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June 30, 2006

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

PROJECT NAME : Childs Bridge Farm II
PROJECT MUNICIPALITY : Bridgewater
PROJECT WATERSHED : Taunton River
EOEA NUMBER : 13802
PROJECT PROPONENT : Angelo D’Emilia
DATE NOTICED IN MONITOR : May 24, 2006

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 hereby determine that this project **requires** the preparation of a mandatory Environmental Impact Report (EIR).

As described in the Environmental Notification Form (ENF), the proposed project consists of a 97-lot residential development. The project includes associated infrastructure including roadways, parking and a stormwater management system. The project will connect to the municipal water supply and wastewater will be managed through individual on-site systems. Access will be provided to the site via two driveways. The site consists of a 144-acre site bounded by the Taunton River to the east, Cherry Street to the south and existing residences to the south and west. The site consists of undeveloped forest and wetlands and includes areas mapped as Priority Habitat for rare species by the Natural Heritage and Endangered Species Program (NHESP). The Taunton River has been nominated for designation as a federal Wild & Scenic River.

The project is undergoing MEPA review and subject to preparation of a mandatory EIR pursuant to Section 11.03 (1)(a)(2) because it requires a state permit and will create more than 10 acres of impervious surfaces. The project requires a Conservation and Management permit from the NHESP and a Water Supply Distribution System Modification permit from the Department of Environmental Protection (DEP). MEPA jurisdiction is limited to the subject matter of

required or potentially required state permits. This includes rare species habitat and water supply.

Potential environmental impacts are associated with the alteration of approximately 40 acres of land, creation of 13 acres of impervious surfaces, generation of 485 vehicle trips per day (tpd), use of 32,010 gallons per day (gpd) of water and generation of 32,010 gpd of wastewater. The project is designed as a cluster subdivision to minimize environmental impacts including creation of impervious surfaces. It avoids construction within wetland resource areas and their respective buffer zones. A conservation restriction (CR) will be placed on approximately 69 acres (over 48%) of the site, including land along the Taunton River, for permanent protection.

Waiver Request

In accordance with Section 11.05 (7) of the MEPA regulations, the proponent has submitted an Expanded ENF with a request that I grant a full waiver of the EIR. In the event that a full waiver is not granted, the proponent has requested that I allow the proponent to fulfill its EIR obligations under MEPA with a Single EIR, rather than the usual process of a Draft and Final EIR.

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 undue hardship to the proponent, unless based on delay in compliance by the proponent; and b) not serve to minimize or avoid damage to the environment. Section 11.11 (3) provides that, in the case of the waiver of a mandatory EIR review threshold, the Secretary shall at a minimum base the finding required in accordance with Section 11.11 (1)(b) on a determination that: a) the Project is likely to cause no Damage to the Environment; and b) ample and unconstrained infrastructure facilities and services exist to support the Project or those aspects of the Project within subject matter jurisdiction.

The Expanded ENF received an extended comment period pursuant to Section 11.06 (8) of the MEPA regulations. The Expanded ENF adequately identifies resource areas, includes a commitment to avoid work within resource areas, includes a drainage plan and describes a mitigation package intended to address impacts to rare species habitat. Based on a review of the Expanded ENF and written comments, I find that the project does not meet the standards for a full waiver of an EIR. Although the project has been designed to avoid and minimize impacts and to respond to NHESP guidance, the filing does not contain sufficiently detailed information to support a finding that the project will cause no Damage to the Environment. Additional information is required on alternatives and, in particular, on the implementation of the proposed mitigation. In addition, the granting of a full waiver would, in this case, eliminate public review of the proposed mitigation. The review of the ENF has demonstrated that there is a public interest in the development of this project and a desire to provide input on associated mitigation. Granting of a waiver of the EIR requirement would eliminate this opportunity and not serve the public interest.

Because the Expanded ENF demonstrates a commitment to avoid impacts and responds constructively to guidance from NHESP, I will allow the proponent to meet its MEPA

obligations through the filing of a Single EIR. The following Scope is intended to identify additional analysis and information necessary to complete MEPA review and ensure that proposed mitigation achieves the goal of adequately avoiding, minimizing and mitigating impacts.

