



The Commonwealth of Massachusetts

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January 3, 2007

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

PROJECT NAME : Donny Brook Country Club Golf Course
PROJECT MUNICIPALITY : Lanesborough
PROJECT WATERSHED : Housatonic
EOEA NUMBER : 13093
PROJECT PROPONENT : Donny Brook, Inc.
DATE NOTICED IN MONITOR : December 6, 2006

As Secretary of Environmental Affairs, I hereby issue a revised Scope for the Supplemental Draft Environmental Impact Report (DEIR) for the above-referenced project. The revised Scope reflects the changes the reduction in project scope described in the Notice of Project Change (NPC).

Project Description

As described in the NPC, the proponent has reduced the scope of this project to consist of development, operation and maintenance of a 9-hole golf course. The previous proposal consisted of development of an 18-hole golf course. The project includes associated infrastructure and support facilities. The project includes the renovation of existing buildings for a clubhouse and maintenance facilities, construction of a building for additional storage and maintenance of golf course equipment, expansion of an existing parking area, construction of cart paths and modification of an existing curb cut. Also, the project includes installation of a groundwater well for irrigation, a new drinking water well and an on-site septic system.

The 365-acre site, which is bisected by Route 7, consists of forested areas, wetlands and agricultural pasture and fields forming large areas of open meadows. Town Brook flows from west to east (under Route 7). The site includes the Chadwick House, an eighteenth century stone house, which is listed in the state Inventory of Historic and Archaeological Assets.

Substantial work has already been completed on the front nine holes, located on the west side of Route 7, and the Department of Environmental Protection (MassDEP) has taken enforcement action for the construction (and associated clearing and grading) of three holes (1, 8 and 9) and installation of three culverts (holes 2, 5 and 7).¹ The project change will reduce overall impacts significantly. The NPC indicates that land alteration will be reduced from 105 acres to 48 acres, new, impervious area will be reduced from 8.2 acres to 5.5 acres and vehicle trips will be reduced from 650 average daily trips (adt) to 325 adt (based on Institute of Traffic Engineers traffic generation rates). The NPC does not include revised estimates for wetland alteration, water use, water withdrawal and wastewater generation although it is anticipated that these and impacts to rare species habitat will be reduced significantly.

MEPA Jurisdiction and Permitting

The project is undergoing review pursuant to Section 11.03 (1)(a)(1) because it requires a state permit and, at the time of filing, would have altered more than 50 acres of land. The project requires a 401 Water Quality Certificate and a New Source approval and Public Water Supply (PWS) authorizations for pumping tests and construction. It may require a Water Management Act (WMA) Permit from DEP and a Conservation Permit from the Division of Fisheries and Wildlife's (DFW) Natural Heritage and Endangered Species Program (NHESP). It requires an Access Permit from the Massachusetts Highway Department (MassHighway), is subject to review by the Massachusetts Historical Commission (MHC) and requires an Order of Conditions from the Lanesborough Conservation Commission (and hence Superseding Orders of Conditions from DEP in the event that local Orders are appealed).

The proponent is not seeking financial assistance from the Commonwealth for the project. MEPA jurisdiction therefore extends to those aspects of the project that are likely to cause significant Damage to the Environment and that are within the subject matter of the required state permits. In this case, MEPA jurisdiction exists over land alteration, wetlands, water quality, drainage, water supply, wildlife habitat/rare species, traffic and historic resources.

Procedural History

At the heart of the MEPA process stands the requirement to evaluate feasible alternatives to a proposed project, to ensure that all state agencies can find, pursuant to Section 61 of the statute, that all feasible means to avoid, reduce or mitigate environmental damage have been considered and incorporated into the project design. This analysis should occur prior to the irretrievable commitment of resources and prior to any state agency actions on the project.

¹DEP and the proponent entered into an Administrative Consent Order (ACO) requiring the creation of a wetlands replication area and a large monetary fine. DEP permitted the proponent to retain the culverts installed in the area of the second, fifth and seventh holes because it was determined that removal would cause additional impacts to wetlands.

