

Section 2.0
Revised Draft Section 61 Findings

2.0 REVISED DRAFT SECTION 61 FINDINGS

2.1 Massachusetts Natural Heritage and Endangered Species Program

This revised Section 61 Finding has been updated to elaborate on the proposed NHESP rare species habitat mitigation, including the acreage and the schedule for implementation.

DRAFT SECTION 61 FINDINGS

Massachusetts Natural Heritage and Endangered Species Program

Findings Pursuant to

MGL Chapter 30, Section 61

PROJECT NAME: ADM Tihonet Mixed Use Development – Phase B

PROJECT LOCATION: Carver, Plymouth and Wareham, Massachusetts

PROJECT PROPONENT: ADM Development Service, LLC

EEA NUMBER: 13940

Each agency of the Commonwealth that is taking an Agency Action (e.g., issuing a permit) must make a finding, pursuant to MGL Chapter 30, Section 61, that all feasible measures have been taken by the Project Proponent to avoid damage to the environment or, to the extent damage to the environment cannot be avoided, to minimize and mitigate damage to the environment to the maximum extent practicable. These Section 61 Findings specify the entity responsible for funding and implementing any such mitigation measures, and the anticipated mitigation implementation schedule. (See 301 CMR 11.07(6)(k)).

The proposed mitigation measures for Phase B of the ADM Tihonet Mixed Use Development Project are described in the Notice of Project Change (NPC)/Phase B Draft Environmental Impact Report (DEIR), which was filed in August 2010, and the Phase B Final Environmental Impact Report (Phase B FEIR), which was filed in December 2010. The following sections provide a summary of impacts to state-listed rare species resulting from construction of the Phase B project and supporting infrastructure. The proposed impact avoidance, minimization and mitigation measures are the basis upon which Section 61 Findings may be made by the Massachusetts Natural Heritage and Endangered Species Program (NHESP). All impact minimization measures and mitigation measures outlined herein will be funded and implemented by ADM Development Services, LLC (the Project Proponent), its Agents, Representatives and/or Contractors.

I. Project Description

The project consists of Phase B of the ADM Tihonet Mixed Use Development Project. Phase B is comprised of four separate Development Areas: 1) Rosebrook Business Park consisting of a 68,000 gsf medical office building and a 35,000 gsf general office

building; 2) Rosebrook Place, consisting of 42,000 gsf of retail; 40,000 gsf of residential apartments (34 units); 7,000 gsf fitness facility; 4,800 gsf restaurant; 106,000 gsf hotel; 4,000 gsf bank; and 2,500 gsf office; 3) the ±50-acre Charlotte Furnace Solar Energy project Development Area; and 4) the ±4-acre Rosebrook Solar Energy project Development Area. Construction and vehicular access to Phase B will be provided directly off Route 28 via Lou Avenue, with the exception of the Charlotte Furnace Solar Energy project Development Area which will have access off Charlotte Furnace Road.

History of MEPA Review

The Proponent prepared and submitted, pursuant to M.G.L. c. 30, § 61 and 62A-H of MEPA and its implementing regulations (301 CMR 11.00), an *Expanded Environmental Notification Form/Request for Single Review Document for Phase A1 and A2/Request to Amend the Special Review Procedure* for the project on July 23, 2008¹ (the “2008 Expanded ENF”). On September 12, 2008, the Secretary of Energy and Environmental Affairs (the “Secretary”) issued a Certificate on the 2008 Expanded ENF establishing a Special Review Procedure for the project and a Draft Record of Decision (DROD) concerning the Phase One Waiver request for the then defined Phase A of the project. A Final Record of Decision for the then defined Phase A was issued on October 15, 2008. Subsequently, the Proponent submitted a *Notice of Project Change/Request for Amended Phase A Waiver* for the Project (the “2009 NPC”) modifying the Phase A Development Program. On October 2, 2009, the Secretary issued a Certificate on the 2009 NPC and a Draft Amended Record of Decision (DAROD) on the amendment to the Phase One Waiver. On October 28, 2009, a Final Amended Record of Decision (FAROD) was issued for the revised Phase A Development Program.

A *Notice of Project Change/Phase B Draft Environmental Impact Report* (the NPC/Phase B DEIR) was filed with the MEPA Office in August 2010. On November 12, 2010, the Secretary issued a Certificate on the NPC/Phase B DEIR indicating that the document adequately and properly complied with MEPA and its implementing regulations.

As required by the NPC/Phase B DEIR Certificate, a *Phase B Final Environmental Impact Report* (the Phase B FEIR) was filed with the MEPA Office in December 2010. On [Date to be Inserted], the Secretary issued a Certificate on the Phase B FEIR indicating that the document adequately and properly complied with MEPA and its implementing regulations.

Permit Requirements

A Massachusetts Endangered Species Act (MESA) Conservation and Management Permit is required from Division of Fisheries and Wildlife per 321 CMR 10.23.

¹Dates referenced refer to when notice of availability for public review was published in The Environmental Monitor for the respective environmental disclosure documents.

II. Summary of Project Impacts and Mitigation Measures

Project Impacts

The Phase B project will result in impacts to the habitat of at least one state-listed species (i.e. the eastern box turtle). Specifically, approximately 34 acres of Priority and Estimated Habitat, as designated by the Natural Heritage and Endangered Species Program 2008 12th edition Atlas will be impacted by the proposed Charlotte Furnace Solar Energy project within Phase B.

NHESP has determined that the proposed Phase B project will result in a take of rare species. Since work is proposed within mapped habitat, specifically at the Charlotte Furnace Solar Energy project Development Area, issuance of a Conservation and Management Permit from NHESP will be required.

Mitigation Measures

The measures summarized below are proposed to minimize and mitigate impacts to the population of the eastern box turtle within the Phase B Charlotte Furnace Solar Energy project Development Area.

