3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

CAPE COD
COMMISSION

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**
**7021 2720 0002 0544 3209**

September 18, 2023

Alex Morse
Town Manager
Town of Provincetown
260 Commercial Street
Provincetown, MA 02657

**Re: Cannery Wharf Park Improvement Project**
**CCC File No: 23012**

Dear Mr. Morse,

This letter serves as notice that the above-referenced project has been deemed to be a DRI under Section 2(d)(i) of *Chapter A, Code of Cape Cod Commission Regulations, Enabling Regulations Governing Review of Developments of Regional Impact*. The Commission received the Secretary's certification of the adequacy of the final SEIR on September 15, 2023 (copy attached).

Under Section 6(c)(vi) of Chapter A and Section 13(b) of the *Cape Cod Commission Act*, the Commission is required to open the public hearing on the project within forty-five (45) days of the Secretary's certification of the adequacy of the final SEIR, which in this case means no later than October 30, 2023. Once opened, the public hearing shall be closed within 90 days following its opening date, unless extended by mutual agreement with the Applicant. To allow for DRI review of the project, the Applicant shall make application with the Commission, which shall be prepared and filed in accordance with the Chapter A of the Code of Commission Regulations ("*Enabling Regulations*"). Copies of the Commission Act, regulations, and DRI application cover sheet and guidance document, among other relevant regulatory documents, can be found on the Commission's website at www.capecodcommission.org.

No municipal development permits may be issued for the project, and no development activity may be undertaken for the project, until the Commission completes its review and issues a DRI approval. Jordan Velozo, Chief Regulatory Officer at the Commission, is the project manager and your contact person. Please do not hesitate to contact Ms. Velozo should you have further questions.

Sincerely,

Lisa Dillon
Commission Clerk

Enclosure

CC via regular mail: Provincetown CCC Representative

CC **via certified mail:**

Thaddeus Soule, Town Planner
Anne Howard, Building Commissioner
Jeremy Callahan, Chair, Zoning Board of Appeals
Melyssa Millet, Conservation Agent
Elizabeth Paine, Town Clerk
Julia Perry, Chair, Historical Commission
Lezli Rowell, Health Director

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

Maura T. Healey
GOVERNOR

Kimberley Driscoll
LIEUTENANT GOVERNOR

Rebecca L. Tepper
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1081
http://www.mass.gov/eea

September 15, 2023

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

| | |
|---|---|
| PROJECT NAME | : Cannery Wharf Park |
| PROJECT MUNICIPALITY | : Provincetown |
| PROJECT WATERSHED | : Cape Cod |
| EEA NUMBER | : 16705 |
| PROJECT PROPONENT | : Town of Provincetown |
| DATE NOTICED IN MONITOR | : August 9, 2023 |

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61-62L) and Section 11.08 of the MEPA regulations (301 CMR 11.00), I have reviewed the Single Environmental Impact Report (Single EIR) and hereby determine that it **adequately and properly** complies with MEPA and its implementing regulations. As discussed below, the Proponent is encouraged to continue to consider alternatives to minimize impacts to Coastal Dune and floodplain functions during subsequent permitting. Section 61 Findings and Permit terms should be updated accordingly with any revised mitigation commitments.

## Project Description

As described in the Single EIR, the project consists of converting an existing crushed shell parking lot into a waterfront accessible, passive park. In order to create an access point to the beach, a section of the bulkhead face parallel to the shoreline will be cut down below the existing sand surface. The remaining bulkhead will be cut to various heights in order to achieve the necessary site grades behind the bulkhead. This design is intended to provide a more gradual sloping of the site from the beach to Commercial Street, in lieu of a vertical wall (bulkhead) at the beach which could create flood

pathways and adversely impact the floodplain functions of the surrounding wetland resource areas. A "Portland Loo" restroom, pedestrian lights, concrete steps, and concrete seat-wall will be installed, as well as subsurface drainage and utilities. Pervious pathways consisting of resin-bonded aggregate will also be installed throughout the site along with a concrete seat-wall and steps, site furnishings, and fencing. Interpretive signage will communicate the site's history and highlight the local flora and fauna specific to the beach ecosystem. Additionally, native vegetation will be installed to provide shade and buffer plantings between the park and neighboring properties.

According to the Single EIR, the primary goals of the project are to provide flood protection and storm damage mitigation; improve stormwater management on site; enhance biodiversity with native plantings; create connections from Commercial Street to the bay; and create ADA-accessible open space and recreational areas in downtown Provincetown. In addition, the proposed project incorporates the goals of the state-approved Provincetown Harbor Management Plan (2018) in that it is (1) creating a pocket park along the Harbor; (2) providing ADA access to the Harbor; and (3) providing an open view to the Harbor.

