



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
Fax: (617) 626-1181
<http://www.mass.gov/envir>

October 2, 2009

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
NOTICE OF PROJECT CHANGE

PROJECT NAME : ADM Tihonet Mixed Use Development
PROJECT MUNICIPALITY : Wareham, Carver and Plymouth
PROJECT WATERSHED : Buzzards Bay
EEA NUMBER : 13940A
PROJECT PROPONENT : ADM Development Services LLC
DATE NOTICED IN MONITOR : July 22, 2009

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC), which includes a request for an amended Phase One (Phase A) waiver. In a separate Draft Amended Record of Decision (DROD), I am **proposing to grant an amended Phase One waiver** that will allow Phase A (including Phase A1, A2, and A3) to proceed to state permitting prior to completion of an Environmental Impact Report (EIR) for the entire project. As discussed below, the project is subject to a Special Review Procedure (SRP) and a Scope for an EIR was issued as part of the Secretary's Certificate on the Expanded Environmental Notification Form (ENF) dated September 12, 2008. The EIR Scope remains the same. It does not require modification due to the proposed changes in Phase A of the project.

Project Description

As described in the Expanded ENF, the entire project entails development of a 6,074-acre site in the towns of Wareham, Carver and Plymouth, which is proposed as a phased development over the next 25 years or more. The site currently contains the corporate headquarters of the A.D. Makepeace (ADM) Company, and includes cranberry bogs as well as undeveloped lands considered ecologically significant due to the presence of BioMap Core Habitat, Priority Habitat for rare and endangered species, and the underlying sole source aquifer. The phased development

as proposed in the Expanded ENF submitted in July 2008 consists of a mixed-use village community that will incorporate principles of smart growth, open space preservation, low impact development, traditional village design, and pedestrian orientation. The Expanded ENF proposed the use of Transfer of Development Rights (TDR) to concentrate development in certain areas and ensure conservation of ecologically significant lands.

Phase One (referred to as Phase A in the NPC) involves construction of an office and light industrial development on an approximately 16-acre portion of the site (A1), construction of a medical office building on a 13-acre portion of the site (A2), and a 5-acre cranberry bog development (A3). Phase A is located within the Town of Wareham. Changes to Phase A, as compared with the development proposed at the time of the Expanded ENF filing, are described in the NPC and outlined below.

MEPA History

In accordance with the Special Review Procedure (SRP) for the project dated January 29, 2007, the Proponent filed an Expanded ENF (July 2008) that included baseline environmental resource assessment and infrastructure assessment for the entire project site, and information and analysis pertaining to the proposed Phase A and Phase B developments. Pursuant to the SRP, the Certificate on Expanded ENF included a Scope for the EIR for Phase B (the Business Development Overlay and General Commercial District (BDOD)) and for certain aspects and impacts of Phase C. The SRP allows for subsequent phases of the project to file a new ENF and includes requirements for cumulative impact assessment, public outreach, and extended public comment periods. I also issued a Final Record of Decision (FROD) on October 15, 2008 granting a waiver that allowed the Proponent to proceed with Phase One (Phase A) of the project prior to preparing a mandatory EIR for the entire project. The current NPC filing entails a request for an amended Phase One waiver.

Project Change

As previously proposed, Phase A included two sub-phases (A1 and A2). Phase A1 consisted of 115,000 sf of office and light manufacturing space located in the southeastern quadrant of the 60-acre Tihonet Technology Park. Phase A2 consisted of a 40,000 sf medical office building on a six-acre parcel located on Lou Avenue off Route 28. Changes to Phase A proposed in the NPC include a reduction in the size of Phase A1, relocation and increase in size of Phase A2, and a new Phase A3 component consisting of construction of 5-acre cranberry bog.

MEPA Jurisdiction and Permitting

Permits required for Phase A include a Vehicular Access Permit from the Massachusetts Highway Department (MassHighway) for access onto Route 28 and a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP). Phase A also requires an Order of Conditions from the Wareham Conservation Commission (and, on appeal only, a Superseding Order from the Massachusetts Department of Environmental Protection (MassDEP)).

The project is subject to the MEPA Greenhouse Gas Emissions Policy and Protocol. The project is subject to review by the Massachusetts Historical Commission (MHC) and may be subject to federal consistency review by the Massachusetts Office of Coastal Zone Management (CZM). The project is also subject to the U.S. Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) permit requirements for construction activities.

