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February 8, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Karen Way, Cheryl Ann Drive, Sunrise Circle
Residential Development
PROJECT MUNICIPALITY : Rutland
PROJECT WATERSHED : Nashua
EOEA NUMBER : 14157
PROJECT PROPONENT : Dial Away Company, Inc.
DATE NOTICED IN MONITOR : December 24, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L., c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project involves the completion of the proponent's partially constructed 69-lot Sunny Hill Estates residential subdivision (1969). The proponent has proposed to reconfigure the remaining 30 subdivision lots into 5 parcels (Parcels A-C, Lots 61, 62). The project includes the construction of 16 senior housing units to be located on Parcels A-C, 2 single family houses located on Lots 61 and 62, approximately 1,900 linear feet (lf) of internal roadways, approximately 20 surface parking spaces, and related utilities and stormwater management infrastructure including 2 stormwater detention basins on approximately 13.5 acres of property located on Karen Way and Cheryl Ann Drive in Rutland. The project's estimated water supply needs (3,060 gpd) and related wastewater flows will be served by the Town of Rutland. The project site is located within the Wachusett Reservoir Watershed.

The project is undergoing review pursuant to 301 C.M.R. 11.03 (3)(b)(1)(c) of the MEPA regulations because it involves the direct alteration of 1000 sf or more of outstanding resource waters (ORW). The project will require Orders of Conditions from the Rutland Conservation Commission (and hence Superseding Order(s) from MassDEP if any local Orders were appealed). The project will also require a Variance from the Department of Conservation and Recreation (DCR) under the Watershed Protection Act, and a Section 401 Water Quality Certificate from MassDEP. The project will need to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over one acre.

The proponent is not seeking state funding or financial assistance for the proposed project. MEPA jurisdiction therefore is limited to those aspects of the project within the subject matter of any required or potentially required state permits that have the potential to produce significant damage to the environment (wetlands, water quality, and wastewater).

Land Alteration

As noted in the comments received from DCR, a tributary to the Wachusett Reservoir runs across the project site. This tributary and adjacent BVW resource areas located within the project site are classified as Outstanding Resource Waters (ORW).

According to the project site plans included in the ENF submittal, 4 senior residential units, and portions of the proposed new internal roadway and stormwater management system appear to be located either wholly or primarily within 200' of the tributary to the Wachusett Reservoir (Primary Protection Zone) and within wetland buffer zones. Nearly all of the proposed senior residential development project also appear to be located wholly or primarily within 400' of the Wachusett Reservoir tributary (Secondary Protection Zone). According to DCR, the Watershed Protection Act (350 CMR 11.00) prohibits alterations within the Primary Protection Zone. The project will require a variance under the Watershed Protection Act (350 CVMR 11.00) from DCR for proposed alterations in the Primary Protection Zone. The proponent should work closely with DCR to examine methods of avoiding or minimizing encroachment into the Primary Zone and buffer zones including, but not limited to, relocating or reducing the number of proposed residential units. I ask that the proponent consider the use of deed restrictions as a method of avoiding future Primary Zone and wetland impacts from homeowner activities, and as a method of minimizing water quality impacts associated with residential lawn care.

Wetlands

The project includes two wetlands crossings for portions of the proposed Karen Way internal roadway and Sunrise Circle driveway. According to the information provided in the ENF, construction of these roadway crossings will result in the alteration of approximately 5,600 sf of bordering vegetated wetlands (BVW).

The Watershed Protection Act (350 CMR 11.00) also prohibits alterations to bordering vegetated wetlands within the Primary Protection Zone. As identified elsewhere in this Certificate, the project will require a variance under the Watershed Protection Act (350 CVMR 11.00) from DCR for proposed alterations to wetlands.

According to the comments received from MassDEP, the proponent will be required to submit an alternative analysis to MassDEP as part of the 401 Water Quality Certification required for this project and will need to demonstrate to MassDEP the project's consistency with the performance standards for filling of an ORW pursuant to 314 CMR 9.06(3)(e)(3). In so doing, the proponent will need to satisfactorily demonstrate to MassDEP that the proponent has investigated all feasible methods of further avoiding, reducing, or minimizing project construction impacts to wetland resource areas, watershed protection areas, and the creation of impervious surface area. The proponent has committed to construct approximately 4,150 sf of on-site wetlands replication.

Stormwater

According to the proponent, the project's stormwater management plan has been designed to meet MassDEP's Stormwater Management Policy guidelines, and will include the use of two stormwater detention basins, and a number of stormwater catch basins to be located in the proposed new segments of Karen Way and Cheryl Ann Drive to treat stormwater prior to discharge to adjacent wetland resource areas. According to DCR, the two stormwater detention basins designed for this project appear to discharge directly to BVW which may be prohibited under the Watershed Protection Act regulations. The proponent will need to work closely with DCR and MassDEP during final project design to ensure that the proponent's stormwater management plan is consistent with MassDEP's Stormwater Management Policy guidelines, and contains adequate stormwater pollution protection measures to prevent or minimize impacts to the ORW.

Water Supply

The project's potable water supply need (3,060 gpd) will be served by the Town of Rutland. In their comments, MassDEP has indicated that the Town of Rutland has exceeded their registered and permitted water withdrawal volume (360,000 gpd) under their Water Management Act (WMA) permit for the period 2004-2006 by 50,000 – 90,000 gpd. The Town will need to apply for a new WMA permit if it exceeds their authorized withdrawal volume by 100,000 gpd.

Wastewater

As currently proposed, the Town of Rutland will also serve the project's wastewater flows (3,060 gpd). In their comments, MassDEP has indicated that the Town of Rutland recently imposed a moratorium on new sewer extensions.

The proponent will need to demonstrate to MassDEP that the proposed discharge of the project's wastewater flow to the Town of Rutland's municipal sewer system is feasible. MassDEP has recommended that the proponent also evaluate the feasibility of on-site wastewater treatment infrastructure to accommodate wastewater flows from the proposed senior residential development project.

Based on the information provided by the proponent and consultation with relevant public agencies, I conclude that no further MEPA review is required. The review of the ENF has served adequately to disclose potential impacts and mitigation, and to demonstrate that project impacts do not warrant the preparation of an Environmental Impact Report. The proponent can resolve any remaining issues in the permitting process.

February 8, 2008
DATE



Ian A. Bowles, Secretary

Comments received:

1/15/08 Department of Environmental Protection (MassDEP) – CERO
1/15/08 Division of Watershed Management – MassDEP, CERO
1/28/08 Department of Conservation and Recreation (DCR)

ENF #14157
IAB/NCZ/ncz

