21,177 square feet is associated with Phase 1 activities and 21,490 square feet will be associated with Phase 2.

The EIR should include plans that reflect the most recently approved delineation of all applicable resource area boundaries including riverfront areas, buffer zones, 100-year flood elevations, priority and/or estimated habitat, wetland replication areas, water supply and

waterways. It should describe the nature of all impacts that cannot be avoided including grading, clearing and construction-related disturbances and whether they are temporary or permanent in nature.

The EIR should include a stormwater management plan that demonstrates that source controls, pollution prevention measures, erosion and sediment controls and the drainage system will comply with the MassDEP Stormwater Management Policy and standards for water quality and quantity both during construction and post-development. It should also address consistency with the local wetlands bylaw. The EIR should identify the quantity and quality of flows and design a system that can approximate current rates. The rates of stormwater runoff should be analyzed for the 10, 25, and 100-year storm events. The EIR should include an operations and management plan to ensure the long-term effectiveness of the stormwater management system. The locations of detention basins, distances from resource areas and the expected quality of the effluent from the basins should be identified. A copy of the Stormwater Pollution Prevention Plan (SWPPP) should be included in the EIR. In addition, the EIR should include supporting data for regulatory review by DCR regarding the proposed stormwater basin that may be classified as a dam.

The EIR should evaluate alternatives that minimize the amount of impervious surfaces associated with the project including minimizing parking supply, providing structured or underground parking and use of permeable pavement. The EENF indicates that the proponent will incorporate Low Impact Development (LID) techniques into the project design. The EIR should identify how these measures will be incorporated. The EIR should include a design for the proposed groundwater recharge to Smelt Brook.

The EIR should analyze project impacts to Smelt Brook including an assessment of wildlife and fisheries habitat and water quality. The proponent should indicate whether it will develop a Restoration and Management Plan for Smelt Brook as suggested by the Jones River Watershed. The EIR should identify how undeveloped areas, including wetland buffers, will be enhanced, managed and/or protected.

Comments from MassDEP indicate that the widening of Cranberry Road across Smelt Brook should be described and illustrated in more detail in the EIR. These comments note that, if additional design demonstrates that filling or dredging of wetlands is required to support it, the project may require a 401 Water Quality Certificate. The EIR should an alternatives analysis for proposed work within the riverfront area that can be used by the Conservation Commission and/or MassDEP to evaluate consistency with the Wetlands Protection Act.

Rare Species and Wildlife Habitat

As noticed previously, a portion of the project site is mapped as Priority Habitat of Rare Species. This includes the southwestern area of the site and the Davis Parcel. Phase 1 does not include any rare species habitat.

Comments from NHESP indicate that it is likely the project will require a Conservation and Management permit and note that the proponent has completed a limited on-site Eastern Box-Turtle survey. The EIR should include the results of the survey, identify impacts from the development as well as proposed leaching fields and address the potential for additional development on the portion of the Davis parcel that is not reserved for leaching fields and/or conservation. The proponent should consult with the NHESP program prior to filing the EIR and provide a detailed plan to address endangered species concerns in the EIR. If NHESP determines that a Conservation and Management Permit will be required, the EIR should include an outline of a Conservation and Management Plan.

Open Space

The EENF indicates that 42 acres of land will be preserved, including 14 acres of the Davis parcel to be deeded to the Town of Kingston for groundwater discharge related to the expansion of the WWTF. The EIR should identify the type of open space that will be provided and whether and how the land will be protected in perpetuity (e.g. placement of a conservation restriction (CR)). The EIR should include project plans that identify open space, conservation land and recreational trails.

Water Supply

The EENF indicates that the project will use approximately 263,700 gpd of water, including 28,700 gpd for on-site irrigation wells. Water service will be provided by the Town of Kingston. The EENF indicates that the project will incorporate water conservation measures.

In September 2007, an ENF (EEA #14100 Municipal Supply Well) was filed by the Town to pump water from Well 1-86. The proponent is funding the design and permitting for the Well 1-86 project. The ENF indicated that the well would support demand associated with the 1021 Kingston Place project and indicated that the well may intercept groundwater flowing to Smelt Brook. Also, the ENF indicated that the 1021 Kingston Place proponent would construct leaching fields to provide approximately 100,000 gpd of groundwater recharge to the area of the Plymouth Carver Sole Source Aquifer drained by Smelt Brook. The ENF asserted that the addition of the well would not cause the Town to exceed its Water Management Act authorization limits. The Certificate on the ENF identified additional information that the Town would need to provide to MassDEP during project review and information that the 1021 Kingston Place proponent should provide in the EIR for this project.

Comments from MassDEP note that the addition of a municipal well is undergoing review through its New Source Approval process. In addition, the Town must submit an application to amend its existing WMA permit to include this well. MassDEP also notes that the current authorization will expire on August 31, 2010, that the Town will be required to apply for

a new permit and that new demand projections will be generated at that time for all permittees. These comments also note that, based on average annual water demand and demand associated with 1021 Kingston Place, the Town would exceed its current authorizations unless sufficient water conservation measures result in increased water supply.

The EIR should identify all water supply infrastructure associated with the project, identify proposed mitigation measures to conserve water and minimize overall water demand. The proponent should consider project design and landscaping that could eliminate the need for these wells. If they remain within the project design, the location of the wells and associated impacts should be identified in the EIR. It should include a detailed mitigation plan identifying the design and maintenance of the stormwater infiltration that can be evaluated for its effectiveness and feasibility and demonstrate that the mitigation is sufficient to offset the impact.

Wastewater

As described in the EENF, the project will generate 235,000 gpd of wastewater flow. The EENF indicates that the WWTF, which is authorized to treat 375,000 gpd, will be expanded to accommodate flow from this project and to meet town-wide needs. The expansion plans will include construction of leaching fields for groundwater discharge. The proponent will fund the design of the project and fund certain infrastructure improvements as identified in its infrastructure agreement with the Town. The EENF indicates that the Town will submit an ENF for expansion of the WWTF and will file related permit applications and approvals. The proponent and the Town should work together to coordinate the filing of the ENF for the WWTF either prior to the filing of the EIR or concurrent with the filing of the EIR. MassDEP should be consulted prior to filing to ensure that related groundwater reports include adequate data and analysis.

In the event that wastewater is treated and discharged on-site by the proponent, the EIR will need to provide adequate technical information and analysis to demonstrate the feasibility of an on-site treatment plant and/or groundwater discharge system and ensure that consistency with regulatory standards can be addressed during MEPA review, including adequate separation between leaching fields and wetland resource areas and stormwater infiltration beds. The EIR should include adequate information to identify potential sites for the treatment facility and leaching fields, include a hydrogeologic report, a wastewater time of travel study, demonstrate that representative sampling of the site has been conducted, include a map of test pit and boring locations and include soil logs.

The close proximity of the project to the WWTF and/or inclusion of an on-site system creates the potential for re-use of gray water. The proponent should consider its incorporation into the project design (consistent with MassDEP's January 3, 2000 *Interim Guidelines on Reclaimed Water (Revised)*).