Future phases of the project require additional permits. Phase B as proposed in the Expanded ENF requires a MassHighway Vehicular Access Permit, a Conservation and Management Permit from NHESP, and an Order of Conditions from the Wareham Conservation Commission (and, on appeal only, a Superseding Order from MassDEP). Phase B also requires a Groundwater Discharge Permit, 401 Water Quality Certification, Water Supply System Distribution Modification, and a Sewer Extension/Connection Permit from MassDEP. Phase C will require additional permits including a Groundwater Discharge Permit and New Source Approval from MassDEP, and a Conservation and Management Permit from NHESP.

The project is undergoing environmental review and subject to the requirements for an EIR because it requires state Agency Actions and exceeds MEPA review thresholds, including several thresholds for a mandatory EIR. The project is undergoing review pursuant to the following sections of the MEPA regulations: Section 11.03(1)(a)(1) and (2) because it will involve alteration of 50 or more acres of land and creation of 10 or more acres of new impervious area; Section 11.03(2)(b)(2) because it will result in a taking of a state-listed species; Section 11.03 (3)(b)(d) and (f) because it involves alteration of 5,000 or more sf of Bordering Vegetated Wetlands (BVW) and alteration of one-half or more acres of other wetlands; Section 11.03(4)(b)(3) because it involves construction of one or more new water mains five or more miles in length; Section 11.03(5)(b)(3)(c) because it will result in construction of five or more miles of new sewer main; and Section 11.03(6)(a)(6) and (7) because it will result in generation of 3,000 or more new vehicle trips and 1,000 or more new parking spaces. Phase B may also exceed the mandatory EIR threshold at 11.03(1)(1)(a) for alteration of one or more acres of BVW. Phase C may exceed other MEPA review thresholds.

The Proponent has applied for financial assistance from the Commonwealth, including grants from the Massachusetts Technology Collaborative, and is likely to apply for additional funding such as financial assistance from the Massachusetts Opportunity Relocation and Expansion (MORE) Program. Because the project involves financial assistance from the Commonwealth, MEPA jurisdiction is broad and extends to all aspects of the project likely to cause Damage to the Environment as defined in the MEPA regulations.

REVIEW OF THE NOTICE OF PROJECT CHANGE (NPC)

The NPC provides a detailed description of existing and proposed conditions for Phase A1, A2, and A3, as well as an alternatives analysis and a chapter on measures to avoid, minimize and mitigate impacts. The NPC includes a cumulative analysis of impacts from all three sub-

phases combined and explains the changes in the Phase A development compared to the development proposal for which a Phase One waiver was previously granted.

Summary of Project Changes

Phase A1 Southeast Quadrant of Tihonet Technology Park

Phase A1 has been reduced in size from a 115,000 sf building to an 80,000 sf building, and the ratio of office to light manufacturing space has been modified. As a result, traffic generation is expected to decrease from 828 trips per day, as previously reviewed, to 450 trips per day. Parking spaces have been reduced from 407 to 256 spaces.

Phase A1 will result in a “take” of a state-listed species, the Eastern Box Turtle and requires a Conservation and Management Permit from NHESP. In the October 2008 FROD, I directed the Proponent to develop and implement Phase A mitigation measures for state-listed species as required by NHESP. The NPC discusses the results of state-listed species and wildlife habitat assessment and includes a copy of the Conservation and Management Permit dated June 23, 2009 issued by NHESP for work associated with Phase A1. The NPC indicates that rare wildlife species were not identified during inspections of the Tihonet Technology Park (TTP - location of A1). However, the NHESP in its comment letter notes that Eastern Box Turtles have recently been confirmed to occur within the TTP. As indicated in the NHESP comment letter, the Massachusetts Endangered Species Act (MESA) Conservation and Management Permit for Phase A1 of the project requires Eastern Box Turtle protection during construction and the permanent protection of 24 acres of Box Turtle Habitat.

The NPC indicates that Phase A1 will not result in direct impact to wetlands and work will occur outside the 100-foot buffer zone to Bank associated with a nearby irrigation canal. The amount of new impervious area associated with Phase A1 has decreased by one acre since the filing of the Expanded ENF. Phase A1 will incorporate Low Impact Development (LID) measures including recharge to groundwater, vegetated swales, and rain gardens.

