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August 15, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
SINGLE ENVIRONMENTAL IMPACT REPORT

PROJECT NAME: North Adams Plaza Redevelopment
PROJECT MUNICIPALITY: North Adams
PROJECT WATERSHED: Hudson
EEA NUMBER: 14180
PROJECT PROPONENT: **North Adams** Property Development, LLC
DATE NOTICED IN MONITOR: July 9, 2008

As Secretary of Energy and Environmental Affairs (EEA), I hereby determine that the Single Environmental Impact Report (Single EIR) submitted on this project **does not adequately and properly comply** with the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00). Therefore, the Proponent must submit a Supplemental EIR in accordance with Section 11.08(8)(d)(3) of the MEPA regulations.

While the Single EIR has adequately evaluated project impacts related to traffic, wetlands and stormwater, and identified sufficient mitigation for those impacts, the Proponent has not adequately addressed the requirements of the EEA Greenhouse Gas (GHG) Emissions Policy. The discussion of project-related GHG impacts and mitigation has advanced significantly in the Single EIR from the discussion in the Expanded Environmental Notification Form (EENF), and I commend the Proponent for its commitment to the environment and to mitigating GHG emissions reflected in the Single EIR. However, the discussion of GHG impacts and mitigation in the Single EIR is not supported by the requisite technical analysis and data. I am therefore requiring the preparation of a limited-scope Supplemental EIR, which will provide an opportunity to resolve outstanding details regarding GHG analysis and data prior to allowing the project to proceed to the state permitting process. The limited scope for the Supplemental EIR is outlined below.

In requiring the Supplemental EIR, I am aware that the proposed project has numerous potential benefits. It involves the redevelopment and reuse of a previously developed site with existing infrastructure. It has the potential to enhance the local tax base and to provide employment and retail opportunities for the local and regional area. The requirement for a Supplemental EIR is not intended to be an impediment to achieving the environmental and economic benefits of the project. However, as outlined below, outstanding issues remain to be resolved before MEPA review on the project can be completed.

Project Description

As described in the February 2008 Expanded Environmental Notification Form (EENF) and the Single EIR, the project involves the redevelopment of a vacant strip commercial plaza on an approximately 13.4-acre parcel located on the west side of Route 8 across from the Robert Hardman Industrial Park in North Adams. The site has been underutilized for approximately a decade and vacant since 2006. An approximately 95,712 square foot (sf) structure that formerly housed a cinema and a mix of restaurant and retail uses remains as well as approximately 630 parking spaces. The redevelopment includes demolition of the existing structure and construction of an approximately 126,500 sf Lowe's home improvement store with an associated 28,630 sf garden center and an approximately 3,600 sf separate drive-through bank or other retail facility on an out-parcel in the southeasterly corner of the site. Previously, a home improvement store was proposed on a site north of the proposed site. An EENF for that project was submitted in July 2005 (EEA# 13578). That project is no longer under consideration.

Approximately 620 parking spaces will be provided as part of the project. Access to the site will be provided via two driveways: 1) the existing signalized driveway to the site will be retained and will serve as the primary access and egress point for the site; and 2) a secondary right-in/right-out driveway is proposed approximately 500 feet north of the existing traffic signal. The existing right-in driveway will be closed.

Jurisdiction

The project is undergoing environmental review and requires the preparation of an Environmental Impact Report pursuant to Section 11.03(6)(a)(6) of the MEPA regulations because it requires state permits and it will generate more than 3,000 new average daily trips on roadways providing access to a single location. The project requires a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency (EPA) and a Vehicular Access Permit from the Massachusetts Highway Department (MassHighway). The Proponent has received a Special Permit from the North Adams Planning Board and a permit from the North Adams Zoning Board of Appeals to reduce parking at the site to less than what is required under local zoning. The Proponent received an Amended Order of Conditions (OOC) from the North Adams Conservation Commission in July 2008.

Because the Proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction is limited 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 required state permits. In this case, jurisdiction extends to transportation, wetlands and stormwater. In addition, because the project requires a Vehicular Access Permit, the project is subject to the MEPA Greenhouse Gas Emissions Policy and Protocol.

Review of the non-GHG Sections of the Single EIR

The overall project has not changed since the submittal of the EENF. The Single EIR provided an updated discussion of project impacts related to stormwater, wetlands and traffic. The Single EIR provided a discussion of the project's consistency with the *Regional Plan for the Berkshires* (Berkshire Regional Planning Commission (BRPC), May 2000), the *North Adams Community Development Plan* (BRPC, June 2004), and with Executive Order 385 – Planning for Growth.

To meet the revised MassDEP Stormwater Management Regulations (February 2008), an extended detention stormwater wetland has been proposed in place of the basic dry detention basin. The constructed stormwater wetland will provide optimal stormwater treatment as well as peak attenuation for runoff from the development. The Proponent received an OOC for the project in May 2008 that was appealed due to concerns regarding stormwater discharge from the west of South State Street onto an abutting property. All parties agreed to a Stay of Appeal, and additional information on stormwater management was provided to the North Adams Conservation Commission. An Amended OOC for the project was issued on July 7, 2008, and subsequently the Appeal was withdrawn.

