



**NANTUCKET CONSERVATION COMMISSION**  
**Updated Meeting Notice/Agenda for Wednesday, February 24th<sup>th</sup> 2016**  
**4:00 P.M. in the 2nd Floor of the Public Safety Facility 4 Fairgrounds Road**

\*Matter has not been heard

**I. PUBLIC MEETING**  
**A. Public Comment**

**II. PUBLIC HEARING**

**A. Notice of Intent**

1. Edwin Snider RT – 1 Brock's Ct (42.3.4-84) SE48-2834 **Cont (03/09/2016)**
2. Edwin Snider RT – 1 Brock's Ct (42.3.4-84) SE48-2835 **Cont (03/09/2016)**
3. Quidnet Properties, LLC – 84 Quidnet Road (21-100 & 101) SE48-2855
4. Zarella – 125 Wauwinet Road (12-8) SE48- 2856
5. Zarella – 129 Wauwinet Road (12-4) SE48- 2857
6. Town of Nantucket – Quaise Road Layout (26-13) SE48-2852
7. \*Gut – 13 Columbus Ave (59.3-110) SE48-2862
8. \*Callahan – 4 Morgan Square (87-3.1) SE48-2861
9. \*Bouton – 21 Massachusetts Ave (60.3.1-312) SE48-2860
10. \*Shea – 8 Walsh Street (42.4.1-83) SE48-2863
11. \*Welsh – 101 Eel Point Road (32-7) SE48 - 2864

**B. Amended Order of Conditions**

1. \* Mscisz – 51 Crooked Lane (41-531) SE48-2737

**II. PUBLIC MEETING**

**A. Request for Determination**

1. \*3 Grant Ave LLC – 3 Grant Ave (30-57) **Cont (03/09/2016)**

**B. Minor Modifications**

1. Oakhill Investments LLC-341A Madaket Road (60.2.4-64.5) SE48-2828 **Cont (03/09/2016)**

**C. Certificate of Compliance**

1. Scavo - 8 Galen Ave (29-113) SE48-2653

**D. Orders of Conditions** (If the public hearing is closed – for discussion and/or issuance)

Discussion of other closed Notices of Intent

1. Edwin Snider RT – 1 Brock's Ct (42.3.4-84) SE48-2834
2. Edwin Snider RT – 1 Brock's Ct (42.3.4-84) SE48-2835
3. Quidnet Properties, LLC – 84 Quidnet Road (21-100 & 101) SE48-2855
4. Zarella – 125 Wauwinet Road (12-8) SE48- 2856
5. Zarella – 129 Wauwinet Road (12-4) SE48- 2857
6. Town of Nantucket – Quaise Road Layout (26-13) SE48-2852
7. Town of Nantucket – Madaket Road Layout (Adjacent 60-140) SE48-2854
8. Town of Nantucket – Hummock Pond Road (Adjacent 83-30) SE48-2853
9. \*Gut – 13 Columbus Ave (59.3-110) SE48-2862
10. \*Callahan – 4 Morgan Square (87-3.1) SE48-
11. \*Bouton – 21 Massachusetts Ave (60.3.1-312) SE48-2860
12. \*Shea – 8 Walsh Street (42.4.1-83) SE48-2863
13. \*Welsh – 101 Eel Point Road (32-7) SE48 - 2864

**E. Enforcement Actions**

1. Bathon – 9 Maine Ave (60.3.1-425)

**F. Other Business**

1. Approval of Minutes 02/10/16.
2. Reports: CPC, NP&EDC, Mosquito Control Committee, Other
3. Commissioner's Comment
4. Administrator/ Staff Reports.

## PUBLIC MEETINGS AND PUBLIC HEARING

*(from pp. 5-7 of the Nantucket Conservation Commission's Information and Procedures)*

Public Meetings and Public Hearings are not the same. Public Meetings are conducted so that the Commission may discuss matters affecting the interests of the public and the rights of individuals in an open forum. To act on a matter, a quorum of the Commission (four of the seven members) must be present. Public Hearings are conducted for the same overall reasons as the Public Meeting – to protect both the public interest and the rights of individuals – with the additional purpose of gathering relevant information from the applicant, interested parties, and the public at large, and providing the Commission with the means of gathering the information necessary to developing an informed opinion and to issuing Orders that are fully supported by the appropriate facts, laws, and science.

Public Meetings, and Public Hearings held within Public Meetings, are held in conformance with the Massachusetts Open Meetings Law, M.G.L. Ch. 39 §§23A-C, and the Code of the Town of Nantucket §§1-7, 2-1, et seq., 136-4, where applicable. Pursuant to Section 1-7 of the Code of the Town of Nantucket, the Commission conducts business in accordance with parliamentary procedure as set out by Roberts Rules. The tenth edition is the most recent and presently effective version of Robert Rules. Additionally, where appropriate, the Commission follows the guidelines for Conservation Commission Meetings and Hearings set out by the Massachusetts Association of Conservation Commissions (MACC), the state umbrella organization of Conservation Commissions that works for strong, workable, science-based laws and regulations.

The Chairman or Chairwoman (hereinafter “Chair”) presides at Public Meetings and Public Hearings. In the absence of the Chair, the Vice Chair, or another Commissioner designated by the Chair presides. Public Hearings are conducted with an appropriate degree of formality, in accordance with Roberts Rules of Order, and with reference to state and local laws and regulations. During the Public Hearing portion of the Public Meeting, the Commission follows the following procedures:

- A. The Hearing is called by the applicant's name and the address of the proposed activity. The applicant may or may not be the owner of the property.
- B. The applicant, or the applicant's representative, presents the proposal to the Commission by describing the activity or project, its environmental impact, and its location relative to resource areas and buffer zones.
- C. The Commissioners or the Commission staff may at this point have questions for the applicant or the applicant's representative relating to clarity of the application.
- D. Interested parties, whether abutters, representatives of other entities, or the public, are invited to provide evidence or propose questions relevant to the project, to the resource area, to the protected interests arising by statute or regulation in relation to the resource area, and/or to the performance standards for such activities in such resource areas. Any questions must be directed to and through the Chair, not to the applicant or another person at the hearing. The time available for such public input may be limited by the Chair, especially where a large number of people seek to address the Commission. Public input should be limited to new information—if someone already has provided the same information to the Commission it is unnecessary for it to be restated by another speaker. For the above reasons, it is helpful to the Commission, and often will have more impact, if comments or questions are submitted in writing, in advance if at all possible.
- E. The Commission staff and/or technical consultants retained by the Commission will provide any additional information they may deem relevant to the application, may answer questions from the Commission, and may provide a recommendation to the Commission.
- F. The Commissioners may have additional questions from either the applicant or from persons who have provided evidence or other input to the Hearing.
- G. The Chairman will ask if the applicant has any additional information based on the questions and input outlined above.
- H. The Commission then will deliberate and decide a course of action. The Commission should not be interrupted during its deliberations.

Comments and questions are welcomed at the appropriate time in the hearing. Those most helpful to assisting the Commission in fulfilling its legal mandate are those comments or questions that pertain to the proposal or resource areas that are the subject of the Public Hearing. Issues beyond the Commission's jurisdiction are not legally relevant and should be avoided.

Because of the acoustics of the room in which the Commissions conducts Public Meetings, it can be difficult for Commissioners to hear those appearing before the Commission, or each other for that matter, if people are engaging in conversation elsewhere in the room. Please take all private conversations to the hallway outside.

Please note that the Commission keeps minutes of its proceedings in accordance with state law. The person keeping the minutes must record the names of persons addressing the Commission, and those addressing the Commission may need to spell their names if the spelling is not obvious. The files related to applications are available for public review at the Commission's office during normal business hours in advance of, and following the Public Meeting. They are not available for such review during the meeting, when such review would be distracting to Commissioners and staff, and would interfere with the orderly conduct of the Public Meeting.

Typically, the persons appearing before the Commission are professionals, that is, persons who are paid to attend the hearings on behalf of their client or employer. Such persons are expected to understand the rules and procedures of the Commission, and the relevancy of evidence, commentary, or questions submitted to the Commission.

It is not unusual for members of the public to appear before the Commission, especially in response to a notice that an activity is proposed on an abutting or nearby property. The Commission's staff is available to assist the public in understanding the applications under consideration by the

Commission relative to resource areas and protected interests. The public may visit the Commission's office and examine the application, the plans that are part of the application, and other materials that may be related to the proposal. Recognizing that non-professionals are not as familiar with the rules and procedures, the Chair is likely to allow them a little more leeway than might be permitted professionals practicing before the Commission.

Nevertheless, this guide to Information & Procedures is designed to inform everyone of the practices and procedures. The Chair may redirect anyone at any point if they go beyond what is appropriate under the Commission's rules of procedure.

# NOTICES OF INTENT

Edwin Snider RT

1 Brock's Court



**SITE DESIGN ENGINEERING, LLC.**

11 Cushman Street, Middleboro, MA 02346

P: 508-967-0673 F: 508-967-0674

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## **NOTICE OF INTENT APPLICATION**

### **Relocation of an Existing Single Family residence and Construction of an Addition Partially Within Wetland Resource Area Buffer Zones**

**1 Brock's Court  
Portions of Map 42.3.4 Parcel 84  
Nantucket, Massachusetts**

*Prepared for:*

**Edwin Snider Realty Trust  
C/O Cohen and Cohen Law PC  
34 Main Street  
Second Floor  
Nantucket, MA 02554**

*Prepared By:*

**Site Design Engineering, LLC  
11 Cushman Street  
Middleboro, MA 02346**

**October 30, 2015**

**SDE No.: 12035**

WPA FORM 3

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**WPA Form 3 – Notice of Intent**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 \_\_\_\_\_  
 MassDEP File Number  
 \_\_\_\_\_  
 Document Transaction Number  
 Nantucket  
 \_\_\_\_\_  
 City/Town

**Important:**  
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**Note:**  
 Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

**A. General Information**

1. Project Location (**Note:** electronic filers will click on button to locate project site):

1 Brock's Court Nantucket 02554  
 a. Street Address b. City/Town c. Zip Code  
 Latitude and Longitude: 41 17 01.78 70 06 15.92  
 d. Latitude e. Longitude  
42.3.4 84  
 f. Assessors Map/Plat Number g. Parcel /Lot Number

2. Applicant:

\_\_\_\_\_ a. First Name \_\_\_\_\_ b. Last Name  
Edwin Snider Realty Trust C/O Cohen & Cohen Law PC  
 c. Organization  
34 Main Street Second Floor  
 d. Street Address  
Nantucket MA 02554  
 e. City/Town f. State g. Zip Code  
 \_\_\_\_\_ h. Phone Number \_\_\_\_\_ i. Fax Number \_\_\_\_\_ j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

\_\_\_\_\_ a. First Name \_\_\_\_\_ b. Last Name  
 \_\_\_\_\_ c. Organization  
 \_\_\_\_\_ d. Street Address  
 \_\_\_\_\_ e. City/Town \_\_\_\_\_ f. State \_\_\_\_\_ g. Zip Code  
 \_\_\_\_\_ h. Phone Number \_\_\_\_\_ i. Fax Number \_\_\_\_\_ j. Email address

4. Representative (if any):

Mark Rits  
 a. First Name b. Last Name  
Site Design Engineering, LLC  
 c. Company  
11 Cushman Street  
 d. Street Address  
Middleboro MA 02346  
 e. City/Town f. State g. Zip Code  
508-802-5832 508-967-0674 mrirts@sitedesigneng.com  
 h. Phone Number i. Fax Number j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

\$220.00 \$97.50 \$122.50  
 a. Total Fee Paid b. State Fee Paid c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Nantucket  
City/Town

## A. General Information (continued)

6. General Project Description:

Relocation of an existing Single Family Residence and construction of an addition located partially within the 100-foot buffer zone to a Bordering Vegetated Wetland.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

a. County

b. Certificate # (if registered land)

c. Book

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet	2. square feet
	3. cubic yards dredged	

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet	2. square feet
	3. cubic feet of flood storage lost	4. cubic feet replaced
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet	
	2. cubic feet of flood storage lost	3. cubic feet replaced
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) - <b>specify coastal or inland</b>	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

_____	_____	_____
a. total square feet	b. square feet within 100 ft.	c. square feet between 100 ft. and 200 ft.

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



WPA Form 3 - Notice of Intent

B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users: Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Form with columns: Resource Area, Size of Proposed Alteration, Proposed Replacement (if any). Includes checkboxes for Designated Port Areas, Land Under the Ocean, Barrier Beach, Coastal Beaches, Coastal Dunes, Coastal Banks, Rocky Intertidal Shores, Salt Marshes, Land Under Salt Ponds, Land Containing Shellfish, Fish Runs, Land Subject to Coastal Storm Flowage, Restoration/Enhancement, and Project Involves Stream Crossings.



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## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581

- 2008 \_\_\_\_\_  
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area \_\_\_\_\_  
percentage/acreage

(b) outside Resource Area \_\_\_\_\_  
percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



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## C. Other Applicable Standards and Requirements (cont'd)

- (c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_fee_schedule.htm)). Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

- (d)  Vegetation cover type map of site
- (e)  Project plans showing Priority & Estimated Habitat boundaries
- (f) OR Check One of the Following
1.  Project is exempt from MESA review. Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)
  2.  Separate MESA review ongoing. \_\_\_\_\_ a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP
  3.  Separate MESA review completed. Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?
- a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



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## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No      If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house
  2.  Emergency road repair
  3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



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Nantucket  
City/Town

## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Proposed Conditions Site Plan

a. Plan Title

Site Design Engineering, LLC

Daniel C. Mulloy, P.E.

b. Prepared By

c. Signed and Stamped by

October 29, 2015

See Plan

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.
6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
8.  Attach NOI Wetland Fee Transmittal Form
9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

3341

29-Oct-2015

2. Municipal Check Number

3. Check date

3344

29-Oct-2015

4. State Check Number

5. Check date

Site Design Engineering, LLC.

6. Payor name on check: First Name

7. Payor name on check: Last Name



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
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Provided by MassDEP:
MassDEP File Number
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Nantucket
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**F. Signatures and Submittal Requirements**

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

DocuSigned by: <i>Elizabeth Frasier</i>	10/30/2015
1. Signature of Applicant	2. Date
3. Signature of Property Owner (if different)	4. Date
5. Signature of Representative (if any)	6. Date

**For Conservation Commission:**

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

**For MassDEP:**

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

**Other:**

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.

## PROJECT NARRATIVE

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

## PROJECT DESCRIPTION

### 1 Brock's Court NANTUCKET, MASSACHUSETTS

October 30, 2015

#### **INTRODUCTION**

The purpose of this Notice of Intent (NOI) application is to request approval from the Nantucket Conservation Commission (Commission) under the Massachusetts Wetlands Protection Act (WPA) and its implementing regulations 310 CMR (CMR) and the Town of Nantucket Wetlands Protection Bylaw (Bylaw) and its implementing regulations (Local Regs) for work within 100 feet of a Bordering Vegetated Wetland (BVW) resource area on property located at 1 Brock's Court in Nantucket (Subject Property). The work includes the previously performed relocation of an existing single family residence (SFR) and the construction of an addition, wooden deck, and pervious patio. The work was performed by a previous property owner and was not subject to an Order of Conditions (OOC). The previously performed work was located within the 100-foot buffer zone to a BVW resource area but was entirely outside of the 50-foot BVW buffer zone.

This Notice of Intent application is presented by the following Property Owner/Applicant:

1 Brock's Court  
(Map 42.3.4 Lot 84)

Edwin Snider Realty trust  
C/O Cohen and Cohen Law PC  
34 Man Street  
Second Floor  
Nantucket, MA. 02554

#### **SITE OVERVIEW & EXISTING CONDITIONS**

The Subject Property consists of an approximately 18,675 square foot (0.43 acre) lot located on the south side of Brock's Court and west of Liberty Street (see Figures 1 through 3 and Site Plan). To the north, the Subject Property is bordered by developed residential property. To the east, the Subject Property is bordered by Liberty Street, a paved public way, and developed residential properties. To the south, the Subject Property is bordered by developed residential properties. To the west, the Subject Property is bordered by undeveloped property (see Figures 1 through 3 and Site Plan). The Subject Property has been historically developed and is the site of an SFR, deck, pervious driveway, and associated landscaping/grading. A BVW resource area is located on the adjacent property to the west and extends onto the western portion of the Subject Property. The extent of the wetland resource area has been previously delineated as part of a separate NOI application for work performed on an adjacent property and was used as a basis for an OOC for property located at 3 Brock's Court.

The extent of wetland resource areas on the Subject Property and adjacent properties has been previously confirmed as part of filings on adjacent properties. However, all previous delineations have since expired. In order to confirm that all work on the Subject Property was performed outside of the 50-foot BVW buffer zone, Laura A. Schofield of Schofield Brothers of Cape Cod (Schofield) performed a wetland delineation on the Subject Property on June 25, 2015. The location of all wetland boundaries on the Subject Property and associated buffer zones are indicated on the Site Plan. A delineation report and DEP BVW Delineation Forms are included as an attachment to this NOI Application. Based on the delineation performed by

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Schofield, a large portion of the Subject Property is located within the 50-foot BVW buffer zone. This portion of the Subject Property has been historically maintained as a lawn area nearly to the edge of the BVW. All previously performed activities are located well outside of the 50-foot BVW buffer zone and the previously performed work does not require any waivers under the Bylaw.

The Subject Property is located entirely outside of the 100-year flood zone as determined from the Digital FEMA Flood Maps available from MassGIS and site specific topographic survey information (see Figure 6 and Site Plan) and is therefore outside of Land Subject to Coastal Storm Flowage (LSCSF).

### **PROJECT ACTIVITIES**

Work on the Subject Property was performed by a previous property owner and included the relocation of the existing SFR from within the 100-foot BVW buffer zone to a portion of the Subject Property outside of the 100-foot BVW buffer zone. The previously performed work also included the construction of an addition partially within the 100-foot BVW buffer zone. The constructed addition, including the wooden deck, has a smaller footprint within the 100-foot BVW buffer zone than the previously existing SFR and occupies nearly the same footprint. Finally, previously performed work also included the construction of a pervious patio and planting of a privet hedge along the eastern side of the previously existing pervious driveway and parking area. All previously performed work, was located entirely outside of the 50-foot BVW buffer zone with the exception of a small portion of the hedge which is located partially within the 50-foot BVW buffer (see Site Plan). The existing SFR is connected to town sewer and water.

### **NHESP / MESA**

The Subject Property is located entirely outside of both Estimated and Priority Habitat of Rare or Endangered Species as indicated on the 2008 NHESP Atlas available through MassGIS (see Figure 5).

### **EROSION / SEDIMENTATION CONTROL & CONSTRUCTION PROTOCOL**

No erosion or sedimentation control is proposed as part of this NOI. All described work and activities have already been completed.

### **WETLAND RESOURCE AREAS**

The previously performed project was a buffer zone project. No activities within any wetland resource areas are proposed as part of this project. All work associated with the Proposed Project will be performed within the following wetland resource area buffer zones subject to the jurisdiction of the Nantucket Conservation Commission under the State Wetlands Protection Act (WPA) and 310 CMR (CMR), the Nantucket Wetlands Protection Bylaw (Bylaw) and the Nantucket Wetland Protection Regulations (Local Regs):

- 100-foot Buffer Zone to a BVW (Figure 4 and Site Plan)

### **COMPLIANCE WITH STATE AND LOCAL PERFORMANCE STANDARDS**

The previously performed project was a residential redevelopment project and included the relocation of an existing SFR and the construction of an addition, a wooden deck, a pervious patio, and associated landscaping within the 100-foot buffer zone to a BVW.

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## **State Wetlands Performance Standards**

### **Bordering Vegetated Wetlands**

The previously performed project occurred within the 100-foot buffer zone to a BVW. No work is proposed within any State or local BVW Resource Areas. The Proposed Project includes the construction of a secondary dwelling, pool, shed, pervious patio, pervious driveway, and associated landscaping/grading which will be located within the 100-foot buffer zone to a BVW. The Act and CMR do not include any specific performance standards for work within the 100-foot buffer zone to a BVW. Instead, local jurisdictions are permitted to regulate the buffer zone areas as deemed appropriate under local Bylaws. A detailed discussion of local permitting requirements within the 100-foot BVW buffer zone is included in the Local Wetlands Performance Standards Section below.

## **Local Wetlands Performance Standards**

### **Vegetated Wetlands**

*"Vegetated Wetlands or land within 100 feet of Vegetated Wetlands shall be presumed significant to the Interests Protected by the Bylaw as referenced in Section A, therefore the following regulations shall apply:"*

#### **3.02B(1)**

*"Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater."*

The previously performed project, including relocation of the existing SFR and construction of an addition, wooden deck, and pervious patio. All structural components were constructed entirely outside of the 50-foot BVW buffer zone. All new structures including the addition and wooden deck were located almost entirely within the footprint of the previously existing SFR. No new structures were built within the 50-foot BVW buffer zone and no new alterations occurred within the 25-foot BVW buffer zone. The portion of the Subject Property located within the 25-foot and 50-foot BVW buffer zones has been historically maintained as a lawn area. This portion of the Subject Property was not significantly altered as a result of the previously performed site work and will be maintained.

#### **3.02B(2)**

*"Proposed projects shall not use procedures that the Commission determines changes the flood protection function (leveling out of storm surges by storing and slowly releasing water) of vegetated wetlands by significantly changing the rate of water flow through the wetlands (by channelization or other means)."*

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The Proposed Project included the relocation of an existing SFR and the construction of an addition, wooden deck, and pervious patio. No significant grading or filling was performed within the 50-foot BVW buffer zone. The previously performed project did not have any adverse impact on the ability of the BVW to provide flood protection.

3.02B(3)

*"No permit shall be issued which authorizes the destruction of forested swamps. The Commission may authorize the excavation of other vegetated wetlands to create ponds or clear the edge of a pond if the project is designed to increase wildlife habitat diversity and to minimize groundwater or surface water loss."*

This standard is not applicable. The Proposed Project does not include the excavation of any wetland resource areas.

3.02B(4)

*"The septic leach facility of a septic system shall be at least 100 feet from the vegetated wetland."*

This standard is not applicable. The Proposed Project will be connected to town water and sewer.

3.02B(5)

*"Piers shall be constructed and maintained using procedures determined by the Commission to be the best available measures to minimize adverse effects on Interests protected by the Bylaw."*

This standard is not applicable. The Proposed Project does not include the construction of any piers.

3.02B(6)

*"Elevated walkways determined to be water dependent designed not to affect existing vegetation shall be required for pedestrian passage over vegetated wetlands."*

This standard is not applicable. The Proposed Project does not include the construction of any elevated walkways.

3.02B(7)

*"The Commission may impose such additional requirements as necessary to protect the Interests Protected under the Bylaw."*

The Applicant acknowledges the right of the Commission to apply additional requirements to protect the Interests of the Bylaw.

**CONCLUSION**

The Subject Property is a historically developed property which included an SFR, pervious driveway, and associated landscaping and grading. The majority of the 25-foot and 50-foot BVW buffer zone has been historically maintained as a lawn area. Work performed on the Subject Property by a previous owner included the relocation of the existing SFR and the

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construction of an addition, wooden deck, pervious patio, and associated landscaping. The previously existing SFR was entirely outside of the 50-foot BVW buffer zone. The majority of the newly constructed structures including the addition and wooden deck are within the footprint previously occupied by the existing SFR. No new structures are located within the 50-foot BVW buffer zone and no new alterations occurred within the 25-foot BVW buffer zone. All work performed is in compliance with State and local regulations and does not require any waivers under the Bylaw. The Applicant is seeking an OOC approving the previously performed site work. The Applicant feels that all previously performed activities did not result in any significant new or additional adverse impacts to the BVW or associated buffer zones and that the work was performed in compliance with all State and local performance standards. Therefore, the Applicant respectfully requests that the Commission grant an OOC approving the previously performed site alterations.

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11 Cushman Street, Middleboro, MA 02346

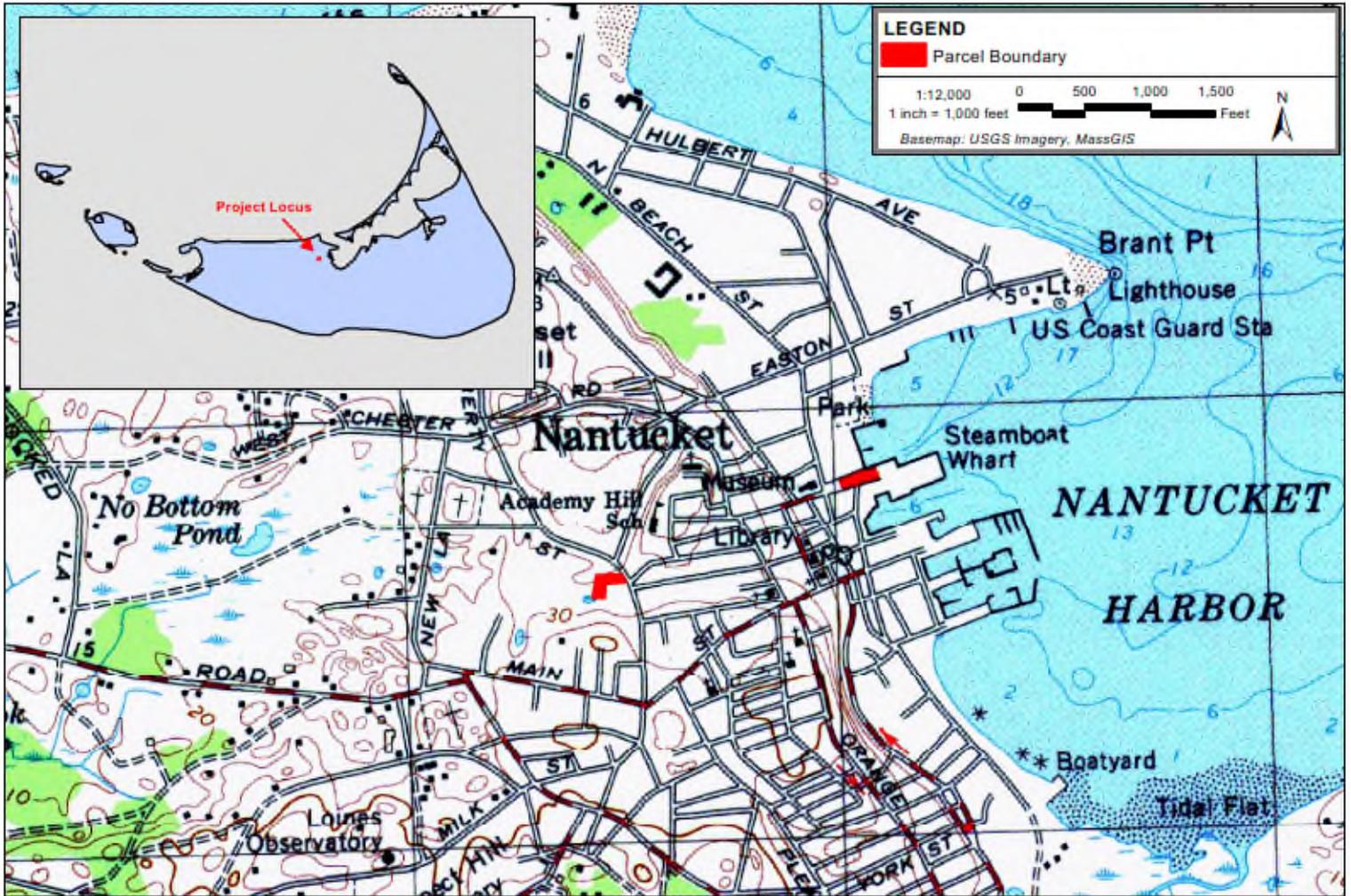
P: 508-967-0673 F: 508-967-0674

## FIGURES

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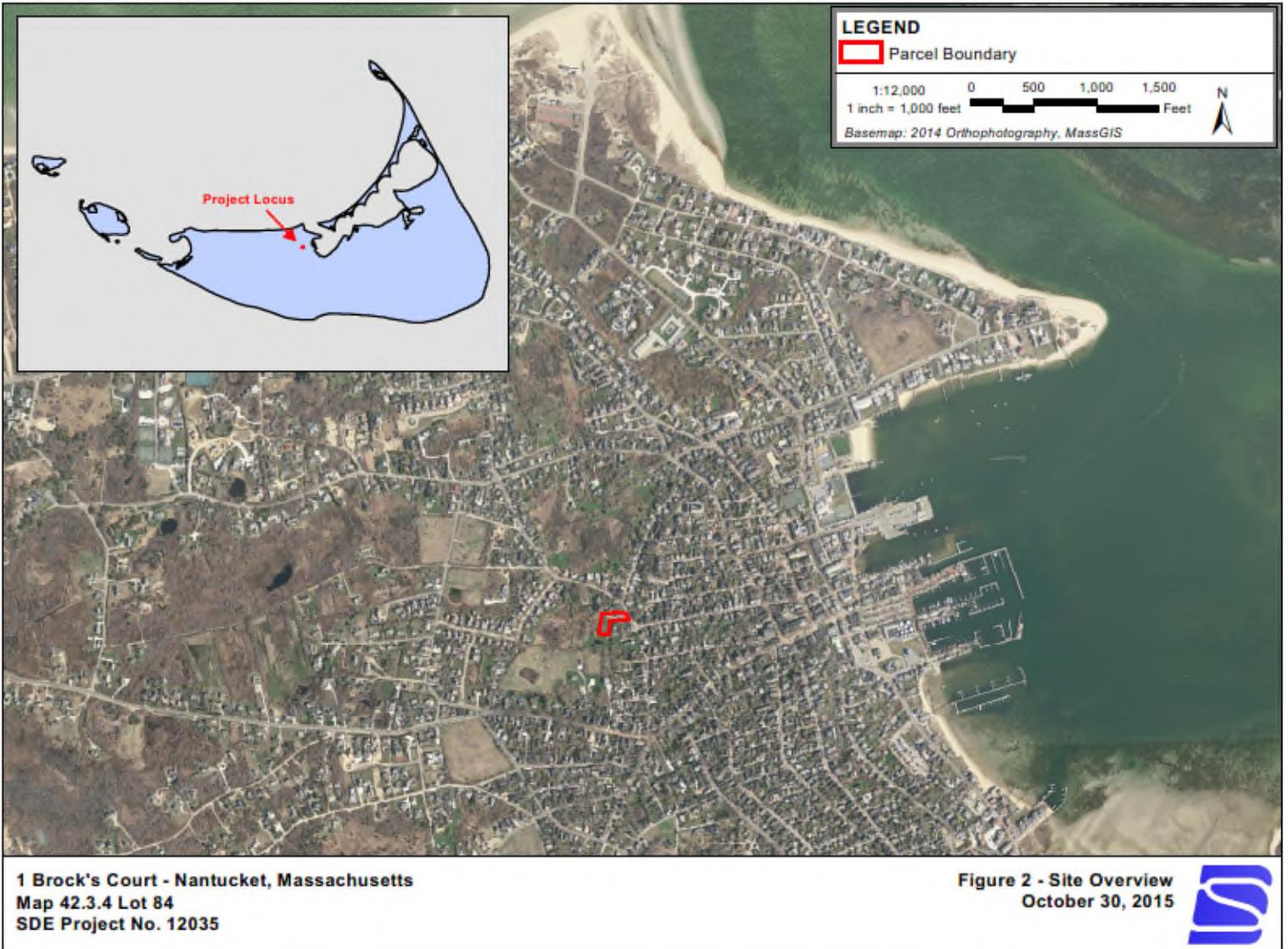
11 Cushman Street, Middleboro, MA 02346  
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1 Brock's Court - Nantucket, Massachusetts  
 Map 42.3.4 Lot 84  
 SDE Project No. 12035

Figure 1 - USGS Locus Map  
 October 30, 2015







1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 3 - Detailed Site Overview  
October 30, 2015

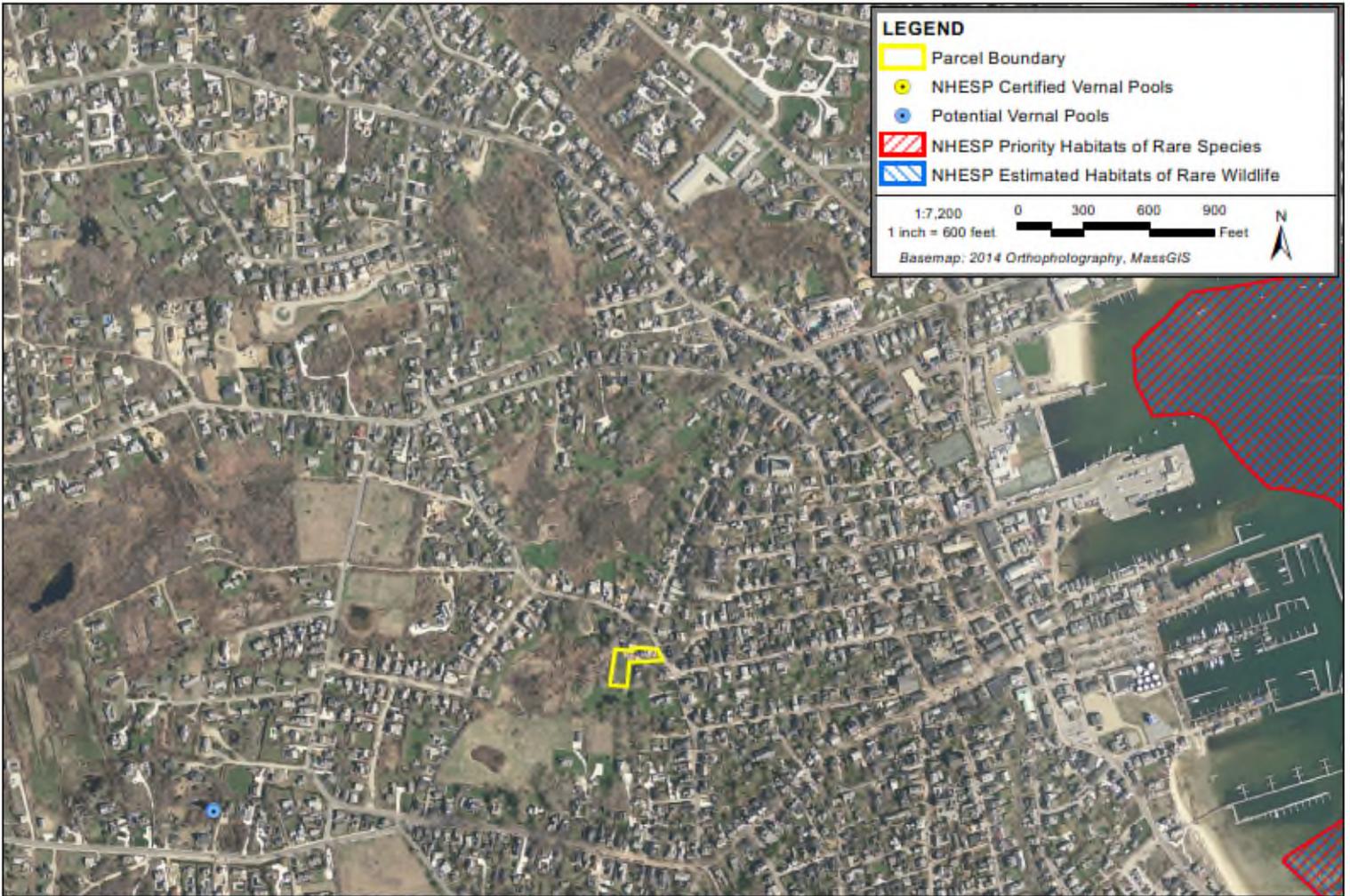




1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 4 - Wetland Boundaries  
October 30, 2015





1 Brock's Court - Nantucket, Massachusetts  
 Map 42.3.4 Lot 84  
 SDE Project No. 12035

Figure 5 - NHESP Habitat  
 October 30, 2015





1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 6 - FEMA Flood Zones  
October 30, 2015



## WETLAND DELINEATION INFORMATION

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**SCHOFIELD BROTHERS OF CAPE COD**

Engineering - Land Surveying  
Environmental Permitting  
161 Cranberry Highway  
P.O. Box 101  
Orleans, MA 02653-0101  
508-255-2098 - 508-240-1215 (fax)  
E-mail: schobro@verizon.net

July 16, 2015

Site Design Engineering, LLC  
11 Cushman Street  
Middleboro, MA 02346  
Attn: Daniel Mulloy, PE  
Principal

RE: 44 Liberty Street  
Nantucket, Massachusetts

Dear Mr. Mulloy;

At your request, on June 25, 2015 I visited the above referenced address to identify and delineate wetlands at or immediately adjacent to the subject property. It is my understanding that the buffer zone of a nearby wooded swamp may extend over the work limit for an existing dwelling that was recently renovated without a permit.

**Project Location/Description**

The subject property is located at 44 Liberty Street, west of downtown Nantucket. The existing and recently renovated dwelling is located on the easterly portion of the site. There is an existing lawn area in between the dwelling and the wooded swamp. The lawn area is surrounded by a well-established privet hedge.

According to Flood Insurance Rate Map #25019C0086G effective date June 9, 2014 the subject parcel is not within land subject to flooding.

There are two wetland resource areas affecting the subject property; a wooded swamp/isolated wetland to the west and a small pond to the southwest.

**Wetland Resource Area Descriptions**

**Isolated Wooded Swamp/Vegetated Wetland**

There is a wooded swamp that borders the westerly property line. The swamp is isolated, as it is surrounded by development. Topography within the wetland is rather hummocky and appear to have been altered in the past.

Consecutively numbered blue survey ribbon was used to delineate the wetland boundaries in the field. The wetland line was established utilizing topographic and hydrologic indicators. A small bank was observed in the topography running parallel to and behind the existing privet hedge separating the woods from the lawn. During the site visit made on June 25, 2015 there were areas of standing water observed within the wetland and in some places the soil was damp at the surface. It should be noted that in the northwesterly corner of the property, standing water was observed. However, upon further investigation, that particular area of standing water appears to be the result of a sump pump discharge and not standing groundwater.

**SCHOFIELD BROTHERS OF CAPE COD**  
Engineering - Land Surveying  
Environmental Permitting

The vegetation at the site was evaluated in accordance with the methods described in the Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act Handbook dated 1995 by the MA Department of Environmental Protection Division of Wetlands and Waterways. A significant amount of vegetation at this site is invasive. Japanese knotweed has overwhelmed the herbaceous and shrub layers of the wooded swamp. Other invasive plants observed within the wooded area immediately adjacent to the isolated wetland include garlic mustard and barberry. The vegetation in the area is predominantly invasive, non-wetland indicator plants. White poplar and red maple are the predominant trees within the wooded area. White poplar is not a wetland indicator plant, but the white poplars at the site showed signs of high groundwater indicators, such as shallowly rooted individual trees that have blown over. Red maple is a wetland indicator plant.

**Small Pond/Inland Water Body**

There is a small pond (shown on the attached locus map) located on an adjacent parcel southerly of the locus parcel. The pond's 100 foot buffer zone, and possibly portions of the 50 foot buffer zone, overlap the subject property. The edges of the pond should be accurately located to establish the buffer zones.

**Massachusetts Wetland Protection Act/Nantucket Wetlands Regulations**

**Massachusetts Wetland Protection Act**

The pond does not exceed a surface area 10,000 square feet and therefore would be considered *Isolated Land Subject to Flooding* (and not a pond) under the Massachusetts Wetlands Protection Act. The wooded swamp area appears to border on a marshy area to the west, but it does not border on a stream, river, creek, pond or lake and therefore the wooded swamp is also considered *Isolated Land Subject to Flooding* under the Massachusetts Wetlands Protection Act. *Isolated Land Subject to Flooding* does not have a protective buffer zone pursuant to the state act.

**Nantucket Wetlands Regulations**

Land within 100 feet of Vegetated Wetlands and Small Ponds are presumed to be significant to the interests of the Nantucket Bylaw and therefore both the small pond and the isolated vegetated wetland have protective buffer zones under the local regulations.

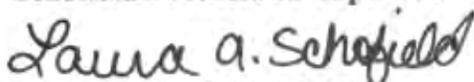
**Natural Heritage and Endangered Species**

Based on a review of the Massachusetts GIS online mapping Natural Heritage Data Layer, the site does not exist within any area designated as Estimated Habitat or Priority Habitat of Rare Wetlands Wildlife. There are also no certified vernal pools or potential vernal pools on this site or the adjacent parcels to the subject property.

Should you have any questions, please do not hesitate to contact me.

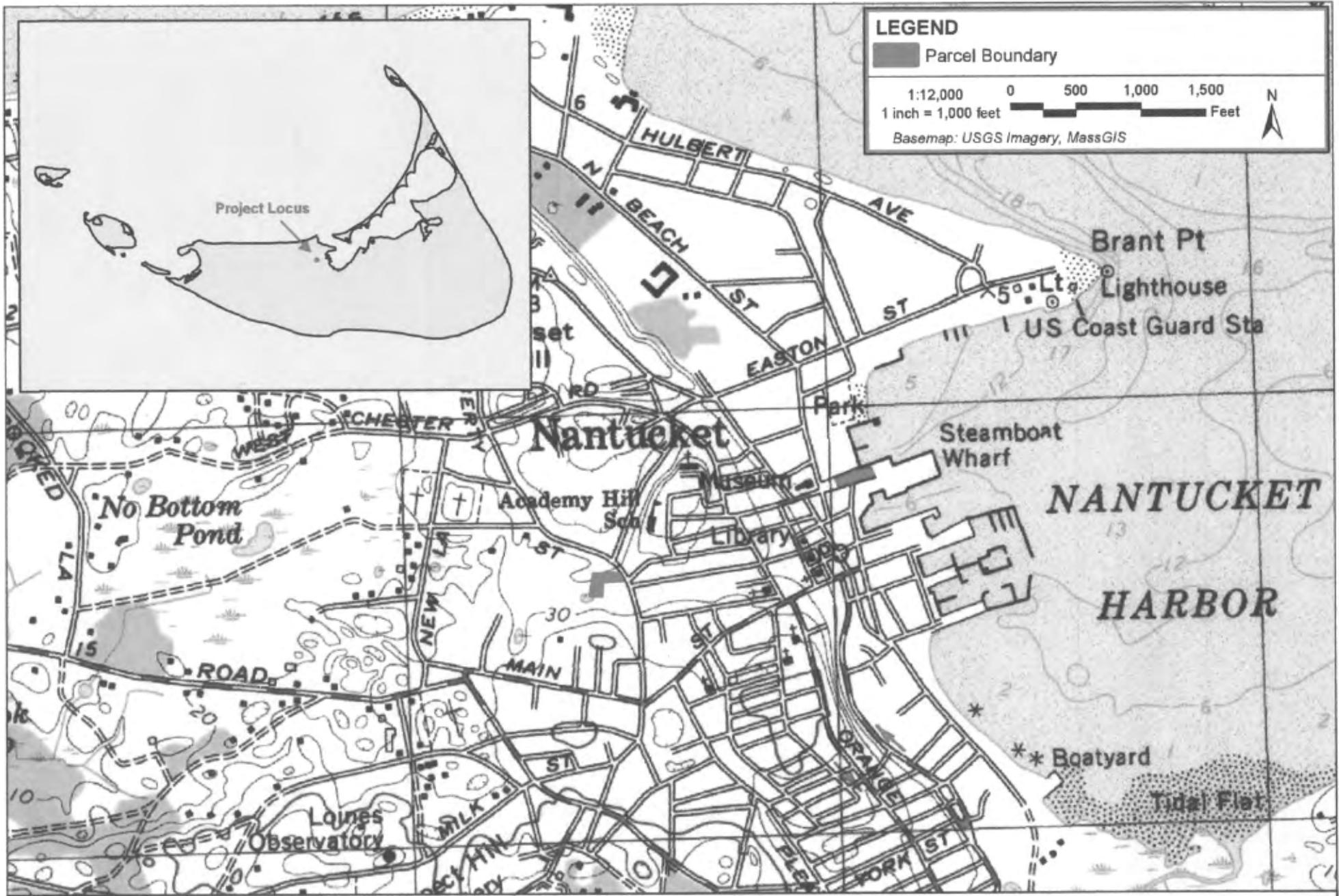
Sincerely,

**Schofield Brothers of Cape Cod**



Laura A. Schofield, RS, SE  
Principal

enc.



44 Liberty Street - Nantucket, Massachusetts  
 Map 42.3.4 Lot 84  
 SDE Project No. 12035

Figure 1 - USGS Locus Map  
 May 28, 2015



## DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Form

Applicant: \_\_\_\_\_ Prepared by: L. Schofield Project location: 44 Liberty St DEP File #: \_\_\_\_\_

Check all that apply:

- Vegetation alone presumed adequate to delineate BVW boundary: fill out Section I only
- Vegetation and other indicators of hydrology used to delineate BVW boundary: fill out Sections I and II
- Method other than dominance test used (attach additional information)

8± west of WF#4

## Section I. Vegetation

Observation Plot Number: 1W Transect Number: 1 Date of Delineation: 6/25/15

A. Sample Layer and Plant Species (by common/scientific name)	B. Percent Cover (or basal area)	C. Percent Dominance	D. Dominant Plant (yes or no)	E. Wetland Indicator Category*
<u>Herbaceous Layer</u>				
<u>Japanese Knotweed/Polygonum cuspidatum</u>	<u>75%</u>	<u>100</u>	<u>yes</u>	<u>FACU-</u>
<u>Shrub Layer</u>				
<u>Japanese Knotweed/Polygonum cuspidatum</u>	<u>80%</u>	<u>80%</u>	<u>yes</u>	<u>FACU-</u>
<u>Privet/Ligustrum vulgare</u>	<u>20%</u>	<u>20%</u>	<u>yes</u>	<u>FACU</u>
<u>Tree Layer</u>				
<u>Red maple, Acerrubrum</u>	<u>20</u>	<u>19%</u>	<u>no</u>	<u>FAC*</u>
<u>White poplar, Populus alba</u>	<u>85%</u>	<u>81%</u>	<u>yes</u>	<u>NI* shallow roots</u>

\* Use an asterisk to mark wetland indicator plants: plant species listed in the Wetlands Protection Act (MGL c.131, s.40); plants in the genus *Sphagnum*; plants listed as FAC, FAC+, FACW-, FACW, FACW+, or OBL; or plants with physiological or morphological adaptations. If any plants are identified as wetland indicator plants due to physiological or morphological adaptations, describe the adaptation next to the asterisk.

## Vegetation conclusion:

Number of dominant wetland indicator plants: 1 Number of dominant non-wetland indicator plants: 3Is the number of dominant wetland plants equal to or greater than the number of dominant non-wetland plants? yes  no 

If vegetation alone is presumed adequate to delineate the BVW boundary, submit this form with the Request for Determination of Applicability or Notice of Intent.

**Section II. Indicators of Hydrology**

Hydric Soil Interpretation

1. Soil Survey

Is there a published soil survey for this site?    yes    no  
 title/date:  
 map number:  
 soil type mapped:  
 hydric soil inclusions:

Are field observations consistent with soil survey?    yes    no

Remarks:

2. Soil Description

Horizon	Depth	Matrix Color	Mottles Color

Remarks:

3. Other:

Conclusion: Is soil hydric?    yes    no

Site has been overwhelmed by →  
 invasives. Dominant tree shows adaptations  
 to high groundwater elevation.  
 (shallow root system)

Other Indicators of Hydrology: (check all that apply and describe)

- Site inundated: standing water in places
- Depth to free water in observation hole: \_\_\_\_\_
- ~~Depth to~~ soil saturation in observation hole: at surface in places
- Water marks: \_\_\_\_\_
- Drift lines: \_\_\_\_\_
- Sediment deposits: \_\_\_\_\_
- Drainage patterns in BVW: \_\_\_\_\_
- Oxidized rhizospheres: \_\_\_\_\_
- Water-stained leaves: \_\_\_\_\_
- Recorded data (stream, lake, or tidal gauge; aerial photo; other) : \_\_\_\_\_
- Other: \_\_\_\_\_

Vegetation and Hydrology Conclusion		
	yes	no
Number of wetland indicator plants ≥ number of non-wetland indicator plants	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Wetland hydrology present:		
hydric soil present	<input type="checkbox"/>	<input type="checkbox"/>
other indicators of hydrology present	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sample location is in a BVW	<input type="checkbox"/>	<input type="checkbox"/>

Submit this form with the Request for Determination of Applicability or Notice of Intent.

## DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Form

Applicant: \_\_\_\_\_ Prepared by: L. Schofield Project location: 44 Liberty St. DEP File #: \_\_\_\_\_

Check all that apply:

- Vegetation alone presumed adequate to delineate BVW boundary: fill out Section I only
- Vegetation and other indicators of hydrology used to delineate BVW boundary: fill out Sections I and II
- Method other than dominance test used (attach additional information)

within lawn east of  
WF#4  
Boring was performed ~ soil damp  
at 33"

## Section I. Vegetation

Observation Plot Number: 10pl. Transect Number: 1 Date of Delineation: 6/25/15

A. Sample Layer and Plant Species (by common/scientific name)	B. Percent Cover (or basal area)	C. Percent Dominance	D. Dominant Plant (yes or no)	E. Wetland Indicator Category*
Herbaceous Layer: Lawn grass	100%	100%	yes	NO
Shrub Layer: Privet/Ligustrum vulgare	25%	71%	yes	FACU
Japanese Knotweed/ Polygonum cuspidatum	10%	28%	yes	FACU-

\* Use an asterisk to mark wetland indicator plants: plant species listed in the Wetlands Protection Act (MGL c.131, s.40); plants in the genus *Sphagnum*; plants listed as FAC, FAC+, FACW-, FACW, FACW+, or OBL; or plants with physiological or morphological adaptations. If any plants are identified as wetland indicator plants due to physiological or morphological adaptations, describe the adaptation next to the asterisk.

## Vegetation conclusion:

Number of dominant wetland indicator plants: \_\_\_\_\_ Number of dominant non-wetland indicator plants: 3Is the number of dominant wetland plants equal to or greater than the number of dominant non-wetland plants? yes  no 

If vegetation alone is presumed adequate to delineate the BVW boundary, submit this form with the Request for Determination of Applicability or Notice of Intent.





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P: 508-967-0673 F: 508-967-0674

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November 27, 2015

SDE No. 12035

Ernest Steinauer  
Chairman – Nantucket Conservation Commission  
Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**Subject: Supplemental Information for Notice of Intent SE48-2834  
1 Brock's Court  
Nantucket, Massachusetts  
Tax Map 42.3.4, Parcel 84**

Dear Mr. Steinauer:

The purpose of this letter is to provide supplemental information addressing issues which were discussed by the Commission during the November 18, 2015 Public Hearing for the above referenced NOI application. Specifically, the Commission requested additional groundwater information, foundation information, and structural footprint information within the 100-foot BVW buffer zones.

### ***Groundwater Information***

Five (5) auger holes were performed on the Subject Property. The depth to groundwater at each auger location has been provided on the revised Site Plan.

### ***Foundation Information***

It has been confirmed that the entire existing structure is constructed on a slab and frost wall foundation. The existing structure does not have a full basement.

### ***Structural Footprint***

The previously existing structure had a footprint of approximately 1,150 square feet within the 100-foot BVW buffer zone. The existing structure has a footprint of approximately 475 square feet within the 100-foot BVW buffer zone. The existing wooden deck has a footprint of approximately 310 square feet within the 100-foot BVW buffer zone.

If you have any questions please feel free to contact me via email at [mrirts@sitedesigneng.com](mailto:mrirts@sitedesigneng.com) or at 508-802-5832.

Respectfully,  
Site Design Engineering, LLC.

A handwritten signature in black ink, appearing to read 'Mark Rits'.

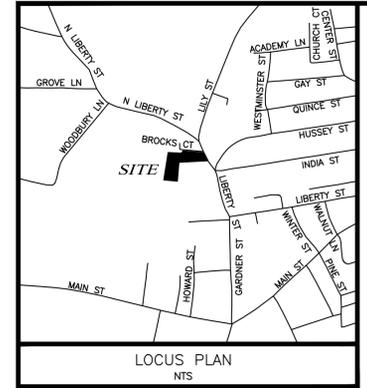
Mark Rits  
Project Manager/Permitting Specialist

J. MARCKLINGER & ASSOCIATES, INC.  
 PROFESSIONAL LAND SURVEYORS  
 P.O. BOX 896  
 NANTUCKET, MA. 02554  
 (310) 945-7054



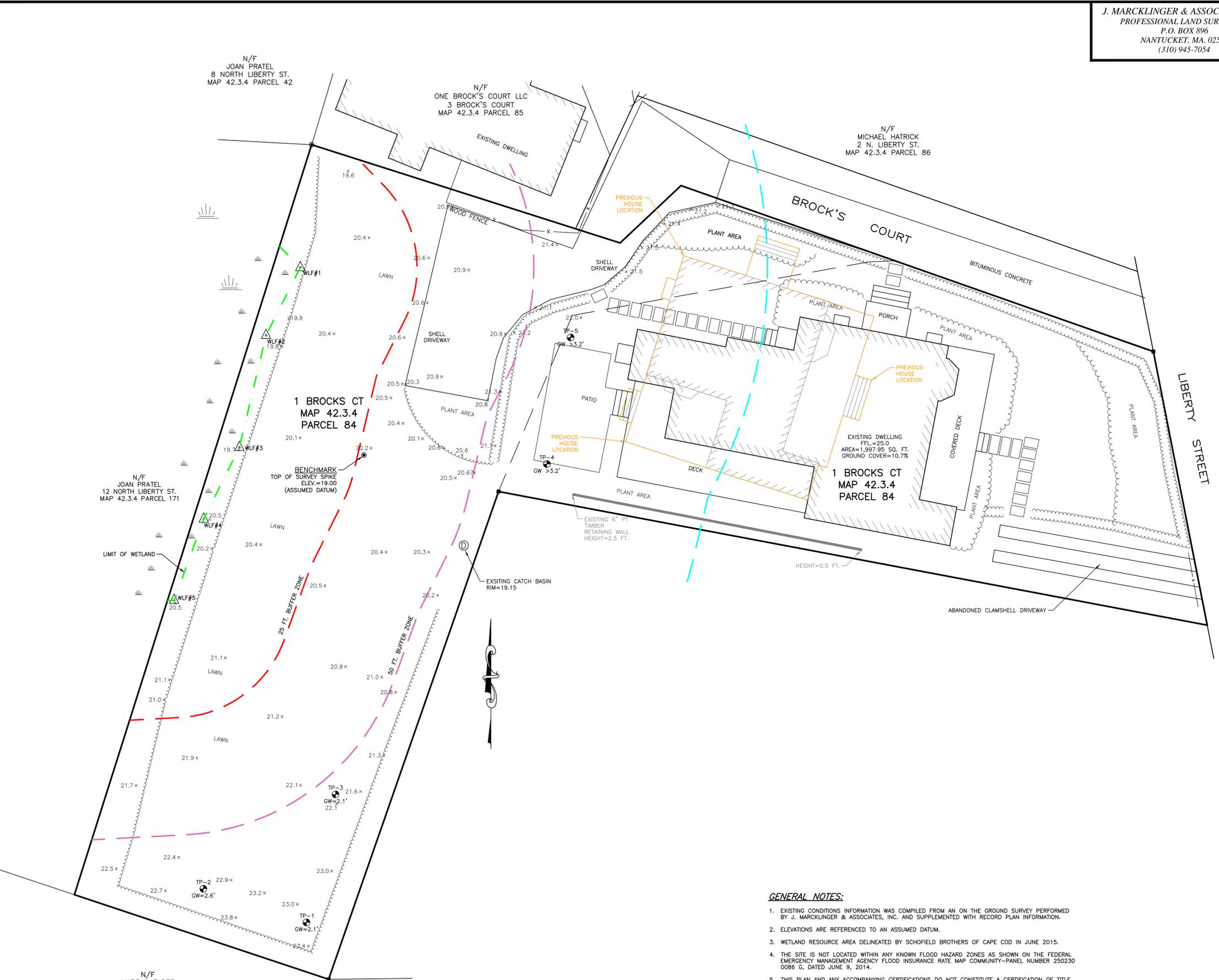
**SITE DESIGN  
 ENGINEERING, LLC.**

11 CUSHMAN STREET  
 MIDDLEBORO, MA 02346  
 T: 508-967-0673 F: 508-967-0674  
 WWW.SITEDESIGNENG.COM



**LEGEND**

- PROPERTY LINE
- 20.3 x SPOT ELEVATION
- x FENCE
- HEDGE LINE
- LANDSCAPING
- LIMIT OF WETLAND
- △ WETLAND FLAG
- 25 FT. BUFFER ZONE
- 50 FT. BUFFER ZONE
- 100 FT. BUFFER ZONE
- GW DEPTH TO GROUNDWATER



**ZONING CLASSIFICATION: R-1**

- MINIMUM LOT SIZE 5,000 SQ. FT.
- MINIMUM FRONTAGE 50 FT.
- FRONT YARD SETBACK 10 FT.
- REAR YARD SETBACK 5 FT.
- SIDE YARD SETBACK 5 FT.
- GROUND COVER RATIO 30%±

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

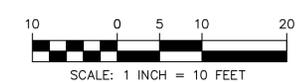
PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPEALS (BOOK 1359 PAGE 248) GRANTING RELIEF OF SIDELINE SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.6± FEET.

**OVERLAY DISTRICT APPLICABILITY**

DORMITORY	—
EMPLOYEE HOUSING	—
FLOOD HAZARD	—
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	—
MID-ISLAND PLANNED	—
MULTI-FAMILY	—
SIASCONSET SEWER	—
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	—
WELLHEAD PROTECTION	—
MA DEP ZONE II	—
FORMULA BUSINESS EXCLUSION DISTRICT	—

**GENERAL NOTES:**

- EXISTING CONDITIONS INFORMATION WAS COMPILED FROM AN ON THE GROUND SURVEY PERFORMED BY J. MARCKLINGER & ASSOCIATES, INC. AND SUPPLEMENTED WITH RECORD PLAN INFORMATION.
- ELEVATIONS ARE REFERENCED TO AN ASSUMED DATUM.
- WETLAND RESOURCE AREA DELINEATED BY SCHOFIELD BROTHERS OF CAPE COD IN JUNE 2015.
- THE SITE IS NOT LOCATED WITHIN ANY KNOWN FLOOD HAZARD ZONES AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 250230 0086 G, DATED JUNE 9, 2014.
- THIS PLAN AND ANY ACCOMPANYING CERTIFICATIONS DO NOT CONSTITUTE A CERTIFICATION OF TITLE TO THE PROPERTY DISPLAYED HEREON. THE OWNER OF LOCUS AND ABUTTING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN ASSESSORS RECORDS.
- EXISTING UTILITY LINES SHOWN ON THIS PLAN ARE FROM AVAILABLE INFORMATION AND ARE APPROXIMATE LOCATIONS. THERE MAY BE EXISTING LINES OTHER THAN THOSE INDICATED. SITE DESIGN ENGINEERING, LLC. ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES OMITTED OR INACCURATELY SHOWN. BEFORE PLANNING FUTURE CONNECTIONS, THE PROPER PUBLIC UTILITY ENGINEERING DEPARTMENT SHOULD BE CONSULTED.



NO.	DATE	DESCRIPTION	DCM	APPROVED
1	11/25/15	ADDED BORING LOCATIONS REMOVE SHED		

**PLAN REVISIONS**

DATE: OCTOBER 29, 2015

DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JM

PROJECT NO. 12035

ISSUED FOR: APPROVAL



**EXISTING CONDITIONS PLAN**

1 BROCK'S COURT  
 ASSESSOR'S MAP 42.3.4, PARCEL 84  
 NANTUCKET, MASSACHUSETTS

PREPARED FOR EDWIN SNIDER REALTY TRUST

DRAWING TITLE:

**EXISTING  
 CONDITIONS PLAN**

SCALE: 1"=10'

SHEET NO.

**1 OF 1**



# SITE DESIGN ENGINEERING, LLC.

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

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January 5, 2016

SDE No. 12035

Ernest Steinauer  
Chairman – Nantucket Conservation Commission  
Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**Subject: Supplemental Information for Notice of Intent SE48-2834  
1 Brock's Court  
Nantucket, Massachusetts  
Tax Map 42.3.4, Parcel 84**

Dear Mr. Steinauer:

The purpose of this letter is to provide supplemental information addressing issues which were discussed by the Commission during the Public Hearing for the above referenced NOI application. Specifically, the Commission requested additional groundwater and soils information for the Subject Property.

Additional site evaluation was performed on December 9, 2015 by Daniel C. Mulloy, PE and on December 16, 2015 By Laura Schofield. The December 9, 2015 evaluation included the excavation of three deep test pits (TP-6 through TP-8) along the eastern portion of the Subject Property (see attached plan). The December 16, 2015 evaluation included the excavation of three shallow test pits adjacent to the BVW on the western portion of the Subject Property.

Rainfall totals from the Nantucket Airport were obtained from the Weather Underground website ([www.weatherunderground.com](http://www.weatherunderground.com)) for the 7 days prior to each site visit (dates highlighted in blue) and are provided in Table 1 below.

**Table 1: Total rainfall data for the Nantucket Airport from [www.weatherunderground.com](http://www.weatherunderground.com) for the 7-day period prior to each site visit. Site visits highlighted in blue.**

Date	Precipitation (in)	Events
12/2/2015	0.1	Fog-Rain
12/3/2015	0.03	Fog-Rain
12/4/2015	0	
12/5/2015	0	
12/6/2015	0	Fog
12/7/2015	0	
12/8/2015	0.3	Rain
12/9/2015	0	
12/10/2015	0.02	Rain
12/11/2015	0	Fog
12/12/2015	0	
12/13/2015	0	
12/14/2015	0.33	Fog-Rain
12/15/2015	0.36	Fog-Rain
12/16/2015	0	

Nantucket received approximately 0.3 inches of rainfall in the 48 hours prior to the December 9, 2015 site visit and approximately 0.69 inches of rainfall in the 48 hours prior to the December 15, 2015 site visit.

#### ***Deep Observation Hole Groundwater Information***

Three (3) deep observation holes were excavated using a small track mounted excavator along the eastern side of the Subject Property on December 9, 2015. TP-6 was located near the southeast corner of the Subject Property closest to the Fader Pond. TP-7 was located along the central portion of the Subject Property near the existing catch basin. TP-8 Was located in the existing shell driveway adjacent to the existing stone patio. Complete logs of each test pit location are provided below.

TP-6 showed weeping at the top of the C-1 layer (36") and mottling at 32". No weeping was observed within the C-1 layer. After the observation hole had been allowed to stay open for a time standing water was observed at a depth of 108 inches.

TP-7 showed weeping at 24-48" (within the C-1 layer). No mottles were observed in TP-7. After the observation hole had been allowed to stay open for a time standing water was observed at a depth of 88 inches.

TP-8 showed weeping just above the C-1 layer (26-32") and mottling was observed at 70". After the observation hole had been allowed to stay open for a time standing water was observed at a depth of 75 inches.

#### ***Shallow Test Pit Groundwater Information***

Three (3) shallow test pits were excavated by Laura Schofield along the western portion of the Subject Property on December 16, 2015. These test pits were excavated by hand. Test Pit #1 was located along the southwestern portion of the Subject Property closest to the Fader Pond. Test Pit #2 was located along the central portion of the Subject Property. Test Pit #3 was located along the northwestern portion of the Subject Property. Complete logs for each Test Pit are included in the Attached Schofield Brothers report.

Test Pit #1 showed isolated weeping in one pocket at a depth of 12 inches. No mottles were observed in the test pit. A boring was done in the center of the Test Pit and groundwater was encountered at 43". After the Test Pit had been allowed to remain open for a time ground water rose to 31".

Test Pit #2 showed no weeping. No mottles were observed in the test pit. A boring was done in the center of the Test Pit and groundwater was encountered at 33". Remnants of an old organic horizon was encountered at 39 inches.

Test Pit #3 showed no weeping. No mottles were observed in the test pit. No ground water was observed in the test pit.

#### ***Summary***

The supplemental soils and groundwater information indicates that there is a transient perched water table at a depth of 2-3 feet below the surface with an actual water table at a greater depth. Soils

information collected by Laura Schofield in the area immediately upland of the BVW boundary indicates that hydric soils are not present and confirms the previously delineated extent of the BVW.

If you have any questions please feel free to contact me via email at [mrits@sitedesigneng.com](mailto:mrits@sitedesigneng.com) or at 508-802-5832.

Respectfully,  
Site Design Engineering, LLC.

A handwritten signature in black ink, appearing to read "Mark Rits". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Rits  
Project Manager/Permitting Specialist

Deep Observation Hole Number: 6

Depth (in.)	Soil Horizon/ Layer	Soil Matrix: Color- Moist (Munsell)	Redoximorphic Features			Soil Texture (USDA)	Coarse Fragments % by Volume		Soil Structure	Soil Consistence (Moist)	Other
			Depth	Color	Percent		Gravel	Cobbles & Stones			
0-12	A	10 YR 2/2				Sandy Loam					
12-36	B	10 YR 5/8	-	-	0	Loamy Sand					
36-100	C1	5 Y 6/3	-	-		Silt Loam, Clay			massive		firm
100-120	C2	5 Y 5/1				Sand			loose	wet	

Additional Notes:

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Weeping at 36", mottling at 32", no weeping within C1 layer, perched water table on top of C1 restrictive layer, standing water 108"

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Deep Observation Hole Number: 7

Depth (in.)	Soil Horizon/ Layer	Soil Matrix: Color- Moist (Munsell)	Redoximorphic Features			Soil Texture (USDA)	Coarse Fragments % by Volume		Soil Structure	Soil Consistence (Moist)	Other
			Depth	Color	Percent		Gravel	Cobbles & Stones			
0-12	A	10 YR 2/2				Sandy Loam					
12-84	C1	10 YR 3/1	-	-	0	Sandy Loam			blocky	moist	
84-120	C2	5 Y 5/1	-	-		Sand			loose	wet	

Additional Notes:

Weeping at 24"-48" perched, no mottling observed, standing water 88"

Deep Observation Hole Number: 8

Depth (in.)	Soil Horizon/ Layer	Soil Matrix: Color- Moist (Munsell)	Redoximorphic Features			Soil Texture (USDA)	Coarse Fragments % by Volume		Soil Structure	Soil Consistence (Moist)	Other
			Depth	Color	Percent		Gravel	Cobbles & Stones			
0-32	Fill										
32-68	C1	10 YR 3/1	-	-	0	Sandy Loam			blocky	moist	
68-108	C2	5 Y 5/1	-	-		Sand			loose	wet	

Additional Notes:

Weeping at 26"-32" perched, standing water 75", mottling at 70"



**SCHOFIELD BROTHERS OF CAPE COD**

Engineering - Land Surveying  
Environmental Permitting  
161 Cranberry Highway  
P.O. Box 101  
Orleans, MA 02653-0101  
508-255-2098 - 508-240-1215 (fax)  
E-mail: schobro@verizon.net

December 21, 2015

Site Design Engineering, LLC  
11 Cushman Street  
Middleboro, MA 02346  
Attn: Mark Ritts

RE: 1 Brock's Court  
Nantucket, MA

Dear Mr. Ritts;

As you requested, I conducted a site visit on December 16, 2015 for the purpose of evaluating the soil conditions within the lawn adjacent to the privet hedge along the westerly property line at 1 Brock's Court to provide additional information to the Conservation Commission.

Three test pits were performed parallel to the westerly privet hedge. The results are as follows:

Test Pit #1

<b>Horizon</b>	<b>Depth</b>	<b>Matrix Color</b>	<b>Mottles Color</b>
Fill	0-18"	10 YR 2/2	No mottles observed but some oxidized rhizospheres noted at 8-14".

Fill is a sandy loam. Bits of brick were observed. At 12" some weeping in the pit was noted, but it was observed only in one pocket and there had been rain in the prior 24 hours. A boring was done in the bottom of the test pit. Groundwater was encountered at 43". Eventually the groundwater rose to 31" after the boring was left to stand open for a period of time.

Test Pit #2

<b>Horizon</b>	<b>Depth</b>	<b>Matrix Color</b>	<b>Mottles Color</b>
Fill	0-18"	10 YR 2/2	No – but some oxidized rhizospheres noted

Fill is a sandy loam. At 12" there were some small pockets of sand (10 YR5/3) noted. Fill contains few pieces of brick.

A boring was done in the bottom of the test pit. Remnants of an old organic horizon was noted at 39"  
Groundwater observed at 33"

**SCHOFIELD BROTHERS OF CAPE COD**

Engineering - Land Surveying

Environmental Permitting

Test Pit #3

<b>Horizon</b>	<b>Depth</b>	<b>Matrix Color</b>	<b>Mottles Color</b>
Fill	0-12"	10 YR 2/2	No mottles observed but some oxidized rhizospheres noted

Fill is a sandy loam. Brick pieces observed in the fill.

Fill (sand)	12-18"	10 YR 5/4	No mottles observed. No groundwater observed.
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In a report dated July 16, 2015 summarizing my initial field visit, I noted that "a small bank was observed in the topography running parallel to and behind the existing privet hedge separating the wooded swamp from the lawn". The depth of the observed water table below the test pits seems consistent with the elevation of the adjacent wetland. The presence of the fill in the test pits and the traces of an old organic horizon at approximately the same elevation suggest that the lawn area was altered at some point in the past.

While some oxidized rhizospheres were observed in the test pits, and these are an indicator of saturated soil conditions, the fill material in the test pits is a very dark brown material and any mottles, if present, were not observed within 18" of the ground surface.

Catch basin/drainage swale at the inside corner of the L-shape property corner

There is a catch basin located at the inside corner of the L-shape in the subject property. There is what appears to be man-made drainage swale in conjunction with the catch basin that extends along the property line in a southerly direction for several feet until it dwindles away into the privet hedge. Running or standing water was not observed in the swale during my December 16, 2015 field visit. As the swale does not connect to another wetland resource area upgradient of the catch basin, it appears that the swale was perhaps intended to collect and direct surface water runoff towards the catch basin.

Very truly yours,

**Schofield Brothers of Cape Cod**

*Laura A. Schofield*

Laura A. Schofield, RS, SE  
Project Manager



January 12, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**RE:           Review, Notices of Intent  
              Brock's Court, Nantucket, MA  
              DEP Files SE 48-2834, 2835  
              NEE File 13-4266**

Dear Commission members,

New England Environmental, Inc. (NEE) met Jeff Carlson, representing the Nantucket Conservation Commission, and consultants to the Notice of Intent applicants at Brock's Court on January 7, 2015. NEE was representing the interests of concerned abutters to the property. During the site visit all parties were able to observe aspects of current hydrology and soil conditions at the 1 Brock's Court and 36 Liberty Street properties. This letter summarizes certain findings from that site visit and ongoing concerns about the proposed work.

### **Soils and wetland boundaries**

NEE, representing the abutters, and Laura Schofield, representing the applicant, had noted that a small pond and potential bordering wetlands were present on the 36 Liberty Street property, well within 100 feet of a proposed new house on the Brock's Court property. During the site assessment on January 7, several soil borings and pits were made in the mown lawn on the northern side of the pond. It was agreed that hydric soil profiles were present in most of these locations. The soil profiles were similar to the soil profile described in the NEE report of September 9, 2013, and were consistent with NRCS Hydric Soil Indicators A11 (Depleted Below Dark Surface) and/or F6 (Depleted Dark Surface). Due to fading daylight and limited time, it was agreed to mark the edge of soil profiles agreed by all parties to be hydric. Three orange stick flags numbered A1-A3 were placed adjacent to soil borings. This was not a wetland boundary delineation, as soils were not sampled in all locations north of these flags, but it marks the limit of wetland conditions agreed during the available time on January 7. The flags were to be surveyed and placed on the project plans by Site Design Engineering. Revised plans have not been made available as of this submission on January 12.

A separate soil pit was excavated on the Brock's Court property, approximately 15 feet south-southeast of flag WF5, in mown lawn east of the privet hedge which occupies the western edge of this lot. This soil profile was consistent with NRCS Hydric Soil Indicator F6 (Depleted Dark Surface). A description of this soil, with photographs, is attached to this report. Again, time limitations made it impossible to conduct further examination of soils within the Brock's Court lawn. However, this soil did have oxidized

rhizospheres within the upper 12”, as well as other high-chroma pore linings. Oxidized rhizospheres were noted in the three soil profiles submitted by Schofield Brothers in a letter to Site Design Engineering, dated December 21, 2015. These are high-chroma redoximorphic features which form under saturated soil conditions. Observation of 2% or more oxidized rhizospheres within the top 12” of the soil is considered a primary indicator of wetland hydrology (Corps of Engineers Hydrology Indicator C3). The Schofield letter noted “no mottles” within the three profiles, but this contradicts the finding of oxidized rhizospheres.

