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July 25, 2008

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

PROJECT NAME : Queset Commons
PROJECT MUNICIPALITY : Easton
PROJECT WATERSHED : Taunton
EEA NUMBER : 14266
PROJECT PROPONENT : Douglas A. King Builders, Inc.
DATE NOTICED IN MONITOR : June 25, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of a mandatory Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of a mixed-use development designed in accordance with the M.G.L. Chapter 40R Smart Growth provisions. The project, Queset Commons, will be located on a 69-acre site situated west of Washington Street (Route 138) and north of Morse's Pond in Easton. The development will consist of seven (7) buildings total: two four-story condominium buildings (60 units), two mixed-use residential (83 assisted living units and 137 rental apartment units) and retail/commercial (60,000 square feet (sf)) buildings, a 16,000 sf conference center, a 15,000 sf food market, two office buildings (25,000 sf total), and a wastewater treatment facility.

Anticipated environmental impacts associated with the project include 21.1 acres of new land alteration, 13.0 acres of new impervious area, 800 sf of direct alteration of Bordering Vegetated Wetlands (BVW), 9,132 additional vehicle trips per day, 910 new parking spaces, and approximately 70,000 gallons per day (gpd) of new water usage and wastewater generation, respectively. The project will include the installation of an on-site wastewater treatment facility, wastewater discharge areas, intersection improvements, and a variety of low-impact design (LID) stormwater management techniques.

Jurisdiction and Permitting

This project is subject to MEPA review and the preparation of a mandatory EIR as it requires a State agency action and will generate 3,000 or more new average daily trips on roadways providing access to a single location (301 CMR 11.03(6)(a)(6)). The project will also exceed the mandatory EIR threshold at 301 CMR 11.03(1)(a)(2) as it will create ten (10) or more acres of impervious area. The project will require a Vehicular Access Permit from the Massachusetts Highway Department (MassHighway) for impact to state-controlled roadways. The project will also require a Major Groundwater Discharge Permit (BRP WP 06) from the Massachusetts Department of Environmental Protection (MassDEP). Coverage under the National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency will be required. Finally, the project must obtain an Order of Conditions from the Easton Conservation Commission, or in the case of an appeal, a Superseding Order of Conditions from MassDEP. The project is subject to the EEA/MEPA Greenhouse Gas (GHG) Emissions Policy.

The project will receive financial assistance from the Massachusetts Department of Housing and Community Development in accordance with M.G.L. Chapter 40R – Smart Growth Zoning and Housing Production Bylaw. Therefore, MEPA jurisdiction for this project is broad and shall extend to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment.

SCOPE

General

The Draft Environmental Impact Report (DEIR) should follow Section 11.07 of the MEPA regulations for outline and content, as modified by this scope.

Project Description and Permitting

The DEIR should include a detailed description of the proposed project and describe any changes to the project since the filing of the ENF. The DEIR should provide a brief description and analysis of applicable statutory and regulatory standards and requirements, and a description of how the project will meet those standards. The DEIR should include a list of required permits

and approvals and provide an update on the status of each permit and/or approval. Within the ENF it was unclear what constituted the project site. Some calculations in the ENF noted the presence of existing water and wastewater flows, while other calculations, such as traffic, considered the project site undeveloped. The DEIR should clarify the project site and confirm if the project site includes the existing Queset on the Pond assisted living facility, the Stone Forge restaurant, and the 8-acre proposed conservation restriction. The DEIR should include a summary of existing and proposed environmental impacts associated with the entire project area.

Alternatives

The project is likely to significantly impact the existing conditions of the project site through the construction of this mixed-use development. The project site contains a MassDEP-approved Zone II for municipal water supply wells, wetland resource areas, and is generally undeveloped in nature.

The DEIR should analyze the following alternatives:

- A No-Build Alternative;
- A Modified Wastewater Disposal Location Alternative, which locates wastewater leaching areas outside the MassDEP-approved Zone II; and,
- A Preferred Alternative.

It is possible that, subsequent to the completion of the alternatives analysis, the Preferred Alternative could be modified in comparison to that presented in the ENF. The alternatives analysis may go beyond the three alternatives requested above and include previously discarded conceptual design plans to support the proponent's conclusion that the Preferred Alternative avoids, minimizes, and mitigates damage to the environment. The DEIR should identify the impacts for each of the alternatives on land alteration (including impervious area), traffic, parking, drainage, wastewater, water supply, historic/archaeological resources, and wetlands in a tabular format. This table, along with a supporting narrative and conceptual site plans, should provide a comparative analysis that clearly shows the differences between the environmental impacts associated with each of the alternatives.

