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December 8, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE THE NOTICE OF PROJECT CHANGE

PROJECT NAME	: Adams Farm Project
MUNICIPALITY	: Shrewsbury
PROJECT WATERSHED	: Assabet River
EOEA NUMBER	: 13429
PROJECT PROPONENT	: Brendon Properties Three Realty Trust
DATE NOTICED IN MONITOR	: November 8, 2006

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 determine that this Notice of Project Change (NPC) **requires** the preparation of an Environmental Impact Report (EIR). The proponent has requested a Phase I Waiver to allow the Adams Farm project to proceed with ongoing construction, pending the preparation of an EIR for the Adams Farm and Adams Farm II ("full-build") project described below. The Phase I Waiver Request was presented within the Notice of Project Change submittal (NPC). In a Draft Record of Decision (DROD), also issued today, I have proposed to **grant** a Phase I Waiver with conditions allowing the Adams Farm Project to proceed while the EIR for the full-build project is being prepared.

Project History

In January 2005, the proponent submitted an Environmental Notification Form (ENF) (EOEA #13429) for the construction of the Adams Farm Project consisting of 90 age-restricted (restricted to occupants who are 55 years of age and older) residential condominium units, internal roadways, parking, utilities and stormwater management infrastructure. The Adams Farm project is located on a 40.6-acre site located on the east side of Route 140, north of its intersection with Gold Street. Access is provided via Gold Street. The Adams Farm project underwent concurrent review as a Notice of Project Change (NPC) for the Assabet River Consortium's Comprehensive Wastewater Management Plan (EOEA #12348).

A Secretary's Certificate was issued on February 7, 2005 and found that the impacts of the Adams Farm project as proposed within MEPA jurisdiction did not warrant the preparation of an EIR. A separate Secretary's Certificate was also issued on February 7, 2005 and found that the NPC did not warrant the preparation of an EIR and granted the proponent a Phase I waiver from the EIR requirement for the Consortium. According to the proponent, approximately 70% of the Adams Farm I project has been constructed.

Notice of Project Change – Adams Farm II

As described in this second Notice of Project Change (2nd NPC), the proponent is proposing to construct the Adams Farm II residential condominium project. Similar to the Adams Farm project, which is also owned by the proponent, the Adams Farm II project consists of 34 age-restricted (restricted to occupants who are 55 years of age and older) condominium units in 17 separate buildings, and associated internal roadways, parking, utilities and stormwater management infrastructure on a 12.7-acre development parcel abutting Cherry Street in Shrewsbury. The Adams Farm II project will also require a Phase I waiver from the EIR requirement for the Assabet River Consortium. The project proponent has requested such a waiver in this 2nd NPC submittal and has provided additional information in support of that request. I will review the proponent's request for a Phase I Waiver from the EIR requirement for the Assabet River Consortium as part of the EIR review process that is required for this Adams Farm II project as described below.

The Adams Farm II project requires a Sewer Connection Permit from the Department of Environmental Protection (MassDEP), a National Pollutant Discharge Elimination System (NPDES) Permit from MassDEP and EPA, and an Order of Conditions from the Shrewsbury Conservation Commission. I note that according to the proponent, an Order of Conditions from the Shrewsbury Conservation Commission was issued for the Adams Farm and Adams Farm II projects on November 2, 2004, and June 20, 2006, respectively.

If blasting will be required during project construction, the proponent will need to prepare a blast design plan pursuant to the Board of Fire Protection Regulations (577 CMR 13.09) for the construction of roads, houses and utilities within the project site. Blasting mixtures that include perchlorate have been identified as the source of contamination in many Massachusetts public water supplies and thus should be prohibited from use in the project watershed. Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may cause significant Damage to the Environment and that are within the subject matter of required or potentially requires state permits. In this case, MEPA jurisdiction extends to issues of land alteration, wetlands and wastewater.