These soil observations support the finding that the delineation of wetlands depicted on the Proposed Site Plan dated October 29, 2015 by Site Design Engineering is incomplete or incorrect, and that additional wetlands within the Brock’s Court lawn and associated with the 36 Liberty Street pond will extend their 50-foot no-structures buffer zones onto the footprint of the proposed new house at Brock’s Court.

### Site and neighborhood hydrology

Three additional deep observation holes were dug by Site Design Engineering on the Brock’s Court site on December 9, 2015, and labeled TP-6, TP-7, and TP-8 on the Field Diagram which accompanies the letter to the Nantucket Commission dated January 5, 2016. Water was recorded as weeping from the sides of these pits at 26”, 24”, and 36”, respectively, with “mottling” noted in TP-8 at 32”. Groundwater in three soil borings around TP-8 (TP-1, 2, and 3) was noted to be at 2.1’, 2.6’, and 2.1’, respectively, on the revised Existing Conditions Plan by Site Design Engineering, revision date 11/25/15. Water was noted weeping from one of the Schofield shallow pits at 12”, standing water in another at 33”, and no water in the third pit which extended only down to 18”. Standing water in the NEE pit southeast of flag WF5 was seen at 18”. All of these observations between November 18, 2015 and January 7, 2016 place the groundwater level between 12” and 36”. However, this is not the high water level on this site. 2015 was a dry year (30.38” precipitation, over 7” under the annual average of 37.53”), and even in a normal year, groundwater levels are highest in the early spring. The following table shows water levels below ground surface in the two USGS groundwater monitoring wells closest to Brock’s Court, which are located to the east near Old South Road (411609070050701) and Rugged Road (411535070051002).

well number	spring average*	11/25/2015	12/22/2015
411535070051002	20.07 feet	22.47 feet	22.25 feet
411609070050701	7.70 feet	9.86 feet	9.75 feet

\* 10-year average 2006-2015, inclusive, of readings on April 24-29, except 2012, when the reading was on March 29.

This data shows that groundwater levels in these two wells in November and December of 2015 was more than two feet below the average high water levels recorded in the early spring. If groundwater on the Brock’s Court site showed a similar pattern, we could expect that high water levels in a normal spring would be within a foot of the surface, and possibly at the surface in low spots. If these water levels were to persist for a week or more during the growing season, then wetland hydrology would be present.

Observations made during the site visit on January 7 confirmed that the pond on the Liberty Street property is at a higher elevation than the Brock’s Court lawn. Both surface water and groundwater can be expected to move north, following the surface topography. Groundwater moving north from Brock’s Court may flow through sandy soils under North Liberty Street, toward the topographical depression known as Lily Pond. The unpermitted fill already placed around the existing home, and the proposed new structures, will alter the neighborhood hydrology. Neighbors have already observed increased

surface flooding on adjacent properties. The construction of a pool and house, with increased impervious surface and structures sure to be within groundwater, will further displace groundwater and affect the flow of surface water. There is currently a lack of information about existing hydrology, in particular whether the grate in the privet hedge on the eastern side of the lawn is connected to a working drainage system, and the fate of surface water running off the property. Further, the applicant has not, to this point, modeled the hydrological changes which will result from the project. Both groundwater and surface water leaving the site may end up in Lily Pond. The effects upon water levels and water quality are unknown.

We hope these observations are helpful. Please contact NEE if you have any questions regarding these findings. We are available to discuss these projects and their implications with the Conservation Commission at the public hearing.

Sincerely,  
New England Environmental, Inc.



Bruce Griffin  
Certified Professional Soil Scientist

cc: Jeff Carlson, Natural Resources Coordinator, Town of Nantucket  
Mark Rits, P.E., Site Design Engineering, LLC  
Laura Schofield, R.S., Schofield Brothers of Cape Cod  
Kendra Kinscherf, Esq., Davis, Malm & D'Agostine, P.C.  
Joanna Lewis, Gregory Elder, and Marsha Fader, abutters

enc. Soil datasheets

**SOIL**

Sampling Point: 15' SE of WF5

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-3"	2.5Y2.5/1	100%	none				sandy loam	some stripped grains
3-14"	10YR3/1	88%	7.5YR4/4,4/6	2%	C	PL	sandy loam	incl. oxidized rhizospheres
			10YR4/1,5/1	10%	D	M		
14-18"	10YR4/1	90%	10YR7/1	10%	D	M	sandy loam	
18-24"	10YR4/1	60%	10YR7/1	20%	D	M	sandy loam	
	10YR3/1	20%						

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators:**

- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) (LRR R, MLRA 149B)

- Polyvalue Below Surface (S8) (LRR R, MLRA 149B)
- Thin Dark Surface (S9) (LRR R, MLRA 149B)
- Loamy Mucky Mineral
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 2 cm Muck (A10) (LRR K, L, MLRA 149B)
- Coast Prairie Redox (A16)(LRR K, L, R)
- 5 cm Mucky Peat or Peat (S3) (LRR K, L, R)
- Dark Surface (S7) (LRR K, L)
- Polyvalue Below Surface (S8) (LRR K, L)
- Thin Dark Surface (S9) (LRR K, L)
- Iron-Manganese Masses (F12) (LRR K, L, R)
- Piedmont Floodplain Soils (F19) (MLRA 149B)
- Mesic Spodic (TA6) (MLRA 144A, 145, 149B)
- Red Parent Material (TF2)
- Very Shallow Dark Surface (TF12)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_

Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes  No

**Remarks:** Redox concentrations, including but not limited to oxidized rhizospheres, begin at about 6" from surface.



**SOIL - additional photos and remarks from Brocks Court soil pit**

Sampling Point: 15' SE of WF5



**Remarks:** Photographs of redox concentrations and depletions within second layer of soil profile. Evidence of historic fill and disturbance, including a chip of coal, were seen. Standing water at 18" was observed in the pit. This soil profile also matches the criteria for Indicator VIII, Dark Mineral Soils, in Field Indicators for Identifying Hydric Soils in New England (Version 3, 2004).

Kendra Kinscherf

January 13, 2016

**VIA EMAIL**

Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

Re: One Brock's Court Notices of Intent (SE48-2834 & SE48-2835)

Dear Members of the Conservation Commission:

This office represents Marsha Fader, who is an abutter to the proposed project at One Brock's Court. I submit this letter in opposition to the proposed development of the property. The proposed development does not comply with the Nantucket Wetlands Bylaw and Wetland Protection Regulations and will have a significant impact on wetlands resources in the neighborhood.

My client's and the Applicant's properties are located adjacent to Bordering Vegetative Wetlands (BVW), which are protected under Nantucket's bylaw and regulations. The following provisions are relevant to the applications before you:

- All structures that are not water dependent must be at least 50 feet from the vegetated wetland;
- No more than 50% of the area located within the 25- and 50-foot buffer shall be altered; and
- All structures must maintain an undisturbed two-foot separation to high groundwater.

In order to grant waivers from these requirements, the Applicant has the burden of demonstrating:

that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow that project to proceed in compliance with the regulations... The burden of proof to show no

*direct* 617-589-3891 *direct fax* 617-305-3171  
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www.davismalm.com

reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not [*sic*] otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.

Regulations § 1.03F.3(a). The Applicant has not met any of these requirements.

*The Proposal Does Not Meet the Performance Standards Set Forth in the Regulations*

The Applicant proposes to construct a second home on the Property and install a pervious patio, pervious driveway, and an in-ground pool. Although the Applicant has not yet provided all of the previously requested information, it is clear that the proposal will not comply with the applicable performance standards.

As addressed during the first hearing, the Applicant's delineation of the BVW is not accurate. Additional soil samples taken by Schofield Brothers of Cape Cod and New England Environmental, Inc. have identified hydric soils at least twenty feet from the pond on Ms. Fader's property and also in the lawn area of the Applicant's property, as well as oxidized rhizospheres along the privet hedge on the Applicant's property. According to the DEP's Delineating Bordering Wetlands Manual, hydric soil indicators take many years to develop and are therefore good indicators of wetland hydrology. Also as noted in that Manual, where the vegetation was previously altered (as here with the filled and lawn areas of the properties), the use of soil characteristics is necessary to delineate BVW due to the lack of native vegetation. The presence of the hydric soils and oxidized rhizospheres are indicators of wetland hydrological conditions and confirm saturated soil conditions just below the surface. In addition, the presence of hydric soils meets the definition of freshwater wetlands in the Nantucket Wetlands Regulations.

Schofield Brothers of Cape Cod has also noted that the Applicant's property has areas of fill. It is our understanding that the location of the pool, if not a greater area, is an area previously filled. According to DEP's Manual, in order to accurately characterize filled areas, it is necessary to dig below the fill and take samples of the original soil. It does not appear this practice was followed by Schofield at all test locations. However, in its December 21, 2015 report, Schofield indicated that the groundwater was at a shallower depth than the original soil (groundwater at 33"; old organic soil at 39").

Based on this data, the Applicant's delineation of the BVW is not accurate and the boundary of the BVW is located farther within the boundaries of the Applicant's property. In addition, the pond on Ms. Fader's property meets the Nantucket Wetlands Regulations' definition of a pond, subjecting it and the surrounding vegetated wetland (meadow) to protection.

As a result of a proper delineation, the locations of the 25-foot, 50-foot, and 100-foot buffer setbacks will change from those shown on the plans submitted and have a significant impact on the proposed

project. The 50-foot buffer should be shifted to the east, and thus, the proposed second home and in-ground pool will be in between the 25-foot and 50-foot buffer. Since structures are not permitted within that buffer zone, the proposed project will violate the performance standards under the local regulations. *See* Regulations §§ 3.02B.1 & 3.03B.1.

Even if the Applicant's wetlands delineation and buffer setbacks are not changed, the proposed project does not comply with the performance standards. Based upon the plans, it appears that more than 50% of the area between the 25- and 50-foot buffers will be altered and become a pervious driveway and patio. Although these areas will be pervious, they will become compacted over time, reducing the capability of water infiltration and drainage. This raises concerns of flooding in an area already prone to flooding due to the high water table.

Based upon the Applicant's waiver request, the proposed project does not meet the requirement of maintaining the 2-foot separation between structures (the second home and the pool) and groundwater. Regarding the in-ground pool, the Applicant indicates that groundwater is at a depth greater than 3.2 feet. No information on the precise depth is provided. Because the pool will be at a depth greater than 3.2 feet and because it is well documented that the water table is high in this area, a 2-foot separation will not occur.

In addition, as described by NEEI in its most recent submission, it is likely that the groundwater will be within a foot of the surface during normal spring conditions. Therefore a 2-foot separation between the foundation of the new building and groundwater will not be maintained.

Overall, the large amount of compacted pervious and impervious surfaces proposed to be added to the Applicant's property likely will cause a significant alteration to the hydrology of the area and result in adverse impacts to the resources protected by Nantucket's Wetlands Bylaw and Regulations.

#### The Applicant Has Not Demonstrated Waivers Are Appropriate

As conceded by the Applicant, waivers are necessary for the proposed project even if the wetlands delineation remains the same. The Applicant is required to provide an analysis of alternatives and an explanation why such alternatives are not feasible. The Applicant also must demonstrate that the proposed project will not adversely affect the wetlands resources.

The Applicant utterly failed to provide any analysis of alternatives that would not result in violations of the regulations. In considering possible alternatives, the Conservation Commission should analyze the proposal as a single project because the Applicant should not benefit from the previous unapproved work by arbitrarily separating it into two Notices of Intent. This is not a case in which the Applicant is left with no possibility of developing its property. When viewed as a whole, the Applicant already has a single-family home on the property. There is absolutely no need for a secondary dwelling or in-ground swimming pool. Simply put, the Applicant's first Notice of Intent seeking approval for work already done to improve the single-family home can be approved with no

January 13, 2016  
Page 4

DAVIS MALM &  
D'AGOSTINE P.C.  
ATTORNEYS AT LAW

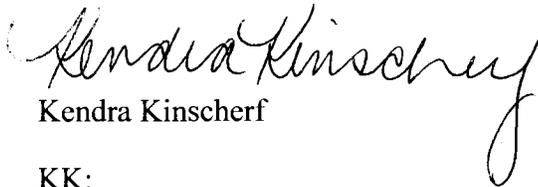
significant violations of the regulations. The requested waivers for the additional work therefore are unjustified.

In addition, it cannot seriously be contended that the project will not have adverse impacts on the interests protected by Nantucket's Wetlands Bylaw. The Bylaw protects wetlands values in Nantucket, including groundwater and flood control. The proposed project likely will alter groundwater and the infiltration and drainage capacity of the soils in the area by increasing the amount of compacted and impervious surfaces, and by displacement due to the below-surface structures.

Since the Applicant cannot meet its burden of demonstrating compliance with Section 1.03F.3(a), the Conservation Commission should deny the request for the waivers.

The proposed project does not meet the requirements of the local wetlands regulations, and Ms. Fader respectfully requests that the Conservation Commission deny an Order of Conditions.

Sincerely,



Kendra Kinscherf

KK:

cc: Client  
Jeff Carlson  
Steven Cohen  
Mark Rits

The contest of the application for 44 Liberty Street is not about a "not in my backyard" complaint. The proposed development at 44 Liberty Street is about the abuse of a resource--a resource that once was a wooded wetland, home to pheasant and water-loving plants. In the late 1990's this wooded area was cut down, grassed over and filled with soil in an attempt to add yet another piece of property for development. These are facts. In the months that followed, my parents and I watched the remaining trees that bordered this property begin to decline from diversion of a natural water flow. Water, which now had no resting place from its downward path began to pool in the surrounding yards. Gradually, our backyard trees declined and died as the water pooled. Ironically, but obviously to local residents who knew how wet the area already was, no house or structure was ever built on this property despite the unscrupulous efforts of real estate agents to advertise the land as 'developable'. In fact, even mowing the grassed lawn was almost impossible at times because of the naturally high water table. Landscapers can verify this.

This wetland condition is intimately known to us as we have observed it over the many years we have lived at 36 and 42 Liberty Street. The water table has always been close to the surface. To see yet another attempt to sidestep what Mother Nature has naturally intended is frustrating and essentially abusive to what was once a pristine wetland swamp. While the applicant may not know this history as we do, we strongly feel that the science speaks for itself. The science will demonstrate the history of the land and show that the proposed development is ultimately wrong from a regulatory and resource protection standpoint.

Lastly, the final insult to this condition is the disregard for the grading against code which the applicant uses, and the retaining wall which further impedes the flow of water. This exacerbates the already pooling condition of our yard and is clearly over a foot above the lowest section of our yard. We are frankly at a loss as to how this re-grading was allowed by local authorities, and feel further victimized by the damage from the natural water flow. We not only urge decisions on this application to deny further insult to this resource and take absolute steps to enforce local and national wetland law, but propose an absolute remediation of the harm that has already been done.

Greg and Caryl Elder  
42 Liberty Street



February 4, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**RE:           Review, Notices of Intent  
              Brock's Court, Nantucket, MA  
              DEP Files SE 48-2834, 2835  
              NEE File 13-4266**

Dear Commission members,

New England Environmental, Inc. (NEE) again met Jeff Carlson, representing the Commission, and Mark Rits of Site Design Engineering, LLC at Brock's Court and the adjacent property at 36 Liberty Street on January 21, 2016. During the site visit NEE was able to further investigate soil conditions on and around the Brock's Court site, delineate the edge of wetlands at 36 Liberty Street closest to Brock's Court, and assess neighborhood hydrology and the wetlands complex that occupies the northern slopes of Quarter Mile Hill. This letter summarizes certain findings from that site visit and ongoing concerns about the proposed work.

NEE dug soil pits in two new locations on the Brock's Court lot, and performed soil borings on the adjacent lot to the east, at 42 Liberty Street. Soil profiles are described on attached Corps of Engineers data forms, and were designated H2, H3, and H4. The location of the soil pit dug on January 7, for which a profile was submitted to the Commission previously, was designated H1. The approximate locations of these soils are shown on the attached figure labeled "soil pit sketch". All four locations were also surveyed by Mr. Rits. These soil profiles were all consistent with NRCS Hydric Soil Indicators A11 (Depleted Below Dark Surface) and/or F6 (Depleted Dark Surface). Mr. Rits also surveyed the location of three orange stick flags numbered A1-A3 on the 36 Liberty Street property, which were placed adjacent to soil borings agreed by all parties to be hydric during the January 7 assessment. Revised plans showing these hydric soil locations have not been made available as of this submission.

These soil observations provide additional evidence that the delineation of wetlands depicted on the Proposed Site Plan dated October 29, 2015 by Site Design Engineering is incorrect, with additional wetlands within the Brock's Court lawn and extending onto 36 and 42 Liberty Street.

In our letter of January 12, NEE provided evidence that seasonal high groundwater elevations might be higher than those previously submitted by Site Design Engineering. Their observations between November 18, 2015 and January 7, 2016 place the groundwater level between 12" and 36" below the surface. Data from two USGS groundwater monitoring wells on Nantucket shows that groundwater

levels in these wells in November and December of 2015 was more than two feet below the average high water levels recorded in the early spring.

On January 16 a rain storm deposited over an inch of rain on Nantucket. The pond at 36 Liberty Street was overflowing, with sheet flow toward Brock's Court. Surface water was visible in the Brock's Court lawn and on the lawn at 42 Liberty Street. Photographs of these locations taken at 10 a.m., as the rain was ending, are attached to this letter. Photographs of the same areas a day later, January 17 at 10 a.m., show that water was still visible at the surface. This is further evidence that groundwater levels at the proposed house site on Brock's Court are much higher than previously reported, and that the proposed structure not only cannot be built with the mandated two feet of separation from groundwater, but would actually be within the groundwater during a portion of the year.

We hope these observations are helpful. Please contact NEE if you have any questions regarding these findings. We are available to discuss these projects and their implications with the Conservation Commission at the public hearing.

Sincerely,  
New England Environmental, Inc.



Bruce Griffin  
Certified Professional Soil Scientist

cc: Jeff Carlson, Natural Resources Coordinator, Town of Nantucket  
Gregory DeCesare, Massachusetts Department of Environmental Protection  
Mark Rits, P.E., Site Design Engineering, LLC  
Laura Schofield, R.S., Schofield Brothers of Cape Cod  
Paul Feldman, Esq., Davis, Malm & D'Agostine, P.C.  
Joanna Lewis, Gregory Elder, and Marsha Fader, abutters

enc. Soil datasheets, soil pit sketch, site photographs

**SOIL**

Sampling Point: H2

**Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)**

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-4"	10YR2/1	100%	none				sandy loam	some stripped grains
4-10"	10YR3/1	75%	7.5YR3/3,3/4	5%	C	PL	sandy loam	5/1 mixed, not depletions
	2.5Y5/1	20%						
10-20"	2.5Y5/1	65%	2.5Y6/1	15%	D	M	sandy loam	
			7.5YR3/3,3/4	20%	C	PL		

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. <sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators:**

- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) (LRR R, MLRA 149B)

- Polyvalue Below Surface (S8) (LRR R, MLRA 149B)
- Thin Dark Surface (S9) (LRR R, MLRA 149B)
- Loamy Mucky Mineral
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 2 cm Muck (A10) (LRR K, L, MLRA 149B)
- Coast Prairie Redox (A16)(LRR K, L, R)
- 5 cm Mucky Peat or Peat (S3) (LRR K, L, R)
- Dark Surface (S7) (LRR K, L)
- Polyvalue Below Surface (S8) (LRR K, L)
- Thin Dark Surface (S9) (LRR K, L)
- Iron-Manganese Masses (F12) (LRR K, L, R)
- Piedmont Floodplain Soils (F19) (MLRA 149B)
- Mesic Spodic (TA6) (MLRA 144A, 145, 149B)
- Red Parent Material (TF2)
- Very Shallow Dark Surface (TF12)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_

Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes  No

**Remarks:** This hydric soil also matches New England indicator VII, Depleted Below Dark Surface.





**Remarks:** Photograph of redox concentrations and depletions within third layer of soil profile.  
Mixing in second layer may be evidence of historic disturbance.  
Standing water at 16" was observed in the pit.  
New England indicators found in "Field Indicators for Identifying Hydric Soils in New England" (Version 3, 2004).

**SOIL**

Sampling Point: H3

**Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)**

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-3"	10YR2/1	100%	none				sandy loam	some stripped grains
3-16"	10YR3/1	85%	7.5YR3/4,4/4	5%	C	PL	sandy loam	refusal at 16" - stones
			2.5Y5/1	10%	D	M		

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. <sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators:**

- Histosol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) (LRR R, MLRA 149B)

- Polyvalue Below Surface (S8) (LRR R, MLRA 149B)
- Thin Dark Surface (S9) (LRR R, MLRA 149B)
- Loamy Mucky Mineral
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 2 cm Muck (A10) (LRR K, L, MLRA 149B)
- Coast Prairie Redox (A16)(LRR K, L, R)
- 5 cm Mucky Peat or Peat (S3) (LRR K, L, R)
- Dark Surface (S7) (LRR K, L)
- Polyvalue Below Surface (S8) (LRR K, L)
- Thin Dark Surface (S9) (LRR K, L)
- Iron-Manganese Masses (F12) (LRR K, L, R)
- Piedmont Floodplain Soils (F19) (MLRA 149B)
- Mesic Spodic (TA6) (MLRA 144A, 145, 149B)
- Red Parent Material (TF2)
- Very Shallow Dark Surface (TF12)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_  
 Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes  No

**Remarks:** This hydric soil formed in entirely filled or regraded material.



**SOIL - additional photo and remarks from Brocks Court soil pit H3**

Sampling Point:

H3



**Remarks:** Photograph of redox concentrations and depletions within second layer of soil profile.  
Evidence of historic disturbance included chunks of coal or coke, patches of 10YR4/3 loamy sand around pit walls .  
Standing water not observed within this 16" pit.  
New England indicators found in "Field Indicators for Identifying Hydric Soils in New England" (Version 3, 2004).



**SOIL - additional photo and remarks from H4 soil boring**

Sampling Point:

H4

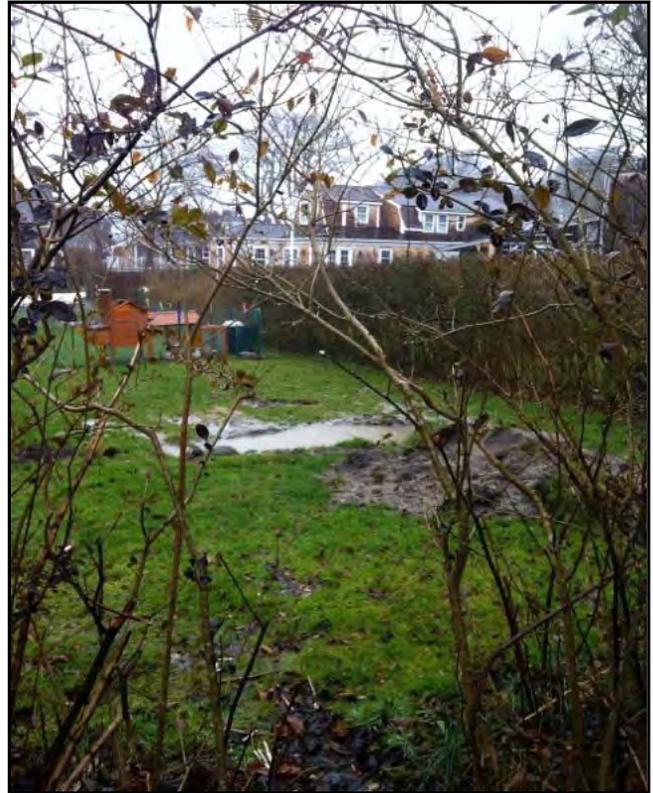


**Remarks:** Photograph of redox concentrations from the first bite of the auger.  
Soil probably contains at least some fill.  
Standing water at 4" was observed in the hole.  
This soil profile also matches the criteria for Indicator VIII, Dark Mineral Soils, in Field Indicators for Identifying Hydric Soils in New England (Version 3, 2004).

**Photo 1:**

Looking northeast at the 1 Brocks Court lawn, at the end of a rainstorm. Groundwater is at the surface.

Photograph taken January 16 at 10 a.m.



**Photo 2:**

The same location 24 hours later, with groundwater down only slightly.

Photograph taken January 17 at 10 a.m.





**Photo 3:** The northern property line at 42 Liberty Street, which is subject to frequent flooding. Photograph taken January 16 at 10 a.m.



**Photo 4:** The same location on January 17 at 10 a.m.



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February 4, 2016

SDE No. 12035

Ernest Steinauer  
Chairman – Nantucket Conservation Commission  
Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**Subject: Supplemental Information for Notice of Intent SE48-2834 and SE48-2835  
1 Brock's Court  
Nantucket, Massachusetts  
Tax Map 42.3.4, Parcel 84**

Dear Mr. Steinauer:

The purpose of this letter is to provide supplemental information addressing issues which were discussed by the Commission during multiple Public Hearings for the above referenced NOI application for work proposed on the 1 Brock's Court property (Subject Property). Specifically, issues associated with a potential wetland resource area on property located at 36 Liberty Street (Map 42.3.4 Lot 83) hereafter referred to as the "Fader Property", questions about the wetland resource delineation on the Subject Property, and questions about groundwater elevations on the Subject Property.

A site visit was performed on both the Subject Property and the Fader Property on January 7, 2016. The site visit was attended by Jeff Carlson (Conservation Commission), Bruce Griffin (New England Environmental), Mark Rits (Site Design), Laura Schofield (Schofield Brothers), Marsha Fader (abutting property owner), and Lucy Dillon (abutter).

The purpose of the site visit was to evaluate potential resource areas on the Fader Property and to provide Mr. Griffin an opportunity to perform a field evaluation of the soils information which was submitted to the Commission on January 5, 2016.

### **Subject Property Development History**

Figure 1 shows a 1940 aerial photograph (Nantucket GIS) of the Subject Property and the surrounding area. It is clear from this photograph that the western portion of the Subject Property was landscaped and that a substantial building was present on the northern portion of the Subject Property approximately where the existing pervious driveway is currently located. It is also clear that there was an enclosure on the southern portion of the Subject Property (likely an animal pen) in the approximate location of the proposed secondary dwelling. Additionally, the property to the west of the Subject Property was in agricultural use and was the site of a large building in an area which is currently delineated as a wetland. It is clear from this photograph that the Subject Property and the surrounding properties have been historically developed and heavily modified and have been in both residential and agricultural use for an extended period of time.

## **Project Modifications**

The Applicant is submitting a two revised site plans dated February 3, 2016 for the NOI application for the previously performed house relocation (SE48-2834). The first revised plan is titled "Existing Conditions Site Plan A" and shows the wetland resource areas and associated buffer zones on the Subject Property, the surveyed location of the man-made pond on the Fader Property, and the buffer zones to the man-made pond. The second revised plan is titled "Existing Conditions Site Plan B" and includes the location of the edge of the Hydric Soil Zone and associated buffer zones on the Fader Property as determined during the January 7, 2016 site visit (see discussion below). The Applicant is also submitting two revised site plans dated February 3, 2016 for the NOI application for the secondary dwelling and swimming pool (SE48-2835). These plans also include minor modifications to the Proposed Project. The first revised plan is titled "Proposed Conditions Site Plan A" and shows the wetland resource areas and associated buffer zones on the Subject Property, the surveyed location of the man-made pond on the Fader Property, and the buffer zones to the man-made pond. The second revised plan is titled "Proposed Conditions Site Plan B" and includes the location of the edge of the Hydric Soil Zone and associated buffer zones on the Fader Property as determined during the January 7, 2016 site visit (see discussion below). The project modifications in both Proposed Conditions plans are the same and include enhanced buffer zone plantings and a modified driveway configuration going to the proposed secondary dwelling. The previously proposed pervious driveway will now include a central grass strip as indicated on both sets of revised site plans.

## **Fader Property Site Overview**

The entirety of the Fader Property including the portion adjacent to the Subject Property has been previously altered, developed, and landscaped. Historical alterations of the Fader Property include extensive terracing of the western portion of the property (see Photos 1 through 4), construction of a partially lined man-made pond on the property (see Photos 5 through 8), use of a circulation pump in portions of the pond (see Photos 9 and 10), construction of a wooden bridge over a portion of the pond (see Photo 7). According to the current property owner, the original terracing of the Fader Property and the excavation of the original man-made pond were performed sometime between 1910 and 1920. The original configuration of the man-made pond was different from the current configuration. Aerial photographs from 1940 (Nantucket GIS) show a pond which is substantially different from the current configuration (see Figure 1 and Figure 2). It is unclear exactly when the pond configuration was altered or when the bridge was constructed, a portion of the pond was lined, and pumping equipment was installed. The terracing altered the existing grade on the Fader Property such that the area adjacent to the man-made pond is now relatively flat (see Photo 5 and Photo 6) instead of following what was likely originally a gentle slope similar to the one which extends onto the Subject Property and the natural wetland to the northwest. The resulting flat portion of the Fader Property is inconsistent with the slope on the southern portion of the Fader Property and the slope which is found on the Subject Property and the adjacent natural wetland area. It is our understanding that the area surrounding the man-made pond has been continuously maintained as a landscaped lawn area since it was constructed. This area does not currently include, nor is there any evidence that it has historically included, any significant native wetland vegetation which was not continuously mowed. The area around the man-made pond as well as the remainder of the western portion of the Fader Property consists of a well maintained manicured lawn (see Photos 11 and 12). Additionally, there are several large stumps located on the northern portion of the Fader

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Property immediately south of the Subject Property boundary (see Photos 13 through 14). Recent aerial photography (Google Earth imagery) indicate that several large trees or shrubs were present on this portion of the property and that they may have been removed from the Fader Property within the last couple of years. Additionally, the Property Owner indicated that there were issues with invasive species encroaching onto the property from the adjacent parcel to the northwest. As there are currently no invasive species along the northern portion of the Fader Property the assumption is that these have been removed. The man-pond on the Fader Property and the area surrounding the man-pond have been significantly altered and have been continuously maintained for an extended period of time and do not exhibit the characteristics of a natural system.

A review of Conservation Commission files for the Fader Property as well as for all abutting properties did not include any filings which delineate the existing man-made pond or any other portions of the Fader Property as a wetland resource area. Additionally, there have been no filings on the Fader Property for any activities including the removal of trees, lining of a portion of the pond, installation of pumping equipment, construction of a bridge, installation of split-rail fencing, or invasive species management along the northern portion of the Fader Property which is located within the buffer zone to an off-site BVW.

#### **Fader Property Site Evaluation (January 7, 2016)**

During the January 7, 2016 site visit, a number of auger holes and shallow test pits were excavated on the Fader Property. The test pits and auger holes were excavated between the existing man-made pond and the Subject Property boundary. The presence and/or extent of hydric soils around other portions of the man-made pond was not determined as part of the January 7, 2016 site evaluation. Test pits and auger holes were excavated into fill material which was comprised primarily of topsoil near the surface with medium to fine sands below. The test pits and auger holes indicated that hydric soils were present in an area adjacent to the man-made pond. These hydric soils extend for a distance of approximately 15-20 feet from the edge of the man-made pond in a northerly direction towards the Subject Property boundary. Mr. Griffin indicated that the underlying sands exhibited hydric characteristics because they were very pale in color. It is important to note that on Nantucket the presence of light colored sands may not necessarily be a hydric indicator as light colored sands are widespread throughout the island. A series of three pin flags were placed by Mr. Griffin to delineate the approximate boundary of the near surface hydric soils in the area located between the existing man-made pond and the Subject Property boundary. The location of the pin flags has been survey located and is shown on the revised Site Plan. The observed hydric indicators were present in loam and fill which was placed on the property as part of original historic site alterations and/or more recent landscaping and maintenance work.

A large natural wetland system is found on the property located to the west of the Subject Property and to the north of the western portion of the Fader Property. This wetland is located in a low spot on the landscape at the bottom of the slope which extends northward away from the terraced Fader Property. A series of test pits and auger holes were excavated near the boundary of the Fader Property adjacent to this wetland system in order to determine if there was a connection between the hydric soils on the Fader Property and the natural vegetated wetland. Hydric soils and other ground water indicators were not present within 18 inches of the surface indicating that the hydric soils around the man-made pond on the Fader Property do not connect directly to the vegetated wetland on the abutting property and that these are two discrete systems.

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### **Fader Property Site Analysis**

The hydric soils which are present around the existing man-made pond are the direct result of water leaching from the man-made pond. This water is then impounded by the terrace fill which results in a longer than usual residence time in the soils adjacent to the pond and leads to the development of hydric features within the near surface soils. Because of ongoing maintenance of this area, no wetland vegetation has been established within these hydric soils. It is also likely that if any other landscaping scenario had been utilized around the man-pond, such as landscaping which included trees, shrubs, or vegetation other than lawn, a significant portion of the excess water in the soils around the man-made pond would have been utilized by the vegetation and the development of hydric features in the surrounding soils would have been significantly less likely to occur. It is also likely that use of a more robust vegetative community around the existing man-made pond would alleviate some of the groundwater issues which are a significant concern to abutters in this portion of the neighborhood. Additionally, the relatively recent removal of trees and/or large shrubs along the property boundary has further reduced the amount of water uptake from this area increasing the amount of time water leaching from the man-made pond stays in the surrounding soils. The presence of hydric soils within the terraced fill material adjacent to the man-made pond is directly the result of terracing of the property, excavation of the man-pond, and both historic and ongoing vegetation management practices on this portion of the Fader Property. Without the man-pond, terracing, or maintenance of a lawn it is unlikely that a substantial natural wetland would exist on this portion of the Fader Property.

Typically, wetland resource areas are delineated based on the presence of both hydric soils and the presence of a dominance of facultative and obligate wetland vegetation. In the event that an established existing wetland resource area has been altered, such as when vegetation has been removed from a wetland resource area, the Department of Environmental Protection (DEP) policy is to fall back to a delineation based solely on soil conditions. Again, this methodology is used when a pre-existing wetland resource area has been recently stripped of indicator wetland vegetation. In the case of the area surrounding the man-made pond on the Fader Property, there is no reliable contemporary record that a natural wetland system existed in this area since the area was altered approximately a century ago. It would not be appropriate to determine that this portion of the Fader Property is a wetland resource area when it does not currently, nor has it historically contained any wetland vegetation. Additionally, the existence of hydric soil conditions on this portion of the Fader Property is the direct result of historic site alteration and ongoing landscape maintenance.

Alteration and maintenance of this portion of the Fader Property is so extensive that no natural wetland vegetation is evident. Mowing occurs to the edge of the existing man-made pond and removal of trees or large shrubs has occurred in the area adjacent to the hydric soils.

### **Subject Property Historical Overview**

A review of historical aerial photographs indicates that portions of the Subject Property have been in residential and agricultural use dating back to at least 1938 (see Figure 1) and that this use has varied over time. Extensive historic agricultural and residential use the Subject Property and the surrounding properties has resulted in an area which has likely been excavated and filled over time. Test pits and shallow soil borings indicate the presence of extensive fill which includes fragments of

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brick, clay tile, and other debris. As a result of these alterations which date back at least 75 years, there are no well-developed natural soil conditions on the Subject Property.

### **Project Justification**

The Applicant is proposing a pervious driveway located partially within the 50-foot BVW buffer zone. The proposed pervious driveway will be located entirely within previously altered and landscaped portions of the Subject Property. Under the Bylaw, pervious driveways are permitted up to the 25-foot BVW buffer zone. The Commission has approved numerous pervious driveways and parking areas outside of the 25-foot BVW buffer zone on a variety of other projects on Nantucket.

The Applicant feels that the man-made pond on the Fader Property meets the Bylaw definition of a Pond as it connects to perched groundwater but does not have a hydrologic connection to any adjacent water bodies. Therefore, the Applicant feels that the extent of the wetland resource area on the Fader Property is the edge of the existing man-made pond and that the appropriate 25-foot, 50-foot, and 100-foot wetland buffer zones must be measured from the edge of the man-made pond. Proposed Conditions Site Plan A (03-Feb-2016) depicts this extent of jurisdictional wetland resource areas and associated buffer zones as they relate to the Proposed Project. The proposed 774 square foot secondary dwelling on the Subject Property is located outside of the 50-foot wetland buffer zone as calculated from the edge of the man-made pond on the Fader Property. It is standard practice for the Commission to allow applicants to construct structures outside of the 50-foot buffer zone to a wetland resource area.

In the event that the Commission decides that the heavily altered area of hydric soils (hereafter referred to as the Hydric Soil Zone) around the man-made pond on the Fader Property somehow qualify as a jurisdictional wetland resource area under the Bylaw. Proposed Conditions Site Plan B (03-Feb-2016) depicts the extent of wetland resource areas and associated buffer zones in the event that the Commission determines that the Hydric Soil Zone is a jurisdictional resource area under the Bylaw. It is important to keep in mind that all of this Hydric Soil Zone is currently mowed and maintained as lawn area. Additionally, the 25-foot buffer zone to this Hydric Soil Zone is also currently mowed and maintained as lawn area and that all of the area between the 25-foot and 50-foot buffer zones to this Hydric Soil Zone which is located on the Fader Property is also maintained as lawn area. Finally, there is evidence to suggest that several large trees have been recently removed from a portion of the Fader Property which is located within the 25-foot and 50-foot buffer zone to this Hydric Soil Zone.

The man-made pond is a jurisdictional wetland resource area under the Bylaw. Currently all of the 25-foot and 50-foot buffer zone to this jurisdictional wetland are altered and maintained as a lawn area. Additionally, if the Hydric Soil Zone surrounding the man-made pond is determined to be a jurisdictional wetland resource area, the entire resource area as well as the associated 25-foot and 50-foot buffer zones are currently maintained as a lawn and do not include any native wetland vegetation. Current use and maintenance of the Fader Property has resulted in significant impacts to the 25-foot and 50-foot buffer zones to the jurisdictional man-made pond. This ongoing use and maintenance has also resulted in significant impacts to the Zone of Hydric Soils and the associated 25-foot and 50-foot buffer zones if this portion of the Fader Property is determined to be a jurisdictional resource area.

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If the Commission determines that the extent of the wetland resource area on the Fader Property includes the Hydric Soil Zone and determines that 25-foot and 50-foot buffer zones must be cast from the limit of the Hydric Soil Zone, the Applicant feels that the proposed 774 square foot secondary dwelling on the Subject Property meets the requirements for a waiver for a structure within the 50-foot wetland buffer zone. Approximately 500 square feet of the proposed secondary dwelling will be located within the 50-foot buffer to the Hydric Soil Zone. The proposed off-locus secondary dwelling will be located on a portion of the Subject Property which is located several feet downgradient of the haltered Hydric Soil Zone on the Fader Property. Any groundwater flow would occur from the Fader Property towards the proposed secondary dwelling. The proposed secondary dwelling would be outside of the 50-foot buffer zone to the man-made pond and would have no adverse impacts on the Hydric Soil Zone or the associated 25-foot and 50-foot buffer zones on the Fader Property as it would be downstream from these features. Additionally, the proposed secondary dwelling will be located on a previously altered and landscaped portion of an abutting property and would not result in the loss of any native buffer zone vegetation. Currently, the Fader Property is mowed and maintained up to the edge of the man-made pond. The entire Hydric Soil Zone and associated 25-foot and 50-foot buffer zones are currently mowed. It is not known if any portions of this maintained lawn area are fertilized or otherwise treated. The Applicant is also proposing approximately 800 square feet of native buffer zone plantings along the western edge of the Subject Property. The proposed plantings will provide a significant net benefit to the resource areas and associated buffer zones. The Applicant feels that the impacts to the man-made pond, Hydric Soil Zone, and the 25-foot and 50-foot buffer zones to these resource areas resulting from ongoing use and maintenance of this portion of the Fader Property are significantly greater than any potential impacts resulting from the construction of a frost wall foundation for the proposed off-locus secondary dwelling located on a previously altered and downgradient portion of an abutting property and that the proposed native plantings will result in an overall net benefit to the resource area and associated buffer zones.

### **Alternatives Analysis**

#### ***Proposed Pool***

The proposed pool has been located outside of the 50-foot buffer zone to the BVW resource area on the adjacent property to the east and is also outside of the 50-foot buffer zone to the man-made pond on the Fader Property. Additionally, if the Commission determines that the Hydric Soil zone on the Fader Property is a jurisdictional wetland resource area, the proposed pool is located entirely outside of the 50-foot buffer zone to this potential resource area. The proposed pool is located on the portion of the Subject Property which has groundwater at the lowest elevation. There is no alternative location for the proposed pool which would place it farther from the wetland resource areas or would allow for an increased separation to high groundwater.

#### ***Proposed Secondary Dwelling***

The proposed secondary dwelling has been located on the portion of the Subject Property which is outside of the 50-foot buffer zone to the natural well established BVW on the abutting property to the west and is also outside of the 50-foot buffer zone to the man-made pond on the Fader Property. If the Commission determines that the Hydric Soil Zone on the Fader property is a jurisdictional wetland resource area, portions of the proposed secondary dwelling will be located within the 50-foot buffer zone to this heavily altered and maintained resource area. There is no alternative location for the

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proposed secondary dwelling on the Subject Property. Relocating the proposed secondary dwelling anywhere else on the Subject Property would place it within the 50-foot buffer zone to the well-established natural BVW on the abutting property to the west. The proposed location is the best available location for the proposed secondary dwelling.

## **Project Waivers**

### ***Required Ground Water Separation Waiver***

The Applicant feels that the wetland resource delineation on the abutting property to the west is accurate and that all structural components of the Proposed Project will be located outside of the 50-foot BVW buffer zone. Additionally, the Applicant feels that the extent of the wetland resource area on the Fader Property is the edge of the existing man-made pond and that the Proposed Project will be located entirely outside of the 50-foot buffer zone to this resource area.

It is our understanding that the intent of the two-foot groundwater separation requirement in Section 3.02B(1) of the Bylaw Regulations is to reduce impacts to adjacent wetland resource areas which may result from the construction of foundations or other buried structures which may be sufficiently large so as to act as a dam preventing subsurface groundwater flow from moving naturally towards a downgradient wetland system. Such structures, if sufficiently large, could potentially result in the disruption of groundwater flow to the wetland resource area thereby significantly reducing the amount of water entering the wetland and adversely impacting the ability of the system to support wetland flora and fauna. It is important to note that such an adverse impact would only occur if the buried structure was blocking groundwater flow and was large enough to have a regional impact on the adjacent wetland system.

The proposed secondary dwelling foundation and proposed pool may require a waiver under the Bylaw because high groundwater will be located within 2 feet of the base of the footings for the proposed foundation and base of pool. In a letter to the Commission dated January 5, 2016 detailed information showing groundwater elevations from a deep hole test pit excavated in the proposed foundation location and adjacent to the proposed pool location was submitted to the Commission. In the proposed foundation location weeping was observed at a depth of approximately 36 inches and mottling was observed at a depth of approximately 32 inches placing high ground water at approximately elevation 20. The proposed base of footing for the secondary dwelling foundation will be constructed at elevation 20. The proposed base of footing will be at the top of high groundwater. Adjacent to the proposed pool location weeping was observed at a depth of approximately 26-32 inches, standing water was observed at a depth of approximately 75 inches and, and mottling was observed at a depth of approximately 70 inches placing high ground water at approximately elevation 15. The proposed pool will be located at a surface elevation of approximately 22. The proposed pool will have of a depth of 6 feet placing the bottom of the pool at approximately elevation 16. The bottom of the proposed pool excavation will be at an elevation of approximately 15 which is at or slightly above high groundwater. Neither the proposed foundation footings or the proposed pool will be in high groundwater. Both proposed structures will be at or slightly above high groundwater and will not result in any damming of groundwater flow and therefor will not result in any adverse impacts to the BVW on the adjacent property to the west. A detailed waiver request for this required waiver is provided in the Waiver Request section below.

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In the event that the Commission determines that the Hydric Soil Zone surrounding the man-made pond on the Fader Property is in fact a jurisdictional resource area, the proposed pool will be located outside of the 100-foot buffer zone to this resource area. Additionally, the proposed secondary dwelling foundation footings will be downgradient of the resource area and will not have any adverse impact on groundwater flow into this resource area.

### ***Optional 50-Foot Structural Setback Waiver***

It is our understanding that the intent of the 50-foot structural setback to a wetland resource requirement in section 3.02B(1) of the Bylaw Regulations is to reduce impacts to unaltered jurisdictional wetland resource areas which may result from the construction of a structure within 50 feet of a downgradient wetland. These adverse impacts may include disruption of groundwater or surface flow to the resource area, alteration of natural infiltration adjacent to the resource area, leaching of contaminants or other contaminated runoff associated with the structure entering the resource area, impacts to native buffer zone vegetation adjacent to the resource area, or impacts to wildlife which may be using the resource area.

In addition to the required waiver for separation to high groundwater discussed above, the Proposed Project may require a second waiver in the event that the Commission determines that the Hydric Soil Zone on the Fader Property is in fact a jurisdictional wetland resource area. If the Commission makes such a determination, approximately 500 square feet of the proposed secondary dwelling will be located within the 50-foot buffer zone to this resource area. The Applicant feels that the proposed secondary dwelling will not have an adverse impact on this resource area as it will be located off-locus and downgradient of the resource area and will be on a previously altered and landscaped portion of the Subject Property. The Applicant also feels that the proposed planting of 800 square feet of native buffer zone vegetation will result in an overall net benefit to the resource area and associated buffer zones. Additionally, the Applicant feels that the ongoing maintenance and mowing of this resource area, the 25-foot buffer zone to this resource area and fifty percent (50%) of the area between the 25-foot and 50-foot buffers to this resource area constitute a significant and ongoing impact to the resource area and associated buffer zones. The proposed off-locus downgradient structure will not result in any additional impacts to this heavily altered and maintained resource area. A detailed waiver request for this optional secondary waiver is provided in the Waiver Request section below.

### **Summary**

The Applicant feels that the wetland resource area on the Fader Property is defined by the limit of the existing man-made pond and that this casts a 50-foot wetland buffer zone which falls short of the proposed secondary dwelling on the Subject Property. The Applicant also feels that the Hydric Soil Zone present on portions of the Fader Property adjacent to the man-made pond are the direct result of historic and ongoing site alterations and landscape maintenance activities and that this area does not qualify as a jurisdictional wetland resource area. Further, the Applicant feels that the man-made pond and Hydric Soil Zone do not connect to any water body or the nearby natural wetland resource area to the northwest of the Fader Property. In the event that the Commission feels that the Hydric Soil Zone somehow qualifies as a jurisdictional wetland resource area, The Applicant feels that the proposed secondary dwelling qualifies for a 50-foot no structure setback waiver under the Bylaw as it will have no additional adverse impact on the man-made pond and heavily altered and maintained

Hydric Soil Zone especially when compared to existing use and ongoing maintenance of this portion of the Fader Property. The Applicant also feels that the proposed native buffer zone plantings will result in a significant net benefit to the resource areas and associated buffer zones.

## **WAIVER REQUEST**

### ***Secondary Dwelling – Required Groundwater Separation Waiver***

The Applicant is proposing to construct a secondary dwelling and pool on the Subject Property. The Applicant feels that the limit of the wetland resource area on the abutting Fader Property is coincident with the edge of the existing man-made pond. Based on that, the proposed secondary dwelling and pool will be located entirely outside of the 50-foot wetland buffer zone to both the man-made pond on the Fader Property wetland and the BVW located to the west of the Subject Property. The base of the footings for the proposed secondary dwelling foundation and the base of the excavation for the proposed pool will be located at approximately the top, or slightly above, the high ground water elevation as detailed above. The proposed foundation footings and pool will not meet the two-foot high groundwater separation requirement. Under the Bylaw this activity would require a waiver and therefore, the Applicant is respectfully requesting a waiver from the following section of the Nantucket Wetlands Protection Bylaw:

#### ***3.02B(1)***

*“Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.”*

The proposed foundation and pool will not adversely impact the BVW or associated buffer zones. The proposed foundation and pool will be outside of the 50-foot BVW buffer zone and 50-foot buffer zone to the man-made pond and will be consistent with foundations and other structures approved for numerous projects located outside of the 50-foot wetland buffer zone. The proposed foundation will be located down gradient from the wetland located on the Fader Property and will not have any adverse impact on groundwater flowing towards this wetland as all groundwater flow towards this wetland occurs from upgradient portions of the Fader Property. Because the proposed foundation footings and pool will be located at the top of the high groundwater elevation they will not impede or alter the flow of groundwater towards the wetland located to the west of the Subject Property and will not result in any adverse impacts to this resource area. These structures are consistent with other structures which have been permitted by the Commission within two feet of high groundwater on numerous other properties on Nantucket. Therefore, the Applicant is requesting a waiver for the crawl space foundation two-foot separation to high groundwater under section 1.03F(3)(A) of the Bylaw which state the following:

#### ***Section 1.03F(3)(A):***

*“The Commission may grant a waiver from these regulations when the Commission finds that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow*

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*that project to proceed in compliance with the regulations. The burden of proof to show no adverse impact to the interests identified in the Bylaw, Chapter 136 Section 2, shall be the responsibility of the owner/applicant. The burden of proof to show no reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.*

*It shall be the responsibility of the applicant to provide the Commission with any information, which the Commission may request in order to enable the Commission to ascertain such adverse effects. The failure of the applicant to furnish any information which has been so requested may result in the denial of a request for a waiver pursuant to this subsection."*

The proposed secondary dwelling will not include a basement and the base of the proposed footings will be located at the top of high groundwater. The base of the excavation for the proposed pool will be located at or slightly above high groundwater. The proposed foundation and pool are consistent with numerous other projects within 2 feet of high groundwater which have been approved by the Commission for areas outside of the 50-foot BVW buffer zone. The proposed foundation and pool have been designed to minimize or eliminate any adverse impacts to the BVW and associated buffer zones. Additionally, the Applicant is proposing to restore approximately 800 square feet of the 25-foot and 50-foot BVW buffer zones on the Subject Property with native buffer zone vegetation resulting in a significant overall net benefit to the existing BVW and associated buffer zones. Therefore, the Applicant feels that constructing the foundation and pool within two feet of high groundwater will not result in any adverse impacts to the BVW or associated buffer zones and that the overall project will result in a net benefit to the adjacent jurisdictional resource areas.

### ***Secondary Dwelling – Optional 50-Foot Structural Setback Waiver***

The Applicant is proposing to construct a secondary dwelling on the Subject Property. In the event that the Commission determines that the Hydric Soil Zone adjacent to the man-made pond on the Fader Property somehow constitutes a jurisdictional wetland resource area, portions of the proposed secondary dwelling will be located within the 50-foot buffer zone to this resource area. Under the Bylaw this activity would require a waiver and therefore, the Applicant is respectfully requesting a waiver from the following section of the Nantucket Wetlands Protection Bylaw:

#### ***3.02B(1)***

*"Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater."*

Although the proposed secondary dwelling will be located partially within the 50-foot buffer zone to the Hydric Soil Zone on the Fader Property it will be located significantly downgradient from this resource area and will not alter or impact groundwater flow into or towards this resource area as all

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groundwater flow to this area originates from upgradient portions of the Fader Property. If the Hydric Soil Zone of Fader Property is in fact a jurisdictional wetland resource area, the entire resource area is currently mowed, altered, and maintained. Additionally, the entire 25-foot buffer zone to this resource area is mowed, altered, and maintained as well as 50% percent of the area between the 25-foot and 50-foot buffer zones to this resource area. The Applicant feels that the existing alteration, maintenance, and use of this resource area and associated buffer zones is a significantly impact to this resource area. The proposed off-locus downgradient structure located on a previously altered and landscaped portion of the Subject Property will not have any impacts the already heavily altered and maintained Hydric Soil Zone and associated buffer zones, especially when compared to the existing impacts resulting from ongoing use and maintenance of this area. Therefore, the Applicant is requesting a waiver for the proposed shed which will be located within the 50-foot buffer zone to a wetland resource area under section 1.03F(3)(A) of the Bylaw which states the following:

*Section 1.03F(3)(A):*

*"The Commission may grant a waiver from these regulations when the Commission finds that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow that project to proceed in compliance with the regulations. The burden of proof to show no adverse impact to the interests identified in the Bylaw, Chapter 136 Section 2, shall be the responsibility of the owner/applicant. The burden of proof to show no reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.*

*It shall be the responsibility of the applicant to provide the Commission with any information, which the Commission may request in order to enable the Commission to ascertain such adverse effects. The failure of the applicant to furnish any information which has been so requested may result in the denial of a request for a waiver pursuant to this subsection."*

The proposed secondary dwelling will be located within a previously altered and landscaped portion of the Subject Property and will be located off-locus and downgradient from a completely altered, maintained, and mowed resource area on the Fader Property. The proposed secondary dwelling will not result in any adverse impacts to this wetland resource area or associated buffer zones. Additionally, the Applicant is proposing to restore approximately 800 square feet of the 25-foot and 50-foot BVW buffer zones on the Subject Property with native buffer zone vegetation resulting in a significant overall net benefit to the existing BVW and associated buffer zones. Therefore, the Applicant feels that constructing the secondary dwelling partially within the 50-foot buffer zone to an off-locus resource area will not result in any adverse impacts to this significantly altered and maintained resource area or associated buffer zones and that the overall project will result in a net benefit to the adjacent jurisdictional resource areas.

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SDE No. 12035  
1 Brock's Court  
SE48-2834 Supplemental Information  
February 4, 2016

Page 12 of 19

If you have any questions, please feel free to contact me via email at [mrirts@sitedesigneng.com](mailto:mrirts@sitedesigneng.com) or at 508-802-5832.

Respectfully,  
Site Design Engineering, LLC.

A handwritten signature in black ink, appearing to read "Mark Rits". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Rits  
Project Manager/Permitting Specialist

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**Photo 1: View Southwestward Showing Terracing on Southern Portion of Fader Property.**



**Photo 2: View Southward Showing Terracing on Fader Property.**

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**Photo 3: View Southeastward Showing Terracing on Fader Property.**



**Photo 4: View Eastward Showing Terracing on Fader Property.**

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**Photo 5: View Southwestward Showing Partially Lined Man-Made Pond on Fader Property.**



**Photo 6: View Southwestward Showing Partially Lined Man-Made Pond on Fader Property.**

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**Photo 7: View Northward Showing Partially Lined Man-Made Pond on Fader Property with Subject Property in Background.**



**Photo 8: View Westward Showing Partially Lined Man-Made Pond on Fader Property.**

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**Photo 9: Photo Showing Pumping Equipment in Partially Lined Man-Made Pond on Fader Property.**



**Photo 10: Photo Showing Pumping Equipment in Partially Lined Man-Made Pond on Fader Property.**

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**Photo 11: View Westward Showing Extensive Lawn on Western Portion of Fader Property.**



**Photo 12: View Northwestward Showing Extensive Lawn on Western Portion of the Fader Property.**

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**Photo 13: View Eastward Showing Large Stump on Fader Property.**

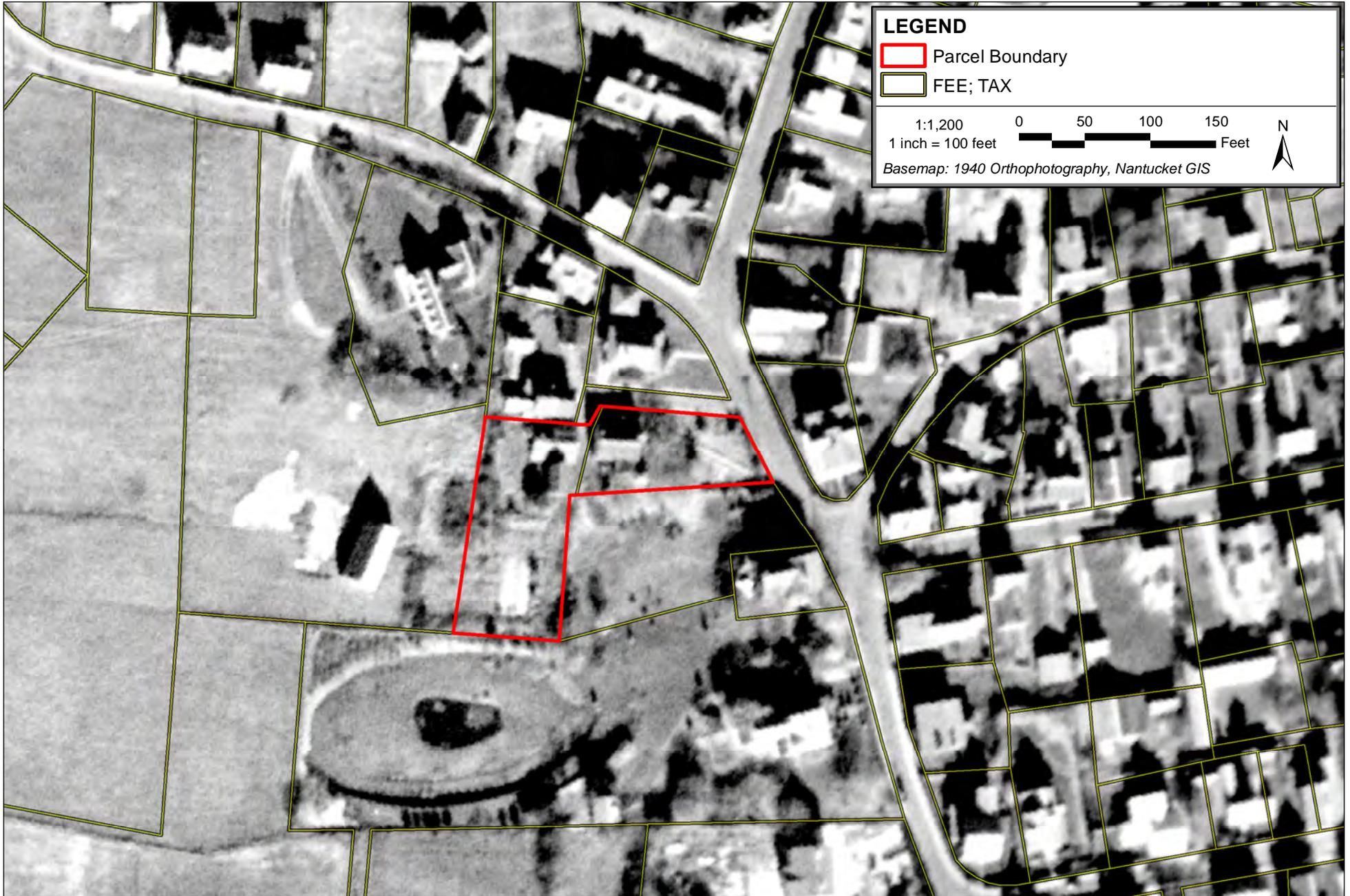


**Photo 14: View Northward Showing Large Stumps on Fader Property with Subject Property in the Background.**

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1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 1 - Detailed Site Overview - 1940  
February 3, 2016

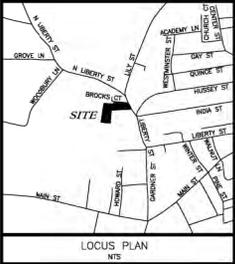




1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 2 - Detailed Site Overview - 2014  
February 3, 2016





**LEGEND**

- PROPERTY LINE
- SPOT ELEVATION
- FENCE
- HEDGE LINE
- LANDSCAPING
- LIMIT OF WETLAND
- WETLAND FLAG
- 25 FT. BUFFER ZONE
- 50 FT. BUFFER ZONE
- 100 FT. BUFFER ZONE
- DEPTH TO GROUNDWATER
- TEST PIT
- DEPTH TO GROUNDWATER
- SOIL BORING

**ZONING CLASSIFICATION: R-1**

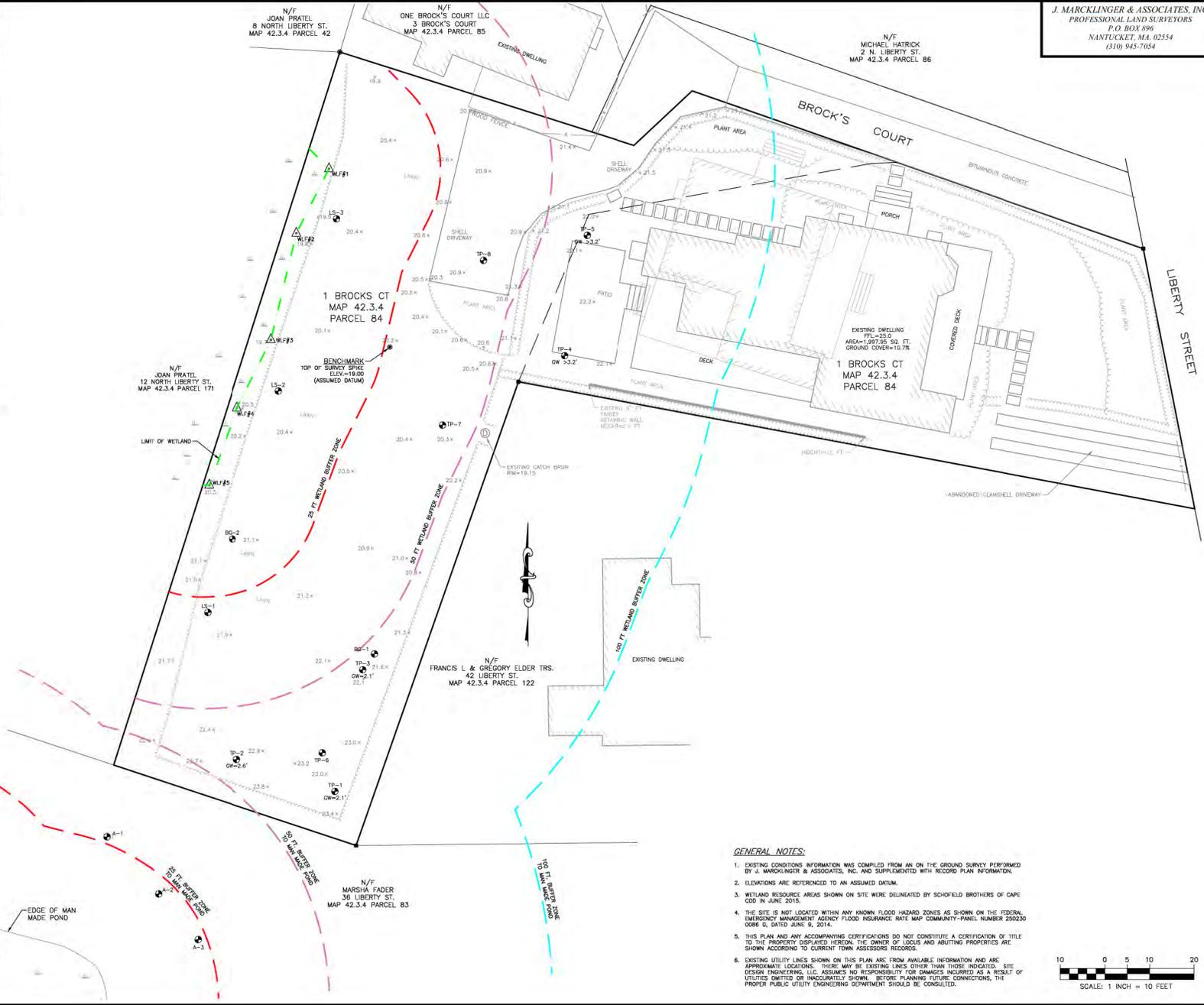
MINIMUM LOT SIZE 5,000 SQ. FT.  
 MINIMUM FRONTAGE 20 FT.  
 FRONT YARD SETBACK 10 FT.  
 REAR YARD SETBACK 5 FT.  
 SIDE YARD SETBACK 5 FT.  
 GROUND COVER RATE 30%.

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPLICABLES (BOOK 1336 PAGE 244) GRANTING RELIEF OF SIDE LINE SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.62 FEET.

**OVERLAY DISTRICT APPLICABILITY**

DOMINANT	-
EMPLOYEES HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HOOD OLD HISTORIC	YES
MAZAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SIXCONNET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	-
WETLAND PROTECTION	-
MA SCP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



J. MARCKLINGER & ASSOCIATES, INC.  
 PROFESSIONAL LAND SURVEYORS  
 P.O. BOX 896  
 NANTUCKET, MA. 02554  
 (310) 945-7054

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11 CUSHMAN STREET  
 MIDDLEBORO, MA 02346  
 T: 508-967-0673 F: 508-967-0674  
 WWW.SITEDESIGNENG.COM

**PLAN REVISIONS**

NO.	DATE	DESCRIPTION
1	2015	ADDED POND AND BORING LOCATIONS

DATE: OCTOBER 29, 2015  
 DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JLM  
 PROJECT NO: 12035

**APPROVAL**

**EXISTING CONDITIONS PLAN**

1 BROCK'S COURT  
 ASSESSOR'S PARCEL 84  
 NANTUCKET, MASSACHUSETTS

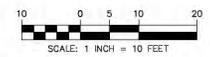
PREPARED FOR EDWIN SWIDER REALTY TRUST

DRAWING TITLE:  
**EXISTING CONDITIONS PLAN 'A'**

SCALE: **1"=10'**

SHEET NO:  
**1 of 1**

- GENERAL NOTES:**
- EXISTING CONDITIONS INFORMATION WAS COMPILED FROM AN ON THE GROUND SURVEY PERFORMED BY J. MARCKLINGER & ASSOCIATES, INC. AND SUPPLEMENTED WITH RECORD PLAN INFORMATION.
  - ELEVATIONS ARE REFERENCED TO AN ASSUMED DATUM.
  - WETLAND RESOURCE AREAS SHOWN ON SITE WERE DELINEATED BY SCHOFIELD BROTHERS OF CAPE COD IN JUNE 2015.
  - THE SITE IS NOT LOCATED WITHIN ANY KNOWN FLOOD HAZARD ZONES AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 250220 CORRECTION DATED APRIL 9, 2014.
  - THIS PLAN AND ANY ACCOMPANYING CERTIFICATIONS DO NOT CONSTITUTE A CERTIFICATION OF TITLE TO THE PROPERTY DESCRIBED HEREIN. THE OWNER OF LOCUS AND ADJUTING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN ASSESSORS RECORDS.
  - EXISTING UTILITY LINES SHOWN ON THIS PLAN ARE FROM AVAILABLE INFORMATION AND ARE APPROXIMATE LOCATIONS. THERE MAY BE EXISTING LINES OTHER THAN THOSE INDICATED. SITE DESIGN ENGINEERING, L.L.C. ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES DAMAGED OR INACCURATELY SHOWN BEFORE PLANNED FUTURE CONNECTIONS, THE PROPER PUBLIC UTILITY ENGINEERING DEPARTMENT SHOULD BE CONSULTED.





**LEGEND**

- PROPERTY LINE
- SPOT ELEVATION
- FENCE
- HEDGE LINE
- LANDSCAPING
- LIMIT OF WETLAND
- WETLAND FLAG
- 25 FT. BUFFER ZONE
- 50 FT. BUFFER ZONE
- 100 FT. BUFFER ZONE
- DEPTH TO GROUNDWATER
- TEST PIT
- DEPTH TO GROUNDWATER
- SOIL BORING

**ZONING CLASSIFICATION: R-1**

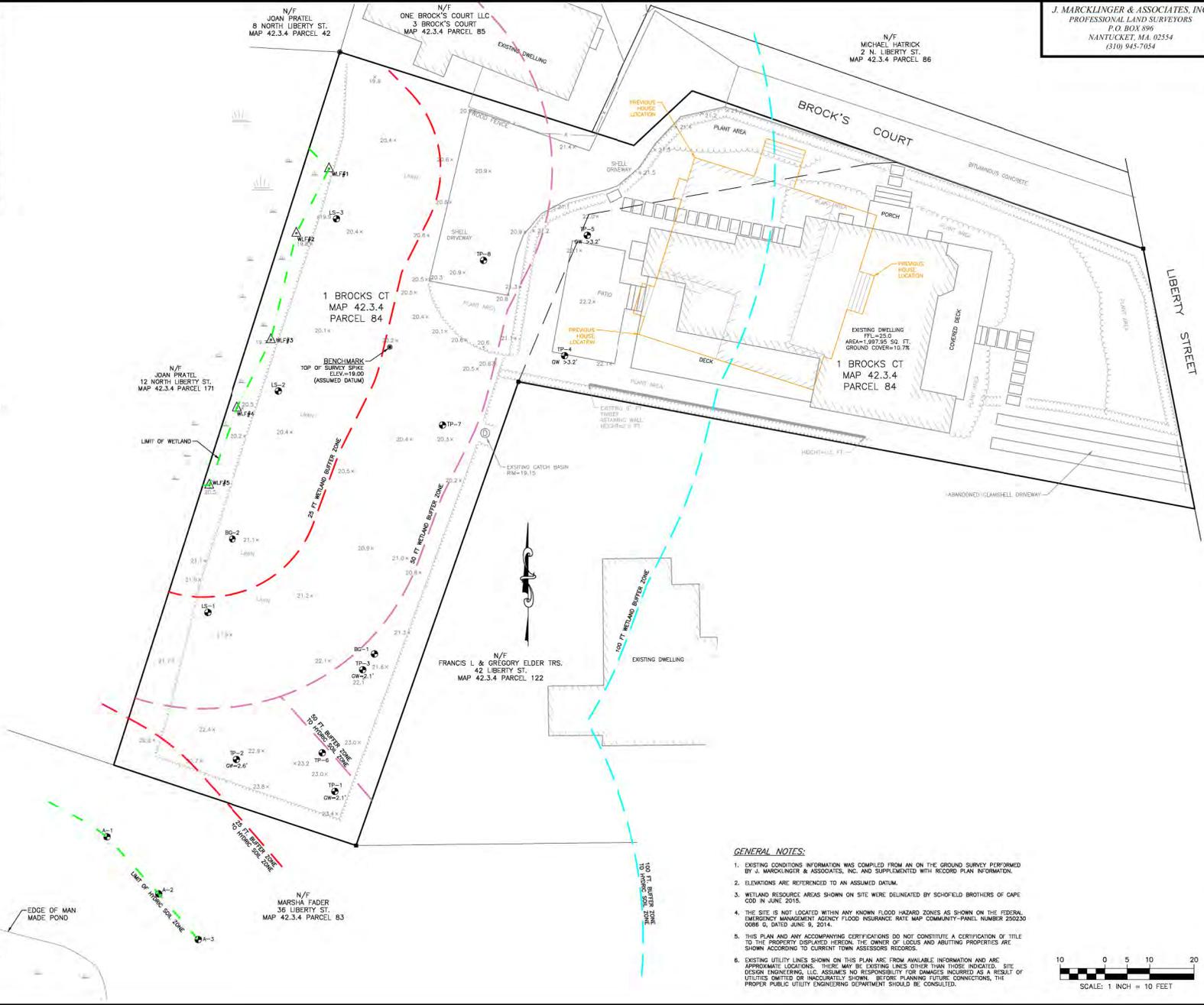
MINIMUM LOT SIZE 5,000 SQ. FT.  
 MINIMUM FRONTAGE 20 FT.  
 FRONT YARD SETBACK 10 FT.  
 REAR YARD SETBACK 5 FT.  
 SIDE YARD SETBACK 5 FT.  
 GROUND COVER RATE 30%.

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPLICABLES (BOOK 1336 PAGE 294) GRANTING RELIEF OF SIDE LINE SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.62 FEET.

