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CAPE COD
COMMISSION

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MINOR MODIFICATION TYPE #2 DECISION

DATE: January 25, 2024

PROJECT: Chatham Revetments Phase II (CCC File No. 93131)
27, 59, 75, 97 Tilipi Run, Chatham, MA 02633

APPLICANTS/
OWNERS:

27 Tilipi Run	New Milford Realty Corp c/o Neal Shalom 24 Beacon Street, Unit 4 Boston, MA 02108	Land Court CTF# 148806 Lot 136, Land Court Plan 22613-P Assessor ID: 15A3-2-N136
59 Tilipi Run	59 Tilipi Run Trust c/o Lynn T Brontas & A S Giner 8 Ridgehurst Cir, Weston, MA 02493	Land Court CTF# 218459 Lot 137, Land Court Plan 22613-P Assessor ID: 15A3-1-N137
75 Tilipi Run	Thomas J Szkutak & Pamela J Szkutak 130 Chestnut Street Boston, MA 02108	Land Court CTF# 217651 Lot 131, Land Court Plan 22613-M Assessor ID: 14A3-1-N131
97 Tilipi Run	TR97 Nominee Trust c/o Choate, Hall & Stuart LLP Two International Place Boston, MA 02110	Land Court CTF# 218132 Lot B, Land Court Plan 25381-A Assessor ID: 14A3-2-B

DRI DECISION: Land Court Doc. 659199, Recorded in BCRD Book 9809 Page 236
SUPP DRI DECISION: Land Court Doc. 1015282

The Committee on Planning and Regulation finds as follows:

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FINDINGS:

- F1. The above-referenced properties at 27, 59, 75, and 97 Tilipi Run have the benefit of a June 22, 1995 Development of Regional Impact Decision, as amended by three Modification Decisions in April 1998, November 1998, and July 2005 (CCC File No. 93131) (hereafter, the "DRI Decision") that allowed for armoring the following areas of Chatham shoreline, in phases: the Little Beach area (Phase 1A & 1B), the Morris Island Dike (Phase 2), and Morris Island (Phase 3).
- F2. The DRI Decision allowed, in part, for the construction of a revetment across the properties on Morris Island at 27, 59, 75, and 97 Tilipi Run (Phase 3), when erosion of the coastal bank brought one of the existing buildings to within 100 ft or less of the top of the bank. The Decision required the revetment to be constructed across the four properties together and at the same time, with the goal to manage the adverse effects on neighboring properties resulting from the revetment, and to coordinate mitigation.
- F3. On November 30, 1998, the Commission issued a Preliminary Certificate of Compliance for Phase 3 of the DRI Decision, confirming that conditions had been met such that the Applicants could proceed with construction of the revetment, in a continuous manner, to be completed within one year of the date of the Certificate.
- F4. Phases 1A, 1B, and 2 as permitted under the DRI Decision were not constructed and the permit has expired.
- F5. The original determination in the June 22, 1995 decision that the project was likely to have impacts of regional nature was based on a presumption that the review would address the armoring of multiple properties and provide the opportunity to address the interrelated effects of such projects. As the permit allowing Phases 1A, 1B, and 2 of has expired, the project that was constructed as Phase 3 is of a scale suitable for future management and oversight by local authorities.
- F6. In the years since the revetment was constructed, sea level has risen. The barrier beach across from Morris Island was also breached in 2017, allowing higher energy waves to reach this shoreline and exacerbating erosion. With sea level rise, stronger storms, and the loss of the barrier beach, larger waves are overtopping the revetment at the subject properties and weakening it from above.
- F7. The revetment at 97 Tilipi Run has experienced damaging erosion that has removed the rock revetment entirely. Loss of upland has and will continue to introduce large trees into the harbor, which is a navigation and public safety hazard. Loss of the residential structure may similarly endanger public health and safety, and negatively impact protected resource areas.
- F8. The requested modification proposes to: rebuild the revetment; add scour overwash protection that allows for vegetation plantings; and install sheetpile wall to prevent erosion and destabilization of the beach. The Applicant states that the Project will stabilize the Coastal Bank by increasing the revetment height and protecting the area above the existing revetment from the increased water levels and wave energy and runup. The Coastal Bank

above the proposed revetment will be protected and stabilized with a layer of Armorflex erosion control system and native plantings. This system will provide stability and protection of the substrate from washout and scarp while promoting growth of vegetation on the bank, further increasing stability.

