

Michael J. Kennefick
Direct Dial: 781.218.2837
mkennefick@mbmlc.com
Admitted in MA

July 17, 2024

Cape Cod Commission
3225 Main Street
P.O. Box 226
Barnstable MA 02630

**RE: 3 Corn Hill Path, Truro, Massachusetts
Application for Development of Regional Impact Exemption**

Dear Commission Members:

Please be advised that our office represents Gerald R. Talbot and Marlene E. Talbot, the owners of the property known and numbered as 3 Corn Hill Path, Truro, Massachusetts, who are requesting a Development of Regional Impact Exemption. Enclosed please find the following Application materials:

1. Application Cover Sheet
2. Project Narrative
3. Deed from Alison S. Leschen and Scott R. Lindell to Applicants, Gerald R. Talbot and Marlene E. Talbot, dated December 22, 2020 and recorded with the Barnstable County Registry of Deeds at Book 3362, Page 319, with Trustee Certificate;
4. Subdivision Plan of Land entitled "Corn Hill Landing," dated for the recorded with the Barnstable County Registry of Deeds at Plan Book 321, Page 27;
5. Truro Board of Assessors Property Card for 3 Corn Hill Path;
6. Certificate of the Secretary of Energy and Environmental Affairs on the Expanded Environmental Notification Form and proposed Environmental Impact Report, dated April 29, 2024;
7. Certificate of the Secretary of Energy and Environmental Affairs on the Final Environmental Impact Report, dated June 14, 2024;
8. Plan entitled "Plan Showing Proposed Beach Access Stairway," prepared by Costal Engineering Co. and dated April 10, 2023 (Sheet V-101);
9. Plan entitled "Plan Showing Proposed Beach Access Stairway," prepared by Costal Engineering Co. and dated February 10, 2023 (Sheet C-101);
10. Plan entitled "Plan Showing Proposed Beach Access Stairway," prepared by Costal Engineering Co. and dated April 10, 2023 (Sheet C-102); and
11. List of Permits and Regulatory Requirements.

Cape Cod Commission
July 17, 2024
Page 2

Please let us know if the Commission requires any further information to process the Application.

Sincerely,

MORIARTY BIELAN & MALLOY LLC

A handwritten signature in blue ink, appearing to read 'MJK', with a long horizontal flourish extending to the right.

Michael J. Kennefick

MJK/klf

Enclosures

cc: Gerald R. and Marlene E. Talbot
Tighe & Bond



CAPE COD COMMISSION

Application Cover Sheet

Cape Cod Commission
3225 Main Street, PO Box 226
Barnstable, MA 02630
Tel: (508) 362-3828 • Fax: (508) 362-3136

For Commission Use Only

Date Received:
Fee (\$):
Check No:
File No:

A Type of Application (check all that apply)

<input type="checkbox"/> Development of Regional Impact (DRI)	<input checked="" type="checkbox"/> DRI Exemption	<input type="checkbox"/> Request for Joint MEPA/DRI Review
<input type="checkbox"/> DRI Scoping	<input type="checkbox"/> Hardship Exemption	<input type="checkbox"/> Decision Extension
	<input type="checkbox"/> Jurisdictional Determination	<input type="checkbox"/> Decision Modification

B Project Information

Project Name: 3 Corn Hill Path - Coastal beach Access Stairway Total Site Acreage: 1.515

Project/Property Location: 3 Corn Hill Path, Truro Zoning: Residential

Brief Project Description:
Include total square footage of proposed and existing development, gross floor area, number of lots existing or to be created, specific uses, description of existing conditions, as applicable (attach additional sheets if necessary).
Construction of an elevated beach access stairway to provide the applicants with access from their home and over the Coastal Bank to the beach.

The stairway is proposed to be 200 feet long and four feet wide. The access stairs will be constructed on thirty-six (36) timber piles, including 12 diamond piers. The diamond piers will be used on the lower eight (8) and upper four (4) support piles to provide additional stability.
The stairway will originate at an existing boardwalk and is designed to be located two (2) feet above existing grade. It will be used exclusively by the applicant and will only serve their lot. See attached Project Narrative for further description.

C Owner(s) of Record

List the following information for all involved parcels. Provide copies of each Deed and Purchase and Sale Agreement and/or evidence of leasehold interest, if applicable, for all involved parcels. Proof of ownership/legal rights for Applicant(s) to proceed with the proposed development must be documented prior to the Commission deeming any application complete. List the local, state, or federal agencies from which permits or other actions have been/will be filed (attach additional sheets if necessary).

Map/Parcel	Owner's Name	Lot & Plan	Land Court Certificate of Title #	Registry of Deeds Book/Page #
45-24	Gerald R. and Marlene E. Talbot	Lot 14 - Plan Book 321/Page 27		Book 33632/Page 319

There **ARE/ARE NOT** (circle one) court claims, pending or completed, involving this property (if yes, please attach relevant information).
Is there an existing CCC Decision for the Property? yes no (if so, recording information for decision, please attach relevant information).

D Certification

I hereby certify that all information provided on this application form and in the required attachments is true and accurate to the best of my knowledge. I agree to notify the Cape Cod Commission of any changes on the information provided in this application, in writing, as soon as is practicable. I understand failure to provide the required information and any fees may result in a procedural denial of my project.
NOTE: For wireless communication facilities, a licensed carrier should be either an applicant or a co-applicant.

APPLICANT	Applicant(s) Name: <u>Gerald R. Talbot</u> Tel: <u>(781)218-2837</u> Fax: _____
	Address: <u>280 Holden Wood Road, Concord MA 01742</u>
	Signature: <u>Gerald Talbot</u> Digitally signed by Gerald Talbot Date: 2024.07.02 18:40:40 -04'00' Date: <u>7/2/2024</u>
CO-APPLICANT	Co-Applicant(s) Name: <u>Marlene E. Talbot</u> Tel: <u>(781)218-2837</u> Fax: _____
	Address: <u>280 Holden Wood Road, Concord, MA 01742</u>
	Signature: <u>Marlene Talbot</u> Digitally signed by Marlene Talbot Date: 2024.07.02 18:42:14 -04'00' Date: <u>7/2/2024</u>
CONTACT	Contact: <u>Michael J. Kennefick</u> Tel: <u>(781)218-2837</u> Fax: _____
	Address: <u>859 Willard Street, Suite 440, Quincy, MA 02169</u>
	Signature: <u>[Signature]</u> Date: <u>7/2/24</u>
PROPERTY OWNER	Property Owner: <u>Gerald R. and Marlene E. Talbot</u> Tel: <u>(781)218-2837</u> Fax: _____
	Address: <u>280 Holden brook Road, Concord MA 01742</u>
	Signature: <u>Gerald Talbot</u> Digitally signed by Gerald Talbot Date: 2024.07.02 18:42:52 -04'00' Date: <u>7/2/2024</u>
BILLABLE ENTITY	Name: <u>Moriarty, Bielan & Malloy, LLC</u> Tel: <u>(781)218-2837</u> Fax: _____
	Address: <u>859 Willard Street, Suite 440, Quincy, MA 02169</u>

PROJECT NARRATIVE

3 Corn Hill Path
Truro, Massachusetts

TO: Cape Cod Commission

FROM: Michael J. Kennefick
Moriarty, Bielan & Malloy, LLC
One Adams Place
859 Willard Street, Suite 440
Quincy, MA 02169

Jennifer Leighton Gracia
Catherine Ricks
Tighe & Bond
260 Cranberry Highway
Orleans, MA 02653

APPLICANTS: Gerald and Marlene Talbot

SUBJECT: Request for Development of Regional Impact Exemption

The applicants, Gerald and Marlene Talbot, are the owners of the property known and numbered as 3 Corn Hill Path in Truro, Massachusetts (the "Property").

The Property, which is approximately 66,000 square feet (1.5 acres +/-) in size, is bounded by Cape Cod Bay to the west, a residence to the north, a residence to the south and Corn Hill Landing to the east. It is located in the Town's Residential zoning district.

The proposed project includes the construction of an elevated beach access stairway at the above-referenced property. The project goal is to provide the applicants with access over the Coastal Bank to the beach while minimizing impacts to resource areas. The access stairs, which will be constructed on thirty-six (36) timber piles, including 12 diamond piers. The diamond piers will be used on the lower eight (8) and upper four (4) support piles to provide additional stability. The stairway will originate at an existing boardwalk and is designed to be located two (2) feet above existing grade. The equipment that will access the site for construction will include a small skid steer and laborers on the top of the Bank, Beach, and Dune. The impact on the bank will only be personnel and hand-held equipment. The access for the top of the bank is already disturbed for the construction of the house, and the access at the lower area on the beach and dune will be limited to a pathway from the sandy beach to the toe of the bank. The pathway across the dune will be

demarcated by a snow fence or other temporary fence to limit any unnecessary impacts to the vegetated dune. The access across the dune will only be wide enough for personnel and a small skid steer to get to the bank, approximately 5' wide. This will become the walking path for the homeowners that use the stairway. If the snow fence can remain delineating an approximately 4' wide area it will continue to focus the foot traffic into that area and reduce future impacts

The applicants seek a determination, pursuant to Section 12(k) of Chapter 716 of the Acts of 1989, as amended (the "Cape Cod Commission Act"), and Section 7 of the of "Chapter A: the Enabling Regulations Governing Review of Developments of Regional Impact" (the "Enabling Regulations"), that the proposed construction of the beach access stairway and associated beach nourishment does not constitute a "Development of Regional Impact," as that term is defined by the Act and Enabling Regulations, and that the project is therefore exempt from the Commission's review.

A "Development of Regional Impact" is defined by Section 1 of the Act and Section 1 of the Enabling Regulations as a "development which, because of its magnitude or the magnitude of its impact on the natural or built environment, is likely to present development issues significant to or affecting more than one municipality, and which conforms to the criteria established in the applicable standards and criteria for developments of regional impact pursuant to...[Section 12 of the Act]."

Projects presumed to have Regional Impact are identified in Section 3 of the Enabling Regulations, including projects that involve:

- the demolition or substantial alteration of a building or structure listed on the National Register of Historic Places or the State Register of Historic Places, outside a municipal historic district, or outside the King's Highway Regional Historic District;
- the construction or expansion of a bridge, ramp, road or vehicular way that crosses or provides access to an inland pond, barrier beach, coastal bank, dune, beach or tidal wetland or waterbody, except a bridge, ramp or driveway serving no more than three single-family dwellings;
- the division of land totaling 30 acres or more in size;
- the division of land into 30 or more residential lots or 10 or more business, office or industrial lots;
- the development of certain commercial, service, retail, wholesale, business, industrial, private office, private health, private recreational, or private educational facilities;

- a change of use involving certain commercial, service, retail, wholesale, industrial, private office, private health, private recreational or private educational facilities;
- the expansion of existing developments which will create or add 30 or more residential units to such developments;
- a development providing certain facilities for travel to and from Barnstable County, including ferries, busing, rail, air transportation or trucking terminals;
- certain alterations or disturbances of greater than two acres of a site, including clear cutting, grading, land clearing; and
- mixed-use residential and non-residential development with a gross floor area greater than 20,000 square feet or 10,000 square feet of commercial space.