- If a rare animal is observed, the biologist shall complete a Rare Animal Observation Form for submittal to NHESP and relocate any rare animals in accordance with protocols approved by NHESP.
- To minimize disruption of habitat areas, vegetation clearing within the project area will be performed so as to preserve or replace shrub layer canopy cover (outside of the solar panel area) to the extent practicable.
- Following completion of work, all barriers other than approved security fencing installed around the perimeter of work areas will be removed.
- Once it is completed, the perimeter of the Charlotte Furnace Solar Energy project will be fenced in order to preclude disturbance from Off-Road Vehicle use.
- Approximately 100 acres of undisturbed lands adjacent to state-owned conservation land will be preserved in perpetuity. This preservation will act as mitigation for both the Charlotte Furnace Solar Energy project (34 acres of impact) as well as for rare species habitat impacts associated with the Phase A1 Tihonet Technology Park (10.4 acres of impact) and Phase C1 Wankinco Cranberry Bog Expansion (32 acres of impact) projects. The mitigation lands will be set aside upon commencement of either Phase B or Phase C1.

III. Section 61 Findings

The potential environmental impacts of the proposed Phase B portion of the ADM Tihonet Mixed Use Development Project quantified in the DEIR is incorporated by reference into this Section 61 Finding. Throughout the planning and environmental review processes, which have included coordination/consultation with NHESP, the Project Proponent has developed measures to mitigate impacts of the Project. With the mitigation proposed and carried out in cooperation with state agencies, the Massachusetts Natural Heritage and Endangered Species Program finds that there are no significant unmitigated impacts.

For the reasons stated above, the Massachusetts Natural Heritage and Endangered Species Program hereby finds that pursuant to MGL c. 30, § 61, the construction of Phase B as described above, and with the implementation by the Project Proponent of mitigation measures, all practicable means and measures will be taken to avoid or minimize adverse environmental impacts related to the Phase B project.

Agency: _____

Commissioner: _____

Date: _____

2.2 Massachusetts Department of Transportation

Ref: 5054

January __, 2011

Mr. J. Lionel Lucien, P.E.
Manager, Public/Private Development Unit
MassDOT - Office of Transportation Planning
10 Park Plaza, Room 4150, 4th Floor
Boston, MA 02116-3973

Re: ADM Tihonet Mixed-Use Development, Phase B – EEA No. 13940
Wareham, Carver and Plymouth, Massachusetts

Dear Mr. Lucien:

In order to assist you in the preparation of the Section 61 Finding for Phase B of the ADM Tihonet Mixed-Use Development (the “Project”) located in Wareham, Carver and Plymouth Massachusetts (EEA No. 13940), Vanasse & Associates, Inc. (VAI), on behalf of ADM Development Services LLC (the “Proponent”), has prepared a summary of the transportation requirements for the Project, the anticipated schedule for implementation, and the party responsible for completion. Listed below is a brief description of the Project, the Massachusetts Environmental Policy Act (MEPA) history, and the elements of the proposed mitigation program for Phase B that are also documented in the September 22, 2010 *Draft Environmental Impact Report* (the “2010 Draft EIR”) and the subsequent [January __, 2011] *Final Environmental Impact Report* (the “2011 Final EIR”) prepared for the Project. A copy of the [February __, 2011] Certificate of the Secretary of Energy and Environmental Affairs issued on the 2011 Final EIR is attached for your use.

I. PROJECT DESCRIPTION

The Project entails the phased construction of a mixed-use development within 6,074+ acres of land located in the Towns of Wareham, Carver and Plymouth. Three general phases (Phases A, B and C) have been defined for the Project and were initially assessed in the July 11, 2008 *Expanded Environmental Notification Form/Request for Single Review Document for Phase A1 and A2/Request to Amend the Special Review Procedure* prepared for the Project (the “2008 Expanded ENF”). Phase A of the Project as defined in the July 15, 2009 *Notice of Project Change/Request for Amended Phase A Waiver* (the “2009 NPC”) will consist of the following elements: 80,000 square feet (sf) of office and light manufacturing space to be located within the Tihonet Technology Park and off

Farm-to-Market Road (Phase A1); a 65,850 sf medical office building to be located off Rosebrook Way (Phase A2); and the construction of a 5-acre cranberry bog (Phase A3).

Phase B of the Project was defined in the 2008 Expanded ENF to consist of the development of approximately 1.7 million sf of commercial space including retail, manufacturing, warehouse, medical office and research and development space, and a 225-room hotel. As detailed in the 2010 Draft EIR and the subsequent 2011 Final EIR, a subset of the larger overall Phase B development program defined in the 2008 Expanded ENF has been advanced that will consist of four primary components: the Rosebrook Business Park, Rosebrook Place and two solar energy projects - Charlotte Furnace and Rosebrook North. The balance of the overall Phase B project will be advanced as a component of Phase C of the Project.

As proposed, the Phase B Rosebrook Business Park will consist of the development of 68,000 sf of medical-office space and 35,000 sf of general office space to be located off Rosebrook Way. Rosebrook Place will consist of a mixed-use development encompassing 42,000 sf of retail space; a 4,800 sf, 120-seat restaurant; a 4,000 sf bank with a two-lane drive through teller facility; a 100-room hotel; 34 residential apartment units; a 7,000 sf health club; and a 2,500 sf gatehouse (office space); to be located off Lou Avenue and Garage Street and generally situated in the northeast quadrant of the Route 28/I-195 interchange. Access to the Rosebrook Business Park will be provided by way of the two driveways that will be constructed to serve the Phase A2 medical office building and two new driveways that will intersect Rosebrook Way. Primary access to Rosebrook Place will be provided by way of a realigned Garage Street, with secondary access provided by way of a new driveway that will intersect the west side of Lou Avenue approximately 400 feet north of Cranberry Highway (Route 28).