Segmentation

As noted elsewhere in this Certificate, MEPA recently reviewed the proponent's ENF submittal describing a related residential condominium development proposal (Adams Farm) located off Gold Street in Shrewsbury. The proposed Adams Farm II project and the previously reviewed Adams Farm project are owned and controlled by common ownership interests (Brendon Properties). The anti-segmentation provisions of the MEPA Regulations (Section 11.01(2)(c)) require the review of the proponent's proposed Adams Farm II project together with the proponent's Adams Farm project as a "common plan or undertaking" to understand and fully disclose the potential impacts of a project (including cumulative impacts); to study feasible alternatives to a project; and to avoid, reduce, or mitigate environmental impacts (including cumulative impacts) to the maximum extent feasible. Pursuant to the anti-segmentation provision of the MEPA regulations, I must consider the environmental impacts associated with the development of the Adams Farm and Adams Farm II projects ('full-build project'). I am therefore requiring the preparation of a EIR to discuss the impacts from the Adams Farm II project and the cumulative infrastructure impacts and site planning issues arising out of the proposed Adams Farm and Adams Farm II projects. When considering the full build-out project it appears likely that it is subject to review and mandatory preparation of an EIR pursuant to Section 11.03 (1)(a)(2) because it requires a state permit and will result in the creation of ten or more acres (13.16 acre total) of impervious area.

Single EIR Request

The proponent has also requested that I allow a Single EIR to be filed instead of the usual two-stage Draft and Final EIR process. I note that the previous ENF submittal for the Adams Farm project included adequate alternatives analysis, and that this 2nd NPC submittal has provided sufficient information on the Adams Farm II project's potential impacts to potable water supply and wastewater flow. In their comments, MassDEP has indicated support for the analysis and conclusions included in this NPC submittal. Based on a review of the NPC and consultation with state agencies, I hereby find that the NPC meets the regulatory requirements and I am permitting the proponent to file a Single EIR in fulfillment of Section 11.03 of the MEPA regulations. However, in order for the Single EIR to be found adequate, the proponent will need to provide additional information in the Single EIR to satisfactorily address issues and concerns raised in the comments received pertaining to wastewater, water supply and stormwater

Because the previous ENF submittal for the Adams Farm project included adequate alternatives analysis and state agencies have not identified the need for a significant amount of additional analysis pertaining to the Adams Farm II project or the full-build project, the Scope is limited to providing additional information pertaining to the cumulative impacts on water supply, wastewater flow, and stormwater associated with the Adams Farm II project and the full-build project.

SCOPE

General

As modified by this Certificate, the proponent should prepare the Single EIR in accordance with the general guidance for outline and content found in Section 11.07 of the MEPA regulations. The proponent should circulate the Single EIR to those parties submitting written comments on the January 2005 ENF and NPC related to the Adams Farm project, and for this NPC submittal, and to any other party required by regulation. The Single EIR should include a copy of this Certificate and a copy of each comment letter received.

Alternatives

In addition to the proponent's preferred alternative, the Single EIR should evaluate at least one alternative site layout for the Adams Farm II project that reduces land alteration and impervious surface area, and further reduces impacts to wetlands and wetland buffer areas. I encourage the proponent to evaluate sustainable design alternatives such as Low Impact Development (LID) techniques in site design and stormwater management plans. LID techniques incorporate stormwater best management practices (BMPs) and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions. The primary tools of LID are landscaping features and naturally vegetated areas, which encourage detention, infiltration and filtration of stormwater on-site. Other tools include water conservation and use of pervious surfaces. Clustering of buildings is an example of how LID can preserve open space and minimize land disturbance. LID can also protect natural resources by incorporating wetlands, stream buffers and mature forests as project design features. For more information on LID, visit <http://www.mass.gov/envir/lid/>. Other LID resources include the national LID manual (Low Impact Development Design Strategies: An Integrated Design Approach), which can be found on the EPA website at: <http://www.epa.gov/owow/nps/lid/>.

Land Alteration

As currently designed, the proposed full-build project will result in significant alterations to land, and new impervious areas. The DEIR should investigate all feasible methods of avoiding, reducing, or minimizing impacts to land. The DEIR should include a map that delineates which areas of the two project sites are proposed to remain as undisturbed open space following project completion, and it should disaggregate landscaped open space and undisturbed open space. The Single EIR should also delineate those portions of each site that the proponent has proposed to place under a Conservation Restriction (CR) to ensure for their permanent protection.

The proponent should also consider placing deed restrictions, to include certified vernal pools, if any, and the uplands around them, on any residential properties that will be located within 600 feet of any vernal pools or within the 100-foot wetlands buffer zone as a method for avoiding future impacts from homeowner activities.