The construction of the proposed beach access stairway, which will provide the Applicants with exclusive, private access between the beach and their home, is not identified by the Commission's Enabling Regulations' standards and criteria as a project that constitutes a "Development of Regional Impact," and is therefore exempt from the Commission's review. Accordingly, the homeowners respectfully request that the Commission approve their application for such an exemption.

N O T N O T
A N QUITCLAIM DEED A N
O F F I C I A L O F F I C I A L

Property Address: 3 Corn Hill Path, Truro, MA

N O T N O T

ALISON S. LESCHENA and SCOTT R. LINDELL, Trustees of the Alison S. Leschen Revocable Living Trust, dated August 31, 2006, in abstract if which is recorded with the Barnstable County Registry of Deeds in Book 22021, Page 20, with an address of 15 Lantern Lane, Falmouth, MA 02540

for consideration in the amount of TWO MILLION SIX HUNDRED THOUSAND and 00/100 (\$2,600,000.00) DOLLARS, paid

grant to GERALD ROBERT TALBOT and MARLENE ELIZABETH TALBOT, husband and wife, as Tenants by the Entirety, with an address of 280 Holden Wood Road, Concord, MA 01742

WITH QUITCLAIM COVENANTS

The land in Truro, Barnstable County, Massachusetts, bounded and described as follows:

Being shown as Lot 14 on a plan of land entitled "Corn Hill Landing", Subdivision Plan of Land in Truro, Mass., made for Nicholas L. Brown, Scale 1 in. = 50 ft., Jan., 1978, Slade Associated, Registered Land Surveyors, East Main Street at Route 6A, Wellfleet, Massachusetts." which plan is recorded with the Barnstable County Registry of Deeds in Plan Book 321, Page 27, and to which plan reference may be had for a more particular description of said Lot 14.

Lot 14 contains, according to said plan, 66,000 square feet, more or less.

The above premises are conveyed with the right to use Corn Hill Road as shown on said plan, as is necessary to gain access to the nearest public way, in common with others lawfully entitled thereto.

This conveyance includes the fee in that portion of Lot 14 that lies between the low and high water marks in Cape Cod Bay insofar as the Grantor may legally convey the same, and subject to the rights of the public in and to the same according to law.

The said Premises are conveyed subject to and with the benefit of the obligations, rights and entitlements set forth or referred to in the deed of Bernard W. Weitzman et al, Trustees, dated April 19, 2007, recorded with said Registry of Deeds in Book 22021, Page 22, insofar as presently be in force and applicable.

The above described premises is conveyed together with the benefit of and subject to all other rights, easements, privileges, restrictions and reservations of record, insofar as the same may now be in force and applicable.

3 Corn Hill Path, Truro, MA

NOT
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OFFICIAL NOT
AN
OFFICIAL

The Grantor hereby waives and releases any and all rights of homestead in the above property that they as Trustees and/or any Beneficiary of the Trust and their spouse and families may have or be able to claim pursuant to M.G.L. c. 188 and further certify under the pains and penalties of perjury that no former spouses, partners or former partners in a civil union can claim the benefit of a homestead by court order or otherwise in said property. The Grantors further certify under the pains and penalties of perjury that the premises conveyed by this deed was not a homestead property and is not the principal residence of the Grantors or any other person.

For Grantor's title see the Fiduciary Deed of Bernard W. Weitzman et al, Trustees, dated April 19, 2007, and recorded with the Barnstable County Registry of Deeds in Book 22021, Page 22.

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SIGNATURE PAGES TO FOLLOW

Witness our hands and seals this ^{NOT} 22nd day of December, ^{NOT} 2020

O F F I C I A L
C O P Y

O F F I C I A L
C O P Y

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O F F I C I A L
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N O T
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O F F I C I A L
C O P Y

Alison S. Leschen
ALISON S. LESCHEN, Trustee

Scott R. Lindell
SCOTT R. LINDELL, Trustee

COMMONWEALTH OF MASSACHUSETTS

County of Barnstable

On this 22nd day of December, 2020, before me, the undersigned notary public, personally appeared **Alison S. Leschen and Scott R. Lindell, Trustees of the Alison S. Leschen Revocable Living Trust**, proved to me through satisfactory evidence of identification, which were MA Driver's Licenses, to be the persons whose names are signed on the preceding or attached document, and who swore and affirmed to me that the contents of the document are truthful and accurate to the best of their knowledge and belief, and acknowledged to me that they signed it as their free act and deed.

Alyssa Michelle Weir
Notary Public,

My commission expires:



ALYSSA MICHELLE WEIR
Notary Public
Commonwealth of Massachusetts
My Commission Expires January 1, 2027

N O T N O T
A N A N
TRUSTEE'S CERTIFICATE
ALISON S. LESCHEN REVOCABLE LIVING TRUST
C O P Y C O P Y

The undersigned, **Alison S. Leschen and Scott R. Lindell**, Trustees of the **Alison S. Leschen Revocable Living Trust**, under a Declaration of Trust dated August 31, 2006, an Abstract for which is recorded with the Barnstable County Registry of Deeds in Book 22021, Page 20, with an address of **15 Lantern Lane, Falmouth, MA 02540**, hereby on oath certify that:

1. **The undersigned is the sole Trustee of the Trust.**

2. **Said Trust has not been altered, amended, revoked or terminated.**

3. **That all of the beneficiaries of the Trust are of full legal age and are competent.**

4. **Pursuant to said Trust, and as authorized and directed by all the beneficiaries, We as Trustees, have full power and authority to convey the property known as 3 Corn Hill Path, Truro, MA, as more particularly described as Lot 14 on a Plan recorded in Plan Book 321, Page 27, and described in deed recorded in Book 22021, Page 22, to Gerry Talbot and Marlene Talbot, for consideration in the amount of \$2,600,000.00.**

5. **All interested in title may rely on the continuing existence of said Trust, until a further certificate is recorded or registered establishing the expiration or the termination of said Trust.**

The undersigned Trustees have full power and authority pursuant to the terms of said Trust to execute such documents and instruments as the Trustees shall deem necessary in order to effectuate the above-described transaction.

Further your deponent sayeth not.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE TO IMMEDIATELY FOLLOW**

NOT AN OFFICIAL COPY
Signed under the penalties of perjury this 22nd day of December, 2020.
NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY

Alison S. Leschen Revocable Living Trust

NOT AN OFFICIAL COPY
[Signature]

Alison S. Leschen, Trustee

[Signature]

Scott R. Lindell, Trustee

COMMONWEALTH OF MASSACHUSETTS

County of Barnstable

On this 22nd day of December, 2020, before me, the undersigned notary public, personally appeared **Alison S. Leschen and Scott R. Lindell, Trustees of the Alison S. Leschen Revocable Living Trust**, proved to me through satisfactory evidence of identification, which were MA Driver's Licenses, to be the persons whose names are signed on the preceding or attached document, and who swore and affirmed to me that the contents of the document are truthful and accurate to the best of their knowledge and belief, and acknowledged to me that they signed it as their free act and deed.

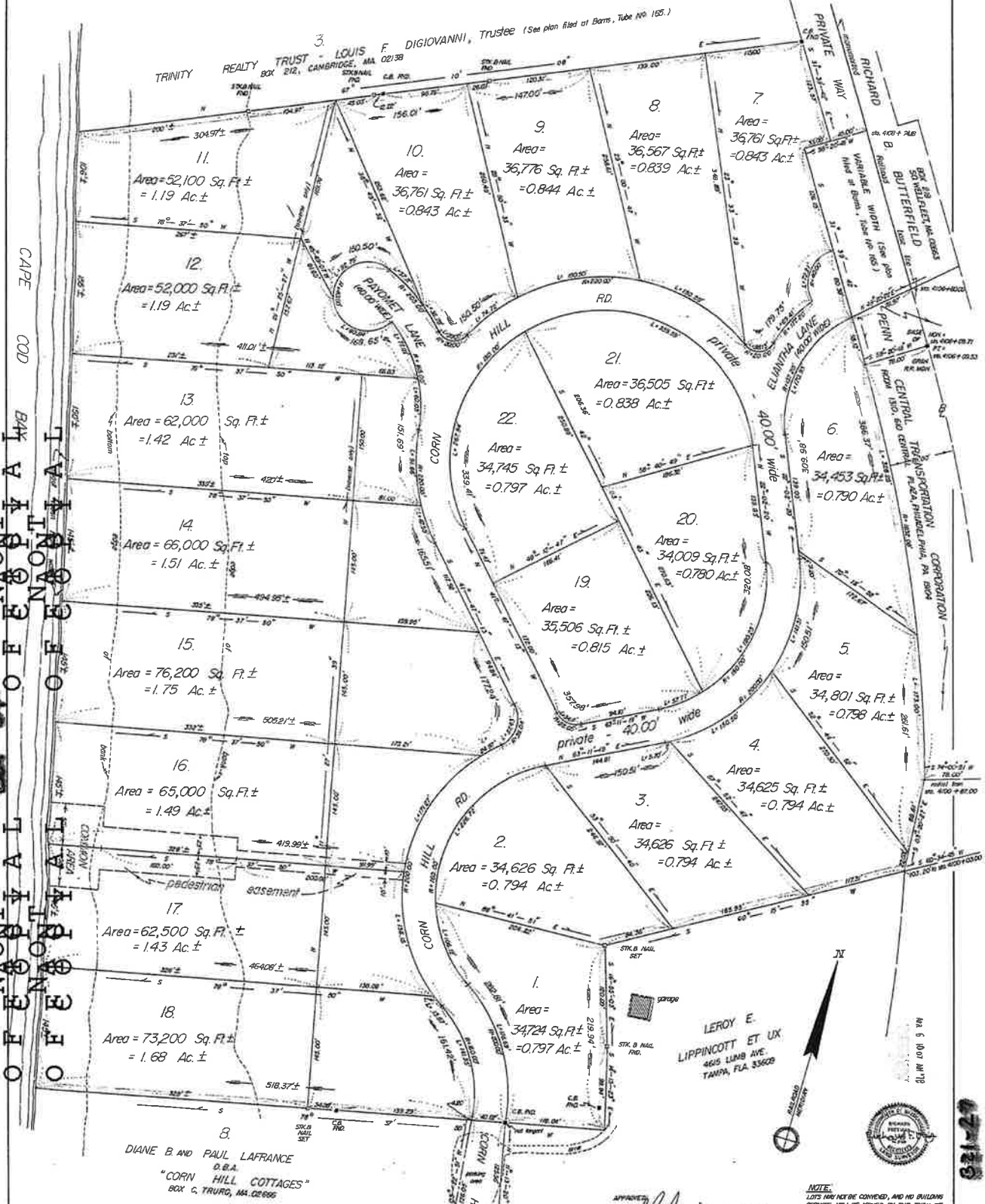
[Signature]
Notary Public,

My commission expires:



