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September 7, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY & ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Crown Point Estates
PROJECT MUNICIPALITY : Leominster
PROJECT WATERSHED : Nashua
EOEA NUMBER : 14075
PROJECT PROPONENT : NMJ Realty Trust
DATE NOTICED IN MONITOR : August 8, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 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 described in the Environmental Notification Form (ENF), the project consists of several developments that have been named as "Crown Point". The projects that were purchased were Sterling Woods (30 frontage lots-built out), Katie lane (10 units-built out), Summit Estates (23 housing units), Connector Road (12 housing units), and Crown Point (229 housing units) in Leominster. According to the ENF, the project is estimated to generate approximately 2,876 vehicle trips on the average weekday, create 600 new parking spaces, create 18.84 acres of impervious and an unspecified of total land altered and creates 133,760 gallons per day of wastewater.

As mentioned in the ENF, the site has undergone substantial logging, cutting, and clearing of vegetation from uplands and wetlands since April of 2006 without permits and there is pending enforcement action from Department of Environmental Protection (MassDEP) against the property owner/developer. The boundaries of wetland resource areas have only recently been finalized. I note that there is a potential for the size and scope of the project (roadway layout, number of house lots, stormwater management, etc.) to change with the pending enforcement action and wetland restoration plans yet to be approved.



At the MEPA site visit the proponent also indicated that the site will contain 22 additional acres in Sterling that was not originally indicated on the ENF. The anti-segmentation provisions of the MEPA Regulations (Section 11.01(2)(c)) require the review of the entire proposed residential development as a "common plan or undertaking". Pursuant to the anti-segmentation provision of the MEPA regulations, I must consider the environmental impacts associated with the 22 acres in Sterling as a common undertaking by the project proponent.

MEPA Jurisdiction and Required Permits

The project is undergoing review and requires preparation of an EIR pursuant to sections 11.03 (1)(b)(1) and (1)(a)(2) of the MEPA regulations, because the project requires state permits and will involve alteration of more than 25 acres of land and creation of more than 10 acres of new impervious surfaces. The project is also undergoing review pursuant to Section 11.03 (6)(b)(13) and (6)(b)(15) and Section 11.03 (5)(b)(3)(c) and (5)(b)(4)(a) of the MEPA regulations, because the project will generate more than 2,000 new vehicle trips per day (2,876 vtd total), provide more than 300 new parking spaces (600 spaces total), will construct a new sewer main ½ or more miles and provide a new sewer discharge to a sewer system of 100,000 or more gpd of sewage.

The project requires an Access Permit from the Massachusetts Highway Department (MHD), a Sewer Connection/Extension Permit and a 401 Water Quality Certification from the MassDEP. The project also requires a Superseding Order of Conditions from MassDEP because the Order of Conditions from the Leominster Conservation Commission was appealed. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over five acres.

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 have significant environmental impacts and that are within the subject matter of required or potentially required state permits. In this case, MEPA jurisdiction exists over land alteration, traffic/air quality, wetlands, drainage and wastewater.

SCOPE

General

The EIR should follow the general guidance for outline and content contained in section 11.07 of the MEPA regulations, as modified by this Certificate. The DEIR should contain a copy of this Certificate and a copy of each comment received. The proponent should circulate the DEIR to those parties who commented on the ENF, 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.

Project Description and Permitting

The DEIR should include a description of the proposed project, including as much

information as possible on lighting, grading, landscaping, and buffers between the site and adjacent uses. The DEIR should also include existing and proposed grading plans. The DEIR should briefly describe each state permit required for the project, and should demonstrate that the project meets any applicable performance standards. In accordance with section 11.01 (3)(a) of the MEPA regulations, the DEIR should also discuss the consistency of the project with any applicable local or regional land use plans.

Alternatives

The DEIR should analyze the no-build alternative to establish baseline conditions. The DEIR should also evaluate alternative site layouts of the proponent's preferred alternative in order to arrive at a site layout that minimizes overall impacts. In addition to the No-Build Alternative and the Preferred Alternative for the proposed mixed-use project, the EIR should discuss alternative building configurations on the site that might result in fewer impacts, particularly to traffic, parking, stormwater and wetlands. The DEIR must also identify the outside envelope of potential impacts, (particularly upon infrastructure capacity) from the Full-Build scenario.

The DEIR should summarize the alternatives already developed for the project site. The analysis should clearly present the alternative curb cuts and entrance/exit configurations at the site, and identify the advantages and disadvantages of the Preferred Alternative. Any project phasing should be identified in the DEIR and what the construction and completion dates for the various phases will be should be identified. Information regarding project phasing (narrative and plans) should be provided in the DEIR. The DEIR should provide a comparative analysis that clearly shows the differences between the environmental impacts associated with each of the alternatives.