Phase A2 Medical Office Building /Lou Avenue Extension to Tihonet Road

The Phase A2 building has increased in size from 40,000 sf to 65,850 sf to accommodate the new tenant, and Phase 2 also includes a 5,000 sf gatehouse, which will be unoccupied but may be used for storage and office space in the future. Traffic generation for Phase A2 is expected to increase from 1,422 trips per day as previously reviewed to 2,478 trips per day. Parking spaces for Phase A2 have increased from 170 to 279 spaces.

The NPC notes that the Phase A2 site is not mapped as Priority Habitat for state-listed species. NHESP confirms this in its comment letter and notes that development of Phase A2 will not require a MESA permit. Phase A2 will however impact wetland resource areas due a proposed intermittent stream crossing and related BVW impacts. The proposed work requires the filing of a Notice of Intent (NOI) with the Wareham Conservation Commission and with MassDEP.

Phase A2 impervious area impacts have increased by 3.6 acres (from 3 acres to 6.6 acres). This is a result of the larger building proposed for Phase A2, the increased number of parking spaces, and the proposed connector road from Lou Avenue to Tihonet Road. Overall, the amount of impervious area for Phase A has increased by 2.6 acres since the Expanded ENF filing. The NPC indicates that the proposed connector road will improve traffic flow and circulation in the vicinity of the project. Transportation issues, including the Lou Avenue/Route 28 intersection and the connector road are further discussed in the transportation section below.

The Proponent has committed to a stormwater management system for Phase A2 that will comply with MassDEP 2008 Stormwater Management Standards, and that will result in pollutant removal, maintenance of existing groundwater recharge, and avoidance of potential changes in hydrology characteristics of stormwater leaving the site. The Proponent is also preparing a Stormwater Pollution Prevention Plan (SWPPP) which will address erosion and sedimentation controls and spill prevention in accordance with MassDEP's stormwater management requirements and the EPA NPDES general permit requirements for construction activities.

Phase A3 Cranberry Bog

Phase A3 consists of a 4.9-acre cranberry bog development, which was not envisioned at the time of the Expanded ENF filing. This new component of Phase A will result in an additional 9 acres of land alteration associated with site work and grading. The Phase A3 area is located within an existing cranberry bog complex. Although it is not located within a wetlands resource area, Phase A3 may be within the 100-foot buffer zone of adjacent cranberry bogs and irrigation canals and ponds, as noted in the NPC and in MassDEP's comment letter. The Proponent will file a Request for Determination of Applicability of the Wetlands Protection Act with the Wareham Conservation Commission.

The proposed bog expansion will require additional water supply, which MassDEP indicates is allowed under the Water Management Act (WMA) program due to prior permitting on-site. The bog will be built using best management practices (BMPs) for bog construction and operation and the Proponent has committed to implement the nutrient BMPs developed by the University of Massachusetts (UMass) Amherst Cranberry Station.

Phase A3 contains Eastern Box Turtle habitat. The Proponent has been in consultation with NHESP regarding potential impacts and permit requirements. NHESP expects to issue a Conservation and Management Permit for Phase A3 in advance of permitting endangered species impacts for later phases of the project if an amended Phase A waiver is granted. NHESP permitting for endangered species is discussed further in the rare species section below.

Land Alteration and Wetland Resources

The proposed Phase A involves alteration of approximately 40.6 acres of land, including 13.9 acres of impervious area. Phase A will impact approximately 1,682 sf of BVW associated with a proposed wetland crossing at Rose Brook to access the Phase A2 area (Rosebrook Business Center). Additional wetlands impacts include 210 linear feet of Bank alteration, 28,200 sf of Riverfront Area alteration, and 36,810 sf of impact to Bordering Land subject to Flooding (BLSF). As noted in the NPC, in accordance with the Wetlands Protection Act and the Town of

Wareham Wetlands Protection Bylaw, mitigation will be provided at a ratio of 1:1 or greater for unavoidable alterations to wetland resource areas.

I note the Division of Marine Fisheries comments regarding the valuable habitat provided by the streams and ponds within the project site, and three species of concern in the project area: alewife (*Alosa pseudoharengus*); blueback herring (*Alosa aestivalis*) and American eel (*Anguilla rostrata*). The Proponent should ensure that appropriate measures are taken to protect these species as recommended by the Division of Marine Fisheries.

