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January 12, 2007

DRAFT RECORD OF DECISION

PROJECT NAME: Avalon Sharon
PROJECT MUNICIPALITY: Sharon
PROJECT WATERSHED: Boston Harbor
EOEA NUMBER: 13835
PROJECT PROPONENT: AvalonBay Communities, Inc.
DATE NOTICED IN MONITOR: December 6, 2006

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) submitted on this project and hereby propose to grant a waiver from the categorical requirement to prepare an Environmental Impact Report (EIR). In a separate Certificate also issued today, I have set forth the outstanding issues related to the project that can be addressed by permitting agencies.

Project Description

The project as previously reviewed in the Environmental Notification Form (ENF) submitted to MEPA in July 2006 proposes the development of a mixed-income residential apartment community on a 28-acre site located along Norwood Street in Sharon. The development will consist of 156 apartment homes comprised of 64 one-bedroom and 92 two-bedroom units. A single family home and a number of agricultural related buildings currently occupy the site which was previously used as an active farm. The proposed development is being co-sponsored by AvalonBay Communities, Inc. and the Town of Sharon through the Local Initiative Program (LIP) pursuant to MGL Ch 40B. The project will be served by municipal water from the Town of Sharon. Wastewater will be directed to the Massachusetts Water Resources Authority (MWRA) sewer system in the Town of Norwood; this proposed arrangement triggers review by the Department of Conservation and Recreation's (DCR) Water Resources Commission (WRC) under the Interbasin Transfer Act (ITA).

The Town of Sharon's water supply sources are located in both the Taunton River basin and the Neponset River subbasin of the Boston Harbor basin. Following extensive geotechnical site investigations and due to the fact that there are considerable wetland areas on the site with shallow ground water levels, the proponent concluded that onsite disposal does not represent the best alternative for wastewater disposal. A report detailing these conclusions has been submitted with the NPC and with the application to the WRC for the Interbasin Transfer Permit.

Project Change Description

The only change to the project as described in the ENF involves the need for the proponent to secure an Interbasin Transfer Permit from the WRC pursuant to 313 CMR 4.00. In the Certificate on the ENF issued for the project on August 9, 2006 the Secretary of Environmental Affairs determined that the project did not require further MEPA review and allowed the project to proceed to permitting. At the time of the ENF submission, the proponent had not yet filed a Request of Determination of Insignificance (RDI) with the WRC. The Certificate required the proponent to file a NPC with MEPA if the WRC determined that the interbasin transfer is significant. Since the issuance of the Certificate on the ENF, WRC staff determined that the project would not fully comply with the criteria for insignificance and therefore a full Interbasin Transfer Permit is required.

There are no material changes to the project proposed in the NPC. The anticipated water demand and wastewater generation figures have actually decreased since the filing of the ENF, based on the proponent's past experience in residential communities. The ENF stated that the project would require 27,280 gallons per day (gpd) of water and generate 27,280 gpd of wastewater; these figures were based on Title 5 design flows of 110 gpd per bedroom. In the NPC, the proponent estimates that the project will require 16,120 gpd of water and generate 16,120 gpd of wastewater, based on a usage of 65 gpd per bedroom. The interbasin transfer request and MWRA connection will be to allow the transfer of 16,120 gpd.

Jurisdiction

The project as outlined in the ENF was subject to environmental review pursuant to Section 11.03(5)(b)(3)(c) and Section 11.03(6)(b)(14) of the MEPA regulations because it requires state permits and proposes the construction of more than ½ a mile of new sewer main not located in the existing right of way and because the project is anticipated to generate more than 1,000 new average daily vehicle trips (adt) and require the construction of more than 150 new parking spaces at a single location.

The project requires a National Pollutant Discharge Elimination System (NPDES) Construction General Permit; an Access Permit from the Massachusetts Highway Department (MHD); a Sewer Connection Permit from the Department of Environmental Protection (MassDEP); a Sewer Connection Permit from the MWRA; a review of MWRA legislation by the Massachusetts General Court; a Comprehensive Permit from the Sharon Zoning Board of Appeals; LIP Endorsement from the Sharon Board of Selectmen; an Order of Conditions from the Sharon Conservation Commission; and a Sewer Connection Permit from the Town of Norwood.

The project as proposed in the NPC meets a MEPA review threshold for the preparation of a Mandatory EIR at 301 CMR 11.03(4)(a)(2) for an interbasin transfer of water that has been determined to be significant by the WRC. Whereas it was previously thought that the project would qualify for a Determination of Insignificance from the WRC, the project now requires full review under the ITA. Aside from the Interbasin Transfer Permit, there are no new permits or approvals required for the project.

Waiver Request

The proposed project change triggers only the “wastewater” EIR threshold and proposes to transfer a relatively small amount of wastewater between basins. This transfer will be evaluated in depth by the WRC during the permitting process, which involves extensive public participation pursuant to 313 CMR 4.00 including publication of the permit application in the Environmental Monitor and separate public hearings in the donor and recipient communities. The proponent has therefore submitted an Expanded NPC with a request for a Waiver from the preparation to prepare the mandatory EIR.

Criteria for Waiver

Section 11.11 of the MEPA Regulations provides that a waiver may be granted upon a finding that strict compliance with the regulations will result in undue hardship and will not serve to minimize or avoid damage to the environment. In the case of categorically included projects, this finding shall be based on one or more of the following circumstances: 1) the project is likely to cause no damage to the environment; and 2) ample and unconstrained infrastructure exists to support the project. The terms agreed to as a condition of the waiver will bring about benefits in excess of those that could be achieved in the absence of a waiver.

