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March 27, 2020

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

PROJECT NAME : Cape Ann Marina Wharf and Boat Lift Pier Replacement  
PROJECT MUNICIPALITY : Gloucester  
PROJECT WATERSHED : North Coastal  
EEA NUMBER : 16153  
PROJECT PROPONENT : Dominick Realty Trust  
DATE NOTICED IN MONITOR : February 26, 2020

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project does not require an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of improvements to an existing marina and resort located on Annisquam River in Gloucester. The improvements include stabilization of an existing 7,000 sf wharf structure along a 300 ft section of coastline; replacement of a set of boat lift piers located at the west end of the wharf and construction of a timber pile supported 2,550 sf timber deck over an existing rip rap slope located at the east end of the wharf; minor relocation of existing floating docks and gangways; installation of new drainage structures; and paving and general site work.

The existing wharf is comprised of a concrete deck supported by steel beams and timber piles located above a timber bulkhead with stone rip rap fill. The existing concrete deck extends an average

1.9 ft seaward of the existing revetment and timber bulkhead. The project involves installation of a steel sheet pile bulkhead at the seaward end of the concrete deck. The area between the sheet pile bulkhead and existing timber bulkhead will be filled with stone and gravel to reinforce the existing structure. The concrete deck will be removed. A deadman anchor will be installed approximately 23.5 ft landward of the sheet pile bulkhead and secured to the bulkhead with tie rods. A new precast concrete wharf will be installed and will provide a 12-ft pedestrian walkway with an access platform to the gangway and floating dock system. The pedestrian walkway will also provide access to a proposed timber deck supported by 35 timber piles that will be located at the easterly end of the wharf. The deck will provide storage for marina equipment as well as access to the waterfront. The wharf replacement includes the installation of new catch basins, stormwater treatment units and outfalls to be installed through the new sheet pile bulkhead. The outfalls will include a tide gate or duckbill valve to prevent water from entering the outfalls during high tide.

The project also involves the demolition, reconstruction and minor relocation of the marina's boat lift piers. Additionally, a new steel sheet pile bulkhead and fill will be installed at the landward edge of the boat lift piers and will tie into the adjacent bulkhead on the northern boat lift. The proposed lift piers will be slightly reoriented and will extend 14 ft farther seaward than the existing boat lift piers. The reconstruction will require the removal of 32, 12-inch timber piles. A total of 22, 12-inch diameter timber piles will be installed to support the new northern boat lift pier. The southern boat lift pier will be supported by the proposed steel sheet pile.

As described in the ENF, there will be approximately 652 cubic yards of new fill within the intertidal and subtidal area; however, the purpose of the fill is to stabilize the existing area and function of the wharf as it exists today and not to expand it.<sup>1</sup>

### Project Site

The 9.74-acre project site consists of a family-owned and operated marina and hotel resort located on the tidally influenced Annisquam River in Gloucester. The full-service marina has been in service since 1972 and provides boat storage and dockage, vessel fuel sales, boat maintenance, and haul and launch services. The hotel facility includes amenities such as a restaurant, bar and indoor pool and associated parking. The wharf area currently provides a required public access walkway, public picnic area, patron loading/offloading to docks and dock cart storage, vehicle driveway/entryway to Marina facilities, boat hauling and retrieving, and parking area on the landside. The wharf is in deteriorated condition due to corrosion of the steel beams and failure of the timber bulkhead with sink holes apparent throughout the walkway. The marina includes two sets of boat lift piers at the westerly end of the wharf. The northerly set of boat lift piers is approximately 55 ft long and three feet wide each, and supported on 12-inch diameter piles and timber framing. The southerly set of boat lift piers is approximately 40-ft long by 3ft wide each, and supported on 12-inch diameter timber piles and framing. The project is located within both flowed and filled tidelands. The entire project site is located within Zone AE with a base flood elevation (BFE) of 13 ft according the Federal Emergency Management Act (FEMA) Flood Insurance Rate Map (FIRM) No. 2500CO456G effective July 16, 2014.

The Annisquam River provides essential forage habitat for a variety of diadromous species including alewife (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), rainbow smelt (*Osmerus*

<sup>1</sup> The Proponent provided additional information to the MEPA Office in an e-mail dated 03/26/2020.

*mordax*), American eel (*Anguilla rostrata*). It also supports the spawning and juvenile development of winter flounder (*Pseudopleuronectes americanus*). Soft shell clam (*Mya arenaria*) and blue mussel (*Mytilus edulis*) habitat has been mapped near the project location by the Massachusetts Division of Marine Fisheries (DMF).

