



# The Commonwealth of Massachusetts

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March 8, 2007

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

PROJECT NAME : Lakeview Estates  
PROJECT MUNICIPALITY : Bellingham  
PROJECT WATERSHED : Blackstone  
EOEA NUMBER : 13957  
PROJECT PROPONENT : South Center Realty, LLC  
DATE NOTICED IN MONITOR : February 6, 2007

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 **does not require** the preparation of an Environmental Impact Report (EIR). The project will require additional MEPA review in the form of a Notice of Project Change (NPC)/Phase I Waiver Request consistent with the Town of Bellingham Comprehensive Wastewater Management Plan (CWMP) (EOEA #11602).

### Project Description

The project consists of the construction of a 60-lot, 120-unit residential development on a 63.4-acre site in Bellingham. Access will be provided via two internal driveways serving 25 duplexes in the northern area of the project and 35 duplexes in the southern area of the project. Approximately 34 acres of the site will be maintained as open space. The northern area will be accessed via Chamberlain Street and South Center Street and the southern area will be accessed via Geordan Avenue and Silver Lake Road. The project includes associated utilities and the proponent proposes to meet water and sewer demand through connection to the municipal system. The proponent will construct a gravity sewer that will flow to a proposed pump station

on Cross Street. From Cross Street, sewage will be pumped through Cross Street and Central Street to an existing manhole on Central Street for eventual treatment and discharge at the Woonsocket Wastewater Treatment Facility (WWTF).

The site is located in southeast Bellingham and bordered to the west by Chamberlain Road, Geordan Avenue and existing residential development (including Scott Hill Acres), to the south by Silver Lake Road, and to the east by Silver Lake. Silver Lake is a popular recreational area that includes a beach and is used for swimming. The adjacent parcel to the south was the subject of previous MEPA review as the Shores at Silver Lake (EOEA #13582). The site contains former gravel pits, open grass fields, small wooded areas and wetlands. It includes Priority Habitat and Estimated Habitat associated with the American Brook Lamprey (*Lampetra* appendix).

Impacts associated with the Preferred Alternative include alteration of 27 acres of land, creation of 9.04 acres of new, impervious surfaces, generation of approximately 832 average daily vehicle trips (adt), water use of 33,000 gpd and generation of 33,000 gpd of wastewater. Efforts to avoid, minimize and mitigate project impacts include development of a stormwater management system to address the increase in impervious surfaces, avoidance and minimization of wetland impacts, open space preservation, and development of roadway mitigation and pedestrian infrastructure.

#### Permitting and Jurisdiction

The project is undergoing MEPA review pursuant to Section 11.03 (1)(b)(1), (1)(b)(2) and (5)(b)(3)(c) because it requires a state permit and will alter more than 25 acres of land, create more than five acres of new impervious area and includes the construction of one or more sewer mains ½ or more miles in length. The project requires a Sewer Extension permit from the Department of Environmental Protection (MassDEP). The project is subject to review by the Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP). The project is proposed under MGL c. 40B and therefore may require review by the Housing Appeals Committee (HAC). Also, it requires an Order of Conditions from the Bellingham Conservation Commission (and hence a Superseding Order of Conditions from MassDEP in the event the local Order is appealed).

Because the proponent may be seeking approval from the Commonwealth (HAC), MEPA jurisdiction is broad, and extends to all aspects of the project that may have significant environmental impacts.

In addition to the ENF, the project will require the submission of a NPC/Phase I Waiver Request relative to the Bellingham CWMP (EOEA #11602) seeking to revise the designation of these lots from "Undeveloped Lots with Restricted Access to Collection System Based on Frontage" to "Lots with Full Access to Collection System."

Project Segmentation, Wastewater and Growth Management

If a Phase I Waiver request is granted and the project's status is changed under the CWMP, sewers will be available to serve the Scott Hill Acres neighborhood, other Silver Lake neighborhoods and the adjacent Shores at Silver Lake (EOEA #13582) parcel. The ENF indicates that the Scott Hill Acres neighborhood includes existing sewers (that transfer water out of the Blackstone Basin and to the Charles River Basin) and failing septic systems that are contributing to pollution of Silver Lake. An ENF and CWMP NPC/Phase I Waiver request was filed in 2004, and then withdrawn, for the Shores at Silver Lake. This 164-acre parcel is located to the south of the proposed project and also abuts Silver Lake. Howard A. Fafard is the managing partner of each of the separate limited liability companies established to develop these sites. The NPC proposed to re-classify a small section of the 164-acre site to facilitate sewerage of the project which presented issues, identified by MassDEP and other commentors, regarding plans for the remainder of the site and its potential development.

