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March 12, 2010

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

PROJECT NAME	: Atkins Road Residential Cluster Subdivision
PROJECT MUNICIPALITY	: Sandwich
PROJECT WATERSHED	: Cape Cod
EEA NUMBER	: 14544
PROJECT PROPONENT	: Monomy Properties LLC
DATE NOTICED IN MONITOR	: February 10, 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).

As described in the Environmental Notification Form (ENF), the proposed project involves the construction of a 22-lot residential cluster subdivision, 2,014 linear feet (lf) of internal roadway, one stormwater detention basin and other related stormwater and utility infrastructure on a 36.91-acre development parcel located on Atkins Road in Sandwich. According to the Proponent, a 2.6-acre portion of the project site was formerly used to excavate sand and gravel material. The project's estimated water and wastewater flows (estimated to be 9,990 gallons per day (gpd)) will be served by the Town of Sandwich's municipal water supply system and individual private on-site wastewater treatment systems in accordance with Massachusetts Title 5 regulations, respectively. The project's site drive will be located on Atkins Road on the north side of the project site. The project site contains mapped habitat for rare or endangered species according to the Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (NHESP). The project site is located in the Town of Sandwich's Old Kings Highway Historic District which is included in the State's Inventory of Historic and Archaeological Assets of the Commonwealth.

Estimated environmental impacts associated with the project include 17.01 acres of land alteration, 2.77 acres of new impervious area and a "take" of Eastern Box Turtle habitat as defined by the Massachusetts Endangered Species Act (MESA, M.G.L.c.131A). The project will result in the alteration of 17.01 acres (46.8%) of the 36.91-acre site. As described in the ENF, the project site is located within Priority and Estimated Habitat for the Eastern Box Turtle *(Terrepene Carolina)*. The Eastern Box Turtle and its habitat are regulated pursuant to the implementing regulations of MA Endangered Species Act (MESA) (321 CMR 10.00). Based on the plans included in the ENF filing, the Natural Heritage and Endangered Species Program (NHESP) has determined that the proposed project will result in a "take" of state-listed species. In their comments, NHESP and the Cape Cod Commission (CCC) expressed concern with the proposed site design and its impact to rare species habitat. According to CCC, the current project design will result in greater fragmentation of rare species habitat when compared to a more consolidated cluster design that might contain smaller building lots. The Proponent has identified a total of 19.8 acres of the project site (46.6%) to be permanently protected as dedicated Open Space and Conservation Easement area to accommodate Eastern Box Turtle foraging, migratory and nesting activities.

Jurisdiction

The project is undergoing review pursuant to Sections 11.03(2)(b)(2), and of the MEPA regulations as the project will require State agency action and result in the disturbance of greater than two acres of designated priority habitat that results in a "take" of a State-listed species, respectively. The project does not require an Order of Conditions from the Sandwich Conservation Commission. The project requires a Conservation and Management Permit in accordance with MESA from the NHESP. The project will also require a National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the United States Environmental Protection Agency (U.S. EPA) for stormwater discharges from a construction site of over one acre.

Because the Proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required state permits and that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction exists over land alteration and rare species impacts.

REVIEW OF THE ENF

Rare Species

As part of the Proponent's proposed Conservation Management Plan, the Proponent has committed to placing a Conservation Restriction (CR) on 17.21 acres of the project site (46.6%) as permanently protected Open Space to accommodate Eastern Box Turtle foraging and migratory activities.

The Proponent has also committed to placing a deed restriction on a 1.27-acre section of Lot #1 and a 1.42-acre section of Lot #2 to enhance and permanently protect these areas as potential turtle nesting habitat. According to the information provided in the ENF, the Town of Sandwich will be further restricting use of its abutting 36.30 acre parcel of land, which also contains Box Turtle habitat, prohibiting active recreational uses and only allowing passive recreational activities The Town of Sandwich has agreed to further restrict the use of this municipal land parcel from active recreational uses to only allow passive recreational activities.

NHESP has informed the MEPA Office that the Proponent has been engaged in consultations with NHESP to develop a Conservation and Management permit application and an appropriate Conservation and Management Plan (CMP) for the proposed project. In its comments, NHESP has indicated that necessary habitat protection can be achieved through a combination of site design, construction related measures to ensure machinery remains within the limit of work, and satisfactory long-term protection mechanisms including formal Conservation Restrictions and private property deed restrictions. I encourage the Proponent to install permanent signage and boundary markers throughout the project site that clearly identify the extent of the permanently protected Open Space areas and Conservation Easement areas. The Proponent should consider the use of deed restrictions to limit the extent of tree clearing within each of the proposed development lots, to avoid future impacts to protected Open Space and Conservation Easement areas from homeowner and/or Resident Association lawn and yard maintenance activities, and to ensure the permanent protection of the maximum amount of undisturbed Open Space, CR land areas and deed restricted land areas.

