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January 16, 2009

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

PROJECT NAME : Stony Brook Estates
PROJECT MUNICIPALITY : Holden
PROJECT WATERSHED : Wachusett Reservoir/Nashua River
EOEA NUMBER : 13874
PROJECT PROPONENT : Blair Enterprises, Inc.
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 (M.G.L. c. 30, ss. 61-62I) and with its implementing regulations (301 CMR 11.00). The proponent should prepare a Final Environmental Impact Report (FEIR) as further detailed in the scope below.

Project Description

The proposed project consists of construction of a 78-unit single-family home subdivision with associated roadways and other infrastructure. The 66-acre project site is an undeveloped wooded site containing steep slopes and critical wetland resources. It is located within the drainage area to the Wachusett Reservoir, which is a Class A Public Water Supply

The project will result in alteration of approximately 47.2 acres of land and creation of 9.3 acres of new impervious area. The proposed project will include approximately 16.2 acres of open space consisting of wooded areas. Since the filing of the Environmental Notification Form (ENF), the proponent has eliminated a proposed stream crossing, thereby avoiding impacts to 2,958 square feet (sf) of Bordering Vegetated Wetlands (BVW) and filling of an Outstanding Water Resource Water (ORW) wetland area.

The project involves construction of approximately 1.2 miles of new water mains, 1.8 miles of new sewer mains and a pump station, and 1.2 miles of new roadways. The DEIR proposes a conventional stormwater management system consisting of catch basins with sump pumps that will discharge via a series of manholes and drain pipes to three detention basins. Stormceptor units will be installed to treat water prior to discharge to the detention basins.

MEPA History

The Secretary's Certificate on the ENF for the project, issued November 9, 2006, required an Environmental Impact Report (EIR). Although the project did not exceed mandatory EIR thresholds, an EIR was required because of the potential for significant environmental impacts associated with the project and the need for more information on baseline conditions, alternatives and proposed measures to avoid, minimize or mitigate impacts. The proponent subsequently filed a Notice of Project Change (NPC) that proposed elimination of the wetlands crossing to avoid filling of an ORW, and relocation of a sewer force main discharge point, which avoided the need for a second pumping station. The Certificate on the NPC, dated August 8, 2008, required that the proponent submit a draft EIR to address other aspects of the Scope in accordance with the ENF Certificate. The NPC Certificate also amended the Scope by deleting certain items that were no longer applicable due to the elimination of the wetlands crossing.

Jurisdiction and Permitting

The project is undergoing environmental review pursuant to Section 11.03(1)(b)(1) and (2) of the MEPA regulations because it will result in alteration of twenty-five or more acres of land and creation of five or more acres of new impervious area. The project is also under review pursuant to Section 11.03(4)(b)(6) because it requires a Variance from the Watershed Protection Act and Section 11.03(5)(b)(3)(c) because it involves construction of one-half or more miles of new sewer mains.

The project requires a Variance from the Watershed Protection Act from the Massachusetts Department of Conservation and Recreation (DCR). The project requires a Sewer Extension Permit and a Water Supply Distribution System Modification Permit from the Massachusetts Department of Environmental Protection (MassDEP). I note that a 401 Water Quality Certificate is no longer needed from MassDEP since the project has been modified to avoid filling the ORW wetland area. An Order of Conditions for the project was issued by the Holden Conservation Commission in February 2008. As noted in the MassDEP comment letter, the Order is final and no action is required by MassDEP under the Wetlands Protection Act. The project requires coverage under the U.S. Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Construction Activities. The Stormwater Pollution Prevention Plan (SWPPP) required under the NPDES permit must be reviewed and approved by MassDEP.

The proponent is not seeking financial assistance from an agency of 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, water supply, water quality, and stormwater.

Review of the DEIR

Alternatives and Sustainable Design

The Scope required that the DEIR include an evaluation of alternative site configuration and project sizes, including designs that will minimize tree clearing and other land alteration, and potential impacts to ORW. The Scope required that the DEIR include a Low Impact Development (LID) alternative and consider a clustered development layout that minimizes fragmentation and land alteration. The DEIR does not include the required alternatives analysis and indicates that alternatives are not feasible because the zoning requirements were "frozen" by the submittal of a definitive plan in May 2000, prior to a Town Meeting vote, which amended bylaws relating to lot size and frontage requirements. Based on consultation with the Town of Holden Planning Department, it appears that the project has obtained subdivision approval and has been "grandfathered" to allow 20,000 square foot (sf) lots. It appears that the proponent does not have the option to do a clustered development with reduced lot sizes or multi-family units under its current subdivision approval. However, alternative site configurations designed to minimize impacts are still feasible under the current approval and the proponent will be required to present site design alternatives in the FEIR as indicated in further detail below.

Wastewater

The DEIR indicates that MassDEP has approved the revised design plans submitted for the sewer extension permit application. However, in its comment letter, MassDEP states that it issued a second deficiency notice for the application. Additional information on wastewater is required in the FEIR as further detailed below.

