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September 28, 2007

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

PROJECT NAME : Sharon Commons Lifestyle Center
PROJECT MUNICIPALITY : Sharon
PROJECT WATERSHED : Taunton and Neponset
EOEA NUMBER : 14081
PROJECT PROPONENT : Sharon CF II LP C/O The Congress Group, Inc
DATE NOTICED IN MONITOR : August 8, 2007

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 **requires** the preparation of an Environmental Impact Report (EIR).

The project as proposed in the Environmental Notification Form (ENF) consists of a commercial retail and office development of approximately 498,000 square feet on a 60-acre portion of the project site. The project includes construction of an on-site wastewater treatment system and roadway and stormwater infrastructure. The project site includes adjacent parcels of land, for a total of 139 acres. A portion of the site (approximately 16 acres) may be developed for residential use with up to 168 apartment and/or condominium units. According to the ENF, approximately 62.5 acres of land will be preserved or restricted for conservation. Approximately 31.6 acres of this land will be placed under a Conservation Restriction and 16 acres will be conveyed to the Town of Sharon for use as a public well site or for passive recreation.

The project is undergoing environmental review because it requires state agency action and meets or exceeds MEPA review thresholds. The project requires a mandatory EIR pursuant to Section 11.03(1)(a)(2) because it will result in creation of ten or more acres of impervious area and Section 11.03(6)(a)(6) and (7) because it will result in generation of 3,000 or more new average daily trips and construction of 1,000 or more new parking spaces. The project is also undergoing review pursuant to Section 11.03(2)(b)(2) because it will involve a take of a state-listed endangered or threatened species, or species of Special Concern; Section 11.03(3)(b)(1)(d)

and (f) because it will result in alteration of 5,000 or more sf of Bordering Vegetated Wetlands (BVW) and 1/2 acre or more of other wetlands; and Section 11.03(10)(b)(2) because it will involve destruction of a state-listed historic or archaeological site.

According to the ENF, the proposed project will result in approximately 44 acres of land alteration, including 32 acres of new impervious area. The project is located within habitat of state-listed species (Eastern Box Turtle). The project will alter wetlands resources including 17,620 square feet (sf) of BVW, 17,570 sf of Riverfront Area, 45 linear feet of Bank, 450 sf of Land Under Water (LUW), and 63,260 sf of Bordering Land Subject to Flooding (BLSF). Two wastewater treatment facilities (WWTF) are proposed to handle flows of 95,000 gallons per day (gpd) in total; 60,000 gpd from the proposed lifestyle center and 35,000 gpd from the potential residential development. Water use for the proposed lifestyle center is estimated at 59,520 gpd and will be obtained from the Town of Sharon public water supply. The project will result in approximately 19,300 new vehicle trips per day and construction of 2,183 new parking spaces. Total carbon dioxide (CO₂) emissions related to energy use and transportation is estimated in the ENF at 11,957 tons per year.

The project requires a Groundwater Discharge Permit and a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP). The project requires an Order of Conditions from the Sharon Conservation Commission (and, on appeal only, a Superseding Order of Conditions from MassDEP). The project requires a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP), a State Highway Access Permit from the Massachusetts Highway Department (MHD), and a Determination of No Adverse Effect from the Massachusetts Historical Commission (MHC). The project also requires a National Pollutant Discharge Elimination System (NPDES) Construction Activities Permit from the U.S. 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, wastewater, wetlands and water quality, rare species, historical and archaeological resources, land, stormwater and drainage.

Single EIR Request

The proponent has submitted an Expanded Environmental Notification Form (ENF) with a request that I allow the proponent to fulfill its EIR obligations under MEPA with a Single EIR, rather than require the usual two-step Draft and Final EIR process. The Expanded ENF received an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. I have reviewed the proponent's request for a Single EIR in accordance with Section 11.05(7) and Section 11.06(8) of the MEPA regulations, and I find that, while the Expanded ENF provided extensive information helpful for the review process, it did not fully meet the enhanced standards required in the MEPA Regulations. The ENF does not describe and analyze all aspects of the project and all feasible alternatives. Therefore, I must require the usual two-step Draft and Final

EIR process. However, if the Draft EIR resolves the substantive issues outlined below, I will consider the procedural options available to me at 301 CMR 11.08(8)(b)(2) as they relate to the Scope for the Final EIR and may allow the Draft EIR to be reviewed as a Final EIR.