As noted in the Certificates on the ENF and DEIR, a substantial amount of work was completed on this project prior to MEPA review, including the construction of three holes and several unauthorized wetlands crossings. This work had significant impacts on wetland resource areas and resulted in enforcement action by DEP.

An ENF was filed for the project in August 2003. The Secretary's Certificate on the ENF indicated that the project was subject to a mandatory EIR and provided the Scope for the EIR. The DEIR was filed in December, 2005 and the Certificate on the DEIR was issued on January 13, 2006. The DEIR Certificate required that a Supplemental DEIR be filed to address inadequate information and analysis of alternatives. Although the project has been reduced in scale, several outstanding issues remain. The Scope for the Supplemental DEIR, included below, has been revised based on the information provided in the NPC and comments entered into the record.

SCOPE

The Supplemental DEIR should follow the general guidance for outline and content contained in Section 11.07 of the MEPA regulations, as modified by this Certificate.

Project Description and Permitting

The Supplemental DEIR should include a thorough description of the project and all project elements and construction phases. The description should include any proposed reuse of the existing buildings (including potential use for events) and proposed agricultural use. The project description should include the context of the entire parcel. It should indicate whether the course will be public or private and estimate the number of employees. Any plans to develop the remainder of the parcel beyond the 9-hole golf course must be disclosed at this stage in accordance with the anti-segmentation provisions of the MEPA regulations. The EIR should include a list of all project permits, an update on their status and describe their consistency with regulatory requirements.

The Supplemental DEIR should include an existing conditions plan illustrating resources and abutting land uses for the entire 365-acre parcel. It should include a comprehensive site plan for the front 9 holes showing the location and dimensions of infrastructure, buildings, parking areas, driveways, possible fueling areas, drinking and irrigation wells, septic systems, cart paths, bridges and stormwater management structures. It should include wetlands resource areas, topography and vegetation including hay fields. In addition, full size plans should be provided at a 40-foot scale for each hole and should cover the entire area of the hole.

Alternatives Analysis

As noted in the Certificate on the ENF, I will not accept an argument that the current course layout is the least damaging simply because it exists. Completion of an alternatives analysis will demonstrate what impacts could have been avoided and indicate whether additional mitigation is warranted. The Supplemental DEIR must analyze alternative course layouts that could minimize project impacts, including direct and indirect wetlands impacts.

The DEIR stated that alternative course layouts (i.e. reducing the length or width of holes) were not feasible because they would be inconsistent with a championship course layout requiring a certain number of “par 3”, “par 4” and “par 5” holes; however, the DEIR did not provide any criteria or analysis to support this conclusion. Any criteria used to develop the course layout should be provided in the Supplemental DEIR.

Land Alteration

The NPC indicates that the project will alter approximately 48 acres of land. For each alternative, the Supplemental DEIR should quantify the amount of land altered including the amount of grading, new impervious surfaces, and installation of culverts, bridges, irrigation system and drainage, and landscaping including turf management and temporary construction impacts. The Supplemental DEIR should investigate all feasible methods of avoiding, reducing or minimizing impacts to land. For areas that have been constructed, the as-built layout should be used as the basis for identifying impacts.

Wetlands

As noted in previous Certificates, the project includes significant impacts to wetland resource areas including bordering vegetated wetlands (BVW) and bank and significant work within the buffer zone wetlands and the Riverfront Area. The Supplemental DEIR should include updated estimates of project impacts. MassDEP indicates that a Notice of Intent (NOI) must be submitted to the Lanesborough Conservation Commission for any work not previously permitted or addressed in MassDEP actions.

The EIR should include a narrative of the wetlands history, including any dates of permit issuance and enforcement orders. It should identify which stream crossings (culverts and bridges) are historic, which were built within the last decade and which are planned as part of the MEPA filing. The EIR should include a hole by hole quantification of wetland impacts, including grading and construction of impervious areas, and this should include those impacts that have already occurred.

