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June 23, 2010

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

PROJECT NAME : Village at Bailey's Pond
PROJECT MUNICIPALITY : Amesbury
PROJECT WATERSHED : Merrimack River
EEA NUMBER : 14596
PROJECT PROPONENT : Fafard Real Estate and Development Corporation
DATE NOTICED IN MONITOR : May 24, 2010

Pursuant to the Massachusetts Environmental Policy Act (M.G. L. c. 30, ss. 61-62I) 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).

Project Description

The project consists of the construction of a 148-unit housing development on a 24.5-acre site adjacent to Bailey's Pond in Amesbury. The project will include 37 buildings, consisting of four units each, and associated infrastructure and utilities including access drives, drainage, lighting and landscaping. A cluster of nine buildings is proposed on the northwest side of Bailey's Pond and access will be provided via Summit Avenue approximately 900 feet from its intersection with Route 150. A cluster of 29 buildings is proposed on the southwest side of Bailey's Pond north of Route 150 and east of Summit Avenue. Primary access to this area is proposed via Route 150 about 600 feet east of the Summit Avenue intersection and secondary access is proposed from Beacon Street. The land is owned by the Town of Amesbury and includes an area formerly used as a gravel pit. The Proponent responded to the Town's Request

for Proposals (RFP), was awarded the project by the Town and has signed a purchase and sale (P&S) agreement with the Town. The ENF indicates that the site is designated as a Planned Unit Development (PUD) Zone.

Project Site

The project site is bounded by Bailey's Pond to the east, residential areas to the north and east, Route 150 to the south and Interstate-495 (I-495) to the west. The site consists of two parcels and includes a former gravel pit. Some of the site is well vegetated but the majority of it consists of a weedy brush and invasive species and it includes areas of exposed earth due to gravel mining. The site is bisected by a culverted stream that daylight on the north end of the property adjacent to Summit Avenue. The site slopes steeply down from Route 150 and Summit Avenue with a 30 to 40 foot change in elevation and flattens to a more moderate slope across the bottom of the site. Drainage outlets contribute off-site drainage to the project area and the pond without detention and retention areas and appear to contribute to significant erosion, undercutting of headwalls and discharge of sediment to the Pond. In addition, the existing weir that provides an outlet from Bailey's Pond to the Merrimack River overtops during storm events and has been damaged.

Permitting and Jurisdiction

The project is undergoing MEPA review and requires preparation of an Environmental Notification Form (ENF) pursuant to 301 CMR 11.03 (1)(b)(2) because it requires a state permit and will create more than five acres of new, impervious area. The project requires a Sewer Connection permit from the Massachusetts Department of Environmental Protection (MassDEP) and an Access Permit from the Massachusetts Department of Transportation (MassDOT).

In addition, it requires an Order of Conditions from the Amesbury Conservation Commission (and a Superseding Order of Conditions (SOC) from MassDEP in the event the local Order is appealed) and site plan review by the Amesbury Planning Board.

Because the Proponent is not seeking funding from the Commonwealth, MEPA jurisdiction is limited to the subject matter of required or potentially required permits and extends to all issues that may cause Damage to the Environment as defined in the MEPA regulations. These include wetlands/drainage, water quality, wastewater, traffic and transportation.

Environmental Impacts

Potential environmental impacts are associated with the alteration of 17.8 acres of land, creation of 8.28 acres of new impervious surfaces, alteration of wetland resource areas (including 30 linear feet (lf) of bank, 120 square feet of bordering vegetated wetlands (BVW), 187 sf of land under water (LUW), 307 sf of bordering land subject to flooding (BLSF) and 14,159 sf of riverfront area (RA)), generation of 905 average daily vehicle trips (adt), generation of 32,560 gallons per day (gpd) of wastewater and 32,560 gpd of water use. Measures to avoid, minimize and mitigate impacts include: development of a previously altered site, removal of invasive

species, design and construction of a stormwater management plan (SMP) consistent with stormwater standards (including bioretention, Stormceptor treatment units, underground detention and infiltration of clean, rooftop runoff) and construction of a trail around the Pond. If any hazardous waste or contamination is encountered during site investigations or project construction, the Proponent will be required to report it and address it consistent with the Massachusetts Contingency Plan (MCP).

Alternatives

As noted previously, the land is owned by the Town, the site is being developed in response to an RFP issued by the Town and the site is designated as a Planned Unit Development (PUD) Zone. The ENF asserts that the proposed project is consistent with allowed uses within the PUD and that the project has been revised to minimize environmental impacts. The previous proposal, developed in 2004, included 176 units and extensive work within wetland buffers. The current proposal reduces the number of units by 28 to 148, eliminates impervious surfaces within 50 feet of bordering vegetated wetlands (BVW), and reduces RA impacts.

Comments from the Town acknowledge the revisions to the plan while identifying potential inconsistencies with Town standards. The Town's comments also indicate that the project does not address major concerns previously raised by the Planning Board, including site layout, density, interior vehicular circulation and public safety, significant changes to existing grades, impervious area and stormwater management. These concerns are echoed by the Bailey's Pond Neighborhood Group. Comments from MassDEP also suggest measures to minimize associated environmental impacts, including design modifications to minimize work within RA and creation of impervious surfaces within the buffer zone to wetlands. As outlined further below, I expect that these issues will be fully addressed during the state permitting process.

