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May 17, 2006

DRAFT RECORD OF DECISION

PROJECT NAME: The Fields at Chestnut
PROJECT MUNICIPALITY: East Longmeadow
PROJECT WATERSHED: Connecticut
EOEA NUMBER: 13768
PROJECT PROPONENT: Dan Roulier & Associates, Inc.
DATE NOTICED IN MONITOR: April 10, 2006

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (G.L.c.30, ss. 61-62H) and Section 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and **propose to grant a Phase I Waiver** (as defined below), allowing the commencement of the first phase of the project prior to completion of the Environmental Impact Report (EIR) for the entire project. A Certificate with the Scope for the EIR has been issued separately.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project proposes the construction of 125 +/- age-restricted units within a condominium complex on an approximately 54 acre site on Chestnut Street in East Longmeadow, MA. The project as a whole will result in the direct alteration of 42.8 +/- acres of land and the creation of 11.6 +/- acres of impervious area. Portions of the proposed project are located in areas mapped as both priority and estimated habitat by the MA Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP), as containing spotted turtle (*Clemmys guttata*). Units will be accessed by 6,200 linear feet of private roadways off of Chestnut Street. Water and sewer connections will be made to the municipal system.

The project is proposed to be constructed in two phases: Phase I will consist of 31 units near Chestnut Street; Phase II will contain the remaining 94 units. Phase I of the project will be accessed via 1,700 of linear feet of site drives connecting to Chestnut Street. Utility service lines will tie directly to Chestnut Street with a water demand and sewer discharge of approximately 7,000 gallons per day (gpd). Phase I will result in the alteration of approximately 10 acres of land the creation of approximately 3 acres of new impervious surface.

Jurisdiction

The project is subject to a mandatory Environmental Impact Report (EIR) pursuant to Section 11.03(1)(a)(2) of the MEPA regulations because the project requires state permits and will result in the creation of more than 10 acres of new impervious surface. The project is also subject to the following ENF review thresholds: Section 11.03(1)(b)(1) because the project will result in the direct alteration of more than 25 acres of land; and Section 11.03(2)(b)(2) because the project may result in the taking of an endangered, threatened or rare species protected under the Massachusetts Endangered Species Act (MESA).

The project requires a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency (EPA); a Sewer Extension/Connection Permit from the Department of Environmental Protection (DEP); Site Plan Review from the East Longmeadow Planning Board; and an Order of Conditions from the East Longmeadow Conservation Commission. The project also requires review from NHESP.

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required permits with the potential to cause Damage to the Environment. In this case, MEPA jurisdiction extends to land alteration, stormwater, wastewater and rare species.

Waiver Request

The proponent submitted an Expanded Environmental Notification Form (EENF) for the project with a request for a waiver to allow Phase I of the project to proceed prior to completion of the EIR. The waiver request was discussed at the consultation/scoping session for the project which was held on April 26, 2006.

Criteria for a Phase I Waiver

Section 11.11 of the MEPA Regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: a) result

in undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment.

In the case of a partial waiver of a mandatory EIR review threshold that would allow the proponent to proceed to Phase I of the project prior to preparing an EIR, this finding shall be based on one or more of the following circumstances: 1) the potential environmental impacts of Phase I are insignificant; 2) ample and unconstrained infrastructure and services exist to support Phase I; 3) the project is severable, such that Phase I does not require the implementation of any other future phases; and 4) the agency action on Phase I will contain conditions that ensure due compliance with MEPA.

Findings:

Based upon the information submitted by the proponent and after consultation with the relevant state agencies, I find that:

1. Phase I of the project is located outside of mapped spotted turtle habitat. The proponent will erect an exclusionary silt-fence barrier around the entire Phase I work area to prevent turtles from entering the construction site. NHESP has stated that Phase I of the project will not result in a prohibited "take" of the spotted turtle.
2. No state agency actions are required for Phase I of the project.
3. Ample and unconstrained infrastructure currently exists to support Phase I. Municipal water and sewer is available for the 31 proposed units. Stand-alone stormwater management best management practices (BMPs) will be installed for Phase I.
4. Stormwater runoff will be managed in accordance with DEP's Stormwater Management Policy. Stormwater infiltration will be maximized onsite with the utilization of highly permeable sandy soils. Stormwater will be directed to a detention basin, with overflow during extreme events being directed to the closed stormwater system in Chestnut Street. All units and infrastructure will be located in excess of 100 feet from any wetland with the exception of a stormwater management basin and overflow outfall associated with Phase II of the project.
5. The project is severable. Construction of Phase I does not require the completion of Phase II. By itself, Phase I of the project does not exceed any MEPA thresholds for review at the ENF or EIR level.
6. The proponent must submit an EIR addressing the stormwater, land alteration, wastewater and rare species impacts of the entire project and propose appropriate mitigation.

Based on these findings, it is my judgment that the Waiver request has merit and meets the tests established in Section 11.11 of the MEPA regulations. Therefore, I propose to grant the Waiver for Phase I of this project, subject to the above findings. This Draft Record of Decision shall be published in the next issue of the *Environmental Monitor* for a fourteen-day comment period, after which I shall reconsider, modify, or confirm the Waiver.

May 17, 2006

Date

Stephen R. Pritchard

Comments Received:

4/28/2006	Pioneer Valley Planning Commission
5/1/2006	Baystate Environmental Consultants, Inc. for the Proponent
5/10/2006	Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
5/10/2006	Department of Environmental Protection, Western Regional Office

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