Phase C of the Project was conceptually defined in the 2008 Expanded ENF to include the development of up to 1,856 residential units consisting of single-family homes, condominiums and apartments. Beyond the Phase A and current Phase B development programs defined above, the actual build-out of the Project will be dependent on market conditions and may be revised as the Project proceeds; however, consistent with the Special Review Procedure established by the Secretary for the Project, separate Environmental Notification Forms and, if required, Environmental Impact Reports will be prepared for each phase of the Project as the development progresses. At this time, the Proponent is seeking the issuance of a Section 61 Finding for Phase B of the Project.

The approximate development cost for the Project at full build-out (Phases A, B and C) is estimated to be \$400 million, with the Phase B development having an estimated total construction cost of \$90 million.

II. MEPA HISTORY

The Proponent prepared and submitted, pursuant to M.G.L. c. 30, § 61 and 62A-H of MEPA and its implementing regulations (301 CMR 11.00), an *Expanded Environmental Notification Form/Request for Single Review Document for Phase A1 and A2/Request to Amend the Special Review Procedure* for the Project on July 23, 2008² (the “2008 Expanded ENF”). On September 12, 2008, the Secretary of Energy and Environmental Affairs (the “Secretary”) issued a Certificate on the 2008 Expanded ENF establishing a Special Review Procedure for the Project and a Draft Record of Decision (DROD) concerning the Phase One Waiver request for the then defined Phase A of the Project. A Final Record of Decision for the then defined Phase A was issued on October 15, 2008. Subsequently, the Proponent submitted a *Notice of Project Change/Request for Amended Phase A Waiver* for the Project (the “July 2009 NPC”) modifying the Phase A development program. On October 2, 2009, the Secretary issued a Certificate on the 2009 NPC and a DROD on the amendment to the Phase One Waiver. On October 28, 2009, a Final Amended Record of Decision was issued for the revised Phase A development program.

A *Draft Environmental Impact Report* (the “2010 Draft EIR”) was prepared for Phase B of the Project as defined herein on September 22, 2010. On November 12, 2010, the Secretary issued a Certificate on the 2010 Draft EIR indicating that the document adequately and properly complied with MEPA and its implementing regulations and requiring that a document be prepared containing Responses to Comments and Proposed Section 61 Findings for the Phase B of the Project which would be filed, circulated and reviewed as a Final EIR. On [January __, 2011], a *Final Environmental Impact Report* (the “2011 Final EIR”) was filed for Phase B of the Project. On [February __, 2011], the Secretary issued a Certificate on the 2011 Final EIR indicating that the document adequately and properly complied with MEPA and its implementing regulations, and allowing Phase B of the Project to proceed with state agency permitting. A copy of the Secretary’s Certificate for Phase B of the Project is attached.

III. PHASE B TRAFFIC IMPACTS

Based on the use of Institute of Transportation Engineers (ITE)³ Land Use Codes (LUCs) 220, *Apartment*; 310, *Hotel*; 492, *Health/Fitness Club*; 710, *General Office Building*; 720, *Medical-Dental Office Building*; 820, *Shopping Center*; 912, *Drive-in Bank*; and 932, *High-Turnover (Sit-Down) Restaurant*; and applying appropriate adjustments to account for pass-by trips (25 percent of trips associated with the retail, restaurant and bank components of Rosebrook Place) and internal trips (5 percent of average weekday and Saturday trips and 10 percent of peak-hour trips associated with the apartment, hotel,

²Dates referenced refer to when notice of availability for public review was published in The Environmental Monitor for the respective environmental disclosure documents.

³*Trip Generation*, Eighth Edition; Institute of Transportation Engineers; Washington, D.C.; 2008.

bank and restaurant components of Rosebrook Place), Phase B of the Project is expected to generate approximately 6,450 new vehicle trips (3,225 entering and 3,225 exiting) on an average weekday, with 401 new vehicle trips (277 entering and 124 exiting) expected during the weekday morning peak hour and 582 new vehicle trips (233 entering and 349 exiting) expected during the weekday evening peak hour. On a Saturday, Phase B of the Project is expected to generate approximately 4,396 new vehicle trips (2,198 entering and 2,198 exiting), with 641 new vehicle trips (354 entering and 287 exiting) expected during the Saturday midday peak hour.

IV. SPECIFIC PHASE B IMPACTS AND MITIGATION MEASURES

The Proponent will undertake the following mitigation measures in cooperation with the identified parties and subject to receipt of all necessary rights, permits and approvals in order to minimize the impacts of Phase B of the Project. The mitigation measures have been designed to address existing and anticipated future roadway and intersection operational constraints independent of Phase B of the Project, as well as to accommodate the additional traffic expected to be generated by the development of Phase B. The elements of the mitigation program are consistent with those documented in the 2010 Draft EIR and the subsequent 2011 Final EIR prepared in support of Phase B of the Project and build upon the improvements identified for Phase A.

Site Access

Rosebrook Business Park

Access to the Rosebrook Business Park will be provided by way of the two driveways that will be constructed to serve the Phase A2 medical office building and two new driveways that will intersect Rosebrook Way. The proposed driveways will be a minimum of 24-feet in width, accommodating two-way travel, with vehicles exiting the driveways placed under STOP-sign control with illumination provided. Signs or landscaping adjacent to the driveway intersections and within the Rosebrook Business Park will be designed and maintained so as not to restrict lines of sight. Centerline pavement markings, if provided, will consist of a double-yellow line in accordance with the specifications and requirements of the *Manual on Uniform Traffic Control Devices* (MUTCD).⁴ Further, all signs and pavement markings to be installed within the Rosebrook Business Park will conform to the requirements of the MUTCD.

⁴*Manual on Uniform Traffic Control Devices* (MUTCD); Federal Highway Administration; Washington, DC; 2003.