SCOPE

General

The proponent should prepare a Draft EIR (DEIR) in accordance with the general guidance for outline and content found in Section 11.07 of the MEPA regulations as modified by this Scope. The DEIR should include a copy of this Certificate and a copy of each comment letter received. The DEIR should include a clearly labeled existing conditions plan of the project site and its immediate context, and a plan of proposed conditions. Maps and plans should be of a reasonable scale to facilitate review and comment and should identify wetlands and rare species habitat, and locate areas of proposed impact as well as areas proposed for permanent protection. Zone II and aquifer protection areas should be shown on site plans. Site plans in the DEIR should clearly identify the location of the proposed residential development and public water supply well, which are being considered for portions of the project site.

The DEIR should include a project summary, an update on any changes since the ENF filing, an update on permit consultations, and a summary of alternatives analyzed and mitigation measures proposed.

Cumulative Impacts

The DEIR includes a Memorandum of Understanding (MOU) with the Town of Sharon, which indicates that a portion of the site not being used for the Sharon Commons Lifestyle Center and not being gifted to the Town may contain a residential development of up to 168 units that will qualify for a Local Initiative Program (LIP) (designed to contribute to the overall stock of affordable housing in the town pursuant to M.G.L. c. 40B). The residential development should be considered as part of the cumulative impact and alternatives analysis in the DEIR.

The ENF form quantifies impacts associated with the Sharon Commons Lifestyle Center only, which is proposed for a 60-acre portion of the project site, but does not appear to include the residential component (with the exception of wastewater generation estimates). The DEIR should include a revised table that summarizes existing conditions and impacts for the entire project site, which is approximately 139 acres, taking into account the potential residential development. The DEIR should describe cumulative impacts and provide a break-out to differentiate impacts associated with the proposed lifestyle center and impacts related to the residential development.

The DEIR should include a conceptual site plan for the residential project and describe potential impacts, alternatives and proposed mitigation. The DEIR should discuss rare species impacts associated with the residential parcel and clarify how any required mitigation will be incorporated in the overall mitigation plan.

While the ENF includes some information on traffic and wastewater impacts associated with the proposed residential development, additional information is needed to fully describe this component of the project and related impacts and mitigation. The ENF included traffic projections for the residential component as part of the no-build scenario in the traffic analysis. Traffic generation for the residential component should be included in the build scenario, clearly specified in the DEIR, and included in total trip generation estimates for the project. The ENF estimated wastewater generation from the residential component at approximately 35,000 gpd and identified a location for treatment and disposal adjacent to the WWTF proposed for the Lifestyle Center. Additional information should be included in the DEIR as further detailed in the wastewater section below.

The MOU with the Town of Sharon indicates that the Town anticipates using a portion of the site (Parcel 6) for an additional town well. If the parcel is not used as a public water supply source, it may be used for conservation and/or passive recreation purposes. The DEIR should provide an update on plans for a public water supply or other uses of Parcel 6, and clarify conservation commitments. The DEIR should discuss any potential conflicts between proposed future uses and the proposed conservation and management plan for state-listed species.

Alternatives

As further detailed in the MassDEP comment letter, additional analysis is required to fully describe alternatives to avoid and minimize wetlands impacts. MHC also highlighted the need for analysis of alternatives to avoid archaeological impacts. The DEIR should expand upon the alternatives analysis as further detailed below and in other sections of this Scope.