Water and Wastewater

Phase A1 will be served by a Title 5 septic system with enhanced nitrogen removal. As previously proposed, connection to the Wareham Sewage Treatment Plant is the preferred alternative for Phase A2 wastewater. The NPC indicates that if the town is unable to accommodate Phase A2 wastewater flows, a Title 5 system with enhanced nitrogen removal will be constructed on-site, and may be abandoned in the future if connection to the municipal system is feasible. Based on the comment letter from the town of Wareham Community and Economic Development Authority, it appears that the town has committed to allow portions of the BDOD, including the Phase A2 area, to connect to the municipal wastewater treatment facility. The project requires a Title 5 sewage disposal permit from the Wareham Board of Health and will require a Sewer Connection permit from the Wareham Sewer Department for the proposed Phase A2 connection to the municipal system. The Proponent should consult with MassDEP and the MEPA Office to discuss whether a Notice of Project Change (NPC) for the Town of Wareham's Comprehensive Wastewater Management Plan (CWMP, EEA# 12562) would be required for the proposed municipal tie-in for Phase A2 wastewater.

Water demand and wastewater flows have decreased for Phase A1 and A2 since the previous filing due to the proposed changes in building size and uses. Municipal water and fire services for Phase A will be provided by the Town of Wareham. In its comment letter, the Wareham Fire District notes that it has sufficient capacity to meet the estimated water supply demand for the development as outlined in the NPC. The additional water demand overall for Phase A is associated with the proposed cranberry bog (A3) that will use approximately 26,780 gallons per day. This water withdrawal is included in the existing MassDEP Water Management Act permits for the agricultural operations on-site.

I acknowledge the comment letters received expressing concern about nitrogen loading to the Wareham River and implementation of nitrogen offsets for the project. The Wareham River is listed on the Massachusetts Integrated List of Impaired Waters. Efforts are underway to develop a Total Maximum Daily Load (TMDL) for nitrogen for the Wareham River Estuary. Future phases of the project that require a Groundwater Discharge Permit from MassDEP will likely be subject to nitrogen offset requirements. However, Phase A does not require a Groundwater Discharge Permit. The proposed Title 5 systems and possible connection to Wareham's municipal wastewater infrastructure are not subject to nitrogen offset requirements. Although the Proponent is required to evaluate a nitrogen-neutral alternative for the entire project in the DEIR, Phase One alone is not subject to any regulatory requirement to be nitrogen-neutral. I expect that nitrogen loading impacts and mitigation will be addressed in future filings as required by my previous Certificate on the Expanded ENF. I note that the Draft Amended

Record of Decision issued today, which proposes to grant an amended Phase A waiver, also requires that the Proponent include, in the DEIR, a cumulative analysis of the project's nitrogen impacts (including Phase A), a nitrogen-neutral alternative, and mitigation proposals for all phases of the project. In the meantime, the Proponent should continue to work with the Town of Wareham, MassDEP, and other stakeholders to identify opportunities for the implementation of nitrogen offsets for Phase A prior to the preparation of the DEIR. As recommended by the Buzzards Bay National Estuary Program, the Proponent should work with MassDEP to ensure that the nitrogen loading calculations in the DEIR are consistent with the Massachusetts Estuaries Project nitrogen-loading model.

I also acknowledge comments received regarding management of potential industrial and medical wastes from Phase A and note MassDEP's comment on the previous filing, which indicates that discharging industrial wastewater (or medical wastewater, if applicable) to an on-site sanitary system is prohibited.

Endangered Species

NHESP has agreed to permit Phase A1 and A3 separately from future phases of the project if the amended Phase A waiver is granted. NHESP believes this approach will not reduce its ability to work with the Proponent to address cumulative impacts of the project as a whole on endangered species and their habitats. As noted in its comment letter, this is in part because Phase A work will have little to no impact on globally rare scrub oak barren species, which NHESP indicates will be of greatest concern as a Master Plan for the entire project site is developed. The Proponent should continue to work with NHESP to develop a mitigation plan for Phase A3 and address any outstanding endangered species issues relating to Phase A1.