The DEIR should identify and explain any project phasing, including potential impacts on construction sequencing and traffic patterns. It should discuss how this project is compatible with Executive Order 385 – Planning for Growth by discussing its consistency with local land use plans and applicable regional plans.

The DEIR will require the reevaluation of the Preferred Alternative to investigate GHG reductions that may be realized through site design, operations, and architecture. Guidance for this alternatives analysis has been outlined in the MassDEP comment letter on the ENF, and is described in the GHG section of this Certificate.

Land

The project will alter approximately 21.1 acres of land and create 13 acres of new impervious surfaces. While the ENF proposed several ways to reduce impervious areas such as pervious pavement, underground parking and the clustering of buildings. I encourage the proponent to explore in the DEIR the feasibility of further reducing impact in wetland resource buffer zones and grading, thereby reducing overall land impacts associated with the project. The DEIR should outline erosion and sedimentation control best management practices for use during the construction period.

Traffic and Transportation

The ENF stated that the project will result in the generation of approximately 9,132 new vehicle trips on an average weekday. Access to the project site will be provided at the intersection of Belmont Street (Route 123) and Washington Street (Route 138) and the CVS driveway, at the intersection of Route 138 and Roosevelt Circle, and at an additional driveway located approximately 250 feet south of the Route 138/Route 123 intersection. MassHighway Vehicular Access and Traffic Signal permits will be required for the project. Comments received on the ENF indicate that the ENF included a transportation study that does not fully conform to the EOEEA/EOTPW Guidelines for EIR/EIS Traffic Impact Assessments.

The DEIR should include a revised and updated traffic study prepared in conformance with EOEEA/EOTPW Guidelines. The proponent should provide a detailed response to the comment letter dated July 15, 2008 submitted by the Executive Office of Transportation (EOT), and I hereby incorporate by reference the additional requests for information contained in that letter as part of the scope of the DEIR. Furthermore, the DEIR should expand the traffic study area to include not only the additional intersections recommended by EOT, but the Route 138 and Plymouth Drive intersection at the request of the Old Colony Planning Council (OCPC). The DEIR should outline a robust and viable mitigation program, including means to reduce single-occupancy vehicle trips, enhancement of pedestrian and bicycle amenities, and commitments to promote mass transit services. I encourage the proponent to work with the OCPC, the Brockton Area Transit Authority (BAT), and the Massachusetts Bay Transportation Authority (MBTA) to evaluate potential traffic mitigation measures and travel demand management program components. The DEIR should summarize how the project will comply with Massachusetts Idling Regulations and the Massachusetts Rideshare Regulations, if applicable.

Air Quality

The project will be required to conduct an air quality mesoscale analysis, as the projected new daily vehicle trips associated with the project triggers MassDEP's review threshold of 6,000 daily trips for mixed-use projects. The DEIR should contain a mesoscale analysis comparing indirect emissions from transportation sources under various No Build, Build, and Build with Mitigation conditions. The DEIR should demonstrate that the proposed project mobile source

emission impacts will not exceed or contribute to an exceedance of National/State Ambient Air Quality Standards. The mesoscale analysis should also determine to what extent the proposed project will increase the amount of volatile organic compounds (VOCs) and nitrogen oxides (NO_x) emissions in the project area. The mesoscale analysis should also be used to estimate indirect CO₂ emissions from transportation sources in conjunction with the GHG Policy.

Greenhouse Gas Emissions (GHG)

The proposed project is subject to EEA's Greenhouse Gas (GHG) Policy that requires proponents to quantify project-related GHG emissions and propose and quantify the impact of mitigation measures to reduce GHG emissions. A copy of the GHG Policy may be found at: <http://www.mass.gov/envir/mepa/pdffiles/misc/GHG%20Policy%20FINAL.pdf>. The DEIR must include a GHG analysis that calculates emissions for both mobile and stationary sources and a corresponding mitigation program to reduce overall GHG emissions associated with the project.

The proponent should demonstrate in the DEIR that it has evaluated and committed to GHG-reduction measures consistent with the GHG Policy. The proponent should evaluate additional GHG mitigation alternatives as suggested by MassDEP and the Department of Energy Resources (DOER) in their comments submitted on the ENF. The proponent should clarify which specific measures will be implemented, provide supporting modeling data that reflects the implementation of these measures, and clearly depict how these measures reduce GHG emissions in a future Build with Mitigation scenario.

