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CAPE COD
COMMISSION

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Cape Cod Commission Staff Memo

DATE: August 26, 2024
TO: Cape Cod Commission
RE: Development of Regional Impact Exemption Request
3 Corn Hill Path, Truro (CCC No. 24004)

Project Description

The Applicant proposes to construct an elevated access stairway from the beach to the top of the coastal bank. The stairway will connect to an existing boardwalk at the top of the coastal bank, adjacent to an existing private, single-family residence. The stairway is approximately 200 feet long and consists of a 4-foot-wide set of timber stairs, elevated at least 2 feet above ground elevation with open risers.

Procedural History

The Project underwent review pursuant to the Massachusetts Environmental Policy Act, M.G.L. c. 30, §§ 61-62L ("MEPA") because it requires Agency Action and meets/exceeds MEPA thresholds related to coastal dune and barrier beach or coastal bank. The Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs required the preparation of an Environmental Impact Report ("EIR") due to its location within a Designated Geographic Area around one or more Environmental Justice ("EJ") populations. On June 14, 2024, The Secretary issued a final Certificate which determined that the EIR adequately and properly complied with MEPA and its implementing regulations.

The Commission opened the DRI public hearing period on the Project by staff hearing officer on July 29, 2024. The Applicant submitted a DRI Exemption Application for the Project to the Commission on July 29, 2024, which was determined to be complete on August 12, 2024.

Commission Jurisdiction

The Project literally qualifies as a DRI because it meets or exceeds the DRI review threshold appearing in Section 2(d)(i) of the Commission's Chapter A: Enabling Regulations Governing Review of Developments of Regional Impact, revised November 17, 2021 ("Enabling

Regulations"). Said Section 2(d)(i) provides: *"Any proposed development for which an Environmental Impact Report (EIR) is required to be prepared under the provisions of MEPA shall be deemed a DRI. The Applicant shall file a DRI application for the proposed development to the Commission for review as a DRI."*

Where proposed development literally qualifies as a DRI, Section 12(k) of the Act and Section 7 of the Enabling Regulations allow the Applicant to apply to the Commission for an exemption from Commission review *"because the location, character and environmental effects of the development will prevent its having any significant impacts on the values and purposes protected by the Act outside of the municipality in which the development is to be located."*

Review of Exemption Request

The Applicant bears the burden of establishing that the development, though literally qualifying as a DRI, meets the above cited standard to merit an exemption from DRI review.

The proposed Project consists of an accessory structure to a single-family dwelling, in this case a set of stairs connecting the residence at the top of the coastal bank to the beach below. The Project does not otherwise meet or exceed any of the thresholds set forth in Section 3 of the Enabling Regulations (Developments presumed to be developments of regional impact) and would not be subject to mandatory DRI review, except for the EIR requirement. As noted in the FEIR, *"the stairway is designed only to provide beach access at the Proponent's own dwelling and that impacts will be limited to the Proponent's own property."*

Based on the nature and scope of the work proposed, staff suggest that the Project is unlikely to present significant regional impacts outside of the town of Truro, and granting a DRI Exemption is consistent with the Act, the Enabling Regulations, and the values and purposes of the Regional Policy Plan.