

SECTION 61 FINDINGS

Department of Conservation and Recreation

FINDINGS PURSUANT TO M.G.L. CHAPTER 30, SECTION 61

Project Name: Fall River Executive Park
 Project Location: Fall River and Freetown, Massachusetts
 Project Proponent: Fall River Redevelopment Authority
 EEA Number: 12902A
 Agency Action: Article 97 Land Transfer

PROJECT DESCRIPTION

This project concerns the proposed development of the Fall River Executive Park (FREP) to be built on land that is currently part of the Freetown-Fall River State Forest (State Forest). The conceptual plan for the FREP includes development of up to three million square feet of office space and associated infrastructure. The total area of land required for construction of the FREP, as currently planned, is estimated at 198.6 acres, with 121.4 acres of impervious surface.

The project requires the Department of Conservation and Recreation (DCR) to dispose of 300 acres of state forest land (the "DCR Parcel"). 293 acres of the DCR Parcel are allocated for the FREP. The remaining 7 acres are allocated for the proposed Route 24 highway interchange to be built by MassHighway. These Findings relate to the 293 acre portion of the DCR Parcel allocated to the FREP.

Disposition of the DCR Parcel was authorized by St. 2002 Chapter 266 (the "Act"). DCR agreed to the disposition under the terms of a June 29, 2000, Memorandum of Understanding (MOU) executed by the Executive Office of Energy and Environmental Affairs (EEA), DCR, the Fall River Redevelopment Authority (FRRA), the Department of Fish and Game (DFG), and The Trustees of Reservations (TTOR). The MOU was developed to create the 14,000 acre Southeastern Massachusetts Bioserve, in which each of the signatories would cooperatively manage its land in accordance with a joint Management Plan. Under the terms of the MOU:

1. DCR and DFG agreed to acquire (and have acquired) approximately 3600 acres of private property surrounding Fall River watershed land for a purchase price of \$12.1M.
2. The City of Fall River agreed to convey a Conservation Restriction to DCR and DFG on approximately 4300 acres of its water supply land, and would allow compatible public uses.
3. FRRA agreed to pay \$2.45M for the DCR Parcel.
4. FRRA agreed to convey a Conservation Restriction on a portion of the DCR Parcel to buffer the State Forest from the FREP, and to protect the watershed of Rattlesnake Brook, an important and pristine cold-water fish habitat.

The Act requires Items 2 and 3 as part consideration for the DCR Parcel; the Act also requires a buffer area without specifying that a Conservation Restriction is to be imposed.

Given that this development project involves the disposition of a significant amount of state forest land, and the remaining State Forest will be a direct abutter to the FREP, DCR seeks to ensure that all feasible measures will be taken to avoid or minimize adverse impacts to the environment within and adjacent to the DCR Parcel.

MEPA HISTORY

Pursuant to M.G.L. c. 30, §61 - §62A-H, of the Massachusetts Environmental Policy Act (MEPA) and its implementing regulations at 301 CMR 11.00, the Proponent prepared and submitted an Environmental Notification Form (ENF) to the MEPA office on October 31, 2002. The ENF was published in the November 9, 2002, edition of the Environmental Monitor. On December 16, 2002, the Secretary issued a Certificate on the ENF requiring that an EIR be prepared for the project. A complementary Certificate was issued the same day allowing a Special Review Procedure for the project, as requested by the FRRA. The FRRA made the request so that disposition of the DCR Parcel could occur prior to preparation of an FEIR. DCR supported this request provided that:

- 1) the Conservation Restriction to be transferred to DCR and DFG, in partial compensation for the DCR Parcel, would provide for adequate public access and recreational benefits consistent with water supply protection and meet the requirements of the EEA Land Disposition Policy,
- 2) site planning and adequate mitigation would be undertaken to protect the State Forest after the disposition occurred.

Ultimately, a Supplemental Final EIR was submitted to MEPA on July 15, 2008, and the Secretary issued a final Certificate on August 29, 2008. DCR reviewed and commented at all stages of the MEPA process.

PROJECT IMPACTS

The proposed disposition of state forest land is one of the largest in the history of this Department, and, as the legislatively prescribed steward of the Commonwealth's forests, parks, and reservations, DCR must ensure that this project is implemented with the best possible assurances for resource protection. This approach is consistent with the MOU, DCR's earlier comments on the EIR, comments on the EIR submitted by other parties, and the requirements of the Secretary as presented in the issued Certificates.

In general, the natural, cultural and recreational resources that currently exist within the DCR parcel will no longer be available to the public as part of Freetown-Fall River State Forest. DCR is particularly concerned about impacts to Rattlesnake Brook and its watershed, as a significant portion of the DCR Parcel is located within this watershed area.

