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March 7, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : J & K Corner
PROJECT MUNICIPALITY : Holden
PROJECT WATERSHED : Wachusett
EEA NUMBER : 14177
PROJECT PROPONENT : J & K Ventures
DATE NOTICED IN MONITOR : February 6, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR). However, the project as proposed in the Environmental Notification Form (ENF) does not appear to be permissible. Therefore, if the proponent chooses to proceed with a redesigned project, the proponent should submit a Notice of Project Change (NPC).

The project as proposed in the Environmental Notification Form (ENF) consists of construction of a commercial building (2,204 square feet) and parking areas with porous pavers (for 22 spaces), and will include excavation, vegetation removal, septic tank relocation, increased impervious area and storage of solid waste. The proposed project is located within Riverfront Area, within 200 feet from the bank of a tributary to the Wachusett Reservoir, and within the Zone A of a public water supply.

The ENF did not include an adequate assessment of the project's impacts and alternatives, and did not describe mitigation measures that would meet regulatory requirements for management of stormwater within a critical area. As noted in the comment letter from the

Department of Conservation and Recreation (DCR), the project as proposed in the ENF does not provide sufficient protection of the environmental resources of the Commonwealth. The project as proposed in the ENF does not qualify for a Watershed Protection Act variance as requested by the proponent. The proponent declined the offer of an extension to the public comment period to consult with the DCR and provide additional information necessary for the MEPA review process. The proponent also declined the option to withdraw and resubmit a revised ENF.

According to the ENF, the project will result in approximately 0.02 acres of new impervious area on a 1-acre site. The ENF indicates that the project will have no impacts to Riverfront Area. However, as further detailed in the DCR comment letter, the project is located entirely within Riverfront area and includes approximately 9,600 square feet of alteration (of which 4,000 sf is alteration of undisturbed vegetation). The ENF indicates that the project will not alter Bordering Vegetated Wetlands (BVW). The ENF identifies an existing parking area for 22 spaces, and proposes 9 new spaces (for a total of 31). However, it appears that the area identified in the ENF as existing spaces #10-21 is actually an area that was historically grass and has recently been used for parking. As noted in its comment letter, DCR does not consider this an existing parking lot.

As noted in the DCR comment letter, the existing impervious area on the project site is approximately 6,688 square feet or 14.6%, which is already over the threshold pursuant to 310 CMR 10.58(4)(d)(1) and the project does not meet 310 CMR 10.58(5)(e) because the existing degraded area exceeds 10% of Riverfront Area. The site is located in a critical area and therefore the use of porous pavers is inappropriate. The ENF does not propose any other stormwater management techniques to address or improve conditions from the existing or proposed paved areas, nor does it proposed infiltration of roof run-off. The project as proposed requires significant changes to meet stormwater management standards and other requirements for a project within Riverfront area and in the Zone A of public water supply. In order for a variance from Watershed Protection Act to be granted, the proponent will need to submit credible evidence that the project will not result in substantial detriment to the public good and will not result in impairment of water quality in the Wachusett watershed.

The project is under environmental review pursuant to Section 11.03(4)(b)(6) because it will result in alteration requiring a variance in accordance with the Watershed Protection Act from the Department of Conservation and Recreation (DCR). The project also requires an Order of Conditions from the Holden Conservation Commission (and, on appeal only, a Superseding Order from the Massachusetts Department of Environmental Protection (MassDEP)). MEPA jurisdiction is limited to the subject matter of state agency permits and extends to water supply, wetlands, water quality, land and stormwater.

The following information would facilitate subsequent MEPA review:

- The NPC should include a cumulative assessment of project impacts that quantifies alteration to Riverfront area. The NPC should include a breakdown of the amount of alteration associated with the existing building and nine parking spaces, and the amount of alteration associated with the proposed building addition and 22 additional parking spaces.

The NPC should describe and quantify impacts to all wetlands resources, including BVW and Riverfront area. The NPC should explain the discrepancy between the location of BVW on the ENF plan and the previous BVW delineation referenced in the DCR comment letter. The NPC should include a plan that overlays the proposed development on an existing conditions plan to facilitate an assessment of wetlands impacts.

- The NPC should consider alternative approaches to meet parking needs, including an alternative that will avoid and minimize alteration in riverfront and vegetation removal. The area proposed for development is presumed to be significant to water supply protection. In accordance with the General Performance Standards, the proponent will be required to demonstrate in the permitting process that there is no practicable and substantially equivalent alternative with less adverse effects to the interests of the Wetlands Protection Act (M.G.L. c. 131 §40) and that the proposed work, including mitigation, will not result in any significant impacts on the riverfront area to protect the interests of M.G.L. c. 131 §40.
- The ENF indicates that stormwater runoff will be managed to meet MassDEP requirements for a redevelopment site. As further detailed in the WPA regulations at 310 CMR 10.58(5), a previously developed Riverfront area contains areas degraded prior to August 7, 1996. Based on the review of the ENF and consultations with DCR, it does not appear that the entire project would qualify as a redevelopment project. If the proponent is considering portions of the project as "redevelopment", the NPC should include sufficient documentation to demonstrate that these portions of the project qualify as a redevelopment project.

The project site is located within the Zone A of a public water supply and the wetlands on-site are considered Outstanding Resource Waters (ORWs). The proposed stormwater management system for the project will need to meet the regulatory requirements for critical areas. For information on the recently promulgated regulations and interim guidance on the Stormwater Management Standards, the proponent may consult the following MassDEP web site.

<http://www.mass.gov/dep/service/regulations/newregs.htm#stormwater> (see 310 CMR 10.00 and 314 CMR 9.00: Stormwater Revisions).

March 7, 2008

DATE



Ian A. Bowles, Secretary

Comments received

2/12/2008 Department of Conservation and Recreation (DCR)
2/25/2008 Water Supply Citizens Advisory Committee (WSCAC)

IAB/DBB/ae