

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1696
Phone: (845) 256-3162 FAX: (845) 255-3042
Website: www.dec.state.ny.us



Erin M. Crotty
Commissioner

October 1, 2003

Mark J. Edsall P.E., Planning Board Engineer
Town of New Windsor Board
555 Union Avenue
New Windsor, NY 12553

Re: ShadowFox Run Subdivision
Town of New Windsor, Orange County
Freshwater Wetland CO-7, Class II
DEC # 3-3348-00220/00001

Dear Mr. Edsall:

The NYS Department of Environmental Conservation (DEC) has reviewed the SEQR lead agency coordination request from the Town Planning Board for the site plan with 21 single family dwellings labeled "ShadowFox Run Development, LP", prepared by MJS Engineering dated May 7, 2003, last revised on July 9, 2003 and the Short Environmental Assessment Form (EAF). The following is noted:

1) Freshwater Wetland

The State regulated Freshwater Wetland CO-7 is located on the southeast portion of the site. The actual limits of this wetland as field determined by DEC must be indicated and labeled on all project plans as well as the 100 foot State regulated Adjacent Area. Based upon this determination, a permit pursuant to Article 24 of the Environmental Conservation Law (ECL) may be required. DEC certification for the Freshwater Wetlands boundary, signed and sealed by the surveyor or engineer, as shown on the enclosed sheet "Delineating and Surveying Freshwater Wetland Boundaries" is required. Alternative project designs to avoid or minimize wetland and adjacent area disturbances must be considered.

2) Archaeological Survey - State Historic Preservation Act

This project falls within an area with high potential of containing cultural resources. Accordingly, if a permit is required from DEC, the sponsor must proceed with the preparation of a Cultural Resource Survey Stage I A/B Report so that the project's impact on cultural resources may be evaluated in compliance with the State Historic Preservation Act.

3) Stormwater Pollution Prevention Plan

This project is subject to the Federal Stormwater Discharge permit requirements for construction activities on greater than one acre of land. DEC has the responsibility for implementing this program. Based on the submitted information, this project will disturb greater than one acre of land. Therefore, the sponsor must develop erosion control and stormwater management plans consistent with the SPDES General Permit for Stormwater Discharges from Construction Activities. If a Freshwater Wetland permit is required from DEC, the Department must review and approve these plans in order for the sponsor to obtain coverage under this permit. If the sponsor needs additional information in preparing these plans, they may consult with Mr. Patrick Ferracane, Division of Water in Tarrytown, telephone number (914) 332 - 1835, extension 357, or the DEC Website: www.dec.state.ny.us/website/dow/mainpage.htm, or the EPA Website: www.epa.gov/ovm/sw/phase2.

4) State Environmental Quality Review (SEQR)

This letter also serves to confirm that the DEC has no objection to the Town of New Windsor Planning Board assuming lead agency status for this project. Please advise the Department of all future Town Planning Board actions under SEQR related to this project.

You may call me at (845) 256-3040 if you have any other questions or need further assistance. Thank you.

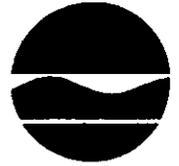
Sincerely,



Ann Frances Brooks
Environmental Analyst, Region 3

cc. D. Gaugler
Shadow Fox Run Development

New York State Department of Environmental Conservation
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Notice to Local Governments, Project Sponsors and Applicants:

In order to clarify and explain the meaning of the State freshwater wetland boundary and 100 foot adjacent area depicted on development and subdivision plans, the New York State Department of Environmental Conservation (DEC) requests that the following note or a properly completed wetland boundary validation block (see enclosure "Delineating and Surveying Freshwater Wetland Boundaries") be incorporated onto the plans:

"Any proposed construction, grading, filling, excavating, clearing or other regulated activity within the State freshwater wetland or adjacent 100 feet requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation law (Freshwater Wetlands Act) prior to the commencement of work."

The validation block should be used for all subdivision plats.

In addition to the above, applicants and project sponsors should be aware that if a freshwater wetlands permit is ultimately issued for the project, it likely will contain a special condition requiring that the deed for each affected lot or parcel contain a restriction as written below:

"This property contains State regulated freshwater wetlands and/or regulated 100 foot adjacent area. For as long as any portion of the property described in this deed is subject to regulation under Article 24 (the Freshwater Wetlands Act) of the Environmental Conservation Law (ECL) of the State of New York, there shall be no construction, grading, filling, excavating, clearing or other regulated activity as defined by Article 24 of the Environmental Conservation Law on this property within the freshwater wetland area or 100 foot adjacent area at any time without having first secured the necessary permission and permit required pursuant to the above noted Article 24 from the NYS Department of Environmental Conservation (DEC). This restriction shall bind the Grantee's, their successors and assigns and shall be expressly set forth in all subsequent deeds to this property."

In order to ensure that State freshwater wetland regulations are known, DEC requests that municipal planning boards also require the above plan note and deed notice for each affected lot as part of any subdivision of property containing State freshwater wetland and/or adjacent area. DEC encourages planning boards and property owners to involve DEC early on in the planning of subdivisions involving State freshwater wetlands to ensure that all proposed lots will comply with State regulations and that wetland benefits and functions are protected and preserved.



DELINEATING AND SURVEYING FRESHWATER WETLAND BOUNDARIES

1. The purpose of the delineation of freshwater wetland boundaries is to provide a precise identification of the regulated wetland boundary and its 100 foot adjacent area in order to aid in the planning and design of projects which may affect the wetland resource.
2. New York State regulated freshwater wetlands may be delineated by qualified consultants. However, for a delineation to be official (e.g., for use in permit applications), it must be validated by Department of Environmental Conservation (DEC) staff. For more information, contact the appropriate staff, as follows:

(845) 256-3086	Heather Gierloff	Dutchess, Ulster & Westchester
(845) 256-3057	Doug Gaugler	Orange, Putnam, Rockland & Sullivan

3. In general, DEC requires that sponsors of development projects retain licensed engineers or surveyors to accurately plot the delineated wetland boundary on project plans. However, such surveys may not be needed for very small projects, inquiries of a general nature, or certain land sales.
4. Surveys and development plans for DEC permit applications must include the following validation block:

<u>NYSDEC FRESHWATER WETLAND BOUNDARY VALIDATION</u>	
The freshwater wetland boundary as represented on these plans accurately depicts the limits of Freshwater Wetland _____ as delineated by _____ on _____.	
DEC Staff: _____	Surveyor/Engineer: _____
Date: _____	SEAL
<p>Wetland boundary delineations as validated by the New York State Department of Environmental Conservation remain valid for 10 years unless existing exempt activities, area hydrology, or land use practices change (e.g., agricultural to residential). After 10 years the boundary must be revalidated by DEC staff. Revalidation may include a new delineation and survey of the wetland boundary.</p> <p>Any proposed construction, grading, filling, excavating, clearing or other regulated activity in the freshwater wetland or within 100 feet of the wetland boundary as depicted on this plan requires a permit from the NYS Department of Environmental Conservation under Article 24 of the Environmental Conservation Law (Freshwater Wetlands Act) prior to commencement of work.</p>	

5. In addition to the accurate identification of the freshwater wetland boundary, the limit of the 100 foot adjacent area must also be plotted on development plans and survey.
6. Copies of plans or surveys containing the boundary delineation and validation block must be submitted to the appropriate DEC staff person as listed above in item #2 for validation and original signature before applying for a DEC permit. One copy will be retained by DEC as a file copy. **The signature and seal of the surveyor/engineer must be present prior to requesting DEC validation.**