In accordance with the Scope, the Single EIR included a description of changes to the project following consultation with Agencies. Specifically, during the fall the project proposes to install a seasonal sacrificial berm consisting of beach compatible sand in front of the path opening in the bulkhead to mitigate any storm surges. The sacrificial berm will be inspected after each storm event and rebuilt as necessary. In early spring beach access will be restored by removing the sacrificial berm in front of the opening in the bulkhead and reinstalling the accessible beach mat. According to the Single EIR, the sacrificial berm will allow waves to remove sand from the dune in this location in front of the bulkhead wall and allow for lateral sand movement during the high storm season.

Project Site

The project site encompasses approximately 0.38 acres and occupies a former crushed shell parking area located at 387 Commercial Street in Provincetown. Beach access is provided via a staircase over the existing steel sheet pile bulkhead wall, which maintains the relatively flat crushed shell area down to the beach. The Town of Provincetown (the Proponent) has managed the project site as a public park since its acquisition in 2019 and maintains a few picnic tables used by the public. The project site is bounded by Commercial Street to the north, commercial and residential properties to the east and west, and the Atlantic Ocean to the south.

State and local wetland resource areas located within the project area include Coastal Dune and Land Subject to Coastal Storm Flowage (LSCSF). According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) (Panel No. 25001C0116J, effective July 16, 2014), portions of the project site are located within Zone AE with a Base Flood Elevation (BFE) of 13 feet (ft) NAVD88. The project site is also located within filled tidelands.

According to the Massachusetts Natural Heritage and Endangered Species Program (NHESP) Atlas (15th Edition), the site is not located within Estimated or Priority Habitats of Rare Species. The project site is located within the Provincetown Historic District but does not contain any structures listed in the State Register of Historic Places or the Massachusetts Historical Commission's (MHC) Inventory

of Historic and Archaeological Assets of the Commonwealth. Additionally, the project is not located in an Area of Critical Environmental Concern (ACEC).

The project site is located within one mile of one Environmental Justice ("EJ") Population characterized by Income within the Town of Provincetown. The site is located within five miles of one additional EJ Population characterized by Income within the Town of Truro.[1] As described below, the Single EIR identified the "Designated Geographic Area" (DGA) for the project as one mile around EJ Populations, included a review of potential impacts and benefits to the EJ Populations within this DGA, and described public involvement efforts undertaken to date.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include the direct alteration of 0.38 acres of land, and the alteration of 14,618 square feet (sf) of Land Subject to Coastal Storm Flowage (LSCSF) and 16,541 sf of Coastal Dune (coincident).[2] The project will also extend a water main by 80 feet (ft); extend a sewer main by 20 ft; result in 3,550 gallons per day (gpd) of water withdrawal; and generate 500 gpd of wastewater.

Measures to avoid, minimize, and mitigate environmental impacts include the construction of a stormwater management system, installation of landscaping features and vegetative screening throughout the site, and the use of erosion and sedimentation controls during construction. As noted, the project is intended to improve resiliency of the site to future climate conditions, and to facilitate accessibility of a public recreational resource.

Jurisdiction and Permitting

This project is subject to MEPA review because it requires Agency Action and meets/exceeds the MEPA review threshold at 301 CMR 11.03(3)(b)(1)(a) for the alteration of a coastal dune. The project is required to prepare an EIR pursuant to 301 CMR 11.06(7)(b) because it is located within a DGA of one or more EJ Populations.

The project will require a M.G.L. Chapter 91 (c. 91) License from the Massachusetts Department of Environmental Protection (MassDEP). The project will also require an Order of Conditions (OOC) from the Provincetown Conservation Commission (or in the case of an appeal, a Superseding Order of Conditions from MassDEP). The project will also require a Public Benefit Determination (PBD) from the Secretary of the Executive Office of Energy and Environmental Affairs (EEA). Additionally, the project will require a Development of Regional Impact (DRI) review by the Cape Cod Commission (CCC) under § 12(i) of the Cape Cod Commission Act, c. 716 of the Acts of 1989.

The project is seeking Financial Assistance (in the amount of $750,000) in the form of a Land and Water Conservation Fund Grant from EEA. Therefore, MEPA jurisdiction is broad in scope and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in MEPA regulations.

[1] The EEA EJ Mapper is available at: https://www.mass.gov/info-details/environmental-justice-populations-in-massachusetts
[2] Impacts to Coastal Dune reflect an increase of 160 sf of alteration as compared to the EENF, resulting from the installation and removal of the seasonal sacrificial berm.

Review of the Single EIR

The Single EIR included a project description, existing and proposed conditions plans, revised estimates of project-related impacts, an updated Stormwater Report, additional analysis of existing and potential impacts to EJ Populations, and an identification of measures to avoid, minimize and mitigate environmental impacts. The Single EIR also provided a response to comments on the Expanded Environmental Notification Form (EENF) and draft Section 61 Findings.

The Single EIR provided an update on the coordination with the Provincetown Historic District Commission (PHDC) since the filing of the EENF. According to the Single EIR, an application for a Certificate of Appropriateness was submitted to the PHDC on August 4, 2023 for their review at the September 6, 2023 public meeting.

