



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

100 Cambridge Street, Suite 900

Boston, MA 02114

Deval Patrick
GOVERNOR

Timothy Murray
LIEUTENANT GOVERNOR

Ian Bowles
SECRETARY

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

January 29, 2007

FINAL RECORD OF DECISION

PROJECT NAME: Quabbin Resort Development
PROJECT MUNICIPALITY: Belchertown
PROJECT WATERSHED: Connecticut River Basin
EOEA NUMBER: 13913
PROJECT PROPONENT: Bridgeland Development of Massachusetts, LLC
DATE NOTICED IN MONITOR: November 22, 2006

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 this project and **hereby grant a Phase 1 Waiver** (as defined below), allowing the commencement of the first phase of the project prior to completion of the Environmental Impact Report (EIR) for the entire project. A Certificate with the Scope for the EIR has been issued separately.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project proposes the development of a mixed use health and wellness themed resort on the site of the former Belchertown State School. Project development will occur within previously developed areas now occupied by the vacant school. As currently envisioned, the development will include a 600-room hotel and spa, conference center, health and wellness center, auditorium, equestrian center, multi-use office buildings, restaurants, retail, a museum, and outdoor recreational activities. Also included in the project is the development of a 3.2-acre out parcel located north of the intersection of Route 202 (State Street) and Route 21 (Turkey Hill Road), which will be used for commercial and retail space. The project will be serviced by town water and sewer and main access to the site will be from State Street.

The project site is approximately 155.5 acres and is located north of Route 21/202 approximately 0.5 miles west of Belchertown Center. The site is bound to the northeast by

Jackson Street and an active railroad, to the southeast by State Street/Route 21/202, and to the southwest by Route 202. The New England Small Farms Institute (NESFI) lies to the west of the site. There are numerous wetland resources on site, including a large wetland in the southwest corner of the site that includes Lake Wallace, which drains northward through a red maple swamp into a small tributary that empties into Lampson Brook. There is also a large red maple swamp in the southeast corner of the property adjacent to the railroad.

The project site is the location of the former Belchertown State School which was managed by the Massachusetts State Department of Mental Retardation prior to closing in 1992. The site was formerly owned by the Division of Capital Asset Management (DCAM) who sold 272 acres of the site to the Belchertown Economic Development Industrial Corporation (BEDIC) in 2002. In May of 2006, BEDIC signed a Memorandum of Agreement and a Purchase and Sale Agreement for 155.5 acres of the property with Bridgeland Development, LLC, the project proponent. In October of 2006, the Town voted to create a new district called the "Belchertown Town Center & Resort Invested Revenue District" around the existing school site to facilitate the proposed mixed-use development. The Belchertown State School is listed in the State Register of Historic Places. There are approximately 45 unoccupied buildings within the project site, in various stages of disrepair. Several of the historic buildings on site will be renovated or re-used as part of the development.

Jurisdiction

The project is undergoing MEPA review and requires the preparation of an EIR pursuant to Section 11.03(1)(a)(1) and 11.03(1)(a)(2) of the MEPA regulations, because it will result in the direct alteration of more than 50 acres of land and the creation of more than 10 acres of new impervious surface; and Section 11.03(6)(a)(6) and 11.03(6)(a)(7), because the project will result in more than 3,000 new average daily vehicle trips (adt) and require the construction of more than 1,000 new parking spaces. The project also exceeds the following ENF review thresholds: Section 11.03(5)(b)(3)(c) because the project requires the construction of new sewer mains greater than ½ a mile in length; Section 11.03(5)(b)(4)(a) because the project will result in an expansion of discharge to a sewer system of more than 100,000 gpd of wastewater; and Section 11.03(10)(b)(1) because the project will result in the demolition of structures listed in the State Register of Historic Places.

The project requires the following permits and/or review: a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency (EPA); an Access Permit from the Massachusetts Highway Department (MHD); a Sewer Extension Permit from the Department of Environmental Protection (MassDEP); and review from the Massachusetts Historical Commission (MHC). At the local level, the project will require Site Plan Review from the Belchertown Planning Board; a Special Permit from the Belchertown Zoning Board of Appeals; and an Order of Conditions from the Belchertown Conservation Commission.