PROJECT MITIGATION

Because this project is proposed for development on public open space, FRRA has committed to a high level of sustainable design. The FRRA and DCR are cognizant that resources in the adjacent state forest must be protected. Accordingly, DCR has identified the following quantifiable and enforceable commitments to be carried out by FRRA or its successors and assigns to ensure that all proposed mitigation strategies will be implemented as the project proceeds.

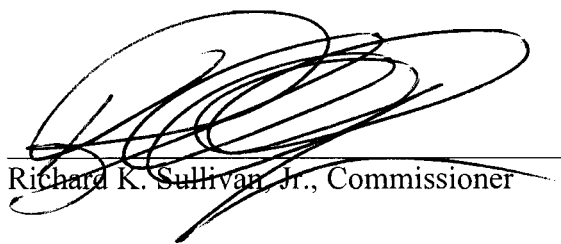
Mitigation Strategies for the FREP and Abutting State Forest

- At the time of the disposition of the DCR Parcel, the City of Fall River will convey to DCR and DFG a Conservation Restriction (CR) on approximately 4300 acres of City water supply land that provides for public access and compatible recreational uses.
- Immediately after conveyance of the DCR Parcel, FRRA will convey a restriction to The Trustees of Reservations (TTOR) on a 52+/- acre buffer area located at the southeasterly portion of the DCR Parcel. FRRA will also assist TTOR's efforts to convert the restriction to a perpetual conservation restriction.
- To facilitate monitoring and enforcement of the buffer area restriction and to limit inappropriate uses or activities within the buffer area, the FRRA will post signs every 150 feet along the circumference of the buffer area and install monuments at angle points on the buffer area boundary. The signs and monuments will be in place prior to the start of any construction activities within one hundred (100) feet of the buffer area.
- To productively use the forest products on the DCR Parcel prior to land clearing and construction, FRRA will allow DCR to administer timber harvesting activities on the DCR Parcel for a period not to exceed one year from the date FRRA notifies DCR that the land is ready for clearing. The harvesting activities may be conducted by DCR or by licensed harvesters under contract with DCR.
- In consultation with DCR and TTOR and prior to the issuance of any occupancy permit for buildings to be constructed on the DCR Parcel, FRRA will provide support in materials or labor, or both, to relocate the long distance Wampanoag Heritage Trail from within the DCR Parcel, provided the total cost to FRRA for this purpose does not exceed \$5,000.00.
- In consultation with DCR, FRRA will provide access for emergency and park management vehicles at the northeastern corner of the DCR Parcel, and, prior to the issuance of any occupancy permit for buildings constructed on the northeast corner of the DCR Parcel, FRRA will provide a fire hydrant or similar water system access point at this northeast corner to support brush fire suppression activities.
- In consultation and cooperation with DCR, FRRA will develop and implement a strategy to be implemented jointly with DCR to reduce illegal access from the DCR Parcel to the 'Ledge' area, so-called, located in the abutting State Forest.
- To preserve the night sky and mitigate the impacts of ambient light, FRRA will install and maintain hooded exterior light fixtures that direct light to the ground.

- During the permitting phase of the project, FRRA will make good faith and reasonable efforts to develop and implement low impact development measures to mitigate impacts on Rattlesnake Brook and its watershed, as well as wetland resource areas within the State Forest, by designing the FREP to cluster buildings and reduce impervious surfaces.
- In accordance with best management practices and as a component of any Notice of Intent filed by or on behalf of FRRA relating to storm water management, FRRA will identify and implement protocols to limit migration of invasive plant species from the DCR Parcel to the abutting State Forest, and limit introduction of pesticides, herbicides and nitrogen to the Rattlesnake Brook watershed.
- FRRA will implement storm water operation and management protocols during construction and post construction that will remove ninety percent (90%) total suspended solids in order to mitigate impacts on Rattlesnake Brook and its watershed, as well as wetland resource areas within the State Forest.
- FRRA will include covenants that run with the land in any deed, lease, easement, license or other permit or approval for development or construction on the DCR Parcel that require the assignee to meet the requirements for Leadership in Energy and Environmental Design (LEED) Certification for any building in the FREP.

FINDINGS

DCR finds that the foregoing describes environmental impacts associated with disposition of 300 acres of the Freetown-Fall River State Forest for development of the FREP and that, with the implementation of the mitigation measures described above, to be embodied in restrictive covenants that will be recorded with the deed to FRRA and will apply to all subsequent owners or lessees of the DCR Parcel, all feasible means will have been taken to avoid or minimize adverse environmental impacts subject to DCR's authority.


Richard K. Sullivan, Jr., Commissioner

3/4/09
Date