The ENF includes a brief discussion of alternatives development scenarios that were rejected, including a 125-lot residential development and a maximum build out of approximately 651,000 sf with structured parking and multi-level buildings. The DEIR should expand on the analysis of alternative configurations with a quantitative comparison of the impacts of project alternatives, including the reduction in impervious area that might be achieved with the use of structured parking. While I acknowledge the proponent's commitment to incorporate Low Impact Development (LID) techniques in project design, the DEIR should evaluate feasible alternatives to reduce land alteration and impervious area, and include a parking needs assessment.

Wetlands and Stormwater Management

According to the ENF, the project is a Limited Project. However, based on the comment letter from MassDEP, the roadway proposed in the ENF may not be consistent with the limited project provisions of the Wetlands Protection Act (310 CMR 10.53(3)(e) and (f)). The DEIR should include documentation to support the applicability of one of the Limited Project provisions, or redesign the project to meet the performance standard for each of the affected resource areas.

The DEIR should include an alternative analysis for the access route and work proposed in Riverfront and other resource areas as further detailed in the MassDEP comment letter. The

alternative analysis should include a new access route to the north of the perennial stream and bog system (north of Laurel Road) and a narrower road in the current location of Old Post Road.

The DEIR should clearly indicate the amount of alteration to each resource area at all locations where alteration is proposed, and describe the amount and type of mitigation proposed for each mitigation area. The DEIR should include additional information to demonstrate how the proposed BVW replication will meet the performance standards at 310 CMR 10.55(4)(b)(2) and (3) as further detailed in MassDEP's comment letter.

The proposed project will impact 63,260 sf Bordering Land Subject to Flooding (BLSF).¹ The DEIR should identify the locations proposed, and provide more detail on incremental elevations, for BLSF fill and compensatory storage, including documentation that demonstrates how regulatory performance standards will be achieved.

The DEIR should include the results of a wildlife habitat evaluation, which is required pursuant to the Wetland Protection Act regulations at 310 CMR 10.57(4)(a)(3), 301 CMR 10.58(4)(d)(1)(c), and 310 CMR 10.60. The DEIR should describe potential impacts on wildlife habitat associated with alteration of BLSF and Riverfront Area. Site plans should also show the locations of potential vernal pools.

The DEIR should clarify whether the total amount of wetlands alteration estimated includes temporary impacts during construction and, if not, any additional temporary impacts should be described and quantified. The DEIR should discuss measures proposed to avoid and minimize impacts associated with work proposed in close proximity to Isolated Vegetated Wetlands.

I acknowledge the proponent's efforts to incorporate Low Impact Development (LID) techniques in project design. However, certain aspects of the stormwater design may need to be re-evaluated based on the project's location within a mapped Zone II of a public water supply, and because of proposed land uses with higher potential pollutant loads. I refer the proponent to MassDEP's comment letter and guidelines referenced. The DEIR should provide additional information on proposed Best Management Practices (BMPs) for stormwater and describe how the project will comply with Standards 5 and 6 of the Stormwater Management Policy as further detailed in the MassDEP comment letter. If the project design is revised to address these standards, a modified drainage analysis should be included in the DEIR.

Wastewater

I strongly recommend that the proponent consult with MassDEP during preparation of the DEIR to discuss permitting issues and additional information and analysis required for the proposed wastewater treatment facilities (WWTFs). The ENF proposes two separate WWTFs and discharge areas, one for the Lifestyle Center (designed for a flow of 60,000 gpd) and one for a possible residential project along Old Post Road (designed for a flow of 35,000 gpd).

¹ The ENF provided conflicting information on BLSF impacts. According to the proponent, the 179,921 sf estimate in the wetlands section of the ENF form is incorrect. Total BLSF alteration is projected as 63,260 sf.

The DEIR should describe arrangements for future site and infrastructure ownership and maintenance. The DEIR should describe how the project will be legally structured such that issuance of two separate groundwater discharge permits will be feasible. The DEIR should provide additional information on the proposed residential WWTF as requested by MassDEP and include documentation to demonstrate that the project site can support the discharge from two separate WWTFs. The DEIR should include the results of hydrogeological studies and discuss the rationale for selection of the proposed wastewater system and location, and the elimination of other alternatives. The DEIR should identify proposed locations for monitoring wells, which will require approval from MassDEP, and include information on the amount of sewer mains (total length) proposed.

