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December 8, 2006

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

PROJECT NAME: Ames Run Cluster Subdivision/The Lodge at Ames Pond
PROJECT MUNICIPALITY: Tewksbury
PROJECT WATERSHED: Shawsheen/Merrimack
EOEA NUMBER: 13493
PROJECT PROPONENT: The Hanover Company (previous proponent Ames Hill Development, LLC)
DATE NOTICED IN MONITOR: October 25, 2006

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) submitted on this project and hereby determine that the project continues to require the preparation of an Environmental Impact Report (EIR).

Project Description

The project as previously reviewed in the Environmental Notification Form (ENF) submitted to MEPA on April 9, 2005 included an 87-lot single-family, residential cluster subdivision adjacent to Ames Pond in Tewksbury. The overall parcel is approximately 198 acres, consisting of approximately 76 acres in pond surface area, approximately 113 acres of wooded uplands, and approximately 9 acres of Bordering Vegetated Wetlands (BVW). The original ENF project was proposed in two phases: Phase 1 consisted of 50 lots on two cul-de-sac streets, one off North Street (proposed Prospect Hill Road) and the other an extension of the existing Catamount Road; Phase 2 consisted of the remaining 37 lots on a cul-de-sac extension of the existing Overlook Drive.

MEPA History

At the time of the ENF submission, the proponent had received permission for the Tewksbury Planning Board for Phase 1 of the project and was in the process of working with a Planning Board subcommittee to consider permitting options for Phase 2. During the ENF review process, the proponent requested permission to proceed with Phase 1 of the project prior to completion of an EIR for the entire project. In a Final Record of Decision dated June 15, 2005, I found that the proponent's Phase 1 Waiver request had merit and allowed the commencement of the first phase of the project. Ames Hill Development, LLC has since commenced construction on Phase 1 of the project.

Project Change Description

Since the submission of the ENF, a new proponent, The Hanover Company, has assumed responsibility for the former Phase 2 development and now proposes to construct a 364-unit residential housing project under the provisions of MGL Chapter 40B in place of the previously reviewed 37-lot cluster subdivision plan. The proposed project to be known as the Lodge at Ames Pond will consist of 13 multi-story apartment style buildings, a clubhouse building, and accessory garage buildings. Site access will be from a new access driveway to be constructed off of Ames Pond Drive, which provides access to Lowell Street/Andover Street (Route 133) and Interstate 495. All residences will be serviced by extensions of the municipal water and sewer lines.

As compared to the Phase 2 project as outlined in the ENF, the new Phase 2 proposal will result in an additional 17 acres of land alteration; an additional 6.8 acres of new impervious surface; an additional average daily trip generation of 2,118 vehicles; and an additional 583 new parking spaces. The project will decrease impacts to Bordering Vegetated Wetlands (BVW) by 19 square feet. The project will require an additional 48,400 gallons per day (gpd) of water for drinking water and 66,000 gpd for irrigation, and will generate an additional 41,712 gpd of wastewater. The project will also require the construction of an additional 0.87 miles of new sewer main.

Jurisdiction

The project as outlined in the ENF was subject to a mandatory Environmental Impact Report (EIR) pursuant to Section 11.03(1)(a)(2) of the MEPA regulations because it required state permits and would have resulted in the creation of ten or more acres of impervious surface (10.43 acres). The project also met ENF review thresholds at 301 CMR 11.03 (1)(b)(1) and 301 CMR 11.03(5)(b)(3)(c) due to the alteration of more than 25 acres of land (36.35 acres), and because the project proposed the construction of new sewer mains ½ or more miles in length that are not located in the right of way of existing roadways (1.38 miles). The project required a NPDES Construction General Permit; a Sewer Extension Permit from the Department of Environmental Protection (MassDEP); a Cluster Subdivision Special Permit from the Tewksbury Planning Board; and an Order of Conditions from the Tewksbury Conservation Commission.

The project as proposed in the NPC meets an additional EIR review threshold at 301 CMR 11.03(1)(a)(1) for the alteration of more than 50 acres of land and additional ENF review thresholds related to vehicle trips and parking spaces (301 CMR 11.03(6)(b)(13) and 11.03(6)(b)(15)). The newly proposed project requires a Major Sewer Connection permit from MassDEP; the ENF project required a Minor Sewer Connection permit. The project may also require a 401 Water Quality Certificate from MassDEP. The new Phase 2 project the Lodge at Ames Pond will require a Comprehensive Permit from the Tewksbury Zoning Board of Appeals. Because the potential exists for the project to be appealed to the Housing Appeals Committee (HAC), MEPA now has broad scope jurisdiction that extends to all significant environmental impacts potentially resulting from the project. These include land alteration, drainage, wetlands, wastewater, drinking water and irrigation, and transportation.

