

The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

100 Cambridge Street, Suite 900

Boston, MA 02114-2524

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

STEPHEN R. PRITCHARD
SECRETARY

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

June 23, 2006

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

PROJECT NAME	:Kohler Place
PROJECT MUNICIPALITY	:Ayer
PROJECT WATERSHED	:Nashua
EOEA NUMBER	:13775
PROJECT PROPONENT	:Sandy Pond Investment Trust, LLC
DATE NOTICED IN MONITOR	:April 26, 2006

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.03 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** the preparation of an Environmental Impact Report (EIR).

The currently proposed project involves the construction of a 4 single family residential subdivision, 8 surface parking spaces, 250 linear feet (lf) of internal roadway, and 3 stormwater detention basins on a 12.4-acre parcel of property located off Wright Road in Ayer. The project site is located within the Petapawag Area of Critical Environmental Concern (Petapawag ACEC). The project's estimated potable water supply demand and wastewater flow (approximately 1,760 gpd) will be served by the Town of Ayer's municipal water supply system. The main site drive will be extended from Wright Road, an existing cul-de-sac located off Mountain View Avenue.

The project is undergoing review pursuant to Sections 11.03 (2)(b)(1) and 11.03 (11)(b) of the MEPA regulations, because the project will result in the alteration of designated significant habitat, and the project site is located within a designated Area of Critical Environmental Concern (ACEC), respectively. The project requires a Sewer Extension Permit from DEP. The project will require Orders of Conditions from the Ayer Conservation Commission (and hence a Superseding Order from DEP if any local Orders were appealed). The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over one acre.

If blasting will be required during project construction, the proponent will need to prepare a blast design plan pursuant to the Board of Fire Protection Regulations (577 CMR 13.09) for the proposed construction of roads, houses and utilities within the project site. Blasting mixtures that include perchlorate have been identified as a source of contamination in many Massachusetts public water supplies and thus should be prohibited from use in the project watershed.

The proponent is not seeking financial assistance from the Commonwealth for the project. MEPA jurisdiction therefore extends to those aspects of the project that are within the subject matter of required or potentially required state permits and that have the potential to produce significant Damage to the Environment. In this case, MEPA jurisdiction extends to issues of land alteration, water quality, water supply, wastewater, and rare species.

Future Development:

Although not mentioned in the ENF, approximately 26 acres of developable land area abutting the southeastern corner of the project site with frontage on Sandy Pond Road is also owned and controlled by the project proponent. According to the proponent, under the Town of Ayer's existing conventional zoning regulations, this development parcel could accommodate additional residential development. Under the anti-segmentation provisions of the MEPA Regulations (Section 11.01(2)c), should the proponent pursue the future development of this 26-acre development parcel, a Notice of Project Change (NPC) will need to be filed to discuss the potential cumulative infrastructure impacts and site planning issues arising out of the overall build-out of the future development parcel and the proposed Kohler Place project.

Wetlands:

The project site abuts Sand Pond to the east and an extensive amount of wetlands resource areas located throughout and adjacent to the project site. The project will not result in the alteration of bordering vegetated wetlands (BVW) resource areas. As illustrated in the Kohler Place project site plan, the proposed construction activities will also result in the alteration of approximately 27,500 sf of the 100-foot wetland buffer zone, for grading and construction of houses, surface parking spaces, and stormwater management infrastructure. I strongly encourage the proponent to examine methods of avoiding or further minimizing encroachment into buffer zones including, but not limited to, reducing the total number of proposed residential units. The proponent should evaluate the use of deed restrictions as a method of avoiding future wetland impacts from homeowner activities, and as a method of minimizing water quality impacts associated with residential lawn care.

As noted in the ENF, and the proponent's statements made during the MEPA Site Visit held for this project, approximately 9.5 acres (76%) of the project site containing wetland resource areas and rare species habitat will be placed under a Conservation Restriction (CR) to ensure for their permanent protection. The proponent should also consider placing deed restrictions on any residential properties that will be located within 600 feet of any vernal pools, or within the 100-foot wetlands buffer zone as a method for avoiding future impacts from homeowner activities.

Water:

The project's water supply needs (approximately 1,760 gallons per day (gpd)) will be served by the Town of Ayer's municipal water supply system. The proponent has proposed to extend the municipal water main approximately .35 miles within the project site. I note that the proposed municipal water main extension may require a DEP Permit (BRP WS32). I anticipate that DEP's permitting process will require the proponent to demonstrate that the Town of Ayer has sufficient capacity to meet the project's potable water supply needs.