Water Supply

As further detailed in the MassDEP comment letter, it appears that the Town of Sharon has sufficient capacity under its Water Management Act registration and permit to supply the potable water needs of the project (approximately 60,000 gpd). The proponent has committed to contribute \$400,000 to the Town for a dedicated Water Conservation Trust Fund as further detailed in the MOU between the proponent and the Town of Sharon.

Rare Species

The proposed project will impact Estimated and Priority Habitat for the Eastern Box Turtle, and result in a take of a state-listed species protected under the Massachusetts Endangered Species Act (MESA). The proponent has conducted a field habitat assessment and consulted with NHESP to develop a Conservation and Management Plan for the Eastern Box Turtle. The proponent has committed to mitigation for impacts to Eastern Box Turtle, which will include permanent protection of approximately 31.6 acres of Eastern Box Turtle habitat within the project site, long-term management of approximately 16.5 acres of this habitat, and funding for off-site habitat protection (estimated at \$367,000 in the ENF) and implementation of a program to protect turtles during construction.

Based on the comment letter from NHESP, it appears that the project and associated Eastern Box Turtle conservation plan will qualify for a Conservation and Management Permit. The proponent should continue consultations with NHESP and provide an update on consultations and mitigation plans in the DEIR. I encourage the proponent to work with the Sharon Conservation Commission and MassDEP to ensure adequate protection of vernal pools on the project site as recommended by NHESP.

Transportation

According to the ENF, the Transportation Demand Management (TDM) measures proposed will reduce project-related vehicle trips by 5%. The Metropolitan Area Planning Council (MAPC) has questioned whether this is achievable because the project location is isolated from residences and other destinations and would not appear to attract many walking or bike trips. The DEIR should provide additional information to address MAPC comments.

The ENF included a traffic study that generally conforms to the EEA/EOT Guidelines for Traffic Impact Assessment. However, additional information and analysis is needed to fully assess potential impacts and mitigation. The DEIR should expand upon the traffic analysis as further detailed in the comment letter from the Executive Office of Transportation (EOT). The study area should be extended to include intersections along Mechanic Street in Foxborough. The proponent has closely coordinated with the Town of Sharon on traffic issues and should coordinate equally with the Town of Foxborough with regard to study intersections chosen and the level of analysis performed.

The DEIR should include a more detailed discussion of trip distribution and assignment patterns, including the gravity model used to determine distribution characteristics of the development. The proponent should consider the impact of potential future developments in the area and clarify to what extent these developments are included in the distribution analysis.

EOT has expressed concerns with regard to the expected queue lengths on the I-95 Northbound ramp to South Main Street and the I-95 southbound ramp to Mechanic Street. The DEIR should include additional analysis to address queuing and improvements to ensure proper intersection operations as requested by EOT. The DEIR should include conceptual plans for proposed roadway improvements as further detailed in the EOT comment letter.

The proposed project may impact MassHighway's ability to construct slip ramps from South Main Street onto I-95 Northbound. The DEIR should include conceptual plans for future slip ramps to assist MassHighway in its efforts to preserve right-of-way. The DEIR should include an update on consultations with EOT/MassHighway relating to securing land or transferring land under the control of the proponent.

The DEIR should provide an update on consultations with the Norfolk County Commissioners and identify any approvals needed from the Commissioners for transportation or other project elements. The DEIR should include an update on the local permitting process for the project with regard to state highway issued being discussed. As requested by EOT, the DEIR should include a draft Letter of Commitment that outlines all of the transportation mitigation measures the proponent will implement for the project.

