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May 9, 2008

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

PROJECT NAME : Jake's Seafood Restaurant Additions
PROJECT MUNICIPALITY : Hull
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 14218
PROJECT PROPONENT : Bayside Marketing Systems, Inc.
DATE NOTICED IN MONITOR : April 9, 2008

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

As described in the Environmental Notification Form (ENF), the proponent proposes a 654 square foot (sf) expansion of an existing wholesale/retail seafood market space, and a 350 sf second floor expansion (restaurant waiting and public observation deck) of the existing restaurant space within a .4-acre parcel of town-owned Nantasket Pier property abutting George Washington Boulevard and the Weir River in Hull. The proposed restaurant waiting and public observation deck will be served by a new enclosed (167 sf) exterior stairway. The project also includes the construction of two 8'x24' (384 sf) bottom-anchored floats and a 4'x40' gangway, and stormwater management improvements including 2 deep sump catch basins. The project site abuts the Weir River Area of Critical Environmental Concern (Weir River ACEC).

During the April 28, 2008 MEPA consultation session held for this project, the proponent identified further revisions to the project design including the elimination of the proposed restaurant waiting and public observation deck and exterior stairway.

The project is undergoing review pursuant to section 11.03 (3)(b)(6) of the MEPA regulations, because the project requires state permitting and involves the expansion of an existing solid fill structure of 1,000 or more square feet base area. The project will require a Chapter 91 Permit and a 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP). The project will also require an Order of Conditions from the Hull Conservation Commission (and hence a Superseding Order of Conditions from MassDEP if the local Order were appealed). The project may require a Consistency Review by the Office of Coastal Zone Management (CZM).

Waterways and Tidelands

According to MassDEP, the proposed expansion of the existing wholesale/retail seafood market space and construction of the bottom-anchored floats and gangway, and stormwater management improvements are considered water-dependant uses. MassDEP has requested that the proponent provide additional information pertaining to the existing restaurant activities and proposed restaurant expansion. MassDEP will need to determine if the proponent's restaurant use, customarily associated with accommodating a water-dependant use such as a wholesale/retail seafood market operation, may be considered an accessory to a water-dependant use pursuant to 310 CMR 9.12(3). In the event MassDEP determines that the proponent's restaurant activities constitute a nonwater-dependant use, the proponent will be required to comply with the MassDEP's regulations pertaining to Non Water-Dependant Use (310 CMR 9.00). The proponent must also identify to MassDEP the limit of filled tidelands, the water Dependant Use Zone (WDUZ), historic and contemporary High and Low Water Marks, and all existing and proposed uses.

Stormwater Management

As described by the proponent, the project's stormwater management plan has been designed in compliance with MassDEP's Stormwater Management Policy and includes the construction of two new deep sump catch basins that will collect and convey stormwater flow from the project site to two 12" outfall pipes to be separately located through the existing seawall for discharge to the Weir River and the Weir River ACEC. I note that the Department of Conservation and Recreation (DCR) also maintains an active 48" diameter stormwater outfall pipe located adjacent to the western boundary of the project site which discharges stormwater runoff collected from within the project area directly to the Weir River. According to the comments received from the Massachusetts Office of Coastal Zone Management (CZM), the Weir River has been determined to be degraded from pollutants containing pathogens, and is listed as a Category 5 water body in the Massachusetts Year 2006 Integrated List of Waters. The project site is also located immediately adjacent to the Weir River ACEC and mapped shellfish growing area for soft-shell clams and blue mussels.

CZM has indicated that the proponent’s stormwater management plan must be consistent with MassDEP’s Stormwater Management Standards for discharges to critical areas (Standard 6). The proponent will need to evaluate stormwater best management practices (BMPs) approved by MassDEP for use near critical areas, and develop a Stormwater BMP Operation and Maintenance Plan for the project site. I strongly encourage the proponent to consult with CZM and MassDEP during the final project design. In so doing, the proponent should work with CZM, MassDEP and the Hull Harbor Master to address the potential impacts of the proposed float system on the inter-tidal flats and shellfish habitat area.

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. MassDEP’s permit process should contain conditions relative to the coordination of all work and improvements to be approved for this site. The proponent can resolve any remaining issues regarding the project’s consistency with MassDEP’s regulations pertaining to water-dependent and non water-dependant uses located within filled tidelands (310 CMR 9.00) with MassDEP.



Ian A. Bowles, Secretary

May 9, 2008
DATE

Comments received:

- 04/29/08 MA Department of Environmental Protection – SERO
- 04/29/08 MA Coastal Zone Management (CZM)
- 04/29/08 Board of Underwater Archaeological Resources
- 04/29/08 Tetra Tech Rizzo

IAB/NCZ/ncz