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April 28, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : Gibbs Crossing Expansion
PROJECT MUNICIPALITY : Ware
PROJECT WATERSHED : Chicopee
EOEA NUMBER : 13471
PROJECT PROPONENT : W/S Ware Properties Limited Partnership
DATE NOTICED IN MONITOR : March 22, 2006

As Secretary of Environmental Affairs, I hereby determine that the Final Environmental Impact Report (FEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00).

The project involves development of a 171,069 square foot (sf) Lowe's Home Improvement Warehouse, and 96,595 sf of additional development (retail and commercial space, a bank and two restaurants) on a 64.5-acre site on Palmer Road (Route 32) adjacent to the Ware River. The project site includes an existing Wal-Mart store (172,177 sf), which was the subject of a previous MEPA review (EOEA#9155). The FEIR for the Wal-Mart development was determined to be adequate in a Certificate issued on January 28, 1994.

As described in the DEIR, the proposed project will result in alteration of approximately 30 acres of land, including creation of 18 acres of new impervious area. Total impervious area at full build-out, including the existing Wal-Mart development, is estimated at 30.03 acres. The proposed project involves construction of 935 additional parking spaces (for a total of 1,780). Wetlands impacts associated with the project include 30 linear feet of inland bank, 12,800 square feet (sf) of Bordering Land Subject to Flooding and 19,950 sf of Riverfront Area. Water demand for the project is estimated at 59,840 gallons per day (gpd), which includes the existing flow of 9,910 gpd, and wastewater generation is estimated at 54,400 gpd. The project includes

construction of 1.7 miles of new sewer mains to connect the project to the Ware Wastewater Treatment Plant (WWTP). Traffic impacts associated with the proposed project are estimated at 8,080 trips per day (tpd) at full build-out during an average weekday and 10,440 tpd on a Saturday. The FEIR estimates overall traffic impacts (including the existing Wal-Mart facility) at 16,620 tpd for an average weekday and 19,030 on an average Saturday.

The project will be implemented in several phases. The existing Wal-Mart development is referenced as Phase I in the FEIR for the proposed project. Phase II includes a Lowe's Home Improvement Warehouse and 856 parking spaces. Phase III consists of approximately 20,795 sf of retail space, a 4,000 sf bank, a 5,500 sf restaurant and 207 parking spaces. Phase IV consists of 60,800 sf of retail, a 5,500 sf restaurant and 393 parking spaces. Phase II, III, and IV combined include 1,456 parking spaces. The FEIR proposes constructing 935 parking spaces and "banking" 521 spaces for potential future use if required by the Town of Ware.

The project is undergoing environmental review and requires the preparation of a mandatory EIR pursuant to Sections 11.03(1)(a)(2) of the MEPA regulations because it involves creation of 10 acres or more of impervious area, and Section 11.03(6)(6) and (7) because it involves generation of 3,000 or more new vehicle trips per day and construction of 1,000 or more new parking spaces at a single location. The project is also undergoing environmental review pursuant to Section 11.03(1)(b)(1) because it involves direct alteration of 25 or more acres of land and Section 11.03(2)(b) because it includes an area mapped as a Priority Site for Rare Species Habitat and may result in a "take" of a state-listed rare species on a site of two or more acres. The project is also undergoing environmental review pursuant to Section 11.03(5)(b)(3)(c) because it involves construction of ½ or more miles of sewer mains.

The project will require a Sewer Extension Permit from the Department of Environmental Protection (DEP) and an Access Permit from MassHighway Department (MHD) for access to Route 32. The project may require a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP). The project requires an Order of Conditions from the Ware Conservation Commission (and, on appeal only, a Superseding Order from DEP). The project requires a National Pollutant Discharge Elimination System (NPDES) Construction Activities Permit from the US Environmental Protection Agency (EPA).

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 state permits with the potential to cause damage to the environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to transportation, rare species, wetlands, wastewater and land--including related stormwater issues.

Alternatives

Parking and Impervious area

The FEIR presents a reduced scale alternative that eliminates approximately 15,800 sf of buildings and associated parking. This alternative results in an approximately 1-acre decrease in impervious area (a 5.5% reduction in proposed new impervious area). Under this alternative, reserve parking is shifted further away from riverfront areas. The proponent has not chosen the

reduced-build alternative as it would reduce potential tenant lease agreements and revenues. The FEIR presents three other alternative site schematics (#1-3), which result in similar or higher amounts of impervious area and increased wetlands impacts.