ALYSSA MICHELLE WEIR
Notary Public
Commonwealth of Massachusetts
My Commission Expires January 1, 2027

OFFICIAL RECORD OF THE TOWN OF TRURO, MASSACHUSETTS



"CORN HILL LANDING"
 SUBDIVISION PLAN OF LAND IN TRURO, MASS.
 made for

NICHOLAS L. BROWN

SCALE: 1 IN. = 50 FT. JAN., 1978
 SLADE ASSOCIATES, REGISTERED LAND SURVEYORS
 EAST MAIN STREET AT ROUTE 6, WELLFLEET, MASSACHUSETTS 02667



APPROVED: *[Signature]* 2-9-78
[Signature]
 W. B. [Signature]

THE TOWN ENGINEER
 DATE: 2-9-78

NOTE:
 LOTS ARE NOT TO BE CONVEYED, AND NO BUILDING PERMITS WILL BE ISSUED BY THE TOWN OF TRURO UNTIL ALL APPLICABLE REQUIREMENTS OF SECTION 25, DESIGN REQUIREMENTS, OF THE SUBDIVISION REGULATIONS HAVE BEEN MET. SEE COMPLETE GOVERNMENT TO BE RECORDED HEREWITH.

RESERVED FOR REGISTRY USE

I HEREBY CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS IN PREPARING THIS PLAN.
 DATE: 1/24/78
 REGISTERED LAND SURVEYOR

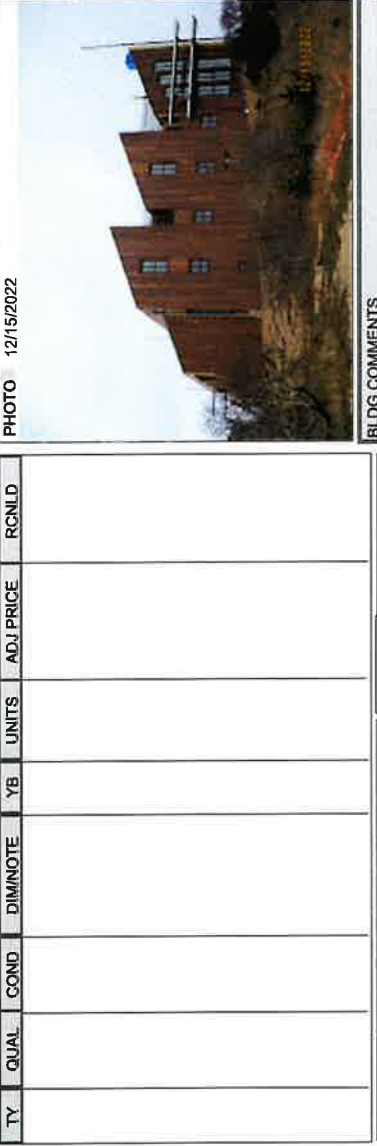
I, ANNE XANE, Clerk of the Town of Truro, hereby certify that the notice of approval of this plan by the Town Planning Board has been received and recorded at this office and no appeal was received during the thirty days after such notice and recording of said notice.
 DATE: 2/9/78
 ANNE XANE, Clerk

CP-17E

CURRENT OWNER		PARCEL ID		LOCATION		DESCRIPTION		CLASS		CLASS%		SINGLE FAMILY		BN ID		BN		CARD	
TALBOT GERALD R & MARLENE E 280 HOLDEN WOOD RD CONCORD, MA 01742		45-24-0		3 CORN HILL PATH				1010		100		80 SOLAR TAXABL		1		1		1 of 1	
TRANSFER HISTORY		DOS		T		SALE PRICE		BK-PG (Cert)		PMT NO		TY		INSP		BY		%	
		12/31/2020 QS				2,600,000		333632-319		23-067		80						0	
		05/14/2007 99				22021-22		22021-22		22-294		99						0	
		09/20/1984 99				2810-232+		2810-232+		21-457		1						0	
										21-388		5		12/16/2021		LG		100	
										NP		20		03/23/2021		JN		100	

CD	T	ACRSE/UN	Nbrhd	Inf1	Inf2	SAF	Inf3	Lpi	VC	CREDIT AMT	ADJ VALUE
100	A	0.775	13	1.00	1.00	3,420,950	1.00	1.00	WF2		2,651,240
300	A	0.740	13	1.00	1.00	261,250	1.00	1.00	WF2		193,330

TOTAL	1.515 Acres	ZONING	RES	FRNT	0	ASSESSED	CURRENT	PREVIOUS
Nbrhd	CORN HILL	N	12/31/2020 SF chng per Deed 33632-319. BENEFITS			2,844,600	2,473,200	2,473,200
Inf1	NO ADJ	O	FROM EASEMENT OVER LOT 15 (M45-P25) REF ON			778,100	0	0
Inf2	NO ADJ	T	DEED & SHOWN ON PLN 327-92. 3X47 WALKWAY			0	0	0
		E	FROM SFR TO DET WDK=NV.			0	0	0
		TOTAL				3,622,700	2,473,200	



BLDG COMMENTS

TY	QUAL	COND	DIMINUTE	YB	UNITS	ADJ PRICE	RCNLD
						12/15/2022	LG

BUILDING MODEL	CD	ADJ	DESC	MEASURE LIST REVIEW	CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN	CONDITION	ELEM	CD	
1			RESIDENTIAL	FOUNDATION	3	CONTIN WALL	1.00	A	BMF	N	BSMT FINISH	679	2022	221.37	150,307					
8		1.10	CONTEMPORARY (100%)	EXT. COVER	7	OTHER	1.00	+	BAS	L	BAS AREA	1,864		485.15	904,327					
V		1.55	VERY GOOD (100%)	ROOF SHAPE			1.00	+	USF	N	UP-STRY FIN	1,751	2022	365.33	639,697					
V		1.00	WOOD FRAME (100%)	ROOF COVER			1.00	+	BMU	N	BSMT UNFINISHED	751		126.57	95,053					
		0.975		FLOOR COVER	1	HARDWOOD	1.00	C	AGR	N	ATTACHED GARAGE	94		177.56	16,690					
		1.000		INT. FINISH	2	DRYWALL	1.00	+	OPA	N	OPEN PORCH	302		110.22	33,286					
		1.000		HEATING/COOLING	0		1.00	G	BIG	N	BUILT-IN GARAGE	434		131.42	57,034					
		1.000		FUEL SOURCE	0		1.00	J	WDK	N	ATT WOOD DECK	455		79.93	36,366					
STORIES(FAR)																				
ROOMS																				
BEDROOMS																				
BATHROOMS																				
FIXTURES																				
UNITS																				

EFF. YR/AGE	2022 / 0
COND	0 0 %
FUNC	60 UC
ECON	0
DEPR	60 % GD
RCNLD	

\$778,100



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/cca>

April 29, 2024

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM AND
PROPOSED ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : 3 Corn Hill Path
PROJECT MUNICIPALITY : Truro
PROJECT WATERSHED : Cape Cod Bay
EEA NUMBER : 16800
PROJECT PROPONENT : Gerald & Maureen Talbot
DATE NOTICED IN MONITOR : February 23, 2024

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61- 62L) and Section 11.06 of the MEPA Regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF), and hereby determine that this project **requires** the submission of an Environmental Impact Report (EIR). In accordance with 301 CMR 11.06(13), the Proponent has submitted a Proposed EIR with a request that I allow a Rollover EIR in lieu of the usual two-stage Draft and Final EIR process. I hereby grant the request for a Rollover EIR, and, therefore, I will publish notice in the next Environmental Monitor that the Proposed EIR shall be reviewed as a Final EIR pursuant to Section 11.06(14) and shall be subject to a 30-day public comment period.

Project Description

As described in the Expanded Environmental Notification Form/ Proposed Environmental Impact Report (the EENF/Proposed EIR), the project consists of the construction of a timber beach access stairway. The staircase will be located on the Coastal Bank and will be installed by either hand-

held tools or skid steer.¹ The stairway is approximately 200 feet long and consists of a 4-foot-wide set of timber stairs supported by diamond piles.² The beach access stairs will originate at an existing boardwalk and will be elevated greater than two feet above ground elevation and utilize open risers, to allow for sunlight to reach the ground and vegetation underneath. The portion of the stairs that is below the base flood elevation (BFE) will be seasonally removable.

Project Site

The 1.52-acre project site is located at 3 Corn Hill Path in Truro. The site is bounded by Cape Cod Bay to the west, a residence to the north and south, and Corn Hill Landing (open space) to the east. The site contains an existing single-family dwelling located landward of the top of a Coastal Bank.

According to the Federal Emergency Management Agency's (FEMA) National Flood Hazard Layer, a portion of the project site is located within the 100-year floodplain with velocity zone (VE) with a BFE of 15 feet NAVD 88. The project site does not contain *Estimated and Priority Habitat of Rare Species* as delineated by the Natural Heritage and Endangered Species Program (NHESP) in the 15th Edition of the Massachusetts Natural Heritage Atlas. The site 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.

The project site is located within an Environmental Justice (EJ) Population designated as Income. The EENF/Proposed EIR identified the "Designated Geographic Area" (DGA) for the project as one mile around EJ Populations.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include overlapping temporary impacts to 150 square feet (sf) of Coastal Dunes, Barrier Beach and Land Subject to Coastal Storm Flowage (LSCSF) and permanent impact to 15 sf of Coastal Bank.

Measures to avoid, minimize, and mitigate environmental impacts include installation of sediment and erosion controls and stabilization and planting of disturbed soils.

Jurisdiction and Permitting

This project is subject to MEPA review pursuant to 301 CMR 11.03(3)(b)(1)(a) because it requires Agency Action and will result in the alteration of coastal dune, barrier beach or coastal bank. The project is required to prepare an EIR pursuant to 301 CMR 11.06(7)(b) because it is located within a Designated Geographic Area (or DGA) (as defined in 301 CMR 11.02) around one or more EJ Populations.