The Proponent provided supplemental information on August 31, 2023, which included a supplemental alternatives analysis; additional information on wetland resource area impacts and conformance with wetland performance standards; and additional information regarding coordination with Agencies. For purposes of clarity, all supplemental information provided by the Proponent are included in references to the "Single EIR," unless otherwise indicated.

*Alternatives Analysis*

The Single EIR discussed a design alternative (Modified Design Alternative) that had been dismissed prior to filing the EENF. According to the Single EIR, the Modified Design Alternative removed a large portion of the retaining wall along the lawn, added planting beds directly behind the bulkhead and behind the seating area to reduce floodwater velocities. However, this alternative was dismissed as it included a direct accessible walkway from Commercial Street to the beach which would channelize inflowing and outflowing coastal flood waters during storm events. Other alternatives that would further reduce the use of hard surfaces were not explored.

In response to the Scope, the Single EIR included an expanded alternatives analysis that evaluated alternative designs and configurations for the proposed retaining walls, concrete stairs, and pads to further reduce the potential scour and flow channelization under current and future sea levels. In addition, the Single EIR evaluated alternatives to the resin-bonded aggregate paving for the walkways to more effectively slow floodwaters, as discussed below.

*Retaining Walls*

Alternative 1 would consist of installing planted slope between the main lawn and the paved seating area. Although this alternative would provide additional green space, the Proponent was concerned that visitors would cut through the planting bed and that the plantings would not be able to stabilize the slope under foot traffic. In addition, extending the slope in order to achieve more stable grades was deemed not desirable as it reduced the amount of lawn area which was counter to the project objective of creating open space. Therefore, this alternative was dismissed.

The Preferred Alternative would consist of installing a retaining wall between the main lawn and the paved seating area. This alternative would allow the project to achieve necessary grade change between the main lawn and the paved seating area without reducing the amount of usable space. The use of a retaining wall would also provide additional seating and opportunities for interpretive signage to describe the history of the site. In addition, the retaining wall is not anticipated to channelize incoming or outgoing surge flow.

*Stepped Terraces/Stairs*

Alternative 1 would consist of grading and planting the slope between Commercial Street and the waterfront adjacent to the ADA-accessible pathway without a stairway feature. Although this alternative would provide increased resiliency for the site, by providing a vegetated slope to naturally slow floodwaters and dissipate wave energy, providing additional space for seating through stepped terraces/stairs was identified by the Proponent as integral to the project. Therefore, this alternative was dismissed as not meeting the project's goals.

Alternative 2 would consist of installing wooden stepped terraces/stairs to provide direct access from Commercial Street to the waterfront, in addition to the ADA-accessible pathway. While wooden stairs would provide the desired the seating space, they would require more maintenance and would likely be damaged during a coastal storm surge event which would reduce the stairs' effectiveness in dissipating wave action. Given the added maintenance obligations, this alternative was dismissed.

The Preferred Alternative would consist of installing concrete stepped terraces/stairs to provide direct access from Commercial Street to the waterfront, in addition to the ADA-accessible pathway. The addition of concrete stepped terraces/stairs eliminated a direct flood pathway from the beach but still have the potential to redirect and accelerate floodwater. The Preferred Alternative was selected as it would provide a durable structure that would require less maintenance.

*Concrete Pads*

According to the Single EIR, the number of concrete pads proposed by the project has been kept to the minimum needed for a foundation pad for the restroom, a slab for the engraved plan of the historic wharf which is part of the interpretive program for the site, and the base for a sculpture as desired by the client group. The Single EIR states that there are no viable alternatives to the concrete pad for the restroom and sculpture due to structural concerns. No additional alternatives were evaluated.

*Walkway Surface Material*

Alternative 1 would consist of using crushed shells, gravel, or pea stone as the surface for the ADA-accessible pathway from Commercial Street to the waterfront. While the use of crushed shells, gravel, or pea stone would provide a more natural path surface, loose material such as crushed shells, gravel, or pea stone are not suitable materials to use for an ADA-accessible pathway, which are required to be "be stable, firm, and slip resistant." Therefore, the use of these materials was deemed not feasible.

Alternative 2 would consist of installing an elevated boardwalk to facilitate ADA-access from Commercial Street to the waterfront. While this alternative would provide the same level of access to the

waterfront as the Preferred Alternative, it would be constructed above the surrounding landscape which would prevent visitors from moving freely between pathways, lawn, and seating areas. In addition, this alternative was dismissed due to longevity, durability, and maintenance concerns, specifically in regard to clearing the boardwalk of snow during the winter months.

Alternative 3 would consist of installing ADA-accessible surface mats to facilitate ADA-access from Commercial Street to the waterfront. ADA-accessible surface mats are generally used in a loose sand environment where stable accessible surfaces cannot be maintained due to the nature of the ground material. While this alternative would provide the same level of access to the waterfront as the Preferred Alternative, the use of loam and other planting soils throughout the site could result in plant growth through the mat surface which would result in significant additional maintenance. Therefore, this alternative was dismissed.

