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April 11, 2008

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

PROJECT NAME : 1429 Main Street  
PROJECT MUNICIPALITY : Holden  
PROJECT WATERSHED : Nashua  
EEA NUMBER : 14199  
PROJECT PROPONENT : Dr. Davis Witt, Manager of 1429 Main Street  
Enterprises, LLC  
DATE NOTICED IN MONITOR : March 12, 2008

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). However, the project as proposed in the Environmental Notification Form (ENF) does not appear to be permissible. Therefore, if the proponent chooses to proceed with redesigning the project, the proponent should submit a Notice of Project Change (NPC).

The project as proposed in the Environmental Notification Form (ENF) consists of construction of a 2,000 square foot (sf) expansion to an existing house, construction of parking areas and a stormwater management system, and development of lawn within Riverfront Area. The proposed project is located within 200 feet from the bank of a tributary to the Kendall Reservoir, and within the Primary Protection Zone of a public water supply. The ENF proposes development of the 1.6-acre project site to accommodate future use for orthodontic and other professional offices.

The ENF did not include an adequate assessment of project alternatives to reduce impacts in the Primary Protection Zone, and did not describe mitigation measures that would meet regulatory requirements for management of stormwater. In addition, the ENF does not demonstrate that the project qualifies as a redevelopment project or meets the general performance standards for work in Riverfront Area. The proponent declined the offer of an extension to the public comment period to provide additional information necessary for the MEPA review process. The proponent also declined the option to withdraw and resubmit a revised ENF.

According to the ENF, the project will result in approximately 2,846 sf of alteration within Riverfront Area and approximately 0.28 acres of new impervious area. The project is undergoing environmental review pursuant to Section 11.03(3)(b)(1)(f) of the MEPA regulations because it will result in alteration of one half or more acres of Riverfront Area and Section 11.03(4)(b)(6) because it will result in alteration requiring a Variance in accordance with the Watershed Protection Act. The project also requires an Order of Conditions from the Holden Conservation Commission (and, on appeal only, a Superseding Order from the Massachusetts Department of Environmental Protection (MassDEP)). The project also requires a MassHighway Access Permit.

The proposed project will not receive financial assistance from the Commonwealth of Massachusetts and does not require a land transfer from an agency of the Commonwealth. Therefore, MEPA jurisdiction is limited to those aspects of the project within the subject matter of any required Permit that are likely to cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to water supply, wetlands, water quality, stormwater, and transportation.

The proponent filed a Variance application with DCR, which is required because of proposed alteration within 200 feet of the bank of a resource area and because the amount of impervious surfaces proposed is above the threshold of 10% of the jurisdictional area or 2,500 sf, whichever is greater. As noted in the comment letter from the Department of Conservation and Recreation (DCR), the project as proposed in the ENF does not give serious consideration to an alternative that would reduce impacts in the Primary Protection Zone and does not meet the MassDEP Stormwater Management Guidelines for design or maintenance standards. In order for a variance from Watershed Protection Act to be granted, the proponent will need to submit credible evidence that the project will not result in substantial detriment to the public good and will not result in impairment of water quality. The proponent should demonstrate that all feasible alternatives have been considered and that the proposed design will avoid and minimize, or mitigate impacts to the maximum extent feasible.

The ENF proposes conversion of an area of shrub/brush to lawn, which would result in 2,846 of alteration in Riverfront Area. It appears that this area could remain in its natural state by eliminating proposed sodding of this area. As further detailed in the MassDEP comment letter, the proponent must provide information to demonstrate that this area qualifies for the Redevelopment provisions found at 310 CMR 10.58(5). If the project does not qualify for the redevelopment provisions, the project must be designed to meet the general performance standards for work in Riverfront Area, specifically 310 CMR 10.58(4)(c) that states that there must be no practicable and substantially equivalent economic alternative to the proposed project with less effects on the interests of the Wetlands Protection Act and 310 CMR 10.58(d) that states that the work must have no significant adverse impact on the Riverfront Area.

Surface waters that may receive storm water discharges from the site during and after construction include Bordering Vegetated Wetland (BVW), a small pond and an unnamed tributary to Warren Tannery Brook, which are all designated as Outstanding Resource Waters (ORWs) and afforded protection in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00. As further detailed in the MassDEP comment letter, the proponent must submit a

Notice of Intent (NOI) to the U.S. Environmental Protection Agency (EPA) for coverage under the National Pollution Discharge Elimination System (NPDES) for Storm Water Discharges From Construction Activities (Construction General Permit or CGP) and develop a Storm Water Pollution Prevention Plan. The proponent is also required to submit a permit application to the MassDEP Division of Watershed Management, Surface Water Discharge Permit Program (a complete application of BRP WM 09-Approval of NPDES Stormwater Pollution Prevention Plans for Construction or Industrial General Permits Discharging to ORWs).

The following information would facilitate subsequent MEPA review

- A detailed evaluation of alternatives to reduce impact to the Primary Protection Zone, which should include the alternative plan requested by DCR. The NPC should include plans for the alternative referenced in the ENF, which would locate the project outside of the 200ft Watershed Protection Zone. The NPC should include a comparative analysis of alternatives, including a quantitative analysis of impacts to resource areas for each alternative. The NPC should provide additional information to show how the project will be designed to avoid impairment of water quality.
- Information on proposed stormwater management system to meet MassDEP guidelines for design and maintenance (including pre-treatment requirements for critical areas and required separation to estimated high groundwater);
- Documentation on usage, operation and maintenance of proposed stormwater techniques;
- Alternative to the proposed foundation drain/sump pump (which, as noted by DCR in its comment letter, may negate the infiltration capabilities of the proposed dripline recharge trench);
- Additional details on erosion or sedimentation controls including plans that indicate locations of proposed controls;
- Evaluation of alternatives to proposed lawn development in Riverfront Area;
- Information to demonstrate that the project qualifies as a redevelopment provisions at 310 CMR 10.58(5), or project design plans that meet the general performance standards for work in Riverfront Area, specifically 310 CMR 10.58(4)(c) and 310 CMR 10.58(4)(d);
- A Stormwater Pollution Prevention Plan (SWPPP) that describes stormwater pollution prevention measures and controls that will prevent or minimize stormwater impacts to the protected resources.

April 11, 2008

DATE



Ian A. Bowles, Secretary

#### Comments received

3/31/08      Department of Conservation and Recreation (DCR)  
4/01/08      Department of environmental Protection, Central Regional Office

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