The Truro Conservation Commission issued an Order of Conditions (OOC) (MassDEP File No. 75-1172) denying the project, stating that it could not be conditioned to meet the performance standards set forth in the MassDEP Wetlands Protection Act (WPA) regulations (310 CMR 10.00). The Proponent

¹ An earlier iteration of the project called for the use of a crane to install the stairway.

² A foundation solution suitable for supporting light and heavy structures

appealed the OOC decision, and the project requires a Superseding Order of Conditions (SOC) from the Massachusetts Department of Environmental Protection (MassDEP). The SOC is the only Agency Action required for the project. In addition, 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.

Because the project is not seeking Financial Assistance from an Agency, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required Permits, and that are likely, directly or indirectly, to cause Damage to the Environment.

Request for Rollover EIR or Single EIR

The EENF/Proposed EIR included a request that I allow a Rollover EIR in accordance with 301 CMR 11.06(13) or alternatively, a Single EIR in accordance with 301 CMR 11.06(8). The MEPA regulations provide that for projects required to submit an EIR under 301 CMR 11.06(7)(b), the Proponent may submit an EENF with a request that I allow a Rollover EIR in accordance with 301 CMR 11.06(13). To support this request, the EENF must be accompanied by a Proposed EIR, which, if the request for Rollover EIR is granted, would be published as a Final EIR in a subsequent Environmental Monitor in lieu of the typical two-stage Draft and Final EIR process.

In order to allow a Rollover EIR, I must find that the dual EENF and Proposed EIR:

- a. presents a complete and definitive description and analysis of the project and its alternatives, and an assessment of its potential environmental and public health impacts and mitigation measures sufficient to allow a Participating Agency to fulfill its obligations in accordance with M.G.L. c. 30, §§ 61 and 62K and 301 CMR 11.12(5)
- b. demonstrates that the project will not materially exacerbate any existing unfair or inequitable Environmental Burden and related public health consequences impacting an EJ population, and will not result in a disproportionate adverse effect or increased climate change effects on an EJ population
- c. describes measures taken to provide meaningful opportunities for public involvement by EJ populations prior to filing the dual ENF and Proposed EIR, including any changes made to the project to address concerns raised by or on behalf of EJ populations
- d. shows that comments received on the dual ENF and Proposed EIR do not raise substantial issues not previously considered by the Proponent
- e. shows that no substantive issues remain to be resolved

The MEPA regulations at 301 CMR 11.06(8) indicate that a Single EIR may be allowed provided I find that the EENF:

- a. describes and analyzes all aspects of the project and all feasible alternatives, regardless of any jurisdictional or other limitation that may apply to the Scope;
- b. provides a detailed baseline in relation to which potential environmental impacts and mitigation measures can be assessed; and,
- c. demonstrates that the planning and design of the project use all feasible means to avoid potential environmental impacts.

To support a request for Single EIR for any project for which an EIR is required in accordance with 301 CMR 11.06(7)(b), I must also find that the EENF:

- d. describes and analyzes all aspects of the project that may affect Environmental Justice populations located in whole or in part within the Designated Geographic Area around the project; describes measures taken to provide meaningful opportunities for public involvement by Environmental Justice populations prior to filing the expanded ENF, including any changes made to the project to address concerns raised by or on behalf of Environmental Justice populations; and provides a detailed baseline in relation to any existing unfair or inequitable Environmental Burden and related public health consequences impacting Environmental Justice populations in accordance with 301 CMR 11.07(6)(n)1.

Consistent with these requests, the EENF/Proposed EIR was subject to an extended comment period under 301 CMR 11.05(9).

Review of the EENF

The EENF/Proposed EIR included a project description, alternatives analysis, existing and proposed conditions plans, estimates of project-related impacts, and an identification of measures to avoid, minimize and mitigate environmental impacts. Consistent with the MEPA Interim Protocol on Climate Change Adaptation and Resiliency, the EENF/Proposed EIR contained an output report from the Climate Resilience Design Standards Tool prepared by the Resilient Massachusetts Action Team (RMAT) (the “MA Resilience Design Standards Tool”),³ together with information on climate resilience strategies to be undertaken by the project. On April 8 and April 22, 2024, the Proponent provided supplemental information to the MEPA Office providing responses to comments received during the remote MEPA consultation session that was held on March 7, 2024. For purposes of clarity, all supplemental materials provided by the Proponent are included in references to the “EENF/Proposed EIR.”

Alternatives Analysis

As described in the EENF/Proposed EIR, four alternatives were evaluated based on their ability to meet the project purpose and need while minimizing environmental impacts. The No Build Alternative would not construct a staircase down the Coastal Bank limiting impact on wetland resources; however, this would mean that pedestrians would walk across the Coastal Bank to access the beach, which would make the bank more susceptible to erosion.

Alternative 2 would involve the construction of stairs from an existing elevated walkway giving access to the beach. This alternative represents an earlier design of the project that was submitted to and denied by the Truro Conservation Commission. This Alternative consists of the stairway being installed perpendicular to the existing slope. Although this alternative would meet the project’s goals of providing a safe passage to the beach and eliminate the potential for foot traffic to continue to degrade the site’s coastal resource areas, the layout of the staircase does not avoid vegetation, specifically Sand Plain

³ https://resilientma.org/rmat_home/designstandards/

Heathland habitat, along the bank. This alternative would result in the loss of vegetation that contributes to the stability of the bank, and is the reason the project was denied by the Truro Conservation Commission. For these reasons, Alternative 2 was dismissed.

Alternative 3 consist of the installation of an inclined elevator system for transporting people up and down the coastal bank on a tramway that is powered by a cable motor at the top of the bank. This system could be installed fully parallel to the slope allowing for the shortest distance over the height of the bank of all the alternatives considered. However, this alternative would require larger support piles than the stairway, creating a larger permanent impact on the bank and the surrounding Sand Plain Heathland habitat which is important as it contributes to the stability of the bank. Due to the greater impact, this alternative was dismissed.

The Preferred Alternative is similar to Alternative 2 in that it consists of the construction of stairs from the elevated walkway giving access to the beach. However, the stairway would be designed to be partially angled down the slope prior to proceeding perpendicular to the beach. With this revised alignment, the stairway would be built around existing larger shrubs and trees to avoid removal of healthy vegetation. Because this alternative meets the project's goal of providing beach access while minimalizing impacts to existing vegetation, it was chosen as the Preferred Alternative.

Environmental Justice / Public Health

As noted above, the project site is located within one EJ Population characterized as Income. Within the census tracts containing the above EJ Populations, no languages are identified as those spoken by 5% of more of residents who also identify as not speaking English very well.

Effective January 1, 2022, all new projects in a DGA (as defined in 301 CMR 11.02) around EJ Populations are subject to new requirements imposed by the Chapter 8 of the Acts of 2021: *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy* (the "Climate Roadmap Map") and amended MEPA regulations at 301 CMR 11.00. Two related MEPA protocols—the MEPA Public Involvement Protocol for Environmental Justice Populations (the "MEPA EJ Public Involvement Protocol") and MEPA Interim Protocol for Analysis of project Impacts on Environmental Justice Populations (the "MEPA Interim Protocol for Analysis of EJ Impacts")—are also in effect for new projects filed on or after January 1, 2022. Under the new regulations and protocols, all projects located in a DGA around one or more EJ Populations must take steps to enhance public involvement opportunities for EJ Populations,⁴ and must submit analysis of impacts to such EJ Populations in the form of an EIR.

Consistent with the MEPA EJ Public Involvement Protocol, the Proponent sent advance notification of the project in the form of an EJ Screening Form to a "EJ Reference List" provided by the MEPA Office and consisting of Community Based Organizations (CBOs) and tribes/indigenous organizations. The Proponent circulated an EJ screening form with an overview of the project to these entities and information on ways to request a community meeting (no requests were received). Notice of

⁴ Projects consisting of one single family home are exempt from the public involvement requirements of 301 CMR 11.05(4).

the MEPA remote consultation session was also distributed to the EJ Reference List, and the meeting was held at 5:30 PM on March 7, 2024; no members of the public attended the meeting.

The EENF/Proposed EIR contained a baseline assessment of any existing unfair or inequitable Environmental Burden and related public health consequences impacting EJ Populations in accordance with 301 CMR 11.07(6)(n)1. and the MEPA Interim Protocol for Analysis of EJ Impacts. The baseline assessment included a review of the data provided by the Department of Public Health (DPH) EJ Tool applicable to the DGA regarding “vulnerable health EJ criteria”; this term is defined in the DPH EJ Tool to include any one of four environmentally related health indicators that are measured to be 110% above statewide rates based on a five-year rolling average.⁵ According to the EENF/Proposed EIR, the data surveyed indicate that the Town of Truro does not exceed any of the “vulnerable health EJ criteria.” Census tracts within the DGA do not exceed the criteria for Heart Attack and Childhood Blood Lead Level.

The EENF/Proposed EIR indicated that the following sources of potential pollution exist within the DGA, based on data available in the DPH EJ Tool:

- MassDEP Tier Classified 21E Sites: 1
- Tier II Toxics Use Reporting Facilities: 2
- Sites with Activity and Use Limitations (AULs): 2
- Underground storage tanks (USTs): 2
- Road infrastructure: 2
- Regional transit agencies: 2

The EENF/Proposed EIR states that the proposed project will have no impact on the surrounding EJ Population. The EENF/Proposed EIR states that the project proposes work to install a stairway that is designed only to provide beach access at the Proponent’s own dwelling and that impacts will be limited to the Proponent’s property.

Coastal Resources

The construction of the stairway will temporary impact approximately 150 sf of Coastal Dune, Coastal Beach and LSCSF. Permanent anchors will be used to support the removable sections of the stairs, which will result in permanent impacts to 15 sf of Coastal Bank. As noted above, the project received an OOC, from the Truro Conservation Commission on June 27, 2023 (MassDEP File No. 75-1172), denying the project, which was appealed to MassDEP for a SOC. As proposed in the EENF/Proposed EIR, the project will avoid Coastal Bank vegetation important for bank stabilization. Comments from the Office of Coastal Zone Management (CZM) and initial comments from MassDEP expressed concern with construction methodology including how the crane (the original methodology for the installation of the stairway), material storage, and either human or equipment access will impact the Coastal Beach, vegetated Coastal Dune, the face of the Coastal Bank, and vegetation at the top of the Bank; these impacts resulted in the denial by the Truro Conservation Commission. During the review

⁵ See <https://matracking.chs.state.ma.us/Environmental-Data/ej-vulnerable-health/environmental-justice.html>. Four vulnerable health EJ criteria are tracked at the municipal level in the DPH EJ Viewer (heart attack hospitalization, childhood asthma, childhood blood lead, and low birth weight); of these, two (childhood blood lead and low birth weight) are also available at the census tract level.

period, the Proponent provided supplemental information, which detailed construction period access and provided updates on resource impacts with the use of hand tools rather than the crane as the method for installing the stairway. The supplemental information indicates that vegetation at the top of the bank will no longer be impacted and that there will be no removal of larger established vegetation on the dune. Subsequent comments from MassDEP note that the Coastal Bank proposed to be impacted by the project is presumed to serve important WPA interests including storm damage prevention and flood control, but state that the EENF/Proposed EIR contains sufficient information to adequately review the proposed project and issue a SOC.

