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December 3, 2007

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

PROJECT NAME: Aspinwell Shops (formerly Lenox Gateway)  
PROJECT MUNICIPALITY: Lenox  
PROJECT WATERSHED: Housatonic  
EEA NUMBER: 13540  
PROJECT PROPONENT: Lenox Gateway, LLC  
DATE NOTICED IN MONITOR: n/a

Pursuant to the Massachusetts Environmental Policy Act (M. G. L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I hereby determine that the change proposed in this Notice of Project Change (NPC) is insignificant and **does not require** further MEPA review.

Project Description

As described in a May 25, 2005 Environmental Notification Form (ENF), the project consists of the redevelopment of a 64-acre property located on the west side of Route 7 in Lenox, MA that currently contains retail shops and an abandoned 250-seat restaurant. The project site was the subject of a MEPA review in the early 1990s for an expansion project known as Up-Country Shops (EEA #8079). That project was never fully permitted on a local level and was not constructed. The project outlined in the 2005 ENF proposed the addition of new retail space, the renovation of an existing commercial building, and the addition of 39 townhouse-style condominiums and 12 live/work apartments.

The project site contains significant wetland resources and areas of Priority and Estimated Habitat as identified by the Natural Heritage and Endangered Species Program (NHESP). A contaminated portion of the site is currently being managed in accordance with the Massachusetts Contingency Plan (MCP).

#### Jurisdiction and MEPA History

The project as outlined in the ENF was subject to review and the preparation of a Mandatory EIR pursuant to Section 11.03(6)(a)(6) of the MEPA regulations because it will result in more than 3,000 new daily vehicle trips. The project also met ENF review thresholds related to parking and rare species habitat. The project required a National Pollutant Discharge and Elimination System (NPDES) Stormwater General Permit; a Sewer Connection Permit from the Department of Environmental Protection (MassDEP); an Access Permit from the Massachusetts Highway Department (MassHighway); a Conservation and Management Permit from NHESP; a Special Permit from the Lenox Zoning Board of Appeals; Site Plan Approval from the Lenox Planning Board; and an Order of Conditions from the Lenox Conservation Commission.

In the ENF, the Proponent requested a waiver from the requirement to prepare the EIR. The August 29, 2005 Final Record of Decision (FROD) found that the Proponent's waiver request had merit and allowed the project to proceed to permitting without further MEPA review.

#### Project Change Description

The Proponent states in the NPC that since the completion of MEPA review in 2005, the demand for residential units is much stronger than that for retail space. As outlined in the NPC, the Proponent now intends to reduce the amount of retail space and substitute additional residential units. The project will still be mixed-use, but the 39 townhouses will increase to 70. The live/work units have been reduced in number to 8 but have increased in size slightly. The 52,000 square feet (sf) of retail space has been reduced to 20,000 sf.

According to the NPC, the overall footprint of the development will remain the same. The townhouses will be constructed in two clusters; 30 units to the north, which are currently under construction and 40 units to the south, where free-standing retail was previously proposed. The 20,000 sf of retail space will consist of various building additions, a Farmer's Market, and the first floor of the live/work units.

#### Review of the NPC

The increase in residential units at the site will result in a reduction of daily traffic generation. The project as proposed in the ENF was expected to result in 8,554 daily vehicle trips whereas the project as outlined in the NPC is expected to generate 7,470 trips. Land alteration and the amount of new impervious surface will remain the same. Wetland and rare species impacts will not change as a result of the project outlined in the NPC. The Proponent has

received a Conservation & Management Permit from NHESP and intends to file a new Notice of Intent for work not previously reviewed and approved by the Lenox Conservation Commission.

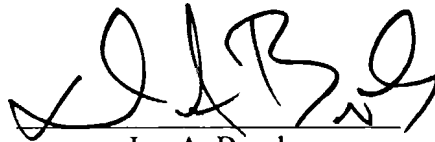
The project change will result in increased water use and wastewater generation. The project reviewed in the ENF was anticipated to require 54,000 gallons per day (gpd) of water and generate 35,900 gpd of wastewater. The project presented in the NPC will require 61,185 gpd of water and generate 40,690 gpd of wastewater. The Up-Country Shops project received a Sewer Connection Permit from MassDEP. The Proponent was required to apply for a new Sewer Connection Permit during the review of the Lenox Gateway project due to a Town requirement that the Proponent construct a new pump station as part of the project. The Proponent should consult with MassDEP to determine if the project now falls under the jurisdiction of MassDEP's new Compliance Certification Program at 314 CMR 7.00. The Proponent should also coordinate with the Town of Lenox Department of Public Works regarding wastewater capacity issues.

Conclusion

After a review of the NPC and consultation with the relevant agencies, I find that the proposed project change is insignificant, in accordance with the MEPA regulations at 301 CMR 11.10(6). No further review of the project is required as a result of the proposed change.

December 3, 2007

Date



Ian A. Bowles

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