Alternative 4 would consist of installing roll-out boardwalks to facilitate ADA-access from Commercial Street to the waterfront. While this alternative would provide the same level of access to the waterfront as the Preferred Alternative, any shift in the subsurface material could lead to settlement that creates a shift in the roll-out boardwalk reducing the accessibility of the surface. In addition, roll out boardwalks cannot be maintained throughout the winter months; therefore, members of the public who require ADA accessibility cannot utilize the park for portions of the year. For these reasons, this alternative was dismissed.

The Preferred Alternative would consist of installing resin- bonded aggregate paving to facilitate ADA-access from Commercial Street to the waterfront. The Preferred Alternative meets the project's goals by providing ADA-access using a maintainable and durable material, without placing additional maintenance needs on the Proponent.

Comments provided by the Massachusetts Office of Coastal Zone Management (CZM) acknowledge the Proponent's efforts to increase public access to the water and protect open space while balancing environmental impacts, ADA design standards, operation and maintenance requirements, and community character. While comments state that the best practice to provide ADA access through the park to the beach while protecting Coastal Dune functions is to use elevated boardwalks, they also acknowledge that in some areas elevated boardwalks may not be practicable. Comments note that additional alternatives used at other public beaches in Massachusetts to protect the storm damage and flood control functions of Coastal Dunes while still allowing ADA access are either roll out wooden walkways or roll out mats. The expanded alternatives analysis does not explicitly rule out any of these alternatives as cost-prohibitive, but rather indicates that they were dismissed largely due to maintenance obligations. According to CZM, the use of alternative surface materials can provide additional roughness to slow the velocity of floodwaters more effectively, thereby enhancing the storm damage and flood control functions of the site, as compared to the proposed resin-bonded aggregate paving. The Provincetown Conservation Commission and, in turn, MassDEP will have ultimate authority to determine whether current design meets wetlands performance standards for Coastal Dune. In subsequent permitting, the Proponent should continue to evaluate alternatives to the use of resin-bonded aggregate paving to ensure that the project results in a sustainable design that enhances environmental resources and also ensures that public funds are expended in a manner that maximizes benefits over the long term, particularly when considering future climate conditions.

*Environmental Justice (EJ) / Public Health*

The Single EIR describes the public involvement plan that the project has undertaken to engage with EJ Populations. In accordance with the Scope, the Proponent obtained an updated "EJ Reference List" from the MEPA office (received from MEPA on July 12, 2023), which included a list of Community Based Organizations (CBOs) and tribes/indigenous organizations. An updated project notification sharing information about the project as well as how to access the Single EIR was sent on July 31, 2023 to those listed on the revised EJ Reference List. The Single EIR indicates that the Proponent remains committed to a comprehensive community outreach process and will continue to engage the community to ensure opportunities exist for public engagement on the project.

As noted above, project site is located within one mile of one EJ Population characterized by Income within the Town of Provincetown. The site is located within five miles of one additional EJ Population characterized by Income within the Town of Truro. No languages were identified as being spoken by 5% or more of Limited English Proficiency ("LEP") residents within one mile of the project site. As required by the Scope, the Single EIR reassessed potential sources of pollution within the DGA, based on mapping layers available through the DPH EJ Tool. The Single EIR indicates that the following sources of potential pollution exist within one mile of the identified EJ Populations:

- Major air and waste facilities: 1
- "Tier II" toxics use reporting facilities: 8
- MassDEP sites with AULs: 3
- MassDEP groundwater discharge permits: 1
- MassDEP public water suppliers: 1
- Underground storage tanks: 6
- Road infrastructure: 2 (U.S. Route 6 and State Route 6A)
- Other transportation infrastructure: 3 (railway, Plymouth-Provincetown ferry, and Boston-Provincetown ferry)
- Regional transit agencies: 1 (Cape Cod Regional Transit Agency)

In accordance with the Scope, the Single EIR also provided estimates of the number of construction period truck trips that are anticipated for the project. According to the Single EIR, the project will likely result in approximately ten truck trips per week during the demolition phase of the project which is estimated to last two months. After that time fewer truck trips will be required for delivery of paving materials, concrete, site furnishings and plant material. The project will likely result in approximately four truck trips per week during the construction phase of the project which is estimated to last ten months. The Single EIR notes that there are minimal options for routing truck traffic to the project site as Commercial Street is a one-way street with traffic traveling east to west. Therefore, trucks will be routed from U.S. Route 6 down to Commercial Street, avoiding the EJ Population to the west of the site. When leaving the site, trucks will be routed back towards U.S. Route 6, before reaching the EJ Population. Therefore, the Single EIR states that construction period impacts will not result in a disproportionate adverse effect on EJ Populations. In addition, the Single EIR states that the project will decrease the risks of climate change effects to residents and businesses in the immediate area, including EJ Populations, through regrading of the site to increase resiliency to sea-level rise/storm surge; improved stormwater management; improved accessibility to a public recreational resource; and new vegetative cover to increase resiliency to extreme heat.