**OVERLAY DISTRICT APPLICABILITY**

DOMINANT	-
EMPLOYEES HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HOV OLD HISTORIC	YES
MAZAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SIXCONNET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERDRAFT	-
WETLAND PROTECTION	-
MA DEP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



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**SITE DESIGN ENGINEERING, LLC.**

11 CUSHMAN STREET  
 MIDDLEBORO, MA 02346  
 T: 508-967-0673 F: 508-967-0674  
 WWW.SITEDESIGNENG.COM

**PLAN REVISIONS**

NO.	DATE	DESCRIPTION
1	2015	ADDED POND AND BORING LOCATIONS

DATE: OCTOBER 29, 2015  
 DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JJM  
 PROJECT NO: 12035  
 ISSUED FOR: APPROVAL



**EXISTING CONDITIONS PLAN**

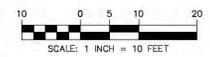
1 BROCK'S COURT  
 ASSESSOR'S MAP 42.3.4 PARCEL 84  
 NANTUCKET, MASSACHUSETTS

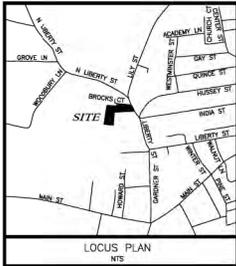
PREPARED FOR EDWIN SWIDER REALTY TRUST

DRAWING TITLE:  
**EXISTING CONDITIONS PLAN 'B'**

SCALE: **1"=10'**  
 SHEET NO:  
**1 OF 1**

- GENERAL NOTES:**
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  - ELEVATIONS ARE REFERENCED TO AN ASSUMED DATUM.
  - WETLAND RESOURCE AREAS SHOWN ON SITE WERE DELINEATED BY SCHOFIELD BROTHERS OF CAPE COD IN JUNE 2015.
  - THE SITE IS NOT LOCATED WITHIN ANY KNOWN FLOOD HAZARD ZONES AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 250230 0085 D, DATED APRIL 9, 2014.
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**LEGEND**

—	PROPERTY LINE
○	SPOT ELEVATION
—	FENCE
—	HEDGE LINE
—	LANDSCAPING
—	LIMIT OF WETLAND
—	WETLAND FLAG
—	25 FT. BUFFER ZONE
—	50 FT. BUFFER ZONE
—	100 FT. BUFFER ZONE
○	TEST PIT
○	DEPTH TO GROUNDWATER
○	SOIL BORING

**ZONING CLASSIFICATION: R-1**

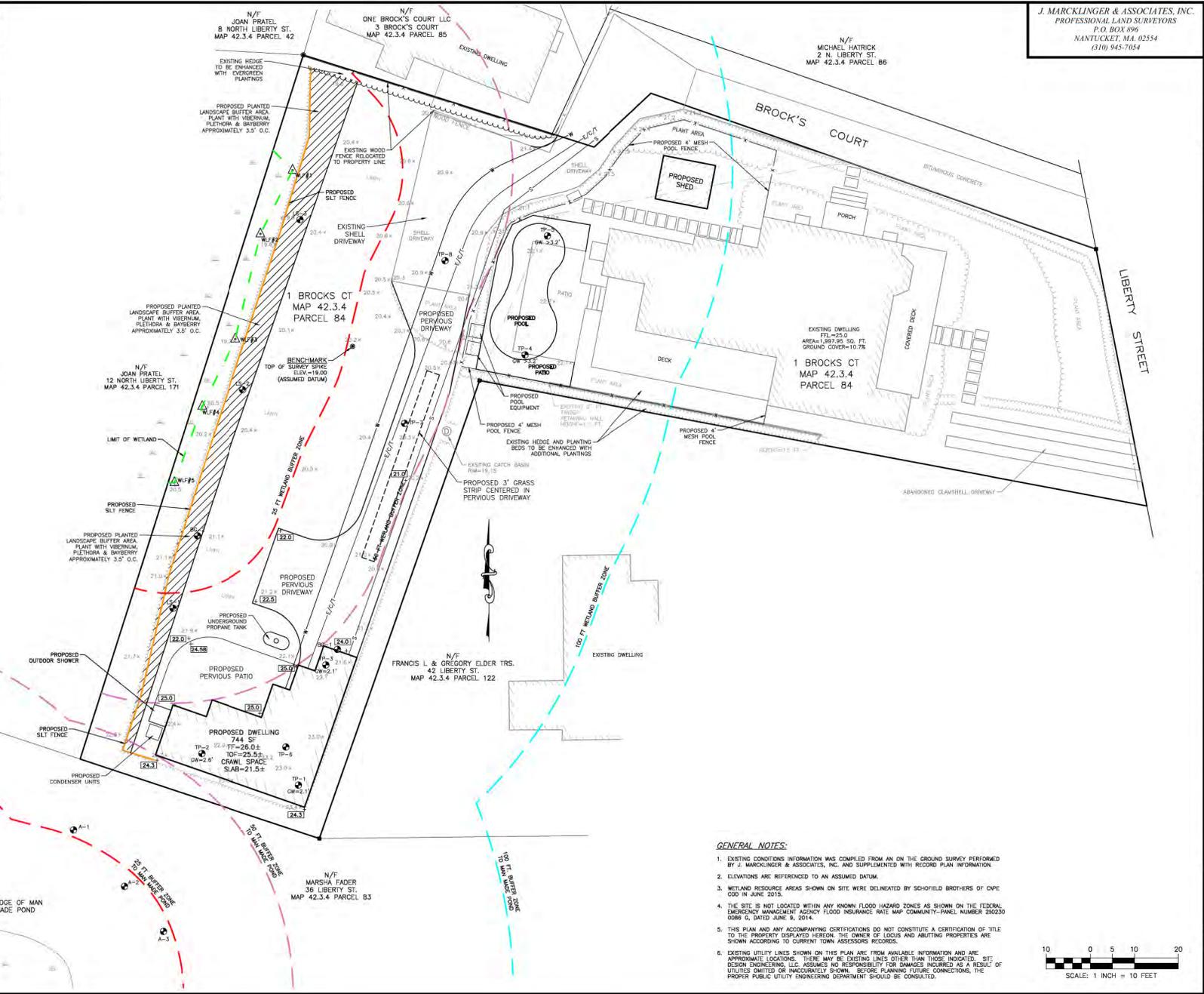
MINIMUM LOT SIZE: 5,000 SQ. FT.  
 MINIMUM FRONTAGE: 50 FT.  
 FRONT YARD SETBACK: 10 FT.  
 REAR YARD SETBACK: 5 FT.  
 SIDE YARD SETBACK: 5 FT.  
 GROUND COVER RATIO: 30%.

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPEALS (BOOK 1359 PAGE 248) GRANTING RELIEF OF SETBACK SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.65 FEET.

**OVERLAY DISTRICT APPLICABILITY**

DORMITORY	—
EMPLOYEE HOUSING	—
FLOOD HAZARD	—
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	—
MADAKET HARBOR WATERSHED PROTECTION	—
MID-ISLAND PLANNED	—
MILL'S FAMILY	—
SASCONSET SEWER	—
TOWN	YES
TOWN SEWER	YES
WATERSHAFT	—
WELLHEAD PROTECTION	—
MA DEP ZONE II	—
FORMULA BUSINESS EXCLUSION DISTRICT	—



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PLAN REVISIONS

NO.	DATE	DESCRIPTION
1	11/20/15	ADDED BORING LOCATIONS, REMOVE SHED
2	10/16/15	ADDED POND AND BORING LOCATIONS

DATE: OCTOBER 29, 2015  
 DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM  
 PROJECT NO: 12035

ISSUED FOR: **APPROVAL**

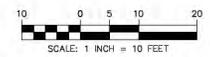
**PROPOSED SITE PLAN**  
 1 BROCK'S COURT  
 PARCEL 84  
 NANTUCKET, MASSACHUSETTS

PREPARED FOR EDWIN SWIDER REALTY TRUST

DRAWING TITLE:  
**PROPOSED SITE PLAN 'A'**

SCALE: **1"=10'**  
 SHEET NO:  
**1 of 1**

- GENERAL NOTES:**
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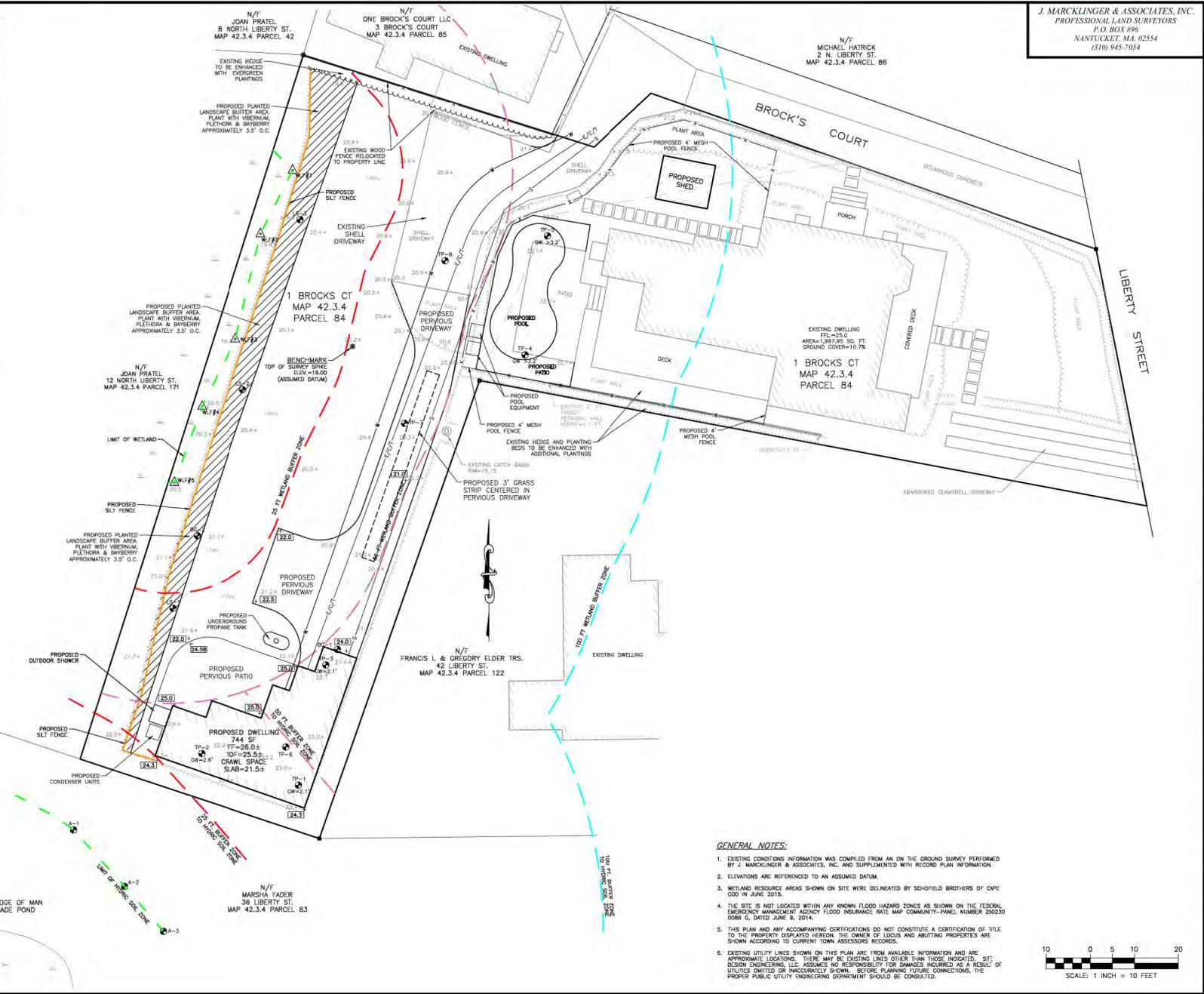
**ZONING CLASSIFICATION: R-1**

MINIMUM LOT SIZE: 5,000 SQ. FT.  
 MINIMUM FRONTAGE: 50 FT.  
 FRONT YARD SETBACK: 10 FT.  
 REAR YARD SETBACK: 5 FT.  
 SIDE YARD SETBACK: 5 FT.  
 GROUND COVER RATIO: 30%

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PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPEALS (BOOK 1359 PAGE 248) GRANTING RELIEF OF SETBACK SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.65 FEET.

OVERLAY DISTRICT APPLICABILITY	
DORMITORY	---
EMPLOYEE HOUSING	---
FLOOD HAZARD	---
HARBOR WATERSHED PROTECTION ZONE	YES-B
IDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	---
MID-ISLAND PLANNED	---
MILL'S FAMILY	---
SASCONSET SEWER	---
TOWN	YES
TOWN SEWER	YES
WATERSHAFT	---
WELLHEAD PROTECTION	---
MA DEP ZONE II	---
FORMULA BUSINESS EXCLUSION DISTRICT	---



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NO.	DATE	DESCRIPTION
1	11/20/15	ADDED BORING LOCATIONS, REMOVE SHED
2	12/16/15	ADDED POND AND BORING LOCATIONS

DATE: OCTOBER 29, 2015  
 DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM  
 PROJECT NO: 12035  
 ISSUED FOR: APPROVAL



**PROPOSED SITE PLAN**

1 BROCK'S COURT  
 PARCELS 84  
 NANTUCKET, MASSACHUSETTS

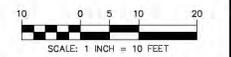
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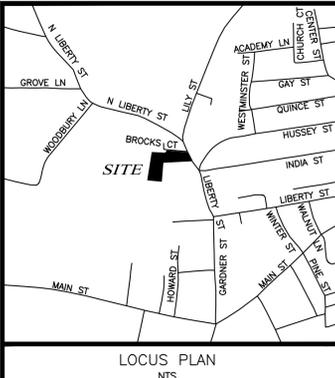
DRAWING TITLE:  
**PROPOSED SITE PLAN 'B'**

SCALE: **1"=10'**

SHEET NO:  
**1 of 1**

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**LEGEND**

—	PROPERTY LINE
20.3x	SPOT ELEVATION
x	FENCE
---	HEDGE LINE
---	LANDSCAPING
---	LIMIT OF WETLAND
△	WETLAND FLAG
---	25 FT. BUFFER ZONE
---	50 FT. BUFFER ZONE
---	100 FT. BUFFER ZONE
GW	DEPTH TO GROUNDWATER
TP-#	TEST PIT
GW	DEPTH TO GROUNDWATER
A-#/BG-#/LS-#	SOIL BORING

**ZONING CLASSIFICATION: R-1**

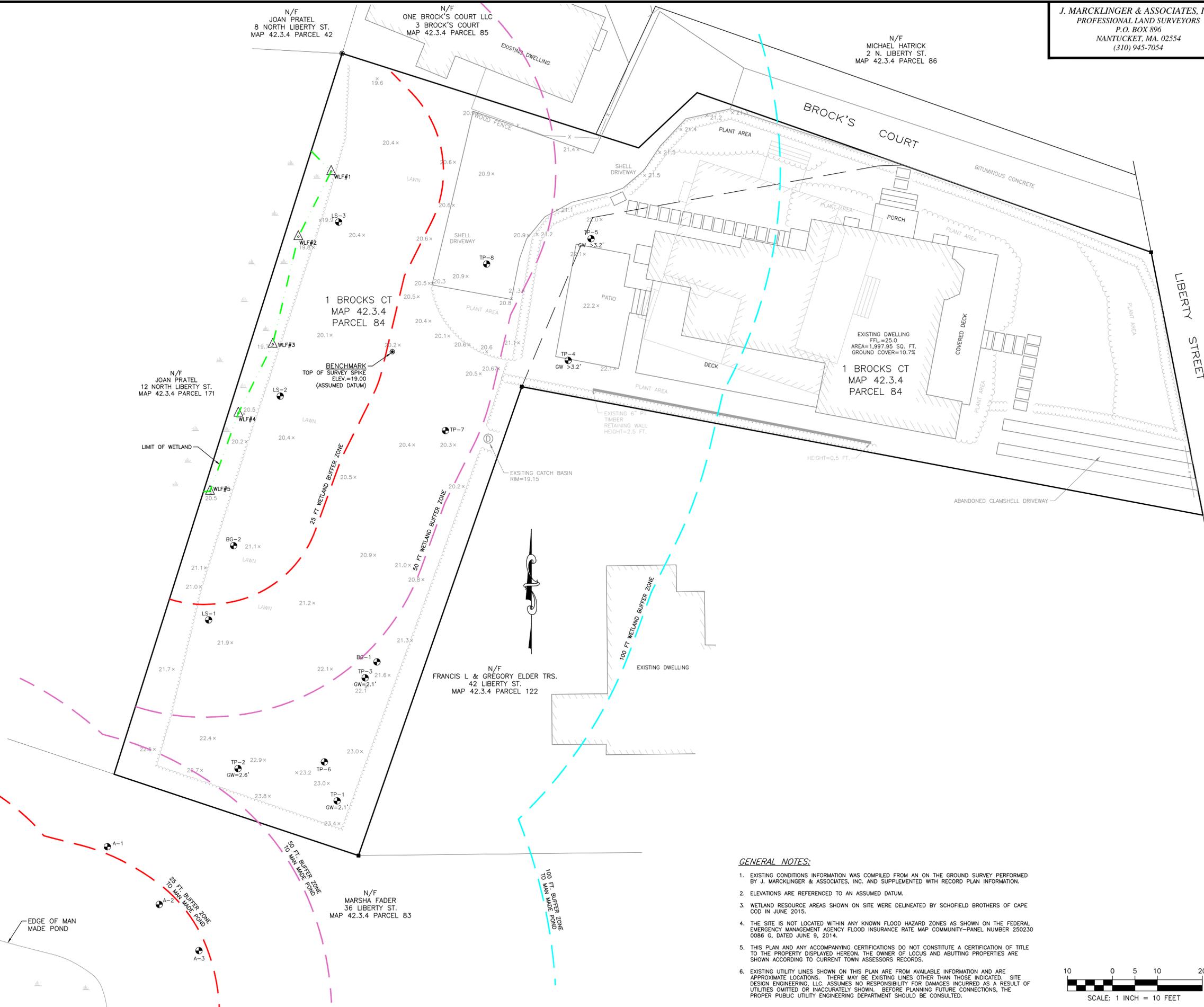
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 SIDE YARD SETBACK 5 FT.\*  
 GROUND COVER RATIO 30%±

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**OVERLAY DISTRICT APPLICABILITY**

DORMITORY	-
EMPLOYEE HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SIASCONSET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	-
WELLHEAD PROTECTION	-
MA DEP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



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NO.	DATE	DESCRIPTION
1	2/3/16	ADDED POND AND BORING LOCATIONS

DATE: OCTOBER 29, 2015

DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JM

PROJECT NO. 12035

ISSUED FOR: APPROVAL



**EXISTING CONDITIONS PLAN**

1 BROCK'S COURT  
 ASSESSOR'S MAP 42.3.4, PARCEL 84  
 NANTUCKET, MASSACHUSETTS

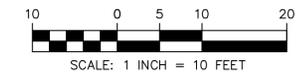
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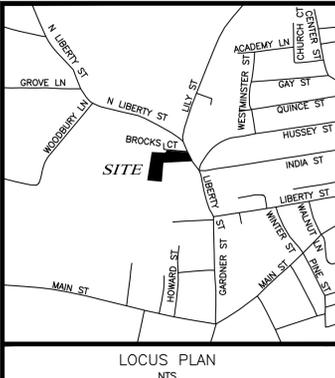
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SHEET NO.  
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**LEGEND**

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20.3x	SPOT ELEVATION
x	FENCE
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**ZONING CLASSIFICATION: R-1**

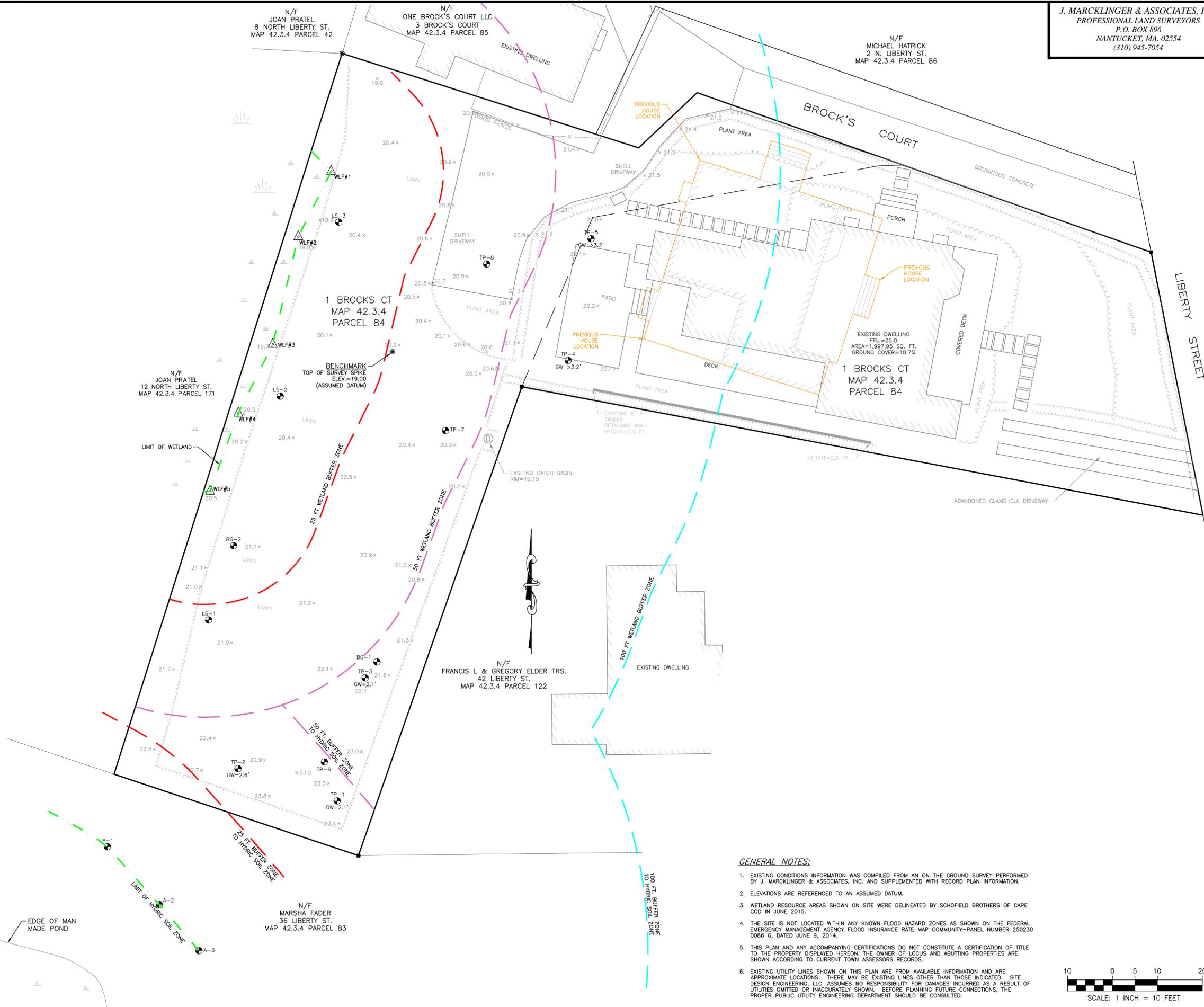
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**OVERLAY DISTRICT APPLICABILITY**

DORMITORY	-
EMPLOYEE HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SIASCONSET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	-
WELLHEAD PROTECTION	-
MA DEP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



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NO.	DATE	DESCRIPTION	APPROVED
1	2/3/16	ADDED POND AND BORING LOCATIONS	DCM

PLAN REVISIONS

DATE: OCTOBER 29, 2015

DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JM

PROJECT NO. 12035

ISSUED FOR: APPROVAL



**EXISTING CONDITIONS PLAN**

1 BROCK'S COURT  
 ASSESSOR'S MAP 42.3.4, PARCEL 84  
 NANTUCKET, MASSACHUSETTS

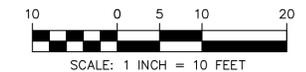
PREPARED FOR EDWIN SNIDER REALTY TRUST

DRAWING TITLE:  
**EXISTING CONDITIONS PLAN 'B'**

SCALE: **1"=10'**

SHEET NO.  
**1 OF 1**

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**NEW  
INFORMATION  
FOR CURRENT  
HEARING**

Rec. @ 2/10/16  
Hearing by  
Davis, Malm & D'Agostine

DAVIS MALM &  
D'AGOSTINE P.C.  
ATTORNEYS AT LAW

Paul L. Feldman

February 10, 2016

Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

Re: One Brock's Court Notices of Intent (SE48-2834 & SE48-2835)

Dear Members of the Conservation Commission:

This office represents Marsha Fader, who is an abutter to the proposed project at One Brock's Court. We submit this letter to provide additional information regarding and the wetland resources on both Ms. Fader's and the Applicant's properties and the further bases to deny the requested Order of Conditions for construction of a second home (NOI SE48-2835) on the Applicant's property.

Failure to Properly Delineate Wetland Resources

After the January 13, 2016 hearing, additional soil borings and soil pits were performed on the Applicant's property and Ms. Fader's property. Those results document the existence of hydric soils on both properties and confirm the delineation of wetlands depicted on the proposed Site Plan dated October 29, 2015 is incorrect. Moreover, after review of the supplemental information submitted by the Applicant's engineer on February 4, 2016 it is apparent the Applicant continues to ignore these results when depicting the resource areas on the Applicant's property. The existing conditions plans and proposed site plans submitted by Site Design Engineering, LLC in its latest filing continue to incorrectly depict wetland resources. This failure is significant because the second house is not to be built in buffer at all, but in the resource area itself.

As noted in a previous letter from our colleague to the Commission dated January 13, 2016, the DEP Delineating Bordering Wetlands Manual acknowledges that determining the boundaries of BVW in areas that have been altered may be challenging, but the BVW can still be located and protected. In fact, the manual indicates that a review of the soils will be important to determine if wetlands hydrology still exists in those areas and to delineate the wetlands. And, more importantly, the DEP Regulations define the boundary line for BVW in an area that has been disturbed ("e.g. by cutting, filling, or cultivation") as "the line within which there are indicators of saturated or inundated conditions sufficient to support a predominance of wetland indicator plants, or credible evidence from

*direct* 617-589-3831 *direct fax* 617-305-3131  
*email* pfeldman@davismalm.com

a competent source that the area supported or would support under undisturbed conditions a predominance of wetland indicator plants prior to the disturbance.” 310 CMR 10.55(2)(c)3. Nantucket’s Regulations do not define BVW, but state that if a term is not defined, it shall have the definition contained in the WPA and regulations promulgated thereunder. *See* Section 1.02. Therefore, the definition in 310 CMR 10.55(2)(c)3 applies to the wetland resources on Ms. Fader’s and the Applicant’s properties.

The results of soil samples taken on both properties on January 21, 2016 were submitted to the Commission by letter dated February 4, 2016 from Bruce Griffin of New England Environmental, Inc. (“NEEI”). Those results and the results of the previous assessment by all parties on January 7 demonstrate that there are saturated conditions on both properties for an extended period during the growing season, as indicated by the presence of hydric soils and oxidized rhizospheres. NEEI has indicated that such conditions would support a predominance of wetland indicator plants if current lawn areas on both properties were left unmown.

The Applicant has not fully delineated the resource areas that are the subject of the second NOI (SE48-2835). The area where the NOI proposes to locate a house as well as adjacent areas are BVW and should be delineated as such.

#### Area of Proposed Second Home Location was Unlawfully Altered

The Applicant’s property in the area of the proposed house was altered in the late 1990s and there is no record of a Notice of Intent Filing or issuance of an Order of Conditions for such alteration. Aerial photographs show the property having significant vegetation and what appears to be water features similar to the adjacent wetlands at least from until 1993 through 1995. Neighbors recall fill being added and the lawn developing on the Applicant’s property in this area in the late 1990s.

There is no dispute that such area was previously within the Commission’s jurisdiction and a likely resource area. The Wetlands Protection Act provides that “[n]o person shall remove, fill, dredge or alter any area subject to protection under this section without the required authorization, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition...” G.L. c. 131, § 40. The Act further provides that “[a]ny person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this section ... shall forthwith comply with any such order or restore such real estate to its condition prior to any such violation.” Case law provides that upon acquiring ownership of land in violation of the Act, the purchaser is obligated to comply with its provisions. *In the Matter of Margot Xarras*, 2010 WL 3427465, at \*19 n.3 (DEP 2010); *Junior v. Town of Marshfield Conservation Com’n*, 2014 WL 4364845, at \*4 (Mass. Land Ct. 2014) (successor landowners are responsible for either compliance with order of conditions issued to prior owner or restoration of the land to its prior condition). While we are not advocating that the Applicant as the current owner of improperly filled land restore such land, we do submit the Applicant should not be benefitted by this fill. As addressed below, this same area is properly classified as Bordering Vegetated Wetlands (BVW) even today given its hydric soils. Even if the Commission did not agree

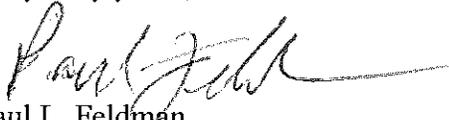
February 6, 2016  
Page 3

DAVIS MALM &  
D'AGOSTINE P.C.  
ATTORNEYS AT LAW

with this finding and considers this area to be buffer today, an Order of Conditions should not issue. This area was improperly filled and, at the very least, should be protected.

For these reasons as well as those set forth in this office's earlier letter, the Conservation Commission should deny the Order of Conditions requested in the second NOI.

Very truly yours,



Paul L. Feldman

PLF:

Rec. @ 2/10/16  
Hearing by NEE

New England Environmental, Inc.  
Environmental Consulting  
15 Research Drive  
Amherst, MA 01002  
(p) 413.256.0202  
(f) 413.256.1092  
www.neeinc.com



February 9, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**RE:           Review, Notices of Intent  
              Brock's Court, Nantucket, MA  
              DEP Files SE 48-2834, 2835  
              NEE File 13-4266**

Dear Commission members,

New England Environmental, Inc. (NEE) has read through a copy of the supplemental information documents from Site Design Engineering, LLC (SDE) dated February 4, 2016, concerning two Notices of Intent for development at Brock's Court. While a full discussion of all the issues raised in the SDE letter is not possible on short notice, we would like to briefly address a few of the deficiencies within this and preceding submissions concerning these projects.

1. The February 4 letter devotes 2½ pages to discussing wetland resources on the abutting property at 36 Liberty Street, and a single short paragraph to the subject property, stating "there are no well-developed natural soil conditions on the Subject Property." This statement is contradicted by hydric soil profiles documented on the site by NEE, soil profiles the Applicant simply chooses to ignore. These hydric soil profiles developed naturally within the fill, in response to wetland hydrology. None of the SDE Existing Conditions Plans shows a complete delineation of the wetland resources on the subject property.
2. The hydric soil pits observed on January 5 (designated A1, A2, & A3) are not a complete delineation of the wetland edge on the 36 Liberty Street property. NEE delineated the edge of the BVW on the portion of this property closest to the subject property with flags B1-B6 on January 21. These flag locations are depicted upon the attached plan. This is only a partial delineation of the BVW on this property, but it projects a buffer zone onto the subject property which is different from both the A and B plans submitted by SDE. However, we still submit that the proposed house site on the subject property is not just in the buffer zone, it is within a wetland.
3. At least some of the fill under the Brock's Court lawn was placed during or after 1995, and well after passage of the Wetlands Protection Act, with no record of a permit. The applicants should not benefit from this illegal activity.
4. The aerial photo from 1940 shows agricultural use within the area proposed for additional structures. This is not inconsistent with wetland conditions. Farmers often placed animal paddocks and pastures in locations which were too wet for crop production. In any event the series of photos from subsequent decades show this area of the subject property to be a wetland resource.



Edwin Snider RT

1 Brock's Court



**SITE DESIGN ENGINEERING, LLC.**

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

---

## **NOTICE OF INTENT APPLICATION**

### **Construction of a Secondary Dwelling, Pool, Shed, and Pervious Driveway Within Wetland Resource Area Buffer Zones**

**1 Brock's Court  
Portions of Map 42.3.4 Parcel 84  
Nantucket, Massachusetts**

*Prepared for:*

**Edwin Snider Realty Trust  
C/O Cohen and Cohen Law PC  
34 Main Street  
Second Floor  
Nantucket, MA 02554**

*Prepared By:*

**Site Design Engineering, LLC  
11 Cushman Street  
Middleboro, MA 02346**

**October 30, 2015**

**SDE No.: 12035**

WPA FORM 3

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

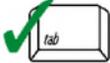
MassDEP File Number

Document Transaction Number

Nantucket

City/Town

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Note:  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

### 1. Project Location (Note: electronic filers will click on button to locate project site):

<u>1 Brock's Court</u>	<u>Nantucket</u>	<u>02554</u>
a. Street Address	b. City/Town	c. Zip Code
<u>Latitude and Longitude:</u>	<u>41 17 01.78</u>	<u>70 06 15.92</u>
	d. Latitude	e. Longitude
<u>42.3.4</u>	<u>84</u>	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

### 2. Applicant:

<u>Edwin Snider Realty Trust C/O Cohen &amp; Cohen Law PC</u>	<u></u>	
a. First Name	b. Last Name	
<u>34 Main Street Second Floor</u>		
c. Organization		
d. Street Address		
<u>Nantucket</u>	<u>MA</u>	<u>02554</u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email Address

### 3. Property owner (required if different from applicant): Check if more than one owner

<u></u>	<u></u>	
a. First Name	b. Last Name	
<u></u>		
c. Organization		
<u></u>		
d. Street Address		
<u></u>	<u></u>	<u></u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email address

### 4. Representative (if any):

<u>Mark</u>	<u>Rits</u>	
a. First Name	b. Last Name	
<u>Site Design Engineering, LLC</u>		
c. Company		
<u>11 Cushman Street</u>		
d. Street Address		
<u>Middleboro</u>	<u>MA</u>	<u>02346</u>
e. City/Town	f. State	g. Zip Code
<u>508-802-5832</u>	<u>508-967-0674</u>	<u>mrits@sitedesigneng.com</u>
h. Phone Number	i. Fax Number	j. Email address

### 5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$330.00</u>	<u>\$152.50</u>	<u>\$177.50</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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## A. General Information (continued)

6. General Project Description:

Construct a secondary dwelling, pool, shed, and pervious driveway located within the 100-foot buffer zone to a Bordering Vegetated Wetland.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

a. County

b. Certificate # (if registered land)

c. Book

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet	2. square feet
	3. cubic yards dredged	

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet	2. square feet
	3. cubic feet of flood storage lost	4. cubic feet replaced
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet	
	2. cubic feet of flood storage lost	3. cubic feet replaced

- f.  Riverfront Area
- Name of Waterway (if available) - **specify coastal or inland**
  - Width of Riverfront Area (check one):
    - 25 ft. - Designated Densely Developed Areas only
    - 100 ft. - New agricultural projects only
    - 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet \_\_\_\_\_ b. square feet within 100 ft. \_\_\_\_\_ c. square feet between 100 ft. and 200 ft. \_\_\_\_\_

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



# WPA Form 3 – Notice of Intent

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Provided by MassDEP:

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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	_____	
	1. square feet	
	_____	
	2. cubic yards dredged	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	_____	_____
	1. square feet	2. cubic yards beach nourishment
e. <input type="checkbox"/> Coastal Dunes	_____	_____
	1. square feet	2. cubic yards dune nourishment
	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	_____	
	1. linear feet	
g. <input type="checkbox"/> Rocky Intertidal Shores	_____	
	1. square feet	
h. <input type="checkbox"/> Salt Marshes	_____	_____
	1. square feet	2. sq ft restoration, rehab., creation
i. <input type="checkbox"/> Land Under Salt Ponds	_____	
	1. square feet	
	_____	
	2. cubic yards dredged	
j. <input type="checkbox"/> Land Containing Shellfish	_____	
	1. square feet	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	
	_____	
	1. cubic yards dredged	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	
	1. square feet	
4. <input type="checkbox"/> Restoration/Enhancement	If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.	
	_____	_____
	a. square feet of BVW	b. square feet of Salt Marsh
5. <input type="checkbox"/> Project Involves Stream Crossings		
	_____	_____
	a. number of new stream crossings	b. number of replacement stream crossings



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

**Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581**

- 2008 \_\_\_\_\_  
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area \_\_\_\_\_  
percentage/acreage

(b) outside Resource Area \_\_\_\_\_  
percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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## C. Other Applicable Standards and Requirements (cont'd)

- (c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_fee_schedule.htm)). Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

- (d)  Vegetation cover type map of site
- (e)  Project plans showing Priority & Estimated Habitat boundaries
- (f) OR Check One of the Following

1.  Project is exempt from MESA review. Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)
2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_
3.  Separate MESA review completed. Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?
- a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



# WPA Form 3 – Notice of Intent

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Provided by MassDEP:

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## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No      If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house
  2.  Emergency road repair
  3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Proposed Conditions Site Plan

a. Plan Title

Site Design Engineering, LLC

Daniel C. Mulloy, P.E.

b. Prepared By

c. Signed and Stamped by

October 29, 2015

See Plan

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

3346

29-Oct-2015

2. Municipal Check Number

3. Check date

3349

29-Oct-2015

4. State Check Number

5. Check date

Site Design Engineering, LLC.

6. Payor name on check: First Name

7. Payor name on check: Last Name



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands  
**WPA Form 3 – Notice of Intent**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File Number
Document Transaction Number
Nantucket
City/Town

**F. Signatures and Submittal Requirements**

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

DocuSigned by: <i>Elizabeth Frazier</i>	10/30/2015
1. Signature of Applicant	2. Date
3. Signature of Property Owner (if different)	4. Date
5. Signature of Representative (if any)	6. Date

**For Conservation Commission:**

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

**For MassDEP:**

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

**Other:**

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.

# PROJECT NARRATIVE

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

## PROJECT DESCRIPTION

### 1 Brock's Court NANTUCKET, MASSACHUSETTS

October 30, 2015

#### **INTRODUCTION**

The purpose of this Notice of Intent (NOI) application is to request approval from the Nantucket Conservation Commission (Commission) under the Massachusetts Wetlands Protection Act (WPA) and its implementing regulations 310 CMR (CMR) and the Town of Nantucket Wetlands Protection Bylaw (Bylaw) and its implementing regulations (Local Regs) for work within 100 feet of a Bordering Vegetated Wetland (BVW) resource area on property located at 1 Brock's Court in Nantucket (Subject Property). The proposed work includes the construction of a secondary dwelling, pool, shed, pervious patio, pervious driveway, and associated landscaping/grading. The proposed work including the secondary dwelling, pool, shed, pervious patio, pervious driveway, and associated landscaping/grading will be located within the 100-foot buffer zone to a BVW resource area.

This Notice of Intent application is presented by the following Property Owner/Applicant:

1 Brock's Court  
(Map 42.3.4 Lot 84)

Edwin Snider Realty trust  
C/O Cohen and Cohen Law PC  
34 Man Street  
Second Floor  
Nantucket, MA. 02554

#### **SITE OVERVIEW & EXISTING CONDITIONS**

The Subject Property consists of an approximately 18,675 square foot (0.43 acre) lot located on the south side of Brock's Court and west of Liberty Street (see Figures 1 through 3 and Site Plan). To the north, the Subject Property is bordered by developed residential property. To the east, the Subject Property is bordered by Liberty Street, a paved public way, and developed residential properties. To the south, the Subject Property is bordered by developed residential properties. To the west, the Subject Property is bordered by undeveloped property (see Figures 1 through 3 and Site Plan). The Subject Property is currently developed and is the site of a single family residence (SFR), deck, pervious driveway, and associated landscaping/grading. A BVW resource area is located on the adjacent property to the west and extends onto the western portion of the Subject Property. The extent of the wetland resource area has been delineated as part of a separate NOI application for work performed on the Subject Property by a previous owner. A large portion of the Subject Property is located within the 50-foot BVW buffer zone and has been historically maintained as a lawn area nearly to the edge of the BVW.

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The Subject Property is located entirely outside of the 100-year flood zone as determined from the Digital FEMA Flood Maps available from MassGIS and site specific topographic survey information (see Figure 6 and Site Plan) and is therefore outside of Land Subject to Coastal Storm Flowage (LSCSF).

### **PROPOSED ACTIVITIES**

The Applicant is proposing to construct a secondary dwelling, pool, shed, pervious patio, pervious driveway, and associated landscaping/grading. The proposed work including the secondary dwelling, pool, shed, pervious patio, pervious driveway, and associated landscaping/grading will be located within the 100-foot buffer zone to a BVW resource area. All structural components, except a portion of the proposed shed, will be located entirely outside of the 50-foot BVW buffer zone. The proposed shed will be located within a previously altered and landscaped portion of the Subject Property and will be partially within the 50-foot BVW buffer zone. The Applicant understands that the proposed shed may require a waiver under the Bylaw (see Waiver Request Section below). The proposed pervious patio and pervious driveway will be located entirely outside of the 25-foot BVW buffer zone and will be within previously altered and landscaped portions of the Subject Property. The majority of the 25-foot BVW buffer zone and the area between the 25-foot and 50-foot BVW buffer zones has been historically maintained as lawn area. The Applicant is proposing to maintain existing lawn areas on the western portion of the Subject Property.

### **NHESP / MESA**

The Subject Property is located entirely outside of both Estimated and Priority Habitat of Rare or Endangered Species as indicated on the 2008 NHESP Atlas available through MassGIS (see Figure 5).

### **EROSION / SEDIMENTATION CONTROL & CONSTRUCTION PROTOCOL**

In order to minimize impacts to the BVW and associated buffer zones, the Applicant is proposing to install silt fencing along the limit of the existing lawn area as indicated on the Site Plan. The proposed silt fence will reduce siltation into the BVW and will also act to demarcate the limit of work. All work will occur outside of the 25-foot BVW buffer zone. With the exception of the portion of work necessary for the construction of the driveway and shed all remaining work will be located outside of the 50-foot BVW buffer zone. All equipment staging and materials storage will occur on the upland portion of the Subject Property. No equipment or materials will be stored within the 50-foot BVW buffer zone.

### **WETLAND RESOURCE AREAS**

The Proposed Project is a buffer zone project. No activities within any wetland resource areas are proposed as part of this project. All work associated with the Proposed Project will be performed within the following wetland resource area buffer zones subject to the jurisdiction of the Nantucket Conservation Commission under the State Wetlands Protection Act (WPA) and 310 CMR (CMR), the Nantucket Wetlands Protection Bylaw (Bylaw) and the Nantucket Wetland Protection Regulations (Local Regs):

- 100-foot Buffer Zone to a BVW (Figure 4 and Site Plan)

### **COMPLIANCE WITH STATE AND LOCAL PERFORMANCE STANDARDS**

The Proposed Project is a residential development project and includes the construction of a secondary dwelling, pool, shed, pervious patio, pervious driveway, and associated landscaping/grading which will be located within the 100-foot buffer zone to a BVW. A portion of the proposed shed and portions of the pervious driveway and pervious patio will be located in

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previously altered and landscaped portions of the 50-foot BVW buffer zone but will be entirely outside of 25-foot BVW buffer zone.

### **State Wetlands Performance Standards**

#### **Bordering Vegetated Wetlands**

The Proposed Project will occur within the 100-foot buffer zone to a BVW. No work is proposed within any State or local BVW Resource Areas. The Proposed Project includes the construction of a secondary dwelling, pool, shed, pervious patio, pervious driveway, and associated landscaping/grading which will be located within the 100-foot buffer zone to a BVW. The Act and CMR do not include any specific performance standards for work within the 100-foot buffer zone to a BVW. Instead, local jurisdictions are permitted to regulate the buffer zone areas as deemed appropriate under local Bylaws. A detailed discussion of local permitting requirements within the 100-foot BVW buffer zone is included in the Local Wetlands Performance Standards Section below.

### **Local Wetlands Performance Standards**

#### **Vegetated Wetlands**

*“Vegetated Wetlands or land within 100 feet of Vegetated Wetlands shall be presumed significant to the Interests Protected by the Bylaw as referenced in Section A, therefore the following regulations shall apply:”*

##### **3.02B(1)**

*“Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.”*

With the exception of the proposed shed, all proposed structures will be located entirely outside of the 50-foot BVW buffer zone. Portions of the proposed pervious patio, pervious driveway, and landscaping/grading will be located within the 50-foot BVW buffer zone. Historically almost the entire 25-foot and 50-foot BVW buffers zones have been maintained as mowed lawn. Only a very small portion of the 25-foot BVW buffer zone is vegetated (see Site Plan). The Applicant is proposing to maintain the historic use of this portion of the Subject Property. The proposed shed will be located partially within the 50-foot BVW buffer zone. The proposed shed will be located in a previously altered and landscaped portion of the Subject Property and will not result in any significant new or additional adverse impacts to the BVW or associated buffer zones. The Applicant understands that this portion of the Proposed Project may require a waiver under the Bylaw and therefore requests the necessary waiver (see Waiver Request section below). Additionally, the proposed secondary dwelling will be constructed on a crawl space foundation. The proposed foundation may be located within 2 feet of high groundwater. The Applicant

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understands that this portion of the Proposed Project may require a waiver under the Bylaw and therefore requests the necessary waiver (see Waiver Request section below).

3.02B(2)

*“Proposed projects shall not use procedures that the Commission determines changes the flood protection function (leveling out of storm surges by storing and slowly releasing water) of vegetated wetlands by significantly changing the rate of water flow through the wetlands (by channelization or other means).”*

The Proposed Project includes minor grading along the driveway and minimal fill adjacent to the proposed secondary dwelling. No significant grading or filling will be performed within the 25-foot BVW buffer zone. The Proposed Project as designed will not have any adverse impact on the ability of the BVW to provide flood protection.

3.02B(3)

*“No permit shall be issued which authorizes the destruction of forested swamps. The Commission may authorize the excavation of other vegetated wetlands to create ponds or clear the edge of a pond if the project is designed to increase wildlife habitat diversity and to minimize groundwater or surface water loss.”*

This standard is not applicable. The Proposed Project does not include the excavation of any wetland resource areas.

3.02B(4)

*“The septic leach facility of a septic system shall be at least 100 feet from the vegetated wetland.”*

This standard is not applicable. The Proposed Project will be connected to town water and sewer.

3.02B(5)

*“Piers shall be constructed and maintained using procedures determined by the Commission to be the best available measures to minimize adverse effects on Interests protected by the Bylaw.”*

This standard is not applicable. The Proposed Project does not include the construction of any piers.

3.02B(6)

*“Elevated walkways determined to be water dependent designed not to affect existing vegetation shall be required for pedestrian passage over vegetated wetlands.”*

This standard is not applicable. The Proposed Project does not include the construction of any elevated walkways.

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3.02B(7)

*"The Commission may impose such additional requirements as necessary to protect the Interests Protected under the Bylaw."*

The Applicant acknowledges the right of the Commission to apply additional requirements to protect the Interests of the Bylaw.

**CONCLUSION**

The Subject Property is currently developed and is the site of an SFR pervious driveway and extensive landscaped areas. Portions of the 25-foot and 50-foot BVW buffer zone have been historically maintained as lawn areas. The Applicant is proposing to construct a secondary dwelling, pool shed, pervious patio, pervious driveway, and associated landscaping/grading within the 100-foot BVW buffer zone. Portions of the proposed shed will be located within the 50-foot BVW buffer zone. All remaining structures will be located outside of the 50-foot BVW buffer zone. Portions of the proposed pervious patio and pervious driveway will be located inside the 50-foot BVW buffer zone but will be entirely outside of the 25-foot BVW buffer zones. The proposed secondary dwelling will be constructed on a crawl space foundation and may be located within two feet of high groundwater. The Applicant understands that the proposed shed and crawl space foundation may require waivers under the Bylaw. All work is proposed within previously altered and landscaped portions of the Subject Property and will not affect any native vegetation. The Applicant feels that the Proposed Project has been designed to minimize or avoid adverse impacts to the BVW and associated buffer zones. Therefore, the Applicant respectfully requests that the Commission grant the necessary waivers (see Waiver Request section below) and approve the project as proposed.

**WAIVER REQUEST**

***Proposed Shed***

The Applicant is proposing to construct a small shed partially within the 50-foot BVW buffer zone. The proposed shed will be located within a previously altered and landscaped portion of the Subject Property and will not result in any significant new or additional adverse impacts to the BVW or associated buffer zones. Under the Bylaw the proposed shed may require a waiver and therefore, the Applicant is respectfully requesting the necessary waivers from the following sections of the Nantucket Wetlands Protection Bylaw:

3.02B(1)

*"Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater."*

Although the proposed shed will be partially within the 50-foot BVW buffer zone, the proposed shed will be located within previously altered and landscaped portions of the Subject Property and will not result in any significant new or additional adverse impacts to the BVW or associated buffer zones. The Applicant is requesting a waiver for the proposed shed which will be located

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within the 50-foot buffer zone to a BVW under section 1.03F(3)(A) of the Bylaw which states the following:

*Section 1.03F(3)(A):*

*“The Commission may grant a waiver from these regulations when the Commission finds that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow that project to proceed in compliance with the regulations. The burden of proof to show no adverse impact to the interests identified in the Bylaw, Chapter 136 Section 2, shall be the responsibility of the owner/applicant. The burden of proof to show no reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.*

*It shall be the responsibility of the applicant to provide the Commission with any information, which the Commission may request in order to enable the Commission to ascertain such adverse effects. The failure of the applicant to furnish any information which has been so requested may result in the denial of a request for a waiver pursuant to this subsection.”*

The proposed shed will be located within previously altered and landscaped portions of the Subject Property and given existing site conditions, will not result in any significant new or additional adverse impacts to the BVW or associated buffer zones.

**Secondary Dwelling**

The Applicant is proposing to construct a secondary dwelling on the Subject Property. The proposed secondary dwelling will be located entirely outside of the 50-foot BVW buffer zone. The proposed secondary dwelling will be constructed on a crawl space foundation. The proposed foundation will likely be within two feet of high groundwater. Under the Bylaw this activity would require a waiver and therefore, the Applicant is respectfully requesting a waiver from the following section of the Nantucket Wetlands Protection Bylaw:

*3.02B(1)*

*“Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.”*

The proposed foundation will not adversely impact the BVW or associated buffer zone and will be consistent with foundations used for similar projects outside of the 50-foot BVW buffer zone. The Applicant is requesting a waiver for the crawl space foundation two-foot separation to high groundwater under section 1.03F(3)(A) of the Bylaw which state the following:

*Section 1.03F(3)(A):*

*“The Commission may grant a waiver from these regulations when the Commission finds that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow that project to proceed in compliance with the regulations. The burden*

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*of proof to show no adverse impact to the interests identified in the Bylaw, Chapter 136 Section 2, shall be the responsibility of the owner/applicant. The burden of proof to show no reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.*

*It shall be the responsibility of the applicant to provide the Commission with any information, which the Commission may request in order to enable the Commission to ascertain such adverse effects. The failure of the applicant to furnish any information which has been so requested may result in the denial of a request for a waiver pursuant to this subsection.”*

The proposed secondary dwelling will not include a full basement but will instead be constructed using a crawl space foundation so as to significantly reduce the depth of excavation required for the project. The proposed foundation is consistent with numerous other projects located outside of the 50-foot BVW buffer zone. The proposed foundation has been designed to minimize or eliminate any adverse impacts to the BVW and associated buffer zones. Therefore, the Applicant feels that constructing the foundation within two feet of high groundwater will not result in any adverse impacts to the BVW or associated buffer zones.

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**SITE DESIGN ENGINEERING, LLC.**

11 Cushman Street, Middleboro, MA 02346

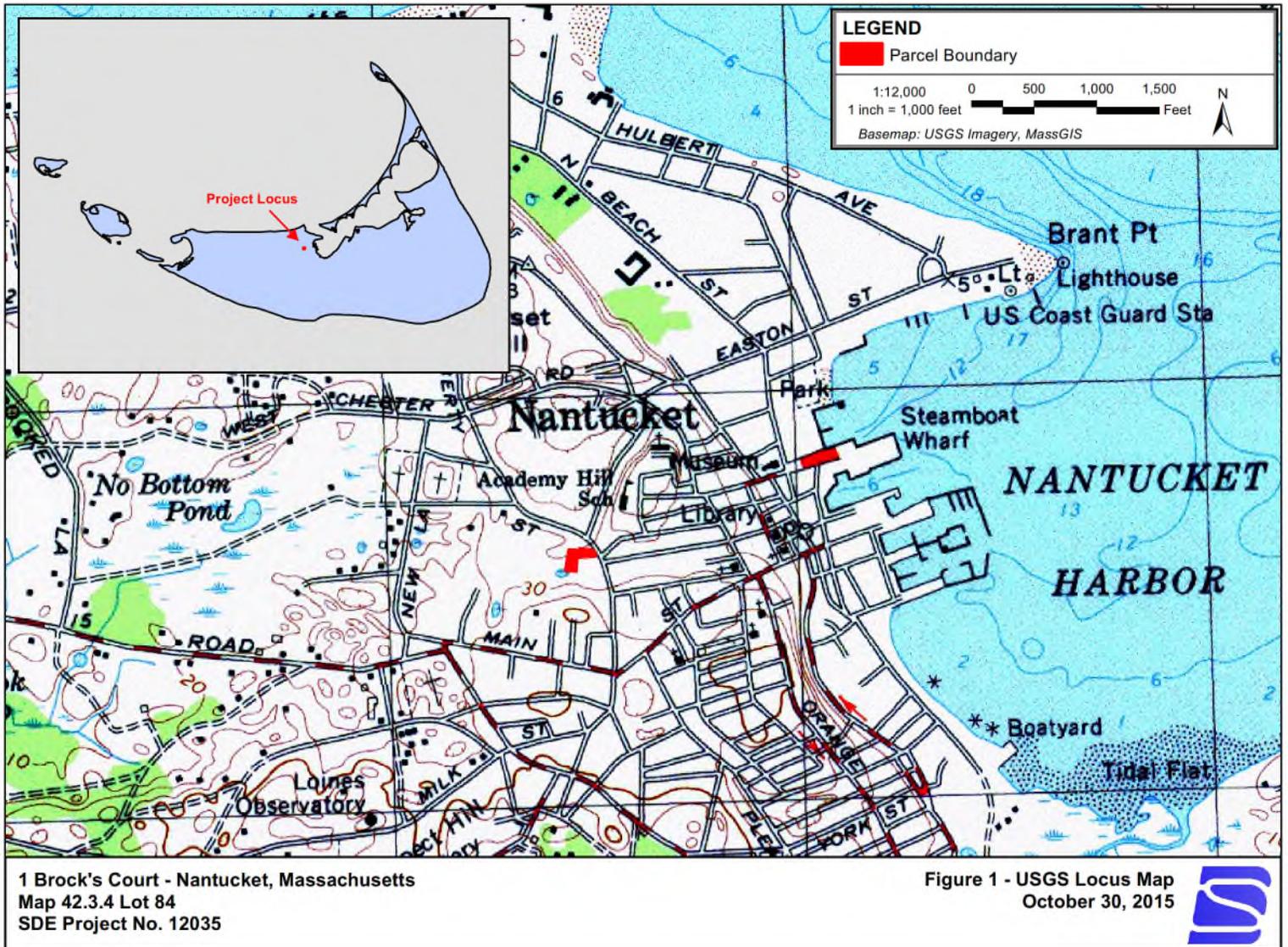
P: 508-967-0673 F: 508-967-0674

## FIGURES

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P: 508-967-0673 F: 508-967-0674





1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 2 - Site Overview  
October 30, 2015





1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 3 - Detailed Site Overview  
October 30, 2015





**LEGEND**

- Parcel Boundary
- Wetland Boundary
- 25-Foot Buffer Zone
- 50-Foot Buffer Zone
- 100-Foot Buffer Zone

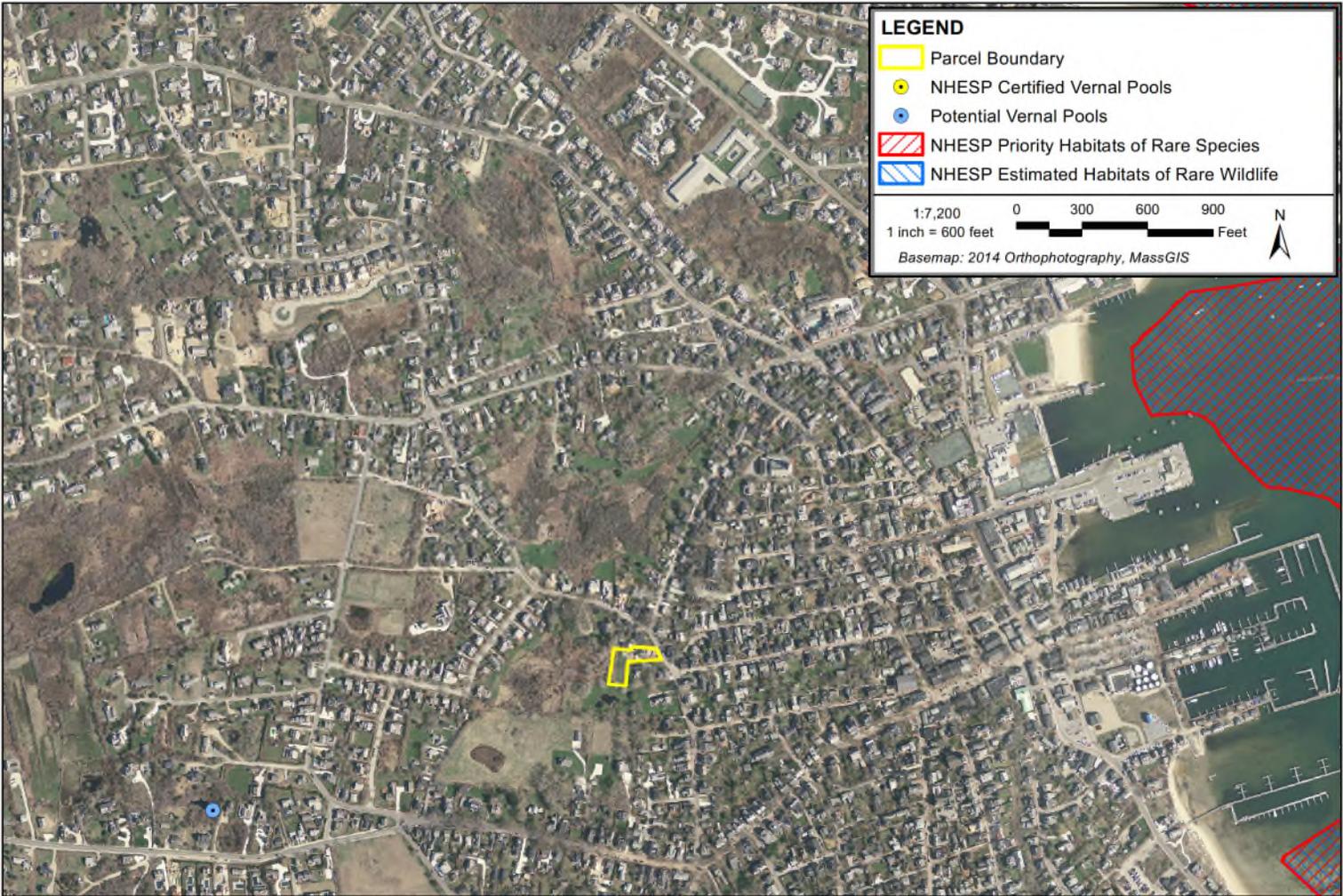
1:900      0      37.5      75      112.5  
 1 inch = 75 feet      Feet     

Basemap: 2014 Orthophotography, MassGIS

1 Brock's Court - Nantucket, Massachusetts  
 Map 42.3.4 Lot 84  
 SDE Project No. 12035

Figure 4 - Wetland Boundaries  
 October 30, 2015





**LEGEND**

- Parcel Boundary
- NHESP Certified Vernal Pools
- Potential Vernal Pools
- NHESP Priority Habitats of Rare Species
- NHESP Estimated Habitats of Rare Wildlife

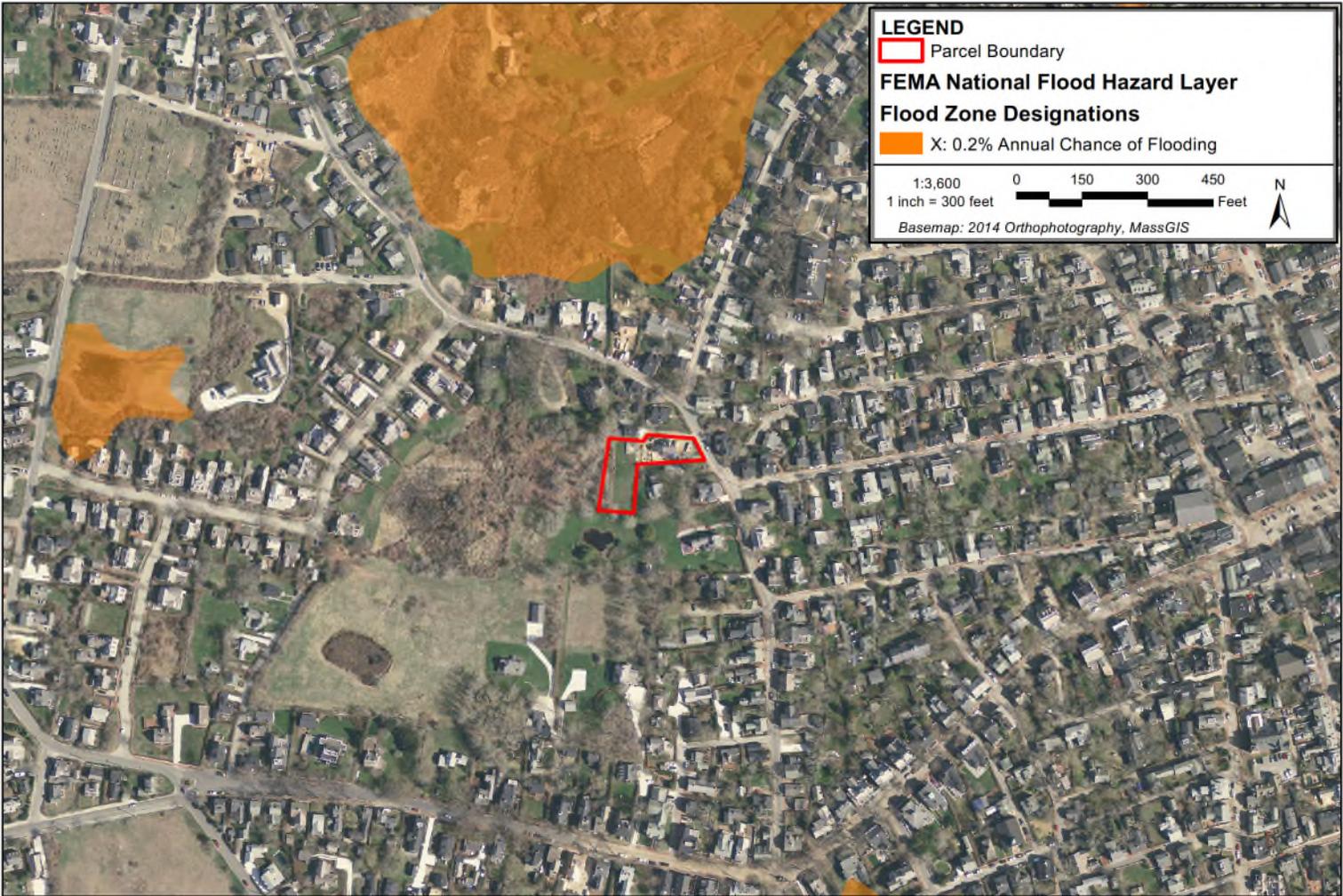
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 1 inch = 600 feet      Feet

Basemap: 2014 Orthophotography, MassGIS

1 Brock's Court - Nantucket, Massachusetts  
 Map 42.3.4 Lot 84  
 SDE Project No. 12035

Figure 5 - NHESP Habitat  
 October 30, 2015





1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 6 - FEMA Flood Zones  
October 30, 2015





Laurentide Environmental, LLC  
14 South Shore Road  
Nantucket, MA 02554

e-mail: laurentideenvironmental@comcast.net

(508) – 332 – 9722

**Field Inspection Report**

**Date:** November 12, 2015

**Applicant / Owner:** Edwin Snider Realty Trust

**Location:** 1 Brocks Court

**Agent:** Site Design Engineering – Mark Rits

**Comments:** Developed lot off North Liberty Street. The applicant has submitted two NOIs for separate work. The wetland boundary is the same for both the NOIs.

The wetland boundary reflects the conditions that exist on the site today.

**NOI #1:** This requests validation of work performed within the Commission's jurisdiction with out a valid permit. Based on aerials of the area it appears that the work was conducted in 2013 and 2014 (Google Earth mapping).

The work performed was the relocation of the existing dwelling, expansion of the dwelling, construction of decks, landscaping (privet plantings) and driveway improvements. With the expansion of the dwelling without a permit causes some problems for the second NOI filed for this property.

**NOI # 2:** This NOI requests new work on the property including the construction of a new dwelling, in-ground pool, a shed, driveway access to the new dwelling, and grading. The application also requests two waivers for the work.

**Waiver # 1:** The construction of the shed within 50 feet to the wetland boundary. The application fails to meet the requirements of the requested waiver. There is no alternatives analysis as required by the regulations. There is no proof submitted that the change from landscaped lawn to an impervious structure will not impact the wetlands. There are plenty of locations available outside the 50-foot no build buffer to locate this shed. Including areas that were impacted by the unpermitted work.

**Waiver # 2:** The request is for a reduction of the 2-foot separation of the proposed foundation to the high groundwater. There is no information of the bottom of the foundation elevation or the elevation of the groundwater. This area through Woodbury Lane and Lily Pond is well known for high groundwater and

thick clay layer(s) that prevent percolation. Without further information on the soils and groundwater, it is hard to make the determination on no adverse impact in either long or short term. In addition with the known soils and groundwater problems in the area, it is hard to believe that the installation of the pool will not result in the same problems as the proposed foundation.

**Questions and Recommendations:**

Why was no application for the proposed work in NOI #1? The current property are aware of the Commission's Regulations.

Additional information is needed to justify both waivers, including a discussion on long and short term impacts (de-watering).

More details on the pool size, depth, water discharge, etc.

No mitigation is proposed for the two requested waivers.

**Inspector:** B. Perry

Dear Mr. Carlson,

I am writing regarding the two NOI applications submitted by Edwin Snider Realty Trust for 1 Brock's Court and are on the agenda for the meeting this Wednesday, November 18, 2015, agenda item numbers 9 and 10 in Section II - A.

I am the owner of 40 Liberty Street, which is two houses away from the aforementioned property. As an abutter in close proximity to the property in concern, I would like to respectfully submit my multiple concerns regarding these proposals.

1. First and foremost, I received the notice by certified mail only yesterday even though the letter is dated October 31. I know that other neighbors also did not receive the NOI until this weekend. I have been given no time to submit any comments or concerns which can not be proper procedure.

2. One of the two proposals requests approval "to relocate an existing single family residence, construct an addition, pervious patio, wooden deck, and associated landscaping buffer." I find this incredibly shocking since the residence was already moved almost two years ago, obviously without your approval!!

Regarding the addition of a second dwelling and a pool:

3. The Land Court's decision in April, 2013, to allow subdivision of the property, originally known as 44 Liberty Street, was based on a Wetland Assessment from 2007. Since wetland assessments are only valid for three years, this was an improper basis for approval. I had a Wetland Assessment conducted June, 2013 by New England Environment, Inc at the suggestion of Gerald Buzanoski, and they concluded that the assessment that was used was out of date, that the wetland boundary had expanded, and that the property in question was certainly in wetlands since three sides of the bordering properties were in wetlands. I have attached that assessment.

4. In the three years that I have owned my house, I have had to install french drains, a sump pump, two dehumidifiers and three fans in my basement. In fact, the sump pump sits in water because the water table at my house is 10-12 inches. The whole area is wet and getting wetter. Indigenous vegetation has slowly been dying in the area due to the constant wet conditions. It would be **unconscionable** to add any further barriers or impervious cover to that area. The lack of percolation will redirect water which therefore would destroy even more native vegetation. Certainly the new dwelling would have water issues since the water table is so high. And, any wildlife that still exists there would be further displaced.

5. The area comprising of The Joan Pratel Trust land and Marsha Fader's land is one of the few open spaces left in town. What a shame to further impinge on that beauty and tranquility that Nantucket is so valiantly trying to preserve and protect.

In summation, the additions of a pool and second dwelling would negatively impact not only the architectural integrity of the neighborhood by cramming in more structures but the natural conditions as well. (Even the HDC has decided to expand the Historic District's borders so that

there are no more additions of pools, etc., in the area of question.) The area is wetland and adding any more barriers will severely impact much as the run-off of water will be re-directed in unknown ways. Also, the owner of the property in question has already not followed the rules by moving the residence without approval. In fact, the construction on this property to date has already changed the grading and therefore the subsequent drainage has killed neighboring native plants and hedges. His arrogance and entitlement is universally known as he has posted blogs and videos on how to railroad through rules and regulations to get the job done. I certainly hope that he doesn't prevail again!

Thank you for your consideration. Should you have any questions, I can be reached at 610-658-0878.

Sincerely,  
Joanna Lewis

Please acknowledge receipt of this email. Thank you!



September 9, 2013

Liberty Ladies, LLC  
40 Liberty Street  
Nantucket, MA

Mr. Gregory Elder  
44 Liberty Street  
Nantucket, MA

Ms. Marsha Fader  
36 Liberty Street  
Nantucket, MA

**RE: Wetland Assessment at Brock's Court  
Nantucket, MA  
NEE File 13-4266**

Please find attached information NEE has developed to review the wetlands adjacent to Brock's Court. We evaluated the wetlands, soil conditions, and hydrology of this area on June 20, 2013. This letter finalizes a draft memo sent to you on July 31, 2013.

A wetland boundary adjacent to the Brock's Court Subdivision was approved by the Nantucket Conservation Commission based on a plan dated October 27, 2007 prepared by Blackwell & Associates, Inc. which is part of the Conservation Restriction by Joan Pratel to the Nantucket Land Council. This restriction was recorded on December 21, 2007.

A proposed plan for 1 Brock's Court was produced by On-Island Survey, Inc. on April 6, 2011 for Jay Nichols. This plan uses the same wetland boundaries and numbering system which was part of the above referenced Conservation Restriction on the Pratel parcel. There is no new wetland assessment or new wetland delineation evident on the property relative to any new work proposed by Mr. Nichols.

NEE reviewed the wetland site conditions on the Pratel and Fader properties and located an old wetland flag at location WLF #50/59 which is the closest location to the Brock's Court site. This wetland flag was placed by LEC consultants. We conducted a wetland data point in this location (attached) which was found to be saturated, with water within 13" of the surface, and containing hydric (wetland) soils with significant fill and debris as evidence of previous filling. A second wetland data point within a mown lawn area was recorded on the Fader property near the south end of the Brock's Court property. This data point showed hydric soils, saturated conditions, and a water table close to the land surface, at a similar elevation of the pond.

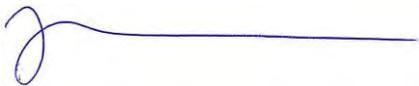
We located historic drainage channels, a drop inlet, a small pond, saturated soil conditions, small open water pools within the wetlands, and subsurface evidence of historic and current soil saturation and wetland site conditions in this area.

**Findings.** Wetland boundary determinations are valid for a period of three years and may not be extended, unless the Conservation Commission issues an Order of Resource Area Delineation. We do not know if there has been a Determination of Applicability of the wetland boundaries associated with the Pratel Conservation Restriction, but there was an approval by the Conservation Commission of the wetlands for the purpose of accepting the conservation restriction. It is not appropriate to re-use a wetland boundary which is more than 3 years old, or to use the 2007 wetland boundary as confirmation of current (2013) wetland conditions. It is our assessment based on our June, 2013 site conditions, that the wetlands have slightly expanded from the 2007 delineation, and that wetlands may have been filled to the east of wetland flag #50/59 which would change buffer setback boundaries. We did not conduct any work on the Brock's Court property; however an assessment of the wetlands on this property would be appropriate and any new development work should be based on a current wetland delineation and assessment of existing site conditions.

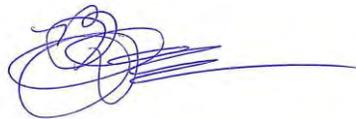
Based on our soil evaluations on adjacent properties, it is possible that the open lawn on the Brock's Court property has filled historic wetlands. There are presently wetlands located on all three sides of this lawn: delineated BVW to west; a pond and adjacent wetlands to the south; and a drainage ditch and outlet to the east. Any future development or land use change within the lawn area would encroach on the buffers to these wetlands, and would require the approval of the Nantucket Conservation Commission.

Please do not hesitate contacting NEE if you have any questions regarding these findings. Photographs, plans, wetland data forms, and additional information we reviewed are attached.

Sincerely,  
New England Environmental, Inc.



