



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Deval L. Patrick
GOVERNOR

Timothy P. Murray
LIEUTENANT
GOVERNOR

Ian A. Bowles
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1181
<http://www.mass.gov/envir>

September 7, 2007

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

PROJECT NAME : Miller's Landing Subdivision
PROJECT MUNICIPALITY : Orange
PROJECT WATERSHED : Miller's River
EOEA NUMBER : 14079
PROJECT PROPONENT : Indian Ridge Development, LLC
DATE NOTICED IN MONITOR : August 8, 2007

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

Project Description

As described in the Environmental Notification Form (ENF), the proposed project entails the development of a 52-unit residential subdivision and associated infrastructure on a 27.76-acre site on the east side of East River Street. The project site is bounded by Shingle Creek to the south and Miller's River to the east.

The proponent proposes to protect a 330-foot wide corridor along the Riverfront Area in order to protect rare species habitat area and avoid a "take". The proponent states that it has coordinated this proposal with the Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP). Mitigation for the impact has been provided in the form of restricted deeds on the lots abutting the Riverfront Area. Lot 14 (7.84 acres) will be deeded to the Town of Orange Conservation Commission. The limit of work will be outside the Limit of the Riparian Zone.

MEPA Jurisdiction and Permitting Requirements

The project is undergoing review pursuant to 301 C.M.R. 11.03 (1)(b)(2) and 11.03 (5)(b) (3)(c) of the MEPA regulations, because it will result in the creation of five or more acres of new impervious area and because it entails the construction of more than one-half mile of new sewer mains not within the right-of-way of existing roadways. The project will require a Sewer Extension/Connection Permit from the Department of Environmental Protection (MassDEP) and an Order of Conditions from the Orange Conservation Commission (and hence a Superseding Order from MassDEP if the local Order is appealed). The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over one acre. The proponent is not seeking state funding or financial assistance for the proposed project. MEPA jurisdiction therefore is limited to those aspects of the project within the subject matter of any required or potentially required state permits that have the potential to produce significant damage to the environment (rare species, wastewater and wetlands/stormwater management).

Review of the ENF

Wastewater

The ENF indicates that the project will require a Sewer Extension Permit (BRP WP 71). The project is anticipated to generate approximately 16,830 gallons per day (gpd) of wastewater. The ENF stipulates that each home will be equipped with individual grinder pumps and wastewater will discharge through greater than 3,000 feet of force main both within the development and along East River Street.

The Orange Wastewater Treatment Plant (WWTP) has exceeded its permitted average daily wastewater flow by approximately 70,000 gpd (0.07 million gallons per day). The permitted average daily wastewater flow for the WWTP is 1.10 million gallons per day and the current average daily flow is approximately 1.17 million gallons per day. The Town of Orange has met with MassDEP regarding this matter and the methods by which the WWTP can address them. It is anticipated that an Administrative Consent Agreement providing a long-term plan for the reduction of extraneous flow to the WWTP will be executed between the Town and MassDEP.

The proponent has also met with the Town of Orange to determine what it can do to reduce extraneous flow to the WWTP in order to allow the introduction of wastewater flows from the project to the Town's collection system. The proponent has proposed to replace 700 feet of aged sewer pipe from Prentis Street northward along East River Street. At the time of the permit review, it was unclear if the 700 feet of replacement pipe would result in adequate net reduction of inflow to facilitate disposal of the additional wastewater generated from the proposed project and the continuing infiltration of groundwater into adjacent sections of the existing East River Street sewer. The Town of Orange has reported to MassDEP that the

proponent has subsequently agreed to replace additional lengths of existing sewer main prior to constructing the 35th residence to provide adequate removal of infiltration from the system. The proponent has also agreed to collect data, by installing flow meters into the sewer main, and provide data to MassDEP and the Town of Orange in connection with the removal of inflow resulting from its work. This is to ensure that the sewer main replacement has reduced the amount of inflow equal to the wastewater flow to be introduced by the development. MassDEP will require the proponent to provide sufficient detail to definitively demonstrate the proposed sewer replacement has adequately reduced the volume of inflow.

The proponent should fully address MassDEP's comments regarding ownership of the new sewer main as part of the review of its Sewer Extension Permit application.

