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October 11, 2006

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

PROJECT NAME: Osborne Hills  
PROJECT MUNICIPALITY: Salem  
PROJECT WATERSHED: North Coastal  
EOEA NUMBER: 13865  
PROJECT PROPONENT: Osborne Hills Realty Trust  
DATE NOTICED IN MONITOR: August 23, 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). By a separate Certificate issued today, I have proposed to grant a Waiver allowing Phase 1 of the project to proceed prior to the completion of the EIR for the entire project.

### Project Description

As described in the Environmental Notification Form (ENF), the project proposes a residential cluster subdivision of 131 single family homes on a 162-acre site in Salem, MA. The project site is located in northwest Salem adjacent to the Peabody municipal line. An approximately 250 foot wide New England Power transmission line easement bisects the project site in an east-west direction. Strongwater Brook originates on the site and flows to the east. The development will emphasize the open space and wetland values of the site. Average lot size for the homes is ½ an acre and every home borders on dedicated open space. Approximately 93 acres of the project site will be permanently protected open space. Over a mile of a low impact publicly accessible trail network designed for passive recreational uses will be constructed to link the site's open space elements.

The project will be constructed in ten phases. Phase 1 includes 19 homes, together with all roads, utilities, stormwater management system components and wetland mitigation areas for the entire project. Phase 1 completion is anticipated in 2007. Phases 2 through 10 are the build-out of the remaining homes, and will not proceed until MEPA review has completed and until the Salem Conservation Commission has issued a Certificate of Compliance for Phase 1.

Wastewater from the project will be conveyed via the Salem municipal system to the South Essex Sewage District for treatment. Wastewater from the first 19 homes will flow via gravity to a connection with the Salem sewer in Marlborough Road. This sewer will be privately owned until the completion of Phase 1. Wastewater from Phases 2 through 9 will be conveyed via force main to the Salem system located approximately 300-feet south of the primary entrance along Marlborough Road.

### MEPA Jurisdiction

The project is subject to a mandatory Environmental Impact Report (EIR) and is undergoing review pursuant to Section 11.03(1)(a)(1) and 11.03(1)(a)(2) of the MEPA regulations because it requires state permits and will result in the alteration of more than 50 acres of land and the creation of ten or more acres of impervious surface. The project also exceeds MEPA ENF review thresholds for wastewater at 301 CMR 11.03(5)(b)(3)(c) because the project requires the construction of greater than ½ a mile of new sewer main not located in the existing right of way.

The project requires a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency (EPA); a Sewer Extension Permit from the Department of Environmental Protection (MassDEP); and review from the Massachusetts Historical Commission (MHC). The project has received Subdivision Approval and Special Permits from the Salem Planning Board and a Final Order of Conditions from the Salem Conservation Commission.

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 wastewater and historic resources. I also encourage the proponent to respond in the DEIR to comments from MassDEP regarding the projects impacts on wetlands and stormwater.

### Request for a Phase 1 Waiver

The ENF for the project was noticed in the August 23, 2006 edition of the Environmental Monitor. On September 21, 2006 the proponent submitted a request to the MEPA office for a Phase 1 Waiver that would allow the proponent to commence construction of the 19 homes in Phase 1 prior to completion of the EIR for the entire project. A sewer extension permit is required from MassDEP for construction of the gravity sewer serving Phase 1. The proponent also requested a two-week extension of the MEPA review period for the project to allow for consideration of the waiver request.

## SCOPE

### General

The Draft EIR (DEIR) should follow the general guidance for outline and content contained in Section 11.07 of the MEPA regulations, as modified by this Certificate. The DEIR should include a thorough description of the project and all project elements and construction phases. The DEIR 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 DEIR should contain a copy of this Certificate and a copy of each comment received. The DEIR should respond to the comments received, to the extent that the comments are within MEPA jurisdiction. The DEIR should present additional narrative and/or technical analysis as necessary to respond to the concerns raised.

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

### Project Permitting and Consistency

The DEIR 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 DEIR 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 ENF.

### Stormwater and Wetlands

In response to comments from MassDEP, I encourage the proponent to provide information in the DEIR on the project's impacts on stormwater and to demonstrate that the proposed stormwater management system meets the Stormwater Management Policy (SMP) Standards. The project site includes an Outstanding Resource Water (ORW) to a public water supply - Spring Pond in Peabody. The proponent should ensure that stormwater controls for runoff discharging to the ORW complies with the SMP Standard 6 for critical areas.

