



# *The Commonwealth of Massachusetts*

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SECRETARY

March 24, 2006

## CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME: The Fairgrounds Mixed Use Redevelopment  
PROJECT MUNICIPALITY: Great Barrington  
PROJECT WATERSHED: Housatonic  
EOEA NUMBER: 13735  
PROJECT PROPONENT: F Group, LLC  
DATE NOTICED IN THE MONITOR: February 22, 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 hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR).

### Project Description

As outlined in the Environmental Notification Form (ENF), the proponent proposes a redevelopment project at the site of the former Great Barrington Fairgrounds. The 57.3-acre site currently contains grassed fields, grandstands, several horse stables, a race track, and approximately 15 related small buildings. The majority of the existing fairground buildings were reconstructed after a 1996 tornado. The site is located between the Housatonic River to the east and Route 7 to the west, and is entirely located within the 100-year floodplain. An area of Bordering Vegetated Wetlands (BVW) exists in the southwesterly portion of the site.

The proposed redevelopment will consist of a hotel (65,000 square feet (sf) containing 100 rooms), a parking garage (three floors containing approximately 800 spaces), residential units (60 three-bedroom units of 1,800 sf each), retail space (50,000 sf), office space (20,000 sf) and a banquet facility (10,000 sf with 250 seats) on approximately 9 acres of the far western

portion of the site. All of the buildings currently existing at the site, including those outside of the proposed redevelopment footprint, will be removed. The ENF states that the remainder of the site will be available for open space activities consistent with the historical use of the site.

### Jurisdiction and Permitting

The project is undergoing environmental review pursuant to Sections 11.03(2)(b)(2); 11.03(3)(b)(1)(e); 11.03(3)(b)(1)(f); and 11.03(10)(b)(2) of the MEPA regulations because the project may result in a "take" of a state-listed protected species in accordance with M.G.L. c. 131A; the project proposes new fill and a new structure within a regulatory floodway; the project will result in the alteration of greater than ½ an acre of "any other wetlands"; and because the project may impact a historic and/or an archaeological site listed in the Inventory of Historic and Archaeological Assets of the Commonwealth. The project is expected to generate 8,594 new daily vehicle trips. However, Route 7 in the vicinity of the project is owned and maintained by the Town of Great Barrington, and therefore the project does not require a state highway Access Permit from the Massachusetts Highway Department (MHD). As a result, MEPA does not have jurisdiction over the traffic impacts of this project.

The project will require a NPDES Construction General Permit; may require approval from the U.S. Army Corps of Engineers (U.S.A.C.E.) under Section 404 of the Clean Water Act; a Sewer Connection Permit and compliance with hazardous waste management regulations from the Department of Environmental Protection (DEP); possibly a Conservation and Management Permit from the MA Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP); review from the Massachusetts Historical Commission (MHC); an Order of Conditions (OOC) from the Great Barrington Conservation Commission (and hence a Superceding OOC from the DEP if the local Order is appealed); and a number of permits from the Great Barrington Planning Board and Board of Selectmen.

Because the proponent is not seeking financial assistance from the Commonwealth, MEPA jurisdiction is limited to the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction extends to wetlands, stormwater, rare species, wastewater, historic resources and hazardous waste.

The project does not meet any MEPA review thresholds for a mandatory EIR, and thus I am issuing this scope at my discretion in accordance the MEPA regulations at 301 CMR 11.01(2). Based upon my review of the ENF and comments submitted to the MEPA office, it is my determination that the project would benefit from a comprehensive review of impacts and proposed mitigation before proceeding to local and state permitting agencies and I have scoped the project accordingly. I remind commenters, however, that the MEPA process does not approve or deny projects. MEPA is not a zoning process, nor is it a permitting action. Rather, it is a process designed to ensure public participation in the state environmental permitting process, to ensure that state permitting agencies have adequate information on which to base their permit decisions and their Section 61 Findings, and to ensure that potential environmental impacts are described fully and avoided, minimized, and mitigated to the maximum feasible extent.