### Environmental Impacts and Mitigation

The project is expected to result in permanent impacts to 742 sf of Land Under Ocean (LUO), 385 sf of Coastal Beach, 319 sf of Coastal Bank, 1,115 sf of Land Containing Shellfish, 7,964 sf of Land Subject to Coastal Storm Flowage (LSCSF), and 7,964 sf of Riverfront Area. The project also involves an additional 5,000 of temporary impacts to LSCSF and Riverfront Area during the construction period.

Measures to avoid, minimize and mitigate Damage to the Environmental include the use of erosion and control measures including a turbidity and debris curtain during construction as well as the installation of new stormwater management infrastructure to improve the quality of stormwater runoff from the existing parking area.

### Jurisdiction and Permitting

This project is subject to MEPA review and preparation of an ENF pursuant to 301 CMR 11.03(3)(b)(1)(a) and 11.03(3)(b)(6) because it requires a State Agency Action and involves the alteration of a coastal bank and the construction, reconstruction or expansion of an existing solid fill structure of 1,000 or more sf base area or a pile supported structure of 2,000 or more sf base area. The project requires a Chapter 91 License from the Massachusetts Department of Environmental Protection (MassDEP).

The project received an Order of Conditions from the Gloucester Conservation Commission (DEP File No. 28-2662). The project requires a Pre-Construction Notification (PCN) application to the U.S. Army Corps of Engineers (ACOE).

The project is not receiving Financial Assistance from the Commonwealth. Therefore, MEPA jurisdiction for any further review would be limited to those aspects of the project that are within the subject matter of any required or potentially required Agency Actions and that may cause Damage to the Environment, as defined in the MEPA regulations.

### Review of the ENF

The ENF provided a description of existing and proposed conditions, preliminary project plans, and an alternatives analysis, and identified measures to avoid, minimize and mitigate environmental impacts. Comments from MassDEP indicated that additional analysis will need to be provided during the permitting process to ensure that the amount of fill was limited to the extent practicable.

### Alternatives Analysis

The alternatives analysis described four alternatives including a No Action Alternative, a Stone Slope Revetment Alternative (Alternative 1), a Pile Supported Wharf Alternative (Alternative 2) and the

Preferred Alternative as described above. The No-Action alternative was dismissed because the wharf is in deteriorating condition and will continue to deteriorate until failure.

Alternative 1 involved the demolition of the existing wharf and construction of a new stone revetment with a 2:1 horizontal:vertical slope that is significantly more gradual than the existing slope. The revetment would extend landward of the existing edge of pavement for the parking facility. Pile supported decks would be required to extend over the new stone slope revetment in order to maintain access to the existing floating docks. This alternative would reduce fill of intertidal and subtidal habitat as required with the Preferred Alternative. However, as described in the ENF, this alternative would negatively impact facility operations because it would encroach upon the existing access drive and parking lot, and a 10-ft wide public walkway. This alternative would result in a loss of approximately 33 parking spaces and a loss of the area associated with boat repair operations. This alternative was dismissed by the Proponent because any loss of usable land within the facility was deemed infeasible. As described in the ENF, this alternative would also result in significant temporary disturbance due to the removal of the existing structure and would limit the ability of the Proponent to incorporate additional stormwater treatment infrastructure due to space limitations. For these reasons, this alternative was dismissed.

Alternative 2 involves the in-kind replacement of the wharf structure. The installation of a new pile supported wharf would require the complete removal of the existing structure, including the existing rip rap fill to facilitate the installation of new piles. Once the piles are installed, additional fill and rip rap would need to be reinstalled resulting in more temporary impacts than the Preferred Alternative. A new timber bulkhead structure would also need to be installed to support the toe of the riprap slope. This alternative would not result in new areas of fill but was dismissed by the Proponent because it would result in negative impacts to the existing operations of the facility including the loss of 11 parking spaces and a loss of the area associated with boat repair operations.

The Preferred Alternative was selected because it allows the majority of the existing structure to remain in place while providing stormwater treatment improvements and allowing the existing operations to remain in place. The Proponent determined that due to the equipment and vehicle use near the wharf, a new pile supported structure without solid fill is not feasible because of excessive costs associated with meeting load requirements. Additionally, the Proponent determined that the sheet pile bulkhead was the most cost-effective solution to the existing deteriorated wharf based on the constraints at the site. Alternative 1 and Alternative 2 would require the removal and proper disposal of the existing riprap fill and timber bulkhead. The Preferred Alternative allows these structures to remain in place, thus eliminating the construction period impacts and costs associated with removal. MassDEP will evaluate the project for its consistency with the Waterways Regulations which may result in modifications to the project.

