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March 29, 2007

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

PROJECT NAME: Cotuit Woods  
PROJECT MUNICIPALITY: Rochester  
PROJECT WATERSHED: Buzzards Bay  
EOEA NUMBER: 13975  
PROJECT PROPONENT: Edgewood Development Company, LLC  
DATE NOTICED IN MONITOR: February 20, 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 **requires** the preparation of an Environmental Impact Report (EIR).

Project Description

As described in the Expanded Environmental Notification Form (EENF), the project involves the construction of a 115-lot residential cluster subdivision on a 566-acre site with frontage on High Street and Ryder Road in Rochester. Currently, the site is primarily undeveloped vacant land consisting of moderately dense woodland, three active cranberry bogs with associated reservoirs, previously disturbed gravel pits and wetlands. Lot sizes will be a minimum of 40,000 square feet (sf) and will be served by individual private wells and septic systems. Access to the development will be via two new roadways: one off of High Street and one off of Ryder Road. Approximately 13,000 linear feet of new roadway will be constructed to serve the development. The majority of the site has been mapped as Priority and Estimated Habitat for the Eastern Box Turtle, which is classified as a Species of Special Concern pursuant to the Massachusetts Endangered Species Act.

### MEPA Jurisdiction

The project is subject to a mandatory Environmental Impact Report (EIR) pursuant to Section 11.03(1)(a)(1), 11.03(1)(a)(2) and 11.03(6)(a)(1)(a) of the MEPA regulations because it requires state permits and will result in the alteration of more than 50 acres of land, the creation of more than 10 acres of new impervious surface and the construction of more than two miles of new roadway. The project is also subject to review pursuant to Section 11.03(2)(b)(2) of the MEPA regulations because the project will result in a prohibited "take" of a species protected under the Massachusetts Endangered Species Act (MESA).

The project requires a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency (EPA); a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP); an Order of Conditions from the Rochester Conservation Commission; a Flexible Development Special Permit and Definitive Subdivision Approval from the Rochester Planning Board; and a permit from the Rochester Soil Conservation Board.

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 permits with the potential to cause Damage to the Environment. In this case, MEPA jurisdiction extends to land alteration, stormwater, wetlands and rare species.

### Request for a Single EIR

In accordance with Section 11.05(7) of the MEPA regulations, the proponent has submitted an Expanded ENF with a request that I allow the proponent to fulfill its EIR obligations under MEPA with a Single EIR, rather than the usual two-step Draft and Final EIR process. The EENF received an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. I have reviewed the proponent's request for a Single EIR in accordance with Section 11.06(8) of the MEPA regulations, and I hereby find that the EENF meets the regulatory standards. I will therefore allow the proponent to prepare a Single EIR in fulfillment of the requirements of Section 11.03 of the MEPA regulations.

## **SCOPE**

### General

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

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

The Single 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 Rochester officials. A copy of the EIR should be made available for public review at the Rochester Public Library.

### Project Permitting and Consistency

The Single EIR should briefly describe each state permit required for the project, and should demonstrate that the project meets any applicable performance standards. In accordance with Section 11.01(3)(a) of the MEPA regulations, the Single EIR should also discuss the consistency of the project with any applicable local or regional land use plans, and address the requirements of Executive Order 385 (Planning for Growth). The project should provide an update on local permitting for both phases of the project and discuss any changes to project design since the filing of the EENF.

### Alternatives

The proponent has worked closely with NHESP to design a development that minimizes the impact on rare species habitat while satisfying the Town's subdivision regulations and bylaws. As a result of extensive consultation with NHESP, the EENF proposes a cluster subdivision design under the Town of Rochester's Flexible Development bylaw that preserves over 70 percent of the estimated rare species habitat onsite. The housing is concentrated at the eastern and western ends of the site, leaving an expansive "wildlife corridor" throughout the site. The proponent also considered a conventional subdivision for the site during the local permitting process for the project. A 144-lot conventional subdivision was presented to the Planning Board in 2005. This conventional subdivision includes over 20,000 linear feet of new roadway and includes very little dedicated open space and significant wetland impacts. The proponent's Preferred Alternative will result in less land alteration and impervious surface than the conventional plan, and will also allow for a significant amount of protected open space.

