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July 11, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : Dutra Residence
PROJECT MUNICIPALITY : Truro
PROJECT WATERSHED : Cape Cod
EOEA NUMBER : 14149
PROJECT PROPONENT : David and Judith Dutra
DATE NOTICED IN MONITOR : March 26, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.08 of the MEPA regulations (301 CMR 11.00), I hereby determine that the Draft Environmental Impact Report (EIR), including supplemental information submitted on May 28, 2008, adequately and properly complies with MEPA and its implementing regulations. The proponent has addressed the substantive issues outlined in the Scope for the Draft EIR and there are no substantive issues that remain to be addressed in a Final EIR. Therefore, I am allowing the Draft EIR to be reviewed as a Final EIR in accordance with 301 CMR 11.08 (8)(b)(2)(a).

Project Description

The project consists of the redevelopment of a 19,708 square foot (sf) site at 587 Shore Road in Truro. The ENF proposal consisted of demolition of an existing single family three-bedroom home and construction of six two-bedroom cottages in its place. The supplemental materials describe a Reduced Build Alternative that consists of expansion of the existing house by adding another level and a fourth bedroom and construction of three two-bedroom cottages.

The site is located north of Shore Road and south of Route 6. It is located on a barrier beach (Beach Point) and within Land Subject to Coastal Storm Flowage (LSCSF). It contains a single family house, a garage, two paved driveways and a cesspool. It is located adjacent to existing residences and commercial properties. According to the 12th Edition of the *Massachusetts Natural Heritage Atlas*, a portion of the project site is located within Priority and Estimated Habitat of Rare Species.

Permits and Jurisdiction

The project is undergoing MEPA review pursuant to Section 11.03 (3)(b)(1)(a) because it requires a state permit and consists of alteration of a barrier beach. The project requires a Superseding Order of Conditions (SOC) from the Department of Environmental Protection (MassDEP).¹ Also, the project will require review as a Development of Regional Impact by the Cape Cod Commission.

Because the proponent is not seeking financial assistance from the Commonwealth, MEPA jurisdiction extends to those aspects of the project that may have significant environmental impacts and that are within the subject matter of required or potentially required state permits. These include wetlands, drainage, water quality and rare species.

Review of the Draft EIR

The Draft EIR and supplemental materials include a project description, supporting site plans that identify resource areas, an alternatives analysis, identification of mitigation measures and responses to comments.

The Draft EIR includes analysis of the ENF Alternative (identified on a plan as Alternative #1) and a Reduced Build Alternative (identified on a plan as Alternative #2). The ENF Alternative consists of the demolition of the existing house and construction of six two-bedroom cottages. The Reduced Build Alternative proposes reconstruction and elevation of the existing three-bedroom house and construction of three two-bedroom cottages. The reconstruction would include the addition of one floor and one bedroom. The Reduced Build Alternative will reduce the number of bedrooms by two and associated septic flow by 220 gallons per day (gpd) or 17 percent. The number of parking spaces will be reduced from 12 to 10. The top of the pile foundation for the cottages will be elevated to 13.5 feet National Geodetic Vertical Datum (NGVD). The first floor of the reconstructed house will be elevated to 10.5 feet NGVD. The EIR does not describe changes to the foundation of the existing structure or indicate the method for elevating it. Both alternatives will reduce impervious surfaces by 1,882 sf through the elimination of paved driveways. All disturbed areas will be re-vegetated with native plantings such as American Beach Grass.

¹ The Truro Conservation Commission issued an Order of Conditions denying the project described in the ENF. The denial was appealed to MassDEP by the project proponent.

Comments from MassDEP indicate that, based on a reduction in the scope of activity associated with the Reduced Build Alternative, the elimination of existing impervious surfaces and a commitment to re-vegetate the site using native plantings, no further MEPA review is warranted. Comments from the Department of Fish and Game's Natural Heritage and Endangered Species Program (NHESP) indicate that the project, as proposed, will not result in a take of state-listed rare species.

Comments from the Truro Conservation Commission express continued concern with the proposed density of the project and assert that it is not consistent with the Local Comprehensive Plan adopted by the Town of Truro or the Cape Cod Commission land use plan. The Conservation Commission indicates that additional alternatives that should be considered including reconstructing the existing dwelling or replacement of the original dwelling with only three or four two-bedroom cottages.

A comment letter from James T. Downey and Albert Silva, members of the Truro Conservation Commission that voted against denying the project, identify their support for the proposed project and assert that its impacts are not significant and are similar to those presented by other approved projects.

Mitigation

The Draft EIR indicates that the proponent is committed to the following measures to avoid, minimize and mitigate project impacts. These include:


- elimination of existing impervious surfaces, including 1,882 sf of paved driveway areas;
- elevation of the cottages on pilings above base flood elevations;
- construction of a septic system consistent with Title 5 requirements;
- re-vegetation of the site with native plantings; and
- installation of two leaching catch basins for stormwater management.

Conclusion

Based on a review of the Draft EIR, consultation with state agencies and review of comment letters, I find that the Draft EIR adequately responds to the Scope. The Scope was narrowly focused to address the consistency of this project with the Wetlands Protection Act and the Coastal Wetland regulations and was limited to development of an alternatives analysis, identification of resource areas and development of measures necessary to avoid, minimize and mitigate environmental impacts. Although the Truro Conservation Commission has expressed continued concern with the scale of this project, MassDEP has not identified any additional substantive issues to address in a Final EIR. Additional information will be required during project permitting, including more information on how the existing structure will be elevated and detailed project plans.

As noted previously, I am allowing the Draft EIR to be reviewed as a Final EIR in accordance with 301 CMR 11.08 (8)(b)(2)(a). The availability of the Final EIR will be noticed in the July 23, 2008 issue of the Environmental Monitor and subject to a 30-day public comment period, after which I will issue a Certificate on the Final EIR.

July 11, 2008
Date



Ian A. Bowles

Comments Received:

- 6/19/08 Department of Environmental Protection /Southeast Regional Office (MassDEP/ SERO)
- 4/7/08 Division of Fisheries and Wildlife
- 4/14/08 Cape Cod Commission
- 6/18/08 Cape Cod Commission (second letter)
- 6/26/08 Truro Conservation Commission
- 5/23/08 James T. Downey and Albert Silva

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