The project will result in the alteration of approximately 185 sf of Bordering Vegetated Wetlands (BVW). Impacts to BVW will be mitigated by the creation of an approximately 500 sf BVW replication area located between the existing BVW and the proposed detention basin. Details of the BVW replication area, including a planting schedule, construction sequence and a post-construction monitoring plan are included in the SEIR.

The Proponent updated the Traffic Impact and Access Study (TIAS) in the SEIR to respond to comments from MassHighway and the BRPC. The Single EIR has adequately resolved issues related to traffic impacts and mitigation. The Single EIR outlined the proposed Transportation Demand Management (TDM) program that will be implemented by the Proponent.

The Single EIR outlined a plan to minimize and mitigation construction period impacts. The Proponent has committed in the Single EIR to utilizing ultra low-sulfur diesel fuel for construction vehicles. The Proponent will use straw bales as an alternative to hay bales to reduce the potential for the introduction of invasive species.

Mitigation

The Proponent has committed to the following mitigation in the Single EIR:

- Structural and non-structural stormwater Best Management Practices (BMPs) will be implemented to mitigate site stormwater runoff and remove a minimum of 80 percent of total suspended solids (TSS).
- The Proponent will construct access improvements at the main site drive intersection with Route 8, including upgrading existing signal equipment and improving pedestrian access and pedestrian safety. The Proponent will also close the existing unsignalized right-in driveway and construct a new right-in/right-out driveway. The Proponent will implement minor adjustments to the signal timings at various intersections in the project area.
- The Proponent will provide MassHighway, the BRPC and the Town of Adams with a full signal-feasibility study for the intersection of Route 8 with Friend Street and Renfrew Street.
- The Proponent will provide a new pedestrian crossing on the south side of the existing signalized intersection of Route 8 with the site driveway and the Hardman Industrial Park site drive. The crossing will accommodate pedestrians using the BRTA system in either the northbound or the southbound directions.
- The Proponent will construct a new bus bay on the west side of Route 8 in front of the site.
- The Proponent will implement a Transportation Demand Management (TDM) plan to reduce peak employee traffic demand on the roadway system and encourage use of alternative transportation modes by retail customers.
- During construction, erosion and sedimentation control measures will be implemented and the Proponent will prepare a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the NPDES General Permit.
- As outlined in the Construction Management Plan submitted in the EENF, the Proponent will implement measures during construction to minimize temporary impacts related to noise, dust/air quality, and truck traffic.

SCOPE

The Supplemental EIR should contain a copy of this Certificate and a copy of each comment letter received on the Single EIR. Due to the limited scope for the Supplemental EIR, the Proponent should address only those comments that are relevant to the GHG Policy. Remaining comments submitted on the Single EIR can be addressed during permitting.

The Supplemental EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to any state agencies from which the Proponent will seek permits or approvals, to the list of “comments received” below, and to City of North Adams officials. A copy of the Supplemental EIR should be made available for public review at the North Adams Public Library.

The EENF contained the Proponent’s initial response to the GHG Policy, including an analysis of project-related GHG emissions from mobile and stationary sources, and a discussion of possible emissions-reduction mitigation. The Certificate on the EENF required the Proponent to provide an updated GHG analysis in the Single EIR and encouraged the Proponent to commit to additional GHG mitigation. The Certificate stated that the Proponent’s commitment to transportation mitigation outlined in the EENF was sufficient, and directed the Proponent to

identify additional non-transportation measures to serve as mitigation for net emissions for the whole project.

The Single EIR presents a much expanded and improved discussion related to GHG emissions. The Proponent has identified and committed to the following specific mitigation measures to reduce GHG emissions from stationary sources:

- High-efficiency Energy Star compliant packaged heating, ventilation and air-conditioning (HVAC) systems;
- Double Low-E glass windows to minimize heat loss;
- Motion sensors and lighting in the building's office space to reduce energy consumption; Additional roof insulation to minimize heat loss;
- White thermoplastic olefin (TPO) membrane roofing to reduce heat island effect on rooftop; and,
- Partial skylights at the garden center to reduce electrical usage.

As outlined in the Single EIR, the Proponent is also committed to the following programs corporate-wide:

- Lowe's Energy Awareness Delivers Savings (LEADS) – The LEADS program is an energy awareness program for employees that seeks to promote measures to reduce GHG emissions and water consumption.
Sale of Energy Star-qualified products – Lowe's participates in the U.S. EPA's Retail Partnership Program, and offers a variety of Energy Star products at its stores, including fans, dishwashers, lighting units, programmable thermostats, and sealing and insulation products.
- Lowe's Energy Management Program – Lowe's implements energy management systems at each of their stores to reduce energy usage. The Proponent estimates that participation in the Energy Management Program results in an annual reduction of 4.4 tons of carbon dioxide (CO₂).
- Green Power Purchasing Partnership – Lowe's purchases green power generated from renewable resources and allocates two percent of green power purchasing credit to each store. The Proponent estimates that GHG reductions due to the green power purchasing credit are approximately 18 tons per year (tpy) for the North Adams project.
- SmartWay Transport Partnership Program – This program is a partnership between the U.S. EPA and the freight industry to increase energy efficiency while reducing GHG emissions. The Proponent estimates that participation in the SmartWay program results in an annual reduction of 11.2 tons of CO₂.