#### *Wetlands and Waterways*

The project will result in temporary impacts to LSCSF and Riverfront Area due to equipment and material staging. The project will result in permanent impacts to LUO, LCSF, Coastal Beach, Coastal Bank, and Riverfront Area associated with excavation, filling, timber pile installation, sheet pile installation for the proposed bulkhead, and deck construction and boat lift replacement. The Gloucester Conservation Commission reviewed the project and determined that it is consistent with the Wetlands

Protection Act (WPA), the Wetlands Regulations (310 CMR 10.00), and MassDEP's Stormwater Management Standards (SMS) as indicated by the Order of Conditions issued on July 24, 2019 which approved the project.

MassDEP will review the project for its consistency with the Waterways Regulations (310 CMR 9.00). As described in MassDEP's comment letter, the project appears to be a water-dependent use pursuant to 310 CMR 9.12. However, additional information will be required during the permitting process in order for the Preferred Alternative be considered for licensing. Specifically, the Proponent will be required to provide additional information for the proposed new fill that identifies how the project will conform with the provisions of 310 CRM 9.32(1)(a)(2) and 310 CMR 9.32(2) including that the Proponent took reasonable measures to minimize the amount of fill, including substitution of pile-supported or floating structures, and reasonable measures were taken to avoid, minimize, and mitigate any encroachment in a waterway. Comments from the Division of Marine Fisheries (DMF) recommend mitigation measures for noise and turbidity during the construction period to reduce impacts to migrating diadromous fish and spawning and developing winter flounder, including containing the work area behind silt curtains and/or bubble curtains. DMF recommends avoiding work from February 15 to June 30 to avoid impacts to critical life stages of spawning fish. Comments from DMF also indicate that the fill proposed between the sheet pile and the existing bulkhead may be subject to in lieu fee mitigation through ACOE review process.

#### *Construction Period*

The work may be divided into two winter construction seasons. Both phases are anticipated to be performed using land-based equipment with possible work skiffs or floats utilized. Erosion control measures and debris/turbidity booms will be installed prior to the start of work and will remain in place during construction.


All construction and demolition 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) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). I encourage the Proponent to require that its contractors use construction equipment with engines manufactured to Tier 4 federal emission standards, or select project contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD). If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the conditions of all State and local permits. I encourage the Proponent to reuse or recycle construction and demolition (C&D) debris to the maximum extent.

Conclusion

The ENF has adequately described and analyzed the project and its alternatives, and assessed its potential environmental impacts and mitigation measures. Based on review of the ENF and comments received on it, and in consultation with State Agencies, I have determined that an EIR is not required. Outstanding issues can be addressed during the permitting process.

March 27, 2020

Date

Kathleen A. Theoharides

## Comments received:

03/20/2020

Division of Marine Fisheries

03/16/2020

Massachusetts Department of Environmental Protection (MassDEP) Waterways  
Regulations Program (WRP)

KAT/EFF/eff



**Daniel J. McKiernan**  
*Acting Director*

# *Commonwealth of Massachusetts*

## **Division of Marine Fisheries**

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March 20, 2020

Kathleen Theoharides, Secretary  
Executive Office of Energy and Environmental Affairs  
Attn: MEPA Office, Erin Flaherty  
100 Cambridge Street, suite 900  
Boston, MA 02114

RE: EEA# 16153 Environmental Notification Form

Dear Secretary Theoharides:

The Division of Marine Fisheries (Ma DMF) has reviewed the Notice of Intent submitted on behalf of Cape Ann Marina, LLC for the proposed wharf and boat lift pier replacement project located along the Annisquam River. Below we provide comments on the project's potential impact to marine fisheries resources and habitats.

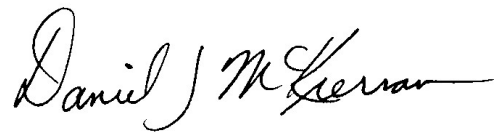
The Annisquam River provides essential forage habitat for a variety of diadromous species including alewife (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), rainbow smelt (*Osmerus mordax*), American eel (*Anguilla rostrata*). It also supports the spawning and juvenile development of winter flounder (*Pseudopleuronectes americanus*). Soft-shell clam (*Mya arenaria*) and blue mussel (*Mytilus edulis*) habitat has been mapped near the project location by MA DMF.

