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October 25, 2007

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

PROJECT NAME : Black Cow Restaurant
PROJECT MUNICIPALITY : 1 Water Street - Beverly
PROJECT WATERSHED : Beverly Harbor
EEA NUMBER : 14060
PROJECT PROPONENT : Joseph A. Leone, c/o Black Cow Restaurant
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 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 redevelopment of the existing site with the construction of a 9,064 square foot (sf) building, which includes a 4,928 sf restaurant on the upper level with a public observation deck. The lower level of the building will accommodate approximately 1,863 sf of space for a waiting area, public rest rooms, and ticketing facilities for commercial passenger vessels to be berthed at the marina on the project site and 2,273 sf of restaurant support space (on the landward side). The project site contains a 9,216 sf McDonald's fast food restaurant with a drive-thru that has been closed since 1995. The McDonald's restaurant would be demolished. The new restaurant building has been located away from the existing Coastal Bank. The site will have a lateral public walkway across the site, which will connect to an existing walkway on an abutting privately-owned parcel and to the City-owned Ferry Way Landing Park. The 41,668 sf site is located within a Designated Port Area (DPA) and contains an existing 28-slip recreational marina and a marina manager's building. The City of Beverly is proposing to lease the site to the proponent.

The project is subject to MEPA review pursuant to Section 11.03(3)(b)(5) because the project involves the construction of a new unlicensed non-water dependent use of tidelands. It

will require a Chapter 91 Waterways License from the Department of Environmental Protection (MassDEP). The project will need to obtain an Indirect Access Permit from the Massachusetts Highway Department (MassHighway). A Federal Consistency Review by MCZM Office may be necessary. The project will require an Order of Conditions from the Beverly Conservation Commission. In 1996, the City acquired the project site and the associated recreational marina facilities using Urban Self-help Funds administered by EEA's Division of Conservation Services. Because Commonwealth funds were utilized to purchase some or all of the project site, MEPA jurisdiction extends to all aspects of the project that may have significant environmental impacts.

The City of Beverly is planning to revitalize its waterfront holdings, which include the above project site, the Ferry Way Landing Park to the west of the project site and the Harbormaster's Office and repair shop as well as a public pier and commercial marina. It is calling the whole project the Beverly Harborfront Project. The City will provide approximately 76 parking spaces on the other two lots as a municipal parking lot. It is proposing to reconstruct the existing concrete pier and to reconfigure and upgrade the existing recreational marina so that it can physically accommodate the large commercial vessels associated with charter and water shuttle services that will operate out of the lower level of the new building on the project site. The City will relocate the existing marina manager's building from the concrete pier to the nearby Harbormaster's parcel and it will be rehabilitated into a new Harbormaster's facility. It is proposing to upgrade the public pier to include handicap-accessible ramps for use with commercial passenger activity. The City also plans to repave and reconfigure the parking lot on the Harbormaster's site to increase available parking. No parking for any use will be located within the water-dependent use zone.

The proposed project is estimated to consume approximately 6,393 gallons per day (gpd) of water from the local municipal system. It is estimated to generate a similar amount of wastewater to the municipal sewer system. The proponent will increase the number of parking spaces from 44 to 65 spaces. Six parking spaces will be set aside for the exclusive use of the DPA and water-dependent industrial facilities on the project site. Based on the Institute of Traffic Engineers Land Use Code 931, the MEPA Office has estimated that the project will generate about 675 trips per day.

The amount of impervious area will decrease by approximately 6,970 sf. The proponent will retrofit all existing catch basins within the site with hoods to improve stormwater quality. It will provide a water quality treatment system for stormwater runoff. The rate of water discharging from the site will remain less than existing peak runoff rates. 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 driveways, sidewalks, and parking areas.

According to the proponent, the project would affect approximately 13,032 sf of Land Subject to Coastal Storm Flowage and 41,668 sf of former filled tidelands. The projects' impacts to wetland resource areas can be adequately handled during the MassDEP and local permitting processes.

As part of the Chapter 91 Licensing process, the proponent should indicate its arrangements with the Beverly fishing fleet to ensure their ongoing tenancy at the adjacent marina. During the construction of the restaurant, the proponent will also provide sedimentation and erosion controls. In its comment letter, MCZM recommended that the stormwater management system be designed to remove sediment and improve water quality to the maximum extent feasible for the site. MassDEP recommends that the City consider low impact development stormwater controls to reduce pavement by adding rain gardens, bioretention areas, tree filter boxes, and/or using pervious pavement materials in the parking areas and on public walkways. The Massachusetts Stormwater Management Policy requires that one-inch of runoff be treated to remove total suspended solids in Critical Areas, which includes this site. The proponent should continue to coordinate this project with EEA's Division of Conservation Services and provide sufficient information regarding the application of EEA's Article 97 Land Disposition Policy for this site.

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 in the MassDEP, MassHighway, and the local permitting processes.

October 25, 2007

Date



Ian A. Bowles

Comments received:

EEA, 7/25/07

DCR, 7/25/07

Beverly Mayor's Office, 7/26/07

Hayes Engineering, 8/1/07

Hayes Engineering, 8/10/07

EOT, 8/30/07

Hayes Engineering, 9/6/07

Hayes Engineering, 9/25/07

Hayes Engineering, 9/26/07

Mrs. Patricia Kalinoski, Edward F. Kalinoski & Edward F. Kalinoski II, 10/4/07

Ben Johnson, 10/04/07

EEA #14060

ENF Certificate

October 25, 2007

Laurie Gwynne, 10/5/07
Mark DiPasquale, 10/7/07
MCZM, 10/9/07
Nathan H. Zoll, 10/10/07
Jon Silver, 10/12/07
MassDEP, 10/15/07

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