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November 2, 2006

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

PROJECT NAME : Gloucester Commons
PROJECT MUNICIPALITY : Gloucester
PROJECT WATERSHED : Gloucester Harbor
EOEA NUMBER : 13779
PROJECT PROPONENT : Sam Park & Company
DATE NOTICED IN MONITOR : September 26, 2006

As Secretary of Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (Draft EIR) 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).

As described in the Draft EIR, the proposed project is divided into two phases. The project site is located on a 36-acre site bounded by the Route 128 Extension to the north, the Fuller Elementary School to the west, residential areas to the southwest and east, and a public playing field to the south. In the Expanded ENF (EENF) the proposed project entailed the phased construction of a mixed-use development that included approximately 180,000 square feet of retail uses and a 120-unit senior care facility with ancillary commercial uses on the ground floor. As described in the Draft EIR, the number of units in the proposed Phase I senior housing component will now be reduced from 120 units to 100 or less and there will also be a reduction in multi-bedroom units. The proposed Phase I will still include 20,000 square feet of retail space, as well as approximately 250 parking spaces and all site access road improvements as originally described in the EENF. Phase II of the project will be completed at a later date. The Draft EIR also included information that Phase II will now include a 100 room hotel and a reduction of 10,000 square feet of retail and restaurant space. Phase I of the project is expected to generate 1,519 vehicle-trips on an average weekday, and Phase II will generate 6,479 for a total of 7,998 vehicle trips on an average weekday.

This project is subject to a mandatory EIR pursuant to Sections 11.03(1)(a)(2),

11.03(6)(a)(6), 11.03(2)(b)(1), and 11.03 (3)(b)(d) of the MEPA regulations because it will create ten or more acres of impervious area, generate 3,000 or more new vehicle trips, and 5,000 of more square feet of bordering or isolated vegetated wetlands. The Draft EIR included several changes including an increase from the previous estimate of 950 new parking spaces to 1,026 new parking spaces. This change triggers Sections 11.03 (6)(a)(7) of the MEPA regulations because the project will construct 1,000 or more new parking spaces at a single location. The project will also require a Sewer Connection/Extension Permit from the Department of Environmental Protection (DEP) and an Access Permit from the Massachusetts Highway Department (MHD). DEP has stated that the project may require a 410 Water Quality Certificate. It must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. The project also requires an Order of Conditions from the Gloucester Conservation Commission. Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required permits and that may cause significant Damage to the Environment. In this case, MEPA jurisdiction exists over land, traffic, wetland, water quality and wastewater issues.

The EENF for the project included a Phase I Waiver request for this project. My predecessor determined that the proponent made a reasonable case for a Phase I Waiver and published a Final Record of Decision on July 28, 2006. The Phase I waiver included the following conditions subject to MHD's review and approval:

- the Loop Road access for the overall development onto Route 128 will be limited to right-in/right-out;
- the proponent will complete the "loop road" connection to Blackburn Circle as part of Phase I development;
- the proponent will provide acceleration and deceleration lanes on the Route 128 Extension, geometric modifications to eliminate and/or discourage illegal maneuvers at the Route 128/Loop Road intersection;
- and traffic calming measures at Blackburn Circle to reduce traveling speed along the Route 128 Extension.

SCOPE

As modified by this scope, the Final EIR should conform to Section 11.07 of the MEPA regulations for outline and content. The Final EIR should resolve the remaining issues outlined below. It should address the substantive comments listed at the end of this Certificate, and it should include a copy of this Certificate and all comment letters.

Wastewater:

Wastewater generated by the project will discharge to the City of Gloucester's municipal sewer system and ultimately to the City's Water Pollution Control Facility. MassDEP has

determined, and I concur, that the Draft EIR has not responded to the wastewater comments originally submitted by MassDEP on the EENF. Therefore, the Final EIR must address the issues raised in MassDEP's original comment letter on the EENF as well as the comment submitted on the Draft EIR. Wastewater impacts associated with the project must be reconsidered in greater detail with a full description of the wastewater system from the project site to the wastewater treatment plant. The wet weather flow capacity deficiencies in the system serving the project and the area that result in activation of the combined sewer overflows (CSOs) should be identified in the Final EIR. In order to offset the project's flows where there are sewer deficiencies, the Final EIR should provide specific mitigation commitments, which should be described in sufficient detail to show the expected improvement in the sewer system.

The project will have impacts during wet weather and CSO activations, even if there were dry weather capacity in the system. Mitigation for the wastewater generated by this project will be needed where the flows from the proposed development will have adverse impacts on the local sewer infrastructure or may affect the benefits expected from the City of Gloucester's long-term CSO control plan. The Final EIR should clarify the discussions between the proponent and the city regarding sewer remediation mitigation relating to the project. The proponent should strongly consider assisting the city with the Combined Sewer Overflow Abatement Project, which is being undertaken in accordance with a Modified Consent Decree issued by MassDEP and the EPA.

Wetlands/Water Quality:

The Draft EIR indicates that approximately 22,000 square feet of isolated land subject to flooding will be filled during Phase I for the Loop Road and an access into the site (Section 4.3.1). The Draft EIR also describes an additional alteration of about 15,000 square feet is identified "(t)o separate flood waters from the school as mitigation." The Final EIR must explain how this alteration serves as mitigation for flooding that occurs on the school property. The proposed wetlands alterations are shown within wetlands areas C and D, on Figure 15. However, the specific amount of alteration is not provided on the plan. It is, therefore, unclear where the impacts described in 4.3.1 are occurring on the project site. The Final EIR should clarify this issue.

