

**Berkshire Regional Planning Commission  
Clearinghouse Review Report**

**SUBJECT:** The Center at Lenox Retail Expansion Project  
**EEA#:** 14332  
**LOCATION:** Lenox  
**ESTIMATED COST:** \$26 million  
**REVIEW TYPE:** Draft Environmental Impact Report  
**PROPONENT:** MEC Lenox Assoc., LP, c/o Allen and Major Associates Inc.

**PROJECT DESCRIPTION**

MEC Lenox Associates is proposing the Center at Lenox project. The site is located on an approximately 36-acre site on the west side of the Pittsfield-Lenox Road (Rts. 7 & 20), and is locally known as the Price Chopper shopping center. The main building currently houses Price Chopper, CVS, Radio Shack and Marshalls. Two free-standing buildings, a branch of the Lenox National Bank and Friendly's, are also on the site. Approximately 12 acres of the site are developed. The remaining acreage consists of upland woodlands and wetlands.

The applicant proposes to construct a 20,000 sf addition onto the western portion of the building (currently Marshalls). In addition, the applicant proposes to 1) replace the 956 square foot (sf) bank building with a 13,225 sf pharmacy that will include a drive-thru, and 2) construct a 53,000 sf building on the northern portion of the site to house a retail store and a bank. The Friendly's restaurant will remain as it is today. The DEIR states that the tenant mix will include additional retail, restaurant (375 seats) and bank space (WHERE DO WE GET THE EXTRA SEATS IF FRIENDLY'S NOT CHANGING?). Overall, the building footprint on the site will expand by approximately 85,269 sf, from the existing ~106,000 sf to a total of ~191,400 sf. The project also proposes to expand the existing fire pond.

The filing of an EIR is required because it trips the transportation threshold of generating more than 3,000 vehicle trips per day. The project is subject to the requirements of the MEPA Greenhouse Gas Emissions Policy because it requires an EIR and an Access Permit from MassDOT. The proponent is providing this DEIR and is requesting that the Secretary deem this DEIR of a level of such detail that it can serve as a Final EIR or a Final EIR with agency responses.

The project also requires a federal stormwater management permit. The project will also require several local permits, including a special permit from the Zoning Board of Appeals, a wetlands permit from the Conservation Commission, and a water/wastewater permit from the DPW.

**CONSIDERATIONS AND POTENTIAL ISSUES:**

The BRPC reviewed the ENF in November 2008 and at that time requested the filing of an EIR. Our main concerns focused around the transportation and wetland impacts of the project.

**Transportation**

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Responses to transportation comments made on the original ENF by BRPC in November 2008 are addressed in Section 8.0 of the draft EIR. Staff has reviewed these responses. The proponent has taken adequate measures to address previous transportation comments, with the exceptions and clarifications noted below:

BRPC 02 and BRPC 12 – concerning on-site bus circulation

BRPC staff consulted with BRTA staff regarding the bus circulation scheme depicted in Figure 8.2. While the circulation scheme does provide an on-site stop and adequate turning radii for a full-size transit vehicle, it is less than optimal in that the bus stop is located a significant distance from the project's major transit trip attractor (the proposed 50,000 s.f. retail site) and requires the bus to operate between rows of parked vehicles. BRPC staff suggests the proponent work further with BRTA to consider feasibility of alternate on-site circulation schemes. BRPC also questions the proposed timing of further discussions with BRTA 'when the Center is fully built'. From the perspective of both the proponent and the transit operator, before significant investments are made in bus stop/shelter facilities it would be desirable to have bus circulation issues resolved.

BRPC 26 – concerning Corridor Access Management

BRPC staff spoke with the proponent's representative (Jeff Curley) regarding the ongoing Route 7/20 Corridor Access Management Plan. Staff reiterated the desirability of providing a vehicular connection between the site and the adjoining Yankee Candle parcel. Such a connection would be subject to the cooperation and concurrence of the adjoining parcel owner. In addition, the grade change between the two parcels (approx 8 feet) would complicate or make infeasible the design of a connecting roadway, requiring grading and/or added length to a connecting road. BRPC requests that the proponent show on site plans the potential location or locations of pedestrian and vehicular connections to the Yankee Candle parcel, and make no permanent improvements in such locations that might preclude construction of pedestrian or vehicular byways at some future date.

BRPC 44 – concerning pedestrian accommodation to adjoining parcels

The sidewalk referenced in Appendix I, Sheet C-2 is not discernable due to the reproduction quality of Sheet C-2 in the document provided. The intent of the November 2008 comment was to address the desirability of **direct** pedestrian linkages from the Yankee Inn and Yankee Candle parcels to the project site. The sidewalk fronting on Route 7/20 is not a direct linkage.