I commend the Proponent for its commitment to mitigation measures related to energy efficiency and renewable power. As noted above however, this commitment has not been reflected in the technical analysis submitted in the Single EIR. EEA acknowledges that the quantification and modeling required by the GHG Emissions Policy is not intended to result in absolutely accurate projections. The desired outcome is a reasonably accurate quantitative analysis of total project emissions and potential mitigation that will allow the Proponent and reviewers to assess the overall impact of the project as proposed, and the reduction in emissions

if various measures are implemented. The Proponent should resolve the issues outlined below in order to demonstrate that the additional mitigation measures have been adequately evaluated following the guidance in the GHG Emissions Policy & Protocol. I note that the Proponent has recently provided the MEPA Office with additional information in response to several of the issues below; however, this information would benefit from additional public and state agency review, which will be afforded by the Supplemental EIR.

- The Proponent should explain why the amount of GHG emissions for the 2012 Build scenario for stationary sources changed between the EENF (1,122 tpy) and the Single EIR (1,193.5) tpy.
- The Proponent should explain why the amount of GHG emissions for the 2012 Build with Mitigation scenario for stationary sources is the same in the EENF and Single EIR (1,053.2 tpy), despite making additional mitigation commitments in the Single EIR.
- Due to the above, the increased difference between the 2012 Build and the 2012 Build with Mitigation scenarios for stationary sources in the Single EIR (140.3 tpy reduction compared to a 68.7 tpy reduction) does not appear to be due to any additional mitigation or improvements in the modeling, but instead because the 2012 Build scenario in the Single EIR is 71.5 tons greater than the 2012 Build in the EENF. The Proponent should clearly demonstrate that any anticipated reduction in stationary source emissions is due to increased mitigation, and not due to the change in the 2012 Build scenario between the EENF and Single EIR.
- The Single EIR states that a decrease in emissions of 140.3 tpy for stationary sources will result in an 11.8 percent decrease in CO₂ emissions, which represents an increase from the 6.1 percent reduction presented in the EENF. These figures are inconsistent with EEA's analysis of the anticipated reductions, based on the data presented in the EENF and Single EIR. The Proponent should consult with EEA on the methodology for determining percentage reductions.
The Proponent should clarify whether the GHG analysis and mitigation is directed solely towards the proposed Lowe's building, or whether it incorporates the smaller additional building proposed on the southeast portion of the site. The requirements of the GHG policy apply to the entire project.
- The Proponent did not evaluate the benefits of the proposed TDM measures with regard to GHG emissions in the EENF. The Proponent has evaluated TDM measures using EPA's COMMUTER Version 2.0 model; however it is unclear which TDM measures listed on page 3-3 of the Single EIR were evaluated, and the Single EIR did not contain supporting data for the analysis.

The Proponent has evaluated the installation of a 50-kilowatt (kW) solar photovoltaic (PV) system on the proposed Lowe's building pursuant to the requirement of the GHG Emissions Policy to consider alternative mitigation measures. As outlined in the Single EIR, the payback period for a 50 kW solar system at the proposed project is calculated to be approximately seven years, which, according to the Proponent is longer than rate of return permitted by Lowe's corporate guidelines. The Proponent should address comments from the Department of Environmental Protection (MassDEP) and the Department of Energy Resources (DOER) regarding the analysis of solar PV. The Supplemental EIR should elaborate on the methodology used to determine the payback assessment, and provide additional specific information on how

state and federal rebate and/or tax incentives affected the payback period. Given that the Proponent will likely own the project for far longer than seven years, the anticipated reduction in payback of solar PV due to technological advances, and the increasing cost trend for electricity, it is not clear why a seven-year payback should preclude implementation of PV for this project.

Finally, it is not clear from a review of the Single EIR that the Proponent has maximized opportunities to mitigate emissions through off-site mitigation or measures. As requested in the Certificate on the EENF, I strongly encourage the Proponent to consult with the MEPA Office regarding the potential for off-site mitigation or offsets.

Mitigation

The Proponent should submit an updated discussion of mitigation and an updated Section 61 Finding for MassHighway to reflect any changes proposed in the Supplemental EIR.

August 15, 2008
Date



Ian A. Bowles

Comments received:

- 7/25/2008 Department of Environmental Protection, Western Regional Office
- 8/6/2008 Berkshire Regional Planning Commission
- 8/8/2008 Department of Environmental Protection
- 8/8/2008 Executive Office of Transportation
- 8/8/2008 Berkshire Environmental Action Team

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