



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>

August 9, 2006

RECORD OF DECISION

PROJECT NAME : Farm Gate
PROJECT MUNICIPALITY : Dracut
PROJECT WATERSHED : Merrimack
EOEA NUMBER : 13723
PROJECT PROPONENT : DRACO Homes, Inc.
DATE NOTICED IN MONITOR : February 8, 2006

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 **grant** a Phase I Waiver to allow an initial phase of the project to proceed, pending the preparation of a Draft Environmental Impact Report (DEIR) for the project.

Project History:

As described in the February 2006 Environmental Notification Form (ENF), the proponent proposed to construct a 52-lot residential subdivision, and 3 individual houses, approval not required (ANR), on a 77.3-acre site abutting Parker Road in Dracut. The project included the construction of approximately 4,390 linear feet of internal roadway with sidewalks, and associated utilities and stormwater management infrastructure including 5 stormwater detention basins. The project site will be accessed from two separated sites drives located on Parker Road.

Although not described in the ENF, the proponent is also proposing to develop an additional 105 residential dwelling units on two contiguous development parcels (113 acres, 59 acres) located off Parker Road and Wheeler Road and adjacent to the Farm Gate project site's northern property boundary in Dracut.

According to additional information provided by the proponent during the MEPA Scoping session for this project on February 22, 2006, and the comments received from the Northern Middlesex Council of Governments and the Dracut Assistant Town Manager's Office, the proponent is also proposing the development of Wheeler Village, a 72-lot residential subdivision abutting the northern boundary of the Farm Gate development parcel, and Berube Farms, a 32-unit residential subdivision abutting the northern property boundary of the Wheeler Village development parcel.

Wheeler Village

According to the proponent, the Wheeler Village project involves the construction of a 73-lot residential subdivision on a 113-acre site abutting Wheeler Road to the north and the proposed Farm Gate development project to the south. As currently designed, this project will result in the construction of approximately 8.8 acres of impervious surface area and the permanent alteration of approximately 2,700 sf of bordering vegetated wetlands (BVW), and 4.8 acres of 100-foot wetland buffer area. This project site will be accessed from two separate site drives located on Wheeler Road.

Berube Farms

The Berube Farms project involves the construction of a 160-lot residential subdivision on a 250-acre site abutting Wheeler Road and the Wheeler Village development project to the south. This project will result in the construction of approximately 20 acres of impervious surface area and the permanent alteration of approximately 10,200 sf of bordering vegetated wetlands (BVW), and 24 acres of 100-foot wetland buffer area. This project site will be accessed from two separate site drives located on Wheeler Road.

MEPA imposes a requirement on project proponents and state agencies to understand and fully disclose the potential impacts of a project (including cumulative impacts); to study feasible alternatives to a project; and to avoid, reduce, or mitigate environmental impacts (including cumulative impacts) to the maximum extent feasible. As described in the Certificate on the ENF, the proponent's proposed Farm Gate project, and the Wheeler Village and Berube Farms projects are considered to be a "common plan or undertaking" pursuant to the anti-segmentation provisions of the MEPA Regulations (Section 11.01(2)(c)). The proponent was therefore required to prepare a Draft EIR (DEIR) to discuss the impacts of the proposed Farm Gate project, as well as the potential cumulative infrastructure impacts and site planning issues arising out of the full build-out of the proponent's remaining two contiguous development parcels (173 acres total). When considering the full build-out of the Farm Gate project, and the Wheeler Village and Berube Farms development parcels, it appears likely that it will meet the mandatory EIR threshold related to land alteration, wetlands, and possibly rare species.

Phase I Waiver Request:

Pursuant to Section 11.11 of the MEPA Regulations, the proponent has submitted a Notice of Project Change (NPC) and Phase I Waiver Request to construct the 52-lot residential subdivision Farm Gate project, and thereby allowing its construction to proceed in advance of the preparation of a DEIR and FEIR for the full build-out of the site. According to the information provided in the NPC, the Phase I construction activities would include the construction of a 55-lot residential subdivision, 3 additional ANR houses lots, approximately 4,390 linear feet of internal roadway with sidewalks, and associated utilities and stormwater management infrastructure including 5 stormwater detention basins on a 77.3-acre site abutting Parker Road in Dracut. The project site will be accessed from two separated sites drives located on Parker Road. The Farm Gate project's potable water demands and wastewater flows (20,020 gpd) will be served by the Town of Dracut's municipal water supply and sewer systems, respectively. Phase I will result in the alteration of approximately 3,000 sf of bordering vegetated wetlands (BVW), approximately 6.6 acres of impervious surface area, 100 new surface parking spaces, and the generation of approximately 550 new vehicle trips per day. Phase I will require a Sewer Connection Permit from DEP, and an Order of Conditions from the Dracut Conservation Commission (and hence a Superseding Order from DEP if the local Order were appealed).

Subsequent to the filing of the NPC submittal with the MEPA Office, the proponent worked closely with DEP to address a number of issues identified in DEP's comments on the ENF and the NPC regarding the project's potential impacts to wetlands and wastewater. As a result, the proponent has provided additional information to the MEPA Office that describes a phased development plan involving a reduced Phase I Waiver construction program.

As currently proposed, the proponent's Phase I development activities involve the construction of 20 residential housing lots within a 32-acre development parcel located to the north of the existing underground gas transmission line (North Development/Phase I), and three existing house lots on Parker Road. As described by the proponent, the South Development (Phase II) will involve the construction of the remainder of the originally proposed Farm Gate development project (35 single family house lots). The North Development project's potable water demands and wastewater flows (7,280 gpd) will be served by the Town of Dracut's municipal water supply and sewer systems, respectively. Construction of the North Development/Phase I portion of the Farm Gate project will not result in the alteration of bordering vegetated wetlands (BVW), but will alter approximately 13,230 sf of wetland buffer area, and create approximately 0.3 acres of impervious surface area. The North Development project will require a Sewer Connection Permit from DEP, and an Order of Conditions from the Dracut Conservation Commission (and hence a Superseding Order from DEP if the local Order were appealed).

Section 11.11 (4) of the MEPA regulations provides that the Secretary may waive grant 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, based 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 North Development\Phase I project will involve the construction of approximately 500 lf of gravity sewer main to an existing 8" municipal sewer main located within the Parker Road right-of-way. The proponent will need to employ appropriate erosion and sedimentation control measures during project construction. The proponent's 20-lot residential subdivision project will not impact bordering vegetated wetlands (BVW) resource areas.
2. The wastewater flows from the residential subdivision project (7,280 gpd) will be served by the Town of Dracut's municipal sewer collection and conveyance system for treatment at the City of Lowell's Wastewater Treatment Facility (WWTF). According to the proponent, the additional flow from the reduced Phase I project is well within the wastewater flow limits established for the Town of Dracut under its Inter-municipal Agreement (IMA) with the City of Lowell for treatment of wastewater flows at the City of Lowell's WWTF. In their comments, the DEP has indicated that a portion of the Farm Gate project site is located within an area of Dracut identified for new municipal sewerage in the Town of Dracut's ongoing Comprehensive Water Resource Management Planning process. DEP supports the proposed sewerage of the 23 house lots as part of the North Development/Phase I project.

The North Development/Phase I 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.

August 9, 2006
Date


Stephen R. Pritchard, Secretary

Comments received: None

FROD – #13723 NPC, Farm Gate Subdivision
SRP/NCZ/ncz