

The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114-2524

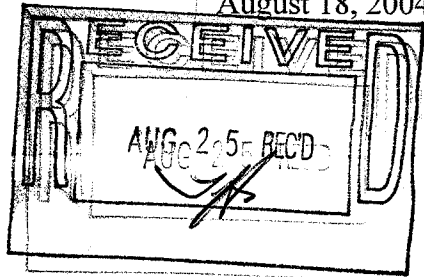
MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

ELLEN ROY HERZFELDER
SECRETARY

Tel. (617) 626-1000
Fax. (617) 626-1181
<http://www.mass.gov/envir>

August 18, 2004



Mr. Timothy Higgins, Senior Planner
Office of Community Development
Town of Belmont
19 Moore Street
Belmont MA 02478-0900

Re: EOE #12376R, Frontage Road Office Center, Belmont

Dear Mr. Higgins:

I am writing concerning the third-party Notice of Project Change (NPC) for this project that was submitted by the Town of Belmont to the MEPA Office.

According to your letter accompanying the NPC, the project proponent, O'Neill Properties Group, has filed a Chapter 40B Eligibility Application with MassDevelopment in order to seek tax exempt bonds to finance a 300-unit residential development on the site originally proposed for the Frontage Road Office Center (which completed MEPA review in 2003). You have filed the NPC with the goal of having the proponent complete additional MEPA review before MassDevelopment acts on the Eligibility Application.

While it is clear that substituting 300 residential units for an office/research and development building would constitute a change in the project that would require the filing of an NPC (or new ENF) before new state permits could be issued, investigating the feasibility of changing the project and doing appropriate planning and local permitting for such a change would not trigger MEPA review. The determination by MassDevelopment of the eligibility of a project for funding does not constitute an "entitlement for use" or financial assistance, and therefore is not considered an agency action subject to MEPA.

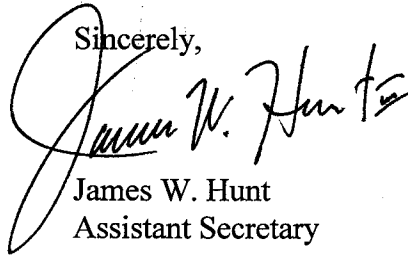
For this reason, the MEPA Office will not be doing a formal review of the NPC document that you submitted. We appreciate getting notice that a change in the Frontage Rod project is being considered, and are providing a copy of this letter and your NPC submittal to the project proponent to let it know of your concerns. We expect that the proponent or its consultants will contact us if a change in the project is contemplated that would require further MEPA

Mr. Timothy Higgins
August 18, 2004
Page 2 of 2

review, so that we can advise them as to whether an NPC or a new ENF would be the most appropriate filing.

Please feel free to call me if you have any questions concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Hunt". The signature is written in a cursive style with a large, looping initial "J".

James W. Hunt
Assistant Secretary

cc: Epsilon Associates
O'Neill Properties
MassDevelopment



OFFICE OF COMMUNITY DEVELOPMENT

TOWN OF BELMONT
19 MOORE STREET
TOWN HALL ANNEX
BELMONT, MASSACHUSETTS 02478-0900

BUILDING DIVISION
(617) 489-8221
ENGINEERING DIVISION
(617) 489-8220
PLANNING DIVISION
(617) 489-8229
FAX (617) 489-9156

Memo To: Board of Selectmen
Melvin Kleckner, Town Administrator

From: Timothy D. Higgins, Senior Planner *T.H.*

Subject: Belmont Uplands – Massachusetts Environmental Policy Act (MEPA),
Notice of Project Change Request

Date: August 26, 2004

As you may recall, this office was directed to file a third-party, Notice of Project Change (NPC) with the MEPA Office after O'Neill submitted its Chapter 40B Eligibility Application to MassDevelopment (copy attached). This action was recommended by Fred Paulsen after a general discussion of the 40B proposal during the June 21, 2004 meeting of the Board. The intent was to require O'Neill to submit to a new MEPA review **before** MassDevelopment acted on the Eligibility Application. The MEPA Office has formally declined to review the Towns' request as it considers it premature.

Correspondence was received from Assistant Secretary James W. Hunt (copy attached) detailing the reasons for this position. In summary, the Chapter 40B Eligibility Application filed with MassDevelopment is considered an investigation of "*the feasibility of changing the project and doing the appropriate planning*" and is not considered a real project. The letter further states "*The determination by MassDevelopment of the eligibility of a project for funding does not constitute an "entitlement for use" or financial assistance, and therefore is not considered an agency action subject to MEPA*". Thus, planning and local permitting do not trigger a MEPA review but a NPC would need to be filed before any state permits could be issued. Mr. Hunt did thank the Town for informing his office that a project change is being considered.

The Office of Community Development will continue to monitor the 40B process and will immediately report any new events. A recent conversation with the MassDevelopment Project Manager indicated that a date for the site walk is expected shortly. Please contact this office if you have any questions or require additional information is necessary.

Attachments: Senior Planner MEPA Cover Letter (06/26/04)
EOEA Correspondence (08/18/04)

Cc: Zoning Board of Appeals (no attachments)
Planning Board (no attachments)

File copy