The Proponent should continue to work closely with NHESP to identify construction mitigation activities prior to construction to provide safe turtle migration and roadway crossings and to ensure that the conditions of the CR and deed restrictions work to achieve the goal of on-site habitat preservation. The Proponent should forward a copy of the Proponent's executed and recorded CRs, and any proposed deed restrictions documentation to NHESP for review and comment. I ask that the Proponent forward a copy of the final project site plan identifying the designated conservation areas and development areas to the MEPA Office for the project file.

The project will generate a total potable water supply demand of approximately 9,166 gpd. According to the information provided in the ENF, the project's water supply needs will be served by the Town of Sandwich's municipal water supply system. I strongly encourage the Proponent to incorporate water conservation and water use efficiency in the project design to comply with the March 1989 State Plumbing Code. Specifically, the Proponent should commit to employing efficient residential water conservation technologies for the project including water saving devices, low flow toilets, and low flow appliances (dishwashers, washing machines). The Proponent should also consider implementing an Irrigation Management Plan (IMP) to further reduce the project's irrigation water demand. An IMP could involve the use of amended soils and compost, the planting of native and drought-tolerant species of trees, shrubs, and turf grasses, an automated water efficient irrigation system, and a water management protocol for drought conditions. I ask that the Proponent consult with MassDEP, and refer to the Massachusetts Water Resources Commission's *Lawn and Landscape Water Conservation, An Addendum to the Water Conservation Standards for the Commonwealth of Massachusetts, October 2002*, during the final design of the proponent's IMP.

Wastewater

As described in the ENF submittal, the project's wastewater flows will be served by 22 private individual Title 5-compliant wastewater treatment and disposal systems. These private wastewater treatment systems will be designed in accordance with Massachusetts Title 5 regulations.

Stormwater

The stormwater management plan for the proposed project has been designed as a closed drainage system to meet MassDEP's Stormwater Management Policy guidelines, and includes the collection and pretreatment of stormwater flows via a combination of deep sump hooded catch basins to leaching basins and/or oil water separators. The Proponent has proposed the use of vegetated swales along the edge of the internal site drive roadway. The stormwater management system includes the use of rip rapped swales to convey stormwater from the leaching basins to a vegetated bio-retention area for eventual discharge to groundwater. The Proponent proposes to collect the project's roof runoff in rain gardens.

The Proponent should continue to evaluate sustainable design alternatives such as Low Impact Development (LID) techniques in site design and stormwater 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. 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/.

Construction Period

As noted previously, construction management plans will be required to ensure protection of both individual Eastern Box Turtles and their habitat during the construction period. It is anticipated that construction period protocols will be prepared in a manner consistent with the terms of the Conservation Management Permit and the proposed CR for the project. Furthermore, the project will require the preparation of a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the NPDES Construction General Permit to outline BMPs to control erosion and sedimentation during the construction period. I encourage the Proponent to consider participation in the MassDEP Diesel Retrofit Program to mitigate the construction period impacts of diesel emissions. MassDEP staff is available to assist in the implementation of construction period diesel emission mitigation, which could include the installation of after-engine emission controls such as diesel oxidation catalysts (DOCs) or diesel particulate filters (DPFs). Additionally, I strongly encourage that construction equipment operate on Ultra low sulfur diesel (ULSD) fuel, which will be required for off-road engines in 2010.

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

Based on the information provided by the proponent, and consultation with relevant public agencies, I conclude that no further MEPA review is required. The review of the ENF has served adequately to disclose potential impacts and mitigation, and to demonstrate that project impacts do not warrant the preparation of an Environmental Impact Report. The Proponent can resolve any remaining issues in the permitting process.

March 12, 2010
Date

Ian A. Bowles, Secretary

Comments received: (continued on next page)

03/01/2010	Massachusetts Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program (NHESP)
02/16/2010	Massachusetts Department of Transportation (MassDOT)
03/02/2010	Massachusetts Department of Environmental Protection (MassDEP) – SERO
03/02/2010	Cape Cod Commission (CCC)
03/02/2010	Baxter Nye Engineering & Surveying
03/03/2010	Massachusetts Division of Fisheries and Wildlife – Natural Heritage and Endangered Species Program (NHESP)

IAB/NCZ/ncz
ENF #14544