Land Alteration

The proposed project uses does not specify the acres of land altered and does not clearly specify the total site acreage, i.e. at the MEPA site visit the proponent indicated that the site will contain 22 additional acres in Sterling that was not originally indicated on the ENF. The DEIR must clearly indicate the total site acreage and the new acres altered. The project will create approximately 18.84 acres of new impervious surfaces. The DEIR should investigate all feasible methods of avoiding, reducing, or minimizing impacts to land. The DEIR should evaluate alternatives that minimize the amount of impervious surfaces associated with the project. Specifically, the DEIR should evaluate the feasibility of reducing overall parking ratios, and/or of providing structured parking as part of the proposed project. The DEIR should indicate exactly what part of the total project site that will remain as undisturbed or landscaped area.

Given the size of the proposed project, steep slopes and soil types, MassDEP recommends and I concur that the proponent must develop and implement a comprehensive erosion and sedimentation control plan for the construction phase of the project. This should be monitored and maintained until final stabilization of site soils is achieved.

Transportation

The proponent should respond to the comments received from MHD, and the City of Leominster pertaining to the project's potential traffic impacts. I strongly encourage the proponent to consult with the MHD's Public/Private Development Office, MHD's District 3 Office and the City of Leominster on transportation issues during the preparation of the EIR.

According to the comments received from the Massachusetts Highway Department (MHD), the ENF included a traffic study that appears to conform to the EEA/EOTPW Guidelines for EIR/EIS Traffic Impact Assessment. The traffic study indicates that most of the study area intersections will operate at an acceptable Level of Service under the future build conditions, except for Route 12/North Row Road/Pratts Junction Road intersection. As a result of this project, traffic operation conditions will further worsen at this location. The traffic study included a warrant analysis that concluded that signalization is warranted at this intersection.

The DEIR should evaluate interim mitigation measures that improve both safety and operating conditions at this location. The DEIR should also provide a clear commitment to advance the long-term improvements at this location. At a minimum MHD will require, and I concur, that the proponent should commit to provide 100% plans, specifications, and estimates for future implementation by MHD or others.

The DEIR should discuss the suitability of any proposed signalization improvements. The DEIR should include any conceptual plans for roadway improvements with sufficient detail to verify the feasibility of constructing such improvements. The plans should show proposed lane widths and offsets, layout lines and jurisdictions, and the land uses (including access drives) adjacent to areas where improvements are proposed.

The DEIR should present a Transportation Demand Management (TDM) program, and include appropriate commitments to implement feasible TDM measures and/or commit to a trip reduction performance standard. The DEIR should describe any monitoring necessary to ensure the success of the program. (I recognize the challenges inherent in developing a successful TDM program at a suburban housing site, but remind the proponent of its obligation to develop the maximum mitigation feasible for traffic impacts. TDM can and should constitute a portion of the transportation mitigation program.)

Parking

Parking at the site is proposed to include approximately 600 on-site surface parking spaces not including the garage parking associated with each of the individual house lots. The DEIR should describe how the number of parking spaces needed was determined. The DEIR should demonstrate that the parking supply is the minimum necessary to accommodate project demand. If the parking supply is greater than the amount required under local zoning, the DEIR should explain why, and discuss the impacts of excess parking upon the proposed Transportation Demand Management (TDM) program, and the feasibility of an alternative with fewer spaces.

Transit

The DEIR should provide an inventory of public transit and bus services in the project area that connect to the local commuter rail station. The proponent should work with local officials to identify bus connections and potential shuttle bus services from activity nodes and residential areas to the project site.

Pedestrian and Bicycle Facilities

The DEIR should show where sidewalks and bicycle facilities currently exist on a map of the area. It should identify any proposed pedestrian (sidewalk) and bicycle facility improvements included with this project.

Wetlands/Drainage

The project as currently designed will create 18.84 acres of new impervious surfaces. The DEIR should include a detailed description of the project's proposed drainage system design, including a discussion of the alternatives considered along with their impacts. The DEIR should identify the quantity and quality of flows. The rates of stormwater runoff should be analyzed for the 10, 25, and 100-year storm events. The proposed drainage system should control storm flows at existing levels. The DEIR should discuss the consistency of the drainage plan with the MassDEP Stormwater Management guidelines.

It should also be noted that the site will have numerous stormwater detention basins along the Eastern edge. These will discharge stormwater to the ground adjacent to a tributary to Wekepeke Brook, upstream of the Zone II of some public water supply wells and the Nashua River. The DEIR should identify all stormwater discharge points, and describe any drainage impacts associated with required off-site roadway improvements. The DEIR should investigate feasible methods of reducing impervious surfaces. It should also be demonstrated that the proposed drainage system would control storm flows at existing levels. The proponent should respond to the City of Leominster's comments pertaining to the project's lack of a Wetland's Restoration Plan.

The site has undergone substantial logging, cutting, and clearing of vegetation from uplands and wetlands since April of 2006 without permits and there is pending enforcement action from MassDEP against the property owner/developer. The boundaries of wetland resource areas have only recently been finalized. This new information should be part of the DEIR filing. There is a potential for the size and scope of the project (roadway layout, number of house lots, stormwater management, etc.) to change with the pending enforcement action and wetland restoration plans yet to be approved. The DEIR must contain project plans that show the most recent delineation of all wetland resource areas, including those that were altered from activities referenced above and wetland restoration/mitigation areas proposed.