Wetlands

According to the information provided in the NPC submittal, the Adams Farm II project proposes one wetlands crossing for the project's access road and will result in the permanent alteration of approximately 5,000 sf of bordering vegetated wetlands (BVW). The proponent should study the feasibility of this approach, and discuss any trade-offs between transportation access and wetlands impacts, and should quantify the amount of direct wetland alterations proposed including removal of tree and shrub canopy from forested wetlands, expected alterations from development of cluster and individual house lots, and temporary construction-related disturbances. The Single EIR should contain sufficient information to determine whether all proposed wetland alterations are permissible under the Wetlands Protection Act (i.e., whether the project would require a variance). The Single EIR should discuss whether the proponent is claiming limited project status for any wetland alterations, and should include any supporting information to evaluate limited project claims. According to the site plan information contained in the NPC submittal, the proponent has committed to provide approximately 6,400 sf of on-site wetlands replication (.77:1) for the Adams Farm II project's impacts to wetlands. I note that MassDEP is recommending a replication rate greater than 1:1. The proponent must consult with MassDEP to identify opportunities to increase the proponent's onsite wetlands replication commitment. The Single EIR should include any proposed revisions to the project's wetlands replication plan.

As depicted in the Adams Farm II site plan, significant portions of 5 duplex buildings are located within the 100-foot wetlands resource buffer area. The Single EIR should examine methods of avoiding or minimizing encroachment into buffer zones including, but not limited to, reducing the total number of proposed residential units.

Stormwater Resources

According to the information provided by the proponent, the full build-out project will create approximately 13 acres of new impervious surface area. The Single EIR should include stormwater drainage plans for the proposed Adams Farm I and II projects, and should discuss the consistency of the respective drainage plans with the MassDEP Stormwater Management guidelines, and the Town of Shrewsbury's Storm Water Program. It should demonstrate that the design of the respective drainage systems is consistent with this policy, or in the alternative, why the proponent is proposing a drainage system design not recommended by MassDEP.

The proponent should use the MassDEP Stormwater Management Handbook when addressing this issue. In addition, a maintenance program for the respective drainage system will be needed to ensure its effectiveness, and should outline the maintenance operations, sweeping schedule, responsible parties, and back-up systems. The proponent should respond to MassDEP's comments pertaining to the proposed stormwater management plan.

If the proponent ties into an existing municipal stormwater system, the Single EIR should clarify the permits required and if there will be a recharge deficit on-site. The Single EIR should describe where the Memorial Drive (Route 140), Gold Street, Cherry Street, South Street and Route 9 drainage systems discharge in this area. It should also be demonstrated that the proposed drainage system would control storm flows at existing levels. In addition, a maintenance program for the drainage system will be needed to ensure its effectiveness. This maintenance program should outline the actual maintenance operations, responsible parties and back-up systems. The Single EIR should investigate feasible methods of reducing impervious surfaces.

Water Supply

The NPC submittal includes estimates of individual potable water supply demands for the Adams Farm and Adams Farm II projects (14,850 gpd, 5,610 gpd respectively). As currently proposed, the Adams Farm I and II projects will be served by the Town of Shrewsbury. The Single EIR should demonstrate that the use of the Town of Shrewsbury's municipal water supply to serve both the Adams Farm I and II projects (20,460 gpd total) is feasible. At a minimum, the Single EIR should demonstrate that:

1. the municipal water supply has sufficient design capacity to accommodate the full-build project's additional water supply demand; and
2. the proponent has secured permission from the Town of Shrewsbury to obtain the necessary potable water supply for the full-build project.

The proponent will need to demonstrate to MassDEP that the final project design meets the Commonwealth's water conservation standards. I strongly encourage the proponent to incorporate water conservation and water use efficiency in the project design to comply with the March 1989 state plumbing code. Specifically, the proponent should commit to employing efficient residential water conservation technologies for the project including water saving devices, low flow toilets, and low flow appliances (dishwashers, washing machines). The proponent should also consider implementing an Irrigation Management Plan (IMP) to further reduce the project's irrigation water demand. An IMP could involve the use of amended soils and compost, the planting of native and drought-tolerant species of trees, shrubs, and turf grasses, an automated water efficient irrigation system, and a water management protocol for drought conditions.

I ask that the proponent consult with MassDEP, and refer to the Massachusetts Water Resources Commission's *Lawn and Landscape Water Conservation, An Addendum to the Water Conservation Standards for the Commonwealth of Massachusetts, October 2002*, during the final design of the proponent's IMP. I strongly encourage the proponent to work closely with the Town of Shrewsbury and MassDEP to implement mitigation measures for the full-build project that will help to offset the need for additional potable water supply.