Wetlands

Impacts within RA are primarily associated with the installation of the sewer connecting the north and south areas of the project, construction of the trail and construction of the access drive to the northern portion of the site. The majority of buildings and roadways are located farther than 50 feet from wetlands; however seven buildings, associated infrastructure and impervious surfaces remain within the 100-foot buffer zone. Grading, shaping and construction of access trails is proposed within the 100-foot buffer and the 200-foot RA. The proposed stormwater management system includes bioretention through use of rain gardens, Stormceptor treatment units and underground detention and infiltration of clean, rooftop runoff. The rain gardens are spread throughout the site and include yard areas behind or in front of each unit. Although the project will add 8.28 acres of impervious surfaces to the site, the ENF asserts that the project represents an improvement over the uncontrolled stormwater currently impacting the site. The consistency of the project with the Wetlands Protection Act will be assessed by the Amesbury Conservation Commission, including consistency with the stormwater standards.

Comments from MassDEP indicate that the information provided in the ENF does not demonstrate consistency of the project with the Wetlands Protection Act, including the requirement for an alternatives analysis to demonstrate that there are no practicable and

substantially equivalent economic alternatives with less adverse impact (310 CMR 10.58 (4)(c)) and that the proposed project will have no adverse impact on the RA (310 CMR 10.58 (4)(d)). Also, these comments from MassDEP identify revisions to the design that could reduce impacts within the RA, including shifting the access drive and buildings on the northern portion of the site and re-routing the proposed sewer within Summit Avenue. Comments from the Town indicate the Proponent should consider consolidating the number of structures to reduce impervious surfaces and provide more areas for stormwater management and open space and the design should be altered to retain more of the existing mature vegetation that has not been altered to promote stormwater management and minimize erosion. These issues, including the exploration of feasible alternative site layouts with less impact, must be addressed during the wetlands permitting process.

Comments from the Town also express concern with the design of the rain gardens for stormwater management because their location adjacent to the units make them more susceptible to frequent damage by residential activity, snow plowing and storage. They suggest that redesign of the raingardens into fewer areas around dedicated open space areas would be more effective. Comments from MassDEP suggest that the Order of Conditions should include binding commitments to ensure that the rain gardens are not altered over time and effectiveness is maintained.

Traffic and Transportation

The project will generate approximately 905 adt. Although this represents a significant increase in traffic generation within the neighborhood, this is below the ENF threshold of 1,000 adt for review of traffic impacts (11.03(6)(b)(14)). The project is located adjacent to Route 150 and in close proximity to I-495. As noted previously, it requires an Access Permit from MassDOT.

MassDOT did not provide comments on the ENF; however, it will review the project and its design for consistency with MassDOT standards and access to state roadways and recommend measures to minimize vehicular trips. In addition, the proponent has developed a traffic study that it asserts is consistent with the EEA/MassDOT Guidelines for Traffic Impact Assessment and this report is available for review by the Town. Commentors raised concerns with safety of roads and intersections that may experience increases in traffic, including Swett's Hill and Merrimack Street. I am confident the Town and MassDOT will consider comments from residents and require the proponent to evaluate alternatives to minimize potential impacts, including measures to minimize traffic generation.

Wastewater

The project will generate approximately 32,560 gpd of wastewater and includes construction of a sewer main. Comments do not identify any concerns related to wastewater generation or the ability of existing infrastructure to manage increased flows. During permitting, the Proponent will be required to provide detailed plans and additional information on the proposed infrastructure as well as any requirements for removal of clean, extraneous water (i.e. Infiltration/Inflow (I/I)).

Greenhouse Gas (GHG) Emissions

Although the project is not subject to the MEPA GHG Emissions Policy and Protocol because I have found that it does not require the preparation of an EIR, I strongly encourage the Proponent to voluntarily undertake measures to reduce GHG emissions associated with the project. New construction such as that proposed by this project presents an ideal opportunity for incorporation of sustainable design and green building elements. Adoption of energy efficiency measures in particular can, over the course of the project life, both reduce greenhouse gas emissions and prevent Damage to the Environment as well as reduce operating costs to each of the households. Also, homes such as the ones proposed for this project are often suitable for the installation of roof-top solar photovoltaic (PV) systems, which can serve to offset the homeowner's energy usage by generating clean renewable power on site. I therefore strongly encourage the Proponent to adopt all feasible energy efficiency and sustainable design measures in designing and constructing this project.

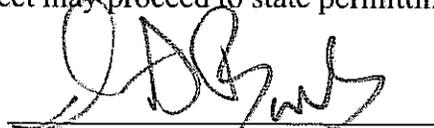
Conclusion

I agree with commentors that the Proponent can and should revise this project design to minimize environmental impacts associated with the proposed project; however, the Town's review of the project through the Planning Board can adequately address issues related to design, density, circulation, traffic safety on local roadways and assess consistency with zoning and Town policies. Wetland impacts and design of an effective stormwater management system are primary concerns with this project, and they should be addressed comprehensively by the Amesbury Conservation Commission with consultation from MassDEP and, in the event a local Order is issued and appealed, by MassDEP directly through the wetlands appeals process. I have consulted with MassDEP concerning this project and I am confident that MassDEP has sufficient authority to address outstanding issues during project permitting. I encourage the Conservation Commission and MassDEP to consider the thoughtful comments provided on this project by the Town of Amesbury Department of Planning and Community Development and others during their review of the project.

Based on a review of the ENF and after consultation with relevant public agencies, I find that no further MEPA review is required at this time. Remaining issues can be addressed through state and local permitting. The project may proceed to state permitting.

June 23, 2010

Date



Ian A. Bowles

Comments received:

6/14/10	Massachusetts Department of Environmental Protection/Northeast Regional Office (MassDEP/NERO)
6/11/10	Town of Amesbury/Department of Planning and Community Development
6/9/10	Bailey's Pond Neighborhood Group
6/14/10	Scott David

6/14/10 Barbara Gard
6/18/10 Jeffrey L. Roelofs, on behalf of the Proponent

IAB/CDB/cdb