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June 20, 2007

Secretary Ian A. Bowles  
Executive Office of Environmental Affairs  
ATTN: Mr. Richard Bourré, Deputy Director, MEPA Office  
100 Cambridge Street  
Boston MA 02114

RE: Request for Advisory Opinion, Jefferson at Ashland, EOEA Number 12375

Dear Secretary Bowles:

I am writing on behalf of Jefferson at Ashland, L.P., the proponent of the Jefferson at Ashland project, to request an Advisory Opinion pursuant to 301 CMR 11.06(1)(a) regarding whether further MEPA review filings are needed prior to construction of this project.

The Jefferson at Ashland project is a proposed 500-unit transit-oriented residential community, located adjacent to the MBTA Ashland commuter rail station with access from the MBTA Access Road, which has completed Draft EIR and Final EIR review. On October 15, 2001 the Secretary of Environmental Affairs issued a Certificate determining that the project's FEIR adequately and properly complied with the Massachusetts Environmental Policy Act. The FEIR included Draft Section 61 Findings for the MBTA regarding construction staging on the Access Road, and for the Massachusetts Department of Environmental Protection regarding issuance of a sewer connection permit. (A third draft Section 61 Finding was included in the event that the Water Resources Commission needed to issue a Determination of Insignificance under the IBT Act, but the WRC subsequently determined that no such action by the Commission was needed in connection with the project.).

In fall 2001, the proponent immediately moved the project forward in local permitting with the Town of Ashland and worked to finalize design plans to meet the mitigation commitments of the FEIR and the Draft Section 61 Findings. Site plan review with the Ashland Planning Board commenced in August 2002 and continued until November 2003 when the proponent was forced to withdraw the application owing to contractual issues with the seller of the project site. The Planning Board allowed the withdrawal without prejudice until these issues could be resolved.

From November 2003 through October 2006, the proponent worked continuously to resolve outstanding contractual issues in order to complete property acquisition from the seller. The proponent and seller resolved the outstanding issues in October 2006 and

local permitting efforts resumed at that time. In light of the interruption in local project review for nearly three years, the project has not commenced construction within five years of publication of availability of the FEIR. However, as summarized above, the proponent has continued to take major steps in a continuous sequence to advance the project, including but not limited to expenditure of significant funds for final design, local permitting activities, and property acquisition, from fall 2001 through the present. Accordingly, the proponent requests an Advisory Opinion as to whether the project can be regarded as having commenced implementation within five years of the FEIR (within the meaning of 301 CMR 11.10 (3) (b)2) and would therefore not need to file a new ENF.

The following information may be relevant to this Request for an Advisory Opinion.

Project Scope: There has been no change in the project scope, including the number of units, bedroom distribution, and site design, except that minor technical refinements were made as the site plan went through local review and the stormwater design was refined. (The MEPA filings for the project included a future project by others of 190 age-restricted housing units on adjacent land owned by the seller, which would share the stormwater, wastewater, and utilities with Jefferson at Ashland.)

Wetlands and Stormwater: As in the original filing, the project includes portions of the buffer zone but has no direct wetland impacts. An ORAD was issued by the Ashland Conservation Commission in April 2007 confirming the wetland delineation. The refined stormwater design continues to meet all applicable DEP stormwater policies.

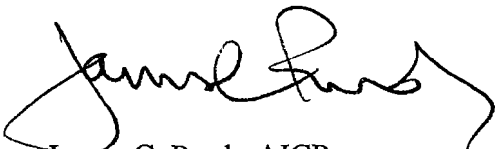
Transportation: The original MEPA filing voluntarily analyzed traffic on Route 135 which the MBTA Access Road intersects, approximately one mile from the project entrance. Since 2001, the MBTA station has opened, the Access Road has been completed by the MBTA, and the intersection at Route 135 has been modified in the manner recommended in the proponent's Traffic Impact and Access Study (TIAS). An updated TIAS was prepared for local review in February 2007 and it confirms that future traffic operations will be satisfactory after completion of Jefferson at Ashland. The proponent is about to commence coordination with the MBTA regarding construction staging and maintenance of traffic on the Access Road during construction of Jefferson at Ashland. The proponent remains committed to building a sidewalk along the Access Road connecting the project's internal walkway system with the MBTA Station. Alternate paths through the project site to the station with several runs of stairs were originally proposed; these are currently under review in design development and may no longer be feasible. The proponent will continue to discuss a potential pedestrian/bicycle improvements from the project site to Route 135 with the Town and the MBTA; however, the Access Road as constructed by the MBTA complicates the installation of this sidewalk owing to the placement of light poles which narrow the available cross-section.

Wastewater: The proponent committed to fund projects to remove infiltration and inflow from sewers in Framingham, in an amount sufficient to offset transfer by Framingham of a portion of its allocation under the Water Resource Commission Interbasin Transfer approval of the MWRA's Framingham Extension Relief Sewer to accommodate the wastewater from Jefferson at Ashland and the future age-restricted housing by others within the Ashland Rail Transit District. Discussions with the Town of Framingham have progressed, a near-term I/I removal project has been identified which would satisfy the majority of the needed mitigation, and Framingham officials indicate that other projects are planned that could satisfy the remainder of the proponent's commitment. The proponent has continued discussions with the Town of Ashland regarding sewer infrastructure improvements. The proponent remains committed to water conserving fixtures and landscaping in Jefferson at Ashland.

In summary, the project remains essentially unchanged since the local permit review clock was suspended without prejudice to resolve property acquisition issues with the seller. The proponent remains committed to the approved FEIR's mitigation measures, and the proponent is actively working to complete local review, implement I/I removal in Framingham as required in the WRC and DEP Draft Section 61 Findings, and is about to begin coordination with the MBTA regarding construction impacts. As discussed above, the proponent has continuously engaged in significant activities to advance the project through final design, local permitting, and property acquisition from the time of publication of the FEIR through the present.

In light of these facts, the proponent requests an Advisory Opinion on whether a new ENF filing with MEPA is necessary or whether the project may now proceed to construction without further MEPA review. Please feel free to contact me at 781-707-7435 if you have questions or need any additional information in support of this Request. Thank you for your attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'James C. Purdy', with a stylized flourish at the end.

James C. Purdy AICP  
THE LOUIS BERGER GROUP