The EIR should address the significance of the wetland resources on site to the interests enumerated in the Wetlands Protection Act. All resource area boundaries, riverfront areas, applicable buffer zones, 100-year flood elevations, water supply wells, priority and/or estimated habitat, wetland replication areas, waterways, ponds and agricultural fields should be clearly delineated on a plan. Bordering vegetated wetlands that have been delineated in the field should be surveyed, mapped and located on the plans. It should identify the location of nearby public water wells and reservoirs. The EIR should provide detailed information on the hydrology of Town Brook.

For each alternative, the EIR should quantify the amount of direct wetland alterations proposed including crossings, grading, overstory clearing and construction-related disturbances. As noted previously, the alternatives analysis should include analysis of alternatives that could avoid and minimize the impacts of wetlands crossings and work within buffer zones. The Supplemental DEIR should describe and quantify any completed and/or proposed mitigation.

The Berkshire Regional Planning Commission (BRPC) noted in previous comments that grading and construction of the cart paths in close proximity to resource areas may affect the hydrology of the receiving resource areas. In addition, the Integrated Pest Management (IPM) Plan included in the DEIR appendix identified the importance of drainage design for turf management and it indicated that surface runoff was being evaluated. The results of this analysis should be included in the Supplemental DEIR. Drainage discharges or overland flow into wetland areas should be evaluated for the entire project area. The locations of detention basins, distances from wetland resource areas, and the expected quality of the effluent from the basins should be identified. The Supplemental DEIR should also analyze indirect impacts to wetlands from receipt of drainage and stormwater runoff from the site, and should discuss the consistency of the drainage system design with the DEP stormwater management guidelines (including the proposal to discharge stormwater from a drainage basin to a wetland area in the third hole). The Supplemental DEIR should include a detailed stormwater management plan, including an operations and management plan to ensure its long-term effectiveness.

The Supplemental DEIR should include an assessment of potential project impacts on water quality and groundwater. The Supplemental DEIR should analyze the potential for nitrogen loading into wetland areas on the project site from fertilizers, pesticides, and herbicides and project related wastewater. The Supplemental DEIR should describe the proposed water quality monitoring plan, action thresholds and management responses outlined in the IPM Plan.

Water Supply/Use

Previous submittals estimated that the project would require approximately 52,350 gpd of water and indicated that existing use is approximately 12,633 gpd based on data from a computerized water withdrawal meter. The comment letter from MassDEP on the NPC reiterates its previous comments. MassDEP indicates that, although the course may reduce water consumption to below the threshold of the Water Management Act permitting, that determination cannot be made until MassDEP receives adequate supporting documentation of the acreage to be irrigated. The following information must be provided in the Supplemental DEIR:

- 1) a plot plan showing sprinkler heads and radii of the spray heads and a calculation of the number of acres under irrigation, including ornamental irrigation;
- 2) the application rate (in inches per week) anticipated for irrigation in a dry year, for tees, greens and fairways; and
- 3) metered usage data, including the PWS and the maintenance facility.

If a significantly lower application rate than that listed in the Golf Course Water Use Policy is included in the Supplemental DEIR, the proponent must include justification for the alternative application rate.

The new drinking water well will require a number of permits from MassDEP for siting, testing and construction and it must be registered. The Supplemental DEIR must identify potential locations of the well so that the suitability of these locations and consistency with

regulatory requirements can be evaluated during MEPA review. The plans submitted with the Supplemental DEIR should identify the proposed site of the drinking water well and describe associated regulatory requirements and the project's consistency with them.

Turf Management

The Supplemental DEIR should provide an update on the IPM/Turf Management Plan that was included with the DEIR. The plan described efforts to avoid and minimize application of fertilizers, pesticides and herbicides and committed the proponent to deep and infrequent use of irrigation to develop strong root systems and limited use of fertilizers and pesticides based on results of testing and sampling. This section should indicate whether the objectives for management of the completed areas of the golf course are being achieved.

Wildlife Habitat/Rare Species

The Natural Heritage and Endangered Species Program (NHESP) has indicated that portions of the project site are located within Priority Habitat for the Adder's Tongue-fern, the Long-styled Sanicle, and the Wall-rue Spleenwort, which are state listed as Threatened species under the Massachusetts Endangered Species Act and its implementing regulations. The project is also within Priority Habitat for Ginseng, a species of Special Concern. These regulations protect endangered, threatened and special concern species from "takes," which is defined as collecting, picking, killing, transplanting, cutting or processing of a plant.