Greenhouse Gas (GHG) Emissions Analysis

The project is subject to the requirements of the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol, which requires that the Proponent quantify the direct and indirect Carbon dioxide (CO₂) emissions from the proposed project, and propose mitigation to reduce GHG emissions.

The NPC includes a revised GHG analysis for the Phase A portion of the project. The analysis focuses on Phase A1 and A2. The proposed cranberry bog (A3) does not include any new building-related GHG emissions and will have negligible traffic generation. Therefore, it is not included as part of the GHG emissions analysis for Phase A.

During MEPA review, the Proponent submitted supplemental information and analysis in response to state agency questions and comments concerning the analysis presented in the NPC (Memorandum dated September 24, 2009). The Proponent's Memorandum indicates building-related emissions of CO₂ are estimated to be 951 tons per year for Phase A1 (in lieu of 3,481 tons per year as indicated in the NPC). Other changes in the emission estimates were due to further refinement of the proposed building design, which was at a conceptual stage at the time of the Expanded ENF filing.

Based on the Proponent's Memorandum, the cumulative total for Phase A GHG emissions (direct and indirect), is estimated to be 1,722 tons per year for building-related CO₂ emissions and a range estimate of 7,972 to 8,365 tons per year of CO₂ from indirect transportation sources. The GHG analysis presented in the Expanded ENF estimated cumulative Phase A building-related emissions at 1,369.7 tons of CO₂ per year and transportation-related CO₂ emissions at 6,271 tons per year. The proposed Phase A change will therefore result in an estimated increase of 352.3 tons per year of building-related CO₂ emissions and an estimated increase of 1,891 to 2,284 tons per year of CO₂ from transportation-related sources over what was originally presented in the Expanded ENF.

The Proponent indicates that increased estimates of building-related GHG emissions are due in part to the increase in Phase A2 building size, the more advanced stage of building design, and some limitations of the eQUEST model used. The difference in transportation-related emissions is primarily due to the increase in traffic generation.

The analysis in the NPC indicates that the GHG emission reductions modeled for Phase A2 with mitigation have decreased substantially from a 30 percent reduction for building-related CO₂ emissions in the Expanded ENF filing to a 14 percent reduction for the proposed Phase A2 buildings. The Proponent indicates that this is primarily due to selection of an alternative heating equipment type that cannot be accurately represented by the eQUEST model, and that if the model enabled further refinement of the equipment parameters and air flow requirements, the percent GHG emission reduction would be similar to the 30 percent indicated in the Expanded ENF.

Based on the mitigation proposed, the Proponent's modeling indicates that it will achieve at least a 14 percent estimated reduction in building-related GHG emissions (when compared to the base case). Transportation-related GHG emission reductions are estimated in the NPC at 0 to 4.7 percent resulting in an overall reduction of 3 to 6 percent of direct and indirect GHG emissions for Phase A. The Proponent indicates that additional reductions in CO₂ emissions are expected due to proposed mitigation measures that are not directly quantifiable by the eQUEST modeling software. A list of the Proponent's mitigation commitments is included below. Although the overall percent reduction in estimated GHG emissions for the proposed project with mitigation has decreased in the NPC, I note that the overall GHG mitigation plan, as proposed in the Expanded ENF and required by the 2008 FROD, has not changed.

The Proponent has committed to implement the following GHG mitigation measures for Phase A1 and A2:

- Use high-albedo roofing materials;
- Install high-efficiency HVAC systems;
- Eliminate or reduce use of refrigerants in HVAC systems;
- Maximize interior daylighting ;
- Incorporate window glazing, super insulation, motion sensors and lighting and climate control, and efficient directed exterior lighting;
- Use water conserving fixtures that exceed building code requirements;
- Re-use grey water and/or collect and re-use rainwater;

- Provide for storage and collection of recyclables;
- Use building material with recycled content, and those that are extracted and/or manufactured within the region;
- Use wood that is certified in accordance with the Forestry Stewardship Council's principles and criteria;
- Use low-VOC adhesives, paints, carpets and wood;
- Conduct 3rd party building commissioning to ensure energy performance;
- Provide construction and design guidelines to facilitate sustainable design for build-out by tenants;
- Purchase Energy Star-rated appliances that are the lowest energy rating;
- Use lower GHG-emitting fuels when available (e.g. natural gas instead of fuel oil);
- The Proponent has engaged a Leadership in Energy and Environmental (LEED) certified architect to assist in developing an energy-efficient design for Phase A1 and Phase A2.

