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September 5, 2008

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
NOTICE OF PROJECT CHANGE

PROJECT NAME : Trout Residential Home
PROJECT MUNICIPALITY : Newbury
PROJECT WATERSHED : Merrimack River
EOEA NUMBER : 13622
PROJECT PROPONENT : Harry Trout
DATE NOTICED IN MONITOR : August 6, 2008

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62I) and Section 11.10 of the MEPA Regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) submitted for this project and hereby determine that it **does not require** an Environmental Impact Report (EIR). I also hereby rescind the Scope for the EIR, issued on October 24, 2005.

Project Description

As described in the Environmental Notification Form (ENF), the project consisted of the construction of a 2,087-square foot (sf) single family home, deck and covered walkway on an approximately 15,000-sf acre parcel located on Fordham Street in Newbury. The proposal included constructing the new building on pilings within the northern portion of the lot and connecting it to the existing garage by a raised breezeway.

Project Change

The project change consists of relocation and redesign of the proposed house and elimination of the existing garage to address concerns that were raised during the ENF review. The house will be constructed on pilings and raised a minimum of three feet above grade. The footprint of the new house will be located within the existing developed portion of the lot which includes the garage, asphalt driveway and lawn area. The garage, the concrete foundation and the retaining walls will be demolished and removed from the site. Construction of the building will require removal or re-location of three pitch pine trees. Access will be provided via a crushed stone driveway. The NPC identifies the footprint of the building but does not provide plans or cross-sections of the proposed building. The project includes re-vegetation of the existing 4,000 sf of lawn area with native vegetation. The NPC includes a planting plan that provides planting specifications and indicates that plantings will be monitored by a professional wetland scientist for a period of two growing seasons following installation.

Project Site

The site contains a 634-sf garage, a paved driveway, two retaining walls, a landscaped lawn and a relatively steep, sloping vegetated dune. According to the Department of Environmental Protection (MassDEP) and Coastal Zone Management (CZM), the project site is within primary frontal dune on a state-designated barrier beach and subject to severe wave action during significant storm events.

Permitting and Jurisdiction

The project is undergoing MEPA review pursuant to Section 11.03 (3)(b)(1)(a) because it requires a state permit and will alter a coastal dune and barrier beach. An Order of Conditions was issued by the Newbury Conservation Commission in April, 2004. Because this Order was appealed, the project requires a Superseding Order of Conditions (SOC) from MassDEP. The proponent is not seeking financial assistance from the Commonwealth for the project; therefore MEPA jurisdiction extends to those aspects of the project that may cause Damage to the Environment and that are within the subject matter of required or potentially required state permits. These include wetlands and coastal resources.

The project did not exceed thresholds for a mandatory EIR; however, the Secretary determined that the potential impacts of the project, as proposed, warranted the preparation of a discretionary EIR.

The project change does not alter the permits required for the project or MEPA jurisdiction.

Review of the NPC

The Scope of the EIR was narrowly tailored to address compliance with the Wetlands Protection Act and the Coastal Wetlands regulations, minimize adverse impacts on the coastal dune and barrier beach functions and develop adequate measures to avoid, minimize and mitigate project impacts. The EIR directed the proponent to document how each alternative minimizes short- and long-term impacts to existing vegetation and dune stability and, where feasible, enhance mitigation through the reduction or elimination of existing impervious surfaces, solid walls and lawn areas.

As noted previously, the project change will eliminate existing impervious surfaces, eliminate solid structures in the dune, limit construction to the existing developed portion of the lot and decrease impervious surfaces, compared to the ENF proposal. The ENF proposal would have created 3,600 sf of new impervious surfaces. The project change will create 2,100 sf of impervious surfaces and eliminate 1,592 sf of impervious surfaces for a net increase of 508 sf.

The NPC indicates that, subsequent to the issuance of the October 24, 2005 Certificate on the ENF, the proponent developed another alternative which reversed the location of the garage and the house. The proponent filed a Notice of Intent for this alternative which was also approved by the Newbury Conservation Commission. It was subsequently appealed to MassDEP and the withdrawn by the proponent.

MassDEP comments include an assumption that any proposed decks, porches, roof extensions/overhangs will be constructed within this building envelope and that the structure will be in the orientation and location shown on the plan or in an orientation that minimizes shading impacts and does not impede sand movement. MassDEP comments also note that the SOC application should be supplemented with more detail on the proposed structure. The comments note that an open-pile foundation without lattice work will be required and that the bottom joists of the building must be at least two feet above the velocity zone elevation or dune, whichever is greater. The proponent also should demonstrate that the length and design of the stone trench system is justified for collection of roof runoff. In addition, the comment letter outlines information that should be included in the planting plan.

Comments from Coastal Zone Management (CZM) indicate that the NPC demonstrates that the proponent has taken significant steps to address its previously identified concerns by scaling back the introduction of impervious surfaces, eliminating solid structures in the dune and re-planting the lawn area with native vegetation. These comments indicate that the replanting and elimination of solid structures will have a significant beneficial effect on the dune's overall ability to function for storm damage protection and flood control.


Comment letters from Jayne Peng and Scott Ackerly express concern with the impact of the proposed project and assert that the project cannot be permitted consistent with state policy and the Wetlands Protection Act.

Conclusion

Based on a review of the NPC, consultation with state agencies and review of public comments, I find that outstanding issues can be addressed during state permitting. The NPC demonstrates that the alternative has been developed in response to identified agency concerns and will minimize environmental impacts associated with the project compared to the ENF alternative. Comments from MassDEP and CZM do not request additional MEPA review although both indicate that significant additional information will be required during project permitting to assess the specific impacts associated with the construction and design. Based on this information, MassDEP will determine whether the project can be permitted consistent with the Coastal Wetlands regulations. No further MEPA review is required.

September 5, 2008

Date



Ian A. Bowles

Comments Received:

8/26/08	Department of Environmental Protection/Northeast Regional Office (MassDEP/NERO)
8/22/08	Coastal Zone Management
8/26/08	Scott Ackerly
8/25/08	Jayne Peng

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