Single EIR Request

The Secretary's Certificate on the ENF dated May 9, 2005 issued a Scope for a Draft and Final EIR for Phase 1 of the project and the previously proposed Phase 2. The proponent has submitted an Expanded NPC with a request that I allow the proponent to fulfill its EIR obligations under MEPA for both Phase 1 and Phase 2 of the project with a Single EIR in accordance with 301 CMR 11.06(8). In the NPC, the proponent provided a considerable amount of information on the project, including an alternatives analysis; a detailed stormwater analysis; and a Traffic Impact and Access Study (TIAS). I have reviewed the proponent's request for a Single EIR and hereby find that the Expanded NPC meets the regulatory standards. I will therefore allow the proponent to prepare a Single EIR in fulfillment of the requirements of Section 11.03 of the MEPA regulations. The Scope outlined below has been amended to reflect the NPC. The Scope outlined in the Certificate on the ENF is hereby superseded.

SCOPE

General

As modified by this Certificate, the proponent should prepare the Single EIR in accordance with the general guidelines for outline and content found in Section 11.07 of the MEPA regulations. The Single EIR should include a copy of this Certificate and of each comment received, which should be addressed in the Single EIR as they are relevant to this Scope. The Single EIR should contain copies of all prior MEPA filings and Certificates. The proponent should circulate the Single EIR to those who received the ENF and NPC; to those who commented on the ENF and NPC; to municipal officials in the Town of Tewksbury; and to any state and federal agencies from which the proponent will potentially seek permits or approvals. In addition, a copy of the Single EIR should be made available at the Tewksbury public library.

Project Description

The Single EIR should include a thorough description of the project, including a detailed description of work that has been completed to date and all proposed project elements and

construction phases. The Single EIR should include an existing conditions plan illustrating resources and abutting land uses for the entire project area and a proposed conditions plan (or plans) illustrating proposed elevations, structures, access roads, stormwater management systems and utility connections.

The Single EIR should briefly describe each state permit required for the project, and should demonstrate that the project meets any applicable performance standards. In accordance with Section 11.01 (3)(a) of the MEPA regulations, the Single EIR should also discuss the consistency of the project with any applicable local or regional land use plans, and address the requirements of Executive Order 385 (Planning for Growth). The proponent should provide an update on local permitting, including a discussion related to ZBA approvals for Phase 2 of the project.

Alternatives

The NPC provided a comparison of the impacts of the No Build alternative, the ENF Full Build and the NPC Full Build. The proponent has requested in the NPC that the requirement for analysis of the "reduced build" alternative as outlined in the Certificate on the ENF be removed from the Scope for the EIR. According to the proponent, the market for single family housing in the Tewksbury area has softened considerably since the filing of the ENF, and a single family development is not feasible at this site at the present time. As stated in the NPC, the proposed Lodge at Ames Pond meets a strong demand for rental housing and fulfills the goal of the Town of Tewksbury to diversify the Town's housing stock.

While the creation of a diverse housing stock is an important goal, the Single EIR should still consider alternative site configurations for the Phase 2 site that could result in less impervious surface and land alteration. The purpose of the alternatives analysis is to consider what effect changing the parameters of a project will have on the environment. The objective of the MEPA review process is to avoid or minimize damage to the environment to the greatest extent feasible. For each alternative, the Single EIR should quantify the amount of land altered, the amount of earthwork involved in meeting final grades, and the amount of impervious surfaces created. The Single EIR should investigate all feasible methods of avoiding, reducing, or minimizing impacts to land, stormwater and wetlands.

The alternatives analysis should also evaluate the use of Low Impact Development (LID) techniques in site design and storm water management plans. LID techniques incorporate stormwater best management practices (BMPs) and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions. The primary tools of LID are landscaping features and naturally vegetated areas, which encourage detention, infiltration and filtration of stormwater on-site. Other tools include water conservation and use of pervious surfaces. Clustering of buildings is an example of how LID can preserve open space and minimize land disturbance. LID can also protect natural resources by incorporating wetlands, stream buffers, and mature forests as project design features. For more information on LID, visit <http://www.mass.novlenvirllidl>. Other LID resources include the national LID manual (Low Impact Development Design Strategies: An Integrated Design Approach), which can be found on the EPA website at: <http://www.epa.gov/owow/nps/lidnatl.pdf>

Land Alteration/Drainage

The two phases of the proposed project will result in the alteration of 53.35 acres of land and the creation of 17.23 acres of impervious surface. Given the steepness and topography of the site, it is essential that the proponent adequately manage stormwater quality and quantity during and after construction. According to the NPC, the project will include a comprehensive stormwater management system that will comply with the guidelines of MassDEP's Stormwater Management Policy. The system will feature deep sump catch basins with oil/gas separators, mechanical separators such as Stormceptor units and extended detention basins. Clean rooftop runoff will be recharged to groundwater on site. The stormwater management system will attenuate for the 2, 10, 25, 50 and 100 year storm events.