The NPC also included a GHG analysis that includes the use of green power as an additional mitigation measure. This alternative would result in a 40 percent reduction in building-related CO₂ emissions for Phase A1 and a 56 percent reduction for Phase A2. The Proponent indicates that this option is not feasible at present since it would add a financial burden to prospective tenants, and because the market rate for rental of Phase A development space is not sufficient at this time to enable the Proponent to subsidize the incremental cost of green power.

Although I am satisfied that the Proponent's Phase A GHG analysis has presented a comprehensive mitigation proposal for reducing GHG emissions associated with Phase A of the project, I note that the MEPA Office will require additional information and discussion with the Proponent on issues such as building-related model inputs and the methodology for transportation-related emissions to clarify expectations for the GHG analysis in future filings. For example, the 0 to 4.7 percent credit applied for reduction in vehicle miles traveled (VMT) is based on a U.S. Census Bureau nation-wide statistic on average use of public transportation, which may not accurately reflect potential CO₂ emission reductions in the project area associated with proposed transportation improvements and Transportation Demand Management (TDM) measures. The Proponent should consult with the MEPA Office in advance of future project filings to discuss requirements for information and analysis pursuant to the GHG Emissions Policy and Protocol.

Upon completion of construction of Phase A, the Proponent should 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 14 percent stationary source GHG emission reduction committed to in the NPC, 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 should provide an updated plan identifying the measures, the schedule for implementation and how progress toward achieving these measures will be obtained. EOT/MassHighway should incorporate this self-certification requirement into its Section 61 Finding for the Phase A portion of the project.

Transportation

The NPC includes the results of the Proponent's Traffic Impact and Assessment Study (TIAS) conducted for Phase A. Phase A3, the 5-acre bog development, was not included in the analysis because it will result in minimal traffic. This component of Phase A does not entail activities that would result in regular and sustained traffic generation on off-site roadways.

The NPC describes existing conditions of study area roadways and intersections and provides level of service and queue analyses for the 2007 existing, 2012 no-build and 2012 build conditions for Phase A. Phase A1 is expected to generate 450 vehicle trips on an average weekday. Phase A2 is expected to generate approximately 2,498 vehicle trips on an average weekday. The overall change in Phase A traffic generation since the Expanded ENF filing is a net increase of 678 vehicle trips per day, for a total of 2,928 vehicle trips on an average weekday. Parking spaces are reduced by 42 for a total of 535 spaces. An extension of Lou Avenue is proposed to serve the Phase 2 area and connect with Tihonet Road, providing two access points to the site.

The NPC indicates that Phase A is not expected to result in a significant change in traffic operations or vehicle queuing at the study intersections over the future no-build conditions. The NPC includes proposed mitigation measures consisting of site access and off-site improvements, and a TDM Program.

In its comment letter, the Executive Office of Transportation and Public Works (EOT) notes that the transportation study included in the NPC generally conforms to the EEA/EOT guidelines for EIR/EIS Traffic Impact Assessment. As mitigation, the Proponent has proposed off-site improvements along Route 28 consisting of signalization and reconstruction of the Route 28/Lou Avenue intersection, optimization of the signal timing and phasing at the I-195 interchange ramps, and upgrading of signs and pavement markings at the Route 28/Tihonet Road, Cranberry Road/Tihonet Road, Cranberry Road/Federal Road, and Wareham Street/Hammond Street intersections.

The project includes a proposed connector roadway that will link Route 28 and Tihonet Road by an extension of Lou Avenue through the Phase A2 portion of the site. In its initial comment letter, dated September 8, 2009, EOT expressed some concern regarding the connector roadway and potential safety and operational issues in the future at the Route 28/Lou Avenue intersection. The Proponent has since met with EOT and MassHighway and to discuss its concerns and provided additional information regarding the Right-of-Way (ROW) constraints that led to the selection of the proposed access point for the Connector Road on Route 28, and its corridor improvement program to mitigate the impacts of the full development. EOT is satisfied that its concerns relating to Phase A have been satisfactorily addressed. As requested by EOT, the Proponent should monitor and reevaluate the traffic impacts of the project at the Route 28/Lou Avenue intersection and along the Route 28 corridor in each MEPA filing for subsequent phases of the project.

