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September 14, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME: The Reserve at Barton Hill
PROJECT MUNICIPALITY: Charlton
PROJECT WATERSHED: French River/Quinebaug
EEA NUMBER: 13766
PROJECT PROPONENT: Charlton Freeman, LLC
DATE NOTICED IN MONITOR: **August 8, 2007**

As Secretary of Energy and Environmental Affairs, I hereby determine that the Final Environmental Impact Report (FEIR) submitted on the above project **adequately and properly** complies with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00).

Project Description

As described in the FEIR, the project consists of two single-family residential subdivisions called the Reserve at Barton Hill East and the Reserve at Barton Hill West, to be located on Freeman Road in Charlton, MA. Following direction in previous MEPA Certificates for the project, the FEIR outlines the impacts of each project individually, and also considers the cumulative impacts of the two projects.

The Reserve at Barton Hill West is to be located off Freeman Road in Charlton, MA on approximately 165 +/- acres of undeveloped land. The project consists of the construction of single-family residences on 83 lots in a flexible development scheme. Approximately 16 acres of new impervious surface will be created as a result of this project. Of the total site acreage,

approximately 51 acres will remain as dedicated open space to be deeded to the Town of Charlton or other entity deemed appropriate by the Town. Access to the site is proposed from two different locations off Freeman Road.

The Reserve at Barton Hill East is located off Freeman Road and Colburn Road on approximately 99 acres of undeveloped land. The project consists of the construction of single-family residences on 41 lots in a flexible development scheme. Approximately 10 acres of new impervious surface will be created as a result of this project. Of the total site acreage, approximately 31.4 acres will remain as dedicated open space to be deeded to the Town of Charlton or other entity deemed appropriate by the Town.

The Reserve at Barton Hill West and East cumulatively occupy approximately 264+/- acres of undeveloped land. A total of 124 lots and 19,266 linear feet of roadway will be built as a result of both projects. Approximately 35 acres of new impervious area will be created as a result of both projects. Of the total site acreage for both sites, approximately 81 acres will remain as dedicated open space in perpetuity. The total proposed open space will consist of approximately 48 acres of upland and 33 acres of wetland. Combined, the projects will result in the alteration of approximately 13,231 square feet (sf) of wetland impacts from multiple limited roadway crossings.

Each home will be served by an on-site individual wastewater treatment facility that will be designed and constructed in full compliance with Title 5 and private wells. Once all appropriate permits have been secured, the construction portion of each project will span approximately 5 to 7 years. In accordance with the Town of Charlton's zoning bylaw, only 20% of the total of each project will be constructed each year. Both projects will consist of five phases. The Proponent provided a detailed description of construction sequencing for each phase in the FEIR.

Jurisdiction

The project is undergoing review and is subject to the preparation of a Mandatory EIR pursuant to Sections 11.03 (1)(a)(1) and 11.03 (1)(a)(2) of the MEPA regulations because it will result in the alteration of more than 50 acres of land and result in the creation of greater than 10 acres of new impervious surface. The project is also subject to review pursuant to Section 11.03(3)(b)(1)(d) of the MEPA regulations because it will result in the alteration of more than 5,000 sf of Bordering Vegetated Wetland (BVW).

The projects each require a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency (EPA); a Category 2 Programmatic General Permit from the U.S. Army Corps of Engineers (ACOE); a 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP); an Order of Conditions from the Charlton Conservation Commission; review from the Charlton Planning Board; and Title 5 Approval from the Charlton Board of Health. Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction is limited to the subject matter of required or potentially required state permits. In this case, MEPA

jurisdiction extends to issues of land alteration, drainage and wetlands.

Review of the FEIR

The purpose of MEPA review is to ensure that a project proponent studies feasible alternatives to a proposed project; fully discloses environmental impacts of a proposed project; and incorporates all feasible means to avoid, minimize, or mitigate Damage to the Environment as defined by the MEPA statute. I have fully examined the record before me, including but not limited to the Scope issued on October 18, 2006; the FEIR filed in response; and the comments entered into the record. I find that the FEIR is sufficiently responsive to the requirements of the MEPA regulations and the Scope to meet the regulatory standard for adequacy. Outstanding issues may be addressed during the MassDEP wetlands permitting process.

Land Alteration/Drainage

The Reserve at Barton Hill East and West will result in the alteration of 121 acres of land and the creation of 26 acres of new impervious surface. Previously in the DEIR, the Proponent provided a stormwater management report that examined existing drainage conditions and analyzed rates of runoff under existing and proposed conditions. The DEIR also presented a plan for a stormwater management system that will fully comply with MassDEP's Stormwater Management Policy and guidelines. The FEIR provided responses to specific comments submitted on the proposed stormwater management system and clarified responsibilities for the post-construction management and maintenance of stormwater Best Management Practices (BMPs). The Proponent provided additional information to demonstrate that the stormwater management system will not adversely impact a vernal pool on the Barton Hill East site. The Proponent also undertook additional site evaluation to determine the presence of other vernal pools on the project site; vernal pool indicator species were only found in the previously identified area on the East project site.