Water Supply

According to the DEIR, the project will require approximately 34,320 gallons per day (gpd) of water, and has been reviewed and approved by the Town of Holden Department of Public Works. I refer the proponent to MassDEP's comment letter for additional guidance on hydraulic capacity and permit requirements.

Stormwater and Drainage

The DEIR includes a drainage analysis and a description of the proposed stormwater management system, which consists of conventional catch basins with sump pumps that will discharge via a series of manholes and drain pipes to three detention basins. Stormceptor units will be installed to treat water prior to discharge to the detention basins. The DEIR includes a draft Stormwater Pollution Prevention Plan (SWPPP), construction phasing plan, and erosion and sedimentation control plan.

SCOPE

General

The proponent should prepare a Final EIR (FEIR) in accordance with the general guidance for outline and content found in Section 11.07 of the MEPA regulations as modified by this Scope. A Project Summary in clear non-technical language should be included in the FEIR. This section of the document should summarize the project, alternatives analyzed, the type and extent of potential impacts, and mitigation measures that the proponent is committed to. It should also include a list of permits required and a timetable for the project. The FEIR should provide an update on any changes in the project since the filing of the DEIR.

Alternatives and Sustainable Design

The purpose of the alternatives analysis in an EIR is to identify opportunities to avoid and minimize environmental impacts and demonstrate that the proponent has taken all feasible means to avoid and minimize impacts. The proponent has not demonstrated this in the Draft EIR. The FEIR should include a project alternative based on a comprehensive evaluation of LID approaches to site design and stormwater management. The proponent should consider LID alternatives to reduce impervious area, such as shared driveways, permeable pavers, and bioretention systems. I encourage the proponent to explore the Smart Growth/Smart Energy toolkit available online at http://www.mass.gov/envir/smart_growth_toolkit/. If alternative LID features are not proposed, the FEIR should provide a rationale to explain why they are infeasible. I refer the proponent to the Certificate on the Environmental Notification Form (ENF) for additional guidance on LID.

The DEIR indicates that approximately 16 acres of land will remain as wooded open space. It is not clear if this area will be cleared and revegetated or if will be left undisturbed during construction. The FEIR should clarify the amount and location of areas to remain undisturbed and describe how the open space areas will be permanently protected.

Stormwater and Drainage

The DEIR includes a draft Stormwater Pollution Prevention Plan (SWPPP). While the draft SWPPP complies with some of the EPA NPDES Permit requirements, it is not sufficient to obtain MassDEP approval. The Final EIR should include a revised draft SWPPP that address MassDEP comments on the DEIR. The DEIR should also include additional information on erosion control and stormwater management to address the issues raised in the MassDEP and DCR comment letters.

The Draft EIR indicates that the proponent plans to work with homeowners to develop water quality practices on each lot. The FEIR should include specific information describing how this will be accomplished by the proponent and what type of water quality practices will be implemented. The Final EIR should include a more detailed phasing plan that clearly describes the proposed construction phasing on lots as well as roadways. I encourage the proponent to

consult with MassDEP and DCR prior to submission of the FEIR to discuss information needed for their review.

Wastewater

The plans submitted to MassDEP for the sewer extension permit propose 400 gallons per minute (gpm) pumps and an 8-inch force main. It is not clear whether the proposed pump station may expect flows beyond the proposed project (average design flow 23 gpm). The FEIR should address this issue and provide additional information on the amount and source of any additional flows that may be directed to the pump station. The FEIR should expand the sewer capacity analysis to include the Rutland/Holden Relief Sewer as recommended by MassDEP.

The DEIR indicates that, in accordance with MassDEP policy, no sewer mains are proposed within 100 feet of a surface water or tributary. However, MassDEP's comment letter notes that the proposed sewer main does cross within 100 feet of a surface water or tributary on Reservoir Street. The FEIR should identify sewer mains on site plans and describe how the proposed mains will be consistent with MassDEP policy.

Mitigation and Section 61 Findings

The FEIR should include revised draft Section 61 Findings to reflect any changes since the filing of the DEIR and any additional mitigation required for MassDEP and DCR permitting.

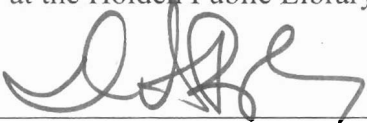
Response to Comments

In order to ensure that the issues raised by commenters are addressed, the FEIR should include a response to comments to the extent they are within MEPA jurisdiction. This directive is not intended to, and shall not be construed to, enlarge the scope of the FEIR beyond what has been expressly identified in this certificate. The FEIR should also include a copy of this Certificate and a copy of each comment letter received on the DEIR.

Circulation

The FEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to the list of "comments received" below. A copy of the FEIR should be made available for public review at the Holden Public Library.

January 16, 2009
DATE



Ian A. Bowles, Secretary

Comments Received:

- 12/15/08 Department of Environmental Protection, Central Region Office
- 12/23/08 Department of Conservation and Recreation, Division of Water Supply Protection
- 01/12/09 Anthony Costello

IAB/AE/ae