The DEIR should respond to the comments by MassDEP/DOER with respect to:

- Pursuit of Leadership in Energy and Environmental Design (LEED) and/or Energy Star certifiable project status;
- Explanation of building orientation and discussion of expected impacts on energy usage;
- Energy efficient lighting;
- Interior day-lighting of buildings;
- Duct insulation;
- Incorporation of third-party building commissioning;
- Implementation of building energy management systems;
- Roof and wall insulation;
- Windows and high-albedo roofing materials;
- On-site renewable energy sources. The DEIR should evaluate the use of photovoltaic (PV) systems in accordance with the recommendations of DOER. The DEIR should also investigate the use of solar thermal or geothermal energy sources on-site;
- District heating and cooling systems or if this is infeasible, HVAC systems;
- Wastewater treatment facility energy demands; and
- Materials management.

The GHG analysis should clearly present modeling data inputs, the results of calculations used to quantify Existing Conditions, the Build Conditions, and the impact of proposed emissions-reduction mitigation. If the proponent uses graphics, graphics should be produced so that the reader can understand the results and understand the potential CO₂ reductions associated with individual mitigation measures. In the DEIR, the proponent should fully explain any trade-offs inherent in the evaluation of GHG reduction measures, such as increased impacts on some resources to avoid impacts to other resources.

The DEIR should reflect a commitment to pursue additional GHG mitigation measures in response to the modeling. If the proponent chooses not to model a specific mitigation measure recommended by MassDEP because it determines the measure to be infeasible for this particular project, the DEIR must justify why modeling was not conducted. If, after further evaluation of a GHG mitigation measure using energy modeling software, the proponent does not propose to implement the measure, the DEIR should provide technical and cost analyses to document the rationale for not making the commitment. I strongly encourage the proponent to consult with the MEPA Office, MassDEP and DOER prior to submission of the DEIR with regard to the anticipated content of the GHG analysis.

Wetlands

According to the ENF, the project will directly alter approximately 800 sf of Bordering Vegetated Wetlands (BVWs) in association with a roadway crossing of an intermittent stream. The ENF has indicated that the stream crossing will include construction of a three-sided, open-bottom bridge span. The project site includes a number of wetland resource areas including: Land Under Water, BVW, Bordering Land Subject to Flooding (BLSF), Bank, Isolated Vegetated Wetlands (IVW) and a vernal pool. This project will require the filing of a Notice of Intent with the Easton Conservation Commission.

The DEIR should provide plans at an appropriate scale to accurately discern the location of each wetland area regulated under the Wetlands Protection Act (WPA) located on the project site. Each wetland resource area should be characterized according to 310 CMR 10.00. The DEIR should address the significance of the wetland resources on-site for public and private water supply; riverfront areas; flood control; storm damage prevention; fisheries; shellfish; and wildlife habitat. The DEIR should provide an accurate measurement of each wetland resource area that will be affected by the project and describe the amount of alteration necessary to achieve the Preferred Alternative. The DEIR should clarify if the vernal pool on-site has been certified by the Natural Heritage Endangered Species Program (NHESP).

The DEIR should demonstrate that all wetland impacts have been avoided, and where unavoidable impacts occur, that impacts are minimized and mitigated. The DEIR should include a detailed discussion and accompanying conceptual design plan for the stream crossing showing the roadway, stream crossing or bridge span itself, wetland resource areas to be altered, and associated replication areas. The DEIR should demonstrate that the project will be accomplished in a manner that is consistent with the Performance Standards of the Wetlands Regulations (310 CMR 10.00). Proposed activities, including construction mitigation, erosion and sedimentation

control, phased construction, and drainage discharges or overland flow into wetland areas, should be evaluated. The DEIR should specifically address the impact, if any, to the placement of stormwater outfalls within resource areas. The DEIR should clarify what portions of the project may result in the permanent alteration of wetland resource areas versus temporary impacts to facilitate construction.

The proponent indicated in the ENF the possibility of walking trails and connections to adjacent conservation land. The DEIR should identify any wetland crossings and quantify wetland impacts associated with constructing this trail network. If off-site wetland impacts are anticipated, the DEIR should generally identify these impact areas and discuss how this may affect the potential trail connections.

Stormwater

I commend the proponent for incorporating low impact design (LID) stormwater management techniques in the development plan presented in the ENF. The DEIR should include drainage calculations, stormwater system design plans at a readable scale, best management practice (BMP) designs and models for proprietary BMPs, and a clear description of the stormwater management plan to affirm that the stormwater system design is in conformance with the MassDEP Stormwater Management Regulations (SMR) standards for water quality and quantity impacts. The DEIR should discuss the feasibility of maximizing stormwater infiltration and identify the quantity and quality of flows. Similar calculations should be provided to determine the amount of stormwater that may be used for on-site irrigation purposes. The DEIR should demonstrate that source controls, pollution prevention measures, erosion and sedimentation controls during construction, and the post-development drainage system for the project are designed in compliance with the SMR and standards for water quality and quantity impacts. A draft operation and maintenance plan for the stormwater management system should be presented in the DEIR. Consideration should be given in this plan to the location of snow removal and sanding operations on-site.