Wetlands

The Proponent has refined wetland impacts associated with the development of the projects since the submittal of the DEIR. Wetland impacts have increased with an attendant increase in proposed mitigation. The following is a comparison of anticipated BVW impacts in previous MEPA filings:

	The Reserve at Barton Hill East	The Reserve at Barton Hill West
ENF	4,708 sf	14,555 sf
DEIR	4,708 sf	6,522 sf
FEIR	7,423 sf	9,133 sf

The Proponent states in the FEIR that although wetland impacts have increased since the

DEIR, the project design with regard to stream crossings has improved in response to MassDEP input to include open arch culverts at stream and wetland crossings. The open arch culverts will improve wildlife passage following construction. Due to the increase in BVW impacts at the Reserve at Barton Hill East, the Proponent must now also obtain a 401 Water Quality Certificate for this portion of the project from MassDEP. Previously, only the Reserve at Barton Hill West required a WQC. The Proponent provided the expanded alternatives analysis prepared in conjunction with the WQC regulations at 314 CMR 9.06(1) in the FEIR.

The projects will also result in impacts to Bank: 277 linear feet (lf) of Bank will be impacted at the Reserve at Barton Hill East and 418 lf of Bank will be impacted at the Reserve at Barton Hill West. One proposed crossing at the Reserve at Barton Hill East project is located within BVW and Bordering Land Subject to Flooding (BLSF). This crossing will result in impacts to 1,690 sf of BLSF. The project will be designed to meet the General Performance Standards in the Wetlands Protection Act associated with BLSF. Compensatory flood storage will be provided for lost flood storage volume.

The Proponent will create wetland replication areas on-site to mitigate unavoidable impacts to resource areas. On the Reserve at Barton Hill West site, the Proponent has identified four locations for wetland replication totally 14,430 sf. On the Reserve at Barton Hill East site the Proponent will create 10,830 sf of replicated wetlands. A formal wetland replication plan has been approved by the Charlton Conservation Commission. Copies of the wetland replication plans were submitted with the FEIR. The Proponent has received an Order of Conditions from the Charlton Conservation Commission for each portion of the project. A copy of the OOCs was submitted with the FEIR.

In response to comments on the DEIR, the Proponent conducted wildlife habitat evaluations for both project sites in accordance with MassDEP's "Wildlife Habitat Protection Guidance for Inland Wetlands", dated March 2006. The Wildlife Habitat Evaluation Reports were submitted with the FEIR.

Mitigation

The Certificate on the ENF required that the DEIR contain a separate chapter on mitigation measures and Draft Section 61 Findings for all state permits. The DEIR presented a Draft Section 61 Finding for the MassDEP Water Quality Certificate but the Finding did not include 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 as required by the ENF Certificate. This information should be included in the FEIR. The proponent should also summarize other proposed measures to mitigate for impacts related to land alteration, the creation of impervious surface and historic resources and land alteration. The FEIR should provide a schedule for the implementation of the mitigation, based on the construction phases of the project. The Section 61 Findings will be included with all state permits issued for this project, and will be considered binding upon the proponent as mitigation commitments.

The FEIR contained a draft Section 61 Finding for use by MassDEP. The Proponent has committed to the following mitigation in the FEIR:

- The Proponent will create wetland replication areas at a ratio of greater than 1:1 for impacts to BVW. In total, 16,556 sf of BVW will be impacted as a result of the project; the Proponent will create 25,260sf of wetland replication. Wetland replication areas will be constructed and monitored in compliance with the Massachusetts Inland Wetland Replication Guidelines.
- Temporary wetland impacts to BVW and Bank will be restored in-kind.
- The Proponent will provide compensatory flood storage to mitigate impacts to BLSF.
- The Proponent will construct a stormwater management system for the project to ensure that water quality is not adversely impacted and to ensure that post-development rates of runoff do not exceed pre-development rates. Structural and non-structural stormwater Best Management Practices will be implemented in compliance with MassDEP's Stormwater Management Policy.
The Proponent has developed and will implement an Operations & Maintenance Plan for the stormwater management system that outlines maintenance of structural BMPs and specifies the frequency and type of non-structural BMPs such as street sweeping.
- The Proponent has developed an Erosion and Sedimentation Control Plan, and will implement a Stormwater Pollution Prevention Plan in advance of construction.

Conclusion

I am satisfied that the project has avoided and mitigated environmental impacts to the extent feasible, and that the state permitting agencies have adequate information for their agency decisions. No further MEPA review is required for this project. I remind MassDEP to forward copies of the final Section 61 Findings for the project to the MEPA Office for completion of the file.

September 14, 2007

Date



Ian A Bowles

No comments received

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