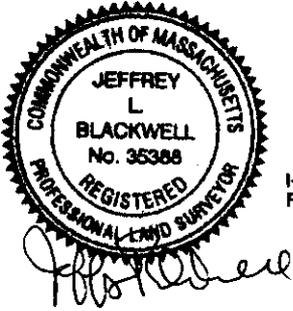
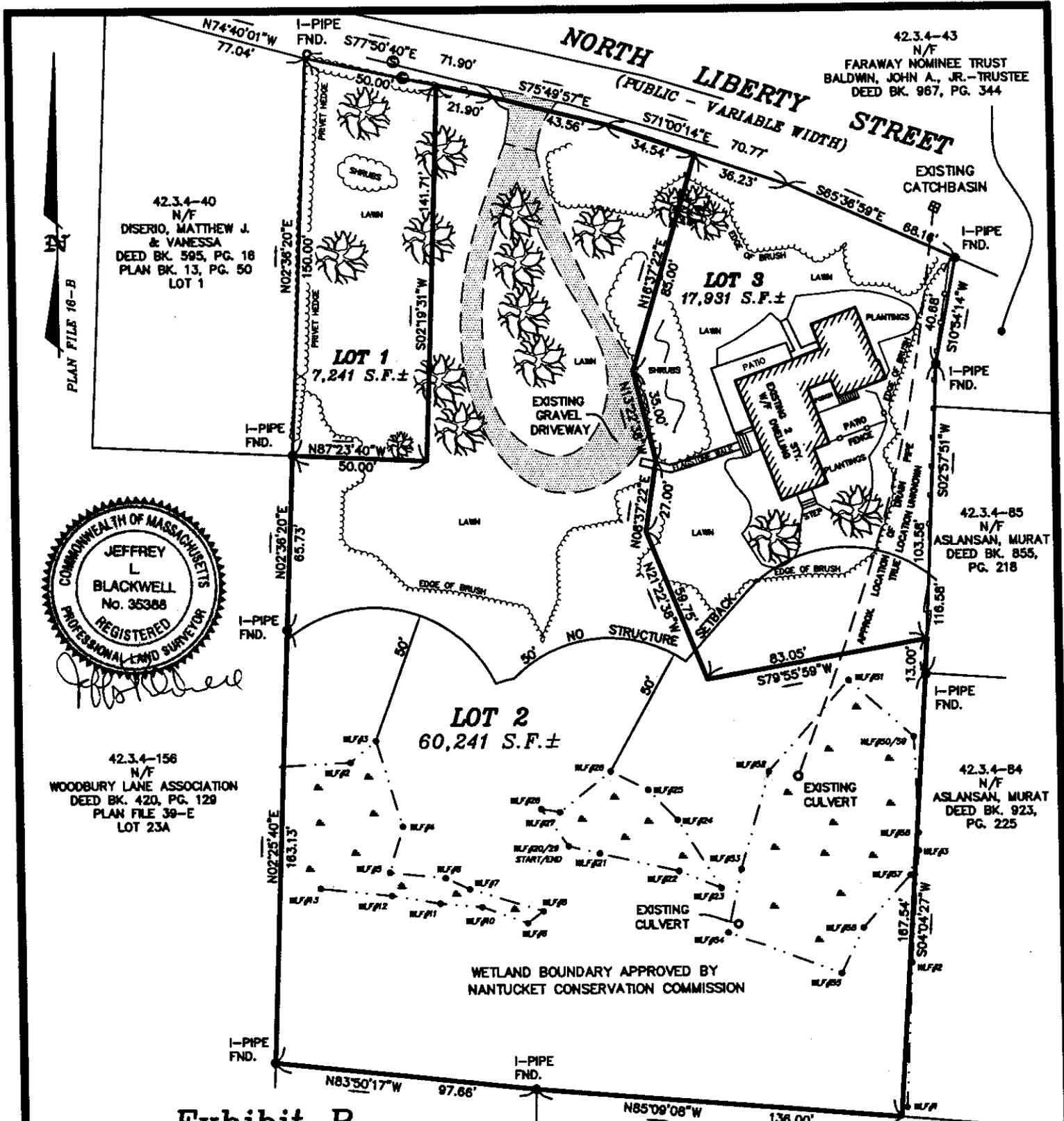
Michael Marcus  
Professional Wetland Scientist  
Principal



Bruce Griffin  
Certified Professional Soil Scientist

cc: Gerald G. Buzanoski, P.E.

enc. Photographs  
Blackwell & Associates Plan, 2007  
On-Island Survey Plan, 2011  
Aerial Photograph, topographic Map, NEE  
Soil Map



**Exhibit B**  
 Site Plan to Accompany  
 a Conservation Restriction  
 in  
 Nantucket, Mass.  
 Prepared for  
**JOAN PRATEL**

Scale: 1" = 50' OCTOBER 24, 2007

DEED REF.: BK 222, PG. 59  
 PLAN REF.: No. 2007-59

**BLACKWELL & ASSOCIATES, Inc.**  
 Professional Land Surveyors  
 20 TEASDALE CIRCLE  
 NANTUCKET, MASS. 02554  
 (508) 228-9026





NHESP Designated Locations  
 1 Brock Court  
 Nantucket, Massachusetts

**New England Environmental, Inc.**  
 Environmental Consulting  
 15 Research Drive  
 Amherst, MA 01002  
 (p) 413.256.0202  
 (f) 413.256.1092  
 www.neeinc.com

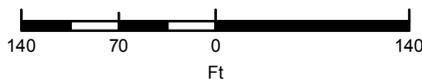


Data Source: MassGIS, MA DEP Wetlands  
 NHESP 2008 Estimated Habitats for Rare Wildlife  
 for use with the MA Wetlands Protection Act  
 NHESP 2008 Priority Habitats for State-Protected  
 Rare Species. NHESP 2011 Massachusetts Certified  
 Vernal Pools. NHESP Potential Vernal Pools 2000:  
 Not Equivalent to Certified Vernal Pools.

NEE Job # 13-4266



Latitude 41° 17' 13.758" N  
 Longitude 70° 6' 28.282" W



June, 2013





Prepared by:  
**New England Environmental, Inc.**  
Environmental Consulting  
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Prepared for:

Date: 06/18/013  
NEE File # 13- 4266

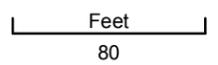
Drawn by: JB  
Checked by:



**1 Brock Court  
Nantucket, MA**

Data Source: MassGIS  
Commonwealth of Massachusetts  
Executive Office of Environmental Affairs  
Ortho photo: Nantucket Quad

NEE File # 13-4266



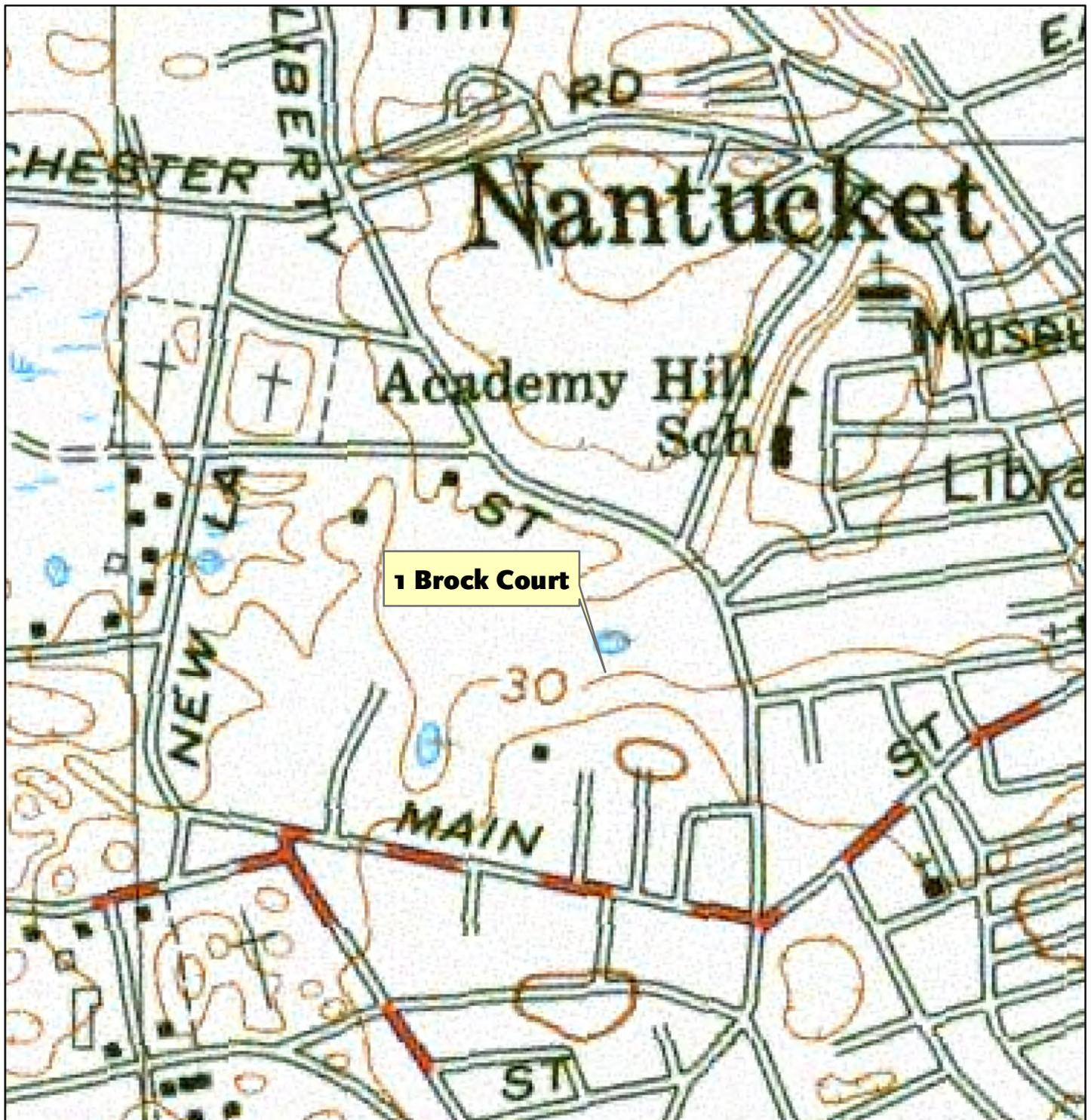


Figure 1: Topographic Map  
 Brocks Court  
 Nantucket, MA

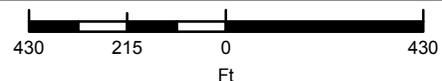
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Data Source:  
 MassGIS, Commonwealth of  
 Massachusetts Executive Office  
 of Environmental Affairs

USGS Nantucket, Mass Quadrangle

NEE Job # 13-4266

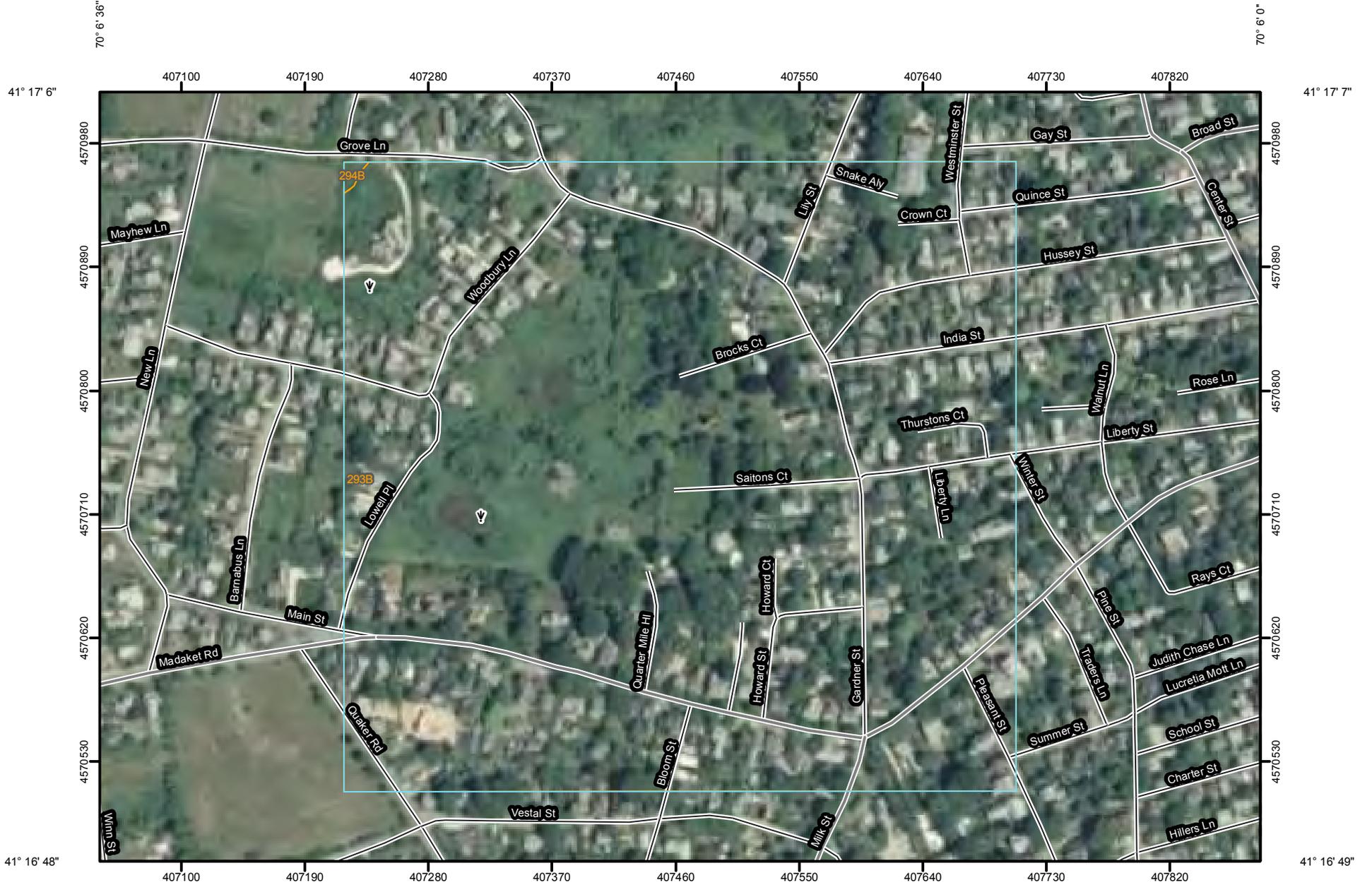


Latitude 41°17'13.758"N  
 Longitude 70°6'28.282"W

June 18, 2012



Soil Map—Nantucket County, Massachusetts  
(1 Brock Court)



Map Scale: 1:4,010 if printed on A size (8.5" x 11") sheet.



## MAP LEGEND

### Area of Interest (AOI)

 Area of Interest (AOI)

### Soils

 Soil Map Units

### Special Point Features

-  Blowout
-  Borrow Pit
-  Clay Spot
-  Closed Depression
-  Gravel Pit
-  Gravelly Spot
-  Landfill
-  Lava Flow
-  Marsh or swamp
-  Mine or Quarry
-  Miscellaneous Water
-  Perennial Water
-  Rock Outcrop
-  Saline Spot
-  Sandy Spot
-  Severely Eroded Spot
-  Sinkhole
-  Slide or Slip
-  Sodic Spot
-  Spoil Area
-  Stony Spot

 Very Stony Spot

 Wet Spot

 Other

### Special Line Features

-  Gully
-  Short Steep Slope
-  Other

### Political Features

 Cities

### Water Features

 Streams and Canals

### Transportation

-  Rails
-  Interstate Highways
-  US Routes
-  Major Roads
-  Local Roads

## MAP INFORMATION

Map Scale: 1:4,010 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for accurate map measurements.

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>  
Coordinate System: UTM Zone 19N NAD83

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Nantucket County, Massachusetts  
Survey Area Data: Version 9, Feb 24, 2010

Date(s) aerial images were photographed: 7/26/2003

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Map Unit Legend

Nantucket County, Massachusetts (MA019)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
293B	Riverhead-Nantucket complex, 3 to 8 percent slopes	55.4	99.9%
294B	Evesboro sand, 3 to 8 percent slopes	0.1	0.1%
<b>Totals for Area of Interest</b>		<b>55.4</b>	<b>100.0%</b>

**WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region**

Project/Site: Near Brock's Court City/ County: Nantucket Sampling Date: 6/20/13

Applicant/Owner: \_\_\_\_\_ State: MA Sampling Point: wooded plot

Investigator(s): New England Environmental, Inc. Section, Township, Range: \_\_\_\_\_

Landform (hillslope, terrace, etc.): outwash terrace Local relief (concave, convex, none): concave

Slope (%): 0% Lat: 41° 17' 2" N Long: 70° 6' 17" W Datum: 1983

Soil Map Unit Name: Riverhead-Nantucket complex, 3-8% slopes NWI classification: \_\_\_\_\_

Are climatic / hydrologic conditions on the site typical for this time of year? Yes  No \_\_\_\_\_ (If no, explain in Remarks.)

Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes  No \_\_\_\_\_

Are Vegetation X\*, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

**SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.**

Hydrophytic Vegetation Present? Yes _____ No <u>X*</u> Hydric Soil Present? Yes <u>X</u> No _____ Wetland Hydrology Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X*</u> No _____ If yes, optional Wetland Site ID: _____
Remarks: (Explain alternative procedures here or in a separate report.)  Locus is 8' from an LEC delineation flag, and 4' from the privet hedge at the property line. * Three of the dominant plants are non-native species, with two rated as FACU and one not listed in the regional wetland plant list. The only native plant is a wetland indicator. If the unlisted <i>Populus alba</i> were considered a wetland plant (it appears to be growing happily in a wet location around the sampled area), then two of the four plants would be wet, and the plant community would rank as wet.	

**HYDROLOGY**

<b>Wetland Hydrology Indicators:</b> Primary Indicators (minimum of one is required; check all that apply)	Secondary Indicators (minimum of two required)
<input type="checkbox"/> Surface Water (A1) <input type="checkbox"/> Water-Stained Leaves (B9) <input checked="" type="checkbox"/> High Water Table (A2) <input type="checkbox"/> Aquatic Fauna (B13) <input checked="" type="checkbox"/> Saturation (A3) <input type="checkbox"/> Marl Deposits (B15) <input type="checkbox"/> Water Marks (B1) <input type="checkbox"/> Hydrogen Sulfide Odor (C1) <input type="checkbox"/> Sediment Deposits (B2) <input checked="" type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3) <input type="checkbox"/> Drift Deposits (B3) <input type="checkbox"/> Presence of Reduced Iron (C4) <input type="checkbox"/> Algal Mat or Crust (B4) <input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6) <input type="checkbox"/> Iron Deposits (B5) <input type="checkbox"/> Thin Muck Surface (C7) <input type="checkbox"/> Inundation Visible on Aerial imagery (B7) <input type="checkbox"/> Other (Explain in Remarks) <input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	<input type="checkbox"/> Surface Soil Cracks (B6) <input type="checkbox"/> Drainage Patterns (B10) <input type="checkbox"/> Moss Trim Lines (B16) <input type="checkbox"/> Dry-Season Water Table (C2) <input type="checkbox"/> Crayfish Burrows (C8) <input type="checkbox"/> Saturation Visible on Aerial Imagery (C9) <input type="checkbox"/> Stunted or Stressed Plants (D1) <input type="checkbox"/> Geomorphic Position (D2) <input type="checkbox"/> Shallow Aquitard (D3) <input type="checkbox"/> Microtopographic Relief (D4) <input type="checkbox"/> FAC-Neutral Test (D5)

<b>Field Observations:</b> Surface Water Present? Yes _____ No <u>X**</u> Depth (inches): _____ Water Table Present? Yes <u>X</u> No _____ Depth (inches): <u>13"</u> Saturation Present? Yes <u>X</u> No _____ Depth (inches): <u>7"</u> (includes capillary fringe)	** surface water visible approximately 8' from test pit. <b>Wetland Hydrology Present? Yes <u>X</u> No _____</b>
---	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks: This plot location has a hydric soil formed in fill and a mixed, disturbed plant community dominated by non-native and invasive species. Oxidized rhizospheres in top 6" are a strong indicator of wetland hydrology. Photographs of plant community and soil on following pages.

**VEGETATION** - Use scientific names of plants.

Sampling Point: wooded plot

<u>Tree Stratum</u> (Plot size: <u>30 ft radius</u> )			
	Absolute % Cover	Dominant Species?	Indicator Status
1. <i>Populus alba</i>	38	Yes	NL
2. _____			
3. _____			
4. _____			
5. _____			
6. _____			
7. _____			

**Dominance Test worksheet:**

Number of Dominant Species That Are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 33.00% (A/B)

38 = Total Cover

<u>Sapling/Shrub Stratum</u> (Plot size: <u>15 ft radius</u> )			
	Absolute % Cover	Dominant Species?	Indicator Status
1. _____			
2. _____			
3. _____			
4. _____			
5. _____			
6. _____			
7. _____			

**Prevalence Index worksheet:**

Total % Cover of:	Multiply by:
OBL species <u>0</u>	x 1 = <u>0</u>
FACW species <u>0</u>	x 2 = <u>0</u>
FAC species <u>20.5</u>	x 3 = <u>61.5</u>
FACU species <u>123.5</u>	x 4 = <u>494</u>
UPL species <u>0</u>	x 5 = <u>0</u>
Column Totals: <u>144</u>	(A) <u>555.5</u> (B)
Prevalence Index = B/A = <u>3.857638889</u>	

0 = Total Cover

<u>Herb Stratum</u> (Plot size: <u>5 ft radius</u> )			
	Absolute % Cover	Dominant Species?	Indicator Status
1. <i>Fallopia japonica</i>	85.5	Yes	FACU
2. <i>Alliaria petiolata</i>	38	Yes	FACU
3. _____			
4. _____			
5. _____			
6. _____			
7. _____			
8. _____			
9. _____			
10. _____			
11. _____			
12. _____			

**Hydrophytic Vegetation Indicators:**

Rapid Test for Hydrophytic Vegetation

Dominance Test is >50%

Prevalence Index is ≤3.0<sup>1</sup>

Morphological Adaptations<sup>1</sup> (Provide supporting data in Remarks or on a separate sheet)

Problematic Hydrophytic Vegetation<sup>1</sup> (Explain)

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

123.5 = Total Cover

<u>Woody Vine Stratum</u> (Plot size: <u>30 ft. radius</u> )			
	Absolute % Cover	Dominant Species?	Indicator Status
1. <i>Vitis riparia</i>	20.5	Yes	FAC
2. _____			
3. _____			
4. _____			

0 = Total Cover

**Definitions of Vegetation Strata:**

**Tree** - Woody Plants 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.

**Sapling/shrub** - Woody Plants less than 3 in. DBH and greater than 3.28 ft (1 m) tall.

**Herb** - All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft. tall.

**Woody vines** - All woody vines greater than 3.28 ft. in height.

**Hydrophytic Vegetation Present?** Yes  No \*

Remarks: Photographs of vegetation at the plant plot on wooded lot.



\* If *P. alba* were considered a wetland indicator, 50% would be wet.

**SOIL**

Sampling Point: wooded plot

**Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)**

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-6"	2.5Y2.5/1	98%	7.5YR4/6	2%	C	PL	mucky l.sand	includes oxidized rhizospheres and stripped sand grains
6-9"	2.5Y3/1	98%	7.5YR4/6	2%	C	PL	mucky l.sand	
9-15"	2.5Y3/1	85%	7.5YR4/6	5%	C	PL	sandy loam	10% shell fragments
15-20"	2.5Y4/1	80%	7.5YR4/6	5%	C	PL	sandy loam	15% shell fragments & gravel, glass fragments at 16"

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. <sup>2</sup>Location: PL=Pore Lining, M=Matrix.

<b>Hydric Soil Indicators:</b>		<b>Indicators for Problem:</b>
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Polyvalue Below Surface (S8) (LRR R, MLRA 149B)	<input type="checkbox"/> 2 cm Muck (A10) (LRR K, L, MLRA 149B)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Thin Dark Surface (S9) (LRR R, MLRA 149B)	<input type="checkbox"/> Coast Prairie Redox (A16)(LRR K, L, R)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Loamy Mucky Mineral	<input type="checkbox"/> 5 cm Mucky Peat or Peat (S3) (LRR K, L, R)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Dark Surface (S7) (LRR K, L)
<input type="checkbox"/> Stratified Layers (A5)	<input type="checkbox"/> Depleted Matrix (F3)	<input type="checkbox"/> Polyvalue Below Surface (S8) (LRR K, L)
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Redox Dark Surface (F6)	<input type="checkbox"/> Thin Dark Surface (S9) (LRR K, L)
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Depleted Dark Surface (F7)	<input type="checkbox"/> Iron-Manganese Masses (F12) (LRR K, L, R)
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Redox Depressions (F8)	<input type="checkbox"/> Piedmont Floodplain Soils (F19) (MLRA 149B)
<input type="checkbox"/> Sandy Gleyed Matrix (S4)		<input type="checkbox"/> Mesic Spodic (TA6) (MLRA 144A, 145, 149B)
<input type="checkbox"/> Sandy Redox (S5)		<input type="checkbox"/> Red Parent Material (TF2)
<input type="checkbox"/> Stripped Matrix (S6)		<input type="checkbox"/> Very Shallow Dark Surface (TF12)
<input type="checkbox"/> Dark Surface (S7) (LRR R, MLRA 149B)		<input checked="" type="checkbox"/> Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**  
 Type: \_\_\_\_\_  
 Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes  No

Remarks: Profile does not fit any national hydric soil indicators. Fits NEIWPCC New England Indicator VII, depleted below dark surface. Presence of glass and shells indicates this is fill. Plastic cup also found in top 6". Oxidized rhizospheres in photo below.



Soil from test pit.

**WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region**

Project/Site: Near Brock's Court City/ County: Nantucket Sampling Date: 6/20/13  
 Applicant/Owner: \_\_\_\_\_ State: MA Sampling Point: mown lawn  
 Investigator(s): New England Environmental, Inc. Section, Township, Range: \_\_\_\_\_  
 Landform (hillslope, terrace, etc.): outwash terrace Local relief (concave, convex, none): concave  
 Slope (%): 0% Lat: 41° 16' 60" N Long: 70° 6' 17" W Datum: 1983  
 Soil Map Unit Name: Riverhead-Nantucket complex, 3-8% slopes NWI classification: \_\_\_\_\_

Are climatic / hydrologic conditions on the site typical for this time of year? Yes  No \_\_\_\_\_ (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes  No \_\_\_\_\_  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

**SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.**

Hydrophytic Vegetation Present? Yes _____ No <input checked="" type="checkbox"/> ** Hydric Soil Present? Yes <input checked="" type="checkbox"/> No _____ Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No _____	Is the Sampled Area within a Wetland? Yes <input checked="" type="checkbox"/> No _____ If yes, optional Wetland Site ID: _____
Remarks: (Explain alternative procedures here or in a separate report.) Locus is approximately 14' from the edge of the pond to the south, and 30' from a privet hedge along the property line to the north. **Closely-mown grasses and sedges cannot be identified as to species, so the plant community cannot be assessed. However, the one identifiable plant is an obligate wetland plant. DEP guidance for assessing the wetland status of lawns is to depend upon soils information. The soil and observed hydrology in this location indicate that this is a wetland.	

**HYDROLOGY**

<b>Wetland Hydrology Indicators:</b> Primary Indicators (minimum of one is required; check all that apply) <input type="checkbox"/> Surface Water (A1) <input type="checkbox"/> Water-Stained Leaves (B9) <input checked="" type="checkbox"/> High Water Table (A2) <input type="checkbox"/> Aquatic Fauna (B13) <input checked="" type="checkbox"/> Saturation (A3) <input type="checkbox"/> Marl Deposits (B15) <input type="checkbox"/> Water Marks (B1) <input type="checkbox"/> Hydrogen Sulfide Odor (C1) <input type="checkbox"/> Sediment Deposits (B2) <input checked="" type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3) <input type="checkbox"/> Drift Deposits (B3) <input type="checkbox"/> Presence of Reduced Iron (C4) <input type="checkbox"/> Algal Mat or Crust (B4) <input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6) <input type="checkbox"/> Iron Deposits (B5) <input type="checkbox"/> Thin Muck Surface (C7) <input type="checkbox"/> Inundation Visible on Aerial imagery (B7) <input type="checkbox"/> Other (Explain in Remarks) <input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	<b>Secondary Indicators (minimum of two required)</b> <input type="checkbox"/> Surface Soil Cracks (B6) <input type="checkbox"/> Drainage Patterns (B10) <input type="checkbox"/> Moss Trim Lines (B16) <input type="checkbox"/> Dry-Season Water Table (C2) <input type="checkbox"/> Crayfish Burrows (C8) <input type="checkbox"/> Saturation Visible on Aerial Imagery (C9) <input type="checkbox"/> Stunted or Stressed Plants (D1) <input type="checkbox"/> Geomorphic Position (D2) <input type="checkbox"/> Shallow Aquitard (D3) <input type="checkbox"/> Microtopographic Relief (D4) <input type="checkbox"/> FAC-Neutral Test (D5)
--	--

<b>Field Observations:</b> Surface Water Present? Yes _____ No <input checked="" type="checkbox"/> Depth (inches): _____ Water Table Present? Yes <input checked="" type="checkbox"/> No _____ Depth (inches): <u>at surface</u> Saturation Present? Yes <input checked="" type="checkbox"/> No _____ Depth (inches): <u>at surface</u> (includes capillary fringe)	<b>Wetland Hydrology Present?</b> Yes <input checked="" type="checkbox"/> No _____
---	--

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks: This plot location has a hydric soil and a mown plant community with the only identifiable species an obligate wetland plant. Oxidized rhizospheres and obvious wetland hydrology are also present. Photographs of plant community and soil on following pages.

**VEGETATION** - Use scientific names of plants.

Sampling Point: mown lawn

<u>Tree Stratum</u> (Plot size: <u>30 ft radius</u> )	Absolute % Cover	Dominant Species?	Indicator Status	
1. <i>Acer pseudoplatanus</i>	NR			<b>Dominance Test worksheet:</b> Number of Dominant Species That Are OBL, FACW, or FAC: <u>0</u> (A)  Total Number of Dominant Species Across All Strata: <u>0</u> (B)  Percent of Dominant Species That Are OBL, FACW, or FAC: _____ (A/B)
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
<u>0</u> = Total Cover				
<u>Sapling/Shrub Stratum</u> (Plot size: <u>15 ft radius</u> )				
1. <i>NR</i>				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
<u>0</u> = Total Cover				
<u>Herb Stratum</u> (Plot size: <u>5 ft radius</u> )				
1. <i>mown grasses &amp; sedges</i>	98	Yes	N/A	<b>Hydrophytic Vegetation Indicators:</b> <input type="checkbox"/> Rapid Test for Hydrophytic Vegetation <input type="checkbox"/> Dominance Test is >50% <input type="checkbox"/> Prevalence Index is ≤3.0 <sup>1</sup> <input type="checkbox"/> Morphological Adaptations <sup>1</sup> (Provide supporting data in Remarks or on a separate sheet) <input type="checkbox"/> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)  <sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.
2. <i>hydrocotyle americana</i>	10.5	No	OBL	
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
11. _____				
12. _____				
<u>108.5</u> = Total Cover				
<u>Woody Vine Stratum</u> (Plot size: <u>30 ft. radius</u> )				
1. <i>none</i>				
2. _____				
3. _____				
4. _____				
<u>0</u> = Total Cover				
<b>Definitions of Vegetation Strata:</b>				
<b>Tree</b> - Woody Plants 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.  <b>Sapling/shrub</b> - Woody Plants less than 3 in. DBH and greater than 3.28 ft (1 m) tall.  <b>Herb</b> - All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft. tall.  <b>Woody vines</b> - All woody vines greater than 3.28 ft. in height.				
<b>Hydrophytic Vegetation Present?</b> Yes _____      No <u>X</u>				

Remarks: Vegetation in lawn north of small pond. Soil pit filled with water completely. Small shiny leaves are marsh-pennywort, an obligate wetland plant. Because the grasslike plants cannot be identified, soil is the determining factor in assessing wetland status here.



**SOIL**

Sampling Point: mown lawn

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-6"	2.5Y2.5/1	100%	none				loamy sand	
6-9"	2.5Y2.5/1	98%	7.5YR4/6	2%	C	PL	loamy sand	includes oxidized rhizospheres
9-11"	2.5Y3/1	100%	none visible				sand	sloppy wet sample
11-20"	2.5Y7/1	100%	none				sand	Possible organic streaking, but soil sample too wet.

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators:**

- Histosol (A1)
- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) (LRR R, MLRA 149B)

- Polyvalue Below Surface (S8) (LRR R, MLRA 149B)
- Thin Dark Surface (S9) (LRR R, MLRA 149B)
- Loamy Mucky Mineral
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 2 cm Muck (A10) (LRR K, L, MLRA 149B)
- Coast Prairie Redox (A16)(LRR K, L, R)
- 5 cm Mucky Peat or Peat (S3) (LRR K, L, R)
- Dark Surface (S7) (LRR K, L)
- Polyvalue Below Surface (S8) (LRR K, L)
- Thin Dark Surface (S9) (LRR K, L)
- Iron-Manganese Masses (F12) (LRR K, L, R)
- Piedmont Floodplain Soils (F19) (MLRA 149B)
- Mesic Spodic (TA6) (MLRA 144A, 145, 149B)
- Red Parent Material (TF2)
- Very Shallow Dark Surface (TF12)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_

Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes  No

Remarks: Soil colors indicate sand that is stripped of iron below 9", and redoximorphic features within the top 9". This is a hydric soil.





## **SITE DESIGN ENGINEERING, LLC.**

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

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November 27, 2015

SDE No. 12035

Ernest Steinauer  
Chairman – Nantucket Conservation Commission  
Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**Subject: Supplemental Information for Notice of Intent SE48-2835  
1 Brock's Court  
Nantucket, Massachusetts  
Tax Map 42.3.4, Parcel 84**

Dear Mr. Steinauer:

The purpose of this letter is to provide supplemental information addressing issues which were discussed by the Commission during the November 18, 2015 Public Hearing for the above referenced NOI application. Specifically, the Commission requested additional groundwater information, removal of the proposed shed, relocation of the existing chicken coop, and restoration to provide a project net benefit.

### ***Groundwater Information***

Five (5) auger holes were performed on the Subject Property. The depth to groundwater at each auger location has been provided on the revised Site Plan.

### ***Shed***

The Applicant has revised the proposed conditions site plan and the previously proposed shed has been removed.

### ***Chicken coop***

The Applicant is in the process of temporarily relocating the chicken coop to outside of the 50-foot BVW buffer zone. The chicken coop will be temporarily located in the location of the proposed secondary dwelling and will be removed prior to the construction of the secondary dwelling.

### ***Project Net Benefit***

The Applicant is proposing to plant a 5-foot strip of native vegetation along the existing hedge line located within the 25-foot BVW buffer zone. A list of plant species and proposed spacing is provided on the Proposed Conditions Site Plan.

SDE No. 12035  
1 Brock's Court  
SE48-2835 Supplemental Information  
November 27, 2015

Page 2 of 2

If you have any questions please feel free to contact me via email at [mrirts@sitedesigneng.com](mailto:mrirts@sitedesigneng.com) or at 508-802-5832.

Respectfully,  
Site Design Engineering, LLC.

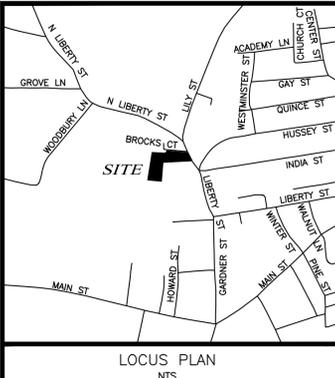
A handwritten signature in black ink, appearing to read "Mark Rits", with a stylized flourish at the end.

Mark Rits  
Project Manager/Permitting Specialist

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***SITE DESIGN ENGINEERING, LLC.***

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J. MARCKLINGER & ASSOCIATES, INC.  
 PROFESSIONAL LAND SURVEYORS  
 P.O. BOX 896  
 NANTUCKET, MA. 02554  
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**SITE DESIGN ENGINEERING, LLC.**  
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**LEGEND**

—	PROPERTY LINE
20.3 x	SPOT ELEVATION
-x-	FENCE
~	HEDGE LINE
~	LANDSCAPING
—	LIMIT OF WETLAND
△	WETLAND FLAG
---	25 FT. BUFFER ZONE
---	50 FT. BUFFER ZONE
---	100 FT. BUFFER ZONE
GW	DEPTH TO GROUNDWATER

ZONING CLASSIFICATION: R-1

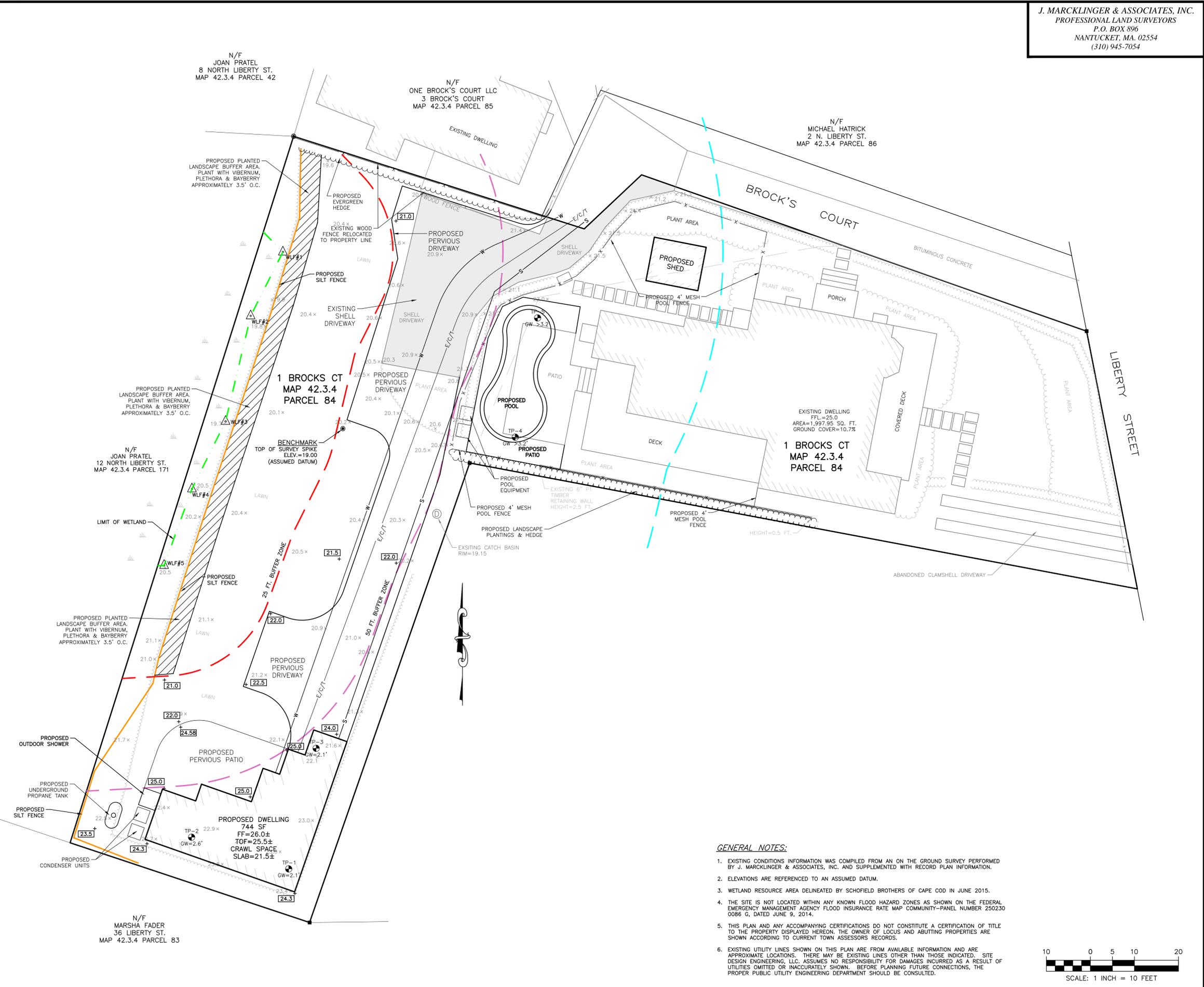
MINIMUM LOT SIZE 5,000 SQ. FT.  
 MINIMUM FRONTAGE 50 FT.  
 FRONT YARD SETBACK 10 FT.  
 REAR YARD SETBACK 5 FT.  
 SIDE YARD SETBACK 5 FT.\*  
 GROUND COVER RATIO 30%±

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

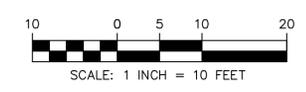
PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPEALS (BOOK 1359 PAGE 248) GRANTING RELIEF OF SIDELINE SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.6± FEET.

**OVERLAY DISTRICT APPLICABILITY**

DORMITORY	--
EMPLOYEE HOUSING	--
FLOOD HAZARD	--
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	--
MID-ISLAND PLANNED	--
MULTI-FAMILY	--
SIASCONSET SEWER	--
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	--
WELLHEAD PROTECTION	--
MA DEP ZONE II	--
FORMULA BUSINESS EXCLUSION DISTRICT	--



- GENERAL NOTES:**
- EXISTING CONDITIONS INFORMATION WAS COMPILED FROM AN ON THE GROUND SURVEY PERFORMED BY J. MARCKLINGER & ASSOCIATES, INC. AND SUPPLEMENTED WITH RECORD PLAN INFORMATION.
  - ELEVATIONS ARE REFERENCED TO AN ASSUMED DATUM.
  - WETLAND RESOURCE AREA DELINEATED BY SCHOFIELD BROTHERS OF CAPE COD IN JUNE 2015.
  - THE SITE IS NOT LOCATED WITHIN ANY KNOWN FLOOD HAZARD ZONES AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 250230 0086 G, DATED JUNE 9, 2014.
  - THIS PLAN AND ANY ACCOMPANYING CERTIFICATIONS DO NOT CONSTITUTE A CERTIFICATION OF TITLE TO THE PROPERTY DISPLAYED HEREON; THE OWNER OF LOCUS AND ABUTTING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN ASSESSORS RECORDS.
  - EXISTING UTILITY LINES SHOWN ON THIS PLAN ARE FROM AVAILABLE INFORMATION AND ARE APPROXIMATE LOCATIONS. THERE MAY BE EXISTING LINES OTHER THAN THOSE INDICATED. SITE DESIGN ENGINEERING, LLC. ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES OMITTED OR INACCURATELY SHOWN. BEFORE PLANNING FUTURE CONNECTIONS, THE PROPER PUBLIC UTILITY ENGINEERING DEPARTMENT SHOULD BE CONSULTED.



PLAN REVISIONS

NO.	DATE	DESCRIPTION
1	11/25/15	ADDED BORING LOCATIONS; REMOVE SHED

DATE: OCTOBER 29, 2015

DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM

PROJECT NO. 12035

ISSUED FOR: APPROVAL

**PROPOSED SITE PLAN**

1 BROCK'S COURT  
 ASSESSOR'S MAP 42.3.4, PARCEL 84  
 NANTUCKET, MASSACHUSETTS

PREPARED FOR EDWIN SNIDER REALTY TRUST

DRAWING TITLE: **PROPOSED PLAN**

SCALE: **1"=10'**

SHEET NO. **1 of 1**



January 12, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**RE:           Review, Notices of Intent  
              Brock's Court, Nantucket, MA  
              DEP Files SE 48-2834, 2835  
              NEE File 13-4266**

Dear Commission members,

New England Environmental, Inc. (NEE) met Jeff Carlson, representing the Nantucket Conservation Commission, and consultants to the Notice of Intent applicants at Brock's Court on January 7, 2015. NEE was representing the interests of concerned abutters to the property. During the site visit all parties were able to observe aspects of current hydrology and soil conditions at the 1 Brock's Court and 36 Liberty Street properties. This letter summarizes certain findings from that site visit and ongoing concerns about the proposed work.

### **Soils and wetland boundaries**

NEE, representing the abutters, and Laura Schofield, representing the applicant, had noted that a small pond and potential bordering wetlands were present on the 36 Liberty Street property, well within 100 feet of a proposed new house on the Brock's Court property. During the site assessment on January 7, several soil borings and pits were made in the mown lawn on the northern side of the pond. It was agreed that hydric soil profiles were present in most of these locations. The soil profiles were similar to the soil profile described in the NEE report of September 9, 2013, and were consistent with NRCS Hydric Soil Indicators A11 (Depleted Below Dark Surface) and/or F6 (Depleted Dark Surface). Due to fading daylight and limited time, it was agreed to mark the edge of soil profiles agreed by all parties to be hydric. Three orange stick flags numbered A1-A3 were placed adjacent to soil borings. This was not a wetland boundary delineation, as soils were not sampled in all locations north of these flags, but it marks the limit of wetland conditions agreed during the available time on January 7. The flags were to be surveyed and placed on the project plans by Site Design Engineering. Revised plans have not been made available as of this submission on January 12.

A separate soil pit was excavated on the Brock's Court property, approximately 15 feet south-southeast of flag WF5, in mown lawn east of the privet hedge which occupies the western edge of this lot. This soil profile was consistent with NRCS Hydric Soil Indicator F6 (Depleted Dark Surface). A description of this soil, with photographs, is attached to this report. Again, time limitations made it impossible to conduct further examination of soils within the Brock's Court lawn. However, this soil did have oxidized

rhizospheres within the upper 12”, as well as other high-chroma pore linings. Oxidized rhizospheres were noted in the three soil profiles submitted by Schofield Brothers in a letter to Site Design Engineering, dated December 21, 2015. These are high-chroma redoximorphic features which form under saturated soil conditions. Observation of 2% or more oxidized rhizospheres within the top 12” of the soil is considered a primary indicator of wetland hydrology (Corps of Engineers Hydrology Indicator C3). The Schofield letter noted “no mottles” within the three profiles, but this contradicts the finding of oxidized rhizospheres.

These soil observations support the finding that the delineation of wetlands depicted on the Proposed Site Plan dated October 29, 2015 by Site Design Engineering is incomplete or incorrect, and that additional wetlands within the Brock’s Court lawn and associated with the 36 Liberty Street pond will extend their 50-foot no-structures buffer zones onto the footprint of the proposed new house at Brock’s Court.

### Site and neighborhood hydrology

Three additional deep observation holes were dug by Site Design Engineering on the Brock’s Court site on December 9, 2015, and labeled TP-6, TP-7, and TP-8 on the Field Diagram which accompanies the letter to the Nantucket Commission dated January 5, 2016. Water was recorded as weeping from the sides of these pits at 26”, 24”, and 36”, respectively, with “mottling” noted in TP-8 at 32”. Groundwater in three soil borings around TP-8 (TP-1, 2, and 3) was noted to be at 2.1’, 2.6’, and 2.1’, respectively, on the revised Existing Conditions Plan by Site Design Engineering, revision date 11/25/15. Water was noted weeping from one of the Schofield shallow pits at 12”, standing water in another at 33”, and no water in the third pit which extended only down to 18”. Standing water in the NEE pit southeast of flag WF5 was seen at 18”. All of these observations between November 18, 2015 and January 7, 2016 place the groundwater level between 12” and 36”. However, this is not the high water level on this site. 2015 was a dry year (30.38” precipitation, over 7” under the annual average of 37.53”), and even in a normal year, groundwater levels are highest in the early spring. The following table shows water levels below ground surface in the two USGS groundwater monitoring wells closest to Brock’s Court, which are located to the east near Old South Road (411609070050701) and Rugged Road (411535070051002).

well number	spring average*	11/25/2015	12/22/2015
411535070051002	20.07 feet	22.47 feet	22.25 feet
411609070050701	7.70 feet	9.86 feet	9.75 feet

\* 10-year average 2006-2015, inclusive, of readings on April 24-29, except 2012, when the reading was on March 29.

This data shows that groundwater levels in these two wells in November and December of 2015 was more than two feet below the average high water levels recorded in the early spring. If groundwater on the Brock’s Court site showed a similar pattern, we could expect that high water levels in a normal spring would be within a foot of the surface, and possibly at the surface in low spots. If these water levels were to persist for a week or more during the growing season, then wetland hydrology would be present.

Observations made during the site visit on January 7 confirmed that the pond on the Liberty Street property is at a higher elevation than the Brock’s Court lawn. Both surface water and groundwater can be expected to move north, following the surface topography. Groundwater moving north from Brock’s Court may flow through sandy soils under North Liberty Street, toward the topographical depression known as Lily Pond. The unpermitted fill already placed around the existing home, and the proposed new structures, will alter the neighborhood hydrology. Neighbors have already observed increased

surface flooding on adjacent properties. The construction of a pool and house, with increased impervious surface and structures sure to be within groundwater, will further displace groundwater and affect the flow of surface water. There is currently a lack of information about existing hydrology, in particular whether the grate in the privet hedge on the eastern side of the lawn is connected to a working drainage system, and the fate of surface water running off the property. Further, the applicant has not, to this point, modeled the hydrological changes which will result from the project. Both groundwater and surface water leaving the site may end up in Lily Pond. The effects upon water levels and water quality are unknown.

We hope these observations are helpful. Please contact NEE if you have any questions regarding these findings. We are available to discuss these projects and their implications with the Conservation Commission at the public hearing.

Sincerely,  
New England Environmental, Inc.



Bruce Griffin  
Certified Professional Soil Scientist

cc: Jeff Carlson, Natural Resources Coordinator, Town of Nantucket  
Mark Rits, P.E., Site Design Engineering, LLC  
Laura Schofield, R.S., Schofield Brothers of Cape Cod  
Kendra Kinscherf, Esq., Davis, Malm & D'Agostine, P.C.  
Joanna Lewis, Gregory Elder, and Marsha Fader, abutters

enc. Soil datasheets

**SOIL**

Sampling Point: 15' SE of WF5

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-3"	2.5Y2.5/1	100%	none				sandy loam	some stripped grains
3-14"	10YR3/1	88%	7.5YR4/4,4/6	2%	C	PL	sandy loam	incl. oxidized rhizospheres
			10YR4/1,5/1	10%	D	M		
14-18"	10YR4/1	90%	10YR7/1	10%	D	M	sandy loam	
18-24"	10YR4/1	60%	10YR7/1	20%	D	M	sandy loam	
	10YR3/1	20%						

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators:**

- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) (LRR R, MLRA 149B)

- Polyvalue Below Surface (S8) (LRR R, MLRA 149B)
- Thin Dark Surface (S9) (LRR R, MLRA 149B)
- Loamy Mucky Mineral
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 2 cm Muck (A10) (LRR K, L, MLRA 149B)
- Coast Prairie Redox (A16)(LRR K, L, R)
- 5 cm Mucky Peat or Peat (S3) (LRR K, L, R)
- Dark Surface (S7) (LRR K, L)
- Polyvalue Below Surface (S8) (LRR K, L)
- Thin Dark Surface (S9) (LRR K, L)
- Iron-Manganese Masses (F12) (LRR K, L, R)
- Piedmont Floodplain Soils (F19) (MLRA 149B)
- Mesic Spodic (TA6) (MLRA 144A, 145, 149B)
- Red Parent Material (TF2)
- Very Shallow Dark Surface (TF12)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_

Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes  No

**Remarks:** Redox concentrations, including but not limited to oxidized rhizospheres, begin at about 6" from surface.



**SOIL - additional photos and remarks from Brocks Court soil pit**

Sampling Point: 15' SE of WF5



**Remarks:** Photographs of redox concentrations and depletions within second layer of soil profile. Evidence of historic fill and disturbance, including a chip of coal, were seen. Standing water at 18" was observed in the pit. This soil profile also matches the criteria for Indicator VIII, Dark Mineral Soils, in Field Indicators for Identifying Hydric Soils in New England (Version 3, 2004).

Kendra Kinscherf

January 13, 2016

**VIA EMAIL**

Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

Re: One Brock's Court Notices of Intent (SE48-2834 & SE48-2835)

Dear Members of the Conservation Commission:

This office represents Marsha Fader, who is an abutter to the proposed project at One Brock's Court. I submit this letter in opposition to the proposed development of the property. The proposed development does not comply with the Nantucket Wetlands Bylaw and Wetland Protection Regulations and will have a significant impact on wetlands resources in the neighborhood.

My client's and the Applicant's properties are located adjacent to Bordering Vegetative Wetlands (BVW), which are protected under Nantucket's bylaw and regulations. The following provisions are relevant to the applications before you:

- All structures that are not water dependent must be at least 50 feet from the vegetated wetland;
- No more than 50% of the area located within the 25- and 50-foot buffer shall be altered; and
- All structures must maintain an undisturbed two-foot separation to high groundwater.

In order to grant waivers from these requirements, the Applicant has the burden of demonstrating:

that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow that project to proceed in compliance with the regulations... The burden of proof to show no

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reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not [*sic*] otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.

Regulations § 1.03F.3(a). The Applicant has not met any of these requirements.

*The Proposal Does Not Meet the Performance Standards Set Forth in the Regulations*

The Applicant proposes to construct a second home on the Property and install a pervious patio, pervious driveway, and an in-ground pool. Although the Applicant has not yet provided all of the previously requested information, it is clear that the proposal will not comply with the applicable performance standards.

As addressed during the first hearing, the Applicant's delineation of the BVW is not accurate. Additional soil samples taken by Schofield Brothers of Cape Cod and New England Environmental, Inc. have identified hydric soils at least twenty feet from the pond on Ms. Fader's property and also in the lawn area of the Applicant's property, as well as oxidized rhizospheres along the privet hedge on the Applicant's property. According to the DEP's Delineating Bordering Wetlands Manual, hydric soil indicators take many years to develop and are therefore good indicators of wetland hydrology. Also as noted in that Manual, where the vegetation was previously altered (as here with the filled and lawn areas of the properties), the use of soil characteristics is necessary to delineate BVW due to the lack of native vegetation. The presence of the hydric soils and oxidized rhizospheres are indicators of wetland hydrological conditions and confirm saturated soil conditions just below the surface. In addition, the presence of hydric soils meets the definition of freshwater wetlands in the Nantucket Wetlands Regulations.

Schofield Brothers of Cape Cod has also noted that the Applicant's property has areas of fill. It is our understanding that the location of the pool, if not a greater area, is an area previously filled. According to DEP's Manual, in order to accurately characterize filled areas, it is necessary to dig below the fill and take samples of the original soil. It does not appear this practice was followed by Schofield at all test locations. However, in its December 21, 2015 report, Schofield indicated that the groundwater was at a shallower depth than the original soil (groundwater at 33"; old organic soil at 39").

Based on this data, the Applicant's delineation of the BVW is not accurate and the boundary of the BVW is located farther within the boundaries of the Applicant's property. In addition, the pond on Ms. Fader's property meets the Nantucket Wetlands Regulations' definition of a pond, subjecting it and the surrounding vegetated wetland (meadow) to protection.

As a result of a proper delineation, the locations of the 25-foot, 50-foot, and 100-foot buffer setbacks will change from those shown on the plans submitted and have a significant impact on the proposed

project. The 50-foot buffer should be shifted to the east, and thus, the proposed second home and in-ground pool will be in between the 25-foot and 50-foot buffer. Since structures are not permitted within that buffer zone, the proposed project will violate the performance standards under the local regulations. *See* Regulations §§ 3.02B.1 & 3.03B.1.

Even if the Applicant's wetlands delineation and buffer setbacks are not changed, the proposed project does not comply with the performance standards. Based upon the plans, it appears that more than 50% of the area between the 25- and 50-foot buffers will be altered and become a pervious driveway and patio. Although these areas will be pervious, they will become compacted over time, reducing the capability of water infiltration and drainage. This raises concerns of flooding in an area already prone to flooding due to the high water table.

Based upon the Applicant's waiver request, the proposed project does not meet the requirement of maintaining the 2-foot separation between structures (the second home and the pool) and groundwater. Regarding the in-ground pool, the Applicant indicates that groundwater is at a depth greater than 3.2 feet. No information on the precise depth is provided. Because the pool will be at a depth greater than 3.2 feet and because it is well documented that the water table is high in this area, a 2-foot separation will not occur.

In addition, as described by NEEI in its most recent submission, it is likely that the groundwater will be within a foot of the surface during normal spring conditions. Therefore a 2-foot separation between the foundation of the new building and groundwater will not be maintained.

Overall, the large amount of compacted pervious and impervious surfaces proposed to be added to the Applicant's property likely will cause a significant alteration to the hydrology of the area and result in adverse impacts to the resources protected by Nantucket's Wetlands Bylaw and Regulations.

#### The Applicant Has Not Demonstrated Waivers Are Appropriate

As conceded by the Applicant, waivers are necessary for the proposed project even if the wetlands delineation remains the same. The Applicant is required to provide an analysis of alternatives and an explanation why such alternatives are not feasible. The Applicant also must demonstrate that the proposed project will not adversely affect the wetlands resources.

The Applicant utterly failed to provide any analysis of alternatives that would not result in violations of the regulations. In considering possible alternatives, the Conservation Commission should analyze the proposal as a single project because the Applicant should not benefit from the previous unapproved work by arbitrarily separating it into two Notices of Intent. This is not a case in which the Applicant is left with no possibility of developing its property. When viewed as a whole, the Applicant already has a single-family home on the property. There is absolutely no need for a secondary dwelling or in-ground swimming pool. Simply put, the Applicant's first Notice of Intent seeking approval for work already done to improve the single-family home can be approved with no

January 13, 2016  
Page 4

DAVIS MALM &  
D'AGOSTINE P.C.  
ATTORNEYS AT LAW

significant violations of the regulations. The requested waivers for the additional work therefore are unjustified.

In addition, it cannot seriously be contended that the project will not have adverse impacts on the interests protected by Nantucket's Wetlands Bylaw. The Bylaw protects wetlands values in Nantucket, including groundwater and flood control. The proposed project likely will alter groundwater and the infiltration and drainage capacity of the soils in the area by increasing the amount of compacted and impervious surfaces, and by displacement due to the below-surface structures.

Since the Applicant cannot meet its burden of demonstrating compliance with Section 1.03F.3(a), the Conservation Commission should deny the request for the waivers.

The proposed project does not meet the requirements of the local wetlands regulations, and Ms. Fader respectfully requests that the Conservation Commission deny an Order of Conditions.

Sincerely,



Kendra Kinscherf

KK:

cc: Client  
Jeff Carlson  
Steven Cohen  
Mark Rits

The contest of the application for 44 Liberty Street is not about a "not in my backyard" complaint. The proposed development at 44 Liberty Street is about the abuse of a resource--a resource that once was a wooded wetland, home to pheasant and water-loving plants. In the late 1990's this wooded area was cut down, grassed over and filled with soil in an attempt to add yet another piece of property for development. These are facts. In the months that followed, my parents and I watched the remaining trees that bordered this property begin to decline from diversion of a natural water flow. Water, which now had no resting place from its downward path began to pool in the surrounding yards. Gradually, our backyard trees declined and died as the water pooled. Ironically, but obviously to local residents who knew how wet the area already was, no house or structure was ever built on this property despite the unscrupulous efforts of real estate agents to advertise the land as 'developable'. In fact, even mowing the grassed lawn was almost impossible at times because of the naturally high water table. Landscapers can verify this.

This wetland condition is intimately known to us as we have observed it over the many years we have lived at 36 and 42 Liberty Street. The water table has always been close to the surface. To see yet another attempt to sidestep what Mother Nature has naturally intended is frustrating and essentially abusive to what was once a pristine wetland swamp. While the applicant may not know this history as we do, we strongly feel that the science speaks for itself. The science will demonstrate the history of the land and show that the proposed development is ultimately wrong from a regulatory and resource protection standpoint.

Lastly, the final insult to this condition is the disregard for the grading against code which the applicant uses, and the retaining wall which further impedes the flow of water. This exacerbates the already pooling condition of our yard and is clearly over a foot above the lowest section of our yard. We are frankly at a loss as to how this re-grading was allowed by local authorities, and feel further victimized by the damage from the natural water flow. We not only urge decisions on this application to deny further insult to this resource and take absolute steps to enforce local and national wetland law, but propose an absolute remediation of the harm that has already been done.

Greg and Caryl Elder  
42 Liberty Street



February 4, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**RE:           Review, Notices of Intent  
              Brock's Court, Nantucket, MA  
              DEP Files SE 48-2834, 2835  
              NEE File 13-4266**

Dear Commission members,

New England Environmental, Inc. (NEE) again met Jeff Carlson, representing the Commission, and Mark Rits of Site Design Engineering, LLC at Brock's Court and the adjacent property at 36 Liberty Street on January 21, 2016. During the site visit NEE was able to further investigate soil conditions on and around the Brock's Court site, delineate the edge of wetlands at 36 Liberty Street closest to Brock's Court, and assess neighborhood hydrology and the wetlands complex that occupies the northern slopes of Quarter Mile Hill. This letter summarizes certain findings from that site visit and ongoing concerns about the proposed work.

NEE dug soil pits in two new locations on the Brock's Court lot, and performed soil borings on the adjacent lot to the east, at 42 Liberty Street. Soil profiles are described on attached Corps of Engineers data forms, and were designated H2, H3, and H4. The location of the soil pit dug on January 7, for which a profile was submitted to the Commission previously, was designated H1. The approximate locations of these soils are shown on the attached figure labeled "soil pit sketch". All four locations were also surveyed by Mr. Rits. These soil profiles were all consistent with NRCS Hydric Soil Indicators A11 (Depleted Below Dark Surface) and/or F6 (Depleted Dark Surface). Mr. Rits also surveyed the location of three orange stick flags numbered A1-A3 on the 36 Liberty Street property, which were placed adjacent to soil borings agreed by all parties to be hydric during the January 7 assessment. Revised plans showing these hydric soil locations have not been made available as of this submission.

These soil observations provide additional evidence that the delineation of wetlands depicted on the Proposed Site Plan dated October 29, 2015 by Site Design Engineering is incorrect, with additional wetlands within the Brock's Court lawn and extending onto 36 and 42 Liberty Street.

In our letter of January 12, NEE provided evidence that seasonal high groundwater elevations might be higher than those previously submitted by Site Design Engineering. Their observations between November 18, 2015 and January 7, 2016 place the groundwater level between 12" and 36" below the surface. Data from two USGS groundwater monitoring wells on Nantucket shows that groundwater

levels in these wells in November and December of 2015 was more than two feet below the average high water levels recorded in the early spring.

On January 16 a rain storm deposited over an inch of rain on Nantucket. The pond at 36 Liberty Street was overflowing, with sheet flow toward Brock's Court. Surface water was visible in the Brock's Court lawn and on the lawn at 42 Liberty Street. Photographs of these locations taken at 10 a.m., as the rain was ending, are attached to this letter. Photographs of the same areas a day later, January 17 at 10 a.m., show that water was still visible at the surface. This is further evidence that groundwater levels at the proposed house site on Brock's Court are much higher than previously reported, and that the proposed structure not only cannot be built with the mandated two feet of separation from groundwater, but would actually be within the groundwater during a portion of the year.

We hope these observations are helpful. Please contact NEE if you have any questions regarding these findings. We are available to discuss these projects and their implications with the Conservation Commission at the public hearing.

Sincerely,  
New England Environmental, Inc.



Bruce Griffin  
Certified Professional Soil Scientist

cc: Jeff Carlson, Natural Resources Coordinator, Town of Nantucket  
Gregory DeCesare, Massachusetts Department of Environmental Protection  
Mark Rits, P.E., Site Design Engineering, LLC  
Laura Schofield, R.S., Schofield Brothers of Cape Cod  
Paul Feldman, Esq., Davis, Malm & D'Agostine, P.C.  
Joanna Lewis, Gregory Elder, and Marsha Fader, abutters

enc. Soil datasheets, soil pit sketch, site photographs

**SOIL**

Sampling Point: H2

**Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)**

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-4"	10YR2/1	100%	none				sandy loam	some stripped grains
4-10"	10YR3/1	75%	7.5YR3/3,3/4	5%	C	PL	sandy loam	5/1 mixed, not depletions
	2.5Y5/1	20%						
10-20"	2.5Y5/1	65%	2.5Y6/1	15%	D	M	sandy loam	
			7.5YR3/3,3/4	20%	C	PL		

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, CS=Covered or Coated Sand Grains. <sup>2</sup>Location: PL=Pore Lining, M=Matrix.

**Hydric Soil Indicators:**

- Histic Epipedon (A2)
- Black Histic (A3)
- Hydrogen Sulfide (A4)
- Stratified Layers (A5)
- Depleted Below Dark Surface (A11)
- Thick Dark Surface (A12)
- Sandy Mucky Mineral (S1)
- Sandy Gleyed Matrix (S4)
- Sandy Redox (S5)
- Stripped Matrix (S6)
- Dark Surface (S7) (LRR R, MLRA 149B)

- Polyvalue Below Surface (S8) (LRR R, MLRA 149B)
- Thin Dark Surface (S9) (LRR R, MLRA 149B)
- Loamy Mucky Mineral
- Loamy Gleyed Matrix (F2)
- Depleted Matrix (F3)
- Redox Dark Surface (F6)
- Depleted Dark Surface (F7)
- Redox Depressions (F8)

**Indicators for Problematic Hydric Soils<sup>3</sup>:**

- 2 cm Muck (A10) (LRR K, L, MLRA 149B)
- Coast Prairie Redox (A16)(LRR K, L, R)
- 5 cm Mucky Peat or Peat (S3) (LRR K, L, R)
- Dark Surface (S7) (LRR K, L)
- Polyvalue Below Surface (S8) (LRR K, L)
- Thin Dark Surface (S9) (LRR K, L)
- Iron-Manganese Masses (F12) (LRR K, L, R)
- Piedmont Floodplain Soils (F19) (MLRA 149B)
- Mesic Spodic (TA6) (MLRA 144A, 145, 149B)
- Red Parent Material (TF2)
- Very Shallow Dark Surface (TF12)
- Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

**Restrictive Layer (if observed):**

Type: \_\_\_\_\_

Depth (inches): \_\_\_\_\_

Hydric Soil Present? Yes  No

**Remarks:** This hydric soil also matches New England indicator VII, Depleted Below Dark Surface.





**Remarks:** Photograph of redox concentrations and depletions within third layer of soil profile. Mixing in second layer may be evidence of historic disturbance. Standing water at 16" was observed in the pit. New England indicators found in "Field Indicators for Identifying Hydric Soils in New England" (Version 3, 2004).



**SOIL - additional photo and remarks from Brocks Court soil pit H3**

Sampling Point:

H3



**Remarks:** Photograph of redox concentrations and depletions within second layer of soil profile.  
Evidence of historic disturbance included chunks of coal or coke, patches of 10YR4/3 loamy sand around pit walls .  
Standing water not observed within this 16" pit.  
New England indicators found in "Field Indicators for Identifying Hydric Soils in New England" (Version 3, 2004).



**SOIL - additional photo and remarks from H4 soil boring**

Sampling Point:

H4

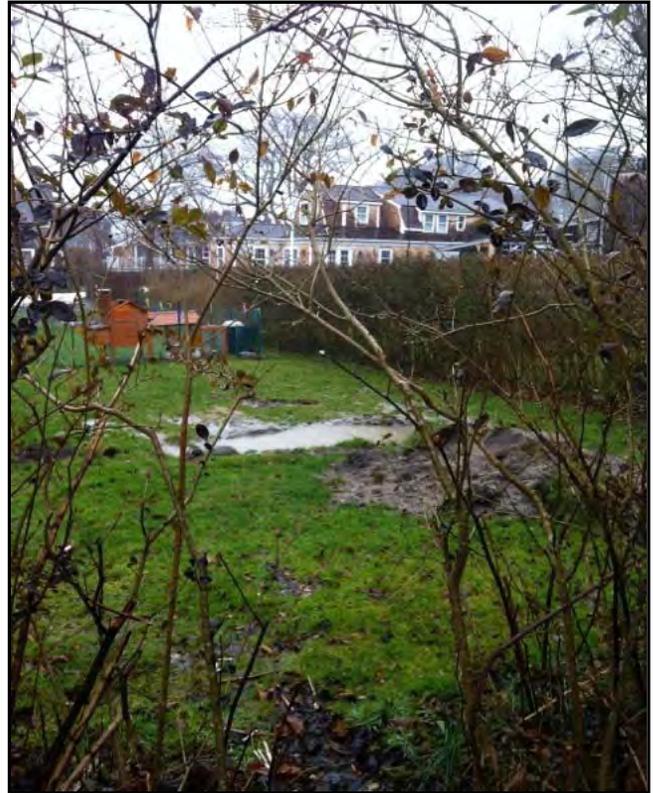


**Remarks:** Photograph of redox concentrations from the first bite of the auger.  
Soil probably contains at least some fill.  
Standing water at 4" was observed in the hole.  
This soil profile also matches the criteria for Indicator VIII, Dark Mineral Soils, in Field Indicators for Identifying Hydric Soils in New England (Version 3, 2004).

**Photo 1:**

Looking northeast at the 1 Brocks Court lawn, at the end of a rainstorm. Groundwater is at the surface.

Photograph taken January 16 at 10 a.m.



**Photo 2:**

The same location 24 hours later, with groundwater down only slightly.

Photograph taken January 17 at 10 a.m.





**Photo 3:** The northern property line at 42 Liberty Street, which is subject to frequent flooding. Photograph taken January 16 at 10 a.m.



**Photo 4:** The same location on January 17 at 10 a.m.



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February 4, 2016

SDE No. 12035

Ernest Steinauer  
Chairman – Nantucket Conservation Commission  
Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**Subject: Supplemental Information for Notice of Intent SE48-2834 and SE48-2835  
1 Brock's Court  
Nantucket, Massachusetts  
Tax Map 42.3.4, Parcel 84**

Dear Mr. Steinauer:

The purpose of this letter is to provide supplemental information addressing issues which were discussed by the Commission during multiple Public Hearings for the above referenced NOI application for work proposed on the 1 Brock's Court property (Subject Property). Specifically, issues associated with a potential wetland resource area on property located at 36 Liberty Street (Map 42.3.4 Lot 83) hereafter referred to as the "Fader Property", questions about the wetland resource delineation on the Subject Property, and questions about groundwater elevations on the Subject Property.

A site visit was performed on both the Subject Property and the Fader Property on January 7, 2016. The site visit was attended by Jeff Carlson (Conservation Commission), Bruce Griffin (New England Environmental), Mark Rits (Site Design), Laura Schofield (Schofield Brothers), Marsha Fader (abutting property owner), and Lucy Dillon (abutter).

The purpose of the site visit was to evaluate potential resource areas on the Fader Property and to provide Mr. Griffin an opportunity to perform a field evaluation of the soils information which was submitted to the Commission on January 5, 2016.

### **Subject Property Development History**

Figure 1 shows a 1940 aerial photograph (Nantucket GIS) of the Subject Property and the surrounding area. It is clear from this photograph that the western portion of the Subject Property was landscaped and that a substantial building was present on the northern portion of the Subject Property approximately where the existing pervious driveway is currently located. It is also clear that there was an enclosure on the southern portion of the Subject Property (likely an animal pen) in the approximate location of the proposed secondary dwelling. Additionally, the property to the west of the Subject Property was in agricultural use and was the site of a large building in an area which is currently delineated as a wetland. It is clear from this photograph that the Subject Property and the surrounding properties have been historically developed and heavily modified and have been in both residential and agricultural use for an extended period of time.

## **Project Modifications**

The Applicant is submitting a two revised site plans dated February 3, 2016 for the NOI application for the previously performed house relocation (SE48-2834). The first revised plan is titled "Existing Conditions Site Plan A" and shows the wetland resource areas and associated buffer zones on the Subject Property, the surveyed location of the man-made pond on the Fader Property, and the buffer zones to the man-made pond. The second revised plan is titled "Existing Conditions Site Plan B" and includes the location of the edge of the Hydric Soil Zone and associated buffer zones on the Fader Property as determined during the January 7, 2016 site visit (see discussion below). The Applicant is also submitting two revised site plans dated February 3, 2016 for the NOI application for the secondary dwelling and swimming pool (SE48-2835). These plans also include minor modifications to the Proposed Project. The first revised plan is titled "Proposed Conditions Site Plan A" and shows the wetland resource areas and associated buffer zones on the Subject Property, the surveyed location of the man-made pond on the Fader Property, and the buffer zones to the man-made pond. The second revised plan is titled "Proposed Conditions Site Plan B" and includes the location of the edge of the Hydric Soil Zone and associated buffer zones on the Fader Property as determined during the January 7, 2016 site visit (see discussion below). The project modifications in both Proposed Conditions plans are the same and include enhanced buffer zone plantings and a modified driveway configuration going to the proposed secondary dwelling. The previously proposed pervious driveway will now include a central grass strip as indicated on both sets of revised site plans.

