



November 28, 2007

Secretary Ian Bowles
EOEEA, Attn: MEPA Office
Anne Canaday, EOEEA No. 14115
100 Cambridge St., Suite 900
Boston, MA 02114

Re: Proposed Article 97 Land Swap off High Street, Randolph MA – EOEEA #14115

Dear Secretary Bowles:

The Department of Conservation and Recreation (“The Department” or “DCR”) has reviewed the ENF for the Proposed Article 97 Land Swap in Randolph dated October 1, 2007; and the packet of additional information dated November 6, 2007 (“Additional Information”). As the Commonwealth’s steward of natural, cultural and recreational resources, DCR has concerns about the proposed land swap. Notwithstanding the existing legislative mandate to complete the proposed land swap, DCR strongly suggests the need for a full Environmental Impact Report in order to fully assess its impacts. In addition, the Department submits the comments presented below.

Background

Under the terms of Chapter 240 of the Acts of 2002, the Massachusetts Legislature directed the Division of Capital Asset Management and Maintenance (DCAMM) to convey to the proponent, the Hart Family Limited Partnership (the Proponent), a 3.2 acre parcel of land located within the Blue Hills Reservation (“DCR Parcel”) in exchange for an equal sized parcel located off of High Street in Randolph, MA (the “Hart Parcel”). In addition, the Commonwealth would receive the difference between the full and fair market value in each parcel, in cash (so long as it is deposited to the General Fund) or in-kind contributions. In connection with this legislative mandate, the Proponent filed an Environmental Notification Form wherein the proponent proposes to change the existing use of the DCR Parcel to allow the site to be used as an overflow parking facility for the Proponent. The Proponent maintains

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Richard K. Sullivan, Jr., Commissioner
Department of Conservation & Recreation

that such a proposed project would significantly improve pedestrian and vehicular safety in the area.

Mitigation

DCR maintains that the Proponent has not provided sufficient measures to support its proposed use. Specifically, the DCR Parcel is subject to a Management and Use Agreement that was executed in 2002 and which governed the use of the DCR parcel as contemplated in 2002. However, the Management and Use Agreement did not contemplate a change in use or ownership. More importantly, as the agreement is nearly five years old, the current Management and Use Agreement is insufficient to ensure that the proposed use will not adversely affect the Blue Hills Reservation. Furthermore, since 2003, DCR has also developed and instituted higher management and use standards. DCR accordingly urges the Secretary to require the Proponent to develop and further assess the need for a more comprehensive Management and Use Agreement. In assessing and developing further mitigation measures, DCR requests the Proponent to meet DCR's heightened expectations for maintenance. Specifically, any proposed Management and Use Agreement should require that the proponent maintain the parking spaces for exclusive use for the Blue Hills, including providing snowplowing; require that a two-foot high wooden guardrail fence, is placed around the entire parking lot to deter illegal dumping; and require review and approval by DCR of the final construction plans for the parking lot.

Finally, with respect to the Hart parcel, DCR suggests that a Phase I environmental site investigation be performed to determine whether potential pollution liabilities exist.

Alternatives Analysis

While the Legislature has approved the actual disposition, the proponent must nonetheless mitigate the impacts of the proposal as required by MEPA. DCR understands that MEPA has consistently determined whether such impacts are properly mitigated by evaluating whether the proposal complies with the longstanding Article 97 Land Disposition Policy. In that regard, DCR has identified several areas of concern.

The proponent should address in greater detail how the project meets each of the following performance standards of the Policy (the criteria of the disposition policy are below in italics):

- ?? *All other options to avoid the disposition have been explored and no feasible and substantially equivalent alternatives exist;*

DCR maintains that the alternatives analyses provided in the original ENF dated October 1, 2007 or the packet of Additional Information dated November 6, 2007 is insufficient to make a positive ENF determination. While the Proponent has proposed many alternatives, no alternative has been explored to a satisfactory level of inquiry sufficient to make the determination that all options have been considered to mitigate the impacts of the proposal. To make the determination that exceptional circumstances exist and that mitigation has been properly considered in that regard, the Proponent should provide additional detailed analysis to support the proposed alternatives. For example, the Proponent has not presented an analysis concerning whether traffic calming measures, such as speed humps, raised crosswalks, or crossing lights, vehicle speed reduction measures and/or pedestrian safety crossing enhancements on Scanlon Drive. (see Massachusetts Highway Department's Design Guidelines at http://www.mhd.state.ma.us/downloads/designGuide/CH_16_a.pdf). If the proponent is truly advocating the disposition solely to allow safe crossing of Scanlon Drive, other alternatives that achieve this objective must be explored before DCR will formally support the disposition.