*Wetlands and Stormwater*

As required by the Scope, the Single EIR includes revised wetlands impact calculations for the addition of the sacrificial berm component to the project. According to the Single EIR, the project will now result in the alteration of 14,618 sf of LSCSF (no change) and 16,541 sf of Coastal Dune (an increase of 160 sf). The seasonal sacrificial berm will be no larger than ten ft wide, 16 ft long, and four ft tall, resulting in the additional 160 sf of temporary alteration to Coastal Dune and approximately 320 cubic feet of temporary Coastal Dune enlargement.[3] The Single EIR also provides an evaluation of how the project has been designed to comply with the performance standards in the Wetlands Regulations (310 CMR 10.00).

Comments provided by CZM state that, while the use of a sacrificial berm serves to improve storm damage and flood control functions, to further mitigate potential flooding impacts, alternatives should be considered to minimize vertical structures located within LSCSF and to the proposed use of bonded aggregate for the walkways; CZM indicates that these additional measures would more effectively slow floodwaters. In particular, comments note that the use of stepped concrete terraces/concrete stairs in the Velocity Zone could reflect waves onto the adjacent properties. As noted above, the Proponent should continue to evaluate alternatives to the use of resin-bonded aggregate paving and further minimize vertical structures located within LSCSF to promote near- and long-term resiliency and ensure compliance with regulatory standards.

According to the Single EIR, the project has been designed with a full Low Impact Development (LID) approach and virtually all hardscape surfacing proposed by the project will consist of pervious materials, primarily consisting of grass/vegetation and resin-bonded aggregate pervious pavement. The Single EIR indicates that it is anticipated the pervious pavement surfaces and grassed/vegetated areas will allow for natural uptake of runoff, and promote faster stormwater infiltration into the ground, in comparison with the existing hard-packed surface. In order to ensure the pervious pavement will maintain its permeability, the Proponent has committed to an Operation and Maintenance (O&M) Plan that will include regular sweeping to avoid buildup of debris within the voids, and cold pressure washing once a year to remove ingrained dirt from the voids between the aggregate. In addition, the Proponent intends to post signage accompanied by a bag dispenser station on-site requiring people with dogs to clean up after their pet waste to address the presence of Enterococcus and E-Coli in the adjacent waterbodies.

According to the updated Stormwater Report included with the Single EIR, the Proponent evaluated precipitation depth and peak intensities, utilizing NOAA Atlas 14 precipitation data (2yr – 3.13"; 10yr – 4.60"; and 100yr – 6.91") for a 24-hour storm event. The Proponent also evaluated future (2030) precipitation depth and peak intensities based on projected precipitation data (2yr – 3.70"; 10yr – 5.40"; and 100yr – 8.20"). Based on the results of the analysis, the site has been designed to provide a reduction in post-development stormwater runoff rates for all storms analyzed as compared to pre-development conditions, including up to the future (2030) 100-year, 24-hour storm event (8.20 inches). Although no stormwater management infrastructure is proposed, the Single EIR states that no runoff is anticipated to leave the site up to the 2-year storm event.

[3] The Single EIR states that the seasonal sacrificial berm may be smaller than these dimensions in practice, due to site conditions, but will not exceed them.

*Public Benefit Determination (PBD)*

The project proposes activities within filled tidelands which are subject to the provisions of *An Act Relative to Licensing Requirements for Certain* (2007 Mass. Acts, c. 168, § 8) (the Act), as codified in M.G.L. c. 91, § 18B, and the Public Benefit Determination (PBD) regulations (301 CMR 13.00). Therefore, I must conduct a Public Benefit Review as part of the review of EIR projects located on tidelands that entail new use or modification of an existing use. The Single EIR described the benefits of the project which are intended to crease an ADA accessible pocket park in downtown Provincetown that provides direct access to the waterfront while improving overall site resiliency to coastal storm events.

The PBD regulations, at 301 CMR 13.04(1), include a presumption that water-dependent projects provide adequate public benefit. As noted above, the project will be required to obtain a c.91 License from MassDEP. In addition, comments provided by the MassDEP Waterways Regulation Program (WRP) on the EENF noted that based on the information provided, the proposed activities would be classified as a water-dependent use project pursuant to the Waterways Regulations at 310 CMR 9.12. I note, however, that WRP may consider compliance with the Wetlands Protection Act during c.91 licensing as stated in 310 CMR 9.33(1)(b). To the extent further design changes are made to comply with wetlands performance standards, including those related to Coastal Dune as pertaining to the walkway surfaces and vertical structures such as concrete stairs, those changes should be reflected as c.91 license terms and in the PBD.

I will issue a PBD within 30 days of this Certificate.