Wetlands, Riverfront Area and Stormwater Management

The project site appears to contain Bank (Inland), Bordering Vegetated Wetland, Land Under Water Bodies and Waterways, Bordering Land Subject to Flooding and Riverfront Area. The proponent has submitted a Notice of Intent (NOI) for the project to the Orange Conservation Commission. MassDEP issued its comments regarding the original NOI, stating that the project should receive careful review for compliance with all of the provisions of the Wetlands Protection Act. MassDEP notes that the proposed project plan submitted with the ENF is different than the plan submitted in the NOI. MassDEP received the revised plans and additional information relative to the changes presented in the ENF on August 13, 2007. The proponent must demonstrate that the project will meet the *General Performance Standards* (as defined at 310 CMR 10.04) for jurisdictional "Resource Areas" (as defined at 310 CMR 10.04) have been met. The project must also comply with the MassDEP's *Stormwater Management Policy*, Volumes One and Two (MassDEP March 1997).

The MEPA regulation considers Riverfront Area (RFA) to be "other wetlands". The ENF, NOI and amended documents do not state that work will occur in the RFA. However, the plans submitted in Appendix 1 of the ENF shows the emergency spillway from the Detention Pond within the RFA. The proponent should address MassDEP's comments on this matter as part of the review of the NOI.

Additionally, based on the information provided in the ENF, MassDEP states that it is not clear that that the project will meet MassDEP Stormwater Management requirements. The proponent should also address MassDEP's specific comments on this matter as part of the review of the NOI.

Drinking Water

The proponent reports in the ENF that the proposed project estimates a water supply demand of 16,830 gpd and an estimate of 0.61 miles of water main. The Orange Water Department (OWD) has an approved water withdrawal volume of 0.96 million gallons per day (MGD) and currently has an average daily demand of approximately 0.55 mgd. Therefore, the system appears to have adequate capacity to meet the project's proposed demand of 0.0168 mgd.

However, MassDEP advises the proponent request in writing, confirmation from the OWD, that they have adequate capacity and infrastructure to serve the proposed project.

The proponent should note MassDEP's comments regarding the closure of floor drains within the existing buildings on-site that are proposed to be demolished.

Construction Period

The plans indicate that an existing building and garage will be demolished. The construction and any demolition activity must conform to current Air Pollution Control Regulations. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions that may occur during the construction and demolition activities. Such measures must comply with the MassDEP's Bureau of Waste Prevention (BWP) Regulations 310 CMR 7.01, 7.09, and 7.10, including written notification to the MassDEP at least ten days prior to performing any construction or demolition work involving an industrial, commercial, or institutional building, or residential building with twenty or more units.

If any portion of the proposed project involves removal or abatement of regulated asbestos-containing material, an asbestos removal notification must be filed with MassDEP at least ten working days prior to initiating work. The handling and removal of asbestos must adhere to the requirements at 310 CMR 7.15.

All solid waste generated by this proposed project must be properly managed and disposed of pursuant to the Solid Waste Management Regulations at 310 CMR 16.00 and 19.000, including the regulations at 310 CMR 19.017 (waste ban). Additionally, the proponent is advised that regulated asbestos and asbestos-containing waste material are special wastes as defined in and must be managed in accordance with 310 CMR 19.061.

If asphalt, brick and concrete (ABC) will be crushed on-site and reused, the on-site crushing activity and reuse of these materials must comply with the exemption at 310 CMR 16.05(3)(e) including submission of a 30-day notification form to the MassDEP and the local Board of Health prior to the commencement of the crushing activity. Otherwise, the proponent must obtain a site assignment and facility permit for the crushing activity and a Beneficial Use Determination (BUD) for the reuse of the crushed material. The amended regulations at 310 CMR 19.060 would be applicable to reuse of any materials generated by this project that would otherwise be considered solid waste.

Because this project entails construction on a site that was previously a storage yard/gravel pit operation, soil contamination may be encountered. If so, excavation of contaminated soil should be performed as a Limited Removal Action (LRA), as specified in MassDEP's comments.

Conclusion

Based on the information provided by the proponent and consultation with relevant public agencies, I conclude that no further MEPA review is required. The review of the ENF has served adequately to disclose potential impacts and mitigation, and to demonstrate that project impacts do not warrant the preparation of an Environmental Impact Report. The proponent can resolve any remaining issues during the permitting processes.

September 7, 2007

Date



Ian A. Bowles

Comments received:

- 08/27/07 Rick Kwiatkowski, Town of Orange Administrator
- 09/05/07 Massachusetts Department of Environmental Protection Western Regional Office

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