## **Fader Property Site Overview**

The entirety of the Fader Property including the portion adjacent to the Subject Property has been previously altered, developed, and landscaped. Historical alterations of the Fader Property include extensive terracing of the western portion of the property (see Photos 1 through 4), construction of a partially lined man-made pond on the property (see Photos 5 through 8), use of a circulation pump in portions of the pond (see Photos 9 and 10), construction of a wooden bridge over a portion of the pond (see Photo 7). According to the current property owner, the original terracing of the Fader Property and the excavation of the original man-made pond were performed sometime between 1910 and 1920. The original configuration of the man-made pond was different from the current configuration. Aerial photographs from 1940 (Nantucket GIS) show a pond which is substantially different from the current configuration (see Figure 1 and Figure 2). It is unclear exactly when the pond configuration was altered or when the bridge was constructed, a portion of the pond was lined, and pumping equipment was installed. The terracing altered the existing grade on the Fader Property such that the area adjacent to the man-made pond is now relatively flat (see Photo 5 and Photo 6) instead of following what was likely originally a gentle slope similar to the one which extends onto the Subject Property and the natural wetland to the northwest. The resulting flat portion of the Fader Property is inconsistent with the slope on the southern portion of the Fader Property and the slope which is found on the Subject Property and the adjacent natural wetland area. It is our understanding that the area surrounding the man-made pond has been continuously maintained as a landscaped lawn area since it was constructed. This area does not currently include, nor is there any evidence that it has historically included, any significant native wetland vegetation which was not continuously mowed. The area around the man-made pond as well as the remainder of the western portion of the Fader Property consists of a well maintained manicured lawn (see Photos 11 and 12). Additionally, there are several large stumps located on the northern portion of the Fader

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Property immediately south of the Subject Property boundary (see Photos 13 through 14). Recent aerial photography (Google Earth imagery) indicate that several large trees or shrubs were present on this portion of the property and that they may have been removed from the Fader Property within the last couple of years. Additionally, the Property Owner indicated that there were issues with invasive species encroaching onto the property from the adjacent parcel to the northwest. As there are currently no invasive species along the northern portion of the Fader Property the assumption is that these have been removed. The man-pond on the Fader Property and the area surrounding the man-pond have been significantly altered and have been continuously maintained for an extended period of time and do not exhibit the characteristics of a natural system.

A review of Conservation Commission files for the Fader Property as well as for all abutting properties did not include any filings which delineate the existing man-made pond or any other portions of the Fader Property as a wetland resource area. Additionally, there have been no filings on the Fader Property for any activities including the removal of trees, lining of a portion of the pond, installation of pumping equipment, construction of a bridge, installation of split-rail fencing, or invasive species management along the northern portion of the Fader Property which is located within the buffer zone to an off-site BVW.

#### **Fader Property Site Evaluation (January 7, 2016)**

During the January 7, 2016 site visit, a number of auger holes and shallow test pits were excavated on the Fader Property. The test pits and auger holes were excavated between the existing man-made pond and the Subject Property boundary. The presence and/or extent of hydric soils around other portions of the man-made pond was not determined as part of the January 7, 2016 site evaluation. Test pits and auger holes were excavated into fill material which was comprised primarily of topsoil near the surface with medium to fine sands below. The test pits and auger holes indicated that hydric soils were present in an area adjacent to the man-made pond. These hydric soils extend for a distance of approximately 15-20 feet from the edge of the man-made pond in a northerly direction towards the Subject Property boundary. Mr. Griffin indicated that the underlying sands exhibited hydric characteristics because they were very pale in color. It is important to note that on Nantucket the presence of light colored sands may not necessarily be a hydric indicator as light colored sands are widespread throughout the island. A series of three pin flags were placed by Mr. Griffin to delineate the approximate boundary of the near surface hydric soils in the area located between the existing man-made pond and the Subject Property boundary. The location of the pin flags has been survey located and is shown on the revised Site Plan. The observed hydric indicators were present in loam and fill which was placed on the property as part of original historic site alterations and/or more recent landscaping and maintenance work.

A large natural wetland system is found on the property located to the west of the Subject Property and to the north of the western portion of the Fader Property. This wetland is located in a low spot on the landscape at the bottom of the slope which extends northward away from the terraced Fader Property. A series of test pits and auger holes were excavated near the boundary of the Fader Property adjacent to this wetland system in order to determine if there was a connection between the hydric soils on the Fader Property and the natural vegetated wetland. Hydric soils and other ground water indicators were not present within 18 inches of the surface indicating that the hydric soils around the man-made pond on the Fader Property do not connect directly to the vegetated wetland on the abutting property and that these are two discrete systems.

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### **Fader Property Site Analysis**

The hydric soils which are present around the existing man-made pond are the direct result of water leaching from the man-made pond. This water is then impounded by the terrace fill which results in a longer than usual residence time in the soils adjacent to the pond and leads to the development of hydric features within the near surface soils. Because of ongoing maintenance of this area, no wetland vegetation has been established within these hydric soils. It is also likely that if any other landscaping scenario had been utilized around the man-pond, such as landscaping which included trees, shrubs, or vegetation other than lawn, a significant portion of the excess water in the soils around the man-made pond would have been utilized by the vegetation and the development of hydric features in the surrounding soils would have been significantly less likely to occur. It is also likely that use of a more robust vegetative community around the existing man-made pond would alleviate some of the groundwater issues which are a significant concern to abutters in this portion of the neighborhood. Additionally, the relatively recent removal of trees and/or large shrubs along the property boundary has further reduced the amount of water uptake from this area increasing the amount of time water leaching from the man-made pond stays in the surrounding soils. The presence of hydric soils within the terraced fill material adjacent to the man-made pond is directly the result of terracing of the property, excavation of the man-pond, and both historic and ongoing vegetation management practices on this portion of the Fader Property. Without the man-pond, terracing, or maintenance of a lawn it is unlikely that a substantial natural wetland would exist on this portion of the Fader Property.

Typically, wetland resource areas are delineated based on the presence of both hydric soils and the presence of a dominance of facultative and obligate wetland vegetation. In the event that an established existing wetland resource area has been altered, such as when vegetation has been removed from a wetland resource area, the Department of Environmental Protection (DEP) policy is to fall back to a delineation based solely on soil conditions. Again, this methodology is used when a pre-existing wetland resource area has been recently stripped of indicator wetland vegetation. In the case of the area surrounding the man-made pond on the Fader Property, there is no reliable contemporary record that a natural wetland system existed in this area since the area was altered approximately a century ago. It would not be appropriate to determine that this portion of the Fader Property is a wetland resource area when it does not currently, nor has it historically contained any wetland vegetation. Additionally, the existence of hydric soil conditions on this portion of the Fader Property is the direct result of historic site alteration and ongoing landscape maintenance.

Alteration and maintenance of this portion of the Fader Property is so extensive that no natural wetland vegetation is evident. Mowing occurs to the edge of the existing man-made pond and removal of trees or large shrubs has occurred in the area adjacent to the hydric soils.

### **Subject Property Historical Overview**

A review of historical aerial photographs indicates that portions of the Subject Property have been in residential and agricultural use dating back to at least 1938 (see Figure 1) and that this use has varied over time. Extensive historic agricultural and residential use the Subject Property and the surrounding properties has resulted in an area which has likely been excavated and filled over time. Test pits and shallow soil borings indicate the presence of extensive fill which includes fragments of

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brick, clay tile, and other debris. As a result of these alterations which date back at least 75 years, there are no well-developed natural soil conditions on the Subject Property.

### **Project Justification**

The Applicant is proposing a pervious driveway located partially within the 50-foot BVW buffer zone. The proposed pervious driveway will be located entirely within previously altered and landscaped portions of the Subject Property. Under the Bylaw, pervious driveways are permitted up to the 25-foot BVW buffer zone. The Commission has approved numerous pervious driveways and parking areas outside of the 25-foot BVW buffer zone on a variety of other projects on Nantucket.

The Applicant feels that the man-made pond on the Fader Property meets the Bylaw definition of a Pond as it connects to perched groundwater but does not have a hydrologic connection to any adjacent water bodies. Therefore, the Applicant feels that the extent of the wetland resource area on the Fader Property is the edge of the existing man-made pond and that the appropriate 25-foot, 50-foot, and 100-foot wetland buffer zones must be measured from the edge of the man-made pond. Proposed Conditions Site Plan A (03-Feb-2016) depicts this extent of jurisdictional wetland resource areas and associated buffer zones as they relate to the Proposed Project. The proposed 774 square foot secondary dwelling on the Subject Property is located outside of the 50-foot wetland buffer zone as calculated from the edge of the man-made pond on the Fader Property. It is standard practice for the Commission to allow applicants to construct structures outside of the 50-foot buffer zone to a wetland resource area.

In the event that the Commission decides that the heavily altered area of hydric soils (hereafter referred to as the Hydric Soil Zone) around the man-made pond on the Fader Property somehow qualify as a jurisdictional wetland resource area under the Bylaw. Proposed Conditions Site Plan B (03-Feb-2016) depicts the extent of wetland resource areas and associated buffer zones in the event that the Commission determines that the Hydric Soil Zone is a jurisdictional resource area under the Bylaw. It is important to keep in mind that all of this Hydric Soil Zone is currently mowed and maintained as lawn area. Additionally, the 25-foot buffer zone to this Hydric Soil Zone is also currently mowed and maintained as lawn area and that all of the area between the 25-foot and 50-foot buffer zones to this Hydric Soil Zone which is located on the Fader Property is also maintained as lawn area. Finally, there is evidence to suggest that several large trees have been recently removed from a portion of the Fader Property which is located within the 25-foot and 50-foot buffer zone to this Hydric Soil Zone.

The man-made pond is a jurisdictional wetland resource area under the Bylaw. Currently all of the 25-foot and 50-foot buffer zone to this jurisdictional wetland are altered and maintained as a lawn area. Additionally, if the Hydric Soil Zone surrounding the man-made pond is determined to be a jurisdictional wetland resource area, the entire resource area as well as the associated 25-foot and 50-foot buffer zones are currently maintained as a lawn and do not include any native wetland vegetation. Current use and maintenance of the Fader Property has resulted in significant impacts to the 25-foot and 50-foot buffer zones to the jurisdictional man-made pond. This ongoing use and maintenance has also resulted in significant impacts to the Zone of Hydric Soils and the associated 25-foot and 50-foot buffer zones if this portion of the Fader Property is determined to be a jurisdictional resource area.

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If the Commission determines that the extent of the wetland resource area on the Fader Property includes the Hydric Soil Zone and determines that 25-foot and 50-foot buffer zones must be cast from the limit of the Hydric Soil Zone, the Applicant feels that the proposed 774 square foot secondary dwelling on the Subject Property meets the requirements for a waiver for a structure within the 50-foot wetland buffer zone. Approximately 500 square feet of the proposed secondary dwelling will be located within the 50-foot buffer to the Hydric Soil Zone. The proposed off-locus secondary dwelling will be located on a portion of the Subject Property which is located several feet downgradient of the haltered Hydric Soil Zone on the Fader Property. Any groundwater flow would occur from the Fader Property towards the proposed secondary dwelling. The proposed secondary dwelling would be outside of the 50-foot buffer zone to the man-made pond and would have no adverse impacts on the Hydric Soil Zone or the associated 25-foot and 50-foot buffer zones on the Fader Property as it would be downstream from these features. Additionally, the proposed secondary dwelling will be located on a previously altered and landscaped portion of an abutting property and would not result in the loss of any native buffer zone vegetation. Currently, the Fader Property is mowed and maintained up to the edge of the man-made pond. The entire Hydric Soil Zone and associated 25-foot and 50-foot buffer zones are currently mowed. It is not known if any portions of this maintained lawn area are fertilized or otherwise treated. The Applicant is also proposing approximately 800 square feet of native buffer zone plantings along the western edge of the Subject Property. The proposed plantings will provide a significant net benefit to the resource areas and associated buffer zones. The Applicant feels that the impacts to the man-made pond, Hydric Soil Zone, and the 25-foot and 50-foot buffer zones to these resource areas resulting from ongoing use and maintenance of this portion of the Fader Property are significantly greater than any potential impacts resulting from the construction of a frost wall foundation for the proposed off-locus secondary dwelling located on a previously altered and downgradient portion of an abutting property and that the proposed native plantings will result in an overall net benefit to the resource area and associated buffer zones.

### **Alternatives Analysis**

#### ***Proposed Pool***

The proposed pool has been located outside of the 50-foot buffer zone to the BVW resource area on the adjacent property to the east and is also outside of the 50-foot buffer zone to the man-made pond on the Fader Property. Additionally, if the Commission determines that the Hydric Soil zone on the Fader Property is a jurisdictional wetland resource area, the proposed pool is located entirely outside of the 50-foot buffer zone to this potential resource area. The proposed pool is located on the portion of the Subject Property which has groundwater at the lowest elevation. There is no alternative location for the proposed pool which would place it farther from the wetland resource areas or would allow for an increased separation to high groundwater.

#### ***Proposed Secondary Dwelling***

The proposed secondary dwelling has been located on the portion of the Subject Property which is outside of the 50-foot buffer zone to the natural well established BVW on the abutting property to the west and is also outside of the 50-foot buffer zone to the man-made pond on the Fader Property. If the Commission determines that the Hydric Soil Zone on the Fader property is a jurisdictional wetland resource area, portions of the proposed secondary dwelling will be located within the 50-foot buffer zone to this heavily altered and maintained resource area. There is no alternative location for the

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proposed secondary dwelling on the Subject Property. Relocating the proposed secondary dwelling anywhere else on the Subject Property would place it within the 50-foot buffer zone to the well-established natural BVW on the abutting property to the west. The proposed location is the best available location for the proposed secondary dwelling.

## **Project Waivers**

### ***Required Ground Water Separation Waiver***

The Applicant feels that the wetland resource delineation on the abutting property to the west is accurate and that all structural components of the Proposed Project will be located outside of the 50-foot BVW buffer zone. Additionally, the Applicant feels that the extent of the wetland resource area on the Fader Property is the edge of the existing man-made pond and that the Proposed Project will be located entirely outside of the 50-foot buffer zone to this resource area.

It is our understanding that the intent of the two-foot groundwater separation requirement in Section 3.02B(1) of the Bylaw Regulations is to reduce impacts to adjacent wetland resource areas which may result from the construction of foundations or other buried structures which may be sufficiently large so as to act as a dam preventing subsurface groundwater flow from moving naturally towards a downgradient wetland system. Such structures, if sufficiently large, could potentially result in the disruption of groundwater flow to the wetland resource area thereby significantly reducing the amount of water entering the wetland and adversely impacting the ability of the system to support wetland flora and fauna. It is important to note that such an adverse impact would only occur if the buried structure was blocking groundwater flow and was large enough to have a regional impact on the adjacent wetland system.

The proposed secondary dwelling foundation and proposed pool may require a waiver under the Bylaw because high groundwater will be located within 2 feet of the base of the footings for the proposed foundation and base of pool. In a letter to the Commission dated January 5, 2016 detailed information showing groundwater elevations from a deep hole test pit excavated in the proposed foundation location and adjacent to the proposed pool location was submitted to the Commission. In the proposed foundation location weeping was observed at a depth of approximately 36 inches and mottling was observed at a depth of approximately 32 inches placing high ground water at approximately elevation 20. The proposed base of footing for the secondary dwelling foundation will be constructed at elevation 20. The proposed base of footing will be at the top of high groundwater. Adjacent to the proposed pool location weeping was observed at a depth of approximately 26-32 inches, standing water was observed at a depth of approximately 75 inches and, and mottling was observed at a depth of approximately 70 inches placing high ground water at approximately elevation 15. The proposed pool will be located at a surface elevation of approximately 22. The proposed pool will have of a depth of 6 feet placing the bottom of the pool at approximately elevation 16. The bottom of the proposed pool excavation will be at an elevation of approximately 15 which is at or slightly above high groundwater. Neither the proposed foundation footings or the proposed pool will be in high groundwater. Both proposed structures will be at or slightly above high groundwater and will not result in any damming of groundwater flow and therefor will not result in any adverse impacts to the BVW on the adjacent property to the west. A detailed waiver request for this required waiver is provided in the Waiver Request section below.

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In the event that the Commission determines that the Hydric Soil Zone surrounding the man-made pond on the Fader Property is in fact a jurisdictional resource area, the proposed pool will be located outside of the 100-foot buffer zone to this resource area. Additionally, the proposed secondary dwelling foundation footings will be downgradient of the resource area and will not have any adverse impact on groundwater flow into this resource area.

### ***Optional 50-Foot Structural Setback Waiver***

It is our understanding that the intent of the 50-foot structural setback to a wetland resource requirement in section 3.02B(1) of the Bylaw Regulations is to reduce impacts to unaltered jurisdictional wetland resource areas which may result from the construction of a structure within 50 feet of a downgradient wetland. These adverse impacts may include disruption of groundwater or surface flow to the resource area, alteration of natural infiltration adjacent to the resource area, leaching of contaminants or other contaminated runoff associated with the structure entering the resource area, impacts to native buffer zone vegetation adjacent to the resource area, or impacts to wildlife which may be using the resource area.

In addition to the required waiver for separation to high groundwater discussed above, the Proposed Project may require a second waiver in the event that the Commission determines that the Hydric Soil Zone on the Fader Property is in fact a jurisdictional wetland resource area. If the Commission makes such a determination, approximately 500 square feet of the proposed secondary dwelling will be located within the 50-foot buffer zone to this resource area. The Applicant feels that the proposed secondary dwelling will not have an adverse impact on this resource area as it will be located off-locus and downgradient of the resource area and will be on a previously altered and landscaped portion of the Subject Property. The Applicant also feels that the proposed planting of 800 square feet of native buffer zone vegetation will result in an overall net benefit to the resource area and associated buffer zones. Additionally, the Applicant feels that the ongoing maintenance and mowing of this resource area, the 25-foot buffer zone to this resource area and fifty percent (50%) of the area between the 25-foot and 50-foot buffers to this resource area constitute a significant and ongoing impact to the resource area and associated buffer zones. The proposed off-locus downgradient structure will not result in any additional impacts to this heavily altered and maintained resource area. A detailed waiver request for this optional secondary waiver is provided in the Waiver Request section below.

### **Summary**

The Applicant feels that the wetland resource area on the Fader Property is defined by the limit of the existing man-made pond and that this casts a 50-foot wetland buffer zone which falls short of the proposed secondary dwelling on the Subject Property. The Applicant also feels that the Hydric Soil Zone present on portions of the Fader Property adjacent to the man-made pond are the direct result of historic and ongoing site alterations and landscape maintenance activities and that this area does not qualify as a jurisdictional wetland resource area. Further, the Applicant feels that the man-made pond and Hydric Soil Zone do not connect to any water body or the nearby natural wetland resource area to the northwest of the Fader Property. In the event that the Commission feels that the Hydric Soil Zone somehow qualifies as a jurisdictional wetland resource area, The Applicant feels that the proposed secondary dwelling qualifies for a 50-foot no structure setback waiver under the Bylaw as it will have no additional adverse impact on the man-made pond and heavily altered and maintained

Hydric Soil Zone especially when compared to existing use and ongoing maintenance of this portion of the Fader Property. The Applicant also feels that the proposed native buffer zone plantings will result in a significant net benefit to the resource areas and associated buffer zones.

## **WAIVER REQUEST**

### ***Secondary Dwelling – Required Groundwater Separation Waiver***

The Applicant is proposing to construct a secondary dwelling and pool on the Subject Property. The Applicant feels that the limit of the wetland resource area on the abutting Fader Property is coincident with the edge of the existing man-made pond. Based on that, the proposed secondary dwelling and pool will be located entirely outside of the 50-foot wetland buffer zone to both the man-made pond on the Fader Property wetland and the BVW located to the west of the Subject Property. The base of the footings for the proposed secondary dwelling foundation and the base of the excavation for the proposed pool will be located at approximately the top, or slightly above, the high ground water elevation as detailed above. The proposed foundation footings and pool will not meet the two-foot high groundwater separation requirement. Under the Bylaw this activity would require a waiver and therefore, the Applicant is respectfully requesting a waiver from the following section of the Nantucket Wetlands Protection Bylaw:

#### ***3.02B(1)***

*“Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.”*

The proposed foundation and pool will not adversely impact the BVW or associated buffer zones. The proposed foundation and pool will be outside of the 50-foot BVW buffer zone and 50-foot buffer zone to the man-made pond and will be consistent with foundations and other structures approved for numerous projects located outside of the 50-foot wetland buffer zone. The proposed foundation will be located down gradient from the wetland located on the Fader Property and will not have any adverse impact on groundwater flowing towards this wetland as all groundwater flow towards this wetland occurs from upgradient portions of the Fader Property. Because the proposed foundation footings and pool will be located at the top of the high groundwater elevation they will not impede or alter the flow of groundwater towards the wetland located to the west of the Subject Property and will not result in any adverse impacts to this resource area. These structures are consistent with other structures which have been permitted by the Commission within two feet of high groundwater on numerous other properties on Nantucket. Therefore, the Applicant is requesting a waiver for the crawl space foundation two-foot separation to high groundwater under section 1.03F(3)(A) of the Bylaw which state the following:

#### ***Section 1.03F(3)(A):***

*“The Commission may grant a waiver from these regulations when the Commission finds that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow*

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*that project to proceed in compliance with the regulations. The burden of proof to show no adverse impact to the interests identified in the Bylaw, Chapter 136 Section 2, shall be the responsibility of the owner/applicant. The burden of proof to show no reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.*

*It shall be the responsibility of the applicant to provide the Commission with any information, which the Commission may request in order to enable the Commission to ascertain such adverse effects. The failure of the applicant to furnish any information which has been so requested may result in the denial of a request for a waiver pursuant to this subsection."*

The proposed secondary dwelling will not include a basement and the base of the proposed footings will be located at the top of high groundwater. The base of the excavation for the proposed pool will be located at or slightly above high groundwater. The proposed foundation and pool are consistent with numerous other projects within 2 feet of high groundwater which have been approved by the Commission for areas outside of the 50-foot BVW buffer zone. The proposed foundation and pool have been designed to minimize or eliminate any adverse impacts to the BVW and associated buffer zones. Additionally, the Applicant is proposing to restore approximately 800 square feet of the 25-foot and 50-foot BVW buffer zones on the Subject Property with native buffer zone vegetation resulting in a significant overall net benefit to the existing BVW and associated buffer zones. Therefore, the Applicant feels that constructing the foundation and pool within two feet of high groundwater will not result in any adverse impacts to the BVW or associated buffer zones and that the overall project will result in a net benefit to the adjacent jurisdictional resource areas.

### ***Secondary Dwelling – Optional 50-Foot Structural Setback Waiver***

The Applicant is proposing to construct a secondary dwelling on the Subject Property. In the event that the Commission determines that the Hydric Soil Zone adjacent to the man-made pond on the Fader Property somehow constitutes a jurisdictional wetland resource area, portions of the proposed secondary dwelling will be located within the 50-foot buffer zone to this resource area. Under the Bylaw this activity would require a waiver and therefore, the Applicant is respectfully requesting a waiver from the following section of the Nantucket Wetlands Protection Bylaw:

#### ***3.02B(1)***

*"Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater."*

Although the proposed secondary dwelling will be located partially within the 50-foot buffer zone to the Hydric Soil Zone on the Fader Property it will be located significantly downgradient from this resource area and will not alter or impact groundwater flow into or towards this resource area as all

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groundwater flow to this area originates from upgradient portions of the Fader Property. If the Hydric Soil Zone of Fader Property is in fact a jurisdictional wetland resource area, the entire resource area is currently mowed, altered, and maintained. Additionally, the entire 25-foot buffer zone to this resource area is mowed, altered, and maintained as well as 50% percent of the area between the 25-foot and 50-foot buffer zones to this resource area. The Applicant feels that the existing alteration, maintenance, and use of this resource area and associated buffer zones is a significantly impact to this resource area. The proposed off-locus downgradient structure located on a previously altered and landscaped portion of the Subject Property will not have any impacts the already heavily altered and maintained Hydric Soil Zone and associated buffer zones, especially when compared to the existing impacts resulting from ongoing use and maintenance of this area. Therefore, the Applicant is requesting a waiver for the proposed shed which will be located within the 50-foot buffer zone to a wetland resource area under section 1.03F(3)(A) of the Bylaw which states the following:

*Section 1.03F(3)(A):*

*"The Commission may grant a waiver from these regulations when the Commission finds that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow that project to proceed in compliance with the regulations. The burden of proof to show no adverse impact to the interests identified in the Bylaw, Chapter 136 Section 2, shall be the responsibility of the owner/applicant. The burden of proof to show no reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.*

*It shall be the responsibility of the applicant to provide the Commission with any information, which the Commission may request in order to enable the Commission to ascertain such adverse effects. The failure of the applicant to furnish any information which has been so requested may result in the denial of a request for a waiver pursuant to this subsection."*

The proposed secondary dwelling will be located within a previously altered and landscaped portion of the Subject Property and will be located off-locus and downgradient from a completely altered, maintained, and mowed resource area on the Fader Property. The proposed secondary dwelling will not result in any adverse impacts to this wetland resource area or associated buffer zones. Additionally, the Applicant is proposing to restore approximately 800 square feet of the 25-foot and 50-foot BVW buffer zones on the Subject Property with native buffer zone vegetation resulting in a significant overall net benefit to the existing BVW and associated buffer zones. Therefore, the Applicant feels that constructing the secondary dwelling partially within the 50-foot buffer zone to an off-locus resource area will not result in any adverse impacts to this significantly altered and maintained resource area or associated buffer zones and that the overall project will result in a net benefit to the adjacent jurisdictional resource areas.

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SDE No. 12035  
1 Brock's Court  
SE48-2834 Supplemental Information  
February 4, 2016

Page 12 of 19

If you have any questions, please feel free to contact me via email at [mrirts@sitedesigneng.com](mailto:mrirts@sitedesigneng.com) or at 508-802-5832.

Respectfully,  
Site Design Engineering, LLC.

A handwritten signature in black ink, appearing to read "Mark Rits". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Rits  
Project Manager/Permitting Specialist

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**Photo 1: View Southwestward Showing Terracing on Southern Portion of Fader Property.**



**Photo 2: View Southward Showing Terracing on Fader Property.**

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**Photo 3: View Southeastward Showing Terracing on Fader Property.**



**Photo 4: View Eastward Showing Terracing on Fader Property.**

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**Photo 5: View Southwestward Showing Partially Lined Man-Made Pond on Fader Property.**



**Photo 6: View Southwestward Showing Partially Lined Man-Made Pond on Fader Property.**

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**Photo 7: View Northward Showing Partially Lined Man-Made Pond on Fader Property with Subject Property in Background.**



**Photo 8: View Westward Showing Partially Lined Man-Made Pond on Fader Property.**

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**Photo 9: Photo Showing Pumping Equipment in Partially Lined Man-Made Pond on Fader Property.**



**Photo 10: Photo Showing Pumping Equipment in Partially Lined Man-Made Pond on Fader Property.**

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**Photo 11: View Westward Showing Extensive Lawn on Western Portion of Fader Property.**



**Photo 12: View Northwestward Showing Extensive Lawn on Western Portion of the Fader Property.**

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**Photo 13: View Eastward Showing Large Stump on Fader Property.**

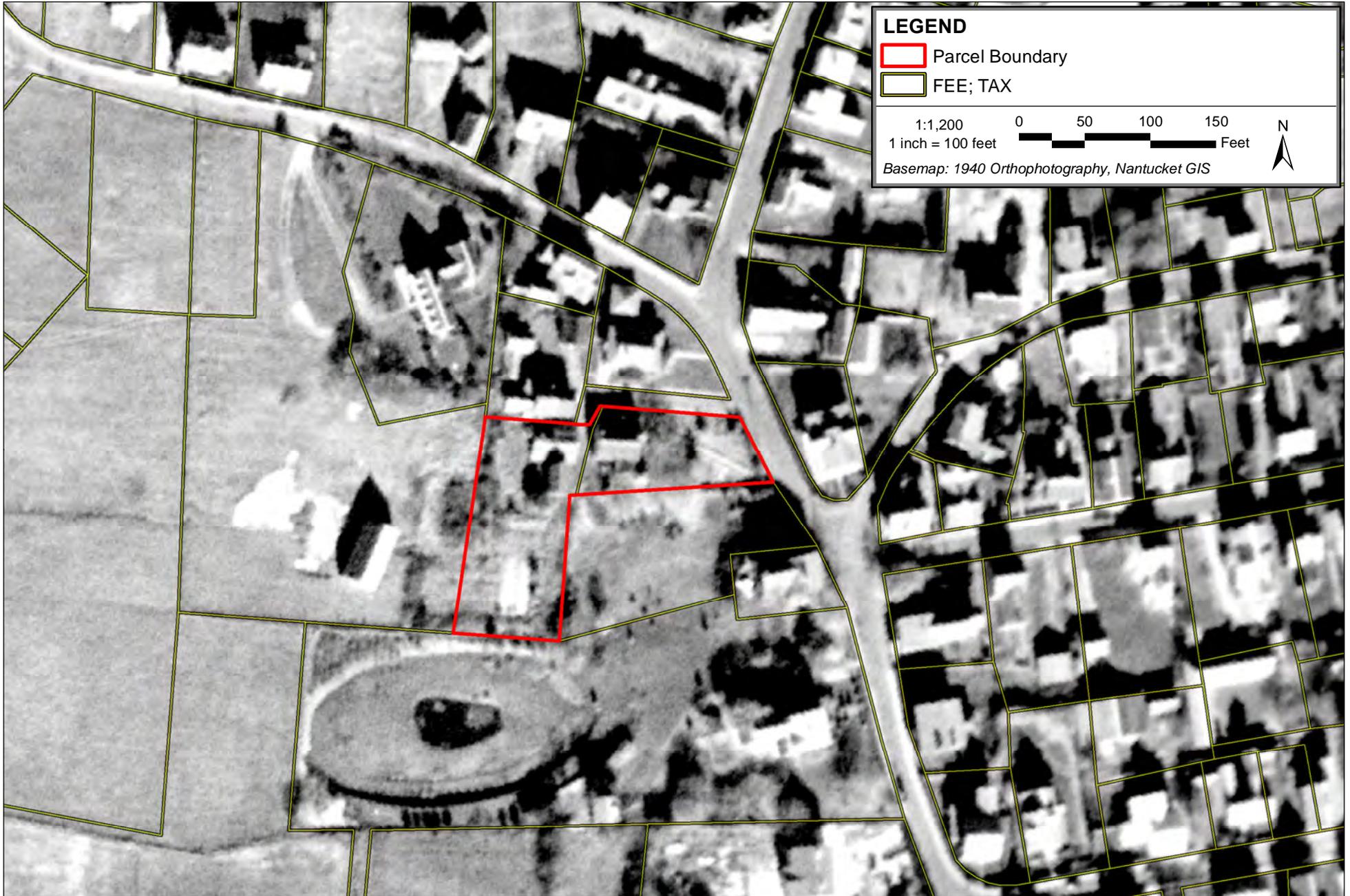


**Photo 14: View Northward Showing Large Stumps on Fader Property with Subject Property in the Background.**

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P: 508-967-0673 F: 508-967-0674



1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 1 - Detailed Site Overview - 1940  
February 3, 2016

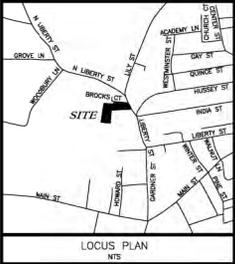




1 Brock's Court - Nantucket, Massachusetts  
Map 42.3.4 Lot 84  
SDE Project No. 12035

Figure 2 - Detailed Site Overview - 2014  
February 3, 2016





**LEGEND**

- PROPERTY LINE
- SPOT ELEVATION
- FENCE
- HEDGE LINE
- LANDSCAPING
- LIMIT OF WETLAND
- ▲ WETLAND FLAG
- 25 FT. BUFFER ZONE
- 50 FT. BUFFER ZONE
- 100 FT. BUFFER ZONE
- GW
- TP-#
- OR
- A-#/B-#/C-#/LS-#

DEPTH TO GROUNDWATER

TEST PIT

DEPTH TO GROUNDWATER

SOIL BORING

**ZONING CLASSIFICATION: R-1**

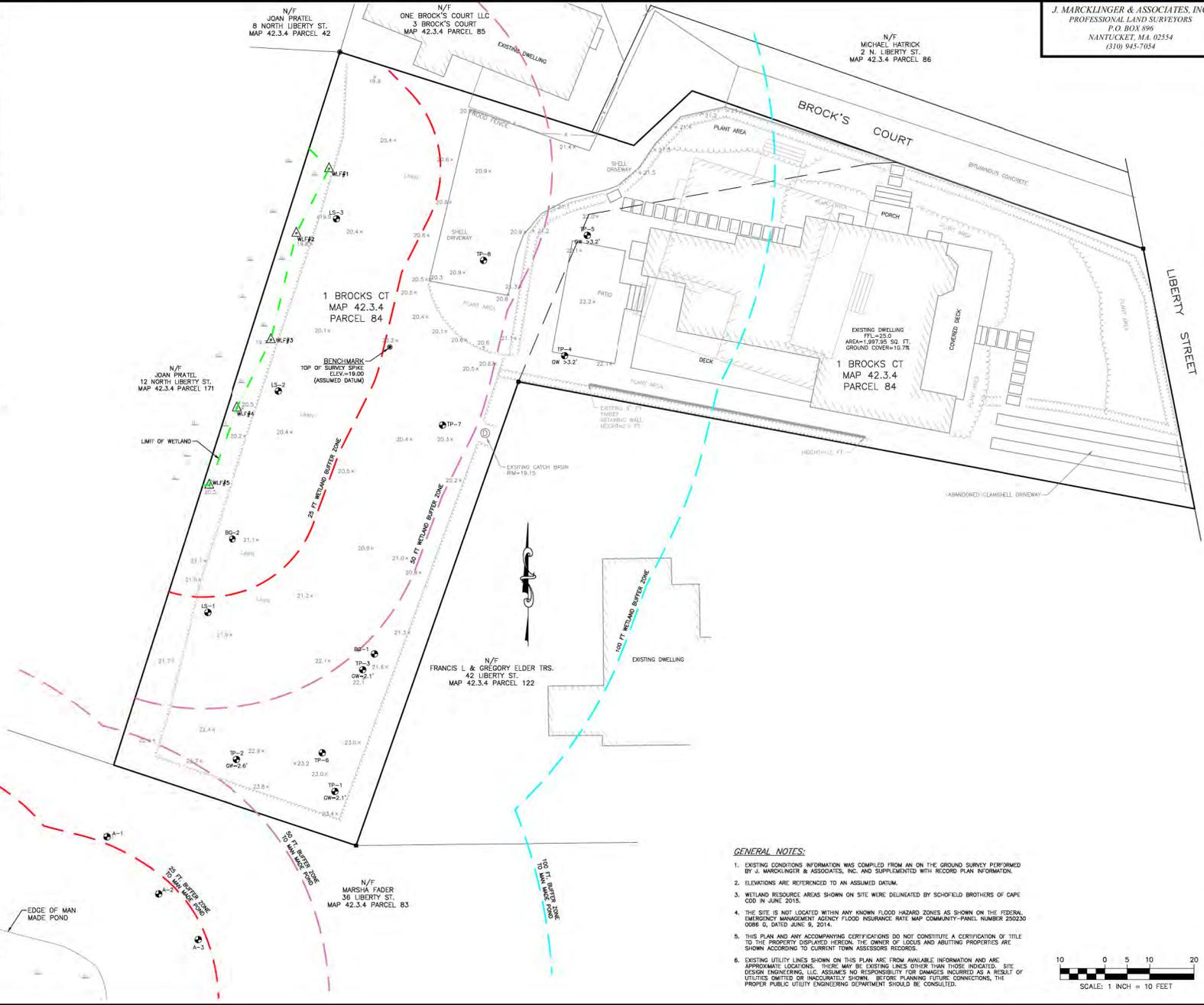
MINIMUM LOT SIZE 5,000 SQ. FT.  
 MINIMUM FRONTAGE 20 FT.  
 FRONT YARD SETBACK 10 FT.  
 REAR YARD SETBACK 5 FT.  
 SIDE YARD SETBACK 5 FT.  
 GROUND COVER RATE 30%\*

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPLICABLES (BOOK 1339 PAGE 294) GRANTING RELIEF OF SIDE LINE SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.62 FEET.

**OVERLAY DISTRICT APPLICABILITY**

DOMINANT	-
EMPLOYEES HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HOOD OLD HISTORIC	YES
MAZAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SUBCORNSET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	-
WETLAND PROTECTION	-
MA SCP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



J. MARCKLINGER & ASSOCIATES, INC.  
 PROFESSIONAL LAND SURVEYORS  
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 NANTUCKET, MA. 02554  
 (310) 945-7054

**SITE DESIGN ENGINEERING, L.L.C.**

11 CUSHMAN STREET  
 MIDDLEBORO, MA 02346  
 T: 508-967-0673 F: 508-967-0674  
 WWW.SITEDESIGNENG.COM

**PLAN REVISIONS**

NO.	DATE	DESCRIPTION	DCM	APPROVED
1		ADDED POND AND BORING LOCATIONS		

DATE: OCTOBER 29, 2015  
 DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JLM  
 PROJECT NO: 12035  
 ISSUED FOR:



**EXISTING CONDITIONS PLAN**

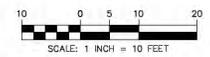
1 BROCK'S COURT  
 ASSESSOR'S PARCEL 84  
 NANTUCKET, MASSACHUSETTS

PREPARED FOR EDWIN SWIDER REALTY TRUST

DRAWING TITLE:  
**EXISTING CONDITIONS PLAN 'A'**

SCALE: **1"=10'**  
 SHEET NO:  
**1 of 1**

- GENERAL NOTES:**
- EXISTING CONDITIONS INFORMATION WAS COMPILED FROM AN ON THE GROUND SURVEY PERFORMED BY J. MARCKLINGER & ASSOCIATES, INC. AND SUPPLEMENTED WITH RECORD PLAN INFORMATION.
  - ELEVATIONS ARE REFERENCED TO AN ASSUMED DATUM.
  - WETLAND RESOURCE AREAS SHOWN ON SITE WERE DELINEATED BY SCHOFIELD BROTHERS OF CAPE COD IN JUNE 2015.
  - THE SITE IS NOT LOCATED WITHIN ANY KNOWN FLOOD HAZARD ZONES AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 250220 CORR. 6, DATED JUNE 9, 2014.
  - THIS PLAN AND ANY ACCOMPANYING CERTIFICATIONS DO NOT CONSTITUTE A CERTIFICATION OF TITLE TO THE PROPERTY DESCRIBED HEREIN. THE OWNER OF LOCUS AND ADJUTING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN ASSESSORS RECORDS.
  - EXISTING UTILITY LINES SHOWN ON THIS PLAN ARE FROM AVAILABLE INFORMATION AND ARE APPROXIMATE LOCATIONS. THERE MAY BE EXISTING LINES OTHER THAN THOSE INDICATED. SITE DESIGN ENGINEERING, L.L.C. ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES DAMAGED OR INACCURATELY SHOWN BEFORE PLANNED FUTURE CONNECTIONS. THE PROPER PUBLIC UTILITY ENGINEERING DEPARTMENT SHOULD BE CONSULTED.





**LEGEND**

- PROPERTY LINE
- SPOT ELEVATION
- FENCE
- HEDGE LINE
- LANDSCAPING
- LIMIT OF WETLAND
- WETLAND FLAG
- 25 FT. BUFFER ZONE
- 50 FT. BUFFER ZONE
- 100 FT. BUFFER ZONE
- DEPTH TO GROUNDWATER
- TEST PIT
- DEPTH TO GROUNDWATER
- SOIL BORING

**ZONING CLASSIFICATION: R-1**

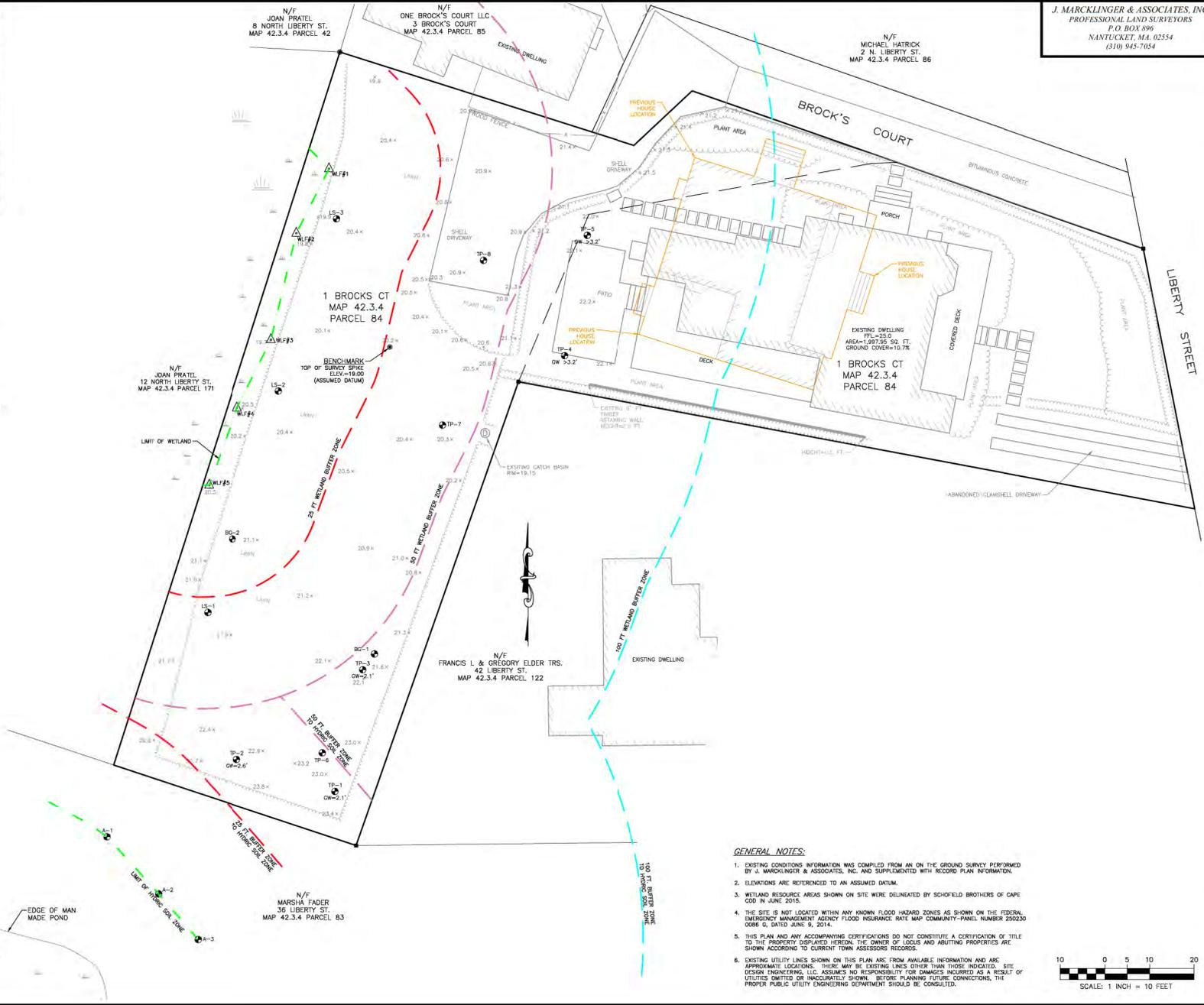
MINIMUM LOT SIZE 5,000 SQ. FT.  
 MINIMUM FRONTAGE 20 FT.  
 FRONT YARD SETBACK 10 FT.  
 REAR YARD SETBACK 5 FT.  
 SIDE YARD SETBACK 5 FT.  
 GROUND COVER RATE 30%.

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPLICABLES (BOOK 1336 PAGE 294) GRANTING RELIEF OF SIDE LINE SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.62 FEET.

**OVERLAY DISTRICT APPLICABILITY**

DOMINANT	-
EMPLOYEES HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HOV OLD HISTORIC	YES
MAZAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SIXCONNET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERDRAFT	-
WETLAND PROTECTION	-
MA DEP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



J. MARCKLINGER & ASSOCIATES, INC.  
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**SITE DESIGN ENGINEERING, LLC.**

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 MIDDLEBORO, MA 02346  
 T: 508-967-0673 F: 508-967-0674  
 WWW.SITEDESIGNENG.COM

**PLAN REVISIONS**

NO.	DATE	DESCRIPTION
1	2015	ADDED POND AND BORING LOCATIONS

DATE: OCTOBER 29, 2015  
 DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JLM  
 PROJECT NO: 12035  
 ISSUED FOR: APPROVAL



**EXISTING CONDITIONS PLAN**

1 BROCK'S COURT  
 42.3.4 PARCEL 84  
 NANTUCKET, MASSACHUSETTS

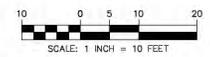
PREPARED FOR EDWIN SWIDER REALTY TRUST

DRAWING TITLE:  
**EXISTING CONDITIONS PLAN 'B'**

SCALE: **1"=10'**

SHEET NO:  
**1 OF 1**

- GENERAL NOTES:**
- EXISTING CONDITIONS INFORMATION WAS COMPILED FROM AN ON THE GROUND SURVEY PERFORMED BY J. MARCKLINGER & ASSOCIATES, INC. AND SUPPLEMENTED WITH RECORD PLAN INFORMATION.
  - ELEVATIONS ARE REFERENCED TO AN ASSUMED DATUM.
  - WETLAND RESOURCE AREAS SHOWN ON SITE WERE DELINEATED BY SCHOFIELD BROTHERS OF CAPE COD IN JUNE 2015.
  - THE SITE IS NOT LOCATED WITHIN ANY KNOWN FLOOD HAZARD ZONES AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 250230 0005 D, DATED APRIL 9, 2014.
  - THIS PLAN AND ANY ACCOMPANYING CERTIFICATIONS DO NOT CONSTITUTE A CERTIFICATION OF TITLE TO THE PROPERTY DESCRIBED HEREIN. THE OWNER OF LOCUS AND ADJUTING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN ASSESSORS RECORDS.
  - EXISTING UTILITY LINES SHOWN ON THIS PLAN ARE FROM AVAILABLE INFORMATION AND ARE APPROXIMATE LOCATIONS. THERE MAY BE EXISTING LINES DEEPER THAN THOSE INDICATED. SITE DESIGN ENGINEERING, LLC ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES DAMAGED OR INACCURACIES SHOWN BEFORE PLANNING FUTURE CONNECTIONS, THE PROPER PUBLIC UTILITY ENGINEERING DEPARTMENT SHOULD BE CONSULTED.





**LEGEND**

—	PROPERTY LINE
○	SPOT ELEVATION
—	FENCE
—	HEDGE LINE
—	LANDSCAPING
—	LIMIT OF WETLAND
—	WETLAND FLAG
—	25 FT. BUFFER ZONE
—	50 FT. BUFFER ZONE
—	100 FT. BUFFER ZONE
○	TEST PIT
○	DEPTH TO GROUNDWATER
○	SOIL BORING

**ZONING CLASSIFICATION: R-1**

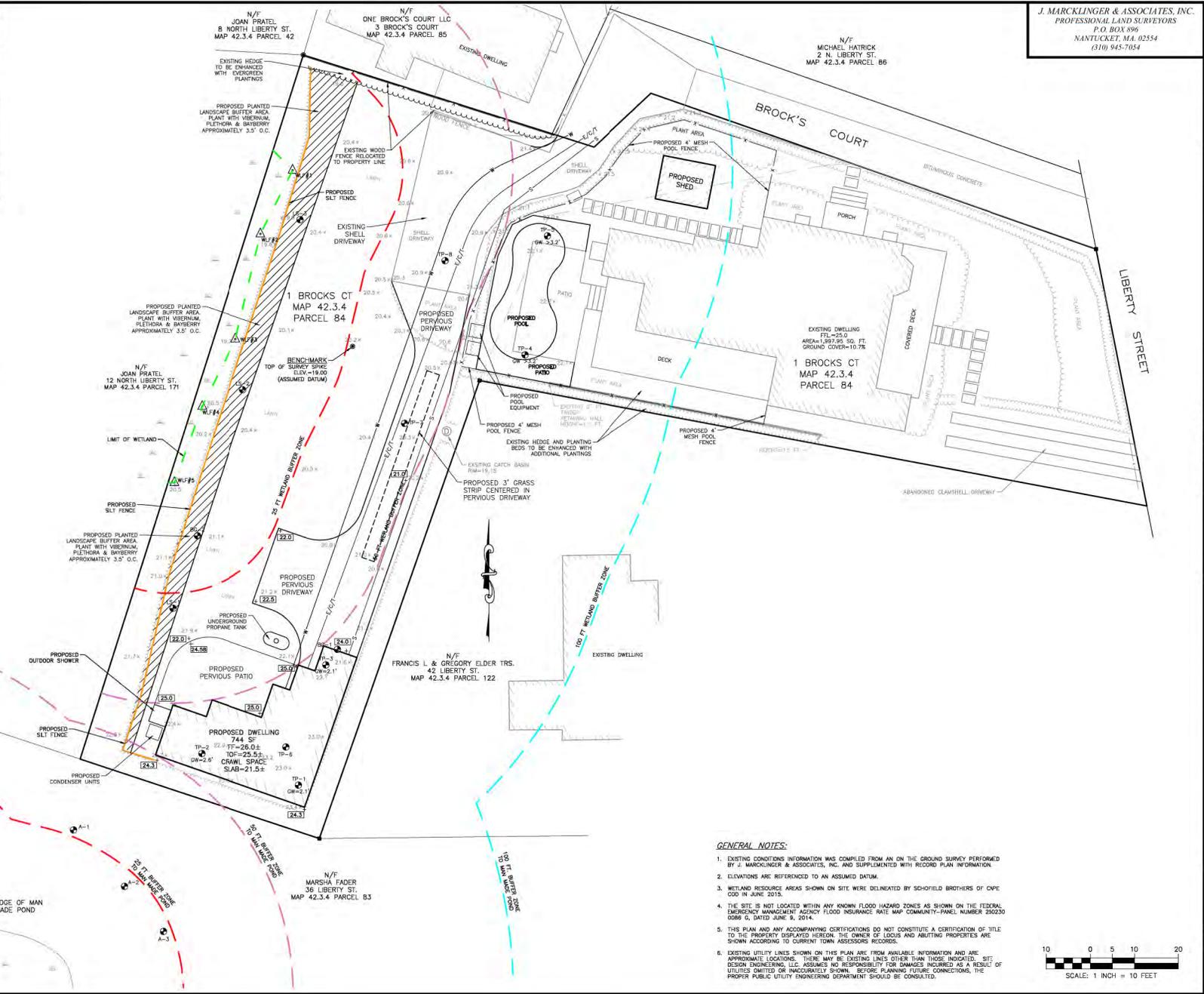
MINIMUM LOT SIZE: 5,000 SQ. FT.  
 MINIMUM FRONTAGE: 50 FT.  
 FRONT YARD SETBACK: 10 FT.  
 REAR YARD SETBACK: 5 FT.  
 SIDE YARD SETBACK: 5 FT.  
 GROUND COVER RATIO: 30%

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPEALS (BOOK 1359 PAGE 248) GRANTING RELIEF OF SETBACK SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.65 FEET.

**OVERLAY DISTRICT APPLICABILITY**

DORMITORY	—
EMPLOYEE HOUSING	—
FLOOD HAZARD	—
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	—
MADAKET HARBOR WATERSHED PROTECTION	—
MID-ISLAND PLANNED	—
MILL'S FAMILY	—
SASCONSET SEWER	—
TOWN	YES
TOWN SEWER	YES
WATERSHAFT	—
WELLHEAD PROTECTION	—
MA DEP ZONE II	—
FORMULA BUSINESS EXCLUSION DISTRICT	—



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 MIDDLEBORO, MA 02346  
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PLAN REVISIONS

NO.	DATE	DESCRIPTION
1	11/20/15	ADDED BORING LOCATIONS, REMOVE SHED
2	10/16/15	ADDED POND AND BORING LOCATIONS

DATE: OCTOBER 29, 2015  
 DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM  
 PROJECT NO: 12035

ISSUED FOR: **APPROVAL**

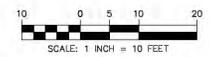
**PROPOSED SITE PLAN**  
 1 BROCK'S COURT  
 PARCEL 84  
 NANTUCKET, MASSACHUSETTS

PREPARED FOR EDWIN SWIDER REALTY TRUST

DRAWING TITLE:  
**PROPOSED SITE PLAN 'A'**

SCALE: **1"=10'**  
 SHEET NO:  
**1 of 1**

- GENERAL NOTES:**
- EXISTING CONDITIONS INFORMATION WAS COMPILED FROM AN ON THE GROUND SURVEY PERFORMED BY J. MARCKLINGER & ASSOCIATES, INC. AND SUPPLEMENTED WITH RECORD PLAN INFORMATION.
  - ELEVATIONS ARE REFERENCED TO AN ASSUMED DATUM.
  - WETLAND RESOURCE AREAS SHOWN ON SITE WERE DELINEATED BY SCHOFIELD BROTHERS OF CAPE COD IN JUNE 2015.
  - THE SITE IS NOT LOCATED WITHIN ANY KNOWN FLOOD HAZARD ZONES AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 230230 009R G, DATED JUNE 8, 2014.
  - THIS PLAN AND ANY ACCOMPANYING CERTIFICATIONS DO NOT CONSTITUTE A CERTIFICATION OF TITLE TO THE PROPERTY DISPLAYED HEREON. THE OWNER OF LOCUS AND ADJUTING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN ASSESSOR RECORDS.
  - EXISTING UTILITY LINES SHOWN ON THIS PLAN ARE FROM AVAILABLE INFORMATION AND ARE APPROXIMATE LOCATIONS. THERE MAY BE EXISTING LINES OTHER THAN THOSE INDICATED. SITE DESIGN ENGINEERING, LLC ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES OMITTED OR INACURATELY SHOWN. BEFORE PLANNING FUTURE CONNECTIONS, THE PROPER PUBLIC UTILITY ENGINEERING DEPARTMENT SHOULD BE CONSULTED.





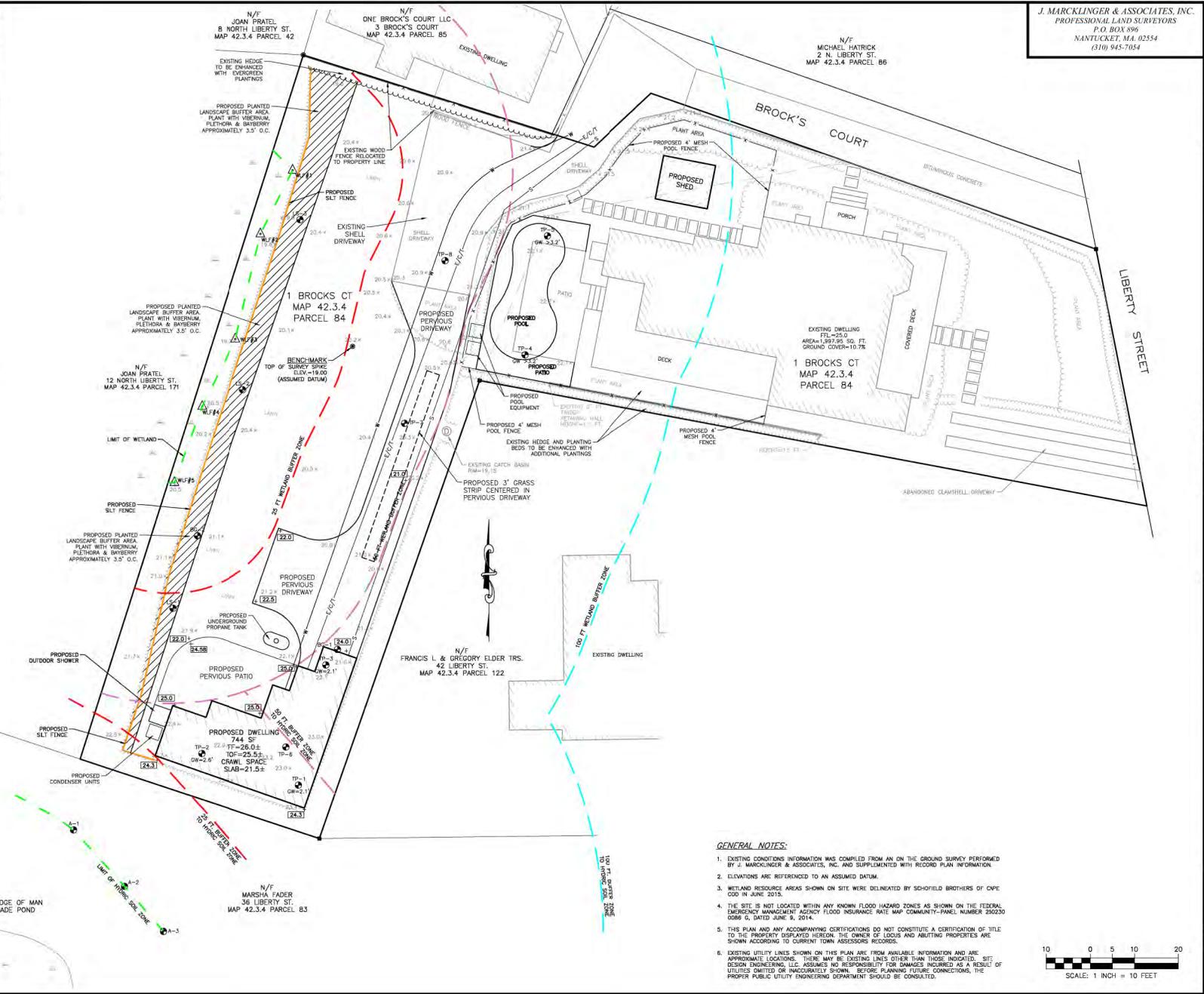
**ZONING CLASSIFICATION: R-1**

MINIMUM LOT SIZE: 5,000 SQ. FT.  
 MINIMUM FRONTAGE: 50 FT.  
 FRONT YARD SETBACK: 10 FT.  
 REAR YARD SETBACK: 5 FT.  
 SIDE YARD SETBACK: 5 FT.  
 GROUND COVER RATIO: 30%

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

PROPERTY SUBJECT TO SPECIAL PERMIT FROM BOARD OF APPEALS (BOOK 1359 PAGE 248) GRANTING RELIEF OF SETBACK SETBACK TO BROCK'S COURT FROM 10 FEET TO 4.65 FEET.

OVERLAY DISTRICT APPLICABILITY	
DORMITORY	--
EMPLOYEE HOUSING	--
FLOOD HAZARD	--
HARBOR WATERSHED PROTECTION ZONE	YES-B
IDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	--
MID-ISLAND PLANNED	--
MILL'S FAMILY	--
SASCONSET SEWER	--
TOWN	YES
TOWN SEWER	YES
WATERSHAFT	--
WELLHEAD PROTECTION	--
MA DEP ZONE II	--
FORMULA BUSINESS EXCLUSION DISTRICT	--



J. MARCKLINGER & ASSOCIATES, INC.  
 PROFESSIONAL LAND SURVEYORS  
 P.O. BOX 896  
 NANTUCKET, MA. 02554  
 (510) 945-7054

**SITE DESIGN ENGINEERING, LLC.**  
 11 CUSHMAN STREET  
 MIDDLEBORO, MA 02346  
 T: 508-967-0673 F: 508-967-0674  
 WWW.SITEDESIGNENG.COM

NO.	DATE	DESCRIPTION
1	11/20/15	ADDED BORING LOCATIONS, REMOVE SHED
2	2/20/16	ADDED POND AND BORING LOCATIONS
3	12/20/16	ADDED BORING LOCATIONS, REMOVE SHED

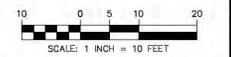
DATE: OCTOBER 29, 2015  
 DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM  
 PROJECT NO: 12035  
 ISSUED FOR: APPROVAL



**PROPOSED SITE PLAN**  
 1 BROCK'S COURT  
 PARCELS 84 & 85  
 NANTUCKET, MASSACHUSETTS

PREPARED FOR EDWIN SWIDER REALTY TRUST

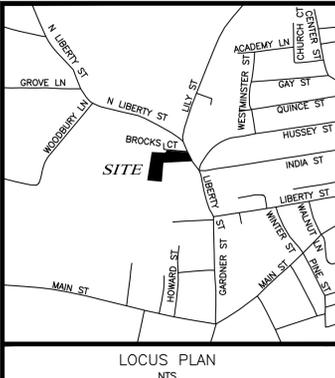
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DRAWING TITLE:  
**PROPOSED SITE PLAN 'B'**

SCALE: **1"=10'**

SHEET NO:  
**1 of 1**



**LEGEND**

—	PROPERTY LINE
20.3x	SPOT ELEVATION
x	FENCE
---	HEDGE LINE
---	LANDSCAPING
---	LIMIT OF WETLAND
△	WETLAND FLAG
---	25 FT. BUFFER ZONE
---	50 FT. BUFFER ZONE
---	100 FT. BUFFER ZONE
GW	DEPTH TO GROUNDWATER
TP-#	TEST PIT
GW	DEPTH TO GROUNDWATER
A-#/BG-#/LS-#	SOIL BORING

**ZONING CLASSIFICATION: R-1**

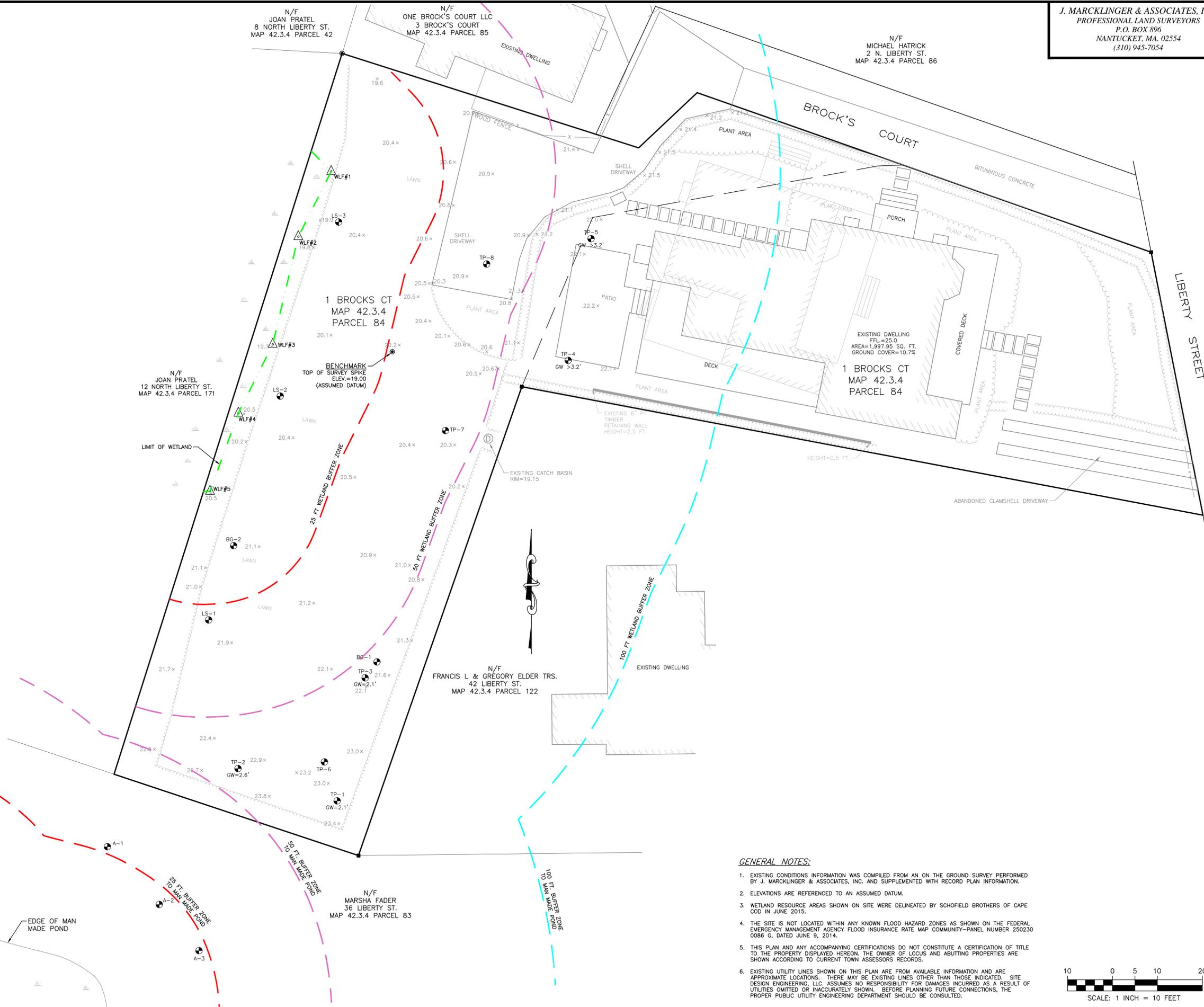
MINIMUM LOT SIZE 5,000 SQ. FT.  
 MINIMUM FRONTAGE 50 FT.  
 FRONT YARD SETBACK 10 FT.  
 REAR YARD SETBACK 5 FT.  
 SIDE YARD SETBACK 5 FT.\*  
 GROUND COVER RATIO 30%±

\* SIDE YARD SETBACK IS 10 FT. ADJACENT TO ANY STREET OR WAY.

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**OVERLAY DISTRICT APPLICABILITY**

DORMITORY	-
EMPLOYEE HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SIASCONSET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	-
WELLHEAD PROTECTION	-
MA DEP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



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NO.	DATE	DESCRIPTION	APPROVED
1	2/3/16	ADDED POND AND BORING LOCATIONS	DCM

PLAN REVISIONS

DATE: OCTOBER 29, 2015

DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JM

PROJECT NO. 12035

ISSUED FOR: APPROVAL



**EXISTING CONDITIONS PLAN**

1 BROCK'S COURT  
 ASSESSOR'S MAP 42.3.4, PARCEL 84  
 NANTUCKET, MASSACHUSETTS

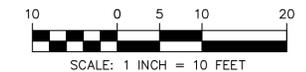
PREPARED FOR EDWIN SNIDER REALTY TRUST

DRAWING TITLE:  
**EXISTING CONDITIONS PLAN 'A'**

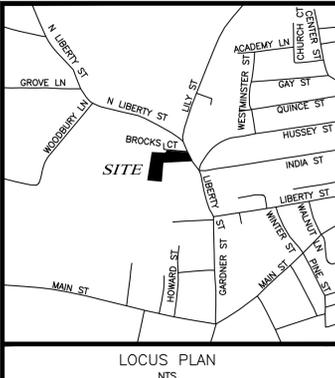
SCALE: **1"=10'**

SHEET NO.  
**1 OF 1**

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**LEGEND**

—	PROPERTY LINE
20.3x	SPOT ELEVATION
x	FENCE
---	HEDGE LINE
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---	LIMIT OF WETLAND
△	WETLAND FLAG
---	25 FT. BUFFER ZONE
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---	100 FT. BUFFER ZONE
GW	DEPTH TO GROUNDWATER
TP-#	TEST PIT
GW	DEPTH TO GROUNDWATER
A-#/BG-#/LS-#	SOIL BORING

**ZONING CLASSIFICATION: R-1**

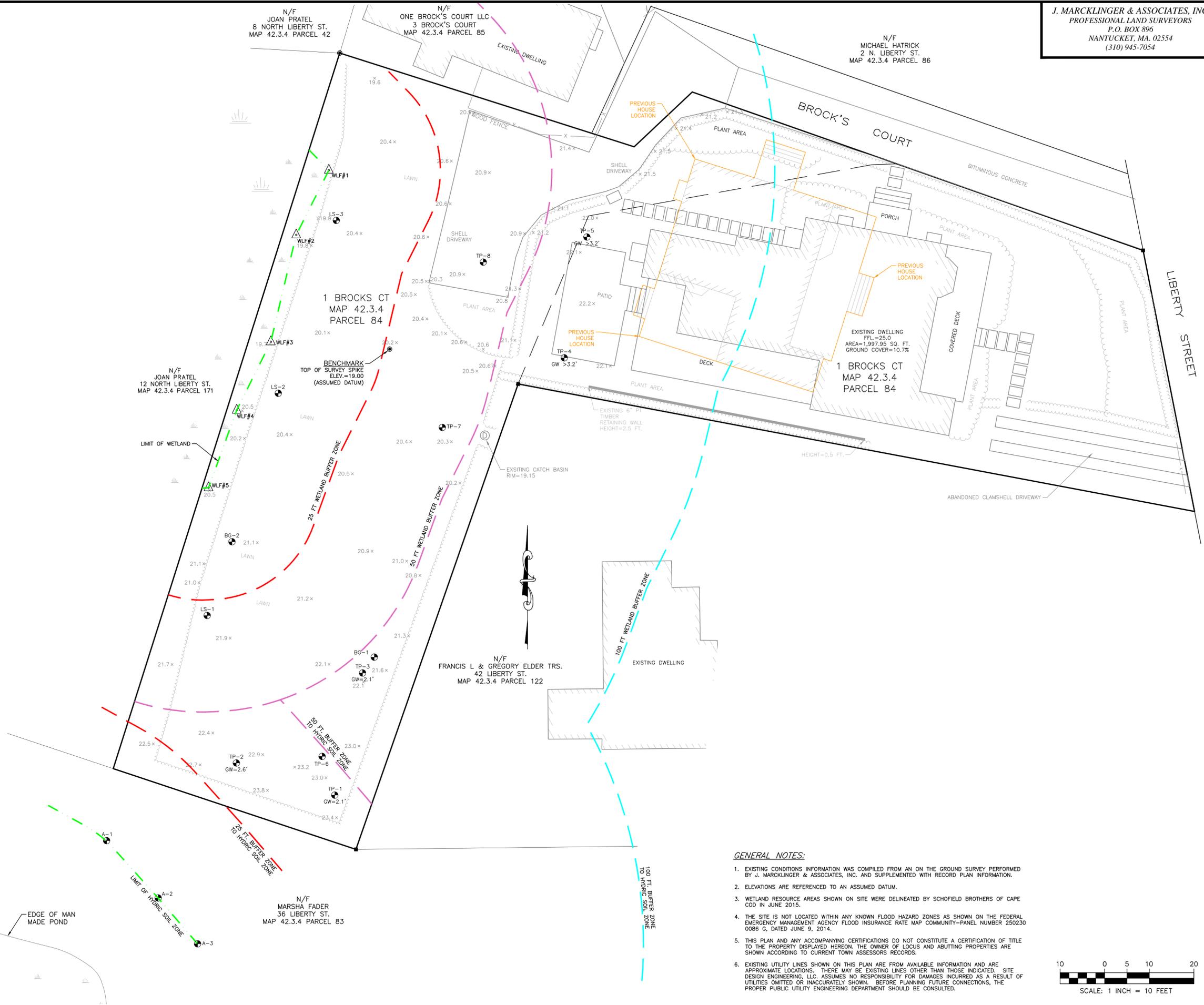
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**OVERLAY DISTRICT APPLICABILITY**

DORMITORY	-
EMPLOYEE HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SIASCONSET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	-
WELLHEAD PROTECTION	-
MA DEP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



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PLAN REVISIONS

DATE: OCTOBER 29, 2015

DRAWN BY: SKD DESIGN BY: DCM CHECK BY: DCM/JM

PROJECT NO. 12035

ISSUED FOR: APPROVAL



**EXISTING CONDITIONS PLAN**

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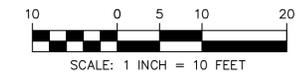
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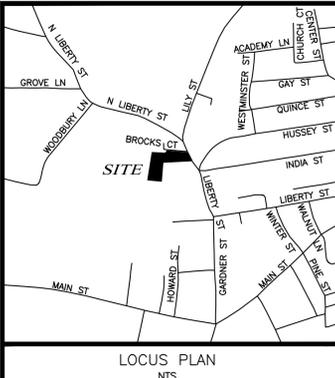
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**1 OF 1**

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**LEGEND**

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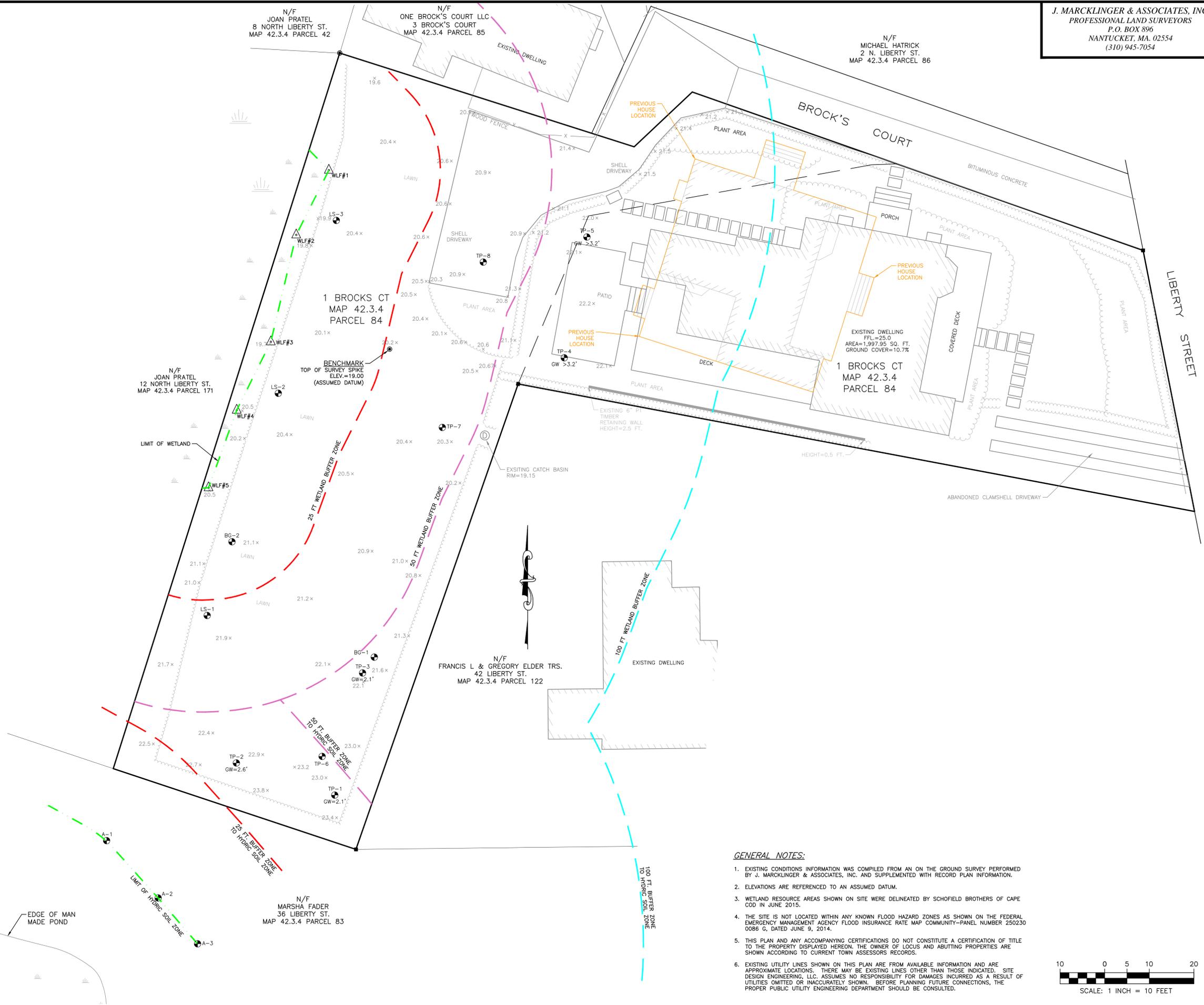
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DORMITORY	-
EMPLOYEE HOUSING	-
FLOOD HAZARD	-
HARBOR WATERSHED PROTECTION ZONE	YES-B
HDC OLD HISTORIC	YES
MADAKET HARBOR WATERSHED PROTECTION	-
MID-ISLAND PLANNED	-
MULTI-FAMILY	-
SIASCONSET SEWER	-
TOWN	YES
TOWN SEWER	YES
WATERCRAFT	-
WELLHEAD PROTECTION	-
MA DEP ZONE II	-
FORMULA BUSINESS EXCLUSION DISTRICT	-



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NO.	DATE	DESCRIPTION	APPROVED
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PLAN REVISIONS

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PROJECT NO. 12035

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**EXISTING CONDITIONS PLAN**

1 BROCK'S COURT  
 ASSESSOR'S MAP 42.3.4, PARCEL 84  
 NANTUCKET, MASSACHUSETTS

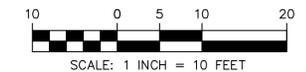
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**NEW  
INFORMATION  
FOR CURRENT  
HEARING**

Rec. @ 2/10/16  
Hearing by  
Davis, Malm & D'Agostine

DAVIS MALM &  
D'AGOSTINE P.C.  
ATTORNEYS AT LAW

Paul L. Feldman

February 10, 2016

Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

Re: One Brock's Court Notices of Intent (SE48-2834 & SE48-2835)

Dear Members of the Conservation Commission:

This office represents Marsha Fader, who is an abutter to the proposed project at One Brock's Court. We submit this letter to provide additional information regarding and the wetland resources on both Ms. Fader's and the Applicant's properties and the further bases to deny the requested Order of Conditions for construction of a second home (NOI SE48-2835) on the Applicant's property.