Comments from NHESP indicate that revised rare species surveys have been conducted consistent with NHESP approved protocols. Results of these surveys have not been submitted for review by NHESP. The Supplemental DEIR should provide the results of the rare species surveys and address how prior and potential impacts will be avoided, minimized and mitigated. As noted in the previous Scope, the alternatives analysis should include consideration of impacts on wildlife habitat. I encourage the proponent to consult with NHESP regarding the survey results and proposed mitigation prior to filing the Supplemental DEIR.

Traffic and Transportation

The NPC indicates that trip generation will be reduced to from 665 adt to 325 adt. The NPC does not include a revised estimate for parking spaces. The project requires a permit from MassHighway for alterations to the existing curb cut on Route 7; however, the cart path under Route 7 (which would have required MassHighway approval as well) has been eliminated. MassHighway previously indicated that the traffic impacts associated with this project would be minimal and that additional traffic analysis is not warranted.

The Supplemental DEIR should include a site circulation plan clearly illustrating how vehicles, pedestrians and cyclists will access the site from Route 7 and be accommodated on the site. The Supplemental DEIR should include a revised parking estimate and it should address how overflow parking needs associated with special events will be addressed.

Wastewater

The ENF indicated that the project would generate approximately 2,850 gpd of wastewater. The DEIR indicated that a septic system was installed in September of 2004 and was designed to handle 1,840 gpd of wastewater. The DEIR did not describe the methodology for determining the design flow or address this discrepancy. Comments from MassDEP indicate that the design flow calculations are incorrect and that the septic tank may not be sized adequately. MassDEP has requested additional information to assist in its review of the project. Accordingly, the Supplemental DEIR should submit maximum building occupancy ratings for all facilities and include information on accommodations and associated uses inside each building. Design flow should be developed based on its use as a golf course.

Agricultural Land

According to the Department of Agricultural Resources (DAR), the site contains Soils of State Importance to Farming, as classified by the Natural Resources Conservation Services (NRCS) and has recommended placement of an Agricultural Preservation Restriction (APR) on areas that will continue to be used for agriculture. The proponent has indicated it will continue to use 30 to 40 acres for hay production between hole 3 and hole 7, on the north side of holes 5 and 6 and that a substantial portion of the east side may remain in agriculture. I urge the proponent to re-consider placing an APR on a portion of the land. The Supplemental DEIR should include more information on historic and proposed agricultural use as previously required and show proposed hay fields on the site plans.

Construction Period Impacts

The Supplemental DEIR should describe construction impacts associated with completion of the project. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions that may occur during construction including participation in MassDEP's Clean Construction Initiative to minimize diesel emissions.

Mitigation

The Supplemental DEIR should include an updated and revised section on mitigation including Draft Section 61 Findings for all state permits that includes 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 be included.

Comments

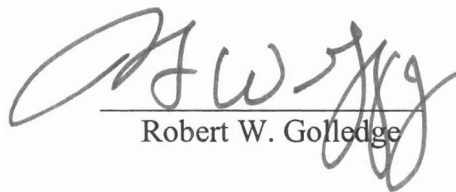
The Supplemental DEIR should include a copy of this Certificate, the Certificate on the DEIR and a copy of each comment received on each filing. The EIR should respond to the comments on the DEIR and the NPC, to the extent that the comments are within MEPA jurisdiction.

Supplemental DEIR Distribution

The Supplemental DEIR 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, to anyone who commented on the DEIR, to any state agencies from which the proponent will be seeking state permits and approvals and to Lanesborough officials. A copy of the Supplemental DEIR should be made available for public review at the Lanesborough Public Library.

January 3, 2007

Date



Robert W. Golledge

Comments received:

- 12/26/06 Department of Environmental Protection Western Regional Office (DEP WERO)
- 12/26/06 Division of Fisheries and Wildlife/Natural Heritage and Endangered Species Program (DFW/NHESP)
- 12/26/06 Berkshire Regional Planning Commission (BRPC)

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