**Wetlands, Stormwater Management**

As originally proposed in the ENF, the development would impact 4600 sf wetlands. BRPC recommended that the proponent reconsider the configuration of the site so to reduce the impacts to wetlands. The DEIR states that the wetland impacts have been reduced to 25 sf, partially from the reconfiguration of the new northernmost building. BRPC commends the applicant for this reconfiguration and its resultant wetland improvements. The DEIR states that a wetland mitigation area of 50 sf will address the remaining impacts.

The reconfigured design includes more square footage of development in the wetland buffer zone. We note that the grassy area surrounding the developed areas is wider than that proposed in the ENF. Presumably these include the boundaries of the work area during construction, to be

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grassed over post-construction. Efforts should be made to reduce the amount of vegetation that will be altered. Perhaps construction activities could be pulled back from these areas and, if not, then perhaps these areas could be replanted with native vegetation and allowed to grow back into native shrub or forest. The regrowth of native vegetation would serve as a buffer between development and the adjacent wetland.

The applicant proposes to mitigate wetland losses with a 50-sf mitigation area, a ratio of 2:1, with shrubs and a wetland seed mix. The site will be monitored for 5 years to ensure establishment of plants and control invasive species.

Tim-I found the site plans and explanation of stormwater management hard to figure. Please be prepared to answer these questions for me:

- Please show the catchment areas that each BMP is proposing to treat
- Please explain in more detail the infiltration trench
- Please explain why more LID treatment is not be proposed

The DEIR includes a stormwater operations and maintenance plan for post-construction management of the site. This includes general guidelines to reduce sediment and other contamination of stormwater runoff, including use of fertilizers and management of salt-contaminated snow. This plan is general in nature and somewhat helpful to the property manager. However, the Storage and Use of Herbicides and Pesticides seems to focus on indoor pest controls more than outdoor herbicide control. This section should be redesigned to state clearly that a herbicide professional will be hired to manage and apply any herbicides on the site, most importantly in areas where stormwater could directly run off into wetlands or be transmitted by stormwater conveyance systems. The plan should also state clearly that herbicides should be prohibited or used with special care around areas of rare plant species. A map showing rare species locations and the stormwater conveyance systems that discharge into these areas should be presented to any herbicide applicator hired to work on the site.

### **Rare Species**

The applicant has conducted field surveys and corresponded with NHESP throughout the project design, including the reconfiguration of the development and encroachment into rare plant species habitat. It appears that the NHESP has determined that the encroachment of the fire pond into rare species habitat does not result in a “Take” of rare species at the site. The applicant has provided protection strategies for rare plants found elsewhere on the site.

### **Alternatives Analysis**

BRPC reviewed the four alternatives that were submitted as part of the DEIR. Three of the alternatives are valid: the No-Build, the ENF Alternative and the DEIR Preferred Alternative. The DEIR does a fine job of explaining how these alternatives differ from each other regarding total land alteration, wetland and rare species impacts, and number of parking spaces. The summary Table 2-1 is particularly helpful. BRPC agrees that, if an expansion of the site is inevitable, the DEIR Preferred Alternative is an improvement over the previous ENF alternative in some respects, most notably regarding reductions in impacts to wetlands and rare species.

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However, the preferred alternative has a larger overall footprint and impervious surface area, and includes more square footage in the wetland buffer zone.

BRPC does not consider the Full Build Alternative to be a valid alternative design. This alternative proposes an additional 120,000 sf office building and parking lot on the westernmost undeveloped portion of the site (behind Marshalls), involving the clearing of an additional 15 acres of land. This development was not mentioned or discussed as part of the ENF process, and this development is not included in any other section of the DEIR that we can see. The footprint of this additional development inappropriately skews the associated demands of the site and is not a comparable alternative.

### **Project Segmentation**

If the applicant has any thoughts of developing this western portion of the property as an office park in the future, they should state this and quantify the total impacts of developing the entire parcel during this MEPA review process. If at any point in the future development is proposed in the western portion of the site, a full EIR should be required to analyze the cumulative impacts of development, including all work conducted as part of this current proposal. Any future proposals brought forth without the full EIR analysis should be considered project segmentation.

### **Greenhouse Gas Emissions**

The project is subject to the MEPA Greenhouse Gas Emissions Policy and Protocol. The DEIR lists several opportunities for conserving energy and generating renewable energy on both existing and proposed buildings. There is not commitment on the part of the applicant to implement any of the energy measures in the existing buildings. The DEIR claims that the applicant leases out the buildings and that tenants pay for their own utilities. Therefore, the applicant claims that all energy retrofits that should be done on the existing buildings need to be done by the tenants. If there is no commitment to implementing these measures, then the energy savings that could be reaped from these measures should not be counted as part of the GHG reduction estimates for the redevelopment project.

The DEIR states that the applicant is proposing to install a 200 kW natural gas microturbine combined heat and power (CHP) system in the new grocery/retail building. This system has been determined to provide the greatest GHG reductions and has a 4-5 year payback period. The DEIR states that the final evaluation of whether or not the CHP is a feasible investment will be done during final building design, thus it is unclear how committed the applicant really is to installing the CHP system.