Failure to Properly Delineate Wetland Resources

After the January 13, 2016 hearing, additional soil borings and soil pits were performed on the Applicant's property and Ms. Fader's property. Those results document the existence of hydric soils on both properties and confirm the delineation of wetlands depicted on the proposed Site Plan dated October 29, 2015 is incorrect. Moreover, after review of the supplemental information submitted by the Applicant's engineer on February 4, 2016 it is apparent the Applicant continues to ignore these results when depicting the resource areas on the Applicant's property. The existing conditions plans and proposed site plans submitted by Site Design Engineering, LLC in its latest filing continue to incorrectly depict wetland resources. This failure is significant because the second house is not to be built in buffer at all, but in the resource area itself.

As noted in a previous letter from our colleague to the Commission dated January 13, 2016, the DEP Delineating Bordering Wetlands Manual acknowledges that determining the boundaries of BVW in areas that have been altered may be challenging, but the BVW can still be located and protected. In fact, the manual indicates that a review of the soils will be important to determine if wetlands hydrology still exists in those areas and to delineate the wetlands. And, more importantly, the DEP Regulations define the boundary line for BVW in an area that has been disturbed ("e.g. by cutting, filling, or cultivation") as "the line within which there are indicators of saturated or inundated conditions sufficient to support a predominance of wetland indicator plants, or credible evidence from

direct 617-589-3831 direct fax 617-305-3131  
email pfeldman@davismalm.com

a competent source that the area supported or would support under undisturbed conditions a predominance of wetland indicator plants prior to the disturbance.” 310 CMR 10.55(2)(c)3. Nantucket’s Regulations do not define BVW, but state that if a term is not defined, it shall have the definition contained in the WPA and regulations promulgated thereunder. *See* Section 1.02. Therefore, the definition in 310 CMR 10.55(2)(c)3 applies to the wetland resources on Ms. Fader’s and the Applicant’s properties.

The results of soil samples taken on both properties on January 21, 2016 were submitted to the Commission by letter dated February 4, 2016 from Bruce Griffin of New England Environmental, Inc. (“NEEI”). Those results and the results of the previous assessment by all parties on January 7 demonstrate that there are saturated conditions on both properties for an extended period during the growing season, as indicated by the presence of hydric soils and oxidized rhizospheres. NEEI has indicated that such conditions would support a predominance of wetland indicator plants if current lawn areas on both properties were left unmown.

The Applicant has not fully delineated the resource areas that are the subject of the second NOI (SE48-2835). The area where the NOI proposes to locate a house as well as adjacent areas are BVW and should be delineated as such.

#### Area of Proposed Second Home Location was Unlawfully Altered

The Applicant’s property in the area of the proposed house was altered in the late 1990s and there is no record of a Notice of Intent Filing or issuance of an Order of Conditions for such alteration. Aerial photographs show the property having significant vegetation and what appears to be water features similar to the adjacent wetlands at least from until 1993 through 1995. Neighbors recall fill being added and the lawn developing on the Applicant’s property in this area in the late 1990s.

There is no dispute that such area was previously within the Commission’s jurisdiction and a likely resource area. The Wetlands Protection Act provides that “[n]o person shall remove, fill, dredge or alter any area subject to protection under this section without the required authorization, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition...” G.L. c. 131, § 40. The Act further provides that “[a]ny person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this section ... shall forthwith comply with any such order or restore such real estate to its condition prior to any such violation.” Case law provides that upon acquiring ownership of land in violation of the Act, the purchaser is obligated to comply with its provisions. *In the Matter of Margot Xarras*, 2010 WL 3427465, at \*19 n.3 (DEP 2010); *Junior v. Town of Marshfield Conservation Com’n*, 2014 WL 4364845, at \*4 (Mass. Land Ct. 2014) (successor landowners are responsible for either compliance with order of conditions issued to prior owner or restoration of the land to its prior condition). While we are not advocating that the Applicant as the current owner of improperly filled land restore such land, we do submit the Applicant should not be benefitted by this fill. As addressed below, this same area is properly classified as Bordering Vegetated Wetlands (BVW) even today given its hydric soils. Even if the Commission did not agree

February 6, 2016  
Page 3

DAVIS MALM &  
D'AGOSTINE P.C.  
ATTORNEYS AT LAW

with this finding and considers this area to be buffer today, an Order of Conditions should not issue. This area was improperly filled and, at the very least, should be protected.

For these reasons as well as those set forth in this office's earlier letter, the Conservation Commission should deny the Order of Conditions requested in the second NOI.

Very truly yours,



Paul L. Feldman

PLF:

Rec. @ 2/10/16  
Hearing by NEE

New England Environmental, Inc.  
Environmental Consulting  
15 Research Drive  
Amherst, MA 01002  
(p) 413.256.0202  
(f) 413.256.1092  
www.neeinc.com



February 9, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

**RE:           Review, Notices of Intent  
              Brock's Court, Nantucket, MA  
              DEP Files SE 48-2834, 2835  
              NEE File 13-4266**

Dear Commission members,

New England Environmental, Inc. (NEE) has read through a copy of the supplemental information documents from Site Design Engineering, LLC (SDE) dated February 4, 2016, concerning two Notices of Intent for development at Brock's Court. While a full discussion of all the issues raised in the SDE letter is not possible on short notice, we would like to briefly address a few of the deficiencies within this and preceding submissions concerning these projects.

1. The February 4 letter devotes 2½ pages to discussing wetland resources on the abutting property at 36 Liberty Street, and a single short paragraph to the subject property, stating "there are no well-developed natural soil conditions on the Subject Property." This statement is contradicted by hydric soil profiles documented on the site by NEE, soil profiles the Applicant simply chooses to ignore. These hydric soil profiles developed naturally within the fill, in response to wetland hydrology. None of the SDE Existing Conditions Plans shows a complete delineation of the wetland resources on the subject property.
2. The hydric soil pits observed on January 5 (designated A1, A2, & A3) are not a complete delineation of the wetland edge on the 36 Liberty Street property. NEE delineated the edge of the BVW on the portion of this property closest to the subject property with flags B1-B6 on January 21. These flag locations are depicted upon the attached plan. This is only a partial delineation of the BVW on this property, but it projects a buffer zone onto the subject property which is different from both the A and B plans submitted by SDE. However, we still submit that the proposed house site on the subject property is not just in the buffer zone, it is within a wetland.
3. At least some of the fill under the Brock's Court lawn was placed during or after 1995, and well after passage of the Wetlands Protection Act, with no record of a permit. The applicants should not benefit from this illegal activity.
4. The aerial photo from 1940 shows agricultural use within the area proposed for additional structures. This is not inconsistent with wetland conditions. Farmers often placed animal paddocks and pastures in locations which were too wet for crop production. In any event the series of photos from subsequent decades show this area of the subject property to be a wetland resource.



Quidnet Properties, LLC

84 Quidnet Road

(21-100 & 101 )

SE48-2855



**Notice of Intent**  
Map 21 Parcels 100 & 101  
84 Quidnet Road  
Nantucket, Massachusetts

Prepared for: **Quidnet Properties, LLC**  
**c/o Harvey Eisen**  
**177 W. Putman Avenue**  
**Greenwich, CT 06830**

Prepared by: **Nantucket Surveyors, LLC**  
**5 Windy Way, PO Box 3627**  
**Nantucket, MA 02584**

**January 8, 2016**



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number

Document Transaction Number

City/Town

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>84 Quidnet Road</u>	<u>Nantucket</u>	<u>02554</u>
a. Street Address	b. City/Town	c. Zip Code
<u>Latitude and Longitude:</u>	<u>41.305690</u>	<u>-69.979664</u>
	d. Latitude	e. Longitude
<u>21</u>	<u>100 &amp; 101</u>	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

<u>Quidnet Properties, LLC</u>	<u></u>	
c. Organization	b. Last Name	
<u>177 W. Putman Avenue</u>		
d. Street Address		
<u>Greenwich</u>	<u>CT</u>	<u>06830</u>
e. City/Town	f. State	g. Zip Code
<u>508-228-8050</u>	<u>chuck.lenhart@comcast.net</u>	
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

<u></u>	<u></u>	
a. First Name	b. Last Name	
<u></u>		
c. Organization		
<u></u>		
d. Street Address		
<u></u>	<u></u>	<u></u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

<u>Paul</u>	<u>Santos</u>	
a. First Name	b. Last Name	
<u>Nantucket Surveyors, LLC</u>		
c. Company		
<u>P.O. Box 3627</u>		
d. Street Address		
<u>Nantucket</u>	<u>MA</u>	<u>02554</u>
e. City/Town	f. State	g. Zip Code
<u>508-228-0240</u>	<u>508-228-9856</u>	<u>psantos@nantucketsurveyors.com</u>
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$110</u>	<u>\$67.50</u>	<u>\$42.50</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number

Document Transaction Number

City/Town

## A. General Information (continued)

6. General Project Description:

This application is for the proposed repair of an existing onsite sewage disposal system within the buffer zone to a coastal dune.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Nantucket

a. County

24746

b. Certificate # (if registered land)

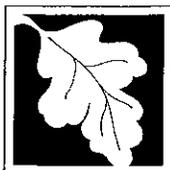
c. Book

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40



City/Town \_\_\_\_\_

## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet _____	2. linear feet _____
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet _____	2. square feet _____
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet _____	2. square feet _____
	3. cubic yards dredged _____	

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet _____	2. square feet _____
	3. cubic feet of flood storage lost _____	4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____	
	2. cubic feet of flood storage lost _____	3. cubic feet replaced _____
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) - <b>specify coastal or inland</b> _____	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

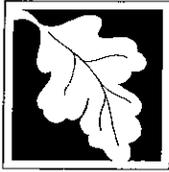
a. total square feet \_\_\_\_\_ b. square feet within 100 ft. \_\_\_\_\_ c. square feet between 100 ft. and 200 ft. \_\_\_\_\_

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40



City/Town \_\_\_\_\_

## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____	
	2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____	
	2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	
	1. cubic yards dredged _____	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet _____	

4.  Restoration/Enhancement

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.

\_\_\_\_\_ a. square feet of BVW

\_\_\_\_\_ b. square feet of Salt Marsh

5.  Project Involves Stream Crossings

\_\_\_\_\_ a. number of new stream crossings

\_\_\_\_\_ b. number of replacement stream crossings



WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number

Document Transaction Number

City/Town

C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

- Is any portion of the proposed project located in Estimated Habitat of Rare Wildlife as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the Massachusetts Natural Heritage Atlas or go to http://maps.massgis.state.ma.us/PRI\_EST\_HAB/viewer.htm.

a. Yes No If yes, include proof of mailing or hand delivery of NOI to:

Natural Heritage and Endangered Species Program
Division of Fisheries and Wildlife
1 Rabbit Hill Road
Westborough, MA 01581

October 2008
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.f, if applicable. If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).

c. Submit Supplemental Information for Endangered Species Review\*

- Percentage/acreage of property to be altered:

(a) within wetland Resource Area 0 percentage/acreage
(b) outside Resource Area 7%/.04 acres percentage/acreage

- Assessor's Map or right-of-way plan of site

- Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

- (a) Project description (including description of impacts outside of wetland resource area & buffer zone)
(b) Photographs representative of the site

\* Some projects not in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number

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City/Town

## C. Other Applicable Standards and Requirements (cont'd)

(c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/mesa/mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/mesa/mesa_fee_schedule.htm)).  
Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1.  Project is exempt from MESA review.  
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/mesa/mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/mesa/mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

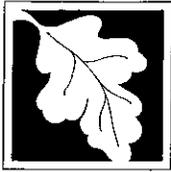
South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40



City/Town \_\_\_\_\_

## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No      If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC \_\_\_\_\_
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house
  2.  Emergency road repair
  3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40



City/Town \_\_\_\_\_

## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Proposed Sewage Disposal System

a. Plan Title

John J. Shugrue, Inc.

b. Prepared By

3/23/05

d. Final Revision Date

John J. Shugrue, PE

c. Signed and Stamped by

1"=30'

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

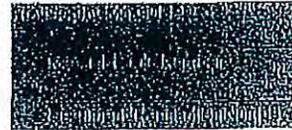
9.  Attach Stormwater Report, if needed.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 3 - Notice of Intent**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40



City/Town \_\_\_\_\_

**E. Fees**

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

_____	_____
4262	1/5/16
2. Municipal Check Number	3. Check date
4263	1/5/16
4. State Check Number	5. Check date
Chuck	Lenhart
6. Payor name on check: First Name	7. Payor name on check: Last Name

**F. Signatures and Submittal Requirements**

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

_____	_____
1. Signature of Applicant	2. Date
_____	_____
3. Signature of Property Owner (if different)	4. Date
_____	_____
5. Signature of Representative (if any)	6. Date

**For Conservation Commission:**

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

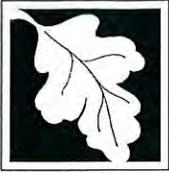
**For MassDEP:**

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a copy of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

**Other:**

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**A. Applicant Information**

1. Location of Project:

84 Quidnet Road Nantucket  
 a. Street Address b. City/Town  
 4263 67.50  
 c. Check number d. Fee amount

2. Applicant Mailing Address:

a. First Name b. Last Name  
 Quidnet Properties, LLC  
 c. Organization  
 177 W. Putman Avenue  
 d. Mailing Address  
 Greenwich CT 06830  
 e. City/Town f. State g. Zip Code  
 508-228-8050 chuck.lenhart@comcast.net  
 h. Phone Number i. Fax Number j. Email Address

3. Property Owner (if different):

a. First Name b. Last Name  
 c. Organization  
 d. Mailing Address  
 e. City/Town f. State g. Zip Code  
 h. Phone Number i. Fax Number j. Email Address

**B. Fees**

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B. Fees (continued)**

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
This application is for the proposed repair of an existing onsite sewage disposal system within the buffer zone to a coastal dune.	1	\$110	\$110
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**Step 5/Total Project Fee:** \_\_\_\_\_

**Step 6/Fee Payments:**

Total Project Fee:	\$110
State share of filing Fee:	\$67.50
City/Town share of filling Fee:	\$42.50
	a. Total Fee from Step 5
	b. 1/2 Total Fee less \$12.50
	c. 1/2 Total Fee plus \$12.50

**C. Submittal Requirements**

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a copy of this form; and the city/town fee payment.

**To MassDEP Regional Office (see Instructions):** Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a copy of this form; and a copy of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

ATTACHMENT A

NOTICE OF INTENT  
Item D

84 Quidnet Road  
Nantucket, Massachusetts  
Map: 21 Parcel: 100 & 101

List of Plans and Supporting Documents

APPENDIX A – Project Narrative

APPENDIX B – Nantucket Town GIS

APPENDIX C – NHESP Estimated and Priority Habitat Map

APPENDIX D – FEMA Flood Insurance Rate Map

APPENDIX E – Site Photographs

APPENDIX F – Abutter Notification Information

APPENDIX G – “Proposed Sewage Disposal System”  
Prepared By: John J. Shugrue, Inc.  
Dated: March 23, 2005

## **APPENDIX A**

### Project Narrative

## **APPENDIX A PROJECT NARRATIVE**

### **Introduction**

This Notice of Intent is submitted to the Nantucket Conservation Commission (“the Commission”) and the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the Massachusetts Wetlands Protection Act, MGL c.131, s.40, for the proposed repair of an existing onsite sewage disposal system within the buffer zone to a coastal dune.

### **Existing Site Conditions**

The subject property is located on the east side of Quidnet Road, Nantucket Assessors Map: 21 Parcel: 100 & 101. The site is approximately 21,974 S.F., consisting of a single family dwelling and fully developed residential lot. The surrounding land use is residential.

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for this portion of Nantucket (FIRM Map No. 25019C0111G), dated June 9, 2014, shows that the area of proposed development is not located within a Flood Hazard Zone.

The Massachusetts Natural Heritage Atlas, 12<sup>th</sup> Edition, dated October 2008 (Appendix C) shows that Priority Habitat and Estimated Habitat is mapped within the area of proposed development. The proposed work does require a filing with MESA.

### **Erosion Control**

Silt fence erosion control will be installed along the limit of the work as depicted on the site plan filed herewith.

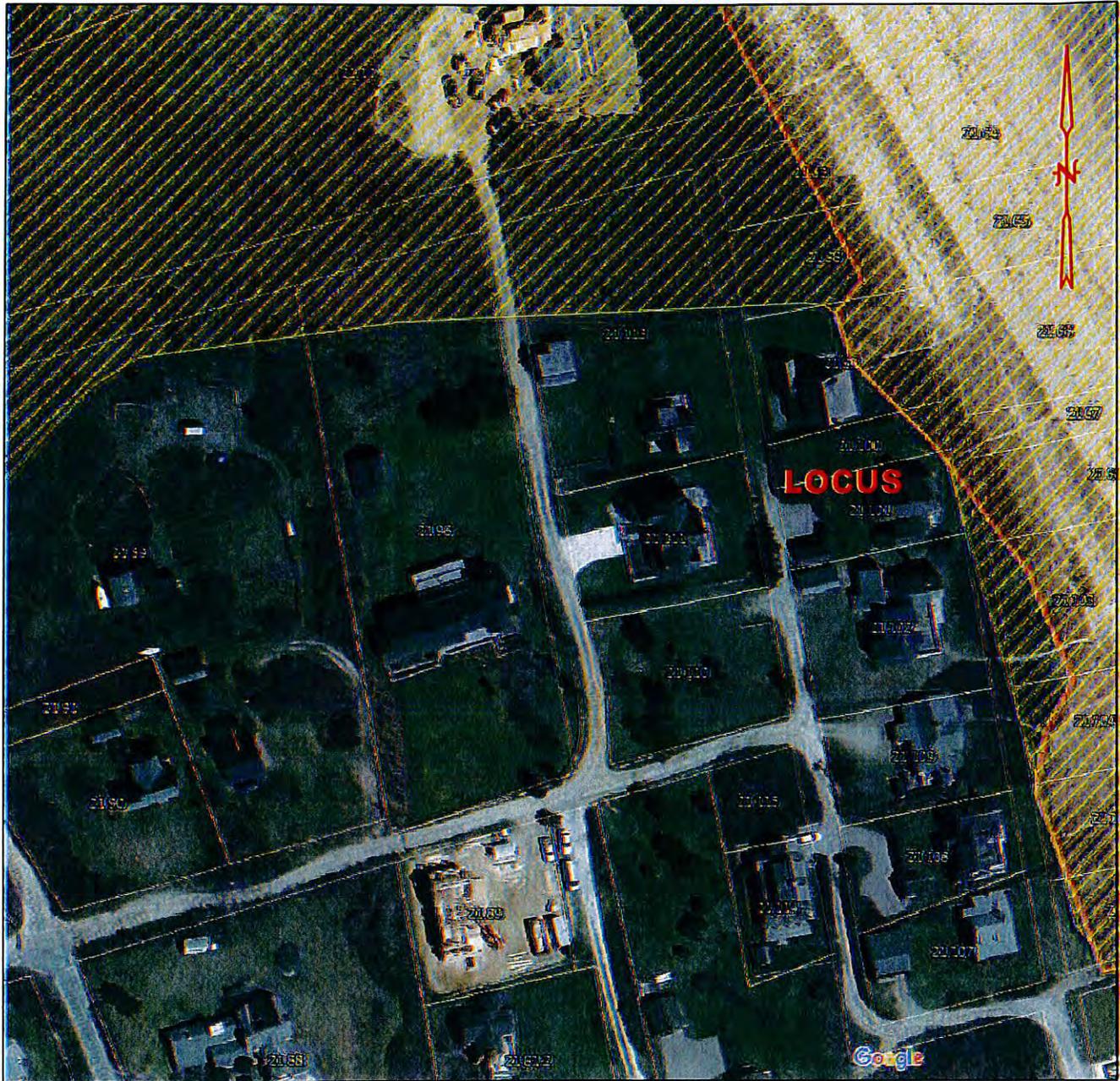
**APPENDIX B**

Nantucket Town GIS



## **APPENDIX C**

NHESP Estimated and Priority Habitat Map



K:\JOBS 9632-10995\10000\510700\510713\CON COMMONNOTICE OF INTENT\USGS.dwg, 1/4/2016 4:26:21 PM, DWG To PDF.pc3

FIGURE 2: AERIAL PHOTO/NHESP MAP  
 84 QUIDNET ROAD  
 NANTUCKET, MASSACHUSETTS  
 SCALE: N.T.S. DATE: 1/8/16  
 ASSESSOR'S REFERENCE:  
 MAP: 21 PARCEL: 100 & 101  
 PREPARED FOR:  
 QUIDNET PROPERTIES, LLC  
  
 NANTUCKET SURVEYORS LLC  
 5 WINDY WAY  
 NANTUCKET, MA. 02554



NHESP 2008 PRIORITY  
 HABITATS OF RARE SPECIES  
 AND ALSO ESTIMATED  
 HABITATS OF RARE WILDLIFE

## **APPENDIX D**

### **FEMA Flood Insurance Rate Map**



**Figure 3: FEMA FIRM MAP**

84 QUIDNET ROAD  
NANTUCKET, MASSACHUSETTS

SCALE: N.T.S. DATE: JANUARY 8, 2016

ASSESSOR'S REFERENCE:  
MAP: 21 PARCEL: 100 & 101

PREPARED FOR:  
QUIDNET PROPERTIES, LLC

NANTUCKET SURVEYORS LLC  
5 WINDY WAY  
NANTUCKET, MA. 02554

## **APPENDIX E**

### Site Photographs

84 Quidnet Road, Nantucket, MA  
Applicant: Quidnet Properties, LLC



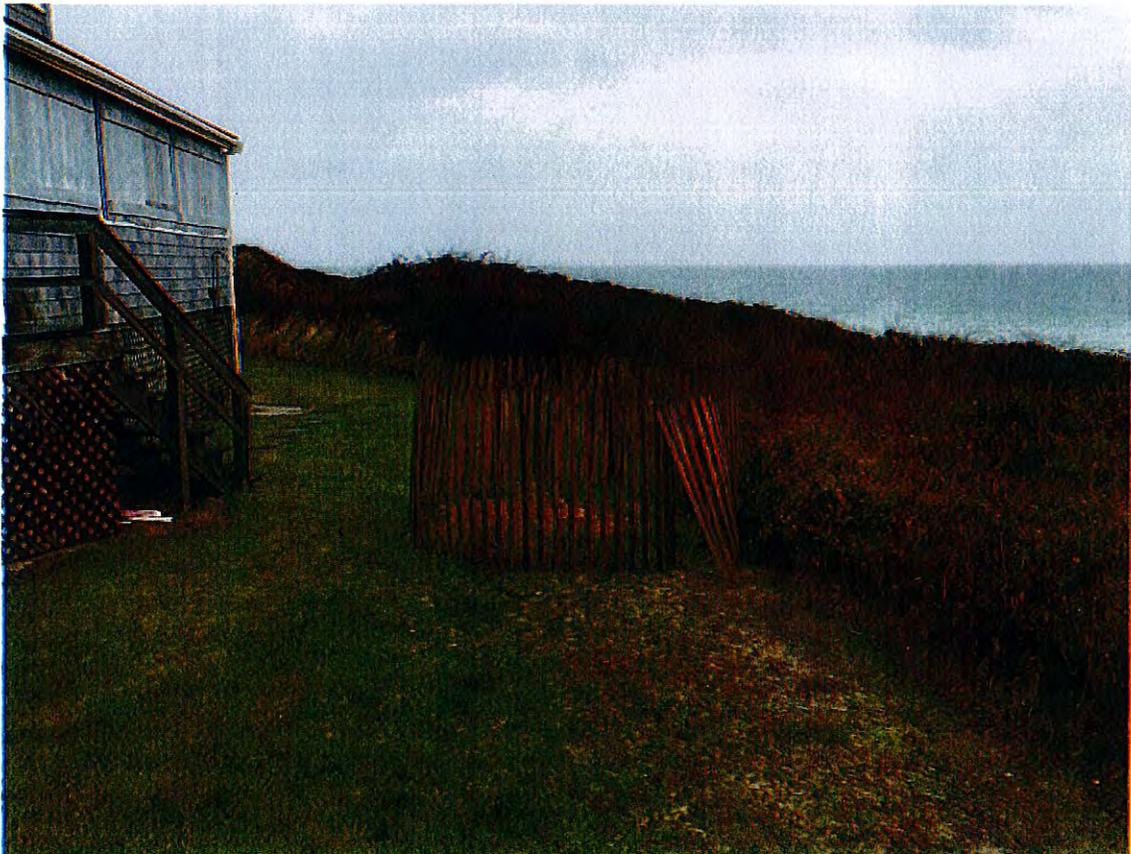
View of Existing Well



View of Existing Dwelling



View of Existing Septic Location



View of Existing Septic Location



Rear view of Existing Dwelling

## **APPENDIX G**

**“Proposed Sewage Disposal System”**

**Prepared By: John J. Shugrue, Inc.**

**Dated: March 23, 2005**



300

111555



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
 And the Town of Nantucket Bylaw Chapter 136

Eisen & Herron  
 DEP File Number:  
 SE48-1788

**A. General Information**



From: Nantucket  
 1. Conservation Commission

2. This issuance is for (check one):  Order of Conditions  Amended Order of Conditions

3. To: Applicant:  
Harvey P. Eisen Andrea Herron  
 a. First Name b. Last Name c. Company  
100 South Bedford Road  
 d. Mailing Address  
Mount Kisco NY 10549-0000  
 e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):  
Harvey P. and Andrea Eisen & Herron  
 a. First Name b. Last Name c. Company  
100 South Bedford Road  
 d. Mailing Address  
Mount Kisco NY 10549  
 e. City/Town f. State g. Zip Code

5. Project Location:  
84 Quidnet Road Nantucket  
 a. Street Address b. City/Town  
21 100 and 101  
 c. Assessors Map/Plat Number d. Parcel/Lot Number  
Latitude and Longitude, if known (note: electronic 73.539275 40.692299  
filers will click for GIS locator): e. Latitude f. Longitude

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Nantucket 17,656  
 a. County b. Certificate (if registered land)  
L.C 8606 – B Lot 35, 8606 –A Lot 9, 8606 –F lot 10 35 A  
 c. Book d. Page

7. Dates: March 31, 2005 April 20, 2005 April 22, 2005  
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
Proposed Sewage Disposal System  
 a. Plan Title  
John J. Shugrue Inc John J. Shugrue  
 b. Prepared By c. Signed and Stamped by  
March 23, 2005 1"=30'  
 d. Final Revision Date e. Scale

f. Additional Plan or Document Title g. Date  
 9. Total WPA Fee Paid: \$110.00 \$42.50 \$67.50  
 a. Total Fee Paid b. State Fee Paid c. City/Town Fee Paid

FINDINGS and ADDITIONAL CONDITIONS  
Harvey P. Eisen & Andrea Herron  
DEP FILE NUMBER SE48-1788  
ASSESSOR'S MAP 21, PARCELS 100 & 101  
84 Quidnet Road  
UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT  
(MGL CHAPTER 131, SECTION 40)  
AND THE WETLANDS BYLAW OF THE TOWN OF NANTUCKET  
(CHAPTER 136)

**This Order of Conditions permits the repair of an existing onsite sewage disposal system within the buffer zone to a coastal bank. The leaching facilities as permitted are in excess of 100' from MHW and the system as permitted includes innovative/alternative treatment including enhanced nitrogen removal. A waiver is required for the work permitted by this Order.**

FINDINGS

1. Applicant's Name Harvey P. Eisen & Andrea Herron DEP File Number SE48-1788.
2. This Order of Conditions is being issued based upon strict accordance with the information submitted in the Notice of Intent dated 3/30/2005 and the Plan of Record dated 3/23/05 and stamped by John Shugrue.
3. Areas subject to protection/regulation are coastal bank, coastal beach, bordering vegetated wetland and their buffer zones.
4. This Order is in accordance with a vote by the Nantucket Conservation Commission to close the public hearing on 4/20/2005 and a vote to issue Orders taken by the Commission on 4/20/2005.
5. This Order permits the repair of an existing onsite sewage disposal system within the buffer zone to a coastal bank. The leaching facilities as permitted are in excess of 100' from MHW and the system as permitted includes innovative/alternative treatment including enhanced nitrogen removal.
6. A waiver is required for work within 25' from the top of coastal bank.

**In addition to the above referenced GENERAL CONDITIONS the Commission has found it necessary to include the following Special Conditions pursuant to MGLCh131s40 and the Town of Nantucket Wetlands Protection Bylaw, Chapter 136. The above listed General Conditions and Findings are automatically part of this Order of Conditions.**

ADDITIONAL CONDITIONS

18. Copies of all effluent water quality monitoring required by the Board of Health shall be provided to the Commission within 7 days of receipt by the Board of Health.

19. All disturbed lawn areas shall be underlain by a minimum of 6" of organic topsoil and planted within 30 days of the completion of the repairs to the onsite sewage disposal system.

**WAIVERS UNDER THE NANTUCKET WETLANDS BYLAW/REGULATIONS:**

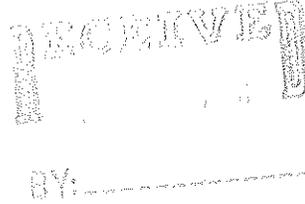
The Commission hereby grants waivers to Section 2.05 (B)(5) of the Wetlands Protection Regulations of the Town of Nantucket Wetlands Bylaw (Chapter 136) which states that all projects that are not water dependent shall maintain at least a 25' natural undisturbed area adjacent to the coastal bank. The Commission finds that, given existing conditions, the work permitted within the 25' buffer will not adversely impact the interests of the Town bylaw and that there are no other reasonable alternatives. Therefore waivers are granted under the authority of Sections 1.03(F)(2) and 1.03(F)(3)(a) of the Wetlands Protection Regulations for the Town of Nantucket.



P.O. Box 3627, Nantucket, Massachusetts 02584-3627  
Tel. (508) 228-0240 Fax (508) 228-9856  
www.nantucketsurveyors.com  
nllcinfo@nantucketsurveyors.com

January 22, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, Massachusetts 02554



Re: Waiver Request  
Applicant: Quidnet Properties, LLC  
84 Quidnet Road – Map: 21 Parcels: 100 & 101

Dear Commissioners:

On behalf of the applicant, Nantucket Surveyors, LLC, is requesting a waiver from the Nantucket Wetland Protection Regulations, Section 2.03 (B)(2)(5) for the above referenced project, Specifically a waiver to complete the removal of an existing on site sewage disposal system and replacement with an innovative/alternative treatment system including enhanced nitrogen removal within the 25 and 100 foot setbacks. The applicant wishes to apply for this waiver under the premise that project will not adversely impact the interests identified in the bylaw and there are no other reasonable conditions or alternatives that would allow the project to proceed on compliance with regulations. (Section 1.03 (F) (3a).

Interests Protected:

- **Public and Private Water Supply:** The existing site is connected a private well. Existing well will be relocated to maintain a 100' setback to the onsite sewage disposal system.
- **Groundwater:** Not applicable to this project.
- **Fisheries and Shellfish:** Not applicable to this project.
- **Recreation:** The area of disturbance is on private property, and it is not available for recreational use by the public.
- **Water Pollution:** All resource areas will be protected during the construction. No erosion is anticipated.

Office located at 5 Windy Way • Nantucket, MA 02554

Land Surveying • Topographic Surveys • Civil Engineering • Construction • Marine • Environmental Permitting

- **Wetland Scenic Views:** The existing views will not be altered.
- **Wildlife:** No changes in landscape will take place that would cause a change in the movement of wildlife. No wildlife obstruction will occur.
- **Flood control and Storm Damage Prevention:** There is no new change in grades proposed by this project.
- **Erosion control:** The site will be protected during the construction phase of this project.

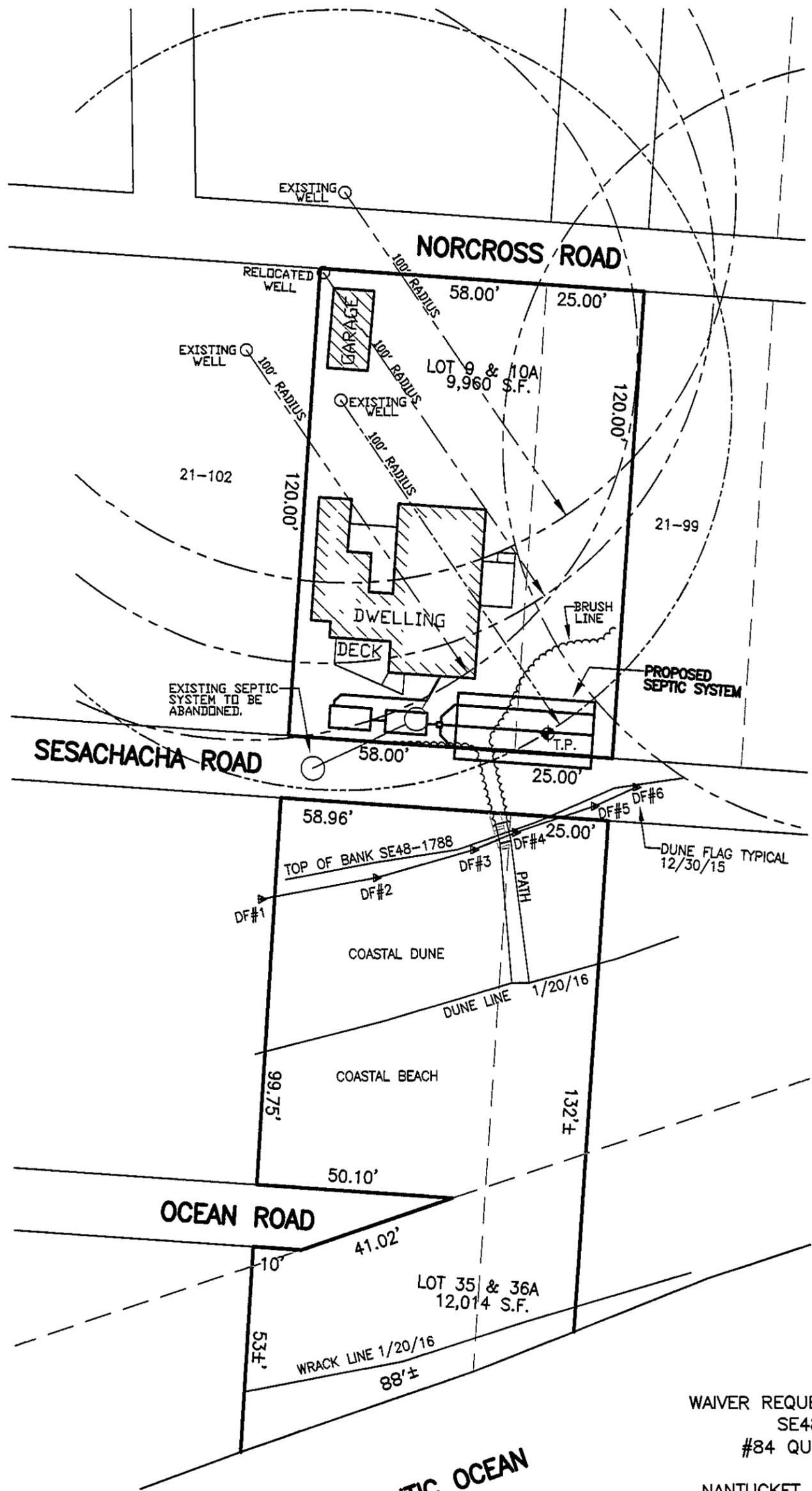
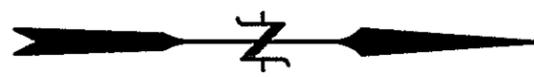
Thank you for your time and attention in this matter.

Sincerely,  
Nantucket Surveyors, LLC



By Paul J. Santos, PLS  
Agent for the Applicant

CC Quidnet Properties, LLC



WAIVER REQUEST EXHIBIT PLAN  
 SE48-2855  
 #84 QUIDNET ROAD  
 IN  
 NANTUCKET, MASSACHUSETTS  
 SCALE: 1"=30' DATE: 1/22/16  
 ASSESSOR'S REFERENCE:  
 MAP: 21 PARCEL: 100&101  
 PREPARED FOR:  
 QUIDNET PROPERTIES, LLC  
 NANTUCKET SURVEYORS LLC  
 5 WINDY WAY  
 NANTUCKET, MA. 02554

PAUL J.  
 SANTOS  
 No. 36524  
*Paul J. Santos*  
 1/22/16

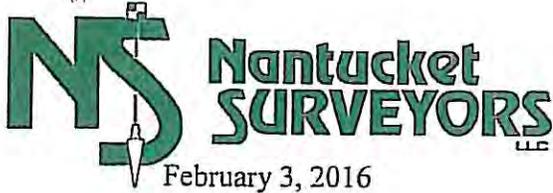
FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION OR A RECORDABLE SURVEY.

N.B. 399/29

COPYRIGHT BY NANTUCKET SURVEYORS, LLC.

N-10713

I:\JOBS 9632-10999\10000\10700\10710\10713\AUTOCAD\10713 WAIVER REQUEST PLAN.dwg, 1/21/2016 7:12:21 PM



P.O. Box 3627, Nantucket, Massachusetts 02584-3627  
Tel. (508) 228-0240 Fax (508) 228-9856  
www.nantucketsurveyors.com  
nslinfo@nantucketsurveyors.com

Mr. Artell Crowley, Assistant Health Director  
Nantucket Board of Health  
3 East Chestnut Street  
Nantucket, MA 02554

Re: 84 Quidnet Road  
Map: 21 Parcels: 100 & 101

Dear Artell:

On behalf of the Owner Quidnet Properties, LLC; Nantucket Surveyors, LLC "NSLLC" respectfully submits the following to request acknowledgement that the Nantucket Board of Health will not require an I/A innovative alternative system with enhanced nitrogen removal on the subject property.

The owner intends to repair an existing 4 bedroom grandfathered onsite sewage disposal system within the buffer zone to a coastal dune. The existing system is composed of a metal septic tank and leach pit.

The existing facility is located outside of the Nantucket Harbor Watershed Protection District, is not located within 300 feet of a Board of Health designated Nitrogen Sensitive Area, (Sesachacha Pond), and HWH Map #2 indicates groundwater flow directly to the Atlantic Ocean.

Thank you in advance for your consideration  
Very truly yours,

Paul J. Santos, PLS  
Nantucket Surveyors, LLC

Cc: Quidnet Properties, LLC  
Nantucket Conservation Commission

Acknowledgement by:  
Artell Crowley  
Assistant Health Director

Office located at 5 Windy Way • Nantucket, MA 02554

Land Surveying • Topographic Surveys • Civil Engineering • Construction • Marine • Environmental Permitting

**NEW  
INFORMATION  
FOR CURRENT  
HEARING**

Zarella

125 Wauwinet Road

(12-8)



RECEIVED

Notice of Intent  
BY: \_\_\_\_\_  
Map 12 Parcel 8  
125 Wauwinet Road  
Nantucket, Massachusetts

Prepared for: **Ronald L. Zarella**  
195 Sandringham Road  
Rochester, NY 14610

Prepared by: **Nantucket Surveyors, LLC**  
5 Windy Way, PO Box 3627  
Nantucket, MA 02584

**January 8, 2016**



# WPA Form 3 – Notice of Intent

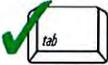
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number

Document Transaction Number

City/Town

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>125 Wauwinet Road</u>	<u>Nantucket</u>	<u>02554</u>
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:		
<u>12</u>	<u>41.330564</u>	<u>-69.996120</u>
f. Assessors Map/Plat Number	d. Latitude	e. Longitude
	<u>8</u>	
	g. Parcel /Lot Number	

2. Applicant:

<u>Ronald L.</u>	<u>Zarella</u>	
a. First Name	b. Last Name	
c. Organization		
<u>195 Sandringham Road</u>		
d. Street Address		
<u>Rochester</u>	<u>NY</u>	<u>14610</u>
e. City/Town	f. State	g. Zip Code
<u>585-281-4000</u>	<u>rlzarrella@mymail.serverdata.net</u>	
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

<u>127 Wauwinet, LLC</u>	<u>Santos</u>	
a. First Name	b. Last Name	
c. Organization		
<u>195 Sandringham Road</u>		
d. Street Address		
<u>Rochester</u>	<u>NY</u>	<u>14610</u>
e. City/Town	f. State	g. Zip Code
<u>585-281-4000</u>	<u>rlzarrella@mymail.serverdata.net</u>	
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

<u>Paul</u>	<u>Santos</u>	
a. First Name	b. Last Name	
<u>Nantucket Surveyors, LLC</u>		
c. Company		
<u>P.O. Box 3627</u>		
d. Street Address		
<u>Nantucket</u>	<u>MA</u>	<u>02584</u>
e. City/Town	f. State	g. Zip Code
<u>508-228-0240</u>	<u>508-228-9856</u>	<u>psantos@nantucketsurveyors.com</u>
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$110</u>	<u>\$42.50</u>	<u>\$67.50</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

## A. General Information (continued)

6. General Project Description:

This application is for the proposed installation of Seasonal Sand Drift Fencing on a Barrier Beach within Land Subject to Coastal Storm Flowage.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Nantucket  
a. County

24110  
b. Certificate # (if registered land)

c. Book

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



# WPA Form 3 – Notice of Intent

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Provided by MassDEP:

MassDEP File Number

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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet	2. square feet
	3. cubic yards dredged	

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet	2. square feet
	3. cubic feet of flood storage lost	4. cubic feet replaced
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet	
	2. cubic feet of flood storage lost	3. cubic feet replaced

- f.  Riverfront Area
1. Name of Waterway (if available) - specify coastal or inland
2. Width of Riverfront Area (check one):
- 25 ft. - Designated Densely Developed Areas only
  - 100 ft. - New agricultural projects only
  - 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

_____	_____	_____
a. total square feet	b. square feet within 100 ft.	c. square feet between 100 ft. and 200 ft.

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



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Provided by MassDEP:

MassDEP File Number

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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet	
	2. cubic yards dredged	
c. <input checked="" type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input checked="" type="checkbox"/> Coastal Beaches	0	0
	1. square feet	2. cubic yards beach nourishment
e. <input type="checkbox"/> Coastal Dunes	1. square feet	2. cubic yards dune nourishment

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
f. <input type="checkbox"/> Coastal Banks	1. linear feet	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet	
h. <input type="checkbox"/> Salt Marshes	1. square feet	2. sq ft restoration, rehab., creation
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet	
	2. cubic yards dredged	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	
	1. cubic yards dredged	
l. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	0	
	1. square feet	

4.  Restoration/Enhancement  
If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.

a. square feet of BVW

b. square feet of Salt Marsh

5.  Project Involves Stream Crossings

a. number of new stream crossings

b. number of replacement stream crossings



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581

2008

b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area 0  
percentage/acreage

(b) outside Resource Area \_\_\_\_\_  
percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

## C. Other Applicable Standards and Requirements (cont'd)

(c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/mesa/mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/mesa/mesa_fee_schedule.htm)).  
Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1.  Project is exempt from MESA review.  
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/mesa/mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/mesa/mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # b. Date submitted to NHESP

3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?  
 a.  Yes  No      If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?  
 a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?  
 a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?  
 a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:  
 1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)  
 2.  A portion of the site constitutes redevelopment  
 3.  Proprietary BMPs are included in the Stormwater Management System.  
 b.  No. Check why the project is exempt:  
 1.  Single-family house  
 2.  Emergency road repair  
 3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File Number
Document Transaction Number

City/Town \_\_\_\_\_

## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Site Plan to Accompany a Notice of Intent #125 Wauwinet Road

a. Plan Title

Nantucket Surveyors, LLC

Paul J. Santos, PLS

b. Prepared By

c. Signed and Stamped by

1/8/16

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

9946

2. Municipal Check Number

1/8/16

3. Check date

9947

4. State Check Number

1/8/16

5. Check date

Ronald L.

6. Payor name on check: First Name

Zarella

7. Payor name on check: Last Name



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40



City/Town

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

*Ronald L. Zavelle*

1. Signature of Applicant

1/8/2016

2. Date

3. Signature of Property Owner (if different)

4. Date

5. Signature of Representative (if any)

6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.





ATTACHMENT A

NOTICE OF INTENT

125 Wauwinet Road  
Nantucket, Massachusetts  
Map: 12 Parcel: 8

List of Plans and Supporting Documents

APPENDIX A – Assessor’s Map

APPENDIX B – Project Narrative

APPENDIX C – Nantucket Topography Map

APPENDIX D – NHESP Estimated and Priority Habitat Map

APPENDIX E – FEMA Flood Insurance Rate Map

APPENDIX F – Site Photographs

APPENDIX G – Abutter Notification Information

APPENDIX H – “Site Plan to Accompany a Notice of Intent #125 Wauwinet Road”  
Prepared by Nantucket Surveyors LLC  
January 8, 2016

## **APPENDIX A**

### Assessors Map



**Figure 1: ASSESSOR'S MAP**

#125 WAUWINET ROAD  
NANTUCKET, MASSACHUSETTS  
SCALE: N.T.S.    DATE: JANUARY 8, 2016  
ASSESSOR'S REFERENCE:  
MAP: 12 PARCEL: 8

PREPARED FOR:  
RONALD L. ZARELLA

NANTUCKET SURVEYORS LLC  
5 WINDY WAY  
NANTUCKET, MA. 02554

## **APPENDIX B**

### Project Narrative

## **APPENDIX B PROJECT NARRATIVE**

### **Introduction**

This Notice of Intent is submitted to the Nantucket Conservation Commission (“the Commission”) and the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the Massachusetts Wetlands Protection Act, MGL c.131, s.40, this application is for the proposed installation of Seasonal Sand Drift Fencing on the subject property.

### **Existing Site Conditions**

The subject property is located on the east side of Wauwinet Road, Nantucket Assessors Map: 12 Parcel: 8. The site is approximately .6 acres. The surrounding land uses are residential.

This site contains coastal resource areas subject to jurisdiction under the Nantucket Wetland Bylaw and Massachusetts Wetlands Protection Act. The resource areas include Coastal Dune, Barrier Beach, and Land Subject to Coastal Storm Flowage.

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for this portion of Nantucket (Map No. 25019C0103G), dated June 9, 2014 shows that the property is located within Zone AE (Elev. 9) and Zone VE (Elev. 10).

The Massachusetts Natural Heritage Atlas, 13<sup>th</sup> Edition, dated October 2008 (Appendix D) shows that Priority Habitat and Estimated Habitat are mapped within the project vicinity. The proposed work requires a filing with NHESP.

### **Proposed Work**

This application is for the proposed installation of Seasonal Sand Drift Fencing. The proposed work is shown on the included plan, “Site Plan to Accompany a Notice of Intent #125 Wauwinet Road”, Nantucket, MA prepared by Nantucket Surveyors, LLC dated January 8, 2016.

## **APPENDIX C**

### Nantucket Topography



## **APPENDIX D**

NHESP Estimated and Priority Habitat Map



**APPENDIX E**

FEMA Flood Insurance Rate Map

I:\JOBS 9632-10999\10000's\10440's\10440's\10449\CON COM\SEASONAL SAND DRIFT FENCE\125 WAUWINET\MAPS.dwg, 1/6/2016 8:37:32 AM



### Figure 4: FIRM MAP

#125 WAUWINET ROAD  
NANTUCKET, MASSACHUSETTS

SCALE: N.T.S. DATE: JANUARY 8, 2016

ASSESSOR'S REFERENCE:  
MAP: 12 PARCEL: 8  
25019C0103G

PREPARED FOR:  
RONALD L. ZARELLA

NANTUCKET SURVEYORS LLC  
5 WINDY WAY  
NANTUCKET, MA. 02554

**APPENDIX F**

Site Photographs

**125 Wauwinet Road, Nantucket, MA**  
**Applicant: Ronald L. Zarella**



View of Proposed fence location



View of Proposed fence location

## **APPENDIX H**

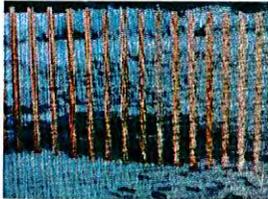
**“Site Plan to Accompany a Notice of Intent #125 Wauwinet Road”  
Prepared by Nantucket Surveyors LLC  
Dated January 8, 2016**



K:\085 9632-10999\10000\10440\10440\CON COM\SEASONAL SAND DRIFT FENCE\125 WAUWINET\NOI SITE PLAN.dwg, 1/8/2016 8:18:31 AM, DWG To PDF.pc3

**LEGEND**

— \* \* \* \* — SEASONAL SAND DRIFT FENCING



FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION OR A RECORDABLE SURVEY.

SITE PLAN TO ACCOMPANY  
A NOTICE OF INTENT  
#125 WAUWINET ROAD  
IN

NANTUCKET, MASSACHUSETTS

SCALE: NTS DATE: 1/8/16

DEED REFERENCE: L.C.C. #24110

PLAN REFERENCE: L.C.P. #10990-R

L.C.P. #10990-W

ASSESSOR'S REFERENCE:

MAP: 12 PARCEL: 8

PREPARED FOR:

RONALD L. ZARELLA

NANTUCKET SURVEYORS LLC

5 WINDY WAY

NANTUCKET, MA. 02554

**NEW  
INFORMATION  
FOR CURRENT  
HEARING**



MassWildlife

Commonwealth of Massachusetts

# Division of Fisheries & Wildlife

Jack Buckley, Director

February 12, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket MA 02554

Ronald L. Zarella  
195 Sandringham Road  
Rochester NY 14610

RE: Applicant: Ronald L. Zarella  
Project Location: 125 & 129 Wauwinet Road  
Project Description: Seasonal Sand Drift Fence  
DEP Wetlands File No.: 048-2856 & 048-2857  
NHESP File No.: 16-35224

Dear Commissioners & Applicant:

The applicant listed above submitted two *Notices of Intent* with site plans (dated 1/8/16) for both properties listed above and other required materials to the Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (Division), in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.37). Additional materials were submitted for review pursuant to the Massachusetts Endangered Species Act (MESA; M.G.L. c. 131A) and its implementing regulations (321 CMR 10.00) (MESA).

The Division has determined that the proposed project is located within the mapped *Priority* and *Estimated Habitat* of the state-listed species presented in the following table. These species and their habitats are protected pursuant to the WPA and the MESA. Fact sheets for state-listed species can be found at [www.mass.gov/nhesp](http://www.mass.gov/nhesp).

Scientific Name	Common Name	Taxonomic Group	State Status
<i>Charadrius melodus</i>	Piping Plover	Bird	Threatened*
<i>Sternula antillarum</i>	Least Tern	Bird	Special Concern
<i>Mertensia maritima</i>	Oysterleaf	Plant	Endangered

\*The Piping Plover is federally protected as "Threatened" pursuant to the U.S. Endangered Species Act (ESA, 50 CFR 17.11).

The purpose of the Division's review of the proposed project under the WPA regulations is to determine whether the project will have any adverse effects on the Resource Areas Habitats of state-listed species. The purpose of the Division's review under the MESA regulations is to determine whether a Take of state-listed species will result from the proposed project.

[www.mass.gov/nhesp](http://www.mass.gov/nhesp)

Division of Fisheries and Wildlife

Field Headquarters, One Rabbit Hill Road, Westborough, MA 01581 (508) 389-6300 Fax (508) 389-7890

An Agency of the Department of Fish and Game

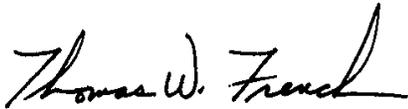
This letter is to inform you that the Division has reviewed the materials submitted with your combined application under the WPA and MESA regulations and has determined that additional information is required in order for the Division to complete its review pursuant thereto, as specified below:

- 1) Please provide the following details regarding the proposed seasonal sand-drift fence
  - a. proposed installation and removal dates
  - b. total length and other basic dimensions
  
- 2) Site plan showing
  - a. proposed sand-drift fence location
  - b. existing grades
  - c. coastal beach
  - d. coastal dune (top of dune and toe of dune)
  - e. mean high water
  - f. mean low water
  - g. cross-section incorporating all of the above items

After receiving the above requested information, the Division will continue its review of the proposed project for compliance with the state-listed species provisions of the WPA and MESA regulations. *The Division reserves the right to request additional information, including but not limited to a plant survey, in order to understand the potential impacts of the proposed project on state-listed species and their habitats.* No work or other activities related to your filing may be conducted anywhere on the project site until the Division completes its review.

If you have any questions concerning this notice, please contact Amy Hoenig, Endangered Species Review Biologist, at (508) 389-6364.

Sincerely,



Thomas W. French, Ph.D.  
Assistant Director

cc: MA DEP Southeast Region  
Paul Santos, Nantucket Surveyors

Zarella

129 Wauwinet Road

(12-4)



## Notice of Intent

Map 12 Parcel 4  
129 Wauwinet Road  
Nantucket, Massachusetts

RECEIVED  
BY: \_\_\_\_\_

Prepared for: **Ronald L. Zarrella**  
**195 Sandringham Road**  
**Rochester, NY 14610**

Prepared by: **Nantucket Surveyors, LLC**  
**5 Windy Way, PO Box 3627**  
**Nantucket, MA 02584**

**January 8, 2016**



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

**WPA Form 3 – Notice of Intent**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

**A. General Information**

1. Project Location (**Note:** electronic filers will click on button to locate project site):

129 Wauwinet Road  
a. Street Address

Nantucket  
b. City/Town

02554  
c. Zip Code

Latitude and Longitude:  
41.330860  
d. Latitude

-69.995910  
e. Longitude

12  
f. Assessors Map/Plat Number

4  
g. Parcel /Lot Number

2. Applicant:

Ronald L.  
a. First Name

Zarella  
b. Last Name

c. Organization

195 Sandringham Road  
d. Street Address

Rochester  
e. City/Town

NY  
f. State

14610  
g. Zip Code

585-281-4000  
h. Phone Number

i. Fax Number

rizarrella@mymail.serverdata.net  
j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

a. First Name

b. Last Name

Ondine, LLC  
c. Organization

129 Wauwinet Road  
d. Street Address

Nantucket  
e. City/Town

MA  
f. State

02554  
g. Zip Code

585-281-4000  
h. Phone Number

i. Fax Number

rizarrella@mymail.serverdata.net  
j. Email address

4. Representative (if any):

Paul  
a. First Name

Santos  
b. Last Name

Nantucket Surveyors, LLC  
c. Company

P.O. Box 3627  
d. Street Address

Nantucket  
e. City/Town

MA  
f. State

02584  
g. Zip Code

508-228-0240  
h. Phone Number

508-228-9856  
i. Fax Number

psantos@nantucketsurveyors.com  
j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

\$110  
a. Total Fee Paid

\$42.50  
b. State Fee Paid

\$67.50  
c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

## A. General Information (continued)

6. General Project Description:

This application is for the proposed installation of Seasonal Sand Drift Fencing on a Barrier Beach within Land Subject to Coastal Storm Flowage.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

- 1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR 10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Nantucket

a. County

25331

b. Certificate # (if registered land)

c. Book

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



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Provided by MassDEP:

MassDEP File Number

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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet	2. square feet
	3. cubic yards dredged	

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet	2. square feet
	3. cubic feet of flood storage lost	4. cubic feet replaced
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet	
	2. cubic feet of flood storage lost	3. cubic feet replaced

- f.  Riverfront Area
1. Name of Waterway (if available) - **specify coastal or inland**
2. Width of Riverfront Area (check one):
- 25 ft. - Designated Densely Developed Areas only
  - 100 ft. - New agricultural projects only
  - 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet \_\_\_\_\_ b. square feet within 100 ft. \_\_\_\_\_ c. square feet between 100 ft. and 200 ft. \_\_\_\_\_

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



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Provided by MassDEP:

MassDEP File Number

Document Transaction Number

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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users: Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Table with 3 columns: Resource Area, Size of Proposed Alteration, Proposed Replacement (if any). Rows include Designated Port Areas, Land Under the Ocean, Barrier Beach, Coastal Beaches, Coastal Dunes.

Table with 3 columns: Resource Area, Size of Proposed Alteration, Proposed Replacement (if any). Rows include Coastal Banks, Rocky Intertidal Shores, Salt Marshes, Land Under Salt Ponds, Land Containing Shellfish, Fish Runs, Land Subject to Coastal Storm Flowage.

4. Restoration/Enhancement
If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.

a. square feet of BWV b. square feet of Salt Marsh

5. Project Involves Stream Crossings

a. number of new stream crossings b. number of replacement stream crossings



# WPA Form 3 – Notice of Intent

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Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581

2008

b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area 0  
percentage/acreage

(b) outside Resource Area \_\_\_\_\_  
percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

## C. Other Applicable Standards and Requirements (cont'd)

(c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/mesa/mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/mesa/mesa_fee_schedule.htm)).  
Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1.  Project is exempt from MESA review.  
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/mesa/mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/mesa/mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house
  2.  Emergency road repair
  3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File Number
Document Transaction Number

City/Town \_\_\_\_\_

## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Site Plan to Accompany a Notice of Intent #129 Wauwinet Road

a. Plan Title

Nantucket Surveyors, LLC

Paul J. Santos, PLS

b. Prepared By

c. Signed and Stamped by

1/8/16

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

9937

2. Municipal Check Number

1/8/16

3. Check date

9942

4. State Check Number

1/8/16

5. Check date

Ronald L.

6. Payor name on check: First Name

Zarella

7. Payor name on check: Last Name



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40



City/Town \_\_\_\_\_

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

*Ronald L. Zavelle*

*1/8/2016*

1. Signature of Applicant

2. Date

3. Signature of Property Owner (if different)

4. Date

5. Signature of Representative (if any)

6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**A. Applicant Information**

1. Location of Project:

<u>129 Wauwinet Road</u>	<u>Nantucket</u>
a. Street Address	b. City/Town
<u>9942</u>	<u>\$42.50</u>
c. Check number	d. Fee amount

2. Applicant Mailing Address:

<u>Ronald L.</u>	<u>Zarella</u>	
a. First Name	b. Last Name	
<u></u>		
c. Organization		
<u>195 Sandringham Road</u>		
d. Mailing Address		
<u>Rochester</u>	<u>NY</u>	<u>14610</u>
e. City/Town	f. State	g. Zip Code
<u>585-281-4000</u>	<u>rlzarrella@mymail.serverdata.net</u>	
h. Phone Number	i. Fax Number	j. Email Address

3. Property Owner (if different):

<u></u>	<u></u>	
a. First Name	b. Last Name	
<u>Ondine, LLC</u>		
c. Organization		
<u>129 Wauwinet Road</u>		
d. Mailing Address		
<u>Nantucket</u>	<u>MA</u>	<u>02554</u>
e. City/Town	f. State	g. Zip Code
<u>585-281-4000</u>	<u>rlzarrella@mymail.server.net</u>	
h. Phone Number	i. Fax Number	j. Email Address

**B. Fees**

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B. Fees (continued)**

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
Seasonal Sand Drift Fencing	1	\$110.00	\$110.00
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>Step 5/Total Project Fee:</b>			\$110.00

**Step 6/Fee Payments:**

Total Project Fee:	\$110.00
State share of filing Fee:	\$42.50
City/Town share of filling Fee:	\$67.50
	a. Total Fee from Step 5
	b. 1/2 Total Fee less \$12.50
	c. 1/2 Total Fee plus \$12.50

**C. Submittal Requirements**

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a copy of this form; and the city/town fee payment.

**To MassDEP Regional Office** (see Instructions): Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a copy of this form; and a copy of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

ATTACHMENT A

NOTICE OF INTENT

129 Wauwinet Road  
Nantucket, Massachusetts  
Map: 12 Parcel: 4

List of Plans and Supporting Documents

APPENDIX A – Assessor’s Map

APPENDIX B – Project Narrative

APPENDIX C – Nantucket Topography Map

APPENDIX D – NHESP Estimated and Priority Habitat Map

APPENDIX E – FEMA Flood Insurance Rate Map

APPENDIX F – Site Photographs

APPENDIX G – Abutter Notification Information

APPENDIX H – “Site Plan to Accompany a Notice of Intent #129 Wauwinet Road”  
Prepared by Nantucket Surveyors LLC  
January 8, 2016

# **APPENDIX A**

## Assessors Map

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**Figure 1: ASSESSOR'S MAP**

#129 WAUWNET ROAD  
NANTUCKET, MASSACHUSETTS  
SCALE: N.T.S. DATE: JANUARY 8, 2016  
ASSESSOR'S REFERENCE:  
MAP: 12 PARCEL: 4

PREPARED FOR:  
RONALD L. ZARELLA

NANTUCKET SURVEYORS LLC  
5 WINDY WAY  
NANTUCKET, MA. 02554

## **APPENDIX B**

### Project Narrative

## **APPENDIX B PROJECT NARRATIVE**

### **Introduction**

This Notice of Intent is submitted to the Nantucket Conservation Commission (“the Commission”) and the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the Massachusetts Wetlands Protection Act, MGL c.131, s.40, this application is for the proposed installation of Seasonal Sand Drift Fencing on a Barrier Beach within Land Subject to Coastal Storm Flowage.

### **Existing Site Conditions**

The subject property is located on the east side of Wauwinet Road, Nantucket Assessors Map: 12 Parcel: 4. The site is approximately .65 acres. The surrounding land uses are residential.

This site contains coastal resource areas subject to jurisdiction under the Nantucket Wetland Bylaw and Massachusetts Wetlands Protection Act. The resource areas include Coastal Dune, Barrier Beach, and Land Subject to Coastal Storm Flowage.

The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for this portion of Nantucket (Map No. 25019C0103G), dated June 9, 2014 shows that the property is located within Zone AE (Elev. 9) and Zone VE (Elev. 10).

The Massachusetts Natural Heritage Atlas, 13<sup>th</sup> Edition, dated October 2008 (Appendix D) shows that Priority Habitat and Estimated Habitat are mapped within the project vicinity. The proposed work requires a filing with NHESP.

### **Proposed Work**

This application is for the proposed installation of Seasonal Sand Drift Fencing. The proposed work is shown on the included plan, “Site Plan to Accompany a Notice of Intent #129 Wauwinet Road”, Nantucket, MA prepared by Nantucket Surveyors, LLC dated January 8, 2016.