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required or

potentially required permits with the potential to cause Damage to the Environment. In this case, MEPA jurisdiction extends to land alteration, stormwater, wetlands, wastewater, transportation and historic resources.

Waiver Request

The proponent submitted an Expanded Environmental Notification Form (EENF) for the project with a request for a waiver to allow Phase 1 of the project to proceed prior to completion of the EIR. Work proposed to be included under the Phase 1 Waiver includes the demolition of 25 buildings, of which 17 are considered to be contributing elements to the Belchertown State School National Register Historic District and the demolition of underground tunnels at the project site. Phase 1 will also involve some clearing of brush and small trees. The waiver request was discussed at the consultation/scoping session for the project which was held on Decision 13, 2006. Following the public consultation session held for the project, the proponent submitted a letter to the MEPA office and site visit attendees regarding the expected use of District Improvement Financing (DIF) for portions of the project and clarifying that the proposed Phase 1 work would be paid for by the proponent. A Draft Record of Decision (DROD) proposing to grant the Waiver was issued on December 29, 2006. No comments were received on the DROD.

Criteria for a Phase I Waiver

Section 11.11 of the MEPA Regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: a) result in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase 1 of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase 1 are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase 1; 3) the project is severable, such that Phase 1 does not require the implementation of any other future phases; and 4) the agency action on Phase 1 will contain conditions that ensure due compliance with MEPA.

Findings:

Based upon the information submitted by the proponent and after consultation with the relevant state agencies, I find that:

1. Requiring the preparation of an EIR in advance of undertaking the Phase 1 demolition work would cause undue hardship:

The proponent asserts that delaying the Phase 1 demolition would cause undue and

unnecessary hardship to the Belchertown community by delaying the development and the revenues that will flow to Belchertown upon the project's completion. This statement is based on the expectation that the Town will use District Improvement Financing (DIF) for portions of the project and then receive increased tax revenues from the project in the future. The proponent has clarified in subsequent communication with the MEPA office that the Town has not yet approved the DIF Financing Plan and the proponent will pay for the Phase 1 work.

- In addition, the proponent argues that the buildings at the project site currently pose a public safety threat. According to the proponent, the buildings have been the target of vandals and arsonists and are dangerous to enter. The buildings also contain hazardous materials such as asbestos that will be remediated prior to demolition. A delay in the Phase 1 activities would prolong the time period for remediation and would continue the risk posed by the buildings in their current condition.
 - I acknowledge concerns that have been raised in comments regarding the proponent's hardship argument and the financing of the Phase 1 activities. MEPA review does not serve as a planning or permitting process, and does not pass judgment on the economic viability of a project. Rather, the MEPA process requires public disclosure of a project's environmental impacts as well as the measures that the proponent will take to mitigate these impacts. The impact to project economics associated with the necessary environmental review under MEPA has been rarely accepted as constituting an undue hardship pursuant to 301 CMR 11.00, and I do not do so here. However, I concur that delaying the environmental improvements that will result from the demolition and remediation activities of the site would cause undue hardship to the proponent and the community. Buildings on the site include large quantities of asbestos containing material and other hazardous wastes, and are significantly deteriorated.
2. The preparation of an EIR would not serve to minimize Damage to the Environment and the potential environmental impacts of Phase 1 are insignificant:
- Eight of the 25 buildings slated for demolition in Phase 1 have been identified as "non-contributing" elements to the National Register District and the remaining 17 buildings were the subject of a structural engineering analysis. 15 of these buildings were determined to be "not salvageable". The EENF indicates that one of the buildings determined to be "not salvageable" and a contributing element to the historic district would be demolished. However, at the MEPA site visit for the project the proponent indicated that this building, known as the "Cannery" will be retained.
 - The proponent is committed to consulting with MHC on the potential reuse of salvageable portions of the campus buildings and landscape and on measures to mitigate the adverse effects of the project on state-listed historic and archaeological resources. In advance of the Phase 1 work, and as a condition of the Waiver, the proponent must consult with MHC to develop a Memorandum of Agreement (MOA) to outline stipulations to resolve adverse effects to historic and archaeological properties at the site. The proponent should submit a copy of the MOA to the MEPA office for the project file.