In the Single EIR, the proponent should provide a brief history of consultation with NHESP that resulted in the particular site layout in the Preferred Alternative. I note that the Coalition for Buzzards Bay has requested that the proponent examine an alternative site layout that does not require a wetlands crossing. However the proponent indicated at the MEPA site visit for the project that was held on March 20, 2007 that NHESP has requested the site layout with the crossing in this location as part of the eastern box turtle management plan. Comments from the Rochester Planning Board also express support for the proposed crossing and site layout.

The proponent should provide additional information on what types of land (i.e. upland, wetlands, cranberry bogs) will be protected as open space. According to information presented at

the MEPA site visit, the proponent indicated that a Conservation Restriction would be placed on the open space parcel and the parcel would be turned over to the Massachusetts Farm Bureau. The Single EIR should provide more information on the details of the long-term preservation of the site's open space. I note that NHESP will also require this information as part of the MESA permitting process.

### Land Alteration/Drainage

According to the EENF, the project will result in the alteration of 132.8 acres of land and the creation of 19.8 acres of impervious surface. Stormwater management systems for the project will be designed in accordance with the Town of Rochester Planning Board regulations as well as MassDEP Stormwater Management Policy (SMP) guidelines. The majority of the stormwater conveyance system will be a closed system consisting of catch basins, manholes and an underground piping network. The project will incorporate structural and non-structural Best Management Practices (BMPs) including deep-sump catch basins, oil and grease separators, extended detention ponds, grassed swales, sediment forebays and infiltration basins. The EENF provided a discussion of how the project will meet or exceed each of the applicable standards set forth in MassDEP's SMP.

The Single EIR should demonstrate that source controls, pollution prevention measures, erosion and sediment controls during construction, and the post-development drainage system will be designed to comply with MassDEP and NPDES requirements. Calculations of water quality volume, total suspended solids, recharge volumes, and peak rates of runoff should be provided with stormwater system design plans at a clear and readable scale. The Single EIR should describe the BMP designs in sufficient detail to confirm that the total suspended solids (TSS) removal rates are appropriate and to demonstrate that the stormwater system design provides adequate protection for wetland resources in conformance with the SMP. The Single EIR should include an Operations and Maintenance Program for the stormwater management system that outlines the actual maintenance operations, sweeping schedule, responsible parties, and back-up systems.

A portion of the project roadways will incorporate Low Impact Development (LID) design measures such as roadside grassed swales and shallow settling areas for runoff prior to discharge into detention basins or toward wetland areas. LID techniques incorporate stormwater BMPs and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions. In response to comments from the Coalition for Buzzards Bay, the proponent should examine expanding its LID measures to the project's roundabouts and cul-de-sac islands.

### Wetlands

Wetlands comprise approximately 119 acres of the 566-acre site. An Order of Resource Area Delineation (ORAD) was issued by the Rochester Conservation Commission in October 2006 that approved the wetland boundaries on site. The wetlands are primarily bordering vegetated wetlands (BVW) surrounding numerous intermittent streams and water bodies and abutting the Sippican River along the western site boundary. A potential vernal pool has been

identified in the northern middle section of the site and is located away from any proposed development activities. In response to comments from MassDEP, the proponent should clarify soil type in the area of empty cranberry bogs where housing is proposed.

Approximately 3,000 sf of alteration to wetland areas will be required to construct the road connecting the eastern and western sections of the development. This alteration will be minimized through the use of an open bottom culvert with wingwalls, which will also serve the purpose of a turtle crossing. Some work related to stormwater management structures will be required in the 100-foot buffer zone to BVW. There will be construction activities within the 200-foot Riverfront Area to the Sippican River and the closest activity to the potential vernal pool on the site will be 800 feet away.