The Final EIR also should distinguish between the areas of isolated land subject to flood and isolated vegetated wetland in areas C and D, and the proposed impacts to those areas. The Final EIR should clarify whether more than 5,000 square feet of isolated vegetated wetland be altered by the project. As described in the Draft EIR the isolated vegetated wetland was determined to be non-jurisdictional by the U.S. Army Corps of Engineers (ACOE). The Final EIR should include a copy of the ACOE jurisdiction determination letter. I note that isolated vegetated wetland would be subject to Section 401 Water Quality Certification. Therefore, the Final EIR should discuss why the resource areas are considered to be non-jurisdictional.

Stormwater:

In the EENF Certificate I requested that the EIR should demonstrate that source controls, pollution prevention measures, erosion and sediment controls during construction, and the post-development drainage system must be designed to comply with the Massachusetts Stormwater Management Policy and standards for water quality and quantity impacts and with Gloucester's Storm Water Program. MassDEP has determined, and I concur, that the information in Section 4.4 on site drainage and the proposed stormwater controls for water quality and quantity impacts resulting from increased runoff from the post-development site is too general to evaluate the drainage plan for compliance with the Stormwater Management Policy. The Final EIR must contain a more complete drainage study. I encourage the proponent to consult with MassDEP on this issue.

According to the Draft EIR, flooding at the Fuller School occurs during extreme storm events. The Final EIR should show how the increased runoff from the project site would be controlled so that the flooding is not exacerbated by the increase in paved areas on the project site. In particular, information should be provided on the sizing of the detention/retention basins, which are proposed to both control peak rates of runoff and to provide compensatory flood storage. The Final EIR should show that the basin designs and sizing are adequate to avoid flood damage from displacement of floodwaters that collected in the existing isolated areas.

The Draft EIR indicates that catch basins will be used during construction to control erosion and sedimentation (Section 4.1). The Final EIR should discuss how the catch basins will be tied into the stormwater drainage system or function as offline units during construction. In addition, the Final EIR should include information on how the catch basins will be maintained during and after construction.

Archaeology:

The proponent plans to conduct a pre-blast archaeology survey on the project site. The Massachusetts Historical Commission (MHC) has determined that the proponent should consider the potential for vibration impacts to the Old Rockport Road Stone Bridge (MHC #GLO.902), which has been determined to be eligible for listing in the National Register of Historic Places. The Final EIR should contain the results of the survey. As stated in the EENF Certificate, the proponent should also attempt to avoid impacts to this site. If necessary, the Final EIR should detail any mitigation for impacts that are demonstrated to be unavoidable. The proponent should continue to work closely with MHC.

Transportation:

The Draft EIR included a traffic study that generally conforms to the EOEA/EOT Guidelines for EIR/EIS Traffic Impact Assessments. However, MHD has stated, and I concur,

that the Draft EIR has not adequately addressed the access alternative issues raised in the during the review of the EENF. During the EENF review MHD reviewed the same alternatives included in the Draft EIR, and indicated that the right-in, right-out alternative could provide safe access to the site. The signalized intersection alternative was also further reviewed by MHD. However, the additional information provided in the Draft EIR did not address the previous concerns regarding traffic operations and safety in the corridor. The proponent should continue discussions with MHD to finalize the selection of a preferred alternative. The Final EIR should contain the results of these discussions and details of the preferred alternative.

The Final EIR should include a revised traffic study prepared in conformance with EOEA/EOT Guidelines for EIR/EIS Traffic Impact Assessments and should identify appropriate mitigation measures for areas where the project will have an impact on traffic operations. The proponent should provide a clear commitment to implement mitigation measures and should describe the timing of their implementation based on the phases of the project, if any. The EIR should present capacity analyses and a summary of average and 95th percentile vehicle queues for each intersection within the study area.

The Final EIR should reevaluate the different geometric improvements and traffic calming measures to be evaluated and designed with MHD approval for Phase I of the project for compatibility with the preferred alternative.

The Final EIR should include conceptual plans for the proposed roadway improvements that should be of sufficient detail to verify the feasibility of constructing such improvements. The conceptual plans should clearly show proposed lane widths and offsets, layout lines and jurisdictions, and the land uses (including access drives) adjacent to areas where improvement are proposed. Any mitigation within the state highway layout must conform to MHD's standards, including but not limited to, provisions for lane, median and shoulder widths, and bicycle lanes and sidewalks.

Response to Comments:

The Final EIR should contain substantive responses to the comments received for all comments within MEPA jurisdiction. The Final EIR should present additional narrative and/or analysis where necessary to respond to the concerns raised.

Mitigation:

The Final EIR should include an updated chapter on mitigation measures. This chapter on mitigation should include a proposed Section 61 Finding for all state permits. The proposed Section 61 Finding should contain a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation should also be

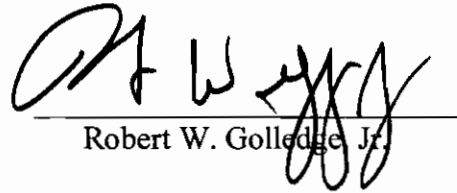
included.

Circulation:

The Final EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below and to Gloucester officials. A copy of the Final EIR should be made available for public review at the Gloucester Public Library.

November 2, 2006

Date


Robert W. Golledge, Jr.

Comments received:

- 10/02/06 Massachusetts Historical Commission
- 10/24/06 Leslie Whelan
- 10/24/06 Kristen Whelan
- 10/24/06 Sharon Bragg
- 10/26/06 Department of Environmental Protection, NERO
- 10/26/06 Office of Transportation Planning, MHD
- 10/26/06 Eric Hutchins
- 10/30/06 Joie Busby

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