Historical and Archaeological Resources

The proponent should conduct an archaeological survey as requested by the Massachusetts Historical Commission (MHC) in its comment letter. Based on the intensive (locational) survey conducted, one potentially significant ancient Native American archaeological site was discovered (Sharon Commons 1 site). The DEIR should discuss survey results and consultations with MHC, without publishing sensitive archaeological site information. The DEIR should include an analysis of alternatives to avoid the Sharon Commons 1 site and describe how the project will avoid, minimize, or mitigate adverse impacts to historical and archaeological resources. I encourage the proponent to provide project information and survey results to the Sharon Historical Commission as recommended by MHC, and to provide MHC with copies of any comments received from the Sharon Historical Commission.

Greenhouse Gas Emissions (GHG)

To address impacts associated with GHG emissions, EEA has determined that “damage to the environment” as defined in the MEPA regulations includes the emission of greenhouse gases caused by projects subject to MEPA review. EEA is promulgating a Greenhouse Gas Emissions Policy to fulfill the statutory obligation that Proponents take all feasible measures to avoid, minimize, or mitigate damage to the environment. The final Policy will require that certain Projects undergoing review by the MEPA Office quantify the Project’s GHG emissions and identify measures to avoid, minimize, or mitigate such emissions.

The ENF includes a GHG emissions analysis, which identifies direct and indirect sources of CO₂ emissions. The analysis includes the results of energy modeling and meso-scale air quality analysis performed to calculate direct and indirect emissions from project-related energy use and transportation sources. Total CO₂ emissions are estimated at 11,957 tons/year, which the proponent will reduce by approximately 20% to 9,520 tons per year. To achieve this reduction, the proponent has committed to a range of energy efficiency and Transportation Demand Management (TDM) strategies.

Sustainable Design

The proponent has agreed to work with the Town of Sharon and a renewable energy developer to use solar technology as a measure to reduce impacts associated with energy use. Other energy efficiency measures are proposed in the ENF, including increased day-lighting, roofs that reduce the urban island heat effect, and energy efficient air conditioning, mechanical and lighting systems. The proponent is also seeking regionally sourced recycled materials and manufacturers. The ENF also described the proponent's commitments to incorporate Low Impact Development (LID) best management practices to address stormwater and protect water quality. I commend the proponent for its efforts with regard to sustainable design and I encourage the proponent to consider Leadership in Energy and Environmental Design (LEED) certification and other measures to incorporate sustainable design features to the maximum extent feasible. The DEIR should provide an update on sustainable design aspects of the project.

Response to Comments

The DEIR should respond to the comments received on the ENF to the extent that they are within MEPA jurisdiction. The DEIR should present any additional narrative or quantitative analysis necessary to respond to the comments.

Mitigation and Section 61 Findings


The DEIR should include a separate chapter on mitigation and Section 61 Findings that includes a detailed description of all feasible measures to avoid, minimize and mitigate adverse effects on the environment which will be incorporated as part of the project. The Section 61 Findings should identify parties responsible for implementation and include a schedule and cost estimate for mitigation measures.

Circulation

The DEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to the list of "comments received" below, to state agencies from which a permit or approval will be required, and to the Towns of Sharon and Foxborough. A copy of the DEIR should be made available for public review at the Sharon Public Library.

September 28, 2007

DATE



Ian A. Bowles, Secretary

Comments received

9/05/07	Water Supply Citizens Advisory Committee
9/07/07	Department of Environmental Protection
9/07/07	Paul Lauenstein
9/10/07	Massachusetts Historical Commission
9/10/07	Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
9/17/07	Massachusetts Historical Commission (second comment letter)
9/19/07	Town of Sharon Board of Selectmen
9/20/07	Town of Sharon Fire Department
9/20/07	State Representative Louis L/ Kafka
9/20/07	State Representative James E. Timilty
9/21/07	Town of Sharon Economic Development Committee
9/21/07	Anne Bingham
9/21/07	David Martin
9/21/07	Executive Office of Transportation
9/21/07	Town of Sharon Conservation Commission
9/24/07	Town of Sharon Police Department
9/25/07	Metropolitan Area Planning Council
9/27/07	Metropolitan Area Planning Council (supplemental comments)

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