*Climate Change*

*Adaptation and Resiliency*

As detailed in the Single EIR, the output report from the e Climate Resilience Design Standards Tool prepared by the Resilient Massachusetts Action Team (RMAT) (the "MA Resilience Design Tool") indicates that the project has a "High" exposure rating based on the project's location for the sea level rise/storm surge and extreme precipitation (urban flooding) climate parameters. In accordance with the Scope, the Single EIR evaluated the 24-hour rainfall volumes for 2030 provided by the MA Resilience Design Tool to assess how the stormwater improvements will attenuate peak flows and meet pollutant loading requirements based on future climate conditions. According to the MA Resilience Design Tool output, the standard recommendation for a natural resource asset is a 25-yr (4%) return period design storm as of 2030 for extreme precipitation. As noted above, the site improvements have been designed to attenuate peak flows including up to the future (2030) 100-year, 24-hour storm event (8.20 inches) and will fully retain all stormwater runoff on the site up to the future (2030) 2-year, 24-hour storm event. Therefore, the site improvements appear to exceed the standard recommendations provided by the MA Resilience Design Tool and would provide some level of resiliency to future climate conditions. Given that recommendations are based on a short-term (2030) planning horizon, I encourage the Town to engage in longer term planning for stormwater and resiliency design.

*Construction Period*

In accordance with the Scope, the Single EIR provides a description of the construction period mitigation measures. Prior to the commencement of construction, straw wattles will be installed between the project site and adjacent properties, as well as along the bulkhead wall and around any soil stockpiles. During the demolition phase of work, the proponent will require that dust suppression be used during any concrete cutting, and all stockpiled soil will be covered and/or wetted to minimize dust. The Single EIR also states that the project will minimize solid waste produced to the maximum extent practicable, including leaving the existing below-grade foundations in place and utilizing any excess soils to fill in the voids of the foundations. The primary waste generated by demolition activities will be steel from removing portions of the existing bulkhead which will be recycled to the maximum extent practicable in accordance with all applicable Federal, State and local requirements.

All construction and demolition activities should be managed in accordance with applicable MassDEP's regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). I encourage the Proponent to require that its contractors use construction equipment with engines manufactured to Tier 4 federal emission standards or select project contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD). If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the conditions of all State and local permits. I encourage the Proponent to reuse or recycle construction and demolition (C&D) debris to the maximum extent.

Mitigation and Section 61 Findings

The Single EIR provides final mitigation commitments and draft Section 61 Findings for use by Participating Agencies, which are summarized below. The Section 61 Findings should be provided to Participating Agencies to assist in the permitting process and issuance of final Section 61 Findings. As noted, to the extent further design changes are made to address wetlands performance standards, updated commitments should be reflected in c. 91 license terms and the PBD.

*Environmental Justice (EJ) / Public Health*

- Designing site improvements to maintain post-development peak rates of runoff below pre-development rates, including up to the future (2030) 100-year, 24-hour storm event (8.20").
- Providing an ADA-accessible route from Commercial Street to the waterfront.
- Installation of a bicycle rack on-site.

*Wetlands and Stormwater*

- Comply with all Standard and Special Conditions to be included in the Order of Conditions that will be issued by the Provincetown Conservation Commission (or MassDEP in the case of an appeal).
- Comply with all requirements and conditions of the NPDES Stormwater General Permit.
- Protect wetland resource areas from secondary impacts during construction through the implementation of erosion and sedimentation controls, incorporating BMPs.
- Designing site improvements to maintain post-development peak rates of runoff below pre-development rates, including up to the future (2030) 100-year, 24-hour storm event (8.20").

*Climate Change*

- Designing site improvements to maintain post-development peak rates of runoff below pre-development rates, including up to the future (2030) 100-year, 24-hour storm event (8.20").
- Providing permanent erosion control through land grading and permanent vegetation cover.
- Planting at least 14 trees with numerous other shrubs and herbaceous plants sequestering carbon and providing shade to the project site.
- Installation of the Portland Loo restroom at an elevation of 13.85 ft NAVD88 which is 0.85 ft above the current BFE of the site.
- Installation of all LED energy efficient and dark sky compliant exterior lighting. spaces.

*Construction Period*

- Strict enforcement of measures to be used by contractors to reduce potential emissions and control fugitive dust during excavation and construction including among others, using wetting agents on areas of exposed soil and minimizing storage of debris on the site.
- Implementing mitigation measures to prevent stormwater contamination including among others, use of erosion and sedimentation controls, catch basin inlet protection, and designated construction entrances.
- Reuse of excavated material to the extent feasible and proper disposal of materials that cannot be recycled.
- Reducing potential air emissions through the use of heavy equipment retrofitted with diesel emissions control devices, using Ultra Low Sulfur Diesel for all trucks and construction machinery, and minimizing idling.
- Minimizing construction period noise impacts to the extent feasible through the use of mufflers, selection of quieter equipment, and minimizing idling.