## **APPENDIX C**

### Nantucket Topography

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### Figure 2: Nantucket Topography Map

#129 WAUWINET ROAD  
NANTUCKET, MASSACHUSETTS  
N.T.S.  
DATE: JANUARY 8, 2016  
ASSESSOR'S REFERENCE:  
MAP: 12 PARCEL: 4

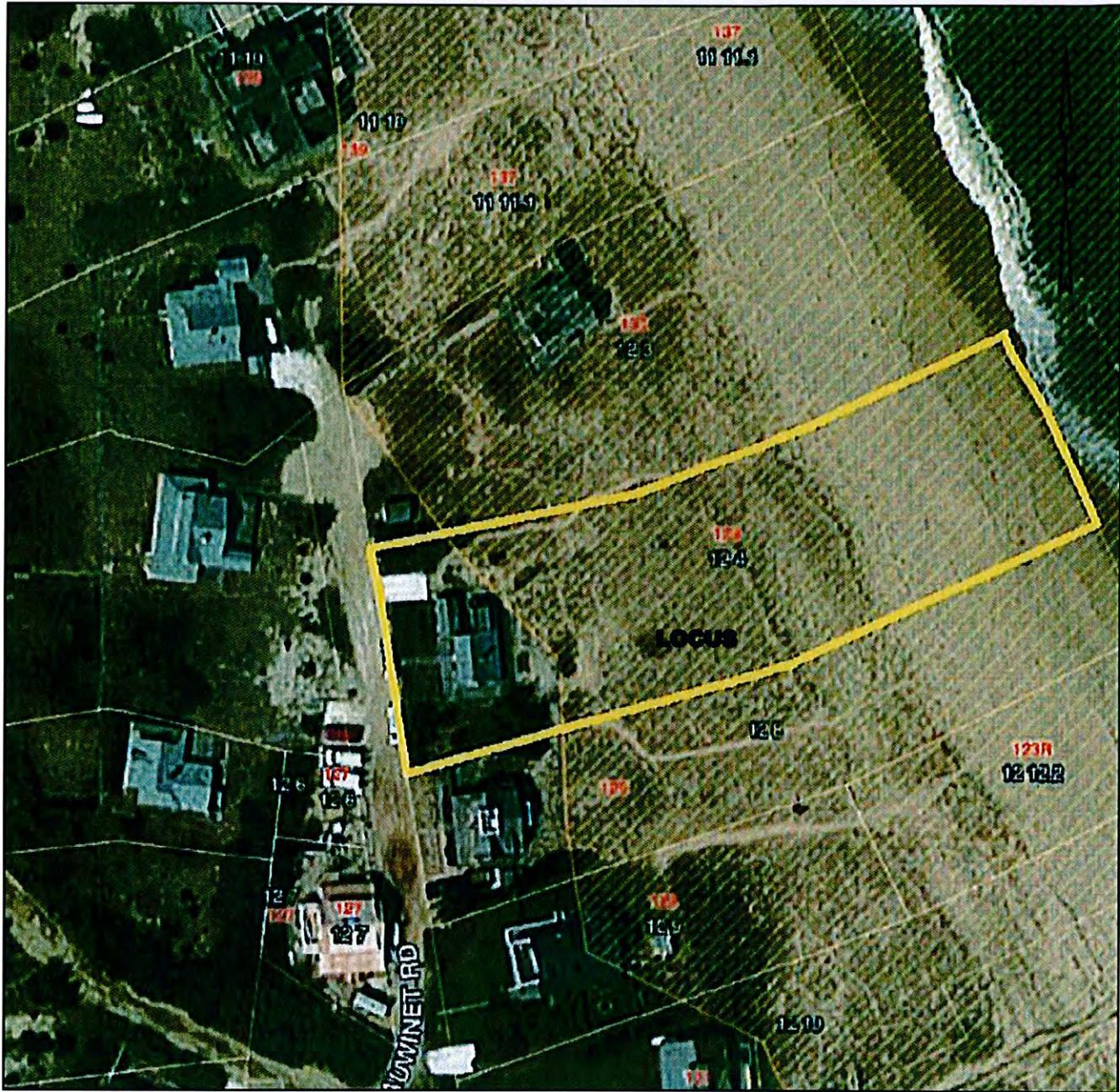
PREPARED FOR:  
RONALD L. ZARELLA

NANTUCKET SURVEYORS LLC  
5 WINDY WAY  
NANTUCKET, MA. 02554

## **APPENDIX D**

NHESP Estimated and Priority Habitat Map

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NHPSP PRIORITY HABITATS  
OF RARE SPECIES  
NHPSP ESTIMATED HABITATS  
OF RARE WILDLIFE

### Figure 3: NHPSP MAP

#129 WAUWINET ROAD  
NANTUCKET, MASSACHUSETTS  
SCALE: N.T.S. DATE: JANUARY 8, 2016  
ASSESSOR'S REFERENCE:  
MAP: 12 PARCEL: 4  
PREPARED FOR:  
RONALD L. ZARELLA

NANTUCKET SURVEYORS LLC  
5 WINDY WAY  
NANTUCKET, MA. 02554

**APPENDIX E**

FEMA Flood Insurance Rate Map



**Figure 4: FIRM MAP**

#129 WAUWINET ROAD  
NANTUCKET, MASSACHUSETTS

SCALE: N.T.S.      DATE: JANUARY 8, 2016

ASSESSOR'S REFERENCE:  
MAP: 12 PARCEL: 4  
25019C0103G

PREPARED FOR:  
RONALD L. ZARELLA

NANTUCKET SURVEYORS LLC  
5 WINDY WAY  
NANTUCKET, MA. 02554

## **APPENDIX F**

### **Site Photographs**

**129 Wauwinet Road, Nantucket, MA**  
**Applicant: Ronald L. Zarella**



View of Proposed fence location



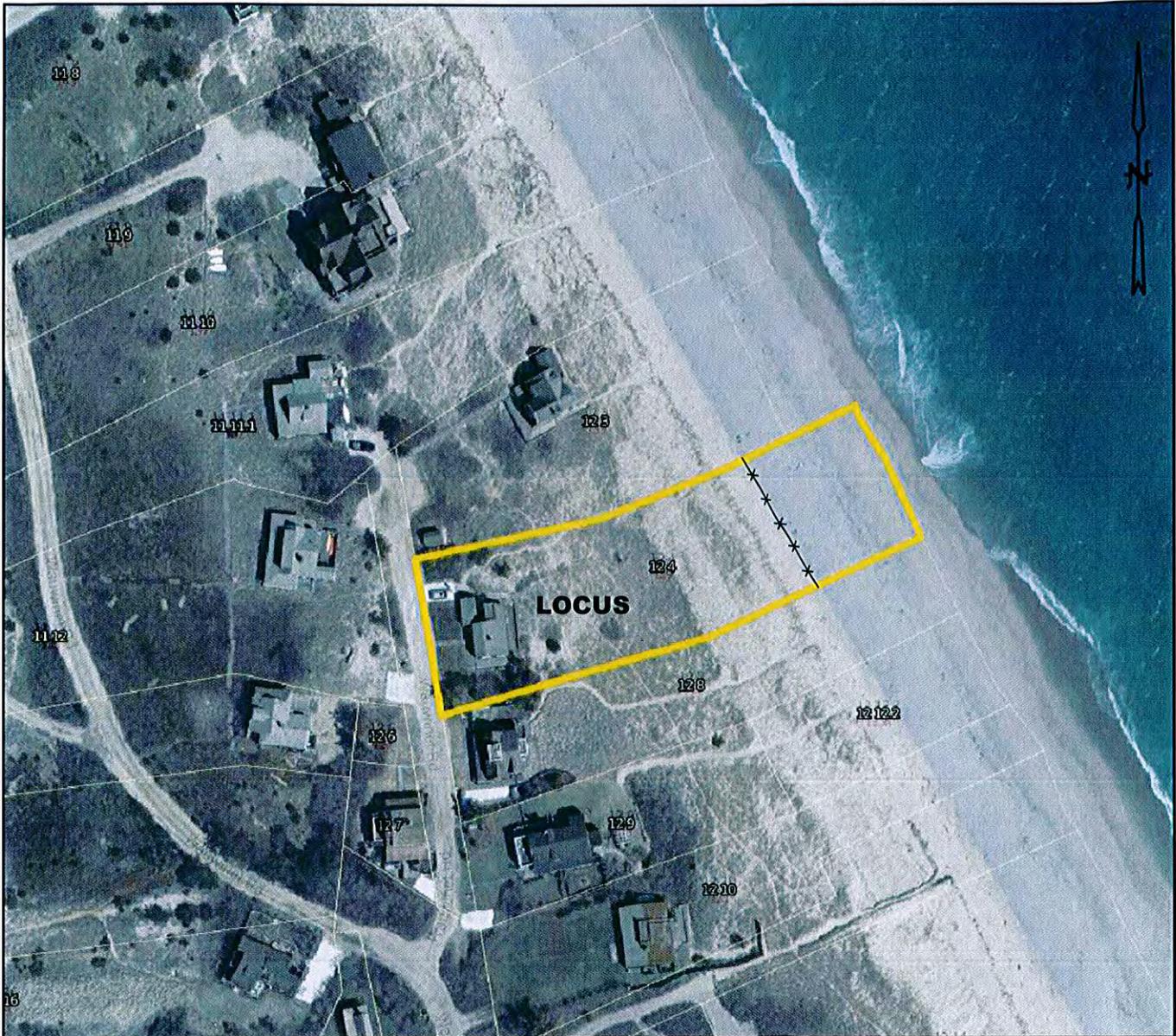
View of Proposed fence location

## **APPENDIX H**

**“Site Plan to Accompany a Notice of Intent #129 Wauwinet Road”**

**Prepared by Nantucket Surveyors LLC**

**Dated January 8, 2016**



K:\OBS 9632-10999\10000\10440\10449\CON COM\SEASONAL SAND DRIFT FENCE\129 WAUWINET\NOI SITE PLAN.dwg, 1/8/2016 8:22:26 AM, DWG To PDF.pc3

**LEGEND**

x x x x SEASONAL SAND DRIFT FENCING



FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION OR A RECORDABLE SURVEY.

SITE PLAN TO ACCOMPANY  
A NOTICE OF INTENT  
#129 WAUWINET ROAD  
IN

NANTUCKET, MASSACHUSETTS

SCALE: NTS DATE: 1/8/16

DEED REFERENCE: L.C.C. #25331

PLAN REFERENCE: L.C.P. #10990-U

L.C.P. #10990-M

ASSESSOR'S REFERENCE:

MAP: 12 PARCEL: 4

PREPARED FOR:

RONALD L. ZARELLA

NANTUCKET SURVEYORS LLC

5 WINDY WAY

NANTUCKET, MA. 02554

**NEW  
INFORMATION  
FOR CURRENT  
HEARING**



MassWildlife

Commonwealth of Massachusetts

# Division of Fisheries & Wildlife

Jack Buckley, Director

February 12, 2016

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket MA 02554

Ronald L. Zarella  
195 Sandringham Road  
Rochester NY 14610

RE:     Applicant:             Ronald L. Zarella  
         Project Location:       125 & 129 Wauwinet Road  
         Project Description:     Seasonal Sand Drift Fence  
         DEP Wetlands File No.: 048-2856 & 048-2857  
         NHESP File No.:         **16-35224**

Dear Commissioners & Applicant:

The applicant listed above submitted two *Notices of Intent* with site plans (dated 1/8/16) for both properties listed above and other required materials to the Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (Division), in compliance with the rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.37). Additional materials were submitted for review pursuant to the Massachusetts Endangered Species Act (MESA; M.G.L. c. 131A) and its implementing regulations (321 CMR 10.00) (MESA).

The Division has determined that the proposed project is located within the mapped *Priority* and *Estimated Habitat* of the state-listed species presented in the following table. These species and their habitats are protected pursuant to the WPA and the MESA. Fact sheets for state-listed species can be found at [www.mass.gov/nhesp](http://www.mass.gov/nhesp).

Scientific Name	Common Name	Taxonomic Group	State Status
<i>Charadrius melodus</i>	Piping Plover	Bird	Threatened*
<i>Sternula antillarum</i>	Least Tern	Bird	Special Concern
<i>Mertensia maritima</i>	Oysterleaf	Plant	Endangered

\*The Piping Plover is federally protected as "Threatened" pursuant to the U.S. Endangered Species Act (ESA, 50 CFR 17.11).

The purpose of the Division's review of the proposed project under the WPA regulations is to determine whether the project will have any adverse effects on the Resource Areas Habitats of state-listed species. The purpose of the Division's review under the MESA regulations is to determine whether a Take of state-listed species will result from the proposed project.

[www.mass.gov/nhesp](http://www.mass.gov/nhesp)

Division of Fisheries and Wildlife

Field Headquarters, One Rabbit Hill Road, Westborough, MA 01581 (508) 389-6300 Fax (508) 389-7890

An Agency of the Department of Fish and Game

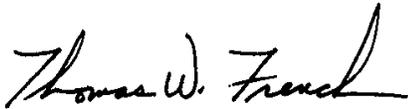
This letter is to inform you that the Division has reviewed the materials submitted with your combined application under the WPA and MESA regulations and has determined that additional information is required in order for the Division to complete its review pursuant thereto, as specified below:

- 1) Please provide the following details regarding the proposed seasonal sand-drift fence
  - a. proposed installation and removal dates
  - b. total length and other basic dimensions
  
- 2) Site plan showing
  - a. proposed sand-drift fence location
  - b. existing grades
  - c. coastal beach
  - d. coastal dune (top of dune and toe of dune)
  - e. mean high water
  - f. mean low water
  - g. cross-section incorporating all of the above items

After receiving the above requested information, the Division will continue its review of the proposed project for compliance with the state-listed species provisions of the WPA and MESA regulations. *The Division reserves the right to request additional information, including but not limited to a plant survey, in order to understand the potential impacts of the proposed project on state-listed species and their habitats.* No work or other activities related to your filing may be conducted anywhere on the project site until the Division completes its review.

If you have any questions concerning this notice, please contact Amy Hoenig, Endangered Species Review Biologist, at (508) 389-6364.

Sincerely,



Thomas W. French, Ph.D.  
Assistant Director

cc: MA DEP Southeast Region  
Paul Santos, Nantucket Surveyors

Town of Nantucket  
Quaise Road Layout  
(26-13)



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Nantucket wetlands Bylaw (Chapter 136)

MassDEP File Number

Document Transaction Number

Nantucket  
City/Town

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>Quaise Road Layout and 23 Quaise Road</u> a. Street Address	<u>Nantucket</u> b. City/Town	<u>02554</u> c. Zip Code
<u>Latitude and Longitude:</u>	<u>26</u> f. Assessors Map/Plat Number	<u>13</u> g. Parcel /Lot Number
	<u>d. Latitude</u>	<u>e. Longitude</u>

2. Applicant:

<u>Town of Nantucket</u> c. Organization	<u>16 Broad Street</u> d. Street Address	<u>Nantucket</u> e. City/Town	<u>MA</u> f. State	<u>02554</u> g. Zip Code
<u>a. First Name</u>	<u>b. Last Name</u>	<u>h. Phone Number</u>	<u>i. Fax Number</u>	<u>j. Email Address</u>

3. Property owner (required if different from applicant):  Check if more than one owner

<u>Michael G.</u> a. First Name	<u>Ryan, Trustee</u> b. Last Name
<u>8404 Parham Court</u> d. Street Address	<u>McLean</u> e. City/Town
<u>VA</u> f. State	<u>22102</u> g. Zip Code
<u>h. Phone Number</u>	<u>i. Fax Number</u>
<u>j. Email address</u>	

4. Representative (if any):

<u>Dave</u> a. First Name	<u>Fronzuto</u> b. Last Name
<u>Town of Nantucket</u> c. Company	<u>16 Broad Street</u> d. Street Address
<u>Nantucket</u> e. City/Town	<u>MA</u> f. State
<u>508-325-4100x7007</u> h. Phone Number	<u>dfronzuto@nantucket-ma.gov</u> j. Email address
<u>02554</u> g. Zip Code	<u>i. Fax Number</u>

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>Exempt</u> a. Total Fee Paid	<u>Exempt</u> b. State Fee Paid	<u>Exempt</u> c. City/Town Fee Paid
------------------------------------	------------------------------------	--



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Nantucket wetlands Bylaw (Chapter 136)

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

## A. General Information (continued)

### 6. General Project Description:

Installation of fill on a Coastal Bank, removal of an existing footpath and construction of a new footpath. Project is proposed on a Coastal Bank, Coastal Beach Land Subject to Coastal Storm Flowage and the buffer zone to a Bordering Vegetated Wetland.

### 7a. Project Type Checklist:

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Limited Project Driveway Crossing
- 4.  Commercial/Industrial
- 5.  Dock/Pier
- 6.  Utilities
- 7.  Coastal Engineering Structure
- 8.  Agriculture (e.g., cranberries, forestry)
- 9.  Transportation
- 10.  Other

### 7b. Is any portion of the proposed activity eligible to be treated as a limited project subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

- 1.  Yes  No If yes, describe which limited project applies to this project:

2. Limited Project

### 8. Property recorded at the Registry of Deeds for:

Nantucket

17373

a. County

b. Certificate # (if registered land)

c. Book

d. Page Number

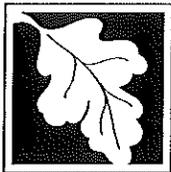
## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet 3. cubic yards dredged	2. square feet



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Nantucket wetlands Bylaw (Chapter 136)

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet	2. square feet
	3. cubic feet of flood storage lost	4. cubic feet replaced
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet	
	2. cubic feet of flood storage lost	3. cubic feet replaced

f.  Riverfront Area

1. Name of Waterway (if available)

2. Width of Riverfront Area (check one):

25 ft. - Designated Densely Developed Areas only

100 ft. - New agricultural projects only

200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet \_\_\_\_\_ b. square feet within 100 ft. \_\_\_\_\_ c. square feet between 100 ft. and 200 ft. \_\_\_\_\_

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____ 2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Nantucket wetlands Bylaw (Chapter 136)

MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

Nantucket

City/Town \_\_\_\_\_

## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input checked="" type="checkbox"/> Coastal Banks	<b>50</b> 1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____ 2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above  1. cubic yards dredged _____	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet _____	
4. <input type="checkbox"/> Restoration/Enhancement	If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.	
	a. square feet of BVW _____	b. square feet of Salt Marsh _____

## C. Other Applicable Standards and Requirements

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to <http://www.mass.gov/dfwele/dfw/nhosp/nhregmap.htm>.

a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
Route 135, North Drive  
Westborough, MA 01581

Online viewer \_\_\_\_\_

b. Date of map \_\_\_\_\_

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.C, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.d, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Nantucket wetlands Bylaw (Chapter 136)

MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

Nantucket

City/Town \_\_\_\_\_

## C. Other Applicable Standards and Requirements (cont'd)

1. c. Submit Supplemental Information for Endangered Species Review \*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area \_\_\_\_\_  
percentage/acreage

(b) outside Resource Area \_\_\_\_\_  
percentage/acreage

2.  Assessor's Map or right-of-way plan of site

3.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

(c)  MESA filing fee (fee information available at:  
<http://www.mass.gov/dfwele/dfw/nhesp/nhenvmesa.htm>)

Make check payable to "Natural Heritage & Endangered Species Fund" and *mail to NHESP* at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

d. OR Check One of the Following

1.  Project is exempt from MESA review.

Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, <http://www.mass.gov/dfwele/dfw/nhesp/nhenvexemptions.htm>; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing.

a. NHESP Tracking Number \_\_\_\_\_

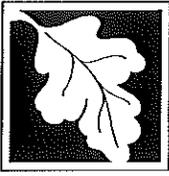
b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed.

Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see [www.nhosp.org](http://www.nhosp.org) regulatory review tab). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Nantucket wetlands Bylaw (Chapter 136)

MassDEP File Number

Document Transaction Number

Nantucket  
City/Town

## C. Other Applicable Standards and Requirements (cont'd)

2. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only

b.  Yes  No If yes, include proof of mailing or hand delivery of NOI to either:

South Shore - Cohasset to Rhode Island, and the Cape & Islands:

North Shore - Hull to New Hampshire:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
838 South Rodney French Blvd.  
New Bedford, MA 02744

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.

3. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?

a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.

b. ACEC

4. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?

a.  Yes  No

5. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?

a.  Yes  No

6. Is this project subject to provisions of the MassDEP Stormwater Management Standards?

a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:

1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)

2.  A portion of the site constitutes redevelopment

3.  Proprietary BMPs are included in the Stormwater Management System.

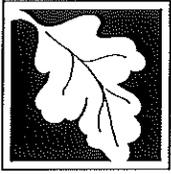
b.  No. Check why the project is exempt:

1.  Single-family house

2.  Emergency road repair

3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Nantucket wetlands Bylaw (Chapter 136)

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

## D. Additional Information

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.
3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.
4.  List the titles and dates for all plans and other materials submitted with this NOI.

a. Plan Title

b. Prepared By

c. Signed and Stamped by

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.
6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
8.  Attach NOI Wetland Fee Transmittal Form
9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

2. Municipal Check Number

3. Check date

4. State Check Number

5. Check date

6. Payor name on check: First Name

7. Payor name on check: Last Name



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Nantucket wetlands Bylaw (Chapter 136)

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

1. Signature of Applicant

2. Date

3. Signature of Property Owner (if different)

4. Date

*[Signature]* D.F. FROST TOWN OF NANTUCKET

1/7/16

5. Signature of Representative (if any)

6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a copy of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



Massachusetts Department of Environmental Protection  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**A. Applicant Information**

1. Applicant:

a. First Name		b. Last Name	
Town of Nantucket			
c. Organization			
16 Broad Street			
d. Mailing Address			
Nantucket		MA	02554
e. City/Town		f. State	g. Zip Code
508-228-7200			
h. Phone Number	i. Fax Number	j. Email Address	

2. Property Owner (if different):

a. First Name		b. Last Name	
Same			
c. Organization			
d. Mailing Address			
e. City/Town		f. State	g. Zip Code
h. Phone Number		i. Fax Number	j. Email Address

3. Project Location:

Quaise Road Layout and 23 Quaise Road		Nantucket
a. Street Address	b. City/Town	

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of

**B. Fees**

The fee should be calculated using the following six-step process and worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract

**B. Fees (continued)**



Massachusetts Department of Environmental Protection  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee

**Step 5/Total Project Fee:** Exempt

**Step 6/Fee Payments:**

Total Project Fee:	<u>Exempt</u>
	a. Total Fee from Step 5
State share of filing Fee:	<u>Exempt</u>
	b. 1/2 Total Fee less \$12.50
City/Town share of filling Fee:	<u>Exempt</u>
	c. 1/2 Total Fee plus \$12.50

**C. Submittal Requirements**

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

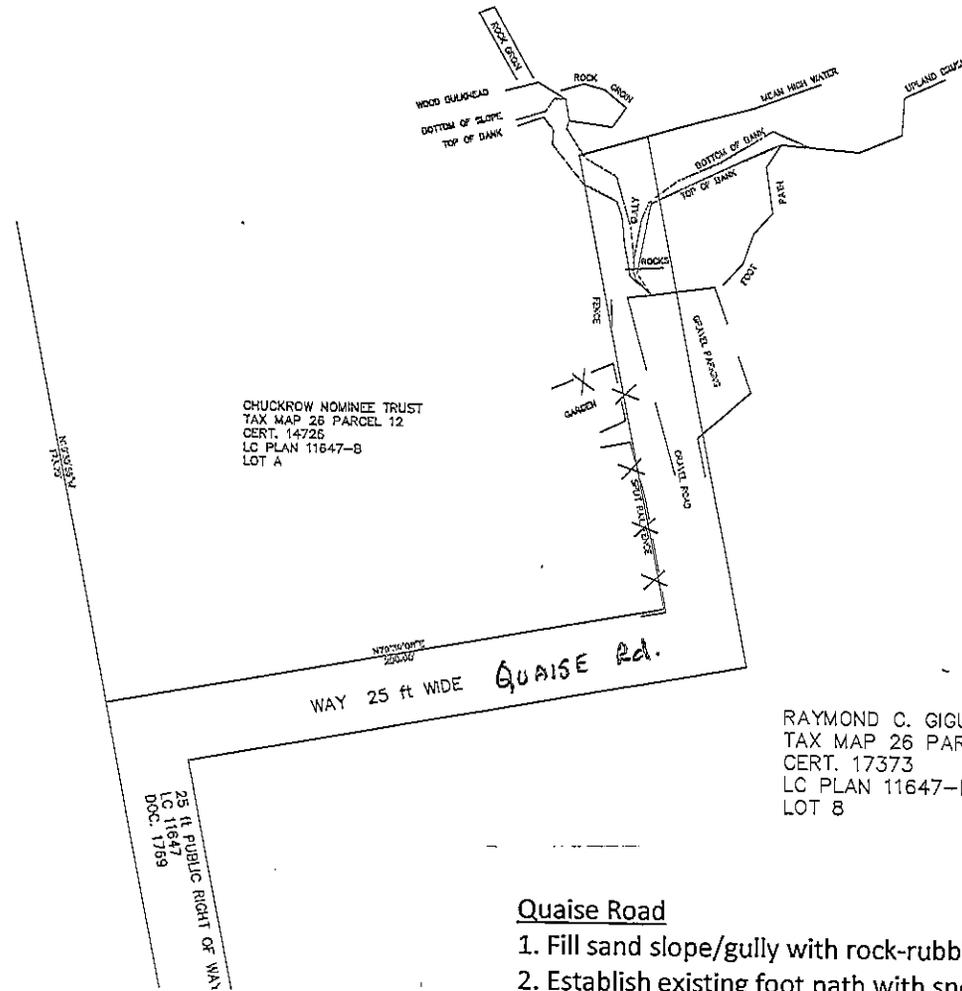
- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a copy of this form; and the city/town fee payment.

**To MassDEP Regional Office (see Instructions):** Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a copy of this form; and a copy of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

NOISE P



# NANTUCKET HARBOR



CHUCKROW NOMINEE TRUST  
 TAX MAP 26 PARCEL 12  
 CERT. 14726  
 LC PLAN 11647-B  
 LOT A

RAYMOND C. GIGUERE  
 TAX MAP 26 PARCEL 13  
 CERT. 17373  
 LC PLAN 11647-1  
 LOT 8

### Quaise Road

1. Fill sand slope/gully with rock-rubble/sand, vegetate with salt tolerant plants
  2. Establish existing foot path with snow fence and signage
  3. Grade existing parking lot away from eroding bank
  4. Continuous monitoring with photo record
- \*\* IAW Coastal Management Plan adopted May 2014

### Aerial 1998, Quaise Rd



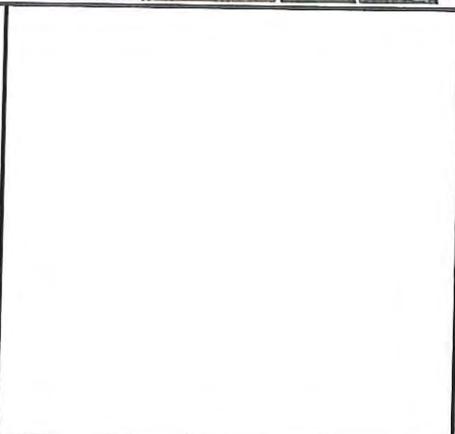
Property Information	
Property ID	26 13
Location	23 QUAISE RD
Owner	RYAN MICHAEL G TRUSTEE



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014  
Properties updated January, 2015



### Aerial 2014, Quaise Rd



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NOT A LEGAL DOCUMENT**

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Parcels updated December, 2014  
Properties updated January, 2015

**NEW  
INFORMATION  
FOR CURRENT  
HEARING**

Gut

13 Columbus Ave

(59.3-110)

SE48-2862

# LETTER OF TRANSMITTAL

BLACKWELL & ASSOCIATES, INC.  
Professional Civil Engineers & Land Surveyors  
20 TEASDALE CIRCLE  
NANTUCKET, MASSACHUSETTS 02554  
(508) 228-9026 - Fax (508) 228-5292

DATE: February 4, 2016  
ATTENTION: Jeff Carlson, NR Director  
RE: 13 Columbus Ave  
Notice of Intent  
MAP 59.3 PARCEL 110

Job No.: B7438

TO: Nantucket Conservation Commission  
37 Washington Street  
Nantucket, Ma 02554  
\*\*By Hand Delivery\*\*

WE ARE SENDING YOU:

COPIES	DATE	DESCRIPTION
2	2/5/16	WPA FORM 3 -NOTICE OF INTENT APPLICATION WITH SUPPORTING MATERIALS INCLUDING: <ol style="list-style-type: none"><li>1. Locus Maps – Town of Nantucket Web GIS &amp; USGS Nantucket Quadrangle</li><li>2. Site Plan to Accompany a Notice of Intent, 2/4/16</li><li>3. Waiver Request</li><li>4. Abutter List, Notification Letter, Affidavit of Service and Certified Mail Receipts</li></ol>

THESE ARE TRANSMITTED as checked below:

For approval     For your use     As requested     For review and comment

Please feel free to contact me with any questions or concerns regarding this matter.

Sincerely,  
Blackwell & Associates, Inc.  
By: Arthur D. Gasbarro, PE, PLS, LEED AP



COPY TO: MA Department of Environmental Protection – S.E.R.O.  
Zachary Gut

# **NOTICE OF INTENT APPLICATION**

To Construct an Addition to a Single Family Dwelling

At

13 Columbus Ave

Nantucket, MA

February 2016

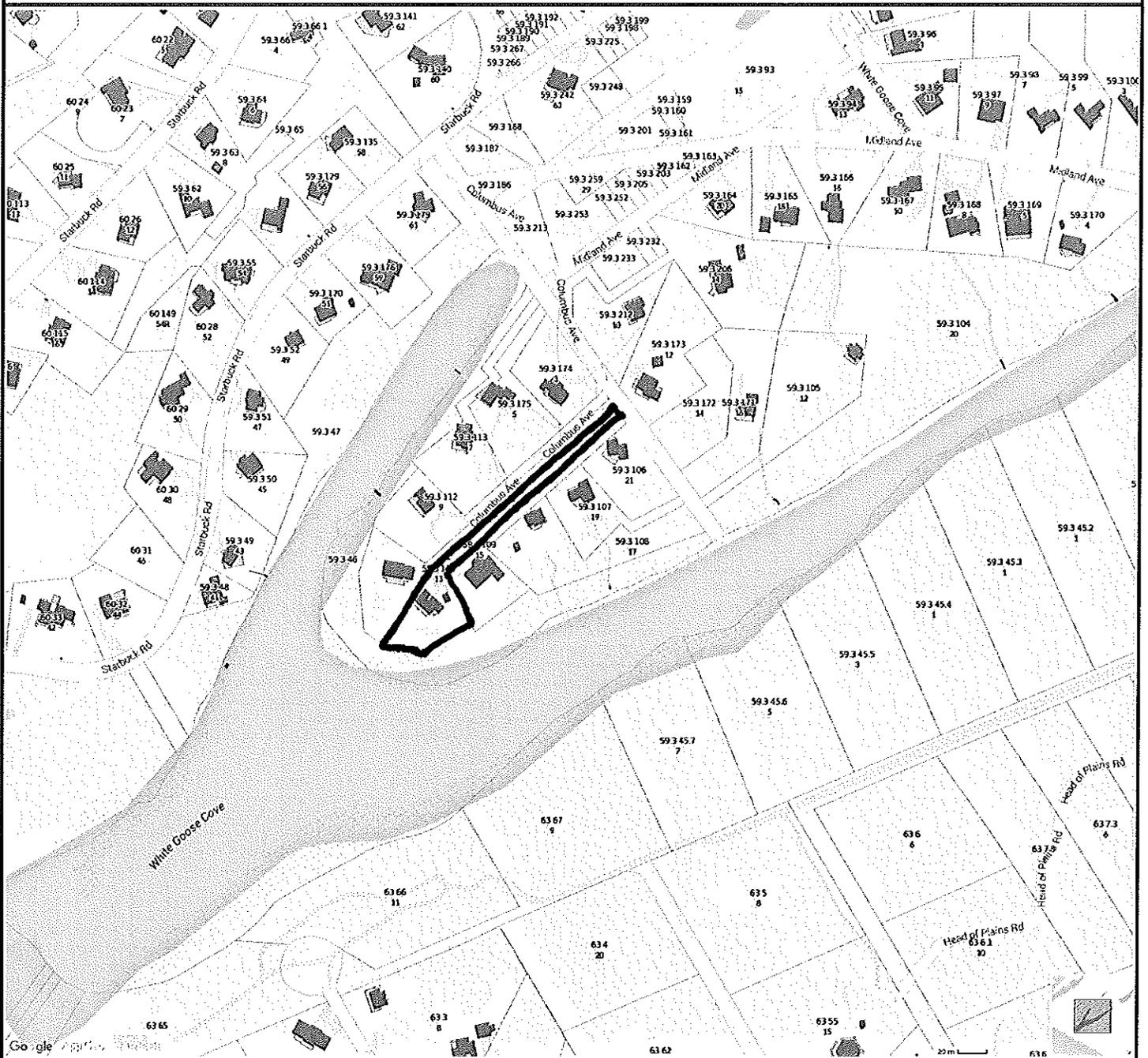
Prepared For

**ZACHARY GUT**

By

**BLACKWELL & ASSOCIATES, Inc.**  
Professional Civil Engineers & Land Surveyors  
20 Teasdale Circle  
Nantucket, MA 02554  
508-228-9026

# 13 Columbus Ave Locus Map



### Property Information

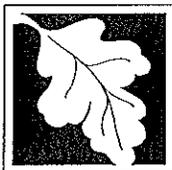
**Property ID** 59.3 110  
**Location** 13 COLUMBUS AV  
**Owner** GUT ZACHARY



### MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014  
 Properties updated January, 2015



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

MassDEP File Number

Document Transaction Number

NANTUCKET

City/Town



## A. General Information

1. Project Location (Note: electronic filers will click on button to locate project site):

<u>13 Columbus Ave</u>	<u>Nantucket</u>	<u>02554</u>
a. Street Address	b. City/Town	c. Zip Code
<u>Latitude and Longitude:</u>	<u>41d 15'48"N</u>	<u>70d 07'52"W</u>
	d. Latitude	e. Longitude
<u>59.3</u>	<u>110</u>	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

<u>Zachary</u>	<u>Gut</u>	
a. First Name	b. Last Name	
<u>c. Organization</u>		
<u>380 Beacon Street</u>		
d. Street Address		
<u>Boston</u>	<u>MA</u>	<u>02116</u>
e. City/Town	f. State	g. Zip Code
<u>h. Phone Number</u>	<u>i. Fax Number</u>	<u>j. Email Address</u>

3. Property owner (required if different from applicant):  Check if more than one owner

<u>Zachary</u>	<u>Gut</u>	
a. First Name	b. Last Name	
<u>c. Organization</u>		
<u>380 Beacon St</u>		
d. Street Address		
<u>Boston</u>	<u>MA</u>	<u>02116</u>
e. City/Town	f. State	g. Zip Code
<u>h. Phone Number</u>	<u>i. Fax Number</u>	<u>j. Email address</u>

4. Representative (if any):

<u>Arthur D.</u>	<u>Gasbarro, PE, PLS, LEED AP</u>	
a. First Name	b. Last Name	
<u>Blackwell &amp; Associates, Inc.</u>		
c. Company		
<u>20 Teasdale Circle</u>		
d. Street Address		
<u>Nantucket</u>	<u>MA</u>	<u>02554</u>
e. City/Town	f. State	g. Zip Code
<u>508-228-9026 x13</u>	<u>508-228-5292</u>	<u>art@blackwellsurvey.com</u>
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$110 + \$25 + \$200</u>	<u>\$42.50</u>	<u>\$67.50 + \$25 + \$200</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

MassDEP File Number

Document Transaction Number

NANTUCKET

City/Town

## A. General Information (continued)

### 6. General Project Description:

The Applicant proposes to construct an addition to the existing single-family dwelling within the Buffer Zone to a Bordering Vegetated Wetland and Land Subject to Coastal Storm Flowage. A waiver is requested to allow approximately 3-s.f. within the 50' buffer zone. Also, an existing shed will be relocated on site. Please refer to the attached Site Plan.

### 7a. Project Type Checklist:

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Single Family Home     | 2. <input type="checkbox"/> Residential Subdivision                   |
| 3. <input type="checkbox"/> Limited Project Driveway Crossing | 4. <input type="checkbox"/> Commercial/Industrial                     |
| 5. <input type="checkbox"/> Dock/Pier                         | 6. <input type="checkbox"/> Utilities                                 |
| 7. <input type="checkbox"/> Coastal Engineering Structure     | 8. <input type="checkbox"/> Agriculture (e.g., cranberries, forestry) |
| 9. <input type="checkbox"/> Transportation                    | 10. <input type="checkbox"/> Other                                    |

### 7b. Is any portion of the proposed activity eligible to be treated as a limited project subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1.  Yes  No If yes, describe which limited project applies to this project:

2. Limited Project

### 8. Property recorded at the Registry of Deeds for:

NANTUCKET

23,910

a. County

b. Certificate # (if registered land)

c. Book

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet	2. square feet
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet 3. cubic yards dredged	2. square feet



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

MassDEP File Number

Document Transaction Number

NANTUCKET

City/Town

## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet _____ 3. cubic feet of flood storage lost _____	2. square feet _____ 4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____ 2. cubic feet of flood storage lost _____	3. cubic feet replaced _____
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) _____	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet _____	b. square feet within 100 ft. _____	c. square feet between 100 ft. and 200 ft. _____
----------------------------	-------------------------------------	--

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

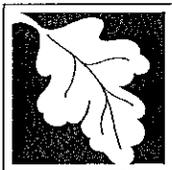
6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____ 2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____



### WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

MassDEP File Number

Document Transaction Number

NANTUCKET

City/Town

### B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	1. linear feet	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet	
h. <input type="checkbox"/> Salt Marshes	1. square feet	2. sq ft restoration, rehab., creation
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet	
	2. cubic yards dredged	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	
	1. cubic yards dredged	
l. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	500 +/-	1. square feet
4. <input type="checkbox"/> Restoration/Enhancement	If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.	
	a. square feet of BVW	b. square feet of Salt Marsh
5. <input type="checkbox"/> Project Involves Stream Crossings		
	a. number of new stream crossings	b. number of replacement stream crossings

### C. Other Applicable Standards and Requirements

#### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

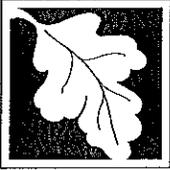
1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://www.mass.gov/dfwele/dfw/nhESP/regulatory\\_review/priority\\_habitat/online\\_viewer.htm](http://www.mass.gov/dfwele/dfw/nhESP/regulatory_review/priority_habitat/online_viewer.htm).

a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
Route 135, North Drive  
Westborough, MA 01581

10/1/08

b. Date of map



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

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## C. Other Applicable Standards and Requirements (cont'd)

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.C, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.d, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

### 1. c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area

\_\_\_\_\_ percentage/acreage

(b) outside Resource Area

\_\_\_\_\_ percentage/acreage

2.  Assessor's Map or right-of-way plan of site

3.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*\*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

(c)  MESA filing fee (fee information available at:

[http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/mesa/mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/mesa/mesa_fee_schedule.htm)).

Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

### d. OR Check One of the Following

1.  Project is exempt from MESA review.

Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/mesa/mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/mesa/mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing.

\_\_\_\_\_ a. NHESP Tracking #

\_\_\_\_\_ b. Date submitted to NHESP

\* Some projects not in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/dfwele/dfw/nhosp/nhosp.htm>, regulatory review tab). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

MassDEP File Number

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NANTUCKET

City/Town

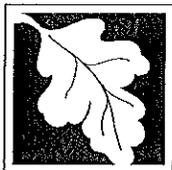
## C. Other Applicable Standards and Requirements (cont'd)

3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.
2. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?
- a.  Not applicable – project is in inland resource area only
- b.  Yes  No If yes, include proof of mailing or hand delivery of NOI to either:
- |   |  |
|---|--|
| South Shore - Cohasset to Rhode Island, and the Cape & Islands:   | North Shore - Hull to New Hampshire:   |
| Division of Marine Fisheries - Southeast Marine Fisheries Station<br>Attn: Environmental Reviewer<br>1213 Purchase Street – 3rd Floor<br>New Bedford, MA 02740-6694 | Division of Marine Fisheries - North Shore Office<br>Attn: Environmental Reviewer<br>30 Emerson Avenue<br>Gloucester, MA 01930 |

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.

3. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
4. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
5. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
6. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.



### WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

MassDEP File Number

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NANTUCKET

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#### C. Other Applicable Standards and Requirements (cont'd)

- 2.  Emergency road repair
- 3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

#### D. Additional Information

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

- 1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
- 2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.
- 3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.
- 4.  List the titles and dates for all plans and other materials submitted with this NOI.

##### Site Plan to Accompany A Notice of Intent

a. Plan Title

Blackwell & Associates, Ince

Arthur D. Gasbarro, PE, PLS

b. Prepared By

c. Signed and Stamped by

2/4/16

1"=20'

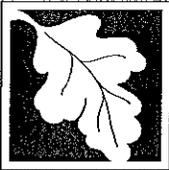
d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

- 5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.
- 6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
- 7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
- 8.  Attach NOI Wetland Fee Transmittal Form
- 9.  Attach Stormwater Report, if needed.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

NANTUCKET

City/Town

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

<u>22250</u>	<u>2/4/16</u>
2. Municipal Check Number	3. Check date
<u>22249</u>	<u>2/4/16</u>
4. State Check Number	5. Check date
<u>Blackwell &amp; Associates</u>	
6. Payor name on check: First Name	7. Payor name on check: Last Name

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location

<u><i>[Signature]</i></u>	<u>2/5/16</u>
1. Signature of Applicant	2. Date
<u></u>	<u></u>
3. Signature of Property Owner (if different)	4. Date
<u><i>[Signature]</i></u>	<u>2/5/16</u>
5. Signature of Representative (if any)	6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

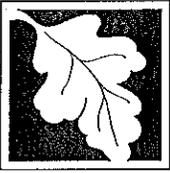
### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a copy of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



Massachusetts Department of Environmental Protection  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**A. Applicant Information**

1. Applicant:

<u>Zachary</u>		<u>Gut</u>	
a. First Name		b. Last Name	
c. Organization			
<u>380 Beacon St</u>			
d. Mailing Address			
<u>Boston</u>		<u>MA</u>	<u>02116</u>
e. City/Town		f. State	g. Zip Code
h. Phone Number		i. Fax Number	j. Email Address

2. Property Owner (if different):

<u></u>		<u></u>	
a. First Name		b. Last Name	
c. Organization			
d. Mailing Address			
<u></u>		<u></u>	<u></u>
e. City/Town		f. State	g. Zip Code
h. Phone Number		i. Fax Number	j. Email Address

3. Project Location:

<u>13 Columbus Ave</u>		<u>Nantucket</u>
a. Street Address		b. City/Town

**B. Fees**

The fee should be calculated using the following six-step process and worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



**Project Narrative,  
Waiver Request  
&  
Supporting Information**

**BLACKWELL & ASSOCIATES, INC.**  
*Professional Land Surveyors*

INTRODUCTION

The proposed work is located at 13 Columbus Ave in the Madaket section of the west end of Nantucket Island. The Applicant proposes to construct an addition to an existing single family dwelling located within Land Subject to Coastal Storm Flowage and within the 100-foot Buffer Zone to a Vegetated Wetland. Approximately three square-feet of the addition is located within the 50-foot Buffer Zone necessitating a waiver from the Wetland Protection Regulations for Administering the Town of Nantucket By-law Chapter 136, a request for which is attached to this application. This proposal will have no adverse effect on the resource areas, or the interests protected by the Commission including flood control, erosion control, storm damage prevention, prevention of pollution, wildlife, and wetland scenic views.

SITE DESCRIPTION

The subject property is approximately 0.6-acres in size and is located on the west end of Nantucket Island in Madaket. The property is bounded to the south and west by Goose Pond Cove, and to the north and east by existing residential-use properties also served by on-site wells and septic systems. The properties are uniquely configured with long narrow sections to provide frontage and access to a main body of the lot. The Wetland Resource Area on-site subject to jurisdiction of the Commission are Land Subject to Coastal Storm Flowage and a Bordering Vegetated Wetland with the respective Buffer Zones.

A review of the October 1, 2008 "Massachusetts Natural Heritage Atlas", prepared by the Massachusetts Natural Heritage and Endangered Species Program (NHESP), indicates that the site is not within the known range of state listed rare wildlife species.

WORK DESCRIPTION

The proposal involves the installation of a flood zone compliant foundation, and construction of a single story addition. The topsoil in the areas to be disturbed areas will

**BLACKWELL & ASSOCIATES, INC.**  
*Professional Land Surveyors*

be stockpiled and used to re-cover the area after the installation of the foundation. The entire area will then be planted with Cape Cod Premium Grass Seed Mix.

Prior to commencement of work, a silt fence will be placed at the limit of work as shown on the site plan. This fence will be inspected regularly and kept in good repair until the work has been completed and the site has stabilized.

CONCLUSION

The work as proposed will not affect the ability of the wetland resource areas to function as they currently do. . The project will not result in an adverse impact on the areas, or the interests protected by the Commission including flood control, erosion control, storm damage prevention, prevention of pollution, wildlife, and wetland scenic views.

**BLACKWELL & ASSOCIATES, INC.**

*Professional Land Surveyors*

B7438

February 4, 2016

Nantucket Conservation Commission  
37 Washington Street  
Nantucket, MA 02554

RE: Waiver Request for 13 Columbus Ave

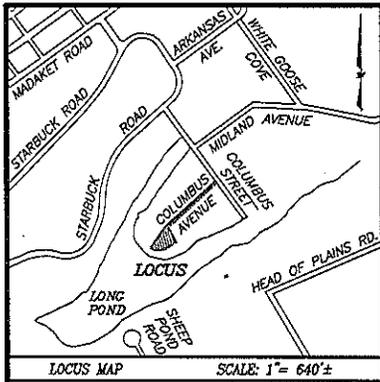
Dear Commission Members,

The purpose of this letter is to request and justify a waiver from the Town of Nantucket Wetlands By-law Chapter 136 to allow a portion of a structure within the 50-foot Buffer Zone to a Bordering Vegetated Wetland. The Applicant proposes to construct an addition to the existing single-family dwelling. In order to provide a continuous wall face, approximately two-square feet of the structure will be within the 50-foot buffer zone. A set of steps is required to access the house. Approximately 1-s.f. of the steps will be within the 50-foot buffer zone. Any disturbed areas associated with the construction will be planted with Cape Cod Premium Grass Seed Mix. Waivers from the By-law can be granted for a number of reasons including:

- **Chapter 1.03 F.3.d. (No Reasonable Alternative with No Adverse Impact)**  
There is no other way to keep a continuous wall from the the existing structure than what is proposed. The construction of 3-s.f. of structure within a lawn area within the 50-foot buffer zone will not result in an adverse impact to the interests protected by the Commission.

Sincerely,  
Blackwell & Associates, Inc.  
By: Arthur D. Gasbarro, PE, PLS, LEED AP





BENCHMARK:  
CONCRETE BOUND  
ELEVATION = 13.84  
DATUM: H.T.L. 1934

59.3-112  
N/F  
RALPH D. POWELL  
DEBORAH G. POWELL  
CERT. #17832  
L.C.C. 3092-23  
LOT 374

59.3-108  
N/F  
EDMUND M. CARPENTER, JR.  
PATRICIA F. CARPENTER  
CERT. #23848  
L.C.C. 3092-48  
LOT 604

59.3-109  
N/F  
DAVID SHEA  
CAROL A. SHEA  
CERT. #23577  
L.C.C. 3092-23  
LOT 377

59.3-111  
N/F  
DEC NANTUCKET, LLC  
CERT. #23315  
L.C.C. 3092-23  
LOT 375

- LEGEND**
- DENOTES CONCRETE BOUND WITH DRILLHOLE FOUND
  - ⊙ DENOTES EXIST. WELL
  - ELEC- DENOTES EXIST. UNDERGROUND ELECTRIC LINE
  - CATV- DENOTES EXIST. UNDERGROUND CABLE LINE
  - TEL- DENOTES EXIST. UNDERGROUND TELEPHONE LINE
  - DENOTES EXIST. SPLIT RAIL FENCE
  - 10 ——— DENOTES EXIST. GRADE CONTOUR
  - x12.1 DENOTES EXIST. GRADE SPOT ELEVATION
  - B/W#5 ⊙ DENOTES EXIST. WETLAND FLAG
  - ⊙ DENOTES EXIST. WETLAND DELINEATION
  - ⊙ DENOTES EXIST. EDGE OF BRUSH
  - ⊙ DENOTES EXIST. PRIVET
  - P.B. DENOTES EXIST. PLANTING BED
  - E.B. DENOTES EXIST. EDGE OF BRUSH

**NOTES:**

LOCUS IS WITHIN LAND SUBJECT TO COASTAL STORM FLOWAGE, EL. 9.4

THIS PLOT PLAN WAS PREPARED FOR THE TOWN OF NANTUCKET CONSERVATION COMMISSION ONLY AND SHOULD NOT BE CONSIDERED A PROPERTY LINE SURVEY. THIS PLAN SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES, FENCES, HEDGES OR ANY ANCILLARY STRUCTURES ON THE PREMISES. THE PROPERTY LINES SHOWN RELY ON CURRENT DEEDS AND PLANS OF RECORD.

**Site Plan of Land to Accompany a Notice of Intent**

In Nantucket, MA

Prepared for

**ZACHARY GUT**

13 COLUMBUS AVE - MAP 59.3 PARCEL 110

Scale: 1" = 20' February 4, 2016

**BLACKWELL & ASSOCIATES, Inc.**

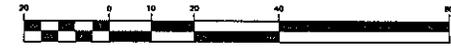
Professional Land Surveyors

20 TEASDALE CIRCLE

NANTUCKET, MASS. 02554

(508) 228-9026

GRAPHIC SCALE



( IN FEET )  
1 inch = 20 ft.

**OWNER INFORMATION**

ZACHARY GUT  
CERT. OF TITLE #23910  
L.C.C. 3092-23, LOT 376  
ASSESSOR'S MAP 59.3, PARCEL 110  
#13 COLUMBUS AVENUE

# Transfer Certificate of Title

Cert No:23910  
Doc No:133993

From Transfer Certificate No. 21963, originally registered October 5, 2005,  
the Registry District of Nantucket County

This is to Certify that

## ZACHARY GUT

of 380 Beacon Street, Boston in the County of Suffolk and the Commonwealth of Massachusetts, 02116, is the owner in fee simple, of that land situated in Nantucket, in the County of Nantucket and said Commonwealth, bounded and described as follows:

SOUTHWESTERLY & SOUTHEASTERLY	by land now or formerly of Tristram's Landing, Inc., two hundred ten and 70/100 (210.70) feet;
NORTHEASTERLY	by Lot 377 (part of which is a Right of Way) on plan hereinafter mentioned, one hundred thirty and 50/100 (130.50) feet;
SOUTHEASTERLY	by the northwesterly line of said Lot 377 (shown as a Right of Way on said plan), four hundred ninety-four (494.00) feet;
NORTHEASTERLY	by Columbus Street, twenty and 13/100 (20.13) feet; and
NORTHWESTERLY	by that portion of Lot 375 shown as a Right of Way on said plan, and by Lot 375 on said plan, seven hundred five (705.00) feet.

All of said boundaries are determined by the court to be located as shown upon plan numbered 3092-23, drawn by Essex Survey Service, Robert B. Bowman, Surveyor, dated August 19, 1968, and filed with Certificate of title No. 5675 at the Registry District of Nantucket County. Said land is shown thereon as Lot 376.

That portion of Lot 376 shown as a Right of Way is subject to the use thereof by other persons who may be entitled thereto, and there is appurtenant to said Lot 376 the right to use the Rights of Way as shown on said plan in common with others entitled thereto for all purposes for which Ways may be used.

Said Lot 376 is subject to the restrictions attached hereto and made a part of this Instrument.

The Grantor (Tristram's Landing, Inc., Document No. 12162) further stipulates and agrees that, for a period of ninety-nine (99) years from August 20, 1970, no residential structure will be erected on the land of the Grantor within the area shown as "GREEN BELT" on the Sketch attached to Certificate of Title No. 15527 at the Registry District of Nantucket County, which is to be preserved as a GREEN BELT AREA and which the Grantees, their heirs and assigns, shall have the right to use in common with others entitled thereto, together with the adjacent beaches as appurtenant to said Lot 376.

Said Lot 376 is subject to the following restrictions attached hereto and made a part of this instrument:

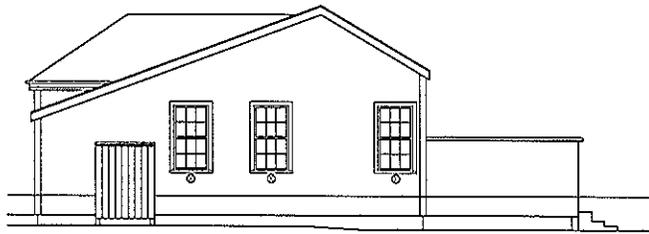
### TRISTRAMS LANDING DEED RESTRICTIONS

#### DEFINITIONS

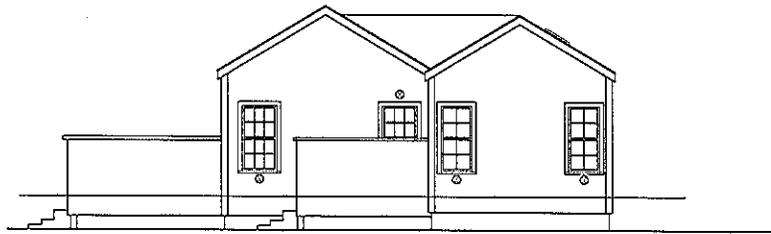
Lot: The parcel of land into which the property is or will be divided as shown by land court subdivision plans.  
Structure: Any construction not otherwise specifically described and including parts and additions to buildings, walls, fences and other enclosures as well as walks and driveways.  
Grantors: Tristram's Landing, Inc.

1. No lot shall be subdivided or sold except in its entirety.
2. No structure or building of any kind shall be constructed on any lot until plans, specifications, site location and final elevation are submitted and approved by the grantors in writing.
3. Not more than one dwelling shall be erected, permitted or maintained on any lot.
4. No building shall be designed for or used by more than one family and no part of the lot and no building or structure placed thereon shall be used in connection with or carrying on of any trade, service, business or occupation of any kind whatsoever. The grantor reserves the right to permit other uses on other lots not conveyed herein.

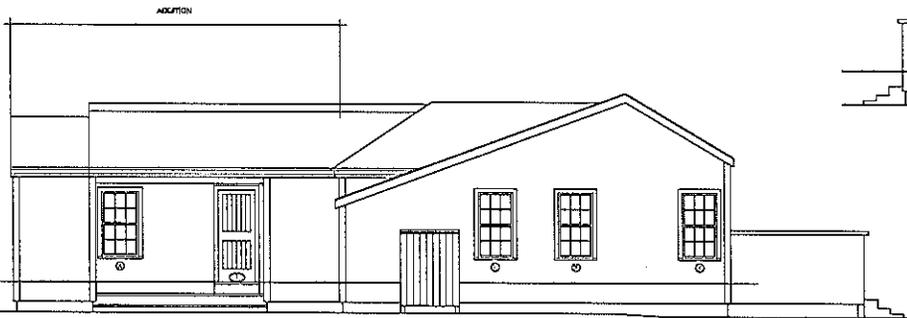




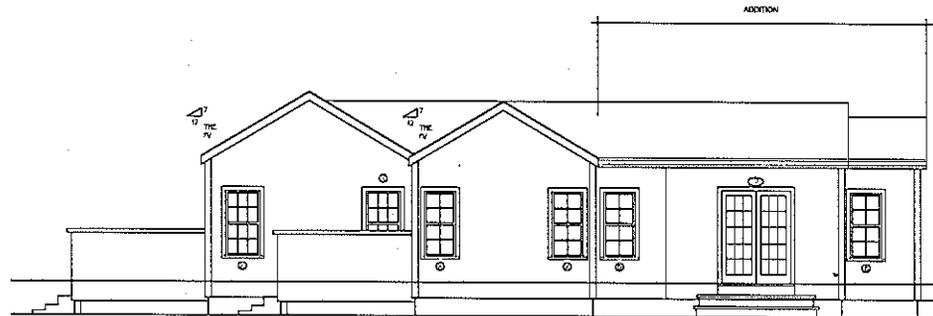
6 EXISTING WEST ELEVATION  
Scale: 1/4" = 1'-0"



8 EXISTING EAST ELEVATION  
Scale: 1/4" = 1'-0"



7 PROPOSED WEST ELEVATION  
Scale: 1/4" = 1'-0"



9 PROPOSED EAST ELEVATION  
Scale: 1/4" = 1'-0"

NANTUCKET ARCHITECTURE GROUP LTD.  
POST OFFICE BOX 1814  
NANTUCKET, MASSACHUSETTS, 02554  
TELEPHONE 508.228.5631  
WWW.NANTUCKETARCHITECTURE.COM

ADDITION AND RENOVATION FOR:  
MR. ZACHARY CASALE GUT  
13 COLUMBUS AVENUE, NANTUCKET, MA 02554  
MAP: 59.3 PARCEL: 110

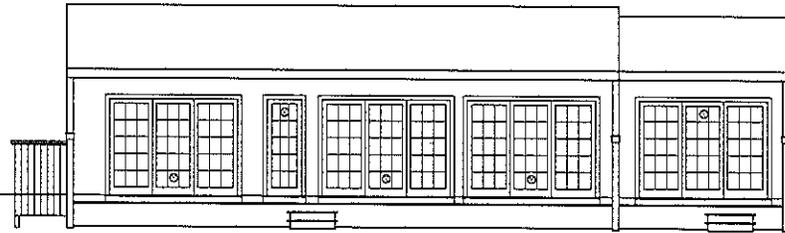
EXISTING AND PROPOSED EAST AND WEST ELEVATIONS
HDC: XXXXXX
BIDDING:
BLDG. DEPT:
REVISIONS:
REVISIONS:
REVISIONS:
DIB:

15.07.07

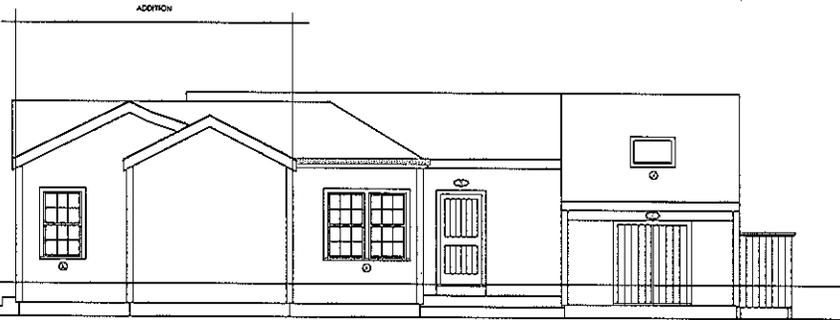
HDC 2



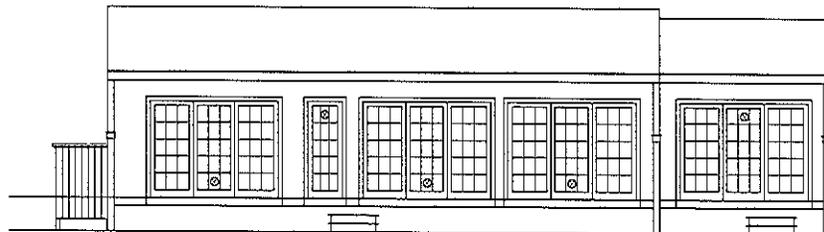
10 EXISTING NORTH ELEVATION  
Scale 1/4" = 1'-0"



12 EXISTING SOUTH ELEVATION  
Scale 1/4" = 1'-0"



11 PROPOSED NORTH ELEVATION  
Scale 1/4" = 1'-0"



13 PROPOSED SOUTH ELEVATION  
NO CHANGE

NANTUCKET ARCHITECTURE GROUP LTD.  
POST OFFICE BOX 1814  
NANTUCKET, MASSACHUSETTS, 02554  
TELEPHONE 508.228.5631  
WWW.NANTUCKETARCHITECTURE.COM

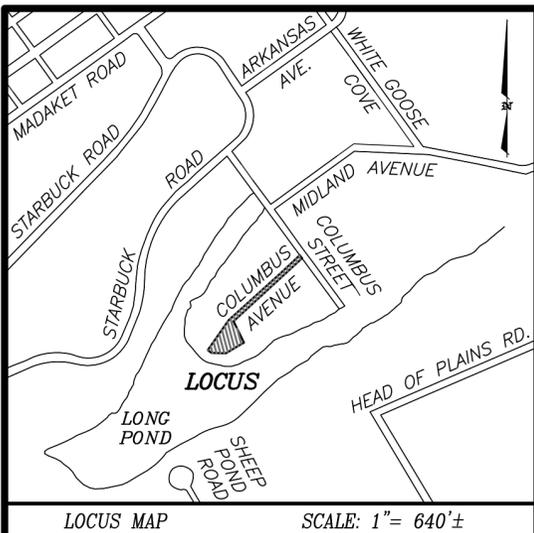
EXISTING AND RENOVATION FOR:  
MR. ZACHARY CASALE GUT  
13 COLUMBUS AVENUE, NANTUCKET, MA 02554  
MAP: 50.3 PARCEL: 110

EXISTING AND  
PROPOSED NORTH  
AND SOUTH  
ELEVATIONS

HDC: XX/XX/XX
BIDDING:
BLDG. DEPT:
REVISIONS:
REVISIONS:
REVISIONS:
REVISIONS:
DIG:

15.07.07

HDC 3



BENCHMARK:  
CONCRETE BOUND  
ELEVATION = 13.84  
DATUM: H.T.L. 1934

59.3-112  
N/F  
RALPH D. POWELL  
DEBORAH G. POWELL  
CERT. #17832  
L.C.C. 3092-23  
LOT 374

59.3-108  
N/F  
EDMUND M. CARPENTER, JR.  
PATRICIA F. CARPENTER  
CERT. #23848  
L.C.C. 3092-48  
LOT 604

59.3-109  
N/F  
DAVID SHEA  
CAROL A. SHEA  
CERT. #23577  
L.C.C. 3092-23  
LOT 377

59.3-111  
N/F  
DEG NANTUCKET, LLC.  
CERT. #22315  
L.C.C. 3092-23  
LOT 375

59.3-46  
N/F  
MADAKET CONSERVATION  
LAND TRUST  
CERT. #10248  
L.C.C. 3092-87  
LOT 756

- LEGEND**
- DENOTES CONCRETE BOUND WITH DRILLHOLE FOUND
  - ⊙ DENOTES EXIST. WELL
  - ELEC - DENOTES EXIST. UNDERGROUND ELECTRIC LINE
  - CATV - DENOTES EXIST. UNDERGROUND CABLE LINE
  - TEL - DENOTES EXIST. UNDERGROUND TELEPHONE LINE
  - DENOTES EXIST. SPLIT RAIL FENCE
  - 10 - - - DENOTES EXIST. GRADE CONTOUR
  - x12.1 DENOTES EXIST. GRADE SPOT ELEVATION
  - BWW#5 DENOTES EXIST. WETLAND FLAG
  - ⊙ DENOTES EXIST. WETLAND DELINEATION
  - ~ DENOTES EXIST. EDGE OF BRUSH
  - ⊙ DENOTES EXIST. PRIVET
  - P.B. DENOTES EXIST. PLANTING BED
  - E.B. DENOTES EXIST. EDGE OF BRUSH

**NOTES:**

LOCUS IS WITHIN LAND SUBJECT TO COASTAL STORM FLOWAGE, EL. 9.4

THIS PLOT PLAN WAS PREPARED FOR THE TOWN OF NANTUCKET CONSERVATION COMMISSION ONLY AND SHOULD NOT BE CONSIDERED A PROPERTY LINE SURVEY. THIS PLAN SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES, FENCES, HEDGES OR ANY ANCILLARY STRUCTURES ON THE PREMISES. THE PROPERTY LINES SHOWN RELY ON CURRENT DEEDS AND PLANS OF RECORD.

**Site Plan of Land to Accompany a Notice of Intent**  
In Nantucket, MA  
Prepared for  
**ZACHARY GUT**

13 COLUMBUS AVE - MAP 59.3 PARCEL 110

Scale: 1" = 20' February 4, 2016

**BLACKWELL & ASSOCIATES, Inc.**  
Professional Land Surveyors  
20 TEASDALE CIRCLE  
NANTUCKET, MASS. 02554  
(508) 228-9026

**OWNER INFORMATION**

ZACHARY GUT  
CERT. OF TITLE #23910  
L.C.C. 3092-23, LOT 376  
ASSESSOR'S MAP 59.3, PARCEL 110  
#13 COLUMBUS AVENUE

**GRAPHIC SCALE**



( IN FEET )  
1 inch = 20 ft.

Callahan

4 Morgan Square

(87-3.1)

SE48-2861

NOTICE OF INTENT  
for  
POOL CONSTRUCTION  
at  
4 MORGAN SQUARE  
NANTUCKET, MASSACHUSETTS

Prepared for:

DAVID CALLAHAN  
P.O. BOX 861  
NANTUCKET, MA 02554

February 2016

Prepared by:

HAINES HYDROGEOLOGIC CONSULTING  
141 OLD ENFIELD ROAD  
BELCHERTOWN, MA 01007



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

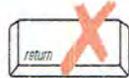
MassDEP File Number

Document Transaction Number

Nantucket

City/Town

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>4 Morgan Square</u>	<u>Nantucket</u>	<u>02554</u>
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:	<u>41°14'47.652"N</u>	<u>70°06'05.940"W</u>
	d. Latitude	e. Longitude
<u>87</u>	<u>3.1</u>	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

<u>David</u>	<u>Callahan</u>	
a. First Name	b. Last Name	
c. Organization		
<u>P.O. Box 861</u>		
d. Street Address		
<u>Nantucket</u>	<u>MA</u>	<u>02554</u>
e. City/Town	f. State	g. Zip Code
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

<u>Same</u>		
a. First Name	b. Last Name	
c. Organization		
d. Street Address		
<u></u>	<u></u>	<u></u>
e. City/Town	f. State	g. Zip Code
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

<u>David</u>	<u>Haines</u>	
a. First Name	b. Last Name	
<u>Haines Hydrogeologic Consulting</u>		
c. Company		
<u>141 Old Enfield Road</u>		
d. Street Address		
<u>Belchertown</u>	<u>MA</u>	<u>01007</u>
e. City/Town	f. State	g. Zip Code
<u>413-323-7156</u>	<u>haineshydro@gmail.com</u>	
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$110.00</u>	<u>\$42.50</u>	<u>\$67.50</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



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## A. General Information (continued)

6. General Project Description:

The proposed work involves the construction of a swimming pool in the 100-foot Buffer Zone to a Coastal Bank and Bordering Vegetated Wetland.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR 10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Nantucket

a. County

667

c. Book

b. Certificate # (if registered land)

148

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet _____	2. linear feet _____
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet _____	2. square feet _____
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet _____	2. square feet _____
	3. cubic yards dredged _____	

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet _____	2. square feet _____
	3. cubic feet of flood storage lost _____	4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____	
	2. cubic feet of flood storage lost _____	3. cubic feet replaced _____
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) - <b>specify coastal or inland</b> _____	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet \_\_\_\_\_ b. square feet within 100 ft. \_\_\_\_\_ c. square feet between 100 ft. and 200 ft. \_\_\_\_\_

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____ 2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____ 2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	
	1. cubic yards dredged _____	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet _____	

4.  Restoration/Enhancement  
If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.

a. square feet of BVW \_\_\_\_\_

b. square feet of Salt Marsh \_\_\_\_\_

5.  Project Involves Stream Crossings

a. number of new stream crossings \_\_\_\_\_

b. number of replacement stream crossings \_\_\_\_\_



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## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581

2008

b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review:

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area	0
	percentage/acreage
(b) outside Resource Area	4/0.056
	percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work -

- (a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

- (b)  Photographs representative of the site

- Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

- MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



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## C. Other Applicable Standards and Requirements (cont'd)

(c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_fee_schedule.htm)). Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1.  Project is exempt from MESA review. Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed. Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



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## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No      If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC \_\_\_\_\_
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house
  2.  Emergency road repair
  3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



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## D. Additional Information (cont'd)

- 3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.
- 4.  List the titles and dates for all plans and other materials submitted with this NOI.

### Site Plan to Accompany Notice of Intent

a. Plan Title

Michael Connolly & Associates

Michael Connolly PLS

b. Prepared By

c. Signed and Stamped by

2/4/16

1"=30'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

- 5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.
- 6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
- 7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
- 8.  Attach NOI Wetland Fee Transmittal Form
- 9.  Attach Stormwater Report, if needed.

## E. Fees

- 1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

2. Municipal Check Number

3. Check date

4. State Check Number

5. Check date

6. Payor name on check: First Name

7. Payor name on check: Last Name



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MassDEP File Number

Document Transaction Number

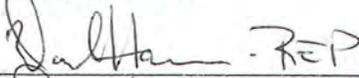
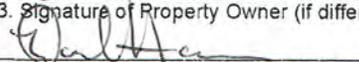
Nantucket

City/Town

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

	2/4/16
1. Signature of Applicant	2. Date
	2/4/16
3. Signature of Property Owner (if different)	4. Date
	2/4/16
5. Signature of Representative (if any)	6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

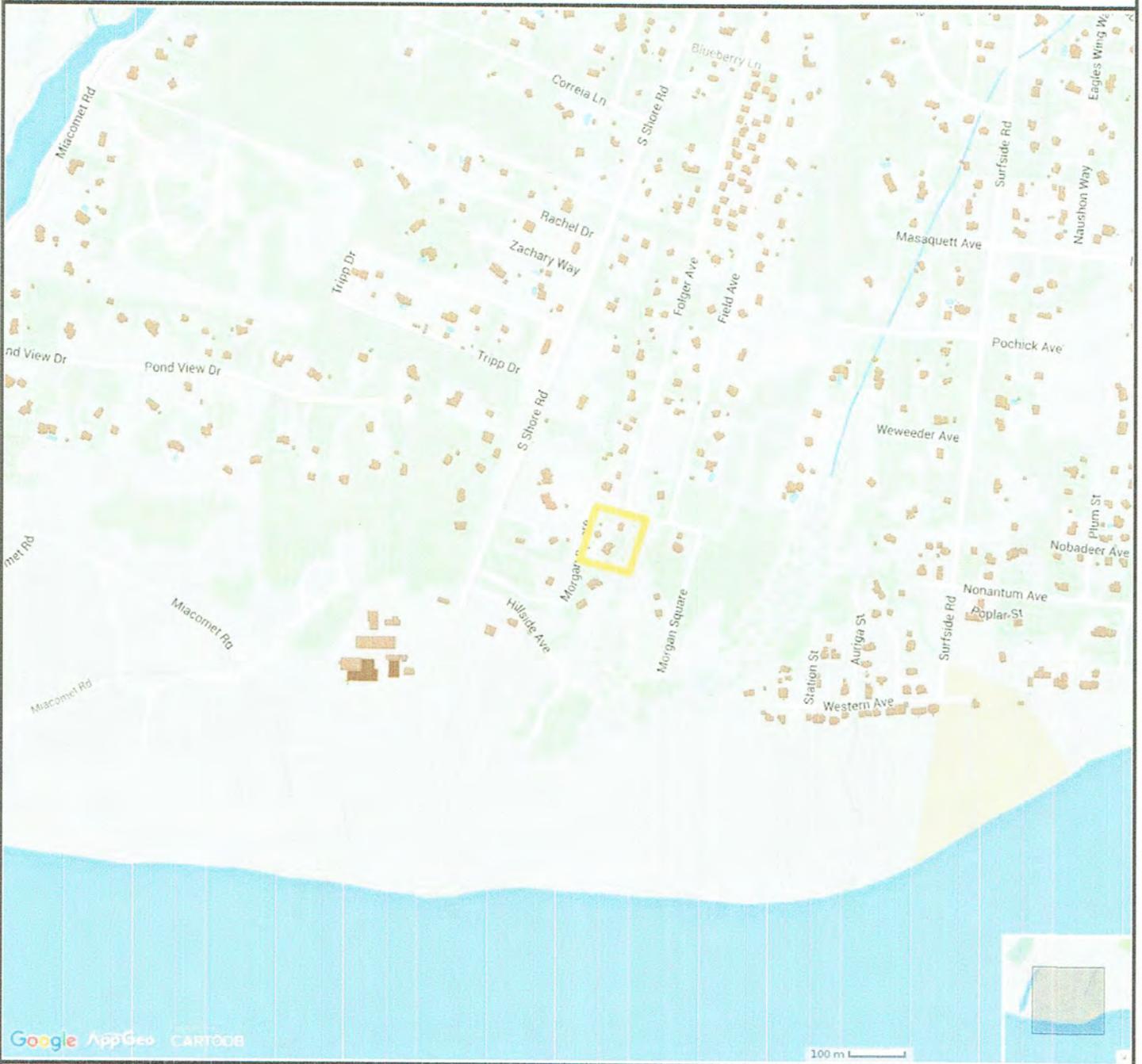
The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.







# 4 Morgan Square, Nantucket, MA, Assessor's Map



### Property Information

**Property ID** 87 3.1  
**Location** 4 MORGAN SQ  
**Owner** CALLAHAN DAVID M



### MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014  
 Properties updated January, 2015

# Callahan Site 4 Morgan Square NHESP



**Property Information**

**Property ID** 87 3.1  
**Location** 4 MORGAN SQ  
**Owner** CALLAHAN DAVID M



**MAP FOR REFERENCE ONLY  
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014  
 Properties updated January, 2015

# Callahan Site 2014 Aerial



**Property Information**

**Property ID** 87.3.1  
**Location** 4 MORGAN SQ  
**Owner** CALLAHAN DAVID M



**MAP FOR REFERENCE ONLY  
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014  
 Properties updated January, 2015

SITE AND WORK DESCRIPTION

## **INTRODUCTION**

The proposed work at 4 Morgan Square in Nantucket, Massachusetts includes the construction of a pool with fence and deck. Portions of the work will occur within the **100-foot Buffer Zone** to a **Bordering Vegetated Wetland**. All structures will be farther than 50 feet from the wetland boundary. The existing vegetated buffer will be maintained along the length of the wetland boundary.

## **SITE DESCRIPTION**

The site consists of a single lot located on the west side of the western fork of Weweeder Pond. The site contains a house, cottage, studio, driveway, lawn, well and septic system. The area where the work is proposed is landscaped lawn and garden. The site is bordered on the west by Morgan Square, an unconstructed street. The site is level at the front and slopes down abruptly to the wetland bordering the pond. The resource areas on the site subject to *Section 404 of the Federal Clean Water Act*, the *Massachusetts Wetlands Protection Act*, and/or the *Nantucket Wetlands By-law* include **Banks**, **Bordering Vegetated Wetlands**, **Land under Water**, and the associated **100-foot Buffer Zone**.

**Banks** in this case are the edge of the pond. The upper boundary of a **Bank** is defined as the first observable break in slope or the mean annual flood elevation, whichever is lower. The lower boundary of a **Bank** is the mean annual low flow level. No work is proposed in this resource area.

The **Bordering Vegetated Wetlands** on the site were delineated with numbered flags using the three technical criteria of vegetation, soils and hydrology outlined in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" prepared for the U.S. Army Corps of Engineers, the DEP Guideline, and the Nantucket Wetlands By-law criteria. The wetlands are comprised of shallow fresh marsh and a narrow band of shrub swamp. The vegetation in the wetlands includes Highbush Blueberry, Winterberry Holly, Elderberry, Arrowwood, Bayberry, Narrow-leaf Cattail, Soft Rush and Marsh Fern. Wetland Data Forms are attached. No work is proposed in this resource area.

**Land under Water** consists of the land beneath Weweeder Pond. No work is proposed in this resource area.

The **100-foot Buffer Zone** to the **Bordering Vegetated Wetlands** extends into portions of the work area. Work will be done in such a manner as to not impact the adjacent resource area.

A review of the 2008 "Massachusetts Natural Heritage Atlas", prepared by the Massachusetts *Natural Heritage and Endangered Species Program* (NHESP), indicates that the site is within the known range of a state-listed rare wetlands wildlife species and priority habitat. The work that is proposed is exempt from *Massachusetts Endangered Species Act* (MESA) regulations in that it would be considered construction of a secondary structure over existing lawns (321 CMR 10.14(5)).

### **WORK DESCRIPTION**

The proposed work includes construction of a pool, fence and deck between the existing house and cottage. Portions of the work will take place within the **100-foot Buffer Zone** to the **Bordering Vegetated Wetland** along Weweeder Pond. The existing vegetated buffer will be retained along the wetland boundary.