- F9. The Applicant proposes to remove a segment of the northern end of the revetment that is no longer protecting the Coastal Bank, and reuse these stones to create a “return” that protects the current profile of the Bank.
- F10. The proposed work is proposed to be constructed and undertaken pursuant to the following plan set submitted by the Applicant:
- Civil Plan Set entitled “*Tilipi Run Shoreline Protection, 27, 59 & 75 Tilipi Run, Chatham, MA*”, prepared by Coastal Engineering co., 260 Cranberry Highway, Orleans, MA 02653, dated 01/11/2024, consisting of the following sheets:
 - G001 – Cover, Sheet Index, Location & Vicinity Maps
 - V-101 – Existing Conditions
 - G-101 – General Notes, Legend, and Abbreviations
 - C-101 – 27 Tilipi Run Proposed Shoreline Protection
 - C-102 – 59 Tilipi Run Proposed Shoreline Protection
 - C-103 – 75 Tilipi Run Proposed Shoreline Protection
 - C-301 – 27 Tilipi Run Sections and Detail
 - C-302 – 27 Tilipi Run Sections and Detail
 - C-303 – 59 Tilipi Run Sections and Detail
 - C-304 – 75 Tilipi Run Sections and Detail
 - Restoration Plan entitled “*59 Tilipi Run Trust, 59 Tilipi Run Chatham, MA*”, prepared by Wilkinson Ecological Design and Coastal Engineering co., dated 07/19/2022 and revised through 02/01/2023
 - Restoration Plan entitled “*Shalom Residence, 27 Tilipi Run, Chatham, MA 02633*”, prepared by Crawford Land Management (CLM) and Coastal Engineering co., dated 01/04/2023
 - Restoration Plan entitled “*Chatham Seabreeze, LLC, 75 Tilipi Run, Chatham, MA*”, prepared by Wilkinson Ecological Design and Coastal Engineering co., dated 07/19/2022 and revised through 02/01/2023

F11. The portions of the Project at 27, 59, and 75 Tilipi Run have received approval through Orders of Conditions: OOC SE 10-3546, SE 10-3545 and SE 10-3547, respectively. The Orders of Conditions include mitigation for the increase in coverage, including restoration plans to plant shrubs and native grasses. The proposed project at 97 Tilipi Run has been filed as an emergency for permitting and construction, due to the increase in flow and dynamic nature of the channel seaward of that property.

F12. To qualify for a Minor Modification Type #2, a proposed change must not result in different or increased impacts to the resources protected by the Act and/or the RPP. A Minor Modification Type #2 includes a substantially similar proposal to the original project but may

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involve a minor Change of Use, a minor change to the site plan, or small change to the findings or a condition of the original approval which does not affect the intent or outcome of the finding or condition.