Conclusion

Based on a review of the Single EIR, comment letters, and consultation with Agencies, I find that the Single EIR adequately and properly complies with MEPA and its implementing regulations. No further MEPA review is required, and the project may proceed to permitting. Participating Agencies should forward copies of the final Section 61 Findings to the MEPA Office for publication in accordance with 301 CMR 11.12. As noted, the Town is encouraged to continue to consider alternatives to minimize impacts to Coastal Dune and floodplain functions during subsequent permitting. Section 61 Findings and Permit terms should be updated accordingly with any revised mitigation commitments.

September 15, 2023
Date

Rebecca L. Tepper

Comments received:

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| 9/8/2023 | Massachusetts Office of Coastal Zone Management (CZM) |
| 9/8/2023 | Cape Cod Commission (CCC) |
| 9/12/2023 | Massachusetts Department of Environmental Protection (MassDEP) |

RLT/NJM/njm

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

September 8, 2023

Rebecca L. Tepper
Secretary of Energy and Environment
Executive Office of Energy &
Environmental Affairs
ATTN: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: SEIR Review EOEEA 16705
PROVINCETOWN. Cannery Wharf Park at
337 Commerce Street

Dear Secretary Tepper,

The Southeast Regional Office of the Department of Environmental Protection (MassDEP) has reviewed the Single Environmental Impact Report (SEIR) for the Cannery Wharf Park at 337 Commerce Street, Provincetown, Massachusetts (EOEEA # 16705). The Project Proponent provides the following information for the Project:

**The proposed project will convert the former parking lot into a waterfront accessible, passive park. The project proposes to reshape the site to provide barrier-free movement from Commercial Street to the bay. Native vegetation will provide shade and buffer plantings between the park and neighbors. Seating and gathering areas range between small groups and larger open spaces, like a central lawn. Paving will be pervious, and stormwater will be captured and infiltrated. Interpretive signage (funded by the Town) will communicate the site's history and highlight the local flora and fauna specific to the beach ecosystem. See Appendix A for additional information.**

**The proposed project will change in use from a crushed shell parking lot to a waterfront accessible, passive park. Stormwater improvements will be made to the site, as well as flood protection and storm damage mitigation through lowering the existing bulkhead wall, terracing up from the lowered bulkhead to the main lawn, and setting the planting beds parallel to the shoreline to slow wave action.**

**The goal of the upgrades is to maintain the function of the wharf to support the building and the marina. The travel lift adds a significant load to the wharf and the wall should be stabilized. A few alternatives, listed.**

***Comments//Guidance***

The MassDEP Southeast Regional Office has reviewed this Single EIR and believes the Project Proponent has adequately addressed the Department's EENF comments.

There being no further comments, MassDEP Southeast Regional Office appreciates the opportunity to comment on this Single EIR. If you have any questions regarding these comments, please contact George Zoto at George.Zoto@mass.gov or Jonathan.Hobill@mass.gov.

Very truly yours,

Jonathan E. Hobill,
Regional Engineer,
Bureau of Water Resources

JH/GZ

Cc: DEP/SERO

ATTN: Millie Garcia-Serrano, Regional Director
Gerard Martin, Deputy Regional Director, BWR
John Handrahan, Deputy Regional Director, BWSC
Seth Pickering, Deputy Regional Director, BAW
Jennifer Viveiros, Deputy Regional Director, ADMIN
Maissoun Reda, Chief, Wetlands and Waterways, BWR
Nate Corcoran, Wetlands, BWR
Brendan Mullaney, Waterways, BWR
Mark Dakers, Chief, Solid Waste, BAW
Elza Bystrom, Solid Waste, BAW
Angela Gallagher, Chief, Site Management, BWSC
Jennifer Wharff, Site Management, BWSC

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

CAPE COD
COMMISSION

**Via Email**

September 8, 2023

Rebecca Tepper, Secretary of Energy and Environmental Affairs
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office, Nicholas Moreno, MEPA Analyst
100 Cambridge Street, Suite 900, Boston, MA 02114

Re: Single Environmental Impact Report
EEA No. 16705 (Cape Cod Commission File No. 23012)
Cannery Wharf Park, Provincetown

Dear Secretary Tepper:

Thank you for the opportunity to provide comments on the above-referenced Single Environmental Impact Report ("SEIR"). Because the Project requires an EIR, the Project is deemed a Development of Regional Impact ("DRI") under § 12(i) of the Cape Cod Commission Act, c. 716 of the Acts of 1989. Commission staff recently met with the Applicant to discuss the forthcoming DRI Application and expect to begin regulatory review after the Certificate on the SEIR is issued.

In the SEIR, the Applicant addressed Commission staff comments on the EENF relative to the maintenance of the porous pavement. To prevent clogging, regular sweeping and annual pressure washing of the porous surfaces is proposed. Based on the information contained in the SEIR, the Project, and specifically stormwater management, is an improvement over existing conditions.

Commission staff suggest that the Project goals are consistent with Regional Policy Plan ("RPP") goals to preserve and protect natural and community systems. As described in the SEIR, the Project will provide flood protection, improved stormwater management, enhanced habitat with native plantings, ADA-accessible pedestrian connections to the coast, and recreational space in a downtown setting. While the full Commission has not formally reviewed the Project,

the Project appears consistent with the RPP wetlands, coastal resiliency, wildlife and plant habitat, and open space goals.

