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December 31, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : The Woods of Westminster Golf Course and Proposed Residential Subdivision (formerly Westminster Estates)
PROJECT MUNICIPALITY : Westminster
PROJECT WATERSHED : Nashua
EEA NUMBER : 14044
PROJECT PROPONENT : The Woods of Westminster Golf Course
DATE NOTICED IN MONITOR : November 24, 2008

As Secretary of Energy and Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (DEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 6I-62I) and with its implementing regulations (301 CMR 11.00). The proponent requested that the DEIR be reviewed as a Final EIR (FEIR). While the DEIR adequately addressed the majority of items outlined in the Scope on the Environmental Notification Form (ENF), I will require a limited scope FEIR to finalize the review process and answer outstanding issues. I am directing the Proponent to file the FEIR as a Response to Comments document.

Project Description

As described in the DEIR, the project includes the construction of a 125-lot cluster residential subdivision with an open space area that will encompass the existing Woods of Westminster golf course. The 303± acre project site is located on Bean Porridge Hill Road in Westminster, and contains four existing single family homes, a public golf course and vegetated open space and wetlands. Under the Preferred Alternative the project proposes to connect each lot to individual septic systems and water supply wells and create a comprehensive stormwater management system to control stormwater runoff generated by the collective project site. The proponent has indicated that additional water quality best management practices (BMPs) will be utilized to mitigate potential impacts associated with stormwater management. The project site is located adjacent to the habitat of the Creeper (*Strophitus undulatus*) which is a State-listed species of "Special Concern". The project site contains three professionally surveyed archaeological sites on record with the Massachusetts Historical Commission (MHC).

The Woods of Westminster Golf Course completed MEPA review in 1994 (EOEA No. 9990) and was subsequently constructed and presently operated as an 18-hole public golf course. The current project includes both the existing golf course and an additional residential cluster development. The project will be serviced by approximately 9,012 linear feet of roadway and will result in the new alteration of 79± acres of land and the creation of approximately 16.44 acres of new impervious area. The project will result in the disturbance of approximately 8.88 acres of the 63.63 acres of on-site wetland buffer zone area. No direct wetland alteration will occur in conjunction with the project's development.

Changes to Project Since Filing of the ENF

The project has changed since the issuance of the Scope on the Environmental Notification Form (ENF). Key design and layout changes include:

1. The number of proposed house lots has been reduced from 141 to 125;
2. The proposed lots will be serviced by individual septic systems instead of municipal sewer;
3. The proposed lots will be serviced by individual wells instead of by a public water supply well that would have been constructed by the Proponent; and
4. Fire protection will be provided through a combination of cisterns and fire ponds instead of hydrants served by the formerly proposed public water supply well.

Due to these changes, the project will no longer require an Approval to Site Source/Conduct Pumping Test (BRP WS 13), a Pumping Test Approval and Approval to Construct Source (BRP WS 14), or a Major Sewer Extension Permit (BRP WP 71) from the Massachusetts Department of Environmental Protection (MassDEP).

Jurisdiction

The project is undergoing review pursuant to Sections 11.03(1)(a)(1) and (2) because the project requires a state permit and will involve the direct alteration of 50 or more acres of land and creation of ten or more acres of impervious area. The project will require Approval of a Nitrogen Aggregation Loading Plan (BRP WP 58a) from MassDEP. The project will require a Construction General Permit (CGP) under the National Pollutant Discharge Elimination System (NPDES) program from the United States Environmental Protection Agency (U.S. EPA). The project has received an Order of Conditions from the Westminster Conservation Commission. Review in accordance with the Massachusetts Endangered Species Act (MESA) occurred concurrently with review by the Westminster Conservation Commission under the Massachusetts Wetlands Protection Act. The Natural Heritage and Endangered Species Program has reviewed the project and concluded that it will not require a Conservation and Management Permit, so long as conditions in prior filings with their office have been met. Project modifications may require an amendment to the Order of Conditions issued by the Westminster Conservation Commission. Finally, the project will require individual sewage disposal system and well permits from the Westminster Board of Health.

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state permits and may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction exists over land, stormwater, wetlands, and wastewater.

Review of the DEIR

The DEIR included a description of the project, as well as a discussion of material changes since the filing of the ENF. The DEIR contained a discussion of the project location, characterized on-site and adjacent land uses, and provided an outline of the anticipated construction phasing. The DEIR clarified the relationship of the existing golf course operation to the proposed subdivision and provided a brief summary of applicable development conditions associated with the MEPA filing for the golf course back in 1994 (EEA No. 9990). The DEIR contained a summary of anticipated Federal, State and local permits required for the project and the current permit status.