Rosebrook Place

Primary access to Rosebrook Place will be provided by way of a realigned Garage Street, with the secondary access provided by way of a new driveway that will intersect the west side of Lou Avenue approximately 400 feet north of Route 28. The proposed driveways will be a minimum of 24-feet in width, accommodating two-way travel, with vehicles exiting the driveways placed under STOP-sign control with illumination provided. Signs or landscaping adjacent to the Rosebrook Place driveway intersections with Garage Street and Lou Avenue and within Rosebrook Place will be designed and maintained so as not to restrict lines of sight. Centerline pavement markings, if provided, will consist of a double-yellow line in accordance with the specifications and requirements of the MUTCD. Further, all signs and pavement markings to be installed within Rosebrook Place will conform to the requirements of the MUTCD.

The costs associated with the site access improvements described above are included in the overall development cost for Phase B of the Project.

Off-Site

Route 28 at Charge Pond Road

An analysis of operating conditions at this unsignalized intersection indicates that all movements from the Charge Pond Road southbound approach currently operate under constrained conditions (defined as a level-of-service (LOS) “F”) during the weekday evening and Saturday midday peak periods independent of Phase B of the Project. Absent improvement, operating conditions are expected to further degrade in the future, again, independent of Phase B of the Project. A Traffic Signal Warrants Analysis (TSWA) was completed at the intersection of Route 28 at Charge Pond Road in accordance with the methodology and procedures outlined in the MUTCD. A review of the TSWA indicates that traffic volumes at the intersection meet the necessary warrants for the installation of a traffic control signal (Warrants 1, 2 and 3) under 2010 Existing traffic volume conditions independent of Phase B of the Project. As such, the intersection of Route 28 at Charge Pond Road will be placed under traffic signal control in conjunction with Phase B of the Project. In conjunction with the traffic signal installation, the Route 28 eastbound approach will be widened to provide a left-turn lane. These improvements can be completed within the available public right-of-way (i.e., no property acquisitions required). With the implementation of the stated improvements, overall operating conditions at the intersection were shown to improve to LOS “B” during the peak periods under 2015 Build with Mitigation conditions. These improvements will be designed and constructed by the Proponent prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits, and approvals.

The estimated cost to complete the improvements at the intersection of Route 28 at Charge Pond Road as described above is \$670,000.

Route 28 at Tihonet Road

An analysis of operating conditions at the intersection of Route 28 at Tihonet Road indicates that the Tihonet Road northbound approach will be operating at its design capacity (defined as LOS “E”) during one or more peak periods under 2015 No-Build conditions, independent of Phase B of the Project. In addition, the intersection of Route 28 at Tihonet Road was shown to have a motor vehicle crash rate above the MassDOT average for an unsignalized intersection, with the predominant collision types reported as angle-type collisions.

In conjunction with Phase A of the Project, improvements are planned at the intersection of Route 28 at Tihonet Road that include installing a STOP-line on the Tihonet Road southbound approach to Route 28 in order to define the desired stopping point for vehicles; replacing the existing single-yellow centerline on the Tihonet Road south leg of the intersection with a double-yellow centerline; and conducting a comprehensive review and upgrade of signs and pavement markings at and approaching the intersection to include the installation of intersection ahead warning signs (graphic symbol), replacement/upgrade of signs and pavement markings, and the trimming of vegetation within the public right-of-way to improve sight lines. These improvements are currently under review by MassDOT and have been specifically designed to reduce the frequency of occurrence of motor vehicle collisions at the intersection.

In conjunction with Phase B of the Project, a preliminary TSWA indicates that traffic volumes at the intersection do not currently meet and are not expected to meet the necessary warrants for the installation of a traffic control signal under existing or anticipated future traffic volume conditions with the addition of Phase B-related traffic. As such, traffic volumes and operating conditions at this intersection will continue to be monitored as subsequent phases of the Project are advanced.

Route 28 at Lou Avenue

In conjunction with Phase A of the Project, improvements are planned at the intersection of Route 28 at Lou Avenue that include widening Lou Avenue to accommodate two exiting travel lanes (separate left and right-turn lanes) and two entering travel lanes separated by a raised island, and installing a fully-actuated traffic signal system to be interconnected and coordinated with the existing traffic signals located to the north (west) along the Route 28 corridor. These improvements are currently under review by MassDOT and are expected to be substantially complete in 2011.

An analysis of operating conditions at this future signalized intersection indicates that the addition of Phase B-related traffic may result in an increase in motorist delays and

vehicle queuing over No-Build conditions. Recognizing the importance of the intersection of Route 28 at Lou Avenue in providing access to Phase B, the Proponent will complete the following additional improvements at the Route 28/Lou Avenue intersection:

- Reconstruct Lou Avenue approaching Route 28 to accommodate three exiting travel lanes (one left-turn and two right-turn lanes);
- Widen the Route 28 northwestbound approach to provide two general-purpose travel lanes;
- Extend the Route 28 southeastbound left-turn lane to increase queue storage; and
- Design and implement an optimal traffic signal timing, phasing and coordination plan to accommodate the improvements at the intersection.

These improvements will be designed and constructed by the Proponent prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits, and approvals. It should be noted that the improvements associated with Phase A to be completed at this intersection have been designed to accommodate the future widening of both Lou Avenue and Route 28 as defined above. With the recommended improvements, overall operating conditions at the intersection were shown to improve to LOS “B” or better during the peak periods under 2015 Build with Mitigation conditions.

The estimated cost to complete the improvements at the intersection of Route 28 at Lou Avenue as described above is \$670,000.

Route 28 at the I-195 Eastbound Ramps

Overall operating conditions at the signalized intersection of Route 28 at the I-195 eastbound ramps were shown to be at LOS “B” or better during the peak periods with the addition of Phase B-related traffic. In conjunction with the Route 28/Lou Avenue improvements, the Proponent will design and implement an optimal traffic signal timing, phasing and coordination plan for the intersection of Route 28 at the I-195 eastbound ramps prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits, and approvals. With the implementation of an optimal traffic signal timing plan, overall operating conditions at the intersection were shown to remain operating at LOS “B” or better during the peak periods under 2015 with Mitigation conditions.