Wastewater

As described in the NPC, the estimated combined wastewater flow from the two Adams Farm projects (approximately 18,600 gallons per day (gpd)) will be conveyed from the two project sites by the Town of Shrewsbury's wastewater collection system to the Westborough wastewater treatment facility (Westborough WWTF) for treatment and disposal. The Single EIR should demonstrate that the proposed discharge of wastewater from the Adams Farm and Adams Farm II projects to Shrewsbury's municipal sewer collection system and the Westborough WWTF is feasible. At a minimum, the Single EIR should demonstrate that:

1. the Town of Shrewsbury's sewer collection system has sufficient design capacity to accommodate the full-build project's additional 18,600 gpd of wastewater flows;
2. the proponent has secured permission from the Town of Shrewsbury to direct the full-build project's wastewater flows to Shrewsbury's sewer collection system and the Westborough WWTF.

Assabet River Consortium Comprehensive Wastewater Management Plan

The Town of Shrewsbury, together with the Towns of Marlborough, Hudson, Maynard, Northborough, and Westborough have joined to form the Assabet River Consortium to prepare a Comprehensive Wastewater Management Plan/Environmental Impact Report (CWMP/EIR, EOEAE# 12348) to address short term- and long-term regional issues relating to the wastewater treatment and disposal and nutrient loading in the Assabet River on a basin-wide basis. The goals of the CWMP/EIR are to identify environmentally sustainable treatment alternatives that respond to the communities' needs, meet water quality and public health standards, reduce phosphorous loading, and increase water levels in the Assabet River and its tributaries.

The Certificate on the ENF for the Consortium required that prior to completion of MEPA review for the Consortium CWMP, projects located within the Consortium communities that seek sewer extension permits from the MassDEP will also require a Phase I waiver from the EIR requirement for the Consortium. The project proponent has requested such a waiver in this Notice of Project Change (NPC) submittal.

I note that all development projects located within the Consortium communities requesting municipal sewer service must satisfactorily demonstrate: 1) that the proposed project is located in an area proposed for municipal sewer; 2) an on-site solution is not feasible; and 3) the proponent has committed to contribute to ongoing infiltration and inflow removal (I/I) projects within the Town of Shrewsbury and will provide mitigation (2 - 4:1) for every gallon of wastewater generated by the proposed project and exported out of the basin, before being allowed to connect to the sewer system. The Single EIR should include the information necessary to satisfactorily support the proponent's request for a Phase I waiver from the EIR requirement for the Consortium.

Transportation

The full-build project will generate approximately 654 new vehicle trips per day on local project area roadways. The proponent has completed a study the potential traffic impacts from the two residential condominium development projects as part of the local review process in Shrewsbury. For informational purposes, the Single EIR should include a copy of the proponent's traffic study(s) for each of the two Adams Farms development projects. I strongly encourage the proponent to commit to working closely with the Town of Lunenburg to identify opportunities to include the construction of sidewalks along Gold and Cherry Streets at each of the project's site drives.

Construction Period

The proponent should analyze construction-period impacts for the Adams farm II project and the full-build project, including temporary impacts to wetlands, and the extent of any blasting and/or re-grading during construction. The Single EIR should discuss whether any portion of the full-build project will require a federal NPDES permit for construction activities, and explain how the proponent will meet any performance standards.

Mitigation

I note that the proponent has committed to upgrade the Cherry Street pumping station, which is inadequate, as mitigation for the Adams Farm project. The Secretary's Certificate for the Adams Farm ENF required that the proponent include plans depicting the pump station improvements, as well as the easement for the cross-country sewer line in its application for the sewer extension permit. The Single EIR should include a summary and explanation of all environmental mitigation to which the proponent is committed for the full-build project. This chapter on mitigation should include a Draft Section 61 Finding for all state permits.

The Draft 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, based on the construction phases of the Adams Farm and Adams II projects, should also be included.


Comments

The proponent should respond to the substantive issues raised in the comments received this NPC and on the January 2005 ENF to the extent that the comments are within the subject matter jurisdiction of MEPA. I recommend that the proponent employ an indexed response to comments format, supplemented as appropriate with direct narrative response.

Circulation

The Single 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, the list of "comments received" on the ENF, and to Town of Shrewsbury officials. A copy of the Single EIR should be made available for public review at the Shrewsbury Public Library.

December 8, 2006
Date


Robert W. Gollidge Jr., Secretary

Comments received:

12/04/06 Department of Environmental Protection (MassDEP) - CERO

RWG/NCZ/ncz
NPC #13429