



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

Deval Patrick
GOVERNOR

Timothy Murray
LIEUTENANT GOVERNOR

Ian Bowles
SECRETARY

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

February 8, 2007

DRAFT RECORD OF DECISION

PROJECT NAME : Marble Farm Condominiums/Assabet River Consortium
PROJECT MUNICIPALITY : Maynard/ and five other municipalities
PROJECT WATERSHED : Assabet River
EOEA NUMBER : 12348
PROJECT PROPONENT : **Maynard North Development, LLC/ The Assabet River Consortium**
DATE NOTICED IN MONITOR : January 9, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I hereby propose to grant a Phase I Waiver to allow an initial phase of the project to proceed, pending the Assabet River Consortium's preparation of the Phase III/Final Environmental Impact Report (FEIR) for the Assabet River Consortium Comprehensive Water Resources Management Plan.

Project History

The Town of Maynard, together with the Towns of Marlborough, Hudson, Westborough, Northborough, and Shrewsbury have joined to form the Assabet River Consortium to prepare a Comprehensive Wastewater Management Plan/Environmental Impact Report (CWMP/EIR, EOEA# 12348) to address short term- and long-term regional issues relating to the wastewater treatment and disposal and nutrient loading in the Assabet River on a basin-wide basis. The goals of the CWMP/EIR are to identify environmentally sustainable treatment alternatives that respond to the communities' needs, meet water quality and public health standards, reduce phosphorous loading, and increase water levels in the Assabet River and its tributaries.

The Certificate on the ENF for the Consortium required that prior to completion of MEPA review for the Consortium CWMP, projects located within the Consortium communities that seek sewer extension permits from the Department of Environmental Protection (MassDEP) and will also require a Phase I waiver from the EIR requirement for the Consortium. The project proponent has requested such a waiver in a Notice of Project Change (NPC) published in the Environmental Monitor on January 9, 2007, and has provided additional information in support of that request. I note that all development projects located within the Consortium communities requesting municipal sewer service must satisfactorily demonstrate: 1) that the proposed project is located in an area proposed for municipal sewer; 2) an on-site solution is not feasible; and 3) the proponent has committed to contribute to ongoing infiltration and inflow removal (I/I) projects within the Town of Shrewsbury and will provide mitigation (2 - 4:1) for every gallon of wastewater generated by the proposed project and exported out of the basin, before being allowed to connect to the sewer system.

Phase I Waiver Request

Pursuant to Section 11.11 of the MEPA Regulations, the proponent is requesting a Phase I Waiver to construct a 24-unit age restricted (over 55 years) residential condominium complex (12 separate buildings) including the construction of 903 lf of internal roadway with concrete sidewalks, 51 surface parking spaces, a 400 sf community building, approximately 920 linear feet (lf) of water and sewer main extension, on a 6.33-acre parcel of property located off Acton Street in Maynard. As described in the NPC submittal, the project will be served by municipal water and municipal sewer from the Town of Maynard at the rate of 3,600 gallons per day (gpd), respectively. The proposed project will also involve the construction of related utilities and stormwater management infrastructure including separate roof drains, and deep sump catch basins equipped with Stormceptor units to collect, treat and provide total recharge of stormwater generated from the proposed project, to two new Stormtech infiltration systems located in the northeast and southeast sections of the project site. The proponent estimates that approximately four acres of land area including approximately 30,650 sf of wetland buffer will be directly altered by the proposed residential condominium project. The proposed project does not exceed any MEPA review thresholds. The project may require a Sewer Connection/Extension Permit from MassDEP, and an Order of Conditions from the Maynard Conservation Commission (and hence a Superseding Order from DEP if the local Order were appealed). The project must comply with the National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over one acre.

Section 11.11 of the MEPA regulations provides that the Secretary may waive any provision or requirement of 301 CMR 11.00 not specifically required by MEPA, and may impose appropriate and relevant conditions or restrictions, provided that the Secretary finds that strict compliance with the provision or requirement would: (a) result in an undue hardship for the proponent, unless based on delay in compliance by the proponent; and (b) not serve to avoid or minimize Damage to the Environment.

In the case of a partial waiver of a mandatory EIR review threshold that will allow the proponent to proceed with phase one of the project prior to preparing an EIR, the Secretary, at a minimum, must base this finding on a determination that:

1. the potential impacts of phase one of the project, taken alone, are insignificant;
2. ample and unconstrained infrastructure facilities and services exist to support phase one of the project;
3. the project is severable, such that phase one does not require the implementation of any other future phase of the project or restrict the means by which potential environmental impacts from any other phase of the project may be avoided, minimized or mitigated; and,
4. the agency action on phase one will contain terms such as a condition or restriction in a permit, contract or other relevant document approving or allowing the agency action, or other evidence satisfactory to the Secretary, so as to ensure due compliance with MEPA and 301 CMR 11.00 prior to commencement of any other phase of the project.

Findings

I have carefully reviewed the Phase I Waiver Request, supporting documentation, and written comments.

1. As described by the proponent, the Marble Farm project will involve the construction of approximately 228 linear foot (lf) cross-country extension of the Town of Maynard's 8" sewer main within the existing Acton Street right-of-way. According to the proponent, the project has been designed to meet MassDEP's Stormwater Management Policy standards and practices. The proponent will need to employ appropriate erosion and sedimentation control measures during project construction. The proponent's 24-unit residential condominium project will not impact bordering vegetated wetland, but will result in the alteration of approximately 30,650 sf of wetland buffer area.
2. The wastewater flows from the proposed residential subdivision project (3,600 gpd) will be serviced by the Town of Maynard's municipal sewer system. According to MassDEP, the Town's sewer system has the capacity to accommodate the additional total wastewater flows anticipated from the project. According to the comments received from MassDEP, the project site is located within the Zone II area for a public water supply for the Town of Maynard. The proponent will be required to employ water-tight construction of the proposed gravity sewer extension.
3. The proponent must work closely with the Town of Maynard and MassDEP to develop and implement an infiltration/inflow (I/I) removal program to enable sewer extension applicants to commit to the 4:1 removal of I/I (14,400 gpd) to mitigate the project's water supply and wastewater impacts.

The project will require a Sewer Extension Permit from the Department of Environmental Protection (DEP). I anticipate that DEP's permit review process will contain terms such as a condition or restriction so as to ensure due compliance with MEPA and 301 CMR 11.00.

Based on these findings, it is my judgment that the phase one waiver request does have merit, does meet the tests established in 301 CMR 11.11, and will serve to advance the interests of the Massachusetts Environmental Policy Act. Therefore, I propose to grant the Phase I Waiver subject to the aforementioned findings and conditions. 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.

February 8, 2007

Date

Ian A. Bowles, Secretary

Comments received: None

DROD #12348 – Assabet Consortium CWWMP, Marble Farm
IAB/NCZ/ncz