Thank you for the opportunity to provide comments on the Project. Please reach out with any questions.

Sincerely,

Kristy Senatori

Kristy Senatori
Executive Director

Cc: Project File
Alex Morse, Provincetown Town Manager, via email
Thaddeus Soule, Provincetown Town Planner, via email
Provincetown Cape Cod Commission Representative, via email
Cape Cod Commission Chair, via email
Cape Cod Commission Committee on Planning and Regulation Chair, via email

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
100 Cambridge Street, Suite 900, Boston, MA 02114 • (617) 626-1200

**MEMORANDUM**

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|---|---|
| TO: | Rebecca L. Tepper, Secretary, EEA |
| ATTN: | Nicholas Moreno, MEPA Office |
| FROM: | Lisa Berry Engler, Director, CZM |
| DATE: | September 8, 2023 |
| RE: | EEA-16705, Cannery Wharf Park Improvement Project, Provincetown |

The Massachusetts Office of Coastal Zone Management (CZM) has completed its review of the above-referenced Single Environmental Impact Report (SEIR), noticed in the *Environmental Monitor* dated August 9, 2023, and offers the following comments.

**Project Description**

The proposed project involves the redevelopment of a site located at 387 Commercial Street. This previously developed site is currently used as a parking lot with a crushed shell surface. A sheet bulkhead is located on the seaward end of the lot and fill was used to level the site for the parking lot. A concrete foundation and slab exist below the surface of the lot. There is little vegetation on the site, and a set of stairs exists on the seaward end to provide access to the beach. The entire site is a coastal dune, and the majority of the site is mapped by the Federal Emergency Management Agency as within the 1% chance floodplain, which is also Land Subject to Coastal Storm Flowage (LSCSF).

The proposed plan will convert the parking lot into a waterfront-accessible park. The project proposes to create open space areas for sitting and recreating and public access to the beach and creates handicap-accessible access to the water. The design lowers the existing bulkhead wall at the beach edge, and the site terraces up from the lowered bulkhead to Commercial Street. Salt-tolerant native plantings are proposed along portions of the site. Paving will be pervious, and stormwater will be captured and infiltrated. The project has received a $750,000 grant from the Executive Office of Environmental Affairs - Land and Water Conservation Fund Grant Program.

**Project Comments**

Changes were made to the plan based on state agency feedback on the environmental Notification Form. These changes were made to mitigate impacts to the flood control function of the site and included lowering the vertical steel bulkhead on the seaward face of the site, realigning the beach access and paths to avoid creating a direct path for waves and flood waters; providing more native plantings along the seaward end of the site to help slow flood waters; and removing and realigning some vertical structures including retaining walls and stairs. To further mitigate potential flooding impacts, alternatives should be considered to minimize vertical structures located within LSCSF and alternatives to the proposed use of bonded aggregate for the walkways should be considered to more effectively slow floodwaters.

The SEIR presented an alternatives analysis that included a No Build Alternative, the Original Design Alternative, a Modified Design Alternative, and the Proposed Alternative. The SEIR also

presented a design element and materials analysis. This analysis included an evaluation of retaining walls, concrete pads, concrete stairs, and a proposed path material alternatives analysis. In addition, the SEIR presented an Operation and Maintenance plan that details how the accessible beach mat seaward of the bulkhead will be removed, and a seasonal sacrificial berm consisting of beach-compatible sand will be built up in front of the path opening in the bulkhead to mitigate any nor'easter storm surges. The proposed project incorporates the goals of the state-approved Provincetown Harbor Management Plan (2018) in that it is (1) creating a pocket park along the Harbor; (2) providing ADA access to the Harbor; and (3) providing an open view to the Harbor. The town's efforts to increase public access to the water and protect open space while balancing environmental impacts, ADA design standards, operation and maintenance requirements, and community character are important.

The use of stepped concrete terraces in the Velocity Zone could reflect waves onto the adjacent properties. The best practice to provide ADA access through the park to the beach while protecting costal dune functions are elevated boardwalks. However, in many areas, such as this one, elevated boardwalks are not practical. An alternative used for other public beaches in Massachusetts to protect the storm damage and flood control functions of coastal dunes while allowing ADA access are either roll out wooden walkways or roll out mats. The balance between resiliency, resource protection and providing access to the park, which needs to be able to slow down coastal floodwater and protect landward areas is important.

**Federal Consistency Review**

The proposed project may be subject to CZM federal consistency review, and if so, must be found to be consistent with CZM's enforceable program policies. For further information on this process, please visit the CZM website at www.mass.gov/federal-consistency-review-program.

LBE/sm

cc:
Brandon Motta, Provincetown Recreation Department
Megan Kearns, Weston & Sampson
Nate Corcoran, MASS DEP
Rebecca Haney, CZM
Stephen McKenna, CZM