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October 11, 2006

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

PROJECT NAME : Sutton Residential Open Space Development
PROJECT MUNICIPALITY : Sutton
PROJECT WATERSHED : Blackstone
EOEA NUMBER : 13876
PROJECT PROPONENT : **Hawthorne** Land Development, LLC
DATE NOTICED IN MONITOR : September 11, 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 an Environmental Impact Report (EIR).

The project consists of a 59-unit, single-family residential development and associated infrastructure including on-site water supply wells, a stormwater management system, new sewer mains, on-site roadways and off-site road-widening. The project may include an on-site wastewater treatment facility in lieu of connection to a municipal supply. The project is located on a 149-acre site, which contains wetlands resource areas and rare species habitat. Approximately 45 acres of the site is currently used as a Christmas tree farm. According to the Environmental Notification Form (ENF), the project will result in approximately 55 acres of land alteration (including 7 acres of impervious area), 250 square feet of bordering vegetated wetlands alteration, and loss of ten living public shade trees. Wastewater generation is estimated at 25,580 gallons per day and the project includes construction of 0.4 miles of new sewer mains.

The project is undergoing MEPA review and requires a mandatory EIR pursuant to Section 11.03(1)(a) of the MEPA regulations because it will result in direct alteration of 50 or more acres of land. The project is also undergoing MEPA review pursuant to: Section 11.03(1)(b)(2) because it will result in creation of 5 or more acres of impervious area; Section 11.03(1)(b)(4) because it involves conversion of land in active agricultural use, containing prime agricultural soils, to non-agricultural use; Section 11.03(2)(b)(2) because it may result in a taking of an endangered or threatened species or species of

special concern; and Section 11.03(6)(b)(2)(b) because it will result in cutting of 5 or more living public shade trees of 14 or more inches in diameter.

The project will require a Sewer Extension and may require a Groundwater Discharge Permit from the Department of Environmental Protection (MassDEP). The project requires an Order of Conditions from the Sutton Conservation Commission (and, upon appeal only, a Superseding Order from MassDEP). The project may require a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP). The project also requires a National Pollutant Discharge Elimination System (NPDES) Construction Activities Permit from the U.S. Environmental Protection Agency (EPA).

The proponent is not seeking financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project within the subject matter of required state permits with the potential to cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to wetlands, rare species, wastewater, land, stormwater and drainage.

SCOPE

General

The proponent should prepare a Draft EIR (DEIR) in accordance with the general guidance for outline and content found in Section 11.07 of the MEPA regulations as modified by this Scope. The DEIR should include a copy of this Certificate and a copy of each comment letter received. The DEIR should include a clearly labeled existing conditions plan of the project site and its immediate context, and a plan of proposed conditions. Maps and plans should be of a reasonable scale to facilitate review and comment and should include wetlands and water bodies on-site and in the project area. Site plans should identify bordering vegetated wetlands, riverfront, vernal pools, cold water fisheries resources, any other wetlands resource areas and buffer zones areas. The proposed conditions plan should show proposed development in the context of existing resources. Plans should show adjacent land uses, Zone IIs and other water protection districts, and rare species habitat on or adjacent to the project site. The DEIR should include a project summary with a project description, an update on any changes since the filing of the Environmental Notification Form (ENF), and a summary of alternatives analyzed and mitigation measures proposed.

Alternatives and Sustainable Design

The DEIR should include an evaluation of alternatives, including alternative project configurations and site layouts to avoid and minimize impacts to rare species habitat and coldwater fisheries, and other impacts associated with land alteration, impervious area and other project components. The alternative analysis should identify opportunities to avoid and minimize habitat fragmentation. Alternatives to consider may include a more clustered development and alternatives to single-family homes. The DEIR

should evaluate and compare on-site and off-site wastewater treatment and disposal alternatives as further detailed in the wastewater section below.

The DEIR should consider alternative use of the undeveloped prime farmland on the project site (e.g. as a community garden) to allow continued use of agricultural soils. The project involves cutting of approximately ten public shade trees as part of proposed road widening activities (DeWitt Road). The DEIR should discuss alternatives to avoid and minimize loss of public shade trees, as well as mitigation measures for any unavoidable impacts.

The alternative analysis should include the no-build alternative to establish baseline conditions that can be used to evaluate potential impacts of the proposed project and other alternatives, and to develop appropriate mitigation. The DEIR should include a summary chart that compares impacts of project alternatives (in terms of acres of land alteration and impervious area, volume of earthwork, wetlands and rare species habitat impacts, areas to be placed under permanent protection, and other potential impacts). The DEIR should clearly differentiate between altered and undisturbed land for each of the alternatives evaluated.