The project will result in the alteration of approximately 2,110 square feet (sf) of Bordering Vegetated Wetland (BVW) and 1,470 sf of Isolated Vegetated Wetland. The proponent has received an Order of Conditions (OOC) from the Salem Conservation Commission for the project (DEP #064-0418). As was discussed at the MEPA consultation session for the project, a 401 Water Quality Certificate is needed for any residential subdivision

project within wetlands jurisdiction, unless deed restrictions are recorded for each lot to ensure that there will be no further alteration of wetlands on the project site. Although the ENF indicates that the lots would be deed restricted, the OOC for the project did not include this requirement. MassDEP has requested that the DEIR provide the proposed deed restriction language to provide assurance that wetlands alteration will not exceed that which was proposed in the ENF.

In addition, at least one of the project's roadway crossings will be within an ORW. The Water Quality Certificate regulations at 314 CMR 9.06(3) prohibit any discharge of dredged or fill material within an ORW. The proponent plans to span this ORW wetland to prevent any alteration. In response to MassDEP, the proponent should submit full size plans at a readable scale to show that roadways and utilities will avoid impacts to ORW resource areas.

I encourage the proponent to consider Low Impact Development (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/>. The DEIR should include a discussion of any LID measures that the proponent could incorporate into project design.

### Wastewater

According to the ENF, the project will generate 57,200 gallons per day (gpd) of wastewater, which will be discharged through new sewers to the City of Salem's collection system, and conveyed to the South Essex Sewerage District for treatment. The entire project will require a Sewer Extension/Connection permit from MassDEP, including the Phase 1 development, which will discharge sewage to the City system by gravity flow. MassDEP states in its comments on the ENF that due to MHC's requirement that an archaeological survey be conducted at the site, the Department will require a letter from MHC indicating that archaeological issues have been satisfied in advance of sewer permitting for each phase of the project.

The DEIR should demonstrate that the proposed discharge of wastewater flows for the proposed project to the City of Salem's sewer system is feasible. At a minimum, the DEIR should demonstrate that:

1. The City of Salem's sewer system has sufficient design capacity to accommodate the proposed project's additional wastewater flows; and
2. The proponent has secured permission from the City of Salem to treat the project's wastewater flows.

### Historic Resources

According to MHC's review of the Inventory of Historic and Archaeological Assets of the Commonwealth, there are two recorded ancient Native American archaeological sites within the project area. Several other ancient archaeological sites have also been found in the immediate vicinity of the project area. MHC has requested that an intensive (locational) archaeological survey (950 CMR 70) be conducted for the project. The purpose of the survey is to locate and identify any significant historic or archaeological resources that may be affected by the project.

The proponent is required to submit a field investigation permit application to the MHC for review prior to the archaeological survey. The DEIR should provide an update on status of the proponent's consultation with MHC and information regarding the project's potential impacts to historic resources. If it is determined by MHC that no significant historical or archaeological resources are located in the project area, documentation of this determination should be included in the DEIR. Again, the proponent should note that MassDEP will not issue a wastewater permit for any phase of the project until MHC's concerns have been addressed.

### 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 DEIR 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.

### Pedestrian Connections

The Osborne Hills subdivision will conserve more than 50% of the project site in open space and recreational areas. The development will have a network of publicly accessible trails for pedestrian and other low impact activities. I commend the proponent on the design of a project that will minimize impacts to natural resources and create opportunities for permanently

protected, publicly accessible open space. I encourage the proponent to respond in the DEIR to comments from WalkBoston regarding the project's sidewalks, paths and pedestrian connections.


Construction Period Impacts

The DEIR 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 DEP'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 DEIR should contain a separate chapter on mitigation measures. It should include a Draft Section 61 Finding for required state permits that includes a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation, and the identification of the parties responsible for implementing the mitigation. The DEIR should provide a schedule for the implementation of the mitigation, based on the construction phases of the project.

October 11, 2006  
Date

  
Robert W. Golledge, Jr.

Comments Received:

- 8/18/2006 Deborah & John Conroy
- 8/31/2006 Massachusetts Historical Commission
- 9/11/2006 WalkBoston
- 9/21/2006 Epsilon Associates, Inc. for the Proponent
- 10/2/2006 Department of Environmental Protection, Northeast Regional Office

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