



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

IAN A. BOWLES
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1181
<http://www.mass.gov/envir>

August 24, 2007

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

PROJECT NAME : Newburyport Harborwalk Boardwalk Connection
PROJECT MUNICIPALITY : Newburyport
PROJECT WATERSHED : Merrimack
EOEA NUMBER : 14065
PROJECT PROPONENT : City of Newburyport
DATE NOTICED IN MONITOR : July 25, 2007

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 (EIR).

This project consists of construction of a public boardwalk along the Merrimack River to improve public access to the waterfront. The boardwalk will extend the Harborwalk from Cashman Park to the proposed terminus of the Clipper City Rail Trail (EEA# 14065) at the base of the Route 1 bridge embankment. The timber boardwalk will be constructed within the intertidal zone of the Merrimack River. It will be approximately 10 feet wide by 340 feet long and supported by 63 one-foot diameter piles. The project will alter approximately 2,200 square feet (sf) of wetland resource area including 35 sf of Coastal Beaches, 14 sf of Salt Marsh, 49 sf of Fish Runs, 2,100 sf of Land Subject to Coastal Storm Flowage (LSCSF).

The site is located within the intertidal zone of the Merrimack River. It is adjacent to Cashman Park, the River's Edge condominium development, a marina and Route 1. The site contains several areas of well established salt marsh. According to the Natural Heritage and Endangered Species Program (NHESP) 12th Edition of the *MA Natural Heritage Atlas*, the project is located within *Priority Habitat* and *Estimated Habitat* for rare species. These include the Bald Eagle (*Haliaeetus leucocephalus*), Common Tern (*Sterna hirundo*), Shortnose Sturgeon

(*Acipenser brevirostrum*) and the Atlantic Sturgeon (*Acipenser oxyrinchus*). In addition, the site is located within the Newburyport Historic District, which is listed in the State and National Registers of Historic Places.

The project is undergoing MEPA review pursuant to Section 11.03 (2)(b)(2) and 11.03 (3)(b)(6) because it requires a state permit and may result in the taking of an endangered or threatened species or species of special concern and it consists of construction of a bottom-anchored structure of 2,000 or more sf base area. The project requires a Chapter 91 License and a 401 Water Quality Certificate from the Department of Environmental Protection (MassDEP). Also, it requires an Order of Conditions from the Newburyport Conservation Commission (and hence a Superseding Order of Conditions in the event the local Order is appealed).

The ENF identifies project objectives, potential alternatives to the proposed project and identifies constraints to the project design (e.g. location and elevation of an existing boardwalk, proximity of the condominium buildings and decks to the water's edge). As noted previously, the project will alter 2,200 square feet of wetlands. The majority of this alteration (2,100 sf) consists of the redesign of an existing cul de sac which will decrease impervious area and increase vegetation within the riverfront area. Installation of the timber pilings will alter 14 sf of salt marsh and construction of the walkway will further impact salt marsh by shading it.

Comments from CZM and MassDEP have identified concern with the shading on the salt marsh and indicated that it is likely to impact the health of the salt marsh. The proponent will need to demonstrate in the Notice of Intent that impacts to salt marsh have been minimized. Potential alternatives that could minimize impacts to salt marsh were discussed at the August 7, 2007 site visit. These included shifting the alignment of the path to the south, considering alternative materials/design to allow light to filter through and reducing the width of the path. MassDEP comments note that the proponent will need to demonstrate consistency with the performance standards of the wetlands regulations and will need to provide an alternatives analysis as part of its 401 Water Quality Certificate process. These alternatives should be considered in more detail during the permitting process.

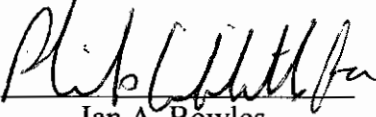
MassDEP comments also note that the Chapter 91 License application must be signed by all landowners (including those within the condominium development) and identify issues that will need to be addressed in more detail during project permitting.

NHESP comments indicate that the project, as described in the ENF, is unlikely to impact rare species habitat. Comments from the Massachusetts Historical Commission (MHC) indicate that MHC has determined the project will have no adverse affect on the Newburyport Historic District.

The review of the ENF has served to adequately disclose the potential impacts associated with this project. Based on the information in the ENF and after consultation with relevant public agencies, I find that outstanding issues can be addressed adequately through state and local review. No further MEPA review is required.

August 24, 2007

Date


Ian A. Bowles

Comments Received:

8/7/07 Coastal Zone Management (CZM)
8/14/07 Department of Environmental Protection /Northeast Regional Office
(MassDEP/NERO)
8/1/07 Department of Fish and Game(DFG)/Natural Heritage and Endangered Species
Program (NHESP)
8/2/07 Massachusetts Historical Commission

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