The ENF is deficient in terms of presenting and discussing wetlands impacted by the unpermitted cutting/logging activities on the site. The DEIR must contain additional information and plans.

Wastewater

As described in the ENF, the proposed housing project will generate approximately 133,760 gpd of wastewater flow. The proponent proposes to discharge the project's wastewater flow to Leominster's municipal wastewater treatment facility. The DEIR should demonstrate that the proposed discharge of the project's wastewater to Leominster's municipal wastewater treatment facility is feasible. At a minimum, the EIR should demonstrate that:

1. the City of Leominster's municipal wastewater treatment facility has sufficient design capacity to accommodate the proposed project's additional wastewater flows; and
2. the proponent has secured permission from the City of Leominster to direct the proposed project's wastewater flows off-site to said facility for treatment.

This project will include the construction of 75 units already issued under separate permits and 229 new residential units for a total of 304 units. The ENF indicated a permit would be needed but provided no further information. The project will involve the construction of 3.5 miles of sewer. The estimated 133,760 gallons per day (gpd) of sewage will flow through at least 1,000 feet of sewers and a sewer extension permit will be required. The sewage will flow to the Leominster Wastewater Treatment Facility and the applicant may be required to do I/I removal prior to connecting to the sewer because of a sewer bank arrangement the City of Leominster requires. Since the site is extremely hilly, if any pump stations are built, the ownership of the pump stations for operation and maintenance purposes will need to be addressed. The DEIR should contain detail on the plans for sewerage the project, permits required and applied for, and the operation of maintenance of any pump stations needed for the area.

Impacts on New Growth in Sewer Improvement Areas

According to the ENF, the proponent also proposes to construct sewer expansion to Leominster's sewer system to connect to the City's municipal sewer system. In accordance with Executive Order 385 (Planning for Growth) and section 11.01 (3)(a) of the MEPA regulations, the DEIR should identify the land use categories located within the proposed sewer improvement areas identified in the ENF, and contain a detailed analysis of the potential secondary growth impacts and increased wastewater flows that may be induced by the proposed sewer improvements from the project's housing development and sewer improvement areas. The DEIR should include full-build projections of these flows and volumes. I encourage the proponent to consult with the City of Leominster and MassDEP in preparing this section of the DEIR.

Water Supply

As described in the ENF, the water supply needs for the proposed project (133,760 gpd) will be served by the City of Leominster. The DEIR should quantify estimates of water supply

demand for the entire project and respond to the comments from the City of Leominster related to the water supply. The DEIR should identify any impacts from the project on the City of Leominster's drinking water supplies. It should propose mitigation as appropriate. In addition to this municipal water supply, the DEIR should examine alternative methods of meeting the proposed project's water supply needs. At a minimum, the DEIR should evaluate the development of an on-site groundwater withdrawal alternative for supplying potable water for the project.

The proponent should consult with MassDEP regarding the need, if any, for a Groundwater Withdrawal Permit for any portion of the proposed project. The plans should also note any applicable local and state buffer zone requirements. The DEIR should demonstrate that the use of the City of Leominster's municipal water supply to serve the full build of the project. At a minimum, the DEIR should demonstrate that:

1. the municipal water supply has sufficient design capacity to accommodate the full build; and
2. the proponent has secured permission from the City of Leominster to obtain the necessary potable water supply needs from the City of Leominster's municipal water supplies.

Construction Period

The project has potentially significant construction impacts, including extensive earth moving and likely blasting. The DEIR should evaluate construction period impacts, including impacts from earth moving/blasting, impacts to vegetation, potential impacts from erosion and sedimentation, traffic impacts on adjacent roadways, and impacts to adjacent land uses, including the elementary school adjacent to the project site.

As stated in the previously, given the size of the proposed project, steep slopes and soil types, MassDEP recommends and I concur that the proponent must develop and implement a comprehensive erosion and sedimentation control plan for the construction phase of the project. This should be monitored and maintained until final stabilization of site soils is achieved.

Comments

The DEIR should respond to the comments received to the extent that the comments are within MEPA jurisdiction. I recommend that the proponent use either an indexed response to comments format, or else direct narrative response. The DEIR should present any additional narrative or quantitative analysis necessary to respond to the comments received.

Mitigation/Section 61

The DEIR should include a separate chapter on mitigation measures. 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 project, should also be included.

I urge the proponent to participate in any discussions and studies, which evaluate the feasibility of traffic, transit, pedestrian, and bicycle improvements within this area with officials from the City of Leominster, MHD, and the Town of Sterling.

September 7, 2007
Date



Ian A. Bowles

Comments Received:

- 08/22/07 City of Leominster, Department of Public Works
- 08/27/07 Department of Environmental Protection
- 09/07/07 Executive Office of Transportation, Massachusetts Highway Department

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