The proponent should evaluate sustainable design alternatives such as Low Impact Development (LID) and High-Performance/Green buildings that can serve to avoid or minimize potential environmental impacts. Such alternatives may also reduce project development and long-term operational costs. The DEIR should discuss sustainable design alternatives evaluated by the proponent and describe measures proposed to avoid and minimize environmental impacts. I refer the proponent to the section on sustainable design below for additional recommendations regarding LID and design measures.

Rare Species

A significant portion of the project work area is mapped as Priority and Estimated Habitat for the Marbled Salamander, a state-listed threatened species, and the Eastern Box Turtle, a state-listed species of Special Concern. Priority Habitat for the Four-toed Salamander also occurs on-site but is not located within proposed work areas.

The proponent will be required to provide a Massachusetts Endangered Species Act (MESA) filing to the NHESP (321 CMR 10.18). The proponent should consult with NHESP to reach an agreement on project configuration that will reduce habitat impacts to state-listed species, and to discuss the need for field surveys. If the project cannot be configured to avoid a "take" of state-listed species, it can only be permitted under MESA if it meets the standards for Conservation and Management Permit (321 CMR 10.23).

The DEIR should include an update on consultations with NHESP and discuss any field surveys undertaken. The DEIR should demonstrate how the project is being configured to avoid a "take" or, if a "take" cannot be avoided, the DEIR should demonstrate how the project is being designed to meet the standards for a Conservation and Management Permit.

Wetland Resources

As noted by MassDEP in its comment letter, the project as proposed in the ENF involves minimal alteration of bordering vegetated wetlands (250 square feet). However, it will require a filing with NHESP during the Wetlands Protection Act Notice of Intent process because the site includes priority habitat of rare species and certified vernal pools.

The DEIR should discuss alternatives considered to avoid wetlands impacts. If proposed impacts are considered unavoidable, the DEIR should illustrate that the impacts have been minimized, and that the project will be accomplished in a manner that is consistent with the Performance Standards of the Wetlands Regulations (310 CMR 10.00). The DEIR should include wetlands replication plans.

All resource area boundaries, riverfront areas, applicable buffer zones, and 100-year flood elevations should be clearly delineated on a plan in the DEIR. The DEIR should address the significance of the wetland resources on and near the project site, including significance as it relates to coldwater fisheries, public and private water supplies, and wildlife habitat.

Fishery Resources

The project is located in the vicinity of Singletary Lake, a stocked trout water resource which is highly susceptible to changes in water quality and/or quantity such as siltation, water level fluctuations, and alteration of the temperature regime. The DEIR should demonstrate how the project is being designed to avoid any adverse impacts to Singletary Lake and its ability to support coldwater fish species.

The DEIR should include details on Best Management Practices (BMPs) that will be implemented during construction for erosion and sedimentation control. The DEIR should discuss the timing of in-stream work and describe any proposed streambed alteration, replacement of existing culverts or installation of new culverts. The DEIR should describe in detail how the project will be consistent with the guidelines and standards for culverts and crossings as further detailed in the NHESP comment letter.

Agricultural Soils

Approximately 45 acres of the project site is in active agricultural use as a Christmas tree farm. Based on consultations during the site visit, it appears that the farmer is winding down operations and has entered into an agreement with the project proponent to continue harvesting trees for sale over the next two years before the proposed project commences. A portion of the site, on the eastern side near the entrance, is categorized as prime farmland. I encourage the proponent to establish a community garden in this area as requested by the Department of Agricultural Resources (DAR). The DEIR should discuss opportunities for continued use of the prime farmland area on-site and identify any proposed community garden areas on site plans.

Open Space and Habitat Conservation

The ENF indicates that 90 acres of the project site will be placed under a Conservation Restriction (CR). The areas proposed for a CR should be clearly identified on site plans and the DEIR should include draft CR language. The DEIR should also include a draft management plan to avoid and minimize impacts to wetlands and rare species habitat areas associated with the use of fertilizer, pesticides and other chemical controls

Wastewater

According to the ENF, wastewater from the proposed development will be conveyed to the Upper Blackstone Water Pollution Abatement District wastewater treatment facility through the Town of Millbury sewer system and the proposed new sewer main. The project cannot receive a sewer extension permit from MassDEP unless an updated Intermunicipal Agreement (IMA) has been signed between the towns of Sutton and Millbury. The DEIR should provide an update on the status of IMA. The proposed sewer mains will enable homes on Singletary Avenue to tie into the municipal system. The DEIR should clarify the amount of additional wastewater flow from homes in the area and any potential future flow from currently undeveloped lots along the proposed sewer alignment.