## SCOPE

### General

The DEIR should follow the general guidance for outline and content contained 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 received. The proponent should circulate the DEIR to those parties that commented on the ENF, to the Town of Great Barrington, 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 public review at the Great Barrington Public Library.

### Project Description and Permitting

The DEIR should include a thorough description of the project, including a detailed description of construction methods and phasing. The DEIR should include a brief description of each state permit or agency action required or potentially required, and should demonstrate that the project will meet applicable performance standards. In accordance with Executive Order No. 385, "Planning for Growth" and Section 11.03 (3)(a) of the MEPA regulations, the DEIR should discuss the consistency of the project with the local and regional growth management and open space plans. The proponent should also provide an update on the local permitting process for the project.

### Alternatives

The DEIR requires a comprehensive alternatives analysis in order to ascertain which site layout minimizes overall impacts to land, open space, wetlands, rare species and sensitive receptors. The alternatives analysis should clearly demonstrate consistency with the objectives of MEPA review, one of which is to document the means by which the proponent plans to avoid, minimize or mitigate Damage to the Environment to the maximum extent feasible. The DEIR should fully explain any trade-offs inherent in the alternatives analysis, such as increased impacts on some resources to avoid impacts to other resources. Specifically, the proponent should consider a reduced build alternative or a design that features a higher building with less of a footprint to reduce impacts to floodplain.

### Wetlands

An area of wetlands exists on the southern portion of the site along the bottom of the Route 7 embankment. The delineation of this area was approved by the Great Barrington Conservation Commission in a 2003 Determination of Applicability (DOA). In response to comments from DEP, the proponent should seek a new DOA as to the extent and boundaries of all wetland resource areas so as to allow a meaningful evaluation of project alternatives to minimize impacts to wetland resource areas.

The DEIR should include plans that clearly delineate all applicable resource area boundaries on the project site including Riverfront Areas, buffer zones, 100-year flood elevations, priority and/or estimated habitat, and the delineation of the Mean Annual High Water Line on all perennial rivers. The DEIR should quantify the project's estimated impact on each resource area. It should describe the nature of all likely impacts that cannot be avoided, including crossings, grading, overstory clearing and construction-related disturbances and whether they are temporary or permanent in nature. The proponent should also explain how the project would comply with the performance standards in the wetlands regulations and demonstrate that the alteration of resource areas has been avoided and minimized.

According to the ENF, the project will temporarily impact approximately 2,460 sf of Bordering Vegetated Wetlands (BVW) and result in permanent impacts to 1,000 sf of BVW. Approximately 2,000 feet of the Riverfront Area will be temporarily disturbed during the demolition of structures. The ENF states that impacts to BVW will be mitigated through restoration or replication. The proponent should provide further information on wetlands mitigation in the DEIR. A detailed wetlands replication plan should be provided which, at a minimum, should include: replication location(s); elevations; typical cross sections; test pits or soil boring logs; groundwater elevations; the hydrology of areas to be altered and replicated; list of wetlands plant species of areas to be altered and the proposed wetland replication species; planned construction sequence; and a discussion of the required performance standards and long-term monitoring.

The entire development is proposed to be constructed within the 100-flood plain and the proponent will be required to provide compensatory storage volume for impacted areas. To reduce flood plain impacts, the proposed development will be constructed on piers to reduce the impact of the site on river flood storage. Approximately 8.4 acres or 458,700 sf of Bordering Land Subject to Flooding (BLSF) will be altered. This will require the proponent to provide approximately 6,000 cubic yards (cy) of compensatory storage. The proponent plans to provide compensatory storage in the lower floor of the proposed parking structure. According to the ENF, the compensatory volume will be constructed to not restrict flows or increase flood velocities and will have an unrestricted hydraulic connection to the Housatonic River.

The DEIR should provide more information on compensatory storage and impacts to BLSF. The proponent should explain how the proposed project will meet the performance standards of the wetlands regulations for Land Subject to Flooding at 310 CMR 10.57(4)(a). The DEIR should also outline the 10-year flood plain in accordance with 310 CMR 10.57(2)(a)(4) and should discuss how the development will address more frequent flood events than the 100-year storm.