Water Supply

Water usage associated with the project is estimated at 70,000 gpd, which combined with the existing demand of 23,250 gpd, will result in a project site total water demand of 93,250 gpd. MassDEP has indicated that the Town of Easton is authorized under the Water Management Act to withdraw on average 2.45 million gallons per day (MGD). Easton's 2007 average day water demand was 2.06 MGD. MassDEP has requested that the DEIR include a detailed estimation of water demand for the project, including outdoor water use, differentiating between water provided from the Town water supply and stormwater runoff. Furthermore, the DEIR should clarify the difference between the estimated 70,000 additional gpd required for the project as stated in the ENF with the availability of 34,000 additional gpd cited in the letter from the Town of Easton (Attachment 7 of the ENF). Water conservation measures that could be incorporated into the project should be outlined in the DEIR.

Wastewater

The project is projected to generate approximately 70,000 gpd of additional wastewater beyond the existing discharges of 23,250 gpd. Total project-generated wastewater discharges are estimated at 93,250 gpd, but the ENF proposes a total wastewater treatment capacity of 150,000 gpd to accommodate future discharges from off-site. Future off-site flows would be flows diverted from existing septic systems to the wastewater treatment facility and would be the responsibility of the Town of Easton. Current wastewater flows associated with the adjacent Queset on the Pond assisted living facility and the Stone Forge restaurant will be diverted from their respective septic systems to the wastewater treatment facility. At the current time, the Town of Easton does not have a municipal sewer system. MassDEP has indicated that the wastewater treatment facility will be required to be constructed to meet Class I Drinking Water Standards and MassDEP Water Reuse Guidelines.

The western portion of the Queset Commons project site lies within a MassDEP approved combined Zone II area for three of Easton's municipal water supply wells. Additionally, the ENF indicates that the entire project site is located within the locally-jurisdictional Aquifer Protection District as defined by the Easton Zoning Bylaw. Portions of the wastewater treatment areas are located within the designated Zone II. The ENF has stated that wastewater discharges will receive an advanced level of treatment prior to discharge. MassDEP has noted that while sanitary wastewater disposal areas are not prohibited in Zone II areas, it is good practice to site groundwater discharge areas as far as feasible from an approved Zone II. As outlined in the Alternatives section of this scope, I have requested that the DEIR evaluate a design alternative that locates wastewater discharge areas outside of the Zone II.

The DEIR should describe the proposed type of wastewater treatment facility, how it will be designed in accordance with MassDEP groundwater discharge regulations, and how the facility avoids, minimizes or mitigates damage to the environment. The DEIR should describe how the wastewater effluent will meet disposal criteria within a Zone II area, including removal rates for criteria pollutants. The DEIR should clarify the potential for expanded wastewater treatment capacity on-site, how the system would be designed to accommodate future flows, and the responsible parties for flows beyond that generated by the Queset Commons project, the Queset on the Pond, and the Stone Forge restaurant.

The DEIR should include a graphic of the Zone II, the proposed leaching fields, and nearby municipal water supply wells. The DEIR should clarify the location of the Preferred Alternative's leaching areas in relation to the approved Zone II area. Furthermore, as directed by MassDEP, the DEIR should, at a minimum, discuss the anticipated impacts to water quality and groundwater flow patterns from the proposed leaching areas, both under normal flow conditions and under drought conditions. The DEIR should also include a discussion of additional monitoring measures that will be enacted within the project site to evaluate the potential project impact on the Zone II.

The ENF also indicated that groundwater removal may be required in association with the construction of underground parking garages. The DEIR should describe how groundwater

will be removed from the underground parking areas and estimate volumes and frequency of discharges.

I acknowledge the comment letters received concerning the proximity of the leaching field to the Zone II for municipal water supply wells and the potential presence of pharmaceuticals and personal care products in the waste stream. However, as indicated in the MassDEP comment letter, applicable regulations do not prohibit the location of wastewater treatment facilities within a Zone II. A full analysis of the potential impact of leaching areas on the water supply will be required in association with the required Major Groundwater Discharge Permit for the project. I encourage the proponent to provide a detailed discussion of the relationship between wastewater and water supply resources for this project in the DEIR.