SCOPE

The EIR should follow the general guidance for outline and content contained in section 11.07 of the MEPA regulations, as modified by this Certificate.

Project Description

The Single EIR should include a thorough description of the project and all project elements and construction phases. The Single EIR should include an existing conditions plan illustrating resources and abutting land uses for the entire project area and a proposed conditions plan (or plans) illustrating proposed elevations, structures, access roads, stormwater management systems, and septic systems. Plans should be provided at a reasonable scale and clearly delineate all applicable resource area boundaries including riverfront areas, buffer zones, 100-year flood elevations, water supply wells, wellhead protection areas, priority and/or estimated habitat, wetland replication areas, waterways, ponds and agricultural fields. BVW that have been delineated in the field should be surveyed, mapped and located on the plans. The EIR should include a site circulation plan illustrating how motor vehicles, pedestrians and cyclists will be accommodated on the site.

The MEPA regulations include anti-segmentation provisions to ensure that projects, including any future expansion, are reviewed in their entirety. Proponents cannot evade, defer or curtail MEPA review by segmenting one project into smaller ones that, individually, do not meet or exceed MEPA thresholds. In determining whether work or activities constitute one project, the Secretary must consider whether the work or activities comprise a common plan or independent undertakings, regardless of whether there is more than one proponent, the timing of work and activities, and whether the environmental impacts caused by the work or activities are separable or cumulative. The issue of segmentation was raised at the MEPA site visit and several commentors have identified potential issues. The EIR should identify adjacent land uses and identify any areas of common planning or ownership. Impacts associated with land held in common ownership or the subject of common planning should be identified and included in the Single EIR.

Project Permitting and Consistency

The EIR should briefly describe each state permit required for the project and should demonstrate that the project meets applicable performance standards. In accordance with section 11.01 (3)(a) of the MEPA regulations, the EIR should discuss the consistency of the project with any applicable local or regional land use plans. The EIR should also address the requirements of Executive Order 385 (Planning for Growth).

Alternatives Analysis

The project, as proposed, avoids construction within the 100-foot wetlands buffer zone and within the riverfront area. None of the lots contain wetlands although development of a few lots may include work within the buffer zone to wetlands. The proponent has committed to permanent protection of open space including land along the Taunton River. In addition, the project has received local permits indicating that it has been developed consistent with Bridgewater bylaws allowing cluster development.

This alternative represents a good faith effort to avoid and minimize environmental impacts. Several commentors have noted that additional improvements could be incorporated to further minimize impervious surfaces and to remove lots from areas mapped as Priority Habitat. In addition to the Preferred Alternative and No Build Alternative, the Single EIR should include exploration of a Reduced Build Alternative that reduces the amount of impervious surfaces created and decreases the amount of alteration within Priority Habitat. For each alternative, the EIR should quantify the amount of land altered, the amount of earthwork involved in meeting final grades, and the amount of impervious surfaces created. The EIR should investigate all feasible methods of avoiding, reducing or minimizing impacts to land.

Rare Species

As noted previously, the project site provides habitat for the Eastern Box Turtle (*Terrapene carolina*) which is listed as a species of "Special Concern" and protected from a "take" pursuant to the MA Endangered Species Act Regulations (MESA) (321 CMR 10.00). In response to consultation with NHESP prior to filing with MEPA, the proponent agreed to the following mitigation to protect rare species:

- 1) Permanent habitat protection measures including a CR for an approximately 69-acre open space parcel and deed restrictions on the backs of Lots 41-43
- 2) Funding for protection of approximately 42 acres of off-site Eastern Box Turtle habitat (\$136,000) prior to construction

NHESP also identified other issues that should be addressed including: feasibility of speed bumps to prevent turtle mortality, exclusion of vertical curbing to minimize impacts to turtle movement and efforts to minimize impacts to turtles and turtle habitat during construction.

