



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
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May 23, 2008

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SECRETARY

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

PROJECT NAME : Fisherman's Wharf
PROJECT MUNICIPALITY : 9 Ryder Street Extension - Provincetown
PROJECT WATERSHED : Cape Cod
EEA NUMBER : 14232
PROJECT PROPONENT : Cabral Enterprises, Inc.
DATE NOTICED IN MONITOR : April 23, 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 determine that the above project **does not require** the preparation of an Environmental Impact Report (EIR).

According to the Environmental Notification Form, the proposed project consists of the change in use for a portion of an existing licensed wharf to a non-water dependent use. The proponent is requesting permission to allow parking that is not directly associated with the water-dependent use of the wharf. In order to comply with Section 310 CMR 9.00, the proponent would reduce the existing 186 parking spaces to between 110 and 113 spaces and travel ways to 31,432 square feet (sf) or no more than fifty percent of the wharf area, excluding buildings. The proponent would provide a pedestrian walkway around the perimeter of the wharf. It would upgrade the stormwater management system and resurface the wharf. The existing use and activities on the wharf include parking associated with the water-dependent uses and a 5,730 sf warehouse. These uses also include four other buildings of about 2,539 sf, which house marina and fishing operations, public restroom and shower facilities, and a gas station shed. The 71,384 sf wharf is located within the area of the Provincetown (Municipal) Harbor Plan and a local Historic District. The wharf contains 50-slips. The proponent controls about 110 moorings adjacent to the wharf.

The project is subject to MEPA review pursuant to Sections 11.03(2)(b)(1) and 11.03(3)(b)(5) because the project is located within rare species habitat and proposes a new or

existing unlicensed non-water dependent use of waterways and tidelands as part of its Chapter 91 Licensing process. It will require a Chapter 91 Waterways License from the Department of Environmental Protection (MassDEP) for a non-water dependent use. There is an existing Administrative Consent Order with Penalty (ACOP) with MassDEP. The proponent should consult with the Natural Heritage and Endangered Species Program (NHESP) to ensure that there are no impacts to endangered species. A Federal Consistency Review by the Massachusetts Coastal Zone Management (MCZM) Office may be necessary. The project may require a permit under the Rivers and Harbors Act from the U.S. Army Corps of Engineers. It may have to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site (resurfacing the pier). The project will require an Order of Conditions from the Provincetown Conservation Commission. MEPA jurisdiction is limited to those aspects of the project within the subject matter of state permits and that may have significant environmental impacts (habitat, waterways, wetland, and stormwater).

The proponent will retrofit all existing catch basins on the wharf with collection and filtering basins to filter the sediments and hydrocarbons before discharging to the harbor. The proponent has committed to perform an annual inspection and maintenance program for the stormwater collection system and a seasonal sweeping program of the proposed wharf.

According to the proponent, the existing wharf impacts approximately 71,384 sf of Land Under the Ocean. The projects' impacts to wetland resource areas can be adequately handled during the MassDEP and local permitting processes.

There is significant concern regarding decreasing parking in this congested area of the harbor. The Provincetown Board of Selectmen believe that the existing 180 parking spaces are needed to maximize the use of water dependent options available to the public at this site. They believe that any reduction in parking would negatively impact the already compromised economic challenges of Provincetown's tourism conditions. This matter will be resolved by MassDEP during its Chapter 91 Licensing process.

Based on a review of the information provided by the proponent and after consultation with relevant public agencies, I find that the potential impacts of this project do not warrant the preparation of an EIR and can be properly addressed during the MassDEP and the local permitting processes.

May 23, 2008

Date



Ian A. Bowles

Comments received:

MassDEP/Boston, 5/7/08

Mary-Jo Avellar – Chair, Provincetown Board of Selectmen, 5/7/08

Provincetown Board of Selectmen, 5/7/08

MA Division of Marine Fisheries, 5/9/08

MassDEP/SERO, 5/13/08

MassDEP/SERO, 5/14/08

Woods Hole Group, 5/21/08

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