The applicant has stated in the DEIR that the payback period for a solar PV array would be 6 years or more, and is thus not feasible. We respectfully submit to the applicant that, unless the applicant expects to move out of the building within the next 6 years, such a payback period is indeed feasible if creative financing is considered.

The applicant has committed to the establishment of a \$10,000 Energy Conservation Incentive Fund to provide financial incentive to existing and future tenants occupying the existing

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buildings. The intent of this fund is to achieve a greater level of mitigation beyond what is being proposed as part of the applicants GHG mitigation program. As proposed, tenants of the existing buildings would apply for grant funds to conduct energy projects, with the grant paying up to 50% of the cost. Section 7 of the DEIR lists the various projects that could be funded through the program.

The GHG analysis lists many energy conservation options throughout Section 7 and in Table 7.1 that rest solely on the tenants. We commend the applicant for offering to create the fund but we believe that the \$10,000 offered will fall shy of meeting even a portion of the retrofitting that is discussed within the DEIR.

We encourage the applicant to consider conducting energy conservation measures on the existing buildings during the period when tenants move out (including the applicant) and before new ones move in. It is most cost effective and convenient to install energy conservation measures when buildings are empty and free of structures and appliances.

The Town of Lenox is considering adopting the Mass. Stretch Energy Code. This may require the applicant to consider energy conservation measures beyond the base energy code. We encourage the applicant to meet with the Lenox Building Inspector to ensure a complete understanding of what will be required under the new stretch energy code.

## **RECOMMENDATIONS**

Overall, the applicant has done an adequate job in drafting the DEIR, and we believe that it generally explains the site reconfiguration, alternatives, and final potential impacts of the project. We generally support the applicant's request that the DEIR serve as a Final EIR, with the exception of one criteria: we do not believe that the GHG impacts have been properly calculated. Until the emissions are recalculated, the DEIR should not be considered a FEIR.

The GHG Emissions reduction calculations are not realistic without a more concrete commitment from the applicant that the energy conservation and renewable energy generation measures will be implemented. This applies to the CHP system and the energy conservation retrofits that are offered within the calculations. At this time the energy savings offered in Section 7 of the DEIR for retrofitting existing buildings should not be calculated as part of the project's GHG reduction strategy, because the responsibility for implementing energy conservation measures rests solely on the tenants. There is no commitment from any of the tenants that they will install energy conservation measures.

We request that the applicant clearly state and make a public commitment to implementing specific GHG emission reduction measures, and then use these measures as the basis for emission reduction calculations. This information could be submitted as supplemental information.

Other recommendations:

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- The proponent should work further with BRTA to consider feasibility of alternate on-site circulation schemes.
- BRPC urges the applicant to consider constructing direct pedestrian linkages from the project site to Yankee Candle and Yankee Inn.
- NEED MORE INFO TO SEE IF WE AGREE WITH STORMWATER PLAN.
- To the extent possible, the applicant should consider reducing the amount of disturbed area (later to be turf) around the northern portion of the project.
- The planting plan should list native plants only. The use of native vegetation is most important in areas adjacent to wetland areas.
- Although the planting plan shows some ornamental shrubs and trees in the large open parking area, we encourage the applicant to increase the tree planting to increase the aesthetic appeal and to provide cooling shade.
- To increase the likelihood that energy conservation retrofits will be conducted in existing buildings, the applicant should consider these actions:
  - Proactively conducting energy conservation projects in the buildings when empty and between tenants.
  - Add language to their lease to require incoming tenants to use energy star appliances and other energy conserving measures in their operations.
- The applicant should reconsider the placement of a solar PV array on the new grocery/retail building and the pharmacy. These buildings, especially the grocery/retail building, will have ample south facing space, will be visible components of the redevelopment project and would serve to display the applicant's commitment to renewable energy. The arrays could serve as a public relations and educational projects for the applicant and its tenants. If the capital cost of the project is beyond the reach of the applicant, then third party ownership should be seriously investigated. The DOER in Boston and the Center for Ecological Technology in Pittsfield are sources of information.
- We commend the applicant for proposing to establish the Energy Conservation Incentive Fund. We think it is important enough to the project that we would encourage the applicant to substantially increase the grant funds of the program. In addition, we would suggest that the applicant not offer incentive funding for energy audits, but rather for implementation projects only. According to local utility companies, not all businesses who conduct energy audits take the steps to implement audit recommendations. We believe that scarce resources are better spent on projects that are actually installed.
- BRPC respectfully requests that the Secretary stipulate that any future development proposed on this site proceed through the MEPA EIR review process, so to quantify and analyze the cumulative impacts of all stages of development, including work conducted as part of this project.

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These comments were approved by the BRPC Executive Committee on April 8, 2010.

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