The DEIR should describe in detail the proposed sewer system (including any pump stations and existing downstream sewers) as well as the on-site wastewater treatment facility (WWTF), which is being proposed as an alternative if the municipal connection is not feasible. The DEIR should include information on soils conditions and other analysis undertaken to identify the most appropriate groundwater discharge locations and WWTF design. The DEIR should describe potential impacts associated with both wastewater alternatives and measures proposed to avoid, minimize or mitigate any adverse impacts. The DEIR should include information and analysis to demonstrate how the project will meet MassDEP requirements for a Groundwater Discharge Permit and a Sewer Extension Permit.

Water Supply

The project includes on-site wells for the proposed homes. Water use is estimated at 25,520 gallons per day. The DEIR should clarify if this estimate is for drinking water only and if so, the DEIR should provide an estimate for irrigation water use and clarify the source of irrigation water.

Drainage and Stormwater Management

The DEIR should provide a drainage analysis, including existing and proposed conditions, and a stormwater management plan. The DEIR should discuss arrangements for ownership and maintenance to ensure long-term effectiveness of the stormwater management system. The DEIR should discuss changes in topography and drainage

systems and describe how these changes may affect site hydrology, wetlands, water quality and habitat areas (including vernal pools and Singletary Lake) on and adjacent to the project site. The DEIR should also discuss mitigation measures to avoid and minimize adverse impacts due to drainage alteration. The DEIR should include information and analysis to demonstrate how the stormwater management system will comply with MassDEP's stormwater management policy and standards.

I encourage the proponent to consider LID techniques in site design and storm water 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/>.

Sustainable Design

I encourage the proponent to consider high-performance/green building and other sustainable design measures to avoid and minimize environmental impacts. Such measures may include:

- EnergyStar Certification and Leadership in Energy and Environmental Design (LEED) Certification for Homes;
- water conservation and reuse of wastewater and stormwater;
- use of renewable energy;
- ecological landscaping;
- optimization of natural day lighting, passive solar gain, and natural cooling;
- an annual audit program for energy and water use, and waste generation;
- energy-efficient Heating, Ventilation and Air Conditioning (HVAC), lighting systems, and appliances, and use of solar preheating of makeup air;
- use of building supplies and materials that are non-toxic, made from recycled materials, and made with low embodied energy;
- incorporation of an easily accessible and user-friendly recycling system infrastructure into building design; and
- implementation of a solid waste minimization and recycling plan.

Construction Activities

The DEIR should address MassDEP comments and concerns regarding potential air quality impacts during construction and demolition, and discuss how the project will

comply with any applicable regulations and/or permit requirements. The DEIR should include a draft construction management plan (CMP) describing project activities and their schedule and sequencing, and best management practices (BMPs) that will be used to avoid and minimize adverse environmental impacts. The DEIR should discuss any blasting proposed and how potential impacts to wetlands and water resources, associated with use of perchlorate-containing blasting materials, will be avoided and minimized.

Mitigation and Section 61 Findings

The DEIR should describe all measures to avoid, minimize and mitigate adverse effects on the environment, and include a summary of mitigation measures to which the proponent is committed and a schedule for implementation of all mitigation measures. The DEIR should include proposed Section 61 Findings for all state permits, which should describe mitigation measures to be implemented, contain a clear commitment to mitigation and a schedule for implementation, and identify parties responsible for funding and implementing the mitigation measures.

Comments

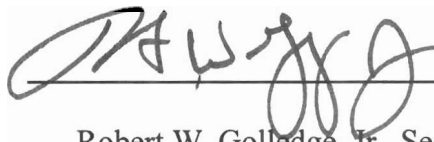
The DEIR should respond to the comments received to the extent that they are within MEPA jurisdiction. The proponent should use either an indexed response to comment format, or direct narrative response. The DEIR should present any additional narrative or quantitative analysis necessary to respond to the comments received.

Circulation

The DEIR should be circulated to all who submitted comments on the ENF as listed below, to the Towns of Sutton and Millbury, to any agency from which the proponent may require a permit or approval, and to others as required by Section 11.16 of the MEPA regulations. A copy of the DEIR should also be made available for public review at the Sutton Public Library.

October 11, 2006

DATE



Robert W. Gollidge, Jr., Secretary

Comments Received

10/2/06	Department of Agricultural Resources
10/2/06	Department of Environmental Protection, Central Regional Office
10/3/06	Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program

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