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June 19, 2009

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Crystal Spring Estates
PROJECT MUNICIPALITY : Groton
PROJECT WATERSHED : Merrimack River
EEA NUMBER : 14422
PROJECT PROPONENT : High Oaks Realty Trust
DATE NOTICED IN MONITOR : May 20, 2009

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

Project Description

The proposed project as described in the Environmental Notification Form (ENF) consists of construction of a residential subdivision with nine single-family homes on a 24.5-acre site. The development will be concentrated on the northern portion of the site (approximately 11 acres), altering approximately 6.8 acres of land, and the remainder of the project site will be protected as open space under a Conservation Restriction (CR). The project site is located within Priority Habitat of the Blanding's Turtle (*Emydoidea blandingii*), a state-listed threatened species. The site is also located within the Petapawag Area of Critical Environmental Concern (ACEC). The proposed project includes construction of a new 550-foot cul-de-sac road as well as individual on-site wells and Title 5 septic systems to serve the single-family homes. Access to the subdivision will be from Old Dunstable Road.

Permits and Jurisdiction

The proposed project is undergoing environmental review because it exceeds MEPA review thresholds and requires state agency action. The project is under review pursuant to Section 11.03(2)(b) of the MEPA regulations because it will result in disturbance of more than two acres of designated priority habitat of state-listed species, and pursuant to Section 11.03(11)(b) because it is located within an ACEC. The project requires a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP), and a Massachusetts Department of Environmental Protection (MassDEP) approval of Aggregate Nutrient Loading-Nitrogen Aggregation (for the proposed Title 5 systems).

Although the project is not subject to the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol, I encourage the proponent to consider the Leadership in Energy and Environmental Design (LEED) for Homes certification system (which promotes high-performance green homes) and other measures to reduce energy consumption and related GHG emissions associated with the project.

The project is not receiving financial assistance from the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project that are within the subject matter of any required or potentially required state permits and that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to wastewater, rare species and land alteration.

Review of the ENF

The project site was formerly used as a Christmas tree farm and was classified as forestland under Chapter 61 of the General Laws until 2005. The site was part of a larger estate (approximately 200 acres) of which 125 acres was donated by the owners (Mr. and Mrs. Robert Gamlin) to the Groton Conservation Trust, subject to a Conservation Restriction held by the Division of Fisheries and Wildlife.

The ENF includes detailed site plans and a summary of the project, alternatives considered by the proponent, and proposed mitigation measures. The project is being proposed pursuant to the flexible development provisions of the Groton Zoning Bylaws, which allows flexibility as to lot size and frontage requirements. The proponent considered both the preferred alternative layout for 9 lots as well as an 11-lot subdivision alternative, which would have larger lot sizes and impact a greater portion of the site. The northern portion of the site was selected for development, in part because of gentler slopes that would require less land alteration and in consideration of abutters. The Montachusett Regional Planning Commission (MRPC) has indicated in its comment letter that the project is in conformity with regional goals, policies and objectives, and that it meets MRPC goals of Regional Growth, Individual Opportunity and Welfare, Land Use, Housing, and Economic Development, subject to local approval from the Town of Groton.

The NHESP has determined that the project will result in a “take” of the Blanding’s Turtle, which can only be permitted if the project meets the performance standards for a Conservation and Management Permit (321 CMR 10.23). The proponent has had productive consultations with NHESP regarding state-listed species concerns, performance standards and the permitting process. NHESP anticipates being able to issue a Conservation and Management Permit for the project. I note that this is a preliminary NHESP opinion based on initial discussions and that the proponent will be required to submit a Conservation and Management Permit application for NHESP review.

As mitigation for state-listed species impacts and to meet open space requirements, the proponent has committed to protect a 13.4-acre portion of the site as well as a 50-foot buffer area surrounding the development (approximately 2 acres) as open space under a Conservation Restriction (CR). The final mitigation plan will be subject to NHESP review and approval. I note the Groton Conservation Commission’s recommendation that the CR should be in place prior to the construction and sale of the individual house lots, and that permanent monumentation and clear signage should be in place to mark the boundaries of CR land and homeowner properties. Based on consultation with NHESP, I expect that permit conditions will address monumentation and will require the proponent to record the CR or a Declaration of Restriction prior to construction.