The proponent's intent is to reduce overall flows to Ames Pond from the project. The proposed Best Management Practices (BMPs) will reduce total suspended solid (TSS) concentrations by 87% before discharge to Ames Pond. In addition, the detention basins will include multiple outlets to reduce the velocity of stormwater and all discharge points will be located at least 25-feet from the edge of Ames Pond to further reduce stormwater impacts to the Pond. The post-development discharge will not exceed the pre-development discharge in accordance with MassDEP standards.

The Single EIR should demonstrate that source controls, pollution prevention measures, erosion and sediment controls during construction, and the post-development drainage system will be designed to comply with the Massachusetts Stormwater Management Policy (SMP), as indicated in the NPC. The stormwater management system also should be consistent with the standards for water quality and quantity control in the town of Tewksbury's Storm Water Program. Calculations of water quality volume, total suspended solids, recharge volumes, and peak rates of runoff should be provided with stormwater system design plans at a clear and readable scale. The Single EIR should describe the BMP designs in enough detail to affirm that the total suspended solids removal rates are appropriate and to demonstrate that the stormwater system design provides adequate protection for wetland resources in conformance with the SMP and the town's NPDES Storm Water General Permit.

Ames Pond is considered to be a critical area for the purposes of compliance with the Stormwater Management Policy and thus drainage calculations should demonstrate that stormwater from the site will be treated to one inch of runoff multiplied by the impervious area within the contributing drainage area. Ames Pond is also considered an impaired water body under Section 303(d) of the Clean Water Act and requires a total maximum daily load (TMDL) because of contamination from metals. The proponent should demonstrate in the Single EIR that the proposed water quality controls conform to the provisions in the NPDES General Permit for discharges to an impaired water body. The proponent should use the performance ratings given in the Strategic Envirotechnology Partnership (STEP) fact sheet to determine the TSS removal calculations for the project.

Development of the Phase 2 area of the project will require significant cuts and fills because of the steep sloping landscape. Construction methods to control and minimize erosion and sedimentation to Ames Pond should be explained and illustrated on plans at a reasonable

scale. The Single EIR should address the erosion and sedimentation impacts of the project. A detailed explanation should be included of the construction work phasing and the techniques that will be used to prevent sediment from leaving the site and causing a turbidity problem in Ames Pond. The Single EIR should provide information to demonstrate that the measures and combination of products selected would be among the most effective measures for applications on steep slopes and for protection of a surface waterbody that is within the zone of contribution of a public groundwater drinking supply.

The Single EIR should describe the operations and maintenance program for the drainage system to ensure its effectiveness including a schedule for maintenance and identification of responsible parties. A plan to avoid and minimize the use of herbicides and pesticides, a snow disposal plan that prohibits snow from being plowed toward the wetlands, and a stormwater system operations and maintenance plan should also be included in the Single EIR. The snow disposal plan should show the location on or off-site where snow will be plowed or disposed. The plan also should commit to using the minimum amount of deicing and abrasive agents, and include catch basin stenciling to discourage illicit discharges to storm drains on site. As part of the stormwater system operations plan, there should be a schedule for parking lot sweeping that is timed to occur at least twice per year in about October and March for removal of leaves and sand.

Many comments on the ENF raised significant concerns about the impact of runoff from the project on neighboring properties on North Street, Cayuga Road and Catamount Road. There are also concerns about frozen run-off on Cayuga Road and Catamount Road during the winter. The neighborhood is understandably concerned that it will incur and be responsible for remedying property damage as a result of the Ames Run development. The Single EIR should clearly outline how the stormwater management system will ensure that flows from the project site do not increase in volume or velocity, and that neighboring properties are not adversely impacted. The Town of Tewksbury has indicated that during the Planning Board approval process for the project, the proponent offered to provide funds to assist with stormwater management, in addition to funds for the installation of sidewalks and the upgrading of a municipally owned pumping station. I strongly encourage the Town to develop an arrangement with the proponent whereby any negative impacts occurring as a result of the project's stormwater are adequately mitigated.