The proposed project includes demolition of the existing concrete wharf and reconstruction of the wharf bulkhead with new sheet pile seaward of the existing timber bulkhead. Boat lift piers will be reconstructed and a deck over an existing riprap slope is proposed. Four new stormwater drainage structures will be installed. There will be approximately 1,485 sf of resource area filled as a result of this project.

Given the extent of the demolition, construction and fill proposed, noise and turbidity levels are expected to be elevated surrounding the work area. We recommend incorporating mitigating measures to avoid and minimize impacts to migrating diadromous fish and spawning and developing winter flounder, including containing the work area behind silt curtains and possibly bubble curtains. MA DMF staff met with the applicant on site in July 2019 and discussed the importance of avoiding and minimizing impacts to marine fisheries resources. Given the location, in a cove off of the river, it is not as critical for migrating diadromous fish that are likely to bypass the area. However, winter flounder spawning is expected at the site. Avoiding work from February 15 to June 30 of any year is the best way to avoid impacts to critical life stages of spawning fish. However, in-water, silt-producing work is expected to be limited to the installation of sheet pile with work behind it. Mitigating practices as mentioned above may be effective at minimizing impacts. The fill proposed between the sheet pile and the existing bulkhead may be subject to in lieu fee mitigation.

Thank you for considering our comments. Please contact Tay Evans at 978-282-0308 x168 or [tay.evans@state.ma.us](mailto:tay.evans@state.ma.us) if you have any questions about this review.

Sincerely,

A handwritten signature in black ink that reads "Daniel J. McKiernan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Daniel J. McKiernan  
Acting Director

cc.

K. Ford, DMF

Adrienne Lennon, Gloucester Conservation Commission [alennon@gloucester-ma.gov](mailto:alennon@gloucester-ma.gov)

B. Boeri, MA CZM

B. Newman, ACOE





## Department of Environmental Protection

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### Memorandum

**To:** Erin Flaherty, MEPA

**From:** Chrissy Hopps, Waterways Regulation Program, MassDEP/Boston

**Cc:** Daniel Padien, Waterways Program Chief, MassDEP/Boston

**Re:** **Comments from the Chapter 91 Waterways Regulation Program** — EEA #16153  
Environmental Notification Form – Cape Ann Marina Wharf and Boatlift Pier  
Replacement Project, Gloucester, Essex County

**Date:** March 16, 2020

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#### **Project Description:**

The Department of Environmental Protection Waterways Regulation Program (the “WRP”) has reviewed the referenced Environmental Notification Form (ENF) submitted by GZA Geoenvironmental, Inc. on behalf of Dominick Realty Trust (“the Proponent”) for marina improvements, including replacement of a pile-supported wharf with a bulkhead/filled wharf, replacement of boatlift piers, installation of new pile-supported piers, and installation of drainage structures. The proposed project site is located at 75 Essex Avenue on the Annisquam River, Gloucester, Essex County (the “proposed project site”).

#### **Chapter 91 Jurisdiction:**

The project is located within filled and flowed tidelands of the Annisquam River and will therefore require authorization through a Chapter 91 Waterways Program (c.91) license.

#### **Water Dependency:**

The proposed project appears to be a water-dependent use project pursuant to 310 CMR 9.12.

## **Chapter 91 Regulatory Analysis:**

The ENF does not adequately explore alternative construction options that would minimize the amount of fill in tidelands as compared with the preferred alternative. Additional information is required for WRP staff to complete an evaluation, and staff recommend that the Proponent continue to coordinate with WRP staff prior to submittal of a c.91 application. In order for the preferred alternative to be considered for licensing, the c. 91 application shall include adequate justification that identifies how the preferred alternative conforms with the provisions of 310 CMR 9.32(1)(a)(2.) and 310 CMR 9.32(2). The proposed project will be further reviewed for water-dependency and conformance with the applicable performance standards at 310 CMR 9.00 as part of the c.91 application process, and the Proponent is advised that modifications to the proposed scope of work may be required to meet the requirements of the referenced regulations.

The WRP looks forward to the filing of a c.91 Waterways Application which meets the minimum filing standards as set forth in 310 CMR 9.11(3) and includes the Secretary's Certificate concluding the MEPA review process.

If you have any questions regarding the WRP comments, please contact Chrissy Hopps at [Christine.Hopps@mass.gov](mailto:Christine.Hopps@mass.gov) or at (617) 348-4084.