### Stormwater

The ENF states that the proposed stormwater management system will meet the water quality and quantity requirements of the Massachusetts Stormwater Policy. The proposed system will address water quality, peak runoff discharge rates, and groundwater recharge requirements. Due to the relatively impermeable soils and high groundwater at the site, the proponent states that there is limited potential for infiltration at the site. A combination of surface detention and

surface water quality Best Management Practices (BMPs) are proposed. Stormwater from impervious surfaces and rooftops will be directed to stormwater treatment systems, while runoff from the lower level parking lot will be directed to the sanitary sewer. The stormwater management system is still at a preliminary design stage.

The DEIR should provide more information on the stormwater management system including drainage calculations, pre- and post-construction run off rates and a detailed description of BMPs. The proponent should provide justification for the size of the proposed detention basins in the DEIR. Details concerning the assumptions used in designing the stormwater system, test pit evaluations within the stormwater basin indicating groundwater elevation, and sufficient information to demonstrate that the system meets DEP's Stormwater Management Policy should be included in the DEIR.

The DEIR should contain a draft of the stormwater management plan. It should discuss ownership of internal roadways, and should identify what entity will be responsible for the ongoing operation and maintenance of structural BMPs. If the roads will be maintained by the proponent, the stormwater management plan should include internal roadway sweeping, catch basin cleaning and snow removal.

The site is located within the Zone II of several public water supplies, including that of the Sheffield Water Company. This requires that extraordinary care be taken to avoid introducing contaminants into the aquifer. Because the project site is located within the Zone II of a public drinking water supply, the proponent should address what additional precautions will be taken to avoid the release of pollutants into surface water discharged from the site. As outlined above, the proponent proposes to provide compensatory storage in the lower parking garage. The proponent should discuss how it will ensure that floods will not carry automotive oils and other fuels as runoff from the parking area during flood events.

The size of the proposed detention basins could be reduced by incorporating Low Impact Development (LID) principles into site design. 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/>. The proponent should provide a discussion in the DEIR of how LID techniques could be incorporated into site design.

### Rare Species

NHESP has stated that a portion of the proposed site occurs within *Priority Habitat* (PH 823) and *Estimated Habitat* (WH 215) as indicated in the 11<sup>th</sup> Edition of the Massachusetts

Natural Heritage Atlas. The site is located immediately adjacent to the habitat of the Mossy-cup Oak (*Quercus macrocarpa*, "Special Concern") and near the habitat for a large number of rare plants and animals associated with the Housatonic River. These species include: Green Dragon (*Arisaema dracontium*, "Threatened"), Wapato (*Sagittaria cuneata*, "Threatened"), Hairy Wild Rye (*Elymus villosus*, "Endangered"), Yellow Oak (*Quercus muehlenbergii*, "Threatened"), Creeper (*Strophitus undulates*, "Special Concern"), Triangle Floater (*Alasmidonta undulate*, "Special Concern"), Longnose Sucker (*Catostomus catostomus*, "Special Concern") and Frank's Lovegrass (*Eragrostis frankii*, "Special Concern"). These rare species are state-listed pursuant to the Massachusetts Endangered Species Act (MESA, MGL c131A) and its implementing regulations (321 CMR 10.00).

The ENF indicates that all work on the Fairground property will remain within the current footprint of the Great Barrington Fairgrounds and not require any expansion into the tree-line or work near the Housatonic River. In its comments on the ENF, NHESP states that the project, as proposed, will not result in a "take" of rare species. However, if any future work is proposed closer to the Housatonic River or would result in alteration of the treeline north of the current project, the applicant may be required to file pursuant to the MA Endangered Species Act.

NHESP has also noted that the Housatonic River is a significant coldwater resource, supporting over 35 fishery species. The river is stocked annually with brook trout, brown trout and rainbow trout. Coldwater resources are highly susceptible to changes in water quality and/or quantity such as siltation, water level fluctuations and alterations of the temperature regime. Therefore, the project must not in any way diminish the ability of the brook to support coldwater fish species. The proponent should provide a discussion in the DEIR of measures that it will take to ensure that fishery resources in the river are not adversely impacted.