I ask that NHESP also consider during permitting the comments and recommendations from the Department of Conservation and Recreation (DCR) ACEC Program regarding CR areas, vernal pool protection, stormwater management, and landscaping. DCR recommends measures to avoid and minimize construction-related impacts as well as implementation of a pollution prevention plan and a long-term operation and maintenance plan. In order to protect Cow Pond Brook and associated wetlands of the ACEC, DCR recommends that the landscaping plan use native plants and species requiring low water, chemical and fertilizer inputs. I encourage the proponent to consult with the Department of Agricultural Resources to discuss DCR’s comment regarding the loss of farmland of statewide significance and any opportunities for agricultural reuse of any topsoil that may be removed from the site.

MassDEP, as noted in its comment letter, has determined that there is no state agency jurisdiction under the Wetlands Protection Act or 401 Water Quality Certification regulations for the proposed project. The Town of Groton has also indicated in its comment letter that no work is proposed for the project within areas under its jurisdiction. The project does not include any work within wetland resource area or the 100-foot buffer zone. As indicated in MassDEP’s comment letter, the project’s stormwater management system has been designed to comply with the requirements of the Stormwater Management Regulations, and the system will not include a stormwater outfall pipe within any jurisdictional area under the Wetlands Protection Act or 401 Water Quality Certification regulations. The ENF proposes erosion and sedimentation controls to reduce stormwater runoff, and to protect wetland and undisturbed areas. Low Impact Development (LID) techniques incorporated into the project design include vegetated swales, rain gardens, and reduced lot sizes and impervious area.

The ENF proposes on-site private water supply wells and septic systems. Many of the residential lots do not have sufficient acreage to meet requirements for nitrogen loading from

Title 5 septic systems. MassDEP indicates in its comment letter that most of the lots are smaller than the minimum 1.25 acres required for a five-bedroom home under 310 CMR 15.214(2). The proponent proposes that a portion of the 13.4-acre open space parcel is used as nitrogen credit land and intends to apply for an approval from MassDEP pursuant to 310 CMR 15.216. The proponent should obtain local approval before filing the application to MassDEP for the Approval of a Nitrogen Aggregation Loading. I also note the suggestion from DCR that the proponent consider options such as recirculating sand filters to reduce nutrient volumes and possibly eliminate the need for a nitrogen aggregation permit. I encourage the proponent to consult with MassDEP to discuss these issues prior to filing the permit application.

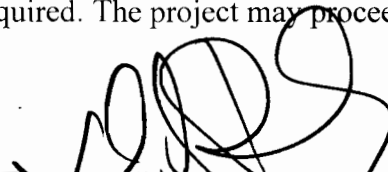
During the MEPA site visit, the proponent indicated that discussions were underway with the Town of Groton and NHESP regarding a possible public water supply well on the 13.4-acre parcel that will be protected as open space under the CR. If a water supply well is proposed it would require a Notice of Project (NPC) or a new ENF. The proponent or the Town should consult with the MEPA Office to discuss filing requirements and consult with NHESP to discuss any permit or CR amendments that may be required. The proponent should also consider the recommendations from DCR regarding design of the project's stormwater management system to ensure protection of the adjacent aquifer as a potential well source.

Conclusion

The ENF has sufficiently defined the nature and general elements of the project, and has proposed measures to avoid and minimize, and to mitigate environmental impacts. I am satisfied that any outstanding issues can be addressed through the state and local permitting process. Based on review of the ENF and comments received, and in consultation with state agencies, I have determined that no further MEPA review is required. The project may proceed to state permitting.

June 19, 2009

DATE



Ian A. Bowles, Secretary

Comments Received:

6/1/09	Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
6/1/09	Montachusett Regional Planning Commission
6/9/09	Department of Conservation and Recreation
6/9/09	Town of Groton Conservation Commission
6/11/09	Department of Environmental Protection, Central Regional Office

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