The EIR should describe and quantify the extent of rare species habitat and identify potential impacts (temporary and permanent). Existing and proposed condition plans should include mapped Priority Habitat.

Additional detailed information on mitigation will be required for permitting and should be included in the Single EIR. The Single EIR should include a description of the CR, identification of the holder of the CR (i.e. conservation commission or local land trust) and illustration of the conservation area on a site plan. Draft text of the CR should be provided for review. The Single EIR should describe additional measures that will be employed to protect turtles during construction and once the project is complete. It should address whether vegetation and wildlife management plans to protect biodiversity of the site will be incorporated

into the mitigation package. Information on the programming and location of the off-site mitigation should be provided. Commentors have suggested that off-site mitigation be provided within the Taunton River watershed and in proximity to the project site.

I note the many comment letters from open space advocacy organizations expressed an interest in establishing trails along the Taunton River and incorporating public access as a component of the project. The Single EIR should identify whether there is an opportunity to link to existing or planned trails and whether the project includes any public access.

The proponent should consult with NHESP prior to filing the Single EIR regarding development of the off-site mitigation and the viability of providing public access within the conservation land.

Wetlands and Drainage

DEP comments indicate that the Bridgewater Conservation Commission issued an Order of Resource Area Delineation on June 23, 2004 to verify the boundaries of Riverfront Area, and BVW. As noted previously, no construction is proposed within areas under the jurisdiction of the Wetlands Protection Act. In addition, the proponent has indicated that the project will meet and exceed standards associated with the Department of Environmental Protection (DEP) Stormwater Management Policy. There will be no increase in peak rates of runoff or total stormwater volume. Plans demonstrate that all discharge points are located more than 100-feet from adjacent wetlands and outside of the riverfront area. DEP has noted that part of the northern portion of the proposed project area is within the Zone II of a public water supply well and any stormwater drainage directed to this area must be treated in accordance with Standard 6 of the Stormwater Policy. The Single EIR should address DEP and other comments related to stormwater. I encourage the proponent to consider further minimization of stormwater impacts through use of permeable pavement or rain gardens.

In addition, DEP has noted that if construction of any house lots is proposed in areas subject to jurisdiction under the Wetlands Protection Act, the proponent is required to file a Request for a Determination of Applicability or a Notice of Intent with the Bridgewater Conservation Commission and DEP.

Water Supply

The project will use approximately 62,700 gpd of water and includes an 8,100-foot extension of an existing municipal water main. DEP has noted that the Town of Bridgewater is authorized under the Water Management Act (WMA) to withdraw 2.4 million gpd and that there is sufficient volume under the WMA authorization to add this connection. The EIR should describe efforts to minimize water use.

Construction Period Impacts

The EIR should include a discussion of construction phasing, evaluate potential impacts associated with construction activities and propose feasible measures to avoid or eliminate these impacts. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions, which may occur during the construction activities.

Mitigation

The EIR should include a separate chapter on mitigation measures. It should include a Draft Section 61 Finding for all state permits that includes a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation, and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation, based on the construction phases of the project, should also be included.

Response to Comments

The EIR should contain a copy of this Certificate and a copy of each comment received. The EIR should respond to the comments received, to the extent that the comments are within MEPA subject matter jurisdiction. The EIR should present additional narrative and/or technical analysis as necessary to respond to the concerns raised.

Circulation

The EIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to any state agencies from which the proponent will seek permits or approvals, to the list of "comments received" below, and to Bridgewater officials. A copy of the EIR should be made available for review at the Bridgewater Public Library.

June 30, 2006
Date


Stephen R. Pritchard

Comments Received:

6/23/06	Department of Environmental Protection Southeast Regional Office (DEP SERO)
6/23/06	Division of Fisheries and Wildlife/Natural Heritage and Endangered Species Program (NHESP)
6/22/06	Old Colony Planning Council
6/6/06	Natural Resources Trust of Bridgewater
6/23/06	Taunton River Watershed Alliance, Inc.
6/27/06	Taunton River Watershed Campaign
6/28/06	The Wildlands Trust

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