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.

As noted previously, this project and the Shores at Silver Lake are adjacent parcels and include common ownership. If impacts associated with the Shores at Silver Lake were considered with this project, it would exceed mandatory EIR thresholds for creation of new, impervious surfaces. The Lakeview Estates project does appear to be an independent undertaking and its development is not dependent upon the adjacent project. However, the extension of the sewer system for this project would facilitate development of the Shores at Silver Lake, the two projects present the same issues relative to wastewater management and consistency with the Town's CWMP and the environmental impacts of the projects on Silver Lake would be cumulative. The Bellingham Conservation Commission has noted that all 230 acres are up gradient of Silver Lake and contain direct hydrological connections to the Lake. Therefore, I am requiring that the NPC/Phase I Waiver request address the wastewater and growth management issues associated with both projects. The feasibility and advisability of an on-site system or the extension of the sewer system will directly affect the amount of land that could be developed, in addition to other regulatory constraints, and will provide important information to MassDEP and the Town for planning and permitting purposes.

The NPC/Phase I Waiver Request must include a thorough analysis of both sites for the feasibility of an on-site wastewater management system. Analysis of the Shores at Silver Lake site should not be limited to the area of the proposed subdivision. The proponent should consult with MassDEP prior to the filing of the NPC to develop a protocol for the study. The NPC should include sufficient detail and data (including results of soil and percolation tests) to support a claim that construction of on-site systems are not feasible on either site and

demonstrate that a representative sampling of the site has been conducted (including a plan illustrating testing locations). If the location of on-site systems present significant environmental impacts compared to extension of the sewer system, data and analysis should be provided to support this claim.

The NPC/Phase I Waiver request should also include commitments to avoid, minimize and mitigate impacts including water conservation and measures to minimize the amount of extraneous flow (inflow and infiltration (I/I)) in the existing system.

The NPC should include additional information regarding the construction and maintenance of the sewer system and pump stations. It should include estimates of potential flow that the system, as proposed, could support and assess the growth impacts associated with this project, including development of the Shores at Silver Lake site and additional development potential related to the Scott Hill Acres neighborhood and other Silver Lake neighborhoods.

#### Rare Species

NHESP did not request additional information on this project through the MEPA process. It indicated that the project is subject to its review and that the impact of stormwater on rare species habitat will be assessed during permitting.

#### Historic Resources

The Massachusetts Historical Commission (MHC) indicates that an ancient archaeological site E-1 (19-NF-230) appears to be located within a proposed sewer right-of-way and the project may adversely affect this cultural resource. MHC comments note that significant archaeological resources on the western shoreline of Silver Lake were previously identified through archaeological testing. MHC has requested that an intensive (locational) archaeological survey be conducted for previously undisturbed areas within the project site. The purpose of the survey is to locate and identify any significant historical or archaeological resources that may be affected by the project. The results of the survey will provide information to assist in consultation to avoid, minimize or mitigate any adverse effects to significant archaeological resources. The proponent should consult with MHC regarding the protocol for this survey and to explore alternatives that could avoid impacts to archaeological and historical resources.

The review of the ENF has served to adequately disclose the potential environmental impacts associated with this project. Based on the information in the ENF and after consultation with relevant public agencies, I find that although there are significant outstanding issues related to this project, they can be addressed through the filing of the NPC/Phase I Waiver request and through subsequent state and local permitting and review processes.

March 8, 2007

Date



Ian A. Bowles

Comments Received:

2/13/07 Massachusetts Department of Environmental Protection/Central Regional Office  
(MassDEP/CERO)  
2/26/07 Division of Fisheries and Wildlife (DFW)/ Natural Heritage and Endangered  
Species Program (NHESP)  
2/14/07 Massachusetts Historical Commission  
2/26/07 Town of Bellingham/Conservation Commission  
2/23/07 Town of Bellingham/Department of Public Works  
2/23/07 Town of Bellingham/Planning Board  
2/26/07 Beth Haines

IAB/CDB/cdb