The proponent should note comments from NHESP regarding the development of a landscape plan for the site, and should the avoid use of invasive species. Invasive plants create dense stands that out-compete native vegetation and contribute to the loss of wildlife habitat and native biodiversity. Further, NHESP notes that mowing has occurred very close to the edge of the Housatonic River. Trees and shrubs in riparian zones intercept rainfall and dissipate erosive energy, reduce erosion through root systems that physically bind and restrain soil particles, and improve infiltration of water through improved porosity. All of these positive benefits will support wildlife habitat in the Housatonic River. The proponent should note NHESP's recommendation that a minimum of a 25-foot buffer is maintained between the mowed areas and top of the slope.

### Wastewater

The project is anticipated to generate 49,115 gallons per day (gpd) of wastewater. As some of the stormwater runoff from the parking facility will be directed to the sanitary sewer, the estimated 49,115 gpd includes this volume of stormwater runoff. The proponent needs to clarify its wastewater estimates in the DEIR and outline the volume of actual sewerage versus stormwater that have been counted as wastewater flows. The proponent should coordinate with DEP to determine the appropriate wastewater permit required for the project and should discuss in the DEIR how the project will meet the applicable performance standards.

Wastewater will be discharged to the Town of Great Barrington's municipal wastewater facility. According to the ENF, there is not sufficient capacity in the municipal collection system to accommodate the increase in flows. However, the proponent proposes an upgrade to the existing pump station at the site, or a dedicated pump station for the project. The proponent and the Town should determine whether there is adequate wastewater capacity to serve this project, even with infrastructure upgrades. The DEIR should describe what improvements are necessary to Great Barrington's wastewater infrastructure in order to accommodate the project. The proponent should also document in the DEIR that it has secured permission from the Town of Great Barrington to treat the project's wastewater flows. Consideration should be given to the cumulative impacts of this proposal and other redevelopment projects in the area, including the Searles/Bryant School and New England Log Homes.

### Historic Resources

Based on MHC's review of the Inventory of Archaeological Assets of the Commonwealth, it appears that the project site contains one recorded ancient Native American archaeological site (19-BK-110). While much of the project area appears to be disturbed, MHC states that remnant intact soils particularly along the northwest boundary of the project area appear to be intact. It is possible that the proposed construction could intercept human burials or other archaeological resources in the intact areas of the project site.

MHC has requested that the proponent undertake an intensive (locational) archaeological survey (950 CMR 70) for the limited archaeologically sensitive portions of the project site. The purpose of the survey is to locate and identify any significant historical or archaeological resources that may be affected. The results of the survey will provide information to assist in consultation to avoid, minimize or mitigate any adverse effects to significant archaeological resources.

The proponent is required to submit a field investigation permit application (950 CMR 70) to the MHC for review prior to the archaeological survey. The DEIR should include a proposed schedule for the field investigation, noting the time that will be required to respond to or avoid any adverse effects to any significant cultural resources in the project area. If it is determined by MHC that no significant historical or archaeological resources are located in the project area, documentation of this determination should be included in the DEIR. The DEIR should provide a discussion of the proponent's responsibilities under Section 106 of the National Historic Preservation Act of 1966 (36 CFR 800). The proponent should also note comments submitted by the Stockbridge-Munsee Tribal Historic Preservation Office regarding potential impacts to archaeological sites.

In addition, MHC has indicated that the site, which is historically known as the Housatonic Agricultural Fairgrounds (MHC #GBR.64) is included in the Inventory of Historic Assets of the Commonwealth. In its comments on the ENF, MHC stated that it was unable to determine what effect the proposed project may have on remaining structures at the site. In response to MHC's comments, the proponent has provided additional information regarding the

age, history and current condition of the grandstand and buildings #7 and #8. This information should also be submitted with the DEIR.