The proponent has worked with the Town of Ware to obtain a Variance that allows reduced parking stall length (from 20ft to 19ft) resulting in an overall decrease of approximately 4 acres of impervious area (36.3 acres in Alternative #1 compared with 32.03 acres in the preferred alternative). In addition, the proponent has applied to the Town for a Special Permit to construct less parking than would typically be required under the Town's parking requirements. The proponent is seeking a Special Permit to allow construction of 1,797 parking spaces for the entire project (including existing Wal-Mart) rather than 2,301 spaces, as required by the Town. Under the proposed project scenario, a total of 521 parking spaces would be banked for reserve parking and only constructed if required by the Town of Ware. According to the FEIR, the proponent has conducted parking demand studies, which indicate that actual demand for parking at Lowes' facilities is between 3-4 spaces per thousand square feet of building. The Town of Ware required 5.0 spaces per thousand square feet. The proponent has committed to reduce impervious area by limiting construction of parking spaces to meet, and not exceed, project demand. The proponent has committed to maintain the parking reserve areas as open space unless required to construct additional parking by the Town of Ware. I commend the proponent for its efforts in this regard and encourage the Town to work with the proponent to avoid any unnecessary creation of impervious area.

Sustainable Design

The FEIR identifies several sustainable design measures that will be incorporated into the proposed Lowe's project as well as the existing Wal-Mart development. These include water conservation measures such as low-flow plumbing fixtures and drought-resistant landscaping; use of EnergyStar products and environmentally-sensitive building materials; implementation of a recycling program for cardboard, pallets and batteries; and a Transportation Demand Management Program. The proponent also committed to incorporate energy efficient heating and cooling systems, natural lighting, and construction materials recycling as part of the proposed project.

The proponent evaluated various Low Impact Development (LID) options including vegetative swales and determined that the use of a conventional pipe system was more appropriate for the site. The proposed stormwater system has been designed to comply with the DEP Stormwater Policy and provide on-site recharge to groundwater.

Rare Species

NHESP has indicated that four state-listed species are documented to occur on and in the immediate vicinity of the subject property. The project site is partially located within Estimated and Priority Habitat from the Spine-crowned Clubtail (*Gomphus abbreviatus*) dragonfly, Triangle Floater (*Alasmidonta undulate*), Creeper Mussel (*Strophitus undulatus*) and Swollen Wedgemussel (*Alasmidonta varicosa*). The Triangle Floater and Creeper Mussels are state-protected as species of "Special Concern" and the Spine-crowned Clubtail and Swollen

Wedgemussel are listed as “Endangered” pursuant to the Massachusetts Endangered Species Act (M.G.L. c131A).

According to the FEIR, there will be no stormwater discharges or activities within 200 feet of the Bank of the Ware River. NHESP has determined that activities associated with the project, exclusive of the proposed sewer main, will not result in an “adverse effect” to actual resource area habitat of state-listed species (310 CMR 10.59) or result in a prohibited “take” as defined in the Massachusetts Endangered Species Act (MESA) (310 CMR 10.02). As further detailed in the NHESP comment letter, the proponent has indicated that all work related to the sewer main will occur within 10 feet of existing paved roads and is therefore exempt from a filing pursuant to the MESA. In order to avoid any adverse impact to rare species habitat, the proponent should adhere to the eight conditions relative to stream crossings as further detailed in the NHESP comment letter and its November 11, 2005 letter (included as Appendix C in the FEIR). The conditions specified in the NHESP letter should be incorporated in the Final Order of Conditions for the project and complied with during project activities. The proponent has indicated that an Order of Conditions was already issued for the project (October 4, 2005). This Order does not include the NHESP conditions. Therefore, the proponent should seek an amended Order of Conditions to include NHESP conditions as further detailed in its comment letters and November 4, 2005 letter to the proponent. The proponent should submit copies of Orders of Conditions and any project revisions to NHESP in a timely manner.