Water Conservation

I strongly encourage the proponent to incorporate water conservation and water use efficiency in the project design to comply with the March 1989 state plumbing code. Specifically, the proponent should commit to employing efficient residential water conservation technologies for the project including water saving devices, low flow toilets, and low flow appliances (dishwashers, washing machines). The proponent should also consider implementing a Irrigation Management Plan (IMP) to further reduce the project's irrigation water demand. An IMP could involve the use of amended soils and compost, the planting of native and drought-tolerant species of trees, shrubs, and turf grasses, an automated water efficient irrigation system, and a water management protocol for drought conditions. I ask that the proponent consult with DEP, and refer to the Massachusetts Water Resources Commission's *Lawn and Landscape Water Conservation, An Addendum to the Water Conservation Standards for the Commonwealth of Massachusetts, October 2002*, during the final design of the proponent's IMP.

Wastewater:

The proponent is proposing to construct a sewer extension from an existing sewer main located in the Wright Road right-of-way to the project site to convey the project's wastewater flow (1,760 gpd) to the Town of Ayer's municipal sewer system. The project requires a DEP Sewer Extension Permit. I anticipate that DEP's permitting process will require the proponent to demonstrate that the Town of Ayer has sufficient capacity to accommodate the project's wastewater flows.

Stormwater:

As described in the ENF, the stormwater management plan for the proposed project has been designed as a closed drainage system to meet DEP's Stormwater Management Policy guidelines, and includes the use of deep sump catch batch basins, three detention basins with sediment forebays, periodic road sweeping, and a total of three stormwater detention basins to service the project's stormwater flows for eventual discharge to Bordering Vegetated Wetlands (BVW) abutting the project site's eastern boundary.

I encourage the proponent to evaluate sustainable design alternatives such as Low Impact Development (LID) techniques in site design and stormwater management plans. LID techniques incorporate stormwater best management practices (BMPs) and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions. The primary tools of LID are landscaping features and naturally vegetated areas, which encourage detention, infiltration and filtration of stormwater on-site. Other tools include water conservation and use of pervious surfaces. Clustering of buildings is an example of how LID can preserve open space and minimize land disturbance. LID can also protect natural resources by incorporating wetlands, stream buffers and mature forests as project design features. For more information on LID, visit <http://www.mass.gov/envir/lid/>. Other LID resources include the national LID manual (Low Impact Development Design Strategies: An Integrated Design Approach), which can be found on the EPA website at: <http://www.epa.gov/owow/nps/lid/>.

Rare Species:

As described in the ENF, the project site is located within priority and estimated habitat for the Blanding's Turtle (*Emydoidea blandingii*). In their comments, the Natural Heritage and Endangered Species Program (NHESP) indicated that the project may result in a "take" of the Blanding's Turtle. As noted above, the proponent has committed to placing a Conservation Restriction (CR) on approximately 9.5 acres (76%) of the project site for the permanent protection of the Blanding's Turtle habitat.

According to NHESP, the proponent has continued to work closely with NHESP and has developed a final project design that will meet the requisite performance standards to support a Conservation and Management Permit pursuant to the Massachusetts Endangered Species Act (MESA) and MESA Regulations (321 CMR 10.04(3)(b)). The proponent should forward a copy of the proponent's proposed rare species impact minimization and mitigation plan, including a copy of the proponent's executed and recorded CR, proposed deed restriction documentation, and final project site plan identifying the designated conservation areas and development areas to the MEPA Office for the project file.

Historic/Archaeological Resources:

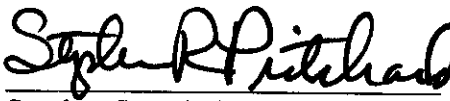
As described in the ENF, the project is located within the Furnace Village Historic District listed in the State and National Registers of Historic Places. In their comments, the Massachusetts Historic Commission (MHC) has indicated that the project area is considered archeologically sensitive and likely to contain archaeological sites associated with Native American occupation of the Easton area. MHC has requested that the proponent complete an intensive locational archeological survey for the project site and to explore ways to avoid, minimize and mitigate potential impacts to any significant historic or archaeological resources that may be identified within the project site.

Construction Period:

The proponent should analyze construction-period impacts, including temporary impacts to wetlands, and the extent of any blasting and/or re-grading during construction. The proponent should consult with the Town of Ayer, and DEP to ensure that the proponent will meet any performance standards associated with a federal NPDES permit for all proposed project construction activities.

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.

June 23, 2006
Date


Stephen R. Pritchard, Secretary

Comments received:

04/28/06	Town Of Ayer Conservation Commission
05/04/06	Montachusett Regional Planning Commission
05/17/06	Department of Conservation and Recreation (DCR)
05/22/06	Massachusetts Historical Commission (MHC)
06/15/06	The Natural Heritage and Endangered Species Program (NHESP)
06/20/06	David E. Ross Associates, Inc.

SRP/NCZ/ncz
EOEA #13775 Kohler Place, Ayer