- F13. The Committee on Planning and Regulation held a public meeting on the proposed DRI modification on January 27, 2024.
- F14. Pursuant to Section 11 of the Cape Cod Commission's (Commission) Enabling Regulations Governing Review of Developments of Regional Impact (Enabling Regulations), the modification request was reviewed in accordance with the Regional Policy Plan (RPP) in effect at the time of the original DRI Decision, which was the 1991 RPP.
- F15. The DRI Decision included a condition that maintenance or repair of the revetment, or any other activity that increases the revetment's mass or footprint, requires a modification. The condition specified that any filing made for such maintenance or repair must include a complete alternatives analysis.
- F16. The Applicant submitted a complete alternatives analysis.
- F17. Maximum feasible compliance with the DRI Decision and the 1991 RPP requirements to maintain public access may be obtained in the long-term by memorializing the public's right to utilize any beach that does or may exist in the future. The provision for continued public access to the beach in a manner substantively similar to the access provided prior to construction of the revetment is consistent with the 1991 RPP Minimum Performance Standard 2.2.1.2, requiring that development does not interfere with public access to the coast.
- F18. The current proposal, which involves a substantially similar proposal to the original Project approved in the DRI Decision but involves minor changes which are consistent with and do not affect the intent or outcome of the DRI Decision.
- the principal use is the same as originally approved;
 - the proposed changes do not meet or exceed a mandatory threshold for new DRI review;
 - the Project changes are consistent with the applicable RPP and impacts to protected resources are minimized or mitigated in the design of the proposed changes, subject to the Conditions of this modification decision;
 - such impacts are not different in kind than those addressed in the DRI Decision; and
 - the proposed changes are not contrary to the findings and conditions contained in the DRI Decision, or to the Certificate of Compliance issued for the Project.
- F19. The proposed changes to the site plan do not result in different or increased impacts to the resources protected by the RPP and the Act and the proposal involves a substantially similar proposal to the original project with a minor change to the site plan.

CONCLUSION

Based on the above Findings and determinations, the Commission's Committee on Planning and Regulation hereby approves the requested modification to the Chatham Revetments Phase II DRI Decision as described herein as a Minor Modification Type #2, subject to the following Conditions:

CONDITIONS

- C1. All findings and conditions in the DRI Decision continue to apply as written except as expressly modified herein. To the extent there is conflict or ambiguity between this modification decision and the DRI Decision, this modification shall control.
- C2. This decision, as modified, shall be appurtenant to and run with the Property which is the subject Project Site, and shall bind and be enforceable against, and inure to the benefit of, the Applicant, its heirs, successors, and assigns.
- C3. This decision shall be effective upon being filed by the Commission at the Barnstable Land Court Registry District. The Applicant shall obtain necessary local permits, licenses, and approvals for the proposed Project changes pursuant to and in accordance with this decision. The Applicant shall provide the Commission copies of such licenses, permits, and approvals as obtained.
- C4. Project modifications, as described and approved herein, shall be undertaken, constructed, used, and maintained in accordance with the Findings and Conditions set out herein, including the plan sets and other information and documents reviewed, approved and referenced herein under Finding 10, which plans, documents and other information shall either substitute or supplement, as the context allows, for plans, documents and other information previously reviewed and approved in the DRI Decision.
- C5. The Applicant shall undertake restoration and mitigation work pursuant to Orders of Conditions approved by the Chatham Conservation Commission as referenced in F11, and as may be amended.
- C6. The public shall be allowed to pass and re-pass unimpeded across the revetment and to the seaward extent of the Applicants' property.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

Executed this 12th day of February 2024.

For the Cape Cod Commission by:

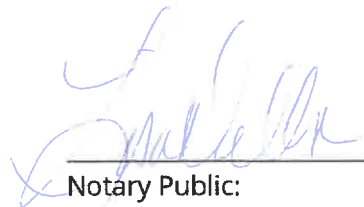

Thomas Wilson, Chair
Committee on Planning and Regulation

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

February 12, 2024

Before me, the undersigned notary public, personally appeared Thomas Wilson, in his capacity as Chair of the Cape Cod Commission Committee on Planning and Regulation, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose on behalf of the Cape Cod Commission. The identity of such person was proved to me through satisfactory evidence of identification, which was [] photographic identification with signature issued by a federal or state governmental agency, [] oath or affirmation of a credible witness, or [x] personal knowledge of the undersigned.


Notary Public:
My Commission expires: 8/28/26

