



The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

100 Cambridge Street, Suite 900

Boston, MA 02114-2524

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

STEPHEN R. PRITCHARD
SECRETARY

Tel. (617) 626-1000
Fax. (617) 626-1181
<http://www.mass.gov/envir>

June 23, 2006

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

PROJECT NAME : Bears Farm
PROJECT MUNICIPALITY : Kingston
PROJECT WATERSHED : Jones River
EOEA NUMBER : 13805
PROJECT PROPONENT : Bears Farm Trust, c/o I.K. Dwyer
DATE NOTICED IN MONITOR : May 24, 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 **does not require** the preparation of an Environmental Impact Report.

As described in the Environmental Notification Form (ENF), the proposed project is for 19 units of residential housing for 55 and older adults on a 22.49-acre site. The proposed project restricts the development to 8 acres of the site and proposes to donate 14.2 acres to the Town of Kingston for open space and conservation. The project is designed to minimize impacts upon the adjoining wetland resource areas: an old cranberry bog which has returned to a red maple swamp consisting of 0.7 acres; and a wetland and vernal pool area consisting of 0.59 acres.

The project is undergoing review pursuant to Sections 11.03 (2)(b)2. of the MEPA regulations because the project results in the "take" of a rare species on a project site greater than two acres. The project will require a Conservation and Management Permit from the Division of Fisheries and Wildlife, an Access Permit from the Massachusetts Highway Department (MHD), and an Order of Conditions from the Kingston Conservation Commission (and hence Superseding Order from the Department of Environmental Protection (DEP) if the local Order is appealed). Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction is limited to the subject matter of the required state permits, specifically rare species, traffic, and potentially drainage and stormwater management.

The proponent has generally designed the project to minimize impacts on state-protected rare species. The Natural Heritage and Endangered Species Program (NHESP) has commented that it has been working with the proponent since August 2005 to develop an overall project design that would avoid and minimize the "take" of state-listed species on the project site. NHESP finds that the proposed project will result in a "take" of state-listed species:

- the Eastern Box Turtle (*Terrapene Carolina*), a state-listed "Special Concern" species;
- the Spotted Turtle (*Clemmys guttata*), although still vulnerable, the species has recently been removed from the Massachusetts Endangered Species Act (MESA) list of species of "Special Concern".

The project must meet the performance standards for a Conservation and Management Permit under MESA. NHESP has commented that it will continue to work with the proponent to resolve the remaining rare species issues during the permitting process. I anticipate that the Conservation and Management Permit will include detailed requirements for construction monitoring. I ask that NHESP provide appropriate technical assistance to the proponent and construction staff to ensure that construction period impacts are avoided.

As stated in the ENF there is no proposed alteration of the Bordering Vegetated Wetlands (former cranberry bog now returned to red maple swamp) or the Isolated Land Subject to Flooding (vernal pool). However, there is proposed alteration of Riverfront Area, 3200 square feet (s.f.) will be permanently altered for a road and 11,840 s.f. will be temporarily altered for grading and re-vegetation. I remind the proponent that this work must conform to the standards in the Wetlands Protection Act Regulations at 310 CMR 10.58 Riverfront Area. I advise the proponent to consult with DEP and the Jones River Watershed Association to address issues raised in their comment letters.

The review by the Kingston Conservation Commission should result in the development of appropriate conditions to protect wetlands interests, including development of a stormwater management plan. I note that the Wetlands Protection Act may provide additional protection for rare species, if rare species are found within wetlands or associated buffer zones.

I conclude that the ENF has sufficiently described the potential impacts of and mitigation associated with the project, and has served to demonstrate that the impacts of the project do not warrant further MEPA review. The proponent can resolve any remaining issues during the permitting process. I encourage continued close coordination with state and local agencies as the proposed project plans proceed.

June 23, 2006

Date


Stephen R. Pritchard

Comments received:

06/13/06 Jones River Watershed Association
06/13/06 Department of Environmental Protection, SERO
06/20/06 Division of Fisheries & Wildlife, NHESP

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