The Proponent should continue consultations with EOT and MassHighway to address further design details or access-related issues during the permitting process for Phase A of the project. In addition, I strongly encourage the Proponent to consult with EOT and MassHighway

regarding traffic monitoring and analyses, and proposed mitigation plans during preparation of subsequent MEPA filings. I also ask that EOT/MassHighway consider the comments and recommendations from the Southeastern Regional Planning and Economic Development District (SRPEDD) during permitting.

The Proponent has committed to a range of TDM measures for implementation in Phase A, which include pedestrian improvements, bicycle accommodations and measures to encourage tenant use of traffic reduction strategies such as ridesharing, public transportation use, and alternative work schedules. I encourage the Proponent to develop a Tenant Manual that would include a set of guidelines that requires and/or encourages future tenants to adopt appropriate TDM, sustainable design, and GHG emission reduction measures to the extent feasible as part of their respective lease agreements.

The Proponent has committed to work with the Town of Wareham, MassHighway, SRPEDD, and the Greater Attleboro-Taunton Transit Regional Authority (GATRA) to evaluate the feasibility of providing bus service to the project. The Proponent has initiated discussions with GATRA regarding extension or modification of the Link 4 bus route to travel along the proposed connector road and service the Phase A2 medical building and potential future project phases. The Proponent has also committed to providing financial assistance to GATRA to support the service route expansion. The Proponent will update, refine and expand the TDM program as necessary to accommodate future phases of the project which will be evaluated in subsequent MEPA filings. I refer the Proponent to EOT's comments on additional information and analyses to provide in future filings.

Cultural Resources

The NPC indicates that an intensive (locational) survey did not identify any cultural resources within Phase A1 or A2. Phase A3 is located in areas of moderate to high archaeological sensitivity. The Massachusetts Historical Commission (MHC) has requested an intensive locational survey for limited undisturbed portions of the Phase A3 area. The Proponent has retained the Public Archaeological Laboratory (PAL) to conduct surveys and will continue to coordinate with MHC on cultural resource issues.

Construction

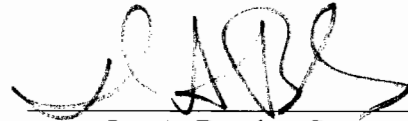
The Proponent has committed to implement erosion and sedimentation controls prior to the commencement of construction activities to protect wetland resource areas. I refer the Proponent to MassDEP's comment letter for guidance on stormwater permit requirements for construction activities and guidance on notification procedures in the event that oil and/or hazardous material is encountered during construction.

Conclusion

The NPC has sufficiently defined the nature and general elements of Phase A, and has proposed measures to avoid and minimize, or mitigate environmental impacts. Based on review of the NPC and comments received, as well as consultation with state agencies, I am issuing a

Draft Amended Record of Decision proposing to grant a waiver that will allow Phase A of the project to proceed to state permitting prior to completion of an EIR for the entire project. The Draft Amended Record of Decision will be published in the October 7, 2009 Environmental Monitor for a 14-day public comment period. Based on written comments received concerning the Draft Amended Record of Decision, I shall issue a Final Amended Record of Decision within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6). Phase A may proceed to state permitting subject to issuance of a Final Amended Record of Decision granting an Amended Phase One waiver.

October 2, 2009



Ian A. Bowles, Secretary

Comments received

7/25/09 Massachusetts Historical Commission
8/05/09 Wareham Fire District
8/06/09 Division of Marine Fisheries
8/31/09 Southcoast Hospital Group
9/02/09 Cape Cod Cranberry Growers' Association
9/03/09 Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
9/04/09 The Wareham Land Trust
9/04/09 Wareham Ford, Inc.
9/04/09 Office of Coastal Zone Management, Buzzards Bay National Estuary Program
9/04/09 The Coalition for Buzzards Bay
9/08/09 Oliver Durrell III
9/08/09 Town of Wareham, Board of Selectmen
9/08/09 Massachusetts Department of Environmental Protection
9/08/09 Southeastern Regional Planning & Economic Development District
9/08/09 Town of Wareham, Community and Economic Development Authority
9/09/09 Executive Office of Transportation and Public Works (EOT)
9/24/09 EOT (additional email correspondence)

IAB/AE/ae