The DEIR presented a thorough alternatives analysis and included a comparison of potential environmental impacts for the following development scenarios:

- A No-Build Alternative;
- A 45-Lot As-of-Right Development Alternative;
- A 119-Lot Cluster Development Alternative (75 lots served by a shared septic system);
- A 141-Lot Cluster Development Alternative (serviced by municipal sewer); and
- A 125-Lot Cluster Development (Preferred Alternative with individual septic systems and water supply wells).

The DEIR also discussed the project's consistency with local land use plans and zoning, as well as consistency with regional planning documents.

The DEIR presented information on existing and proposed grades and outlined measures implemented to limit disturbance within the project area. Assumptions regarding land disturbance were described, including the reductions in land disturbance gained through the use of a cluster design layout. The Proponent has committed to maintaining as much existing vegetation as possible.

The Proponent originally proposed the connection of the project to the municipal sewer system. However, since the filing of the ENF, the Town of Westminster denied the Proponent's Sewer Extension permit because the project is located outside the limits identified as a "need area" for municipal wastewater treatment in the Town's draft Comprehensive Wastewater Management Plan (CWMP). Additionally, due to the language in the Westminster Board of Health Rules and Regulations, shared septic systems serving two or more lots are not allowed, preventing the Proponent from pursuing this alternative. Therefore, the DEIR presented a Preferred Alternative that includes individual septic systems for each building lot, to be approved in accordance with Title 5 (310 CMR 15.000) with permit approval from the local Board of Health.

The 121 new houses will generate approximately 53,240 gallons per day (GPD) of wastewater (four bedrooms at 110 gallons per bedroom). An additional 1,650 GPD will be generated by the four existing homes, as well as 132 GPD from the golf clubhouse. The DEIR notes that soil testing has already been conducted for the first two construction phases of the development (the project is planned in seven stages over a ten year period). The cluster design of the project results in building lots ranging from 10,000 sf to 113,464 sf, with the majority of lots under 40,000 sf. Due to the proposed lot sizes, the project will be required to obtain Approval of a Nitrogen Loading Plan from MassDEP, as new construction with both on-site septic systems and water supply wells must be located on lots no less than 40,000 sf in size. The DEIR included a discussion of how the project can meet the applicable standards associated with an aggregation plan.

Since municipal water is not available to the site, the Proponent originally proposed the construction of a public water supply well to service the homes and provide fire protection. The DEIR presented a preferred alternative that includes the construction of individual water supply wells and fire ponds and cisterns, due to the large up-front costs of constructing the well system. The DEIR provided a discussion of potential water demand for both the proposed and existing homes and the golf clubhouse, totaling approximately 55,022 GPD. The existing public water supply system (#2332006) associated with the golf course withdrew a total of 23,776 gallons in 2005, according to the 2005 Public Water System Annual Statistical Report. Irrigation for the golf course consists of collection of surface water in ponds throughout the course, with an estimated use of approximately 50,000 GPD during peak water usage. I encourage the Proponent to adopt reasonable water conservation measures for the residences in effort to reduce the overall water demand for the project.

The DEIR indicates that the project site contains Bordering Vegetated Wetlands (BVW), Bordering Land Subject to Flooding and Riverfront Area. The DEIR included plans that allowed for a more thorough review of the location of wetland resource areas and their potential impact by the proposed development. The layout of the roadway has been designed to avoid any alteration to wetland resource areas. The project will require work within the 100-foot wetland buffer zone to BVW. Approximately 8.8 acres of the 63.63 acres of on-site buffer zone will be altered, mostly associated with the construction of the stormwater management basins throughout the project area. Additionally, approximately 0.71 acres of the 18.38 acre of riparian zone will be altered due to the construction of Stormwater Basin "J". This area of impact is limited to the 200-foot outer riparian zone. The DEIR included an Operation and Maintenance Plan and a Stormwater Pollution Prevention Plan detailing measures to limit erosion and sedimentation as well as ongoing maintenance measures associated with the stormwater management system.

The DEIR included stormwater management calculations along with a discussion of how the project will meet applicable MassDEP Stormwater Management standards. It should be noted that the project received its Order of Conditions from the Westminster Conservation Commission on August 14, 2007 and therefore is not required to meet the new MassDEP Stormwater Management Regulations, effective on January 2, 2008. Stormwater impacts will be minimized through the combination of deep sump/hooded catch basins, water quality inlets prior to stormwater basins "I" and "J", forebays and ten (10) stormwater basins located throughout the project area. The DEIR discusses the consideration of low-impact design (LID) techniques, however, it appears that a more traditional stormwater management design has been proposed on-site. I encourage the Proponent to continue to investigate ways to incorporate LID techniques, if feasible.