DCR is very concerned that the proponent has not adequately disclosed plans to develop the current overflow parking lot after the disposition of land takes place. Future development of the current overflow lot should be taken into account when assessing the true impacts on the Reservation. According to the Additional Information, at Attachment 8, Page 2, the proponent states that it plans to build on the existing overflow parking lot: "By freeing up other portions of the Lantana property for potential development, the land exchange... would potentially increase tax revenue for the Town of Randolph by upwards of \$200,000". Absent an analysis of those land uses that will comprise of the "potential development," the proposal does not permit DCR or the Secretary to assess the true environmental impact to the Blue Hills Reservation.

?? *That the disposition does not destroy or threaten a unique or significant natural resource;*

In its letter dated October 29, 2007, the Natural Heritage and Endangered Species Program (NHESP) states habitat assessments for both the DCR Parcel and Hart Parcel should be performed to determine whether the impact on unique or significant natural resources. In addition, the letter states the proponent must submit a new Massachusetts Environmental Species Act (MESA) filing to determine whether a "take" of state-listed species is occurring. It should be noted that the DCR Parcel is within a Priority Habitat area for a species classified as "Threatened" under MESA regulations, while the Hart Parcel is not.

?? *Real estate of equal or greater fair market value or value in use of proposed use, whichever is greater, and significantly greater resource value as determined by EOE and its agencies, are granted to the disposing agency or its designee;*

DCR, in its review of the appraisals used in determine the difference between full and fair market values of the two properties, has identified a number of concerns related to the methodology and assumptions used to estimate value. While each of these concerns might well be justified based on the scoping of the appraisal assignment, the aggregate impact of these assumptions fails to acknowledge the economic benefit likely to be enjoyed by the proponent resulting from the transfer of property rights at what is thought to be a prime commercial location.

?? *The minimum acreage necessary for the proposed use is proposed in the disposition and, to the maximum extent possible, the resources of the parcel proposed for disposition continue to be protected;*

The proponent does not adequately explore additional alternatives to reduce the amount of parking spaces proposed. The proponent does not provide information on the minimum amount of spaces needed to meet their demand for parking, nor provided an adequate depth of analysis by providing alternatives that reduce the amount of parking spaces or impervious surface while still providing an adequate level of overflow parking to the facility.

Stormwater

DCR maintains that the stormwater management system for the proposed parking lot should be designed in a manner that will not adversely affect resources, including Certified Vernal Pools or Priority or Estimated Habitat Areas, on the Blue Hills Reservation in any way. To ensure that stormwater infrastructure on the proposed parking lot is operated and maintained properly, DCR requests that the proponent, and any successors in title, identify a responsible party to conduct an Operations and Maintenance (O&M) program that includes annual certifications of adherence which will be in compliance with EPA permits.

DCR prefers distributed practices for storm water management such as bio-retention or rain garden structures to divide impervious areas. These areas should be designed and sized to accommodate approximately one-inch of rainfall over the total impervious collection area contributing storm water. If distributed correctly, the collection areas would reduce the size of detention basins need to meet DEP storm water policy. To promote groundwater recharge and reduce mosquito habitat, the proponent should consider constructing dry detention ponds if soils allow.

Thank you for the opportunity to comment on the ENF. Please contact Peter Church at (617) 617-727-4573 x231 with any questions or to request additional information or coordination with the Department.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Sullivan, Jr.", with a stylized flourish at the end.

Richard K. Sullivan, Jr.
Commissioner

cc: The Lantana c/o the Hart Family Limited Partnership
Andrea Guillot, Coler and Colantonio
Susan Snyder, Hoag and Foley
David Opatka, DCAMM (electronic copy)
Carol Kemp, DCAMM (electronic copy)