Climate Change

Adaptation and Resiliency

Effective October 1, 2021, all MEPA projects are required to submit an output report from the MA Resilience Design Tool to assess the climate risks of the project. Based on the output report for the project, the permanent portion of the stairway has a “Moderate” exposure rating based on the project’s location for the following climate parameters: sea level rise/storm surge, extreme precipitation (urban flooding), and extreme heat. Based on the 20-year useful life of the staircase and the self-assessed criticality of this asset, the MA Resilience Design Tool recommends a planning horizon of 2050 and a return period associated with a 50-year (2% chance) storm event when designing the project for sea level rise/storm surge and a 10-year (10% chance) storm event when designing the project for extreme precipitation. Due to the data assumptions used in the Tool, the projected maximum wave action water elevation for a 2050 2% chance storm is 13.8 ft NAVD 88, which is below the current 100-year flood (VE Zone) BFE of 15 ft NAVD 88. As noted above, the portion of the stairway below the BFE will be removed every winter and can be removed if a large storm is forecasted. In addition, the permanent portion of the stairway is located at an elevation approximately 5 feet higher than the current BFE.

Construction Period

As noted above, the Proponent has revised the construction methodology and no longer proposes to use a crane to install the staircase. All construction done on the Coastal Bank will be done using hand-held tools. All construction and demolition (C&D) activities should be managed in accordance with applicable MassDEP 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, etc.) 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.

Mitigation & Section 61 Findings

The Proposed EIR includes a separate chapter summarizing proposed mitigation measures and includes draft Section 61 Findings. It contains commitments to implement these mitigation measures, identifies the parties responsible for implementation, and includes a schedule for implementation. As described in the EENF/Proposed, the Proponent has committed to implement the following measures to avoid, minimize and mitigate Damage to the Environment:

Coastal Resources

- The project will restore all disturbed areas to pre-construction conditions, including by planting native vegetation, once work is complete.
- The project will utilize sediment and erosion controls during project construction.
- The proposed stairway will be installed over the coastal bank to an elevation two feet above the bank to allow for plantings under the stairway to grow and establish a natural protective root system to stabilize the Coastal Bank.
- All work on bank will be conducted using hand tools limiting the impact on vegetation at the top of the bank.

Climate Change

- The portion of the proposed stairway below the BFE will be removed every winter and can be removed if a large storm is forecasted.
- The permanent portion of the stairway will be 5 feet above the FEMA BFE of 15 ft NAVD88 and 6.2 feet higher than the MA Resilience Design Tool recommendation of 13.8 ft NAVD88 (2050 50-year (2% chance) storm event when designing the project for sea level rise/storm).

Construction Period

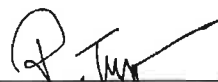
- Implement erosion and sedimentation control measures such as silt fencing, straw wattle barriers, and the construction access will be maintained throughout the duration of the site work.
- Erosion and sedimentation control Best Management Practices (BMPs) will be undertaken during the entire construction phase of the project.

Conclusion

Based on a review of the EENF and Proposed EIR and consultation with Agencies, I find that the filing meets the standard to grant a Rollover EIR under 301 CMR 11.06(13). . Accordingly, I will publish notice in the next *Environmental Monitor* that the Proposed EIR shall be reviewed as a Final EIR pursuant to the provisions at 11.06(14); the Final EIR shall be subject to a 30- day public comment period.

April 29, 2024

Date



Rebecca L. Tepper

Comments received:

04/19/2024 Massachusetts Office of Coastal Zone Management (CZM)

04/22/2024 Massachusetts Department of Environmental Protection (MassDEP)/ Southeast Regional Office (SERO)

04/22/2024 Cape Cod Commission (CCC)

RLT/NSP/nsp



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June 14, 2024

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

PROJECT NAME : 3 Corn Hill Path
PROJECT MUNICIPALITY : Truro
PROJECT WATERSHED : Cape Cod Bay
EEA NUMBER : 16800
PROJECT PROPONENT : Gerald & Maureen Talbot
DATE NOTICED IN MONITOR : May 8, 2024

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61-62L) and Section 11.06 of the MEPA Regulations (301 CMR 11.00), I have reviewed the Final Environmental Impact Report (FEIR) and hereby determine that it **adequately and properly** complies with MEPA and its implementing regulations. As noted in my Certificate on the Expanded Environmental Notification Form (EENF) and Proposed EIR (EENF/Proposed EIR) issued on December 15, 2023, the Proposed EIR was published for review as a FEIR pursuant to Section 11.06(14)(a) of the MEPA regulations. It was subject to a 30-day public comment period, during which time two comments were received from the Massachusetts Department of Environmental Protection (MassDEP) and the Office of Coastal Zone Management (CZM).

Project Description

As described in the FEIR, the project consists of the construction of a timber beach access stairway. The staircase will be located on the Coastal Bank and will be installed by either hand-held

tools or skid steer.¹ The stairway is approximately 200 feet long and consists of a 4-foot-wide set of timber stairs supported by diamond piles.² The beach access stairs will originate at an existing boardwalk and will be elevated greater than two feet above ground elevation and utilize open risers, to allow for sunlight to reach the ground and vegetation underneath. The portion of the stairs that is below the base flood elevation (BFE) will be seasonally removable.

Project Site

The 1.52-acre project site is located at 3 Corn Hill Path in Truro. The site is bounded by Cape Cod Bay to the west, a residence to the north and south, and Corn Hill Landing (open space) to the east. The site contains an existing single-family dwelling located landward of the top of a Coastal Bank.

According to the Federal Emergency Management Agency's (FEMA) National Flood Hazard Layer, a portion of the project site is located within the 100-year floodplain with velocity zone (VE) with a BFE of 15 feet NAVD 88. The project site does not contain *Estimated and Priority Habitat of Rare Species* as delineated by the Natural Heritage and Endangered Species Program (NHESP) in the 15th Edition of the Massachusetts Natural Heritage Atlas. The site 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.

The project site is located within an Environmental Justice (EJ) Population designated as Income. The FEIR identified the "Designated Geographic Area" (DGA) for the project as one mile around EJ Populations.

Environmental Impacts and Mitigation

Potential environmental impacts associated with the project include overlapping temporary impacts to 150 square feet (sf) of Coastal Dunes, Barrier Beach and Land Subject to Coastal Storm Flowage (LSCSF) and permanent impact to 15 sf of Coastal Bank.

Measures to avoid, minimize, and mitigate environmental impacts include installation of sediment and erosion controls and stabilization and planting of disturbed soils.

Jurisdiction and Permitting

This project is subject to MEPA review pursuant to 301 CMR 11.03(3)(b)(1)(a) because it requires Agency Action and will result in the alteration of coastal dune, barrier beach or coastal bank. The project is required to prepare an EIR pursuant to 301 CMR 11.06(7)(b) because it is located within a Designated Geographic Area (or DGA) (as defined in 301 CMR 11.02) around one or more EJ Populations.

The Truro Conservation Commission issued an Order of Conditions (OOC) (MassDEP File No. 75-1172) denying the project, stating that it could not be conditioned to meet the performance standards set forth in the MassDEP Wetlands Protection Act (WPA) regulations (310 CMR 10.00). The Proponent

¹ An earlier iteration of the project called for the use of a crane to install the stairway.

² A foundation solution suitable for supporting light and heavy structures

appealed the OOC decision, and the project requires a Superseding Order of Conditions (SOC) from the Massachusetts Department of Environmental Protection (MassDEP). The SOC is the only Agency Action required for the project. In addition, 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.

Because the project is not seeking Financial Assistance from an Agency, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required Permits, and that are likely, directly or indirectly, to cause Damage to the Environment.

Review of the FEIR

The FEIR included a project description, alternatives analysis, existing and proposed conditions plans, estimates of project-related impacts, and an identification of measures to avoid, minimize and mitigate environmental impacts. Consistent with the MEPA Interim Protocol on Climate Change Adaptation and Resiliency, the FEIR contained an output report from the Climate Resilience Design Standards Tool prepared by the Resilient Massachusetts Action Team (RMAT) (the “MA Resilience Design Standards Tool”),³ together with information on climate resilience strategies to be undertaken by the project. On April 8 and April 22, 2024, the Proponent provided supplemental information to the MEPA Office providing responses to comments received during the remote MEPA consultation session that was held on March 7, 2024. For purposes of clarity, all supplemental materials provided by the Proponent are included in references to the “FEIR.” I note comments from CZM that raised concerns regarding coastal resources delineation and a limited alternative analysis were addressed in the supplemental material provided by the Proponent.⁴

Alternatives Analysis

As described in the FEIR, four alternatives were evaluated based on their ability to meet the project purpose and need while minimizing environmental impacts. The No Build Alternative would not construct a staircase down the Coastal Bank limiting impact on wetland resources; however, this would mean that pedestrians would walk across the Coastal Bank to access the beach, which would make the bank more susceptible to erosion.

Alternative 2 would involve the construction of stairs from an existing elevated walkway giving access to the beach. This alternative represents an earlier design of the project that was submitted to and denied by the Truro Conservation Commission. This Alternative consists of the stairway being installed perpendicular to the existing slope. Although this alternative would meet the project’s goals of providing a safe passage to the beach and eliminate the potential for foot traffic to continue to degrade the site’s coastal resource areas, the layout of the staircase does not avoid vegetation, specifically Sand Plain Heathland habitat, along the bank. This alternative would result in the loss of vegetation that contributes to the stability of the bank, and is the reason the project was denied by the Truro Conservation Commission. For these reasons, Alternative 2 was dismissed.

³ https://resilientma.org/rmat_home/designstandards/

⁴ Email from Sean Duffey (CZM) to Nicholas Perry (MEPA) on 6/10/2024.