The estimated cost to complete the improvements at the intersection of Route 28 at the I-195 eastbound ramps as described above is \$10,000.

Route 28 at the I-195 Westbound Ramps

An analysis of operating conditions at the signalized intersection of Route 28 at the I-195 westbound ramps indicates that overall operating conditions will continue to be acceptable (defined as a LOS “D” or better) during the peak periods with the addition of Phase B-related traffic; however, certain movements at the intersection were shown to degrade to LOS “E” or LOS “F”. In order to improve operating conditions at this intersection, the Proponent will design and implement an optimal traffic signal timing, phasing and coordination plan for the intersection of Route 28 at the I-195 westbound ramps prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits, and approvals. With the implementation of the planned improvements, all movements at the intersection of Route 28 at the I-195 westbound ramps were shown to operate at LOS “D” or better, with overall operations shown to be maintained at LOS “C” during the weekday morning and evening peak hours and to improve to LOS “B” during the Saturday midday peak hour under 2015 Build with Mitigation conditions.

The estimated cost to complete the improvements at the intersection of Route 28 at the I-195 westbound ramps as described above is \$10,000.

Route 28 at Wareham Crossing and Kendrick Road

An analysis of operating conditions at the signalized intersection of Route 28 at Wareham Crossing and Kendrick Road indicates that the addition of Phase B-related traffic may result in a slight increase in overall delays at the intersection. In order to improve operating conditions at this intersection, the Proponent will design and implement an optimal traffic signal timing, phasing and coordination plan for the intersection of Route 28 at Wareham Crossing and Kendrick Road prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits, and approvals. With the implementation of the planned improvements, overall operating conditions at the intersection were shown to be maintained at LOS “C” or better during the peak periods under 2015 Build with Mitigation Conditions.

The estimated cost to complete the improvements at the intersection of Route 28 at Wareham Crossing and Kendrick Road as described above is \$10,000.

Route 28 at Tobey Road and Tow Road

An analysis of operating conditions at the signalized intersection of Route 28 at Tobey Road and Tow Road indicates that overall operating conditions will continue to be acceptable during the peak periods with the addition of Phase B-related traffic; however, certain movements at the intersection were shown to degrade to LOS “E” or LOS “F” under future traffic volume conditions independent of Phase B of the Project. In order to improve operating conditions at this intersection, the Proponent will design and

implement an optimal traffic signal timing, phasing and coordination plan prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits, and approvals. With the implementation of the planned improvements, overall operating conditions at the intersection were shown to be maintained at LOS “D” or better during the peak periods under 2015 Build with Mitigation Conditions.

The estimated cost to complete the improvements at the intersection of Route 28 at Tobey Road and Tow Road as described above is \$10,000.

Route 28 at Charlotte Furnace Road

An analysis of operating conditions at the unsignalized intersection of Route 28 at Charlotte Furnace Road indicates that all movements from the Charlotte Furnace Road southbound approach currently operate at or over capacity (LOS “E” or “F”, respectively) during the weekday evening and Saturday midday peak periods independent of Phase B of the Project. Absent improvement, operating conditions are expected to further degrade in the future, again, independent of Phase B of the Project. A TSWA was completed at the intersection of Route 28 at Charlotte Furnace Road in accordance with the methodology and procedures outlined in the MUTCD. A review of the TSWA indicates that traffic volumes at the intersection meet the necessary warrants for the installation of a traffic control signal (Warrants 1, 2 and 3) under 2010 Existing traffic volume conditions independent of Phase B of the Project. As such, the intersection of Route 28 at Charlotte Furnace Road will be placed under traffic signal control. These improvements will be designed and constructed by the Proponent prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits, and approvals. With the implementation of these improvements, overall operating conditions at the intersection were shown to improve to LOS “B” or better during the peak periods under 2015 Build with Mitigation conditions.

The estimated cost to complete the improvements at the intersection of Route 28 at Charlotte Furnace Road as described above is \$390,000.

Cranberry Road at Federal Road

The intersection of Cranberry Road at Federal Road was shown to have a motor vehicle crash rate above the MassDOT average for an unsignalized intersection, with the predominant collision types reported as angle-type collisions. In an attempt to reduce the frequency of occurrence of motor vehicle collisions at this intersection, the existing signs and pavement markings at and approaching the intersection will be reviewed, upgraded and/or replaced as necessary, and vegetation located within the public right-of-way will be trimmed and maintained to improve lines of sight at and approaching the intersection. The Proponent will complete these improvements prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits, and approvals.

The estimated cost to complete the improvements at the intersection of Cranberry Road at Federal Road as described above is \$5,000.

Route 58 at the I-495 Southbound Ramps

An analysis of operating conditions at the unsignalized intersection of Route 58 at the I-495 southbound ramps indicates that left turns from the I-495 southbound off-ramp currently operate at capacity (LOS “E”) during the weekday evening peak hour independent of Phase B of the Project. Absent improvement, operating conditions are expected to further degrade in the future, again, independent of Phase B of the Project. A preliminary TSWA indicates that future traffic volumes at the intersection with the addition of Phase B-generated traffic will not meet the necessary warrants for the installation of a traffic control signal. As such, traffic volumes and operating conditions at this intersection continue to be monitored as subsequent phases of the Project are advanced.

Route 58 at the I-495 Northbound Ramps

An analysis of operating conditions at the unsignalized intersection of Route 58 at the I-495 northbound ramps indicates that left turns from the I-495 northbound off-ramp may begin to operate at their design capacity (LOS “E”) during the weekday morning and evening peak hours under future traffic volume conditions independent of Phase B of the Project. A preliminary TSWA indicates that future traffic volumes at the intersection with the addition of Phase B-generated traffic will not meet the necessary warrants for the installation of a traffic control signal. As such, traffic volumes and operating conditions at this intersection continue to be monitored as subsequent phases of the Project are advanced.