- In advance of the Phase 1 work, the proponent must conduct a reconnaissance archaeological survey (950 CMR 70) for the project. The goal of the survey is to locate and identify specific locations within the project area that are considered to be archaeologically sensitive. Following the results of the survey, the proponent must develop an archaeological avoidance and protection plan in consultation with MHC. The plan must be implemented prior to commencing any building demolition on the site. The plan will also be reflected in the above mentioned MOA.
 - Aside from the impacts to historic resources, Phase 1 alone does not trigger any MEPA thresholds or require any state permits. The proponent has committed to undertaking the Phase 1 work in full compliance with local, state and federal regulations. The proponent will obtain all necessary approvals prior to undertaking the Phase 1 work, including appropriate approvals from MassDEP related to hazardous materials remediation and solid waste disposal. The proponent should note specific guidance as outlined in MassDEP's comments on the EENF on the air pollution and solid waste approvals required for the Phase 1 work. As discussed at the MEPA site visit for the project, the proponent is strongly encouraged to consult with staff from MassDEP's Western Regional Office, Bureau of Waste Prevention before proceeding with the Phase 1 work to discuss permitting options and timelines. The proponent should also consult with the Belchertown Board of Health before commencing Phase 1 activities. I note that the Belchertown Planning Board has made specific recommendations regarding appropriate controls on demolition activities; I expect that these will be considered by the Board of Health. I am confident that the state and local agencies will take their oversight responsibility very seriously in reviewing the various permit applications for this project.
 - The Phase 1 work involves the demolition of at least 5 buildings located within 100 feet of jurisdictional wetlands. The proponent is required to confirm all wetland resources areas on site through a Determination of Applicability from the Belchertown Conservation Commission and to file a Notice of Intent for the proposed Phase 1 work. The proponent must secure an Order of Conditions from the Belchertown Conservation Commission before commencing Phase 1 activities.
 - Prior to the start of Phase 1 work the proponent must comply with NPDES regulations and prepare a Storm Water Pollution Prevention Plan consistent with EPA requirements.
 - Temporary construction impacts to air quality will be minimized during the Phase 1 work through participation in MassDEP's Voluntary Diesel Retrofit Program for construction vehicles.
 - The proponent will implement measures to control construction related impacts including dust, noise and soil erosion.
3. Ample and unconstrained infrastructure facilities and services exist to support Phase 1:
- The Phase 1 work consists only of demolition and does not require any public infrastructure of facilities. The need for future infrastructure improvement to accommodate the full project and mitigate its impacts will be documented in the EIR.
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.

The proposed demolition activities associated with Phase 1 do not depend on later phases for implementation and do not restrict the consideration of future alternatives for construction that may arise out of the EIR process. Furthermore, according to the proponent, given the extremely deteriorated condition of the majority of buildings on site, it is reasonable to expect that they would need to be demolished in the future for public safety reasons.

5. The Agency Action on Phase 1 will contain terms such as a condition or restriction in a Permit, contract or other relevant document approving or allowing the Agency Action, or other evidence satisfactory to the Secretary, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to Commencement of any other phase of the Project:
 - The development of the Quabbin Resort project requires a number of Agency Actions, including an Access Permit from MHD and a Sewer Connection Permit from MassDEP, that cannot be issued before the Final EIR on the project is deemed adequate. Without these permits the project cannot move forward and therefore there are adequate safeguards to ensure future MEPA compliance.
 - The proponent must execute a Memorandum of Agreement (MOA) with MHC in advance of undertaking the Phase 1 work as outlined in further detail above. The proponent should submit a copy of the MOA to the MEPA office for the project file. Phase 1 does not require any other Agency Actions.

Conclusion

Based on these findings, I confirm that the Waiver Request has merit and meets the tests established in Section 11.11. Therefore, the Waiver Request for this project is granted, subject to the above findings.

January 29, 2007

Date



Ian A. Bowles

No comments received

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