Alternative 3 consist of the installation of an inclined elevator system for transporting people up and down the coastal bank on a tramway that is powered by a cable motor at the top of the bank. This system could be installed fully parallel to the slope allowing for the shortest distance over the height of the bank of all the alternatives considered. However, this alternative would require larger support piles than the stairway, creating a larger permanent impact on the bank and the surrounding Sand Plain Heathland habitat which is important as it contributes to the stability of the bank. Due to the greater impact, this alternative was dismissed.

The Preferred Alternative is similar to Alternative 2 in that it consists of the construction of stairs from the elevated walkway giving access to the beach. However, the stairway would be designed to be partially angled down the slope prior to proceeding perpendicular to the beach. With this revised alignment, the stairway would be built around existing larger shrubs and trees to avoid removal of healthy vegetation. Because this alternative meets the project's goal of providing beach access while minimalizing impacts to existing vegetation, it was chosen as the Preferred Alternative.

Environmental Justice / Public Health

As noted above, the project site is located within one EJ Population characterized as Income. Within the census tracts containing the above EJ Populations, no languages are identified as those spoken by 5% of more of residents who also identify as not speaking English very well.

Effective January 1, 2022, all new projects in a DGA (as defined in 301 CMR 11.02) around EJ Populations are subject to new requirements imposed by the Chapter 8 of the Acts of 2021: *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy* (the "Climate Roadmap Map") and amended MEPA regulations at 301 CMR 11.00. Two related MEPA protocols—the MEPA Public Involvement Protocol for Environmental Justice Populations (the "MEPA EJ Public Involvement Protocol") and MEPA Interim Protocol for Analysis of project Impacts on Environmental Justice Populations (the "MEPA Interim Protocol for Analysis of EJ Impacts")—are also in effect for new projects filed on or after January 1, 2022. Under the new regulations and protocols, all projects located in a DGA around one or more EJ Populations must take steps to enhance public involvement opportunities for EJ Populations,⁵ and must submit analysis of impacts to such EJ Populations in the form of an EIR.

Consistent with the MEPA EJ Public Involvement Protocol, the Proponent sent advance notification of the project in the form of an EJ Screening Form to a "EJ Reference List" provided by the MEPA Office and consisting of Community Based Organizations (CBOs) and tribes/indigenous organizations. The Proponent circulated an EJ screening form with an overview of the project to these entities and information on ways to request a community meeting (no requests were received). Notice of the MEPA remote consultation session was also distributed to the EJ Reference List, and the meeting was held at 5:30 PM on March 7, 2024; no members of the public attended the meeting.

The FEIR contained a baseline assessment of any existing unfair or inequitable Environmental Burden and related public health consequences impacting EJ Populations in accordance with 301 CMR 11.07(6)(n)1. and the MEPA Interim Protocol for Analysis of EJ Impacts. The baseline assessment

⁵ Projects consisting of one single family home are exempt from the public involvement requirements of 301 CMR 11.05(4).

included a review of the data provided by the Department of Public Health (DPH) EJ Tool applicable to the DGA regarding “vulnerable health EJ criteria”; this term is defined in the DPH EJ Tool to include any one of four environmentally related health indicators that are measured to be 110% above statewide rates based on a five-year rolling average.⁶ According to the FEIR, the data surveyed indicate that the Town of Truro does not exceed any of the “vulnerable health EJ criteria.” Census tracts within the DGA do not exceed the criteria for Heart Attack and Childhood Blood Lead Level.

The FEIR indicated that the following sources of potential pollution exist within the DGA, based on data available in the DPH EJ Tool:

- MassDEP Tier Classified 21E Sites: 1
- Tier II Toxics Use Reporting Facilities: 2
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The FEIR states that the proposed project will have no impact on the surrounding EJ Population. The FEIR states that the project proposes work to install a stairway that is designed only to provide beach access at the Proponent’s own dwelling and that impacts will be limited to the Proponent’s property.

Coastal Resources

The construction of the stairway will temporary impact approximately 150 sf of Coastal Dune, Coastal Beach and LSCSF. Permanent anchors will be used to support the removable sections of the stairs, which will result in permanent impacts to 15 sf of Coastal Bank. As noted above, the project received an OOC, from the Truro Conservation Commission on June 27, 2023 (MassDEP File No. 75-1172), denying the project, which was appealed to MassDEP for a SOC. As proposed in the FEIR, the project will avoid Coastal Bank vegetation important for bank stabilization. Comments on the EENF/Proposed EIR from the Office of Coastal Zone Management (CZM) and initial comments from MassDEP expressed concern with construction methodology including how the crane (the original methodology for the installation of the stairway), material storage, and either human or equipment access will impact the Coastal Beach, vegetated Coastal Dune, the face of the Coastal Bank, and vegetation at the top of the Bank; these impacts resulted in the denial by the Truro Conservation Commission. During the review period, the Proponent provided supplemental information, which detailed construction period access and provided updates on resource impacts with the use of hand tools rather than the crane as the method for installing the stairway. The supplemental information indicates that vegetation at the top of the bank will no longer be impacted and that there will be no removal of larger established vegetation on the dune. Comments from MassDEP on the EENF/Proposed EIR noted that the Coastal Bank proposed to be impacted by the project is presumed to serve important WPA

⁶ See <https://matracking.ehs.state.ma.us/Environmental-Data/ej-vulnerable-health/environmental-justice.html>. Four vulnerable health EJ criteria are tracked at the municipal level in the DPH EJ Viewer (heart attack hospitalization, childhood asthma, childhood blood lead, and low birth weight); of these, two (childhood blood lead and low birth weight) are also available at the census tract level.

interests including storm damage prevention and flood control, but state that the FEIR contains sufficient information to adequately review the proposed project and issue a SOC.

Climate Change

Adaptation and Resiliency

Effective October 1, 2021, all MEPA projects are required to submit an output report from the MA Resilience Design Tool to assess the climate risks of the project. Based on the output report for the project, the permanent portion of the stairway has a “Moderate” exposure rating based on the project’s location for the following climate parameters: sea level rise/storm surge, extreme precipitation (urban flooding), and extreme heat. Based on the 20-year useful life of the staircase and the self-assessed criticality of this asset, the MA Resilience Design Tool recommends a planning horizon of 2050 and a return period associated with a 50-year (2% chance) storm event when designing the project for sea level rise/storm surge and a 10-year (10% chance) storm event when designing the project for extreme precipitation. Due to the data assumptions used in the Tool, the projected maximum wave action water elevation for a 2050 2% chance storm is 13.8 ft NAVD 88, which is below the current 100-year flood (VE Zone) BFE of 15 ft NAVD 88. As noted above, the portion of the stairway below the BFE will be removed every winter and can be removed if a large storm is forecasted. In addition, the permanent portion of the stairway is located at an elevation approximately 5 feet higher than the current BFE.

Construction Period

As noted above, the Proponent has revised the construction methodology and no longer proposes to use a crane to install the staircase. All construction done on the Coastal Bank will be done using hand-held tools. All construction and demolition (C&D) activities should be managed in accordance with applicable MassDEP 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, etc.) 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.

Mitigation & Section 61 Findings

The Proposed EIR includes a separate chapter summarizing proposed mitigation measures and includes draft Section 61 Findings. It contains commitments to implement these mitigation measures, identifies the parties responsible for implementation, and includes a schedule for implementation. As

described in the FEIR, the Proponent has committed to implement the following measures to avoid, minimize and mitigate Damage to the Environment:

Coastal Resources

- The project will restore all disturbed areas to pre-construction conditions, including by planting native vegetation, once work is complete.
- The project will utilize sediment and erosion controls during project construction.
- The proposed stairway will be installed over the coastal bank to an elevation two feet above the bank to allow for plantings under the stairway to grow and establish a natural protective root system to stabilize the Coastal Bank.
- All work on bank will be conducted using hand tools limiting the impact on vegetation at the top of the bank.

Climate Change

- The portion of the proposed stairway below the BFE will be removed every winter and can be removed if a large storm is forecasted.
- The permanent portion of the stairway will be 5 feet above the FEMA BFE of 15 ft NAVD88 and 6.2 feet higher than the MA Resilience Design Tool recommendation of 13.8 ft NAVD88 (2050 50-year (2% chance) storm event when designing the project for sea level rise/storm).

Construction Period

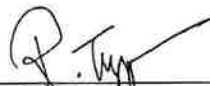
- Implement erosion and sedimentation control measures such as silt fencing, straw wattle barriers, and the construction access will be maintained throughout the duration of the site work.
- Erosion and sedimentation control Best Management Practices (BMPs) will be undertaken during the entire construction phase of the project.

Conclusion

Based on a review of the FEIR and consultation with Agencies, I find that the FEIR 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 shall forward copies of the final Section 61 Findings to the MEPA Office for publication in accordance with 301 CMR 11.12.

June 14, 2024

Date



Rebecca L. Tepper

Comments received:

06/06/2024 Massachusetts Department of Environmental Protection (MassDEP)/ Southeast Regional Office (SERO)

EEA# 16800

FEIR Certificate

June 14, 2024

06/07/2024 Office of Coastal Zone Management (CZM)

RLT/NSP/nsp

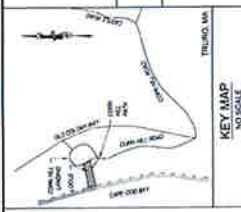
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1	03/12/21	ISSUED FOR PERMITTING
2	05/07/21	REVISED PERMITTING COMMENTS
3	05/11/21	REVISED PERMITTING COMMENTS
4	05/11/21	REVISED PERMITTING COMMENTS
5	05/11/21	REVISED PERMITTING COMMENTS
6	05/11/21	REVISED PERMITTING COMMENTS
7	05/11/21	REVISED PERMITTING COMMENTS
8	05/11/21	REVISED PERMITTING COMMENTS
9	05/11/21	REVISED PERMITTING COMMENTS
10	05/11/21	REVISED PERMITTING COMMENTS

