

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3  
21 South Putt Corners Road, New Paltz, NY 12561-1620  
P: (845) 256-3054 | F: (845) 255-4659  
www.dec.ny.gov

May 4, 2016

Mollie Messenger  
Town of Fallsburg Code Enforcement Officer  
5250 Main Street  
South Fallsburg, New York 12779

Re: SEQR LEAD AGENCY DESIGNATION  
Rachves II Residential Development  
Town of Fallsburg, Sullivan County

Dear Ms. Messenger:

This is in response to your notice dated April 22, 2016 on behalf of the Town of Fallsburg Planning Board requesting SEQR Lead Agency Status for the above noted project. From the information provided, it is apparent that the project is a Type I action since it includes a nonagricultural use occurring within an agricultural district that exceeds 62.5 units to be connected (at the commencement of habitation) to existing public water and sewage systems.

Based upon our review of the circulated documents, this office has identified the following environmental concerns:

1. **Protection of Waters** – Please note that the Neversink River [Water Index # D-1] has a class and standard of B(T), according to 6NYCRR Part 815, Item 4. Therefore any physical alteration to its bed or banks will require a Department permit.

If a permit is not required, please note, however, that the project sponsor is still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.

2. **401 Water Quality Certification** – The project site is not within a New York State protected Freshwater Wetland. However, the United States Department of the Army, Corps of Engineers' New York District Office (ACOE) has authority under federal law to regulate wetlands in New York State. An ACOE permit may be required for this proposal. You should have the project sponsor contact the ACOE (telephone: 917/790-8411) as early as possible in the planning process to determine if the project will involve federally regulated wetlands. If federal wetlands are involved, the ACOE may require Water Quality Certification from DEC.



Department of  
Environmental  
Conservation

- 3. Endangered and Threatened Species** - According to Department records, the following state-listed species have been recorded within or near the project site: Bald Eagle (NYS *Threatened*). The potential impacts of the proposed project on this species should be fully evaluated during the review of the project pursuant to SEQR. To adequately mitigate any potential impacts identified, the Department recommends incorporating the measures, described in the *National Bald Eagle Management Guidelines* (available at: <http://www.fws.gov/northeast/ecologicalservices/eaglenationalguide.html>), designed to avoid disturbance to the known nesting site (located approximately 1000 feet northeast of the project site), and the known foraging area (associated with the Neversink River).

Any questions regarding the above noted avoidance measures should be addressed to Lisa Masi of Wildlife at (854) 256-2257. An Article 11 permit may be required from DEC if it is determined that the action will result in a "take"<sup>1</sup> of a NYS threatened or endangered species.

The absence of other species data does not necessarily mean that additional rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

- 4. SPDES Stormwater (Construction)** - As project activities will disturb over 1 acre of land, the project sponsor must obtain coverage under the current SPDES General Permit (GP-0-15-002) for Stormwater Discharge from Construction Activities, and a Stormwater Pollution Prevention Plan (SWPPP) must be developed which conforms to requirements of the General Permit. For information on stormwater and the general permits, see the DEC website at <http://www.dec.ny.gov/chemical/43133.html#Permit>. Authorization for coverage under the SPDES General Permit is not granted until the Department issues any other necessary DEC permits.
- 5. Cultural Resources** - We have reviewed the statewide inventory of archaeological resources maintained by the New York State Museum and the New York State Office of Parks, Recreation, and Historic Preservation. These records indicated that the project is located within an area considered to be sensitive with regard to archaeological resources. For more information, please visit the New York State Office of Historic Preservation website at <http://nysparks.state.ny.us/>.
- 6. Floodplains** - Contrary to what is depicted in the submitted plans (prepared by Kirk Rother, P.E. Consulting Engineer, PLLC, titled "Rachves II - Overall Site Plan", dated 4/20/16), it appears that some units are proposed within the mapped 100-year

---

<sup>1</sup> An Incidental Take Permit is required for any activity that is likely to result in a "take" or taking of any species listed as endangered or threatened in 6 NYCRR Part 182. "Take" is defined in Part 182 and includes, but is not limited to, adverse modification of habitat.

floodplain, according to Federal Emergency Management Agency's Map No. 36105C0340F (see attached). The potential impacts of development within these areas should be evaluated during the review of the project pursuant to SEQRA. In order to develop within the 100-year floodplain, the project sponsor must apply for and receive a floodplain development permit from the Town of Fallsburg, and must comply with local floodplain development requirements.

This Department is charged with providing technical assistance to local communities in carrying out their responsibilities under the National Flood Insurance Program. Technical questions pertaining to floodplain management and its relation to the National Flood Insurance Program should be directed to NYSDEC Bureau of Flood Protection and Dam Safety at (518) 402-8185.

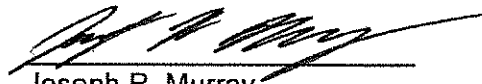
7. **Agricultural District** - The site is located within Sullivan County Agricultural District 4. The potential impacts of the proposed project on agricultural resources should be evaluated during the review of the project pursuant to SEQRA.

8. **Primary Aquifer** – The project site is located over a primary, principal aquifer.

In addition to transmitting the above comments, this letter also serves to convey that we have no objection to the Town of Somers Planning Board assuming lead agency status for this project. As such, it will be the responsibility of the Town of Somers Planning Board to determine the significance of the action (i.e. positive/negative declaration).

If you have any questions or comments in regard to this letter, please do not hesitate to contact this office.

Sincerely,



Joseph R. Murray  
Environmental Analyst  
Division of Environmental Permits

cc: U.S. Army Corp Engineers – NY District  
Delaware River Basin Commission  
L. Masi, DEC R3  
Kirk Rother, P.E. PLLC  
Sima and Israel Bernat