Wetlands

Wetlands at the site include two discrete areas of Bordering Vegetated Wetlands (BVW), the Bank to Ames Pond, and Land Under Water. The newly proposed Phase 2 development will result in an additional wetlands crossing that was not included in the original ENF proposal, however impacts to BVW have not increased. A roadway crossing for the originally proposed Phase 2 has been eliminated, although the crossing at this location will be retained to provide for utility crossings to serve the Phase 1 and 2 developments. This crossing has been reduced in width to approximately 20 feet. An additional roadway crossing is required for the new Phase 2 development at the northern end of the site adjacent to Ames Pond Drive. The total wetland impacts for the project will be 4,881 sf. The Single EIR should identify the wetland impacts in each phase of the project, explain how the project alterations comply with the performance

standards in the wetlands regulations, and demonstrate that the alteration of resource areas has been avoided and minimized.

In the ENF, the proponent stated that conservation restrictions within each homeowner's property deed would be used to limit wetlands alteration on the project site to 4,900 square feet, and to eliminate the requirement of a 401 Water Quality Certificate for the project. The NPC states that Phase 1 of the project has obtained an Order of Conditions from the Tewksbury Conservation Commission, a 401 Water Quality Certificate from MassDEP and a Programmatic General Permit (PGP) from the Army Corps of Engineers for impacts to wetland resources. In addition, the proponent states that Phase 2 of the project will also require an Order of Conditions, a Water Quality Certificate and a PGP. The Single EIR should clarify what permits and/or review is required for each phase of the project from the Tewksbury Conservation Commission, MassDEP and the Army Corps. The Single EIR should provide a copy of any permits that have been issued to date. If the proponent plans to use a restrictive covenant to limit wetlands alteration on the site, a copy of that agreement should be provided in the Single EIR.

The project includes approximately 5,000 sf of wetland replacement area to mitigate for impacts to BVW. The proposed wetland replacement and restoration plan has been developed in accordance with the MassDEP *Inland Wetland Replication Guidelines*. A conceptual wetland mitigation plan was submitted with the NPC. The Single EIR should respond to MassDEP's comments regarding wetland replication.

Wastewater

The project will result in the generation of an additional 48,400 gpd of wastewater compared to the project as outlined in the ENF, for a total of 86,680 gpd. The project will require a Major Sewer Extension Permit from MassDEP for the construction of 2.25 miles of new sewer main. Wastewater from Tewksbury is directed to the Lowell Regional Wastewater Treatment Facility. The Single EIR should demonstrate that the proposed discharge of the wastewater flows for the proposed project to the Tewksbury municipal sewer system is feasible. The Single EIR should include correspondence from the Town of Tewksbury demonstrating that:

1. The Town of Tewksbury's sewer system has sufficient design capacity to accommodate the proposed project's additional wastewater flows; and
2. The additional flow from this project will not exceed the 4.25 million gpd limit outlined in the intermunicipal agreement between the Town of Tewksbury and the Lowell Regional Wastewater Treatment Facility.

In addition, the proponent should respond to comments from MassDEP regarding the capacity and condition of the downstream conveyance system.

Transportation

The project as outlined in the NPC is projected to result in an additional daily trip generation of 2,118 vehicles per day for a total of 2,635 trips for both Phase 1 and 2. The project does not require any state permits related to traffic. The NPC included a Traffic Impact and

Access Study that indicated that the project will not result in any Level of Service degradations at intersections in the vicinity of the project. The TIAS was developed in consultation with the Town of Tewksbury.

Construction Period Impacts

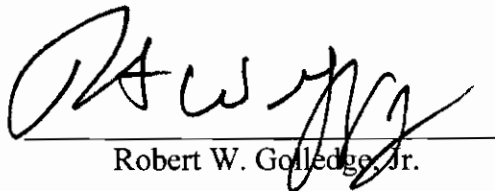
The Single EIR should include a discussion of construction phasing, evaluate potential impacts associated with construction activities and propose feasible measures to avoid or eliminate these impacts. I encourage the proponent to consider participating in MassDEP's Clean Construction Equipment Initiative consisting of an engine retrofit program and/or use of low sulfur fuel to reduce exposure to diesel exhaust fumes and particulate emissions during construction.

Mitigation

The Single EIR should contain a separate chapter on mitigation measures. It should include a Draft Section 61 Finding for all state permits that includes a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation, and the identification of the parties responsible for implementing the mitigation. The Single EIR should provide a schedule for the implementation of the mitigation, based on the construction phases of the project.

December 8, 2006

Date



Robert W. Golledge, Jr.

Comments Received:

11/14/2006 Department of Environmental Protection, Northeast Regional Office

RWG/BA/ba