Findings

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

1. The proposed project is likely to cause no Damage to the Environment. In areas where the project may cause environmental impacts, the proponent has proposed and committed to, sufficient mitigation.
 - Although the WRC has determined that the proposed interbasin transfer is significant according to the criteria at 313 CMR 4.00, the NPC contained sufficient information on the project to demonstrate that impacts to the sewer system will be minimal and mitigated. Concurrent with the NPC, the proponent has filed an application with the WRC for an Interbasin Transfer. A copy of the application and all supporting documentation was submitted with the NPC. According to the WRC, the ITA application closely follows the scope provided by the WRC for this type of transfer. The WRC has provided a list of additional required information that should be submitted directly to the WRC and appropriate reviewers as specified by WRC in its comments.

- The project will transfer only a relatively small amount of wastewater between basins and any impacts will be mitigated by the project's stormwater recharge system, sewer inflow reduction program, and water conservation measures. The transfer has been and will continue to be evaluated by the WRC during the permitting process, which involves extensive public participation. The MWRA has stated in their comments on the NPC that the project's flow would not result in any additional adverse conditions to the MWRA system. The removal of sources of inflow from the system will help to reduce adverse flow conditions.
- Water use at the project will be limited by low-flow toilets and washing machines, installation of on-site irrigation wells, and other water conservation measures. Residents will be encouraged to conserve water through a sub-metering program and education. In addition, AvalonBay will use native, drought-tolerant species in landscaped areas to reduce the need for irrigation. An on-site irrigation well will be installed to reduce the need for municipal water.
- Development at the site will be limited to existing disturbed and previously farmed areas. Grading and vegetation removal will be very limited. Total impervious coverage is approximately 4 acres which is only approximately 14% of the entire site. Approximately 24 acres of land at the site will be preserved as open space.
- The project will have no impact on jurisdictional wetlands. The proponent has submitted a Notice of Intent (NOI) to the Sharon Conservation Commission for work in the buffer zone. The Commission closed the NOI hearing on January 4, 2007 and is expected to issue an Order of Conditions for the project shortly.
- The project will include an extensive stormwater management system that will comply with MassDEP Stormwater Management Policy guidelines. The system will include on-site recharge of clean roof runoff to ensure that pre-existing levels of recharge to the ground are maintained. The system will feature on-site detention areas, an on-site recharge system, catch basins with deep sumps and oil separating elbows, and an operations and maintenance program.

The project will not generate significant traffic and is located adjacent to Interstate 95. The proponent provided a full Traffic Impact and Access Study with the ENF. In their comments on the ENF, the Executive Office of Transportation (EOT) stated that the traffic impacts associated with the project would be minimal. EOT did not submit comments on the NPC.

- No portion of the site is listed in the State Register of Historic Places or the Inventory of Historic and Archaeological Assets of the Commonwealth.
- No rare species protected pursuant to the Massachusetts Endangered Species Act (MGL c. 131A) are located on the project site.

2. Ample and unconstrained facilities and services exist to support the project.
- The project will be served by an extensive utility infrastructure. As stated in the Sewer Agreement between AvalonBay and the Town of Norwood, a private forced sewer line will be constructed in Edge Hill Road and Tiott Street to connect the existing sewer main at the Norwood Town line. No additional connection will be made to this proposed main.
 - The Norwood sewer system has sufficient capacity to handle all flows from the project. Furthermore, the proponent has committed to funding a sewer inflow reduction program that will remove inflow from the Norwood sewer system at a rate of 4 to 1. Only inflow sources will be removed to meet this obligation per MWRA guidelines. According to the NPC, the inflow reduction will keep approximately 64,000 gpd in the Boston Harbor Basin.
 - The proponent will provide onsite wastewater storage during peak-flow periods when the MWRA trunk line becomes surcharged causing the sewer lines connecting to the trunk line to back up. A 35,000 gpd holding tank with aeration and a downstream monitor will be constructed onsite to restrict discharges to the Norwood and MWRA system during specified times.

Under a Memorandum of Agreement (MOA) between AvalonBay and the Town of Sharon, the proponent will pay \$400,000 to the Town for water infrastructure improvements.

- The project does not require any new roadway infrastructure. The proponent has agreed to contribute to a traffic mitigation fund that will be used for the construction cost of a traffic signal currently being constructed at the intersection of Edge Hill Road and Norwood Street and High Plain Avenue and/or sidewalk construction on Edge Hill Road. The proponent has also committed to adopting a Travel Demand Management plan.

Conclusion

Based on these findings, it is my judgment that the waiver request has merit and meets the tests established at 301 CMR 11.11. Therefore, I propose to grant the waiver requested for the Avalon Sharon project, subject to the above findings. The proponent should continue to work closely with the WRC to resolve outstanding information requests and should respond to comments raised during the review of this NPC in the ITA permitting process. This Draft Record of Decision (DROD) 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.

January 12, 2007

Date

Ian A. Bowles

Comments received:

12/13/2006 Massachusetts Division of Fisheries and Wildlife
12/19/2006 Massachusetts Division of Marine Fisheries
12/21/2006 David N. Kelly, Kelly Engineering Group, Inc. for the Proponent
12/21/2006 Town of Sharon, Board of Selectmen
12/22/2006 Commonwealth of Massachusetts Riverways Program
12/22/2006 Commonwealth of Massachusetts Water Resources Commission
12/26/2006 Massachusetts Water Resources Authority
12/26/2006 Paul C. Lauenstein
12/29/2006 Water Supply Citizens Advisory Committee
1/2/2007 Department of Environmental Protection, Southeast Regional Office
1/2/2007 David N. Kelly, Kelly Engineering Group, Inc. for the Proponent

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