PROPOSED BEACH ACCESS STAIRWAY

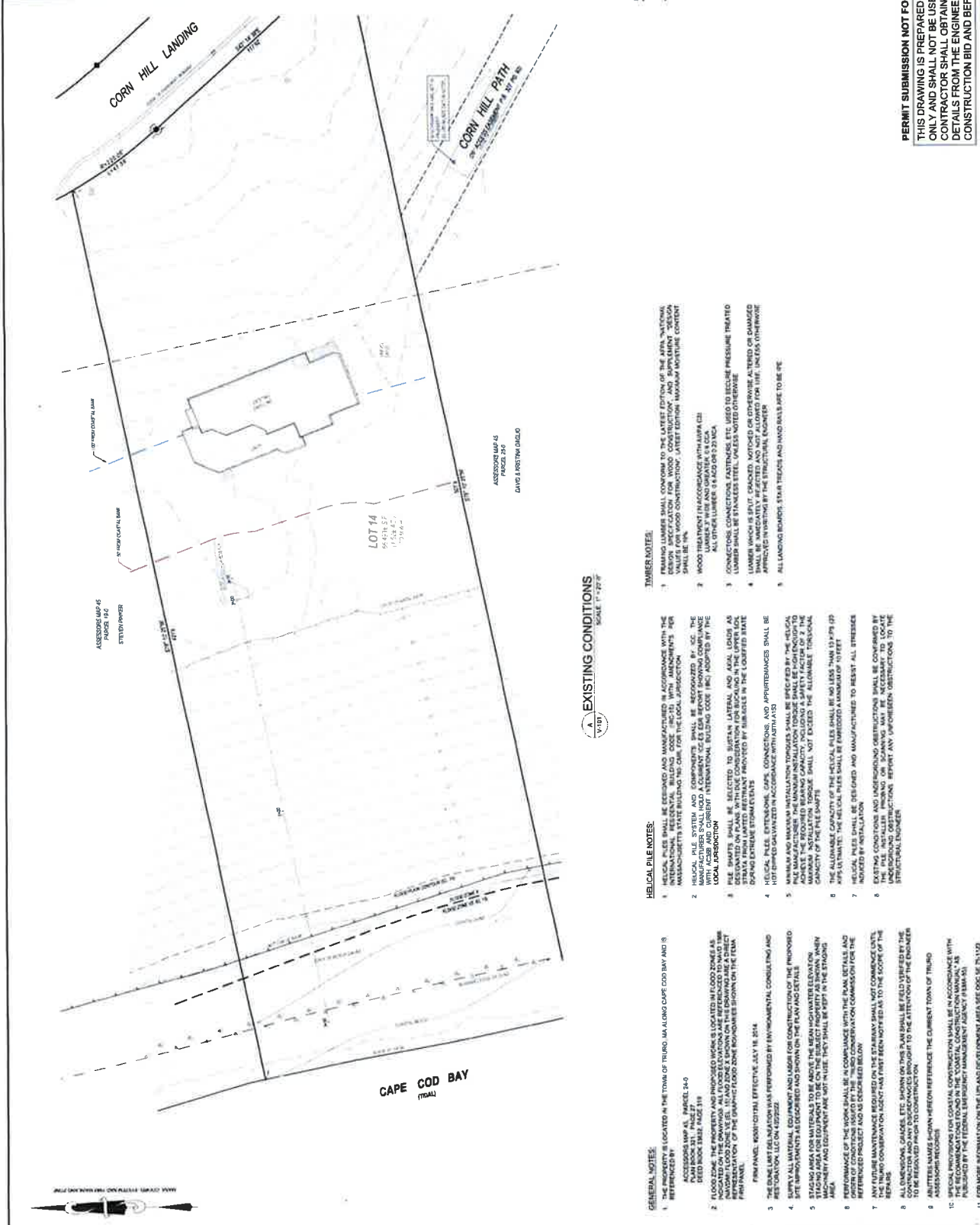
TALBOT

3 CORNHILL PATH
TRURO, MA

DATE: 04/10/2023
 DRAWN BY: CDM/AL
 CHECKED BY: ASG
 TITLE: V-101



- LEGEND**
- 1. GROUND
 - 2. TELEPHONE BOX
 - 3. CABLE TV
 - 4. CATCH BASIN
 - 5. WELL
 - 6. ELECTRIC METER
 - 7. CURB FENCE
 - 8. CONTOUR
 - 9. SPOT ELEV
- NOTES:**
- 1. ALL DIMENSIONS SHALL CONFORM TO THE LATEST EDITION OF THE AIA NATIONAL DESIGN SPECIFICATION FOR WOOD CONSTRUCTION AND SUPPLEMENT DESIGN FOR WOOD CONSTRUCTION, LATEST EDITION. WOODWORKING CONTENT SHALL BE 1%.
 - 2. WOOD TREATMENT (TREATMENT WITH ASEA 21) UNLESS NOTED OTHERWISE.
 - 3. ALL LUMBER SHALL BE SPUNKED STEEL UNLESS NOTED OTHERWISE.
 - 4. LUMBER WHICH IS CUT, CRACKED, KNOTTED OR OTHERWISE ALTERED OR DAMAGED SHALL BE ADEQUATELY REJECTED AND NOT ALLOWED FOR USE, UNLESS OTHERWISE APPROVED IN WRITING BY THE STRUCTURAL ENGINEER.
 - 5. ALL LANDING BORDERS, STAIR TREADS AND HAND RAILS ARE TO BE 18"



GENERAL NOTES:

1. THE PROPERTY IS LOCATED IN THE TOWN OF TRURO, MA ALONG CAPE COD BAY AND IS REFERENCED BY ACCESSORS MAP 45, PARCEL 340 AND DED BOOK 234, PAGE 119.
2. FLOOD ZONE: THE PROPERTY AND PROPOSED WORK IS LOCATED IN FLOOD ZONE AS NOTED ON THE DRAWING. ALL FLOOD ELEVATIONS ARE REFERENCED TO WADSWORTH DATUM. THE PROPERTY IS LOCATED IN FLOOD ZONE X-1 (100 YEAR FLOOD REPRESENTATION OF THE UNLIMITED FLOOD ZONE INDICATED BY THE FEMA FIRM PANEL).
3. FEMA PANEL: X-100 FIRM EFFECTIVE JULY 18, 2014.
4. THE ENGINEERING CONSULTANT HAS PERFORMED AN ENVIRONMENTAL CONSULTING AND RESTORATION, LLC ON 4/27/2023.
5. ALL UTILITIES, EGRESS AND ESCAPE ROUTES SHALL BE IDENTIFIED BY THE PROPOSED SURVEY AND SHOWN ON THE PLAN AND DETAILS.
6. STAIRS SHALL BE CONSTRUCTED TO BE ABOVE THE BEACH HIGH WATER ELEVATION.
7. STAIRS SHALL BE CONSTRUCTED TO BE ON THE BEACH PROPERTY AS SHOWN WHEN PERMITTING AND EQUIPMENT ARE NOT IN USE. THEY SHALL BE KEPT IN THE STAIRS AREA.
8. PERFORMANCE OF THE WORK SHALL BE IN COMPLIANCE WITH THE PLAN DETAILS AND ORDER OF CONDITIONS ISSUED BY THE TRURO CONSERVATION COMMISSION FOR THE PROPOSED PROJECT AND AS DESCRIBED BELOW.
9. THE TRURO CONSERVATION COMMISSION SHALL BE NOTIFIED AS TO THE SCOPE OF THE REPAIRS.
10. ALL DIMENSIONS, GRADINGS, ETC. SHOWN ON THIS PLAN SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO THE START OF CONSTRUCTION.
11. ALL DIMENSIONS, GRADINGS, ETC. SHOWN ON THIS PLAN SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO THE START OF CONSTRUCTION.
12. ANY UTILITIES NAMES SHOWN HEREON REFER TO THE CURRENT TOWN OF TRURO ASSESSORS RECORDS.
13. SPECIAL PERMITS FOR COASTAL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE TRURO CONSERVATION COMMISSION'S REGULATIONS AND ORDINANCES AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA-55).
14. FOR MORE INFORMATION ON THE UPLAND DEVELOPMENT AREA, SEE DOC NO. 75-11-03.

V-101

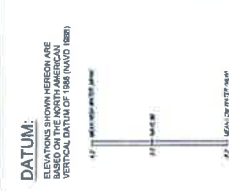
DATE: 04/10/2023
 DRAWN BY: CDM/AL
 CHECKED BY: ASG
 TITLE: V-101

PERMIT SUBMISSION NOT FOR CONSTRUCTION

THIS DRAWING IS PREPARED FOR PERMITTING PURPOSES ONLY AND SHALL NOT BE USED FOR CONSTRUCTION. CONTRACTOR SHALL OBTAIN FINAL CONSTRUCTION DETAILS FROM THE ENGINEER PRIOR TO PREPARATION OF CONSTRUCTION BID AND BEFORE BEGINNING ANY WORK.

PROJECT NO. 23-001
 SHEET NO. 3 OF 3
 C-10641-00

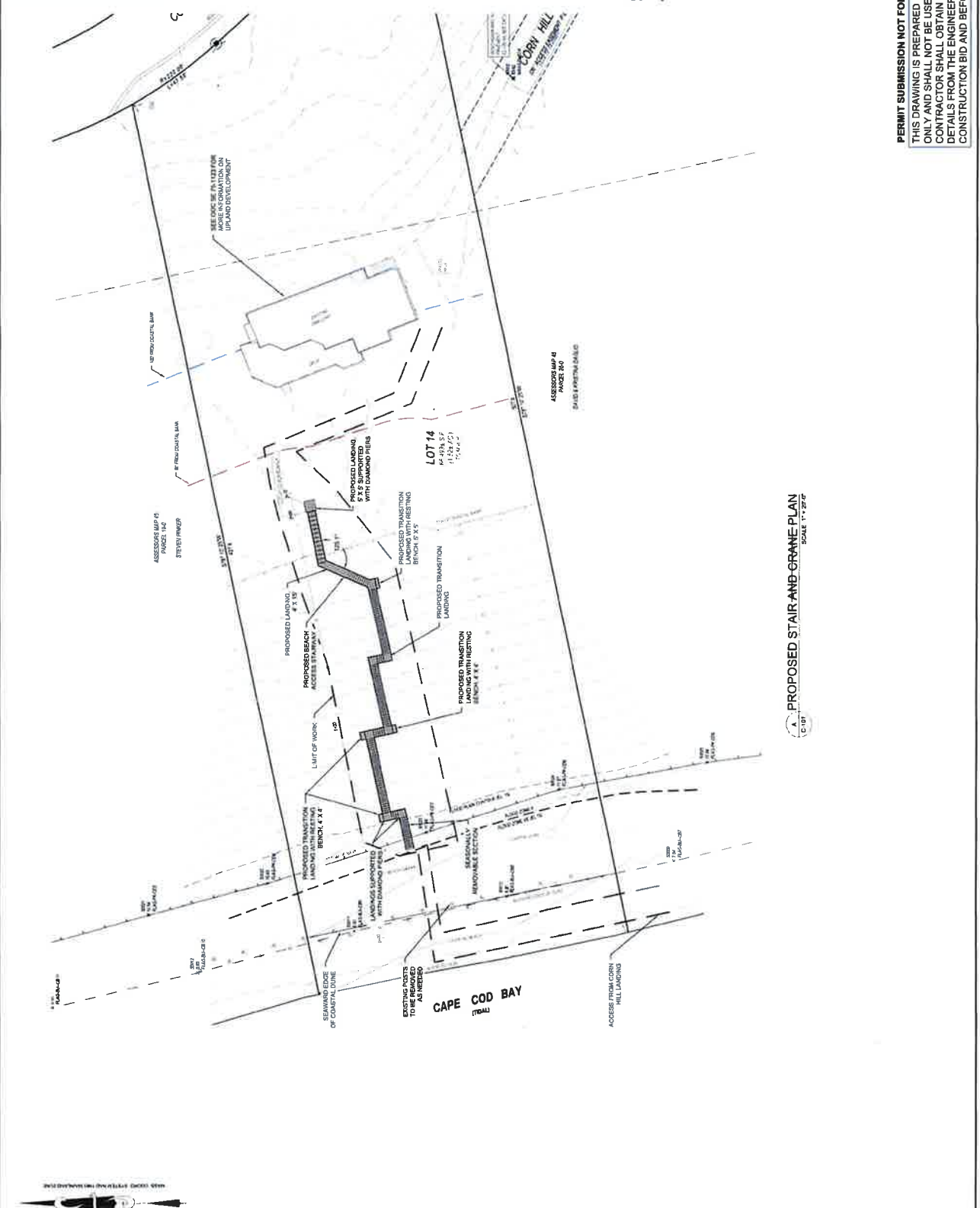
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2	REVISED TO REFLECT COMMENTS FROM THE BOARD OF PERMITTING
3	REVISED TO REFLECT COMMENTS FROM THE BOARD OF PERMITTING
4	REVISED TO REFLECT COMMENTS FROM THE BOARD OF PERMITTING
5	REVISED TO REFLECT COMMENTS FROM THE BOARD OF PERMITTING



