

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Division of Environmental Permits, Region 3  
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**Department of  
Environmental  
Conservation**

February 28, 2020

Town of Thompson Planning Board  
Thompson Town Hall  
4052 Route 42  
Monticello, NY 12701

Re: Gan Eden Estates  
Town of Thompson, Sullivan County  
CH# 8675  
**SEQR Response and Comments on Jurisdiction**

Dear Town of Thompson Planning Board,

The Department of Environmental Conservation (DEC or Department) received a State Environmental Quality Review Act (SEQR) Lead Agency Coordination sent on your behalf by Waters, McPherson, McNeill on February 20, 2020. The proposed Gan Eden Estates project would involve construction of a 534-unit rowhouse rental community with a community clubhouse, trail network, roads, stormwater basins, and other associated amenities. The Department has no objection to the Town of Thompson Planning Board serving as lead agency for this project. Based on our review of the submitted Full Environmental Assessment Form (EAF) Part 1 and Preliminary Site Plans prepared by PS&S, we offer the following comments:

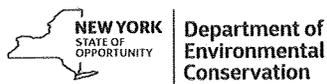
**WATER WITHDRAWAL**

The proposal involves withdrawal from wells to supply the rental units with water. According to the EAF, demand of the full build-out would be 147,250 gallons per day. With a pump capacity of 205 gallons per minute (295,200 gallons per day), the proposed withdrawal system exceeds the Department's regulatory threshold. However, the project is located within the Delaware River Basin and approvals to withdraw water would be required from the Delaware River Basin Commission (DRBC). If such approvals from DRBC are obtained, the proposal would be exempt from needing to obtain a Part 601 Water Withdrawal permit from DEC per 6 NYCRR Part 601.9(b).

If approvals from DRBC to withdraw water are not required, a Part 601 Water Withdrawal permit would be required from DEC for this project.

**STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER**

As the overall project will disturb over one acre of land, the project sponsor must obtain coverage under the current SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001), and a Stormwater Pollution Prevention Plan (SWPPP) must be developed which conforms to requirements of the General Permit. Authorization for coverage under this SPDES General Permit is not granted until the



Department issues all other necessary DEC permits. Please note, as the project site is not located within a Municipal Separate Storm Sewer System (MS4), should construction disturb 5 acres or more at any given time, an application for a 5-acre waiver would have to be submitted to the Department for review and approval.

For information on stormwater, the General Permit, 5-acre waivers, including how to seek coverage and submit a Notice of Intent, please contact Natalie Browne of the DEC Division of Water at [natalie.browne@dec.ny.gov](mailto:natalie.browne@dec.ny.gov), and/or see the DEC website at <http://www.dec.ny.gov/chemical/43133.html>.

### **SPDES WASTEWATER**

The proposal would involve discharge of the community's wastewater from an on-site wastewater treatment facility to the Class B stream on site, identified below. Construction and operation of a disposal system discharging wastewaters into surface waters of the State are regulated under Article 17 of the Environmental Conservation Law, and a SPDES permit would be required for the proposed discharge associated with this project. For more information and instructions on how to apply for this permit, please visit the DEC website at <http://www.dec.ny.gov/permits/6054.html>.

### **FRESHWATER WETLANDS**

The project site contains DEC-regulated Freshwater Wetlands MO-5 and MO-19 (Class II and III, respectively). DEC Bureau of Ecosystem Health have reviewed and validated the wetland boundaries for this site as of 2019, as shown on the submitted Wetland Survey with NYSDEC Freshwater Wetland Boundary Validation signed by Mike Fraatz on July 15, 2019.

Based on the proposed disturbances shown on the preliminary site plans and as noted in the EAF submitted, a Freshwater Wetlands permit would be required for this project. In planning a project for this site, the project sponsor should be aware that all disturbances within the wetlands and their 100-foot adjacent areas must be avoided to the maximum extent practicable. The applicant will be required to demonstrate that the project meets the permit issuance standards contained in the Freshwater Wetlands regulations (6 NYCRR Part 663.5). This information was discussed with the applicant at a pre-application meeting with DEC staff in June 2019.

Department staff would provide further comment on the proposal's disturbances to Freshwater Wetlands and/or adjacent areas upon receipt of a permit application where more detailed information and smaller scale plans would be provided. This could include comments on both physical disturbances to regulated areas and the potential for any wells to drawdown nearby wetlands.

### **PROTECTION OF WATERS**

The following waterbodies are located within the project site:

<u>Name</u>	<u>Class</u>	<u>DEC Water Index Number</u>	<u>Status</u>
Tributary of East Mongaup River and Unnamed Pond	B	D-10-29-1a and P153a	Protected

A Protection of Waters permit is required to physically disturb the bed or banks (up to 50 feet from stream) of any waterbodies identified above as "protected." It appears that the project would involve at least one roadway stream crossing. Similar to the above comments regarding freshwater wetlands, any proposed disturbances to regulated waterbodies would have to be avoided and minimized to the maximum practical extent and would have to meet the permit issuance standards in the Protection of Waters Regulations (6 NYCRR Part 608.8).

Department staff would provide further comment on the proposal's disturbances to protected streams and/or waterbodies upon receipt of a permit application where greater detail and smaller scale plans regarding disturbances would be provided.

If a permit is not required, please note, however, you are 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.

#### **WATER QUALITY CERTIFICATION**

If the US Army Corps of Engineers requires a permit pursuant to Section 404 of the Clean Water Act, then a Section 401 Water Quality Certification will be required. Issuance of these certifications is delegated in New York State to DEC. If the project qualifies for a Nationwide Permit, it may be eligible for coverage under DEC's Blanket Water Quality Certification. Coverage under the blanket requires compliance with all conditions in the blanket for the corresponding Nationwide Permit. A copy of the current blanket for the 2017 Nationwide Permits is available on the DEC website at: [http://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/wqcnwp2017.pdf](http://www.dec.ny.gov/docs/permits_ej_operations_pdf/wqcnwp2017.pdf).

#### **STATE-LISTED SPECIES**

DEC has reviewed the State's Natural Heritage records. No records of sensitive resources were identified by this review.

The absence of data does not necessarily mean that other rare or state-listed species, natural communities or 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.

#### **OTHER**

Re: Gan Eden Estates  
CH #8675  
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Other permits from this Department or other agencies may be required for projects conducted on this property now or in the future. Also, regulations applicable to the location subject to this determination occasionally are revised and you should, therefore, verify the need for permits if your project is delayed or postponed. This determination regarding the need for permits will remain effective for a maximum of one year unless you are otherwise notified. More information about DEC permits may be found at our website, [www.dec.ny.gov](http://www.dec.ny.gov), under "Regulatory" then "Permits and Licenses." Application forms may be downloaded at <http://www.dec.ny.gov/permits/6081.html>.

Please feel free to contact me at [christopher.lang@dec.ny.gov](mailto:christopher.lang@dec.ny.gov) or (845) 256-3096 if you have questions regarding the above information. Thank you.

Sincerely,



Chris Lang  
Division of Environmental Permits

ecc: Daniel Horgan, Waters, McPherson, McNeill  
Mike Fraatz, DEC Bureau of Ecosystem Health  
Aparna Roy, DEC Division of Water  
Natalie Browne, DEC Division of Water  
Gan Eden Estates  
Tom Dill, Atlantic RDC  
David Kovach, DRBC  
Brian Orzel, US Army Corps of Engineers  
NYS DOH – Monticello  
Town of Fallsburg