Route 28 at Route 58 and County Road

An analysis of operating conditions at the signalized intersection of Route 28 at Route 58 and County Road indicates that the intersection is currently operating at its design capacity (LOS “E”) during the weekday morning peak hour independent of Phase B of the Project. In order to improve operating conditions at the intersection, the Proponent will design and implement an optimal traffic signal timing and phasing plan prior to the issuance of a Certificate of Occupancy for Phase B and subject to receipt of all necessary rights, permits and approvals. With the implementation of these improvements, overall operating conditions at the intersection were shown to improve to LOS “D” or better during the peak periods under 2015 Build with Mitigation Conditions.

The estimated cost to complete the improvements at the intersection of Route 28 at Route 58 and County Road as described above is \$10,000.

Transportation Demand Management Program

Reducing the amount of traffic generated by Phase B of the Project is an important component of the transportation improvement plan. The goal of the Transportation Demand Management (TDM) program is to reduce the use of single occupant vehicles (SOVs) by encouraging car/vanpooling, bicycling, the use of public transportation and pedestrian travel. Phase B of the Project has been designed to encourage internal trips between uses and will include an integrated network of sidewalks and walking paths linking the various amenities and recreational opportunities. These features will serve to reduce traffic demands and off-site trips associated with Phase B of the Project. In addition, as described previously, the Project and the study area are served by public bus service provided by the Greater Attleboro-Taunton Regional Transit Authority (GATRA) along the Route 28 corridor and immediately south of the Phase B sites. In an effort to further reduce the overall volume of traffic associated with Phase B of the Project, the following measures will be implemented by the property management team as an integral part of Phase B of the Project and will be refined and expanded as the Project is further developed.

Pedestrian Improvements

As part of Phase B, the Proponent will define and enhance pedestrian facilities as follows:

- Sidewalks and pedestrian promenade areas will be provided along Rosebrook Way; within the Phase B development sites; and along the Phase B driveways extending to the intersecting roadways.
- Lighting will be provided within the Phase B sites at appropriate locations where pedestrian activity is anticipated and to be encouraged, and around building perimeters.
- Full handicapped access will be provided within the Phase B sites and along proposed circulating roadways where sidewalks are provided; wheelchair ramps will be provided at all intersections where sidewalks and crosswalks are present; pedestrian crosswalks, pushbuttons and phasing will be provided at all signalized intersections constructed or modified in conjunction with Phase B, as appropriate; and crosswalks and associated pedestrian crossing warning signs will be provided at and in advance of pedestrian crossing locations designed and installed in accordance with the MUTCD.

Bicycle Accommodations

Phase B of the Project will include provision of safe, secure, weather protected bicycle racks and/or storage lockers. Signs will be provided at appropriate locations within the Phase B sites directing bicyclists to the bicycle storage facilities. Outside, short-term bicycle parking will be provided by way of bicycle racks located proximate to building entrances.

All traffic signals to be constructed or modified in conjunction with Phase B will include bicycle detection and associated signs and pavement markings, as appropriate. Further, all roadway and intersection improvements to be constructed in conjunction with Phase B will include provisions for bicycle travel including bicycle lanes or widened shoulders where sufficient public right-of-way exists to accommodate such provisions and where implementation of such accommodations would not be precluded due to environmental, topographic or other physical constraints.

Rosebrook Way has been designed to accommodate bicycle travel to and between Route 28, Tihonet Road and the Phase B sites in a shared travelled-way configuration. In addition, an annual bicycle fair will be held as a part of the Project that will be focused on encouraging bicycle commuting and bicycle safety.

Traffic Reduction Strategies

In order to reduce single occupant vehicle (SOV) travel associated with Phase B of the Project and to encourage the use of alternative modes of transportation to the use of SOV's, information on several traffic reduction strategies will be made available to residents, employees, patrons and guests of Phase B of the Project. The core of successful traffic reduction strategies are ridesharing, public transportation use, alternative work schedules, bicycling, and pedestrian travel, and are discussed below.

Ridesharing Programs - Ridesharing refers to encouraging commuters to ride in vehicles with other commuters rather than drive alone to work. The most common forms of ridesharing are carpools and vanpools. The benefits of such programs include less congestion, reduced fuel consumption, and improved air quality. Keys to the success of such programs could include:

- Carpool/vanpool matching programs through the local Transportation Management Association (TMA);
- Joint programs with area commercial tenants;
- Dissemination of promotional materials to employees, residents and guests;
- Newsletters about the program;
- Coordination with MassRIDES which provides administrative and organizational assistance for commuting options;

- Preferential parking for carpoolers; and
- Implementation of a guaranteed-ride-home program

Ridesharing programs will be encouraged to be implemented by tenants of Phase B of the Project and will be promoted to residents, patrons and guests. Toward this end, the following traffic reduction strategies will be implemented in conjunction with Phase B of the Project:

- An on-site transportation coordinator will be assigned to coordinate the traffic reduction program for the project.
- On-site services to decrease off-site trips by employees including lunch rooms equipped with a microwave and refrigerator will be available to employees of the project.
- Encourage employers to offer direct deposit of employee paychecks.
- An ATM machine will be provided within the project at a safe and convenient location.
- Work with the Towns of Wareham, Carver, and Plymouth; MassDOT; MassRIDES; Southeastern Regional Planning & Economic Development District (SRPEDD); and GATRA to develop and refine the traffic reduction program for Phase B of the Project.
- Coordinate with the Councils on Aging in the Towns of Wareham, Carver and Plymouth with respect to dial-a-ride and senior shuttle programs to the Phase B sites.
- Bus stops with shelters will be provided at appropriate locations within or proximate to the Phase B sites to accommodate bus service. The location of bus stops and shelters will be determined in consultation with GATRA.
- Information regarding available public transportation resources provided by GATRA, including schedules, fare information, and stop/terminal locations, will be made available to all employees, residents and hotel guests of Phase B of the Project.
- Web site and other electronic and print media advertising the project will provide information regarding available public transportation options to reach the Project including links and contact information for the service provider.
- Encourage tenants to subsidize employee use of public transportation services to the maximum extent permissible pursuant to IRS regulations.