- LEGEND**
- BOUND
 - TELEPHONE BOX
 - CABLE TV
 - CATCH BASIN
 - WELL
 - ELECTRIC METER
 - DIFFERENCE
 - CONDUIT
 - SPOT ELEV

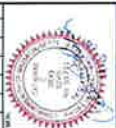
NOTES

- DIME LIMIT DELINEATION PERFORMED BY [Name] ON [Date] AND RESTORATION, LLC ON 04/26/2012. BACKGROUND MADE BY FROM NEARMAPS DATE 08/09/2013.



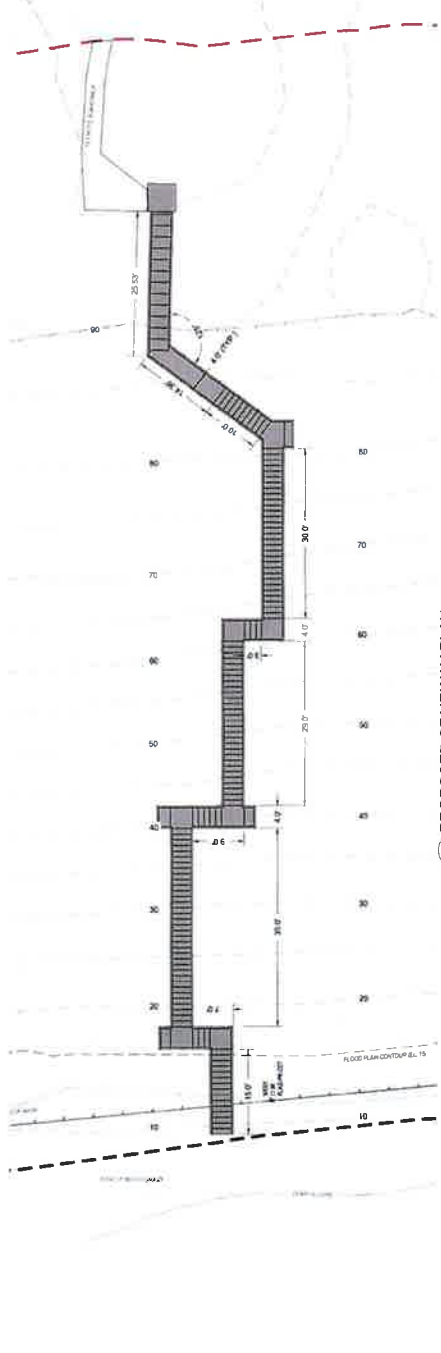
PERMIT SUBMISSION NOT FOR CONSTRUCTION
 THIS DRAWING IS PREPARED FOR PERMITTING PURPOSES ONLY AND IS NOT BE USED FOR CONSTRUCTION. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND DETAILS FROM THE ENGINEER PRIOR TO PREPARATION OF CONSTRUCTION BID AND BEFORE BEGINNING ANY WORK.

NO.	DATE	DESCRIPTION
1	01/10/14	PROPOSED BEACH ACCESS STAIRWAY (CONCEPTUAL)
2	06/06/14	REVISIONS TO BEACH ACCESS STAIRWAY (CONCEPTUAL)
3	06/10/14	REVISIONS TO BEACH ACCESS STAIRWAY (CONCEPTUAL)
4	06/10/14	REVISIONS TO BEACH ACCESS STAIRWAY (CONCEPTUAL)
5	06/10/14	REVISIONS TO BEACH ACCESS STAIRWAY (CONCEPTUAL)
6	06/10/14	REVISIONS TO BEACH ACCESS STAIRWAY (CONCEPTUAL)
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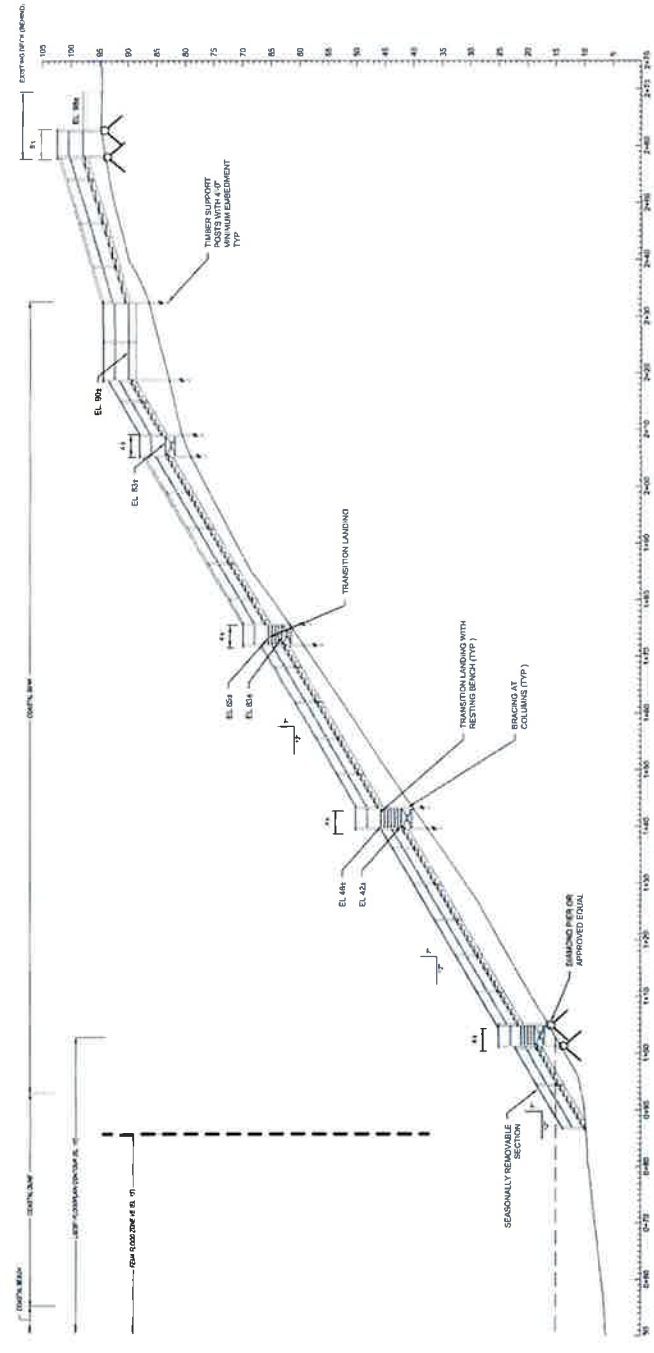


C-102
J. J. SMITH
PROJECT NO.: C-102
JOB NO.: 10000

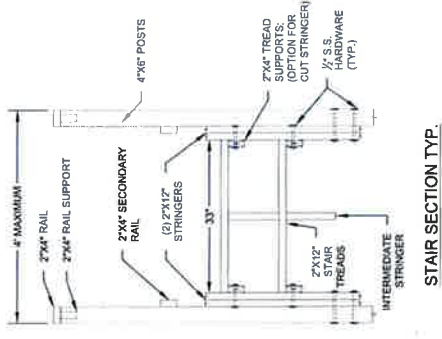
PERMIT SUBMISSION NOT FOR CONSTRUCTION
THIS DRAWING IS PREPARED FOR PERMITTING PURPOSES ONLY AND SHALL NOT BE USED FOR CONSTRUCTION. ANY CHANGES TO THE DRAWING SHALL BE THE RESPONSIBILITY OF THE ENGINEER. THE ENGINEER'S OFFICE SHALL BE NOTIFIED OF ANY CHANGES TO THE DRAWING PRIOR TO THE START OF CONSTRUCTION. THE ENGINEER'S OFFICE SHALL BE NOTIFIED OF ANY CHANGES TO THE DRAWING PRIOR TO THE START OF CONSTRUCTION. THE ENGINEER'S OFFICE SHALL BE NOTIFIED OF ANY CHANGES TO THE DRAWING PRIOR TO THE START OF CONSTRUCTION.



A. PROPOSED STAIRWAY PLAN
SCALE 1" = 10' 0"



B. PROPOSED STAIRWAY SECTION
SCALE 1" = 10' 0"



STAIR SECTION TYP.
NOT TO SCALE

3 Corn Hill Path, Truro

List of Permits and Regulatory Requirements

Agency Name	Permit/Review/Approval	Permit Status
State		
Executive Office of Energy and Environmental Affairs	Massachusetts Environmental Policy Act (MEPA) Review	EENF Certificate Issued 4/29/2024 FEIR Certificate Issued 6/14/2024
Local		
Truro Conservation Commission/DEP	Notice of Intent/Order of Conditions- Superseding Order Wetlands Protection Act and Local Bylaw	Awaiting DEP issuance
Regional		
Cape Cod Commission	Development of Regional Impact (DRI)	Seeking DRI exemption