The proponent has removed the invasive plant species, Norway Maple (*Acer platanoides*), from the landscaping plan as recommended by NHESP in their comments on the Draft EIR. According to the FEIR, the Norway Maples will be replaced with Sweetgum (*Liquidambar styraciflua*).

Transportation

The Executive Office of Transportation (EOT) has determined that the FEIR has adequately addressed the project mitigation commitment, timing and limited capacity issues associated with the Route 32/Anderson Road/Malboeuf Road intersection. The FEIR includes a revised traffic study that generally conforms to the EOEAEOT Guidelines for EIR/EIS Traffic Impact Assessments. The FEIR also includes a gap analysis to demonstrate the availability of adequate capacity to accommodate left-turn movements and determine the timing of constructing an exclusive left-turn lane at the Route 32/Anderson Road/Malboeuf Road intersection. As further detailed in the EOT comment letter, the study indicates that construction of the exclusive left-turn lane may be delayed until Phase IV of the project. The proponent has committed to prepare a corridor improvement plan for the Town of Ware, prior to the opening of Phase II and II, which will examine the impact of development on the Route 32/Anderson Road/Malboeuf Road intersection and provide guidance for future economic development and infrastructure on the corridor.

As further detailed in the FEIR, the proponent has committed to mitigation measures including:

- Widening the Wal-Mart driveway approach to Route 32;
- Traffic signal improvements;

- Donation of land from the project site to the Route 32 right-of-way;
- Preparation of a 25 percent-level improvement plans and a Functional Design Report for the Route 32/Anderson Road/Malbeouf Road intersection;
- Installing signage along Route 32 to notify motorists of potential conflicts with entering and exiting traffic; and
- Construction of a Route 32 northbound exclusive left-turn lane at the Anderson Road/Malbeouf Road intersection.

The proponent has committed to a range of Transportation Demand Management (TDM) measures including installation of high-security bicycle racks and pedestrian linkages on-site, implementing a ride-share program and working with the Pioneer Valley Transit Authority (PVRTA) to promote the use of public transportation and explore the feasibility of providing additional transit services to and from the project site. The proponent will also provide incentives to encourage tenants to implement TDM. The proponent has committed to an annual traffic monitoring program and will submit the results of traffic studies to MassHighway, the Town of Ware and the PVRTA.

Air Quality

As described in the FEIR, the emergency generator for the proposed Lowe's facility is subject to the emission limitation requirements of 310 CMR 7.26 (42)(b) and the Environmental Results Program (ERP) Certification provisions of 310 CMR 70.00. The proponent has committed in the FEIR to compliance with applicable air quality regulations and to provide DEP with the documentation necessary for ERP certification.

Solid Waste Management

According to the FEIR, there will be some crushing and reuse of asphalt, which will be conducted in accordance with the requirements of 310 CMR 16.05(3)(e) and all applicable DEP requirements. I encourage the proponent to avail of opportunities to reuse and recycle any construction debris generated as a result of the project. The proponent should ensure that construction and demolition (C&D) materials are managed in accordance with the requirements of the waste disposal ban regulations pursuant to 310 CMR 19.017.

Wastewater

The FEIR indicates that a Major Sewer Extension Permit application for the project has been filed with the DEP. The DEIR estimated proposed flow at 41,303 gpd but also included a letter from the Town of Ware, Department of Public Works (DPW) that referenced a flow of 340,000 gpd. The FEIR clarifies that the proposed project will result in a wastewater flow of 54,000 gpd and that the 340,000 gpd volume referenced in the DPW letter is an estimate of available capacity, as a result of the sewer mains extension, for potential new municipal sewer connections. I remind the Town of Ware that an NPC may be required for future connections to the proposed sewer mains extension.

Mitigation and Section 61 Findings

The FEIR included draft Section 61 findings for the MassHighway Access Permit, DEP Sewer Extension Permit, Air Quality Permit, and Order of Conditions. State agencies should forward copies of the final Section 61 findings to the MEPA Office for the project record.

The proposed project requires no further review under MEPA. I am satisfied that any outstanding issues can be adequately addressed through the state and local permit and review processes.

April 28, 2006

DATE


Stephen R. Pritchard, Secretary

Comments Received

4/19/06 Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program.
4/21/06 Executive Office of Transportation, Office of Transportation Planning

Cc. Town of Ware, Department of Public Works

SRP/AE/ae