- Designated parking spaces will be provided for car/vanpools and alternatively fueled vehicles.
- Designated parking spaces will be made available for car-sharing services (i.e., ZipCar) should such services become available in the greater Wareham area.
- A guaranteed-ride-home program will be offered to employees that car/vanpool for emergencies and/or unanticipated events that may occur during the workday.
- Employees that car/vanpool, use public transportation or walk/bicycle to work will receive a raffle ticket for each complete month that they commute to the Project using one of these modes. At the end of the month, a raffle will be held for prizes such as movie tickets, gift certificates for use at local retail stores/restaurants, etc.

The Proponent has been and continues to coordinate with GATRA concerning the establishment of bus service to the Project and future development within the Business Development Overlay District (BDOD). GATRA currently provides bus service along Route 28 within the Town of Wareham by way of the Onset-Wareham Link (OWL) service routes. Link 4 of the OWL service provides service along Route 28 both east and west of the Route 28/I-195 interchange and proximate to the Project. Initial discussions with GATRA have focused on extending or modifying the Link 4 service route to travel along Rosebrook Way0, connecting to Tihonet Road/Farm-to-Market Road and serving the Tihonet Technology Park, Tihonet Village and current and future uses along these roadways.

The Proponent has also committed to providing financial assistance to GATRA to support the service route expansion, which includes a \$20,000 contribution to GATRA for the purchase of a low emission bus. This financial contribution will be made by the Proponent prior to the issuance of a Certificate of Occupancy for the first building in Phase B. Provision and funding of fixed-route bus service to the Project combined with the elements of the TDM program to be implemented in conjunction with the Project will serve as effective measures to reduce single-occupant vehicle travel and mobile source emissions associated with the Project.

Alternative Work Schedules - Flexible working hours allow employees to choose their own starting and finishing times by establishing a required core time such as 9:00 AM to 4:00 PM; this allows employees to vary work schedules and reduces peak-hour demand. Tenants of Phase B of the Project will be encouraged to evaluate the feasibility of implementing a flextime policy and/or telecommuting for employees in order to reduce peak-hour demand.

The costs associated with the TDM program described above are included in the operational costs of the project.

Loading and Deliveries

Phase B of the Project has been designed to accommodate all loading and delivery functions within the individual development sites in a safe and efficient manner. Truck routes and hours of deliveries will be coordinated in order to minimize truck activity during the commuter peak hours. Reasonable efforts will be made to use service vendors currently delivering in the vicinity of the Project in an effort to reduce the overall number of new trucks in the area.

Greenhouse Gas (GHG) Mitigation – Self Certification

Upon completion of construction of Phase B of the Project, the Proponent will provide a certification (the “Self Certification”) to the MEPA Office signed by an appropriate professional (e.g. engineer, architect, general contractor) indicating that all of the GHG mitigation measures or their equivalent that are designed to collectively achieve the proposed stationary GHG emission reduction committed to in the 2011 Final EIR, have been incorporated into the Project. The Self Certification will be supported by as-built plans and shall include an update with respect to those measures that are operational in nature (i.e., TDM program, recycling, Energy Star-rated equipment, etc.) including any changes in these measures from those defined in the 2011 Final EIR, the schedule for implementation and how progress toward achieving these measures will be advanced if not currently implemented. The Self Certification and all supporting plans and documents shall be provided to the MEPA Office within three (3) months of the completion of construction of Phase B of the Project.

We trust that this information is of assistance. If you should have any questions regarding the Project or the elements of the planned mitigation program, please feel free to contact me.

Sincerely,

VANASSE & ASSOCIATES, INC.

Jeffrey S. Dirk, P.E., PTOE
Vice President

JSD/jsd

Attachments

cc: Secretary Ian A. Bowles - Executive Office of Energy and Environmental Affairs
James F. Kane – ADM Development Services LLC
Lauren Liss, Esquire – Rubin and Rudman LLP
Stacy Minihane – Beals and Thomas, Inc.
LAS, File

2.3 Massachusetts Department of Environmental Protection

As requested, a draft Section 61 Findings for MassDEP is included herein, should a Superseding Order of Conditions be required.

DRAFT SECTION 61 FINDINGS

Massachusetts Department of Environmental Protection

Findings Pursuant to

MGL Chapter 30, Section 61

PROJECT NAME: ADM Tihonet Mixed Use Development – Phase B

PROJECT LOCATION: Carver, Plymouth and Wareham, Massachusetts

PROJECT PROPONENT: ADM Development Service, LLC

EEA NUMBER: 13940

Each agency of the Commonwealth that is taking an Agency Action (e.g., issuing a permit) must make a finding, pursuant to MGL Chapter 30, Section 61, that all feasible measures have been taken by the Project Proponent to avoid damage to the environment or, to the extent damage to the environment cannot be avoided, to minimize and mitigate damage to the environment to the maximum extent practicable. These Section 61 Findings specify the entity responsible for funding and implementing any such mitigation measures, and the anticipated mitigation implementation schedule. (See 301 CMR 11.07(6)(k)).

The proposed mitigation measures for Phase B of the ADM Tihonet Mixed Use Development Project are described in the Notice of Project Change (NPC)/Phase B Draft Environmental Impact Report (DEIR), which was filed in August 2010. The following sections provide a summary of impacts to wetland resource areas resulting from construction of the Phase B project and supporting infrastructure. The proposed impact avoidance, minimization and mitigation measures are the basis upon which Section 61 Findings may be made by the Massachusetts Department of Environmental Protection. All impact minimization measures and mitigation measures outlined herein will be funded and implemented by ADM Development Services, LLC (the Project Proponent), its Agents, Representatives and/or Contractors.