The proponent will file a Notice of Intent with the Rochester Conservation Commission for the project. In its comments on the EENF, MassDEP states that because fill in BVW is proposed for the creation of a real estate subdivision, the project requires a 401 Water Quality Certificate. In the Single EIR, the proponent should clarify which permits are required for the project's impacts to wetland resources. If a Water Quality Certificate is required, the Single EIR should provide a discussion of how the project will meet the performance standards at 314 CMR 9.00.

The proponent will provide a wetland replication area at a ratio of 1:1 to mitigate for impacts to BVWs. The Single EIR should contain a detailed wetlands replication plan that includes: replication location(s); elevations; typical cross-sections; test pits or soil boring logs; groundwater elevations; the hydrology of areas to be altered and replicated; a list of wetlands plant species of areas to be altered and the proposed wetland replication species; planned construction sequence; and a discussion of the required performance standards and long-term monitoring.

### Rare Species

A Wildlife Habitat Assessment was completed for the site by Sanford Ecological Services (SES) in October 2006 and approved by the Rochester Conservation Commission in January 2007. Approximately 460 acres of the site has been deemed appropriate habitat for the Eastern Box Turtle. As a result of extensive consultation with NHESP, the proponent has developed an Eastern Box Turtle Conservation Plan that will include the permanent protection of more than 400 acres of habitat; four turtle road crossings with steel decking to allow light penetration; a turtle barrier to reduce risks of eastern box turtle road mortality; measures to protect turtles during construction; measures to assure the long-term maintenance of turtle crossings, barriers, and nesting/shrubland habitat areas; and follow-up monitoring of the local Eastern Box Turtle population in order to evaluate the effectiveness of the road crossings. In its comments on the EENF, NHESP states that it anticipates issuing a Conservation and Management Permit for this project upon completion of the MEPA review process.

NHESP has requested that the proponent provide the following additional information regarding the proposed Eastern Box Turtle Conservation and Management Plan in the Single EIR:

- A legal instrument for assuring permanent protection of Eastern Box Turtle habitat;
- A mechanism for assuring long-term maintenance of turtle crossings, barriers, and nesting areas;
- A plan for protection of turtles during construction that addresses work phasing; and,
- A plan for on-site turtle monitoring that addresses duration of study and methods for monitoring use of road crossing structures.

### Wastewater

As there are no public sewers that serve the site, the proponent will install individual septic systems on each lot in compliance with Title 5. I note that MEPA does not have jurisdiction over the project's wastewater impacts, as the project does not exceed any thresholds related to wastewater or require any state permits for wastewater treatment. Nonetheless, I encourage the proponent to respond to comments from the Coalition for Buzzards Bay regarding alternative treatment methods for the project's wastewater flows.

### Sustainable Design

The proponent should evaluate sustainable design alternatives that can serve to avoid or minimize potential environmental impacts. Such alternatives may also reduce project development and long-term operational costs. The Single EIR should discuss sustainable design alternatives evaluated by the proponent and describe measures proposed to avoid and minimize environmental impacts. 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:

- Leadership in Energy and Environmental Design (LEED) certification;
- 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 Period Impacts

The Single 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. I encourage the proponent to consider participating in MassDEP's Clean Construction Equipment Initiative consisting of an engine retrofit program and/or use of

low sulfur fuel to reduce exposure to diesel exhaust fumes and particulate emissions during construction.

Mitigation

The Single EIR should contain a separate chapter on mitigation measures. It should include a Draft Section 61 Findings for all state agencies that include clear commitments to mitigation, estimates of the individual costs of the proposed mitigation, and identifies the parties responsible for implementing the mitigation. The Single EIR should provide a schedule for the implementation of the mitigation, based on the construction phases of the project.

March 29, 2007

Date



Ian A. Bowles

Comments received:

- 3/20/2007 Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program
- 3/21/2007 Randall Kunz, Town Planner, Town of Rochester
- 3/22/2007 The Coalition for Buzzards Bay
- 3/22/2007 Department of Environmental Protection, Southeast Regional Office

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