The DEIR acknowledges that the Natural Heritage and Endangered Species Program (NHESP) has identified the project site as being located adjacent to the actual habitat of the Creeper (*Strophitus undulatus*), a freshwater mussel which is a State-listed species of Special Concern. The Proponent submitted a formal MESA project review in June 2007 and the NHESP requested additional information. The NHESP comment letter on the DEIR stated that the DEIR included the information requested by the NHESP and therefore completes the MESA filing. The NHESP has subsequently concluded that based on the information submitted the project will not result in a "take" provided the conditions included in the NHESP response letter to the project Notice of Intent (dated May 15, 2007) are implemented and adhered to by the Proponent.

The DEIR included a 1997 Draft Reconnaissance Archaeological Survey Report completed on the project site. The report identifies three separate archaeological sites which have been placed on the Massachusetts Historical Commission (MHC) Inventory, including the Page (Robinson) Site (WST.HA.11), the S. Towne Site (WST.HA.12) and the S. Hale Site (WST.HA.13). The MHC has indicated that the Page (Robinson) Site and the S. Towne Site are within the area of potential effect from the project. To mitigate potential impact to these historic resources, the DEIR has noted that a reduction of lots has been provided and protective easements have been proposed around the Page (Robinson) site and the S. Towne site.

The DEIR discussed potential construction period impacts and described preconstruction and construction period activities that are proposed on-site. The DEIR outlined erosion and

sedimentation control measures to be used during the construction period. The DEIR acknowledges that the project will obtain coverage under the NPDES CGP from the U.S. EPA and will prepare an associated Stormwater Pollution Prevention Plan. Finally, the DEIR included a response to the comments received on the ENF.

Comment letters received on the DEIR identified several outstanding issues that require clarification prior to the completion of the MEPA process. The proponent may prepare the FEIR as a Response to Comments document. The next edition of the Environmental Monitor, published on January 7, 2009 will include a notice that the Response to Comments document will be filed, circulated and reviewed as an FEIR.

The FEIR should contain a copy of this Certificate and a copy of each comment received. Each comment letter should be reprinted in the FEIR and the FEIR should respond to each of the comments including in particular the comments referenced below.

Issues for the Final EIR

The following are some of the key comments on the DEIR that will need to be addressed in the FEIR, along with remaining minor comments as noted in the individual comment letters:

- According to MassDEP, the DEIR stormwater calculations indicated that the project meets the required volume of groundwater recharge via infiltration from the proposed extended dry detention basins. The Massachusetts Stormwater Handbook indicates that extended dry detention basins provide no groundwater recharge. The FEIR should identify how the proposed project will meet Standard #3 of the Massachusetts Stormwater Management Policy without using groundwater recharge from the extended dry basins as proposed in the DEIR.
- The FEIR should address the potential impact of nitrogen based fertilizers used for golf course maintenance on the project's ability to meet the Nitrogen Credit Land requirements in accordance with 310 CMR 15.216(2).
- The FEIR should clarify that the conditions outlined by the NHESP in their May 15, 2007 comment letter on the Notice of Intent have been incorporated into the design plans and construction protocols.
- The FEIR should clarify the names of the three archaeological sites and confirm that they coincide with the records of MHC. Updated graphics may be included to assist in this task. The FEIR should also provide additional information on the proposed protective easements and long-term protection measures for these sensitive sites to ensure consistency with the existing 1998 Memorandum of Agreement prepared in association with the golf course development.

Circulation

The FEIR should be circulated in compliance with Section 11.16 of the MEPA regulations. Copies should be sent to any state agencies from which the proponent will seek

permits or approvals, to the list of “comments received” below, Westminster officials and to the Westminster public library.

December 31, 2008
Date


Ian A. Bowles

Comments received:

- 10/22/2008 Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program
- 10/17/2008 Massachusetts Historical Commission
- 11/26/2008 Town of Westminster Conservation Commission
- 12/01/2008 Massachusetts Historical Commission (2nd letter)
- 12/15/2008 Massachusetts Department of Environmental Protection – CERO
- 12/23/2008 Montachusett Regional Planning Commission
- 12/29/2008 Donna Brownell – W.E.S.T

1AB/HSJ/hsj