Historic and Archaeological Resources

The Massachusetts Historical Commission (MHC) has indicated that portions of the project area include one recorded ancient archaeological site (Morse's Pond Site; 19-BR-480) according to a review of the Inventory of Historic and Archaeological Assets of the Commonwealth. The project site is also adjacent to the Morse Mansion (EST.175) at 573 Washington Street, within the Central Street Area (EST.J), a potential historic district eligible for listing in the National Register of Historic Places.

An intensive (locational) archaeological survey (950 CMR 70) was conducted for portions of the current project site in conjunction with the development of the adjacent parcel, currently identified as the Queset on the Pond assisted living facility. The aforementioned Morse's Pond Site was identified during the 2000 survey for the assisted living facility. As no work was proposed at that time within the Morse's Pond Site, no additional archaeological testing was performed to determine site boundaries, contents and significance. MHC has indicated that the current Queset Commons project includes potential impacts to the Morse's Pond Site.

The MHC has requested a site examination of the Morse's Pond Site to gather sufficient information to determine the exact horizontal and vertical boundaries of the site, its internal configuration, and data contents, so that a determination of significance can be made. This site examination will also provide information to assist in consultation to avoid, minimize or mitigate adverse effects to an archaeological resource listed in the Inventory of Archaeological Assets of the Commonwealth. Additionally, I encourage the proponent to conduct an intensive (locational) archaeological survey for the remaining archaeologically sensitive portions of the project area that have not been previously surveyed to locate and identify significant historical or archaeological resources that may be affected by the project. A summary of findings and consultation should be provided in the DEIR as directed in the MHC comment letter.

Construction Period Impacts

The DEIR should describe construction-period schedule and sequencing, site access and truck routing, and best management practices (BMPs) that will be used to avoid and minimize adverse environmental impacts. The DEIR should address potential impacts and mitigation relating to land disturbance, noise, dust, odor, nuisance, vehicle emissions, construction and demolition debris, and construction-related traffic. The proponent must comply with MassDEP's Solid Waste and Air Quality Control regulations during construction. The DEIR should discuss plans for reuse and recycling of construction materials. The proponent should consult with MassDEP for appropriate standards and guidelines for managing demolition and construction waste.

I encourage the proponent to mitigate the construction period impacts of diesel emissions to the maximum extent feasible. This mitigation may be achieved through participation in the MassDEP Diesel Retrofit Program. The proponent should work with MassDEP staff to implement construction-period diesel emission mitigation, which could include the installation of after-engine emission controls such as oxidation catalysts or diesel particulate filters. If the proponent intends to participate in these initiatives, the DEIR should include a clear commitment to such measures. I remind the proponent that off-road equipment engines must use low sulfur diesel (LSD) fuel. I encourage the proponent to further mitigate construction period air quality impacts through the use of ultra low sulfur diesel (ULSD) fuel in off-road engines, which contains even lower sulfur content than LSD.

Mitigation

The Queset Commons project provides numerous opportunities for mitigation of anticipated project impacts. The DEIR should outline a clear commitment to viable and effective mitigation measures to offset impacts on traffic, land, water, wastewater, wetlands, stormwater, and greenhouse gases. The Single EIR should include a separate chapter summarizing proposed mitigation measures. This chapter should also include a draft Section 61 Finding for each state agency that will issue permits for the project. Each draft Section 61 Finding should contain clear commitments to implement mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation.

Comments/Circulation

The DEIR should contain a copy of this Certificate and a copy of each comment letter received. In order to ensure that the issues raised by commenters are addressed, the DEIR should include a response to comments. This directive is not intended to, and shall not be construed to, enlarge the scope of the DEIR beyond what has been expressly identified in this certificate.

The proponent should circulate the DEIR to those parties who commented on the ENF, to any state agencies from which the proponent will seek permits or approvals, and to any parties specified in section 11.16 of the MEPA regulations. A copy of the DEIR should be made available for review at the Easton Public Library.

July 25, 2008

Date



Ian A. Bowles

Comments received:

06/25/2008	James M. Azevedo
07/02/2008	Diane E. Peterson
07/08/2008	Massachusetts Historical Commission
07/14/2008	Elaine Dahlgren
07/14/2008	Mary Jacobs
07/15/2008	Donald V. Bennett, Ph.D.
07/15/2008	Old Colony Planning Council
07/15/2008	Easton Conservation Commission
07/15/2008	Easton Department of Planning and Community Development
07/15/2008	Massachusetts Department of Environmental Protection – SERO
07/15/2008	Priscilla Almquist-Olsen, Esq.
07/15/2008	Brockton Area Transit Authority
07/15/2008	Executive Office of Transportation

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