IV. Project Description

The project consists of Phase B of the ADM Tihonet Mixed Use Development Project. Phase B is comprised of four separate Development Areas: 1) Rosebrook Business Park consisting of a 68,000 gsf medical office building and a 35,000 gsf general office building; 2) Rosebrook Place, consisting of 42,000 gsf of retail; 40,000 gsf of residential apartments (34 units); 7,000 gsf fitness facility; 4,800 gsf restaurant; 106,000 gsf hotel; 4,000 gsf bank; and 2,500 gsf office; 3) the ±50-acre Charlotte Furnace Solar Energy

project Development Area; and 4) the ±4-acre Rosebrook Solar Energy project Development Area. Construction and vehicular access to Phase B will be provided directly off Route 28 via Lou Avenue, with the exception of the Charlotte Furnace Solar Energy project Development Area which will have access off Charlotte Furnace Road.

History of MEPA Review

The Proponent prepared and submitted, pursuant to M.G.L. c. 30, § 61 and 62A-H of MEPA and its implementing regulations (301 CMR 11.00), an *Expanded Environmental Notification Form/Request for Single Review Document for Phase A1 and A2/Request to Amend the Special Review Procedure* for the project on July 23, 2008⁵ (the “2008 Expanded ENF”). On September 12, 2008, the Secretary of Energy and Environmental Affairs (the “Secretary”) issued a Certificate on the 2008 Expanded ENF establishing a Special Review Procedure for the project and a Draft Record of Decision (DROD) concerning the Phase One Waiver request for the then defined Phase A of the project. A Final Record of Decision for the then defined Phase A was issued on October 15, 2008. Subsequently, the Proponent submitted a *Notice of Project Change/Request for Amended Phase A Waiver* for the Project (the “2009 NPC”) modifying the Phase A Development Program. On October 2, 2009, the Secretary issued a Certificate on the 2009 NPC and a Draft Amended Record of Decision (DAROD) on the amendment to the Phase One Waiver. On October 28, 2009, a Final Amended Record of Decision (FAROD) was issued for the revised Phase A Development Program.

A *Notice of Project Change/Phase B Draft Environmental Impact Report* (the NPC/Phase B DEIR) was filed with the MEPA Office in August 2010. On November 12, 2010, the Secretary issued a Certificate on the NPC/Phase B DEIR indicating that the document adequately and properly complied with MEPA and its implementing regulations.

As required by the NPC/Phase B DEIR Certificate, a *Phase B Final Environmental Impact Report* (the Phase B FEIR) was filed with the MEPA Office in December 2010. On [Date to be Inserted], the Secretary issued a Certificate on the Phase B FEIR indicating that the document adequately and properly complied with MEPA and its implementing regulations.

Permit Requirements

Superseding Orders of Conditions from the Massachusetts Department of Environmental Protection may be required for the Phase B Rosebrook Place and Rosebrook Business Park projects pursuant to 310 CMR 10.00. Note that an Order of Conditions has been issued for the Rosebrook Solar Energy project, and that the associated appeal period has already expired.

⁵Dates referenced refer to when notice of availability for public review was published in The Environmental Monitor for the respective environmental disclosure documents.

V. Summary of Project Impacts and Mitigation Measures

Project Impacts

The Phase B project will result in impacts to Riverfront Area (RFA), Bordering Land Subject to Flooding (BLSF), and the 100-foot buffer zone to Bank and Bordering Vegetated Wetland (BVW). Specifically, impacts to RFA are associated with the Rosebrook Business Park Development Area and total 14,000± sf; impacts to BLSF are associated with off-site transportation infrastructure improvements and total 450± sf; and impacts to buffer zone are associated with the Rosebrook Place and Rosebrook Business Park Development Areas, as well as off-site transportation infrastructure improvements, and total 33,500± sf.

Since work is proposed within wetland resource areas and the buffer zone, issuance of an Order of Conditions will be required. If this Order of Conditions is appealed, a Superseding Order of Conditions will be required.

Mitigation Measures

The measures summarized below are proposed to minimize and mitigate impacts to wetland resource areas associated with Phase B.

- Impacts to jurisdictional areas will first be avoided, then minimized to the maximum extent practicable during the final design process.
- RFA mitigation will take the form of 1:1 restoration of previously developed RFA associated with Rose Brook, and/or restoration at a potentially greater ratio of RFA that does not technically qualify as previously developed but that is nonetheless disturbed as a consequence of historical agricultural activities. During the Phase A2 permitting process with the Wareham Conservation Commission, the Proponent documented that additional mitigation beyond that required was being provided during Phase A2. It was agreed that this additional mitigation may be used toward future impacts as appropriate. Therefore, it is anticipated that a portion of this excess mitigation will be utilized toward the RFA impacts associated with Phase B. This Phase B mitigation has the benefit of being constructed prior to the impact that it is off-setting.
- If impacts to BLSF are determined to result in a decrease in flood storage capacity, incremental compensatory flood storage will be provided.

VI. Section 61 Findings

The potential environmental impacts of the proposed Phase B portion of the ADM Tihonet Mixed Use Development Project quantified in the DEIR are incorporated by reference into this Section 61 Finding. Throughout the planning and environmental review processes, which have included coordination/consultation with MassDEP and the town of Wareham, the Project Proponent has developed measures to mitigate impacts of the Project. With the mitigation proposed and carried out in cooperation with state agencies, the Massachusetts Department of Environmental Protection finds that there are no significant unmitigated impacts.

For the reasons stated above, the Massachusetts Department of Environmental Protection hereby finds that pursuant to MGL c. 30, § 61, the construction of Phase B as described above, and with the implementation by the Project Proponent of mitigation measures, all practicable means and measures will be taken to avoid or minimize adverse environmental impacts related to the Phase B project.

Agency: _____

Commissioner: _____

Date: _____