### Traffic

According to the ENF, the project is expected to generate 8,594 new daily trips. This estimate exceeds MEPA review threshold for a mandatory EIR of 3,000 new daily trips. However, as previously mentioned, because the project does not require a direct access permit from MHD, MEPA does not have jurisdiction over traffic. Although I cannot require it in this scope, I encourage the proponent to respond to comments and concerns raised on the impacts of the project on local traffic operations. The proponent has indicated in the ENF that a traffic impact study is being prepared in accordance with Executive Office of Environmental Affairs (EOEA)/Executive Office of Transportation (EOT) guidelines. The proponent should consult with the appropriate local, regional and state planning and transportation agencies to ensure that the study has incorporated the correct locations; has adequately reviewed the impacts of the proposed redevelopment; and has proposed adequate mitigation. I encourage the proponent to include the study in the DEIR for review, and use the MEPA review process as an opportunity for the public and local, regional and state officials to review the traffic impacts of the proposed redevelopment. I also acknowledge the detailed comments regarding traffic impacts submitted by the Berkshire Regional Planning Commission and encourage the proponent to address these comments in the DEIR.

### Hazardous Waste

The proponent should note comments from DEP regarding the management and disposal of solid waste generated by the project. Any hazardous wastes generated by demolition activities must be properly managed in accordance with 310 CMR 30.0000.

There are several known hazardous waste sites within a mile radius of the project, all located to the NNE of the site. While the closest site is located over 0.5 miles away, the proposed project will involve excavation along a utility corridor. In response to comments from DEP, the proponent should retain a Licensed Site Professional (LSP) to identify contaminated areas that could pose a problem with excavation activities. The proponent will also need to have an LSP assess and report to DEP any contamination issues related to abandoned transformers on site that are proposed to be removed.

The DEIR should provide a discussion of how the proponent will comply with DEP's solid and hazardous waste regulations.

### Construction Period Impacts

The DEIR should include a discussion of construction phasing, evaluate potential impacts associated with construction activities, and propose feasible measures to avoid or eliminate these impacts. The proponent must comply with DEP's Solid Waste and Air Quality Control regulations. The proponent should implement measures to alleviate dust, noise and odor nuisance conditions which may occur during the construction activities.



Mitigation

The DEIR should contain a separate chapter on mitigation measures. It should include a Draft Section 61 Finding 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 the mitigation, based on the construction phases of the project, should also be included.

Comments

The DEIR should respond to the comments received from state agencies, local officials and public citizens, in as much as the comments are within MEPA's jurisdiction. The DEIR should present additional narrative and/or technical analysis as necessary to respond to the concerns raised.

March 24, 2006  
Date

  
Stephen R. Pritchard

## Comments received:

3/7/2006	Massachusetts Historical Commission
3/8/2006	RDelGalloIII@aol.com
3/8/2006	Ken Story
3/8/2006	Martha Dane-Martin
3/8/2006	Martha Dane-Martin
3/8/2006	Raya Ariella
3/8/2006	Honey Sharp
3/8/2006	James H. Balfanz
3/9/2006	Karen Skelton
3/10/2006	Jennifer Clarke
3/10/2006	Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
3/11/2006	Mari LoNano
3/12/2006	Terrence W. Webb
3/12/2006	Peter S. Nikitas
3/12/2006	Margaret Brownell
3/12/2006	Jonathan Hankin
3/12/2006	Catherine and Ciaran McCabe
3/13/2006	Robert Tepper

3/13/2006 Oliver Caldwell  
3/13/2006 Rene Wood  
3/13/2006 Julie Rubiner  
3/13/2006 Jerome B. Carr  
3/13/2006 Patrice Mullin  
3/13/2006 Jeffry Blais & Ed Frigon  
3/14/2006 Mary Carter  
3/14/2005 Elisabeth C. Goodman  
3/14/2006 Philip B. Timpane  
3/14/2006 Department of Environmental Protection, Western Regional Office  
3/14/2006 Peter A. A. Berle  
3/14/2006 Jane Wine, Berkshire Environmental Action Team  
3/14/2006 Berkshire Regional Natural Resources Council, Inc.  
3/14/2006 Erik V. Mas, Fuss & O'Neill, for the Proponent  
3/14/2006 Stockbridge-Munsee Tribal Historic Preservation Office  
3/14/2006 Berkshire Regional Planning Commission

SRP/BA/ba