Prior to the commencement of work, a silt fence will be installed. It will be inspected and maintained as necessary until all soils have stabilized and all work has been completed.

The work will be done as shown on the plan. No regrading is proposed.

All disturbed areas will be stabilized by loaming and seeding, or other appropriate measures. The success of the stabilization efforts will be monitored and adjustment will be made as necessary.

The work as proposed meets all federal, state and local wetland regulation standards. The work will not impact the adjacent resource area.

### **CONCLUSION**

The proposed work includes the construction of a pool, fence and deck. Portions of the work will take place within the **100-foot Buffer Zone** to the **Bordering Vegetated Wetland** along Weweeder Pond. The 50-foot structure setback and the existing vegetated buffer will be maintained. The work as proposed will not impact the adjacent resource area.

## DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Form

Applicant: Callahan Prepared by: Haines Hydrogeologic Consulting Project location: Morgan Square Woburn MA DEP File #:

Check all that apply:

- Vegetation alone presumed adequate to delineate BVW boundary: fill out Section I only
- Vegetation and other indicators of hydrology used to delineate BVW boundary: fill out Sections I and II
- Method other than dominance test used (attach additional information)

## Section I. Vegetation

Observation Plot Number: #6 WTransect Number: 20' Berry FAC #6Date of Delineation: 2/3/15

A. Sample Layer and Plant Species (by common/scientific name)	B. Percent Cover (or basal area)	C. Percent Dominance	D. Dominant Plant (yes or no)	E. Wetland Indicator Category*
Arrowwood	20.5	50	Y <sup>3</sup>	FAC
Winterberry Holly	10.5	25	Y <sup>3</sup>	FACW+
Carolina Rose	10.5	25	Y <sup>2</sup>	UP
Black Raspberry (Allegheny)	10.5	100	Y <sup>3</sup>	FACU-
Cattail	60	75	Y <sup>2</sup>	OBL
Marsh Fern	20.5	25	Y <sup>4</sup>	FACW+
Poison Ivy	10.5	100	Y <sup>2</sup>	FAC

\* Use an asterisk to mark wetland indicator plants: plant species listed in the Wetlands Protection Act (MGL c.131, s.40); plants in the genus *Sphagnum*; plants listed as FAC, FAC+, FACW-, FACW, FACW+, or OBL; or plants with physiological or morphological adaptations. If any plants are identified as wetland indicator plants due to physiological or morphological adaptations, describe the adaptation next to the asterisk.

## Vegetation conclusion:

Number of dominant wetland indicator plants: 4 Number of dominant non-wetland indicator plants: 2Is the number of dominant wetland plants equal to or greater than the number of dominant non-wetland plants? yes no

If vegetation alone is presumed adequate to delineate the BVW boundary, submit this form with the Request for Determination of Applicability or Notice of Intent.

Cullerhan Site  
Site

12/3/15

Plot 6W

Pg 2

4 Monrovia Square, Nantucket MA by HAWES Hydrogeologic Consulting

**Section II. Indicators of Hydrology**

**Hydric Soil Interpretation**

**1. Soil Survey**

Is there a published soil survey for this site? yes no

title/date: Nantucket 1979  
map number: 7  
soil type mapped: Medisapriste  
hydric soil inclusions: y-s

Are field observations consistent with soil survey? yes no

Remarks:

**2. Soil Description**

Horizon	Depth	Matrix Color	Mottles Color
A <sub>0</sub>	1-16"	10YR 3/1	

Remarks:

**3. Other:**

Conclusion: Is soil hydric? yes no

Other Indicators of Hydrology: (check all that apply and describe)

- Site inundated: \_\_\_\_\_
- Depth to free water in observation hole: 2"
- Depth to soil saturation in observation hole: 0
- Water marks: \_\_\_\_\_
- Drift lines: \_\_\_\_\_
- Sediment deposits: \_\_\_\_\_
- Drainage patterns in BVW: \_\_\_\_\_
- Oxidized rhizospheres: \_\_\_\_\_
- Water-stained leaves: \_\_\_\_\_
- Recorded data (stream, lake, or tidal gauge; aerial photo; other): \_\_\_\_\_
- Other: \_\_\_\_\_

**Vegetation and Hydrology Conclusion**

	yes	no
Number of wetland indicator plants ≥ number of non-wetland indicator plants	<input type="checkbox"/>	<input type="checkbox"/>
Wetland hydrology present:		
hydric soil present	<input type="checkbox"/>	<input type="checkbox"/>
other indicators of hydrology present	<input type="checkbox"/>	<input type="checkbox"/>
Sample location is in a BVW	<input type="checkbox"/>	<input type="checkbox"/>

Submit this form with the Request for Determination of Applicability or Notice of Intent.

## DEP Bordering Vegetated Wetland (310 CMR 10.55) Delineation Field Data Form

Applicant: COLLATHAN Prepared by: HAINES Hydrogeologic Consulting Project location: 3 Morgan Square, Waukeget MA DEP File #: \_\_\_\_\_

Check all that apply:

- Vegetation alone presumed adequate to delineate BVW boundary: fill out Section I only
- Vegetation and other indicators of hydrology used to delineate BVW boundary: fill out Sections I and II
- Method other than dominance test used (attach additional information)

15' Above Euc #6

Section I. **Vegetation** Observation Plot Number: #6 UP Transect Number: 6 Date of Delineation: 12/3/15

A. Sample Layer and Plant Species (by common/scientific name)	B. Percent Cover (or basal area)	C. Percent Dominance	D. Dominant Plant (yes or no)	E. Wetland Indicator Category*
RED CEDAR	20.5	100	yes	FACU
TARTARIAN HONEY SUCKLE	20.5	33	yes	FACU
CANDINA ROSE	20.5	33	yes	UP
ARROWWOOD	10.5	17	NO	—
BAYBERRY	10.5	17	NO	—
Blackberry (Alligatorine)	20.5	100	yes	FACU-
Poison Ivy	10.5	100	yes	FAC

\* Use an asterisk to mark wetland indicator plants: plant species listed in the Wetlands Protection Act (MGL c.131, s.40); plants in the genus *Sphagnum*; plants listed as FAC, FAC+, FACW-, FACW, FACW+, or OBL; or plants with physiological or morphological adaptations. If any plants are identified as wetland indicator plants due to physiological or morphological adaptations, describe the adaptation next to the asterisk.

**Vegetation conclusion:**

Number of dominant wetland indicator plants: 1 Number of dominant non-wetland indicator plants: 4

Is the number of dominant wetland plants equal to or greater than the number of dominant non-wetland plants? yes no

If vegetation alone is presumed adequate to delineate the BVW boundary, submit this form with the Request for Determination of Applicability or Notice of Intent.

Callahan Site  
Site

12/3/15

Plot 60K

Pg 2

3 Morgan Square, Nantucket MA

by HAWES Hydrogeologic Consulting

### Section II. Indicators of Hydrology

Other Indicators of Hydrology: (check all that apply and describe)

#### Hydric Soil Interpretation

##### 1. Soil Survey

Is there a published soil survey for this site?  yes  no

title/date: Nantucket 1979

map number: 7

soil type mapped: REB - RIVERHEAD SANDY CLAY

hydric soil inclusions: NO

- Site inundated: \_\_\_\_\_
- Depth to free water in observation hole: \_\_\_\_\_
- Depth to soil saturation in observation hole: \_\_\_\_\_
- Water marks: \_\_\_\_\_
- Drift lines: \_\_\_\_\_
- Sediment deposits: \_\_\_\_\_
- Drainage patterns in BVW: \_\_\_\_\_
- Oxidized rhizospheres: \_\_\_\_\_
- Water-stained leaves: \_\_\_\_\_
- Recorded data (stream, lake, or tidal gauge; aerial photo; other): \_\_\_\_\_
- Other: \_\_\_\_\_

Are field observations consistent with soil survey?  yes  no

Remarks:

##### 2. Soil Description

Horizon	Depth	Matrix Color	Mottles Color
A	0-6	7.5Y-3/3	-
B	6-18	10Y-4/6	-

Remarks: SHARP BREAK in Slope

##### 3. Other:

Conclusion: Is soil hydric? yes   no

Vegetation and Hydrology Conclusion		
	yes	no
Number of wetland indicator plants ≥ number of non-wetland indicator plants	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Wetland hydrology present:		
hydric soil present	<input type="checkbox"/>	<input checked="" type="checkbox"/>
other indicators of hydrology present	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sample location is in a BVW	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Submit this form with the Request for Determination of Applicability or Notice of Intent.

CURRENT ZONING CLASSIFICATION:  
LIMITED USE GENERAL-2 (LUG-2)

MINIMUM LOT SIZE: 80,000 S.F.  
MINIMUM FRONTAGE: 150 FT.  
FRONT YARD SETBACK: 35 FT.  
REAR/SIDE SETBACK: 15 FT.  
GROUND COVER % : 4 %



PROPOSED COPING  
13" BLUE STONE COPING

PROPOSED DECK

EXISTING CHIMNEY

EXISTING DECK

PROPOSED POOL DECK

PROPOSED POOL

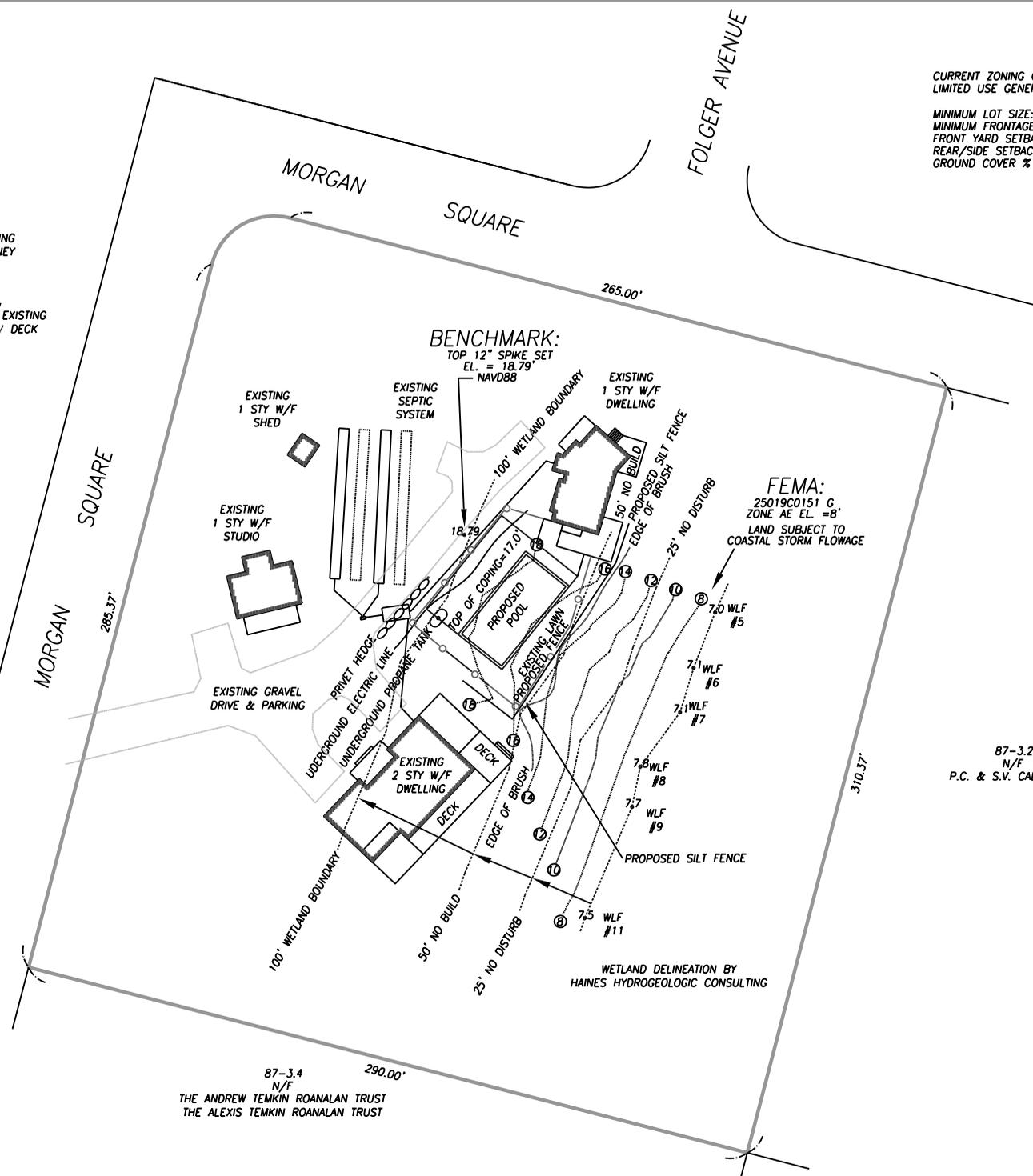
PROPOSED SILT FENCE

PROPOSED NATIVE SHRUB PLANTING  
20% AMELANCHIER  
20% CLETHRA  
30% ILEX VERTICILLATA  
10% MYRICA PENNSYLVANICA  
10% VIBURNUM TRILOBUM

PLANT LIST BY  
RITA HIGGINS

50' NO BUILD  
EDGE OF BRUSH

PROPOSED POOL FENCE  
1" X 1" BLACK MESH FIXED TO  
6" X 6" POSTS AND EMBEDDED WITHIN  
A NATIVE SHRUB PLANTING



87-3.2  
N/F  
P.C. & S.V. CALABRESE

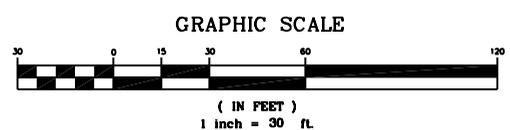
87-3.4  
N/F  
THE ANDREW TEMKIN ROANALAN TRUST  
THE ALEXIS TEMKIN ROANALAN TRUST

87-3.3  
N/F  
P.D. CLEARY

SITE PLAN  
TO ACCOMPANY A  
NOTICE OF INTENT  
IN  
NANTUCKET, MA.

SCALE: 1"=30' DATE: FEBRUARY 4, 2016  
OWNER'S REFERENCE:  
DAVID M. CALLAHAN  
DEED BK. 667 PG. 148  
PLAN FILE 8-D, PARCEL A1

MICHAEL CONNOLLY & ASSOCIATES, INC.  
PROFESSIONAL LAND SURVEYORS  
149 SURFSIDE ROAD  
NANTUCKET, MA. 02554  
(508) 228-8910



LOCUS: 4 MORGAN SQUARE  
ASSESSOR'S MAP 87 PARCEL 3.1

Bouton

21 Massachusetts Ave

(60.3.1-312)

SE48-2860

NOTICE OF INTENT  
for  
TIGHT TANK INSTALLATION  
at  
21 MASSACHUSETTS AVENUE  
NANTUCKET, MASSACHUSETTS

Prepared for:

BRUCE A. BOUTON, TRUSTEE  
21 MASSACHUSETTS AVENUE NOMINEE TRUST  
44 ELLSWORTH AVENUE  
BEVERLY, MA 01915

February 2016

Prepared by:

HAINES HYDROGEOLOGIC CONSULTING  
141 OLD ENFIELD ROAD  
BELCHERTOWN, MA 01007



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

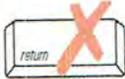
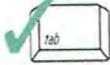
MassDEP File Number

Document Transaction Number

Nantucket

City/Town

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**Note:**  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>21 Massachusetts Avenue</u>	<u>Nantucket</u>	<u>02554</u>
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:	<u>41°16'26.760"N</u>	<u>70°21'24.192"W</u>
	d. Latitude	e. Longitude
<u>60.3.1</u>	<u>312</u>	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

<u>Bruce A.</u>	<u>Bouton, Trustee</u>	
a. First Name	b. Last Name	
<u>21 Massachusetts Avenue Nominee Trust</u>		
c. Organization		
<u>44 Ellsworth Avenue</u>		
d. Street Address		
<u>Beverly</u>	<u>MA</u>	<u>01915</u>
e. City/Town	f. State	g. Zip Code
_____	_____	_____
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

<u>Same</u>		
a. First Name	b. Last Name	
_____		
c. Organization		
_____		
d. Street Address		
_____		
_____	_____	_____
e. City/Town	f. State	g. Zip Code
_____	_____	_____
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

<u>David</u>	<u>Haines</u>	
a. First Name	b. Last Name	
<u>Haines Hydrogeologic Consulting</u>		
c. Company		
<u>141 Old Enfield Road</u>		
d. Street Address		
<u>Belchertown</u>	<u>MA</u>	<u>01007</u>
e. City/Town	f. State	g. Zip Code
<u>413-323-7156</u>	<u>haineshydro@gmail.com</u>	
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$110.00;\$25.00;\$200.00</u>	<u>\$42.50</u>	<u>\$67.50;\$25.00;\$200.00</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number

Document Transaction Number

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## A. General Information (continued)

### 6. General Project Description:

The proposed work involves the installation of a "tight tank" to replace the existing septic system. The work is within the 100-foot Buffer Zone to a Coastal Dune.

### 7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Single Family Home             | 2. <input type="checkbox"/> Residential Subdivision       |
| 3. <input type="checkbox"/> Commercial/Industrial                     | 4. <input type="checkbox"/> Dock/Pier                     |
| 5. <input type="checkbox"/> Utilities                                 | 6. <input type="checkbox"/> Coastal engineering Structure |
| 7. <input type="checkbox"/> Agriculture (e.g., cranberries, forestry) | 8. <input type="checkbox"/> Transportation                |
| 9. <input type="checkbox"/> Other                                     |   |

### 7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

### 2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

### 8. Property recorded at the Registry of Deeds for:

Nantucket

a. County

20539

b. Certificate # (if registered land)

c. Book

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

Nantucket

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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Bank	1. linear feet _____	2. linear feet _____
b. <input type="checkbox"/> Bordering Vegetated Wetland	1. square feet _____	2. square feet _____
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet _____	2. square feet _____
	3. cubic yards dredged _____	

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet _____	2. square feet _____
	3. cubic feet of flood storage lost _____	4. cubic feet replaced _____
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet _____	
	2. cubic feet of flood storage lost _____	3. cubic feet replaced _____

f.  Riverfront Area

1. Name of Waterway (if available) - **specify coastal or inland** \_\_\_\_\_

2. Width of Riverfront Area (check one):

25 ft. - Designated Densely Developed Areas only

100 ft. - New agricultural projects only

200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet \_\_\_\_\_ b. square feet within 100 ft. \_\_\_\_\_ c. square feet between 100 ft. and 200 ft. \_\_\_\_\_

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

Nantucket

City/Town

## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____ 2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____ 2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above 1. cubic yards dredged _____	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet _____	

4.  Restoration/Enhancement  
If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.

\_\_\_\_\_ a. square feet of BVW

\_\_\_\_\_ b. square feet of Salt Marsh

5.  Project Involves Stream Crossings

\_\_\_\_\_ a. number of new stream crossings

\_\_\_\_\_ b. number of replacement stream crossings



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number \_\_\_\_\_

Document Transaction Number \_\_\_\_\_

Nantucket

City/Town

## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
 Division of Fisheries and Wildlife  
 1 Rabbit Hill Road  
 Westborough, MA 01581

- 2008  
 b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review:

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area \_\_\_\_\_  
 percentage/acreage

(b) outside Resource Area \_\_\_\_\_  
 percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work -

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

• Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

• MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

## C. Other Applicable Standards and Requirements (cont'd)

(c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_fee_schedule.htm)).  
Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1.  Project is exempt from MESA review.  
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # b. Date submitted to NHESP

3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



## WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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### C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
- Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  - A portion of the site constitutes redevelopment
  - Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
- Single-family house
  - Emergency road repair
  - Small Residential Subdivision (less than or equal to 4 single-family houses or less than equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

### D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

- USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
- Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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## D. Additional Information (cont'd)

- 3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

- 4.  List the titles and dates for all plans and other materials submitted with this NOI.

Site Plan to Accompany Notice of Intent at 21 Massachusetts Avenue

a. Plan Title

Michael Connolly & Associates

Michael Connolly PLS

b. Prepared By

c. Signed and Stamped by

2/4/16

1" = 20'

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

- 5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.
- 6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.
- 7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.
- 8.  Attach NOI Wetland Fee Transmittal Form
- 9.  Attach Stormwater Report, if needed.

## E. Fees

- 1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

2. Municipal Check Number

3. Check date

4. State Check Number

5. Check date

6. Payor name on check: First Name

7. Payor name on check: Last Name



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

MassDEP File Number

Document Transaction Number

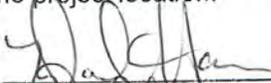
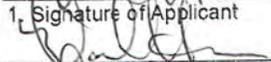
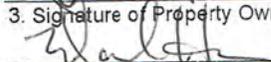
Nantucket

City/Town

## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

	REP	2/4/16
1. Signature of Applicant		2. Date
	REP	2/4/16
3. Signature of Property Owner (if different)		4. Date
	REP	2/4/16
5. Signature of Representative (if any)		6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**A. Applicant Information**

1. Location of Project:

21 Massachusetts Avenue Nantucket  
 a. Street Address b. City/Town  
 \_\_\_\_\_  
 c. Check number d. Fee amount

2. Applicant Mailing Address:

Bruce A. Bouton, Trustee  
 a. First Name b. Last Name  
21 Massachusetts Avenue Nominee Trust  
 c. Organization  
44 Ellsworth Avenue  
 d. Mailing Address  
beverly MA 01915  
 e. City/Town f. State g. Zip Code  
 \_\_\_\_\_  
 h. Phone Number i. Fax Number j. Email Address

3. Property Owner (if different):

Same  
 a. First Name b. Last Name  
 \_\_\_\_\_  
 c. Organization  
 \_\_\_\_\_  
 d. Mailing Address  
 \_\_\_\_\_  
 e. City/Town f. State g. Zip Code  
 \_\_\_\_\_  
 h. Phone Number i. Fax Number j. Email Address

**B. Fees**

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).





Tidal Flat  
North Pt

Eel Point  
Marsh  
Tidal Flat

Madaket Harbor

Jackson Pt

Little Cr  
Madaket  
White Goose Cove

Sheep Pond

Clark Cove

Ram Pasture

Hummock

Cisco

Fishers Landing

EEL POINT

FISHERS LANDING RD

WARREN LANDING

WARREN LANDING RD

MADAKET NECK

MADAKET NECK DITCH

MASSASOIT BRIDGE

MASSASOIT BRIDGE

Radio Tower

SHEEP POND

MASSASOIT RD

JEOP TRAIL

CLARK COVE

CLARK COVE

RAM PASTURE

HUMMOCK

CISCO

CISCO

BEACH

Dionis Beach

ROAD

Locus MAP  
21 MASSACHUSETTS AVE +  
Nantucket MA  
USGS Nantucket Quad  
1:25000

# 21 Massachusetts Ave, Nantucket, MA, Aerial



**Property Information**

**Property ID** 34 1  
**Location** EEL POINT RD  
**Owner** NANTUCKET CONSERVATION FOUND I



**MAP FOR REFERENCE ONLY  
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014  
 Properties updated January, 2015

# 21 Massachusetts Ave Assessor's Map



### Property Information

**Property ID** 34 1  
**Location** EEL POINT RD  
**Owner** NANTUCKET CONSERVATION FOUND I



**MAP FOR REFERENCE ONLY  
 NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated December, 2014  
 Properties updated January, 2015

# 21 Massachusetts Ave, Nantucket, MA < NHESP



**Property Information**

**Property ID** 34 1

**Location** EEL POINT RD

**Owner** NANTUCKET CONSERVATION FOUND I



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

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Parcels updated December, 2014  
Properties updated January, 2015

SITE AND WORK DESCRIPTION

## INTRODUCTION

The proposed work at 21 Massachusetts Avenue in Nantucket, Massachusetts includes the replacement of an existing septic system with a 2500-gallon tight tank. The existing system will be abandoned. All of the work is in the **100-foot Buffer Zone** to a **Coastal Dune** and within **Land Subject to Coastal Storm Flowage**. The proposed work is 10 feet from the dune and the tight tank will be within the water table, necessitating dewatering, so waivers from the *Nantucket Wetlands By-law* are being requested. The work area is near but not within a Massachusetts *Natural Heritage and Endangered Species Program* (NHESP) priority habitat of rare species and estimated habitat of rare wildlife. The work as proposed will improve water quality in the adjacent resource areas.

## SITE DESCRIPTION

The site consists of a 0.09-acre lot located on the north side of Massachusetts Avenue in the Smith's Point section of Nantucket. The site contains a dwelling, a garage, a well, a septic system, lawn and driveway. There is a **Coastal Dune** on the site. The entire site is within **Land Subject to Coastal Storm Flowage**. The resource areas under jurisdiction of the *Massachusetts Wetlands Protection Act*, and/or the *Nantucket Wetlands By-law* include **Coastal Dune** and the associated **100-foot Buffer Zone**, and **Land Subject to Coastal Storm Flowage**. There is a **Salt Marsh** off site greater than 100 feet away to the northwest.

The **Coastal Dune** consists of the mounds of migrating windblown sand in the northern portion and north of the site. This resource area was delineated with numbered blue flags. One of the proposed dewatering basins is very near the toe of the dune.

The **100-foot Buffer Zone** to the **Coastal Dune** encompasses the entire site. The work that is proposed in the buffer zone is the installation of a 2500-gallon tight tank.

**Land Subject to Coastal Storm Flowage** extends across the entire site up to elevation 9 feet/NAVD. All of the proposed work is occurring within this resource area but will not alter its functions. The entire work area will be regraded to approximate original grade and will be revegetated.

The proposed work will occur within 10 feet of the **Coastal Dune**. Waivers from the *Nantucket Wetlands By-law* are being requested for this work. The work as proposed will improve the water quality in the resource areas over existing conditions. The work will not adversely impact the resource areas.

The site is adjacent to but not within mapped NHESP priority habitat of rare species and estimated habitats of rare wildlife. No further review by NHESP is necessary.

### **WORK DESCRIPTION**

The proposed work includes the replacement of the existing septic system with a tight tank. Waivers from the *Nantucket Wetlands By-law* are being requested. Due to site constraints the tight tank is being placed in the only location possible. The tight tank will be equipped with gauges and alarms to prevent overflow.

All work will be done in accordance with the site plan titled "*Site Plan to Accompany Notice of Intent at 21 Massachusetts Avenue in Nantucket, MA*" (2/4/16), prepared by Michael Connolly & Associates.

A siltation fence will be placed at the limit of work. The silt fence will be inspected regularly and adjustments will be made as needed.

The tight tank will be below the water table. The water table is assumed to be within two to three feet of the ground surface and the excavation for the tight tank will be approximately nine feet deep. To place the tight tank in the ground sheet piles will be driven around and below the proposed pit. Dewatering wells will be installed inside the sheet piles. The water from the wells will be discharged to the two dewatering basins shown on the plan. These basins will be shallow excavated basins surrounded by hay bales. Stone will be placed in the bottom of the pit and the tank will be installed and covered with one foot of soil.

All disturbed areas will be stabilized with loam and seed, plants or gravel as soon as possible. A minimum of six inches of good quality topsoil will be used and either seeded or landscaped. The driveway area will be gravel.

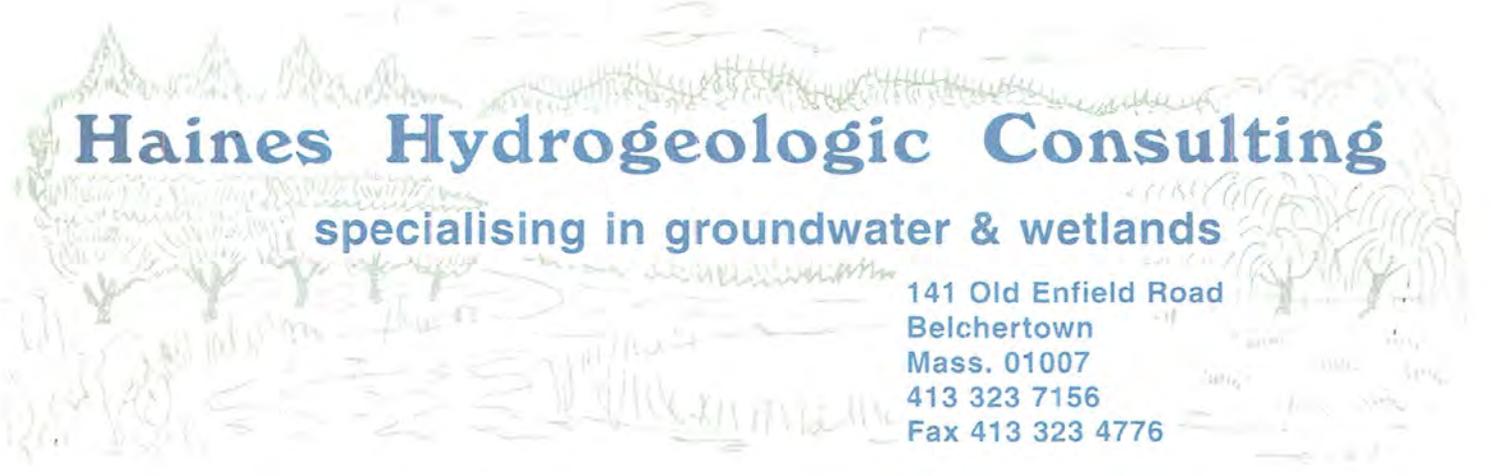
The success of stabilization will be monitored and adjustments will be made as needed until the site is stable.

The work as proposed will not adversely impact the resource areas.

## **CONCLUSION**

The proposed work at 21 Massachusetts Avenue in the Smith's Point section of Nantucket, Massachusetts involves the replacement of the existing septic system with a tight tank to improve water quality. Due to site constraints the tight tank will be in the **100-foot Buffer Zone** to a **Coastal Dune** and within **Land Subject to Coastal Storm Flowage**. The tight tank will also be within the water table, necessitating dewatering. Waivers from the *Nantucket Wetlands By-law* for these intrusions are being requested. The proposed work will not adversely impact the adjacent resource areas.

WAIVER REQUEST



# Haines Hydrogeologic Consulting

specialising in groundwater & wetlands

141 Old Enfield Road  
Belchertown  
Mass. 01007  
413 323 7156  
Fax 413 323 4776

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

February 4, 2016

Re: Waiver Request – Bouton Site, 21 Massachusetts Ave., Nantucket

Dear Commission Members:

This letter is to request a waiver from the *Nantucket Wetlands By-law* regulations requiring that work be greater than 25 feet from a **Coastal Dune** and that all structures be at least two feet above the water table. Due to site constraints, some of the proposed work to install the tight tank will take place within 25 feet of a **Coastal Dune** and the tight tank will be within the water table. Waivers from the by-law may be granted when the project will not adversely impact the resource area and there is no other reasonable alternative that would allow the project to proceed (1.03 F3.a).

A 2500-gallon tight tank will be installed to replace the existing leach field. Since the existing system is in the dune and has failed, the groundwater quality will be improved with the installation of the tight tank. Construction impacts to the resource areas will be prevented through the use of appropriate sediment and erosion controls and soil stabilization measures. Since a tight tank and appropriate sediment and erosion control measures are being used, the resource areas will not be adversely impacted.

The tight tank and dewatering basins are being placed in the only location possible. Wetlands, buildings, wells and property lines constrain the site so that the structure must be located in the proposed location.

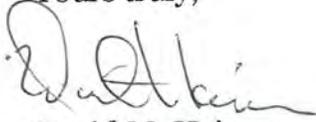
The installation of the tight tank will involve working within the water table and the use of temporary dewatering.

The dewatering will only be temporary, and dewatered discharge will be infiltrated and therefore will not adversely impact the adjacent resource areas. Since the water table is high, there is no way to install the tight tank without being within the water table.

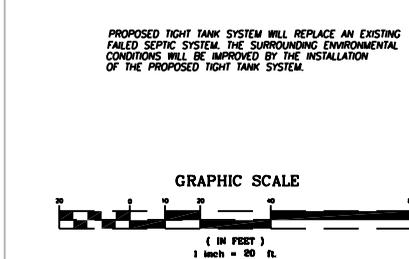
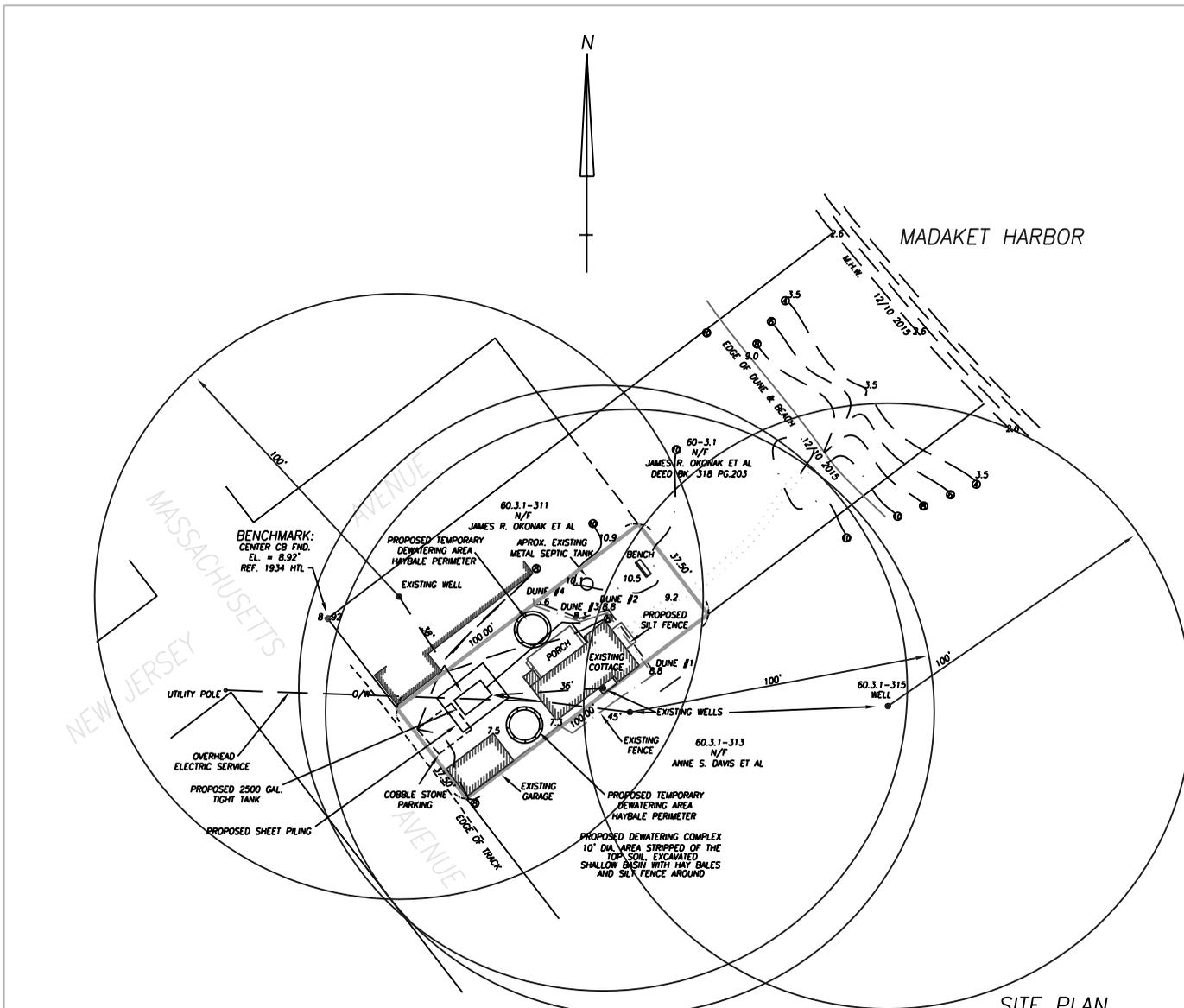
Since the proposed work will not adversely impact the resource areas and there is no other reasonable alternative, the Commission may grant waivers from the *Nantucket Wetlands By-law* regulations for this project.

Thank you for considering this waiver request. If you have any questions, please call.

Yours truly,



David M. Haines  
Hydrogeologist/Wetland Scientist



**SITE PLAN TO ACCOMPANY A NOTICE OF INTENT AT 21 MASSACHUSETTS AVENUE IN NANTUCKET, MA.**

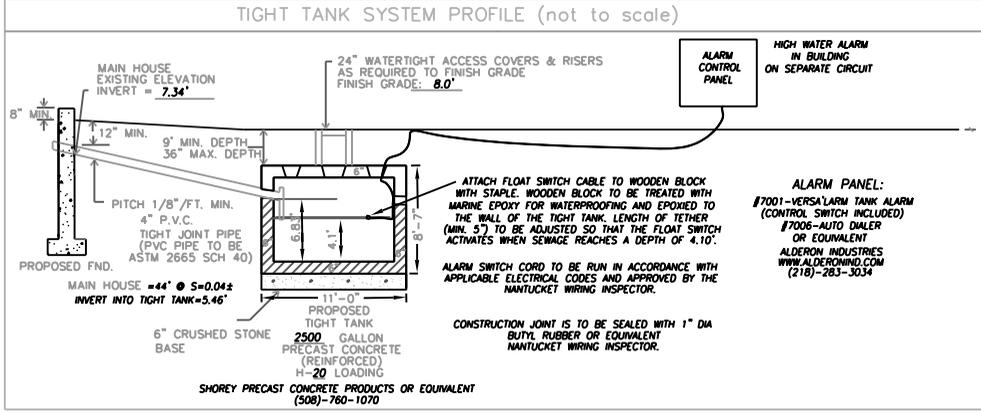
PROPOSED TIGHT TANK SYSTEM WILL REPLACE AN EXISTING FAILED SEPTIC SYSTEM. THE SURROUNDING ENVIRONMENTAL CONDITIONS WILL BE IMPROVED BY THE INSTALLATION OF THE PROPOSED TIGHT TANK SYSTEM.

**TANK SIZING CRITERIA:**  
 EXISTING 2 BEDROOM COTTAGE  
 DESIGN FLOW: 2 BEDROOMS @ 110 GPD = 220 GPD  
 TIGHT TANK CAPACITY REQUIRED:  
 220 GPD X 500% = 1,100 GALLONS  
 PROPOSED 2500 GALLON H-20, PRECAST CONCRETE SEPTIC TANK TO BE USED AS A TIGHT TANK  
 11'0"-L, 6'0"-W, 8'7"-H  
 TIGHT TANK MUST BE WATERPROOFED WITH BITUMASTIC #50 OR EQUIVALENT BY MANUFACTURER PRIOR TO DELIVERY TO THE SITE.

**TANK SPECIFICATIONS:**  
 CONCRETE MIN. STRENGTH: 4000 P.S.I. @ 28 DAYS  
 STEEL REINFORCEMENT: AS-615-68, GRADE 60  
 DESIGN LOADING: MASHTO - H-20 MEETS ASTM SPEC. C1227  
 WEIGHT: 28,000 LBS.

**MAINTENANCE:**  
 THE 2,500 GALLON CAPACITY HOLDING TANK SYSTEM MUST BE PUMPED ON A REGULAR "AS NEEDED" BASIS. ALL PUMPING RECORDS MUST BE MAINTAINED BY THE PROPERTY OWNER.  
 THE TIGHT TANK SYSTEM MUST BE SERVICED BY A LICENSED SEPTAGE HAULER (APPROVED/LICENSED BY THE TOWN OF NANTUCKET).

**FLOTATION CALCULATIONS:**  
 ASSUME WORST CASE: G.W. @ TOP OF TANK (EL.=6.71)  
 WEIGHT OF CONCRETE: 28,000 LBS. PER PRECAST MANUFACTURER  
 WEIGHT OF WATER: (11' X 6' X 8.58') = 566,280 C.F.  
 566.28 C.F. X 62.4 LBS./C.F. = 35,336 LBS  
 WEIGHT OF SOIL COVER: (11' X 6') X (1' DEEP) = 66 C.F.  
 66 C.F. X 70 LBS./C.F. = 4,620 LBS  
 WEIGHT OF SOIL COVER & CONCRETE = 32,620 LBS.  
 WEIGHT OF CONCRETE & SOIL COVER IS LESS THAN THE WEIGHT OF WATER BY 2,716 LBS. ADDITIONAL WEIGHT WILL BE NEEDED.



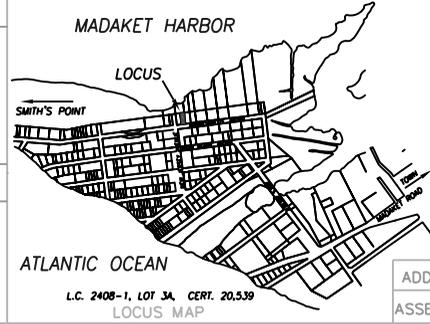
- NOTES**
- ALL WORK MUST COMPLY WITH THE MASSACHUSETTS ENVIRONMENTAL CODE TITLE 5 AND TOWN OF NANTUCKET BOARD OF HEALTH REGULATIONS.
  - SEWAGE FLOW = 2 no. BR x 110 GPD = 220 GPD (EXISTING)  
 \*PLAN IMPLEMENTATION PURSUANT TO 310 CMR 15.260(B): TIGHT TANKS REMEDIAL UPGRADE OF THE FAILED SYSTEM SERVING THE EXISTING SEASONAL-USE RESIDENTIAL FACILITY.
  - TIGHT TANK = 220 GPD x 500% = 1100 GALLONS
  - TIGHT TANK MINIMUM SIZE IS 2000 GALLONS
  - PROPOSED TIGHT TANK IS TO COMPLY WITH THE D.E.P.'S "TIGHT TANK" POLICY IN EFFECT AS OF MARCH 2006, 310 CMR 15.260.
  - EXISTING WELL & SEPTIC SYSTEM LOCATIONS SHOWN HEREON ARE BASED ON RECORD FILES OF THE TOWN OF NANTUCKET HEALTH DEPARTMENT.
  - OVERHEAD AND UNDERGROUND UTILITIES SHOWN AS FOUND.
  - CONTRACTOR MUST CONTACT DIG-SAFE ( 1-800-344-7233 ) TWO WORKING DAYS PRIOR TO THE START OF CONSTRUCTION.
  - THIS SYSTEM SHALL NOT BE CONSTRUCTED UNDER DRIVEWAYS OR OTHER IMPERVIOUS SURFACES.
  - MEASUREMENTS FOR RECORD PLANS (AS-BUILT) ARE REQUIRED BY THE NANTUCKET BOARD OF HEALTH. CALL MICHAEL CONNOLLY & ASSOC. INC. (508-228-8910) PRIOR TO COVERING INSTALLED SYSTEM COMPONENTS.
  - FROM THE DATE OF INSTALLATION UNTIL RECEIPT OF A CERTIFICATE OF COMPLIANCE THE PERIMETER OF THE SOIL ABSORPTION SYSTEM SHALL BE STAKED AND FLAGGED TO PREVENT THE USE OF SUCH AREA FOR ALL ACTIVITIES WHICH MIGHT DAMAGE THE SOIL ABSORPTION SYSTEM.
  - ALARM PANEL TO BE INSTALLED AND LOCATED IN A CONSPICUOUS LOCATION.
  - H.W.H. MAP# 2 ESTIMATED HIGH GROUND WATER TABLE ELE.: <2'.
  - GROUND WATER APPROX 7' BELOW GRADE AS PER INSPECTION REPORT, 5/31/2007

**PROPOSED SCHEDULE OF ELEVATIONS**

INVERT EXIT HSE	7.34
INVERT INTO TANK	5.46

**AS-BUILT SCHEDULE OF ELEVATIONS**

INVERT EXIT M.H. FND.	_____
INVERT EXIT G./A. FND.	_____
INVERT INTO TANK	_____
INVERT EXIT TANK	_____
INVERT INTO D-BOX	_____
INVERT EXIT D-BOX	_____
INVERT BEGIN TRENCH	_____
INVERT END TRENCH	_____
BOTTOM OF BED	_____



**Burnham Engineering, Inc.**  
 81 Somerset Road  
 Nantucket, MA 02554  
 Phone: (508) 228-3306  
 Email: info@burnhamengineering.com

**MICHAEL CONNOLLY & ASSOCIATES, INC.**  
 PROFESSIONAL LAND SURVEYOR  
 149 SURFSIDE ROAD  
 NANTUCKET, MA 02554  
 PHONE: (508) 228-8910  
 C-7653

ADDRESS: 21 MASSACHUSETTS AVENUE, NANTUCKET MA, 02554  
 ASSESSORS MAP: 60.3.1-312 DATE: 2/4/2016 SCALE: 1" = 20'  
 OWNER: 21 MASSACHUSETTS AVENUE NOMINEE TRUST

THE PROPOSED STRUCTURE(S) AS SHOWN HEREON DOES(ES) NOT REPRESENT OR IMPLY CONFORMANCE WITH THE NANTUCKET ZONING BYLAW.

Shea

8 Walsh Street

(42.4.1-83)

SE48-2863



**SITE DESIGN ENGINEERING, LLC.**

11 Cushman Street, Middleboro, MA 02346

P: 508-967-0673 F: 508-967-0674

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## **NOTICE OF INTENT APPLICATION**

**Construction of an Addition to a Single Family Residence  
Within Land Subject to Coastal Storm Flowage and the  
Buffer Zone to an Isolated Vegetated Wetland**

**8 Walsh Street  
Nantucket, Massachusetts  
Portions of Map 42.4.1 Parcel 83**

*Prepared for:*

**Katherine Shea  
67 Goden Street  
Belmont, MA 02478**

*Prepared By:*

**Site Design Engineering, LLC  
11 Cushman Street  
Middleboro, MA 02346**

**February 5, 2016**

**SDE No.: 7038**

WPA FORM 3

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

**Important:**

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Note:  
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

8 Walsh Street  
a. Street Address

Nantucket  
b. City/Town

02554  
c. Zip Code

Latitude and Longitude:  
d. Latitude  
e. Longitude

42.4.1  
f. Assessors Map/Plat Number

83  
g. Parcel /Lot Number

2. Applicant:

Katherine  
a. First Name

Shea  
b. Last Name

c. Organization

67 Goden Street  
d. Street Address

Belmont  
e. City/Town

MA  
f. State

02478  
g. Zip Code

h. Phone Number

i. Fax Number

j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

a. First Name

b. Last Name

c. Organization

d. Street Address

e. City/Town

f. State

g. Zip Code

h. Phone Number

i. Fax Number

j. Email address

4. Representative (if any):

Mark  
a. First Name

Rits  
b. Last Name

Site Design Engineering, LLC  
c. Company

11 Cushman Street  
d. Street Address

Middleboro  
e. City/Town

MA  
f. State

02346  
g. Zip Code

508-802-5832  
h. Phone Number

508-967-0674  
i. Fax Number

mrits@sitedesigneng.com  
j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

\$110.00  
a. Total Fee Paid

\$42.50  
b. State Fee Paid

\$67.50  
c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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City/Town

## A. General Information (continued)

### 6. General Project Description:

Construct of an addition to an existing single family residence located within Land Subject to Coastal Storm Flowage and the buffer zone to a local Bylaw jurisdictional Isolated Vegetated Wetland.

### 7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

### 7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

- 1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

#### 2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

### 8. Property recorded at the Registry of Deeds for:

Nantucket

a. County

829

c. Book

b. Certificate # (if registered land)

239

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



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B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Table with 3 columns: Resource Area, Size of Proposed Alteration, Proposed Replacement (if any). Rows include Bank, Bordering Vegetated Wetland, and Land Under Waterbodies and Waterways.

Table with 3 columns: Resource Area, Size of Proposed Alteration, Proposed Replacement (if any). Rows include Bordering Land Subject to Flooding and Isolated Land Subject to Flooding.

- f. Riverfront Area
1. Name of Waterway (if available) - specify coastal or inland
2. Width of Riverfront Area (check one):
- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: square feet

4. Proposed alteration of the Riverfront Area:
a. total square feet b. square feet within 100 ft. c. square feet between 100 ft. and 200 ft.

5. Has an alternatives analysis been done and is it attached to this NOI? Yes No

6. Was the lot where the activity is proposed created prior to August 1, 1996? Yes No

3. Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Note: for coastal riverfront areas, please complete Section B.2.f. above.



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## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____	
	2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____
	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____	
	2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	
	1. cubic yards dredged _____	
l. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	220 _____	
	1. square feet _____	
4. <input type="checkbox"/> Restoration/Enhancement	If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.	
	_____ a. square feet of BVW	_____ b. square feet of Salt Marsh
5. <input type="checkbox"/> Project Involves Stream Crossings		
	_____ a. number of new stream crossings	_____ b. number of replacement stream crossings



# WPA Form 3 – Notice of Intent

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## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

**Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581**

- 2008 \_\_\_\_\_  
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area \_\_\_\_\_  
percentage/acreage

(b) outside Resource Area \_\_\_\_\_  
percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

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## C. Other Applicable Standards and Requirements (cont'd)

- (c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_fee_schedule.htm)). Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

- (d)  Vegetation cover type map of site
- (e)  Project plans showing Priority & Estimated Habitat boundaries
- (f) OR Check One of the Following

1.  Project is exempt from MESA review. Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed. Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?
- a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



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## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?  
 a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.  
 b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?  
 a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?  
 a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?  
 a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:  
 1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)  
 2.  A portion of the site constitutes redevelopment  
 3.  Proprietary BMPs are included in the Stormwater Management System.  
 b.  No. Check why the project is exempt:  
 1.  Single-family house  
 2.  Emergency road repair  
 3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



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## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Proposed Conditions Site Plan

a. Plan Title

Site Design Engineering, LLC

Daniel C. Mulloy, P.E.

b. Prepared By

c. Signed and Stamped by

February 4, 2016

See Plan

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

4847

2. Municipal Check Number

02/02/16

3. Check date

4877

4. State Check Number

02/02/16

5. Check date

Katherine

6. Payor name on check: First Name

Shea

7. Payor name on check: Last Name



# WPA Form 3 – Notice of Intent

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## F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

  
1. Signature of Applicant

2/2/16  
2. Date

3. Signature of Property Owner (if different)

4. Date  
03-FEB-2016

5. Signature of Representative (if any)

6. Date

### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a copy of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.

## PROJECT NARRATIVE

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

## PROJECT DESCRIPTION

### 8 Walsh Street NANTUCKET, MASSACHUSETTS

February 5, 2016

#### **INTRODUCTION**

The purpose of this Notice of Intent (NOI) application is to request approval from the Nantucket Conservation Commission (Commission) under the Massachusetts Wetlands Protection Act (WPA) and its implementing regulations (CMR) and the Town of Nantucket Wetlands Protection Bylaw (Bylaw) and its implementing regulations (Local Regs) for work within Land Subject to Coastal Storm Flowage and the buffer zone to a local Bylaw jurisdictional Isolated Vegetated Wetland resource area at 8 Walsh Street in Nantucket (Subject Property). The Proposed Project includes the construction of a small addition to an existing Single Family Residence (SFR) on a previously developed residential property.

This Notice of Intent application is presented by the following property owner:

8 Walsh Street  
(Map 42.4.1 Lot 83)  
Katherine Shea  
67 Goden Street  
Belmont, MA 02478

#### **SITE OVERVIEW & EXISTING CONDITIONS**

The Subject Property consists of an approximately 9.055 square foot lot located in a heavily developed residential area on the southern side of Walsh Street (see Figures 1 through 3). The Subject Property is located entirely within the 100-year flood zone AE (elevation 7) as determined from site specific topographic survey information and FEMA Flood Insurance Rate Map Community Panel Number 250019C 0086 G (June 9, 2014) (see Figure 6 and Site Plan) and is therefore entirely within Land Subject to Coastal Storm Flowage (LSCSF). There is a small I Isolated Vegetated Wetland (IVW), subject to protection under the Bylaw only, which extends onto the western portion of the Subject Property. (see Figure 4 and Site Plan). The Subject Property is currently a developed residential property and is the site of an SFR, detached garage, deck, shed, pervious driveway, and associated landscaping. To the west, north, and south, the Subject Property is bordered by developed residential properties. To the east, the Subject Property is bordered by Walsh Street, a paved public way, and residentially developed properties. The existing site development is located within LSCSF and is located partially within the 100-foot buffer zone to the IVW. Portions of the existing SFR are located within the 50-foot IVW buffer zone and portions of the detached garage are located within the 50-foot and 25-foot IVW buffer zones. Existing landscaping extends to the edge of the IVW. The entire Subject Property has been previously altered, developed, and landscaped. Recent structural work within the 50-foot IVW buffer zone has been approved on the properties to the northwest (4 Swain Street Map 42.4.1 Lot 82.3 permitted in March 2014) and south of the Subject Property (6 Walsh Street Map 42.4.1 Lot 84 permitted in November 2014)).

#### **PROPOSED ACTIVITIES**

The Proposed Project includes the construction of a small addition to the existing SFR on the Subject Property. All proposed activities will be located within LSCSF and within the buffer zone to the IVW. The proposed SFR addition is an infill addition and will be located within the 50-foot IVW buffer zone but will not be closer to the IVW than existing portions of the SFR or detached

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### ***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

garage. The proposed addition will be located approximately 34.9 feet from the IVW. The proposed SFR addition will be constructed on a pier foundation. The proposed SFR addition will have a footprint of approximately 220 square feet all of which will be located within the 50-foot IVW buffer zone. The Applicant is also proposing to relocate an existing outdoor shower to a portion of the Subject Property located an equal distance from the IVW (see Site Plan). All proposed site work will occur within previously altered and landscaped portions of the Subject Property. All structures will be constructed in compliance with state and local building codes for work within the flood zone. No grading or retaining walls are proposed as part of the Proposed Project. The proposed SFR addition will be a kitchen and bathroom expansion. It has been located on the western side of the existing SFR as a result of the interior configuration of the SFR. Placing the addition on the southern side of the SFR would require a complete reconfiguration of the interior of the SFR and is not a feasible alternative.

### **NHESP / MESA – EXEMPT FROM REVIEW**

The Subject Property is located entirely outside of mapped Estimated and Priority Habitat of Rare and Endangered Species as indicated on the 2008 NHESP Atlas available through MassGIS (see Figure 5).

### **EROSION / SEDIMENTATION CONTROL & CONSTRUCTION PROTOCOL**

In order to minimize impacts to the adjacent properties, The Applicant is proposing to install silt fencing along the edge of the landscaped area as shown on the Site Plan. All materials and equipment will be stored on previously altered and landscaped portions of the Subject Property outside of the 50-foot IVW buffer zone.

### **WETLAND RESOURCE AREAS**

The Proposed Project will occur within the following wetland resource areas subject to the jurisdiction of the Nantucket Conservation Commission under the State Wetlands Protection Act (WPA) and 310 CMR (CMR), the Nantucket Wetlands Protection Bylaw (Bylaw) and the Nantucket Wetland Protection Regulations (Local Regs):

- Land Subject to Coastal Storm Flowage (Figure 6 and Site Plan);
- Isolated Vegetated Wetland (Local Bylaw Jurisdiction Only) (See Figure 6 and Site Plan)

### **COMPLIANCE WITH STATE AND LOCAL PERFORMANCE STANDARDS**

The Proposed Project includes the construction of an SFR, garage, secondary dwelling, gazebo, pool, decks, pervious driveway, and associated landscaping on a previously developed residential property located within LSCSF.

#### ***State Wetlands Performance Standards***

#### **Land Subject to Coastal Storm Flowage**

While both the WPA and CMR define LSCSF, there are no performance standards for projects located within LSCSF.

The Proposed Project is located entirely within LSCSF no work is proposed within any other State listed Wetland Resource Areas or associated buffer zones. The Proposed Project is a small addition to an existing SFR on a previously altered and landscaped portion of a residentially developed property. The proposed structural addition will be built in compliance with state and local building codes for work within the flood zone. The Proposed Project will not have any adverse impacts on LSCSF.

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## ***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

## **Isolated Vegetated Wetland**

The IVW on the Subject Property does not qualify as a jurisdictional wetland resource area under the WPA and CMR and is only a jurisdictional wetland resource area under the Bylaw. A detailed discussion of compliance with local performance standards for the IVW is provided below.

### **Local Wetlands Performance Standards**

#### **Land Subject to Coastal Storm Flowage**

*“Land Subject to Coastal Storm Flowage or land within 100 feet of Land Subject to Coastal Storm Flowage shall be presumed significant to the Interests Protected by the Bylaw as referenced in Section A, therefore the following regulations shall apply:*

*(Specific resource areas that lie within the area of land subject to coastal storm flowage, and the wetland values they protect, are otherwise addressed elsewhere in these regulations. The regulations concerning those areas are additional to the regulations set forth in this section.)”*

##### **2.10B(1)**

*“The work shall not reduce the ability of the land to absorb and contain flood waters, or to buffer inland areas from flooding and wave damage.”*

The Proposed Project includes the construction of a small addition to an existing SFR located within LSCSF. The proposed structural addition will be constructed in compliance with state and local building codes for work within the flood zone. The Proposed Project does not include any grading or the construction of retaining walls and will not alter the ability of the Subject Property to contain flood waters or to buffer inland properties from flooding or wave damage.

##### **2.10B(2)**

*“Projects shall not cause ground, surface, or salt water pollution triggered by coastal storm flowage. All septic and leach facilities shall be located outside the 100-year floodplain.”*

The Proposed Project will not alter the flow of storm waters on the Subject Property and will not result in any ground, surface, or saltwater pollution. The proposed structural addition located within the flood elevation will be constructed in compliance with State and local building code for work within the flood zone. The Proposed Project will be connected to Town water and sewer and will not require the construction of any septic or leach facilities.

##### **2.10B(3)**

*“All private underground fuel tanks shall be outside the 100-year floodplain. Commercial tanks shall be outside the 100-year floodplain, or if the Commission determines this is not practicable, the commercial tanks shall be secured so that they cannot float loose.”*

This standard is not applicable. The Proposed Project does not include the installation of any underground fuel tanks.

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2.10B(4)

*“Building upon areas subject to coastal storm flowage in locations where such structure would be subject to storm damage may not be permitted. If permitted, all construction must be in compliance with all state and local building code regulations for flood hazard areas.”*

The Proposed Project includes the construction of a small addition to an existing SFR on a previously developed and landscaped residential property located within LSCSF. The proposed structural addition will be constructed in compliance with state and local building codes for work within the flood zone.

2.10B(5)

*“The Commission may impose such additional requirements as necessary to protect the Interests Protected under the Bylaw.”*

The Applicant acknowledges the right of the Commission to apply additional requirements to the Proposed Project in order to protect the Interests of the Bylaw.

### **Vegetated Wetlands**

*“Vegetated Wetlands or land within 100 feet of Vegetated Wetlands shall be presumed significant to the Interests Protected by the Bylaw as referenced in Section A, therefore the following regulations shall apply:”*

3.02B(1)

*“Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.”*

The proposed SFR addition will be located entirely within the 50-foot IVW buffer zone but will not be closer to the IVW than existing portions of the SFR or detached garage. Historically the entire 25-foot and 50-foot IVW buffer zones have been maintained as lawn and landscaping areas. The Applicant is proposing to maintain the historic use of this portion of the Subject Property. The Applicant understands that this portion of the Proposed Project may require a waiver under the Bylaw and therefore requests the necessary waiver (see Waiver Request section below). Additionally, the proposed SFR addition will be constructed on a pier foundation. The proposed pier foundation may be located within 2 feet of high groundwater. The Applicant understands that this portion of the Proposed Project may also require a waiver under the Bylaw and therefore requests the necessary waiver (see Waiver Request section below).

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3.02B(2)

*“Proposed projects shall not use procedures that the Commission determines changes the flood protection function (leveling out of storm surges by storing and slowly releasing water) of vegetated wetlands by significantly changing the rate of water flow through the wetlands (by channelization or other means).”*

The Proposed Project does not include any grading or placement of fill and has been designed not to have any adverse impact on the ability of the IVW to provide flood protection.

3.02B(3)

*“No permit shall be issued which authorizes the destruction of forested swamps. The Commission may authorize the excavation of other vegetated wetlands to create ponds or clear the edge of a pond if the project is designed to increase wildlife habitat diversity and to minimize groundwater or surface water loss.”*

This standard is not applicable. The Proposed Project does not include the excavation of any wetland resource areas.

3.02B(4)

*“The septic leach facility of a septic system shall be at least 100 feet from the vegetated wetland.”*

This standard is not applicable. The Proposed Project will be connected to town water and sewer.

3.02B(5)

*“Piers shall be constructed and maintained using procedures determined by the Commission to be the best available measures to minimize adverse effects on Interests protected by the Bylaw.”*

This standard is not applicable. The Proposed Project does not include the construction of any piers.

3.02B(6)

*“Elevated walkways determined to be water dependent designed not to affect existing vegetation shall be required for pedestrian passage over vegetated wetlands.”*

This standard is not applicable. The Proposed Project does not include the construction of any elevated walkways.

3.02B(7)

*“The Commission may impose such additional requirements as necessary to protect the Interests Protected under the Bylaw.”*

The Applicant acknowledges the right of the Commission to apply additional requirements to protect the Interests of the Bylaw.

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**SITE DESIGN ENGINEERING, LLC.**

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## **CONCLUSION**

The Proposed Project includes the construction of a small addition to an existing SFR. The proposed addition is an infill addition located in a corner of the existing structure. The proposed addition is a kitchen and bath remodel and cannot be located on another portion of the existing SFR without necessitating the complete redesign and reconstruction of the interior of the building. The proposed addition will be located within the 50-foot buffer zone to an IVW but will not be closer to the IVW than portions of the existing SFR, detached garage or recently permitted work on adjacent properties. The Subject Property is surrounded on all sides by residentially developed properties. All proposed structures will be constructed in compliance with state and local building codes for work within the flood zone. The Proposed Project will be connected to Town water and sewer and will not require any septic components. The proposed project does not include any grading or the construction of any retaining walls. The Proposed Project has been designed to minimize and avoid any adverse impacts to LSCSF. The Applicant understands that the proposed addition and pier foundation may require waivers under the Bylaw. All work is proposed within previously altered and landscaped portions of the Subject Property and will not affect any native vegetation. The Applicant feels that the Proposed Project has been designed to minimize or avoid adverse impacts to the IVW and associated buffer zones. Therefore, the Applicant respectfully requests that the Commission grant the necessary waivers (see Waiver Request section below) and approve the project as proposed.

---

## ***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346

P: 508-967-0673 F: 508-967-0674

## **WAIVER REQUEST**

### ***Proposed Addition***

The Applicant is proposing to construct a small addition to the existing SFR. The proposed addition is an infill addition that will be located entirely within the overall footprint of the existing SFR. The proposed addition is a kitchen and bath remodel and cannot be located on another portion of the structure without necessitating a complete redesign and reconstruction of the interior of the existing SFR. The proposed SFR addition will be constructed on a pier foundation and will be located entirely within the 50-foot IVW buffer zone. The proposed addition will not be closer to the IVW than portions of the existing SFR, detached garage, or recently permitted structural work on abutting properties. The proposed addition will be located within a previously altered and landscaped portion of the Subject Property and will not result in any significant new or additional adverse impacts to the IVW or associated buffer zones. Under the Bylaw the proposed addition may require a waiver for structures within the 50-foot IVW buffer zone and for the two-foot separation to high groundwater. Therefore, the Applicant is respectfully requesting the necessary waivers from the following sections of the Nantucket Wetlands Protection Bylaw:

#### ***3.02B(1)***

*“Proposed projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to the vegetated wetlands. All structures which are not water dependent shall be at least 50 feet from a vegetated wetland, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Fifty percent (50%) of the area between the 25-foot buffer and the 50-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high groundwater.”*

Although the proposed addition will be within the 50-foot IVW buffer zone, the proposed addition will be located entirely within the overall footprint of the existing SFR and will not be closer to the IVW than portions of the existing SFR, detached garage, or recently permitted structural work on adjacent properties and will be within previously altered and landscaped portions of the Subject Property. The proposed addition will not result in any new or additional adverse impacts to the IVW or associated buffer zones. The Applicant is requesting a waiver for the proposed addition which will be located within the 50-foot buffer zone to an IVW and for the two-foot separation to high groundwater for the proposed pier foundation under section 1.03F(3)(A) of the Bylaw which states the following:

#### ***Section 1.03F(3)(A):***

*“The Commission may grant a waiver from these regulations when the Commission finds that, given existing conditions, the proposed project will not adversely impact the interests identified in the Bylaw and there are no reasonable conditions or alternatives that would allow that project to proceed in compliance with the regulations. The burden of proof to show no adverse impact to the interests identified in the Bylaw, Chapter 136 Section 2, shall be the responsibility of the owner/applicant. The burden of proof to show no reasonable alternative shall be the responsibility of the owner/applicant and shall consist of a written alternatives analysis detailing why the proposed project can not otherwise proceed in compliance with the performance standards in these regulations with an explanation of why each is not feasible.*

*It shall be the responsibility of the applicant to provide the Commission with any information, which the Commission may request in order to enable the Commission to*

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## ***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346

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*ascertain such adverse effects. The failure of the applicant to furnish any information which has been so requested may result in the denial of a request for a waiver pursuant to this subsection.”*

The proposed addition is an infill addition that will be located entirely within the overall footprint of the existing SFR and will not be closer to the IVW than existing portions of the SFR, detached garage, or recently permitted structural work on adjacent properties and will be located within previously altered and landscaped portions of the Subject Property. Therefore, the Applicant feels that constructing the proposed addition within the 50-foot IVW buffer zone and within two feet of high groundwater will not result in any new or additional adverse impacts to the IVW or associated buffer zones.

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346

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## FIGURES

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674





8 Walsh Street - Nantucket, Massachusetts  
Map 42.4.1 Lot 83  
SDE Project No. 7038

Figure 2 - Site Overview  
February 2, 2016







8 Walsh Street - Nantucket, Massachusetts  
Map 42.4.1 Lot 83  
SDE Project No. 7038

Figure 4 - DEP Listed Wetland Boundaries  
February 2, 2016





8 Walsh Street - Nantucket, Massachusetts  
 Map 42.4.1 Lot 83  
 SDE Project No. 7038

Figure 5 - NHPSP Habitat  
 February 2, 2016





8 Walsh Street - Nantucket, Massachusetts  
 Map 42.4.1 Lot 83  
 SDE Project No. 7038

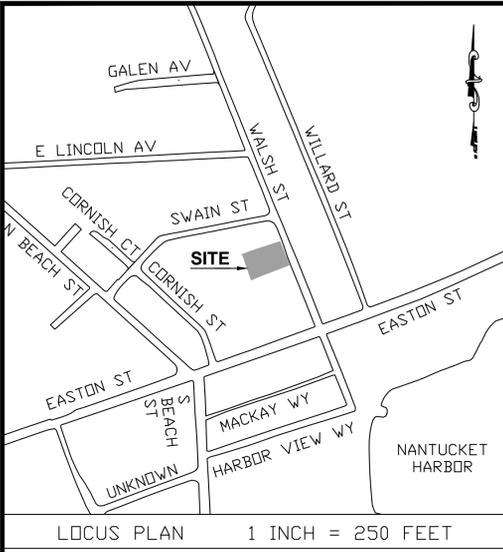
Figure 6 - FEMA Flood Zones  
 February 2, 2016



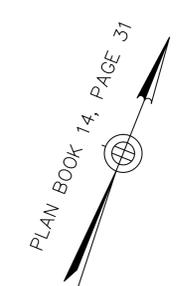


J. MARCKLINGER & ASSOCIATES, INC.  
 PROFESSIONAL LAND SURVEYORS  
 P.O. BOX 896  
 NANTUCKET, MA. 02554  
 (310) 945-7054

**SITE DESIGN  
 ENGINEERING, LLC.**  
 11 CUSHMAN STREET  
 MIDDLEBORO, MA 02346  
 T: 508-967-0673 F: 508-967-0674  
 WWW.SITEDESIGNENG.COM



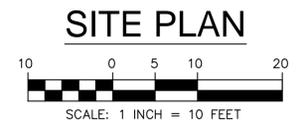
- SYMBOL LEGEND**
- EM ELECTRIC METER
  - C BASIN
  - C BASIN
  - WM WATER METER
  - GG GAS GATE
  - WETLAND FLAG



- GENERAL NOTES:**
- THE SITE IS LOCATED WITHIN A 100-YEAR FEMA FLOOD ZONE AE (ELEVATION 7) AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE MAP NUMBER 25019C0086G, DATED JUNE 9, 2014.
  - THIS PLAN AND ANY ACCOMPANYING CERTIFICATIONS DO NOT CONSTITUTE A CERTIFICATION OF TITLE TO THE PROPERTY DISPLAYED HEREON. THE OWNER OF LOCUS AND ABUTTING PROPERTIES ARE SHOWN ACCORDING TO CURRENT TOWN ASSESSORS RECORDS.
  - EXISTING CONDITIONS INFORMATION IS FROM RECORD PLANS. SITE DESIGN ENGINEERING HAS NOT COMPLETED A NEW EXISTING CONDITIONS SURVEY OF THE PROPERTY.
  - ELEVATIONS ARE REFERENCED TO 1934 H.T.L. DATUM.
  - EXISTING UTILITY LINES SHOWN ON THIS DRAWING ARE FROM AVAILABLE INFORMATION AND ARE APPROXIMATE LOCATIONS. THERE MAY BE EXISTING LINES OTHER THAN THOSE INDICATED. SITE DESIGN ENGINEERING ASSUMES NO RESPONSIBILITY FOR DAMAGES INCURRED AS A RESULT OF UTILITIES OMITTED OR INACCURATELY SHOWN. BEFORE PLANNING FUTURE CONNECTIONS, THE PROPER PUBLIC UTILITY DEPARTMENT SHOULD BE CONSULTED.

**ZONING REQUIREMENTS:**  
 THE SITE IS ZONED RESIDENTIAL 1 (R-1).

	REQUIRED	PROPOSED
LOT AREA	5,000 S.F.	9,033± S.F.
LOT FRONTAGE	50 FT.	72.43 FT.
FRONT YARD SETBACK	10 FT.	12.5± FT.
REAR YARD SETBACK	5 FT.	8.1± FT. GARAGE
SIDE YARD SETBACK	5 FT.	5.6± FT. GARAGE
GROUND COVER RATIO	30%	20.0% (1,810 S.F.)



NO.	DATE	DESCRIPTION	APPROVED

PLAN REVISIONS

DATE: FEBRUARY 4, 2016

DRAWN BY: DCM/JM    DESIGN BY: DCM    CHECK BY: DCM/JM

PROJECT NO. 7038

ISSUED FOR:

**APPROVAL**



**PROPOSED BUILDING ADDITION  
 SITE PLAN**

8 WALSH STREET  
 NANTUCKET, MA

TAX MAP 42.4.1, PARCEL 83  
 PREPARED FOR KATE SHEA  
 21 DWIGHT STREET, BROOKLINE, MA 02446

DRAWING TITLE:  
**PROPOSED  
 BUILDING ADDITION  
 SITE PLAN**

SCALE: **1" = 10'**

SHEET NO.

Welsh

101 Eel Point Road

(32-7)

SE48-2864



**SITE DESIGN ENGINEERING, LLC.**

11 Cushman Street, Middleboro, MA 02346

P: 508-967-0673 F: 508-967-0674

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## **NOTICE OF INTENT APPLICATION**

### **Relocation of an Existing Deck within the Coastal Bank Buffer Zone**

**101 Eel Point Road  
Map 32 Parcel 7**

*Prepared for:*

**William J. and Denise C. Welsh  
1088 Park Avenue #11A  
New York, NY 10128**

*Prepared By:*

**Site Design Engineering, LLC  
11 Cushman Street  
Middleboro, MA 02346**

**February 5, 2016**

**SDE No.: 13005**

WPA FORM 3

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

**Important:**

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Note: Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

## A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>101 Eel Point Road</u>	<u>Nantucket</u>	<u>02554</u>
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:	<u>41 17 37.59</u>	<u>70 10 05.46</u>
	d. Latitude	e. Longitude
<u>32</u>	<u>7</u>	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

<u>William J. &amp; Denise C.</u>	<u>Welsh</u>	
a. First Name	b. Last Name	
<u></u>	<u></u>	<u></u>
c. Organization		
<u>1088 Park Avenue #11A</u>		
d. Street Address		
<u>New York</u>	<u>NY</u>	<u>10128</u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

<u></u>	<u></u>	
a. First Name	b. Last Name	
<u></u>	<u></u>	<u></u>
c. Organization		
<u></u>	<u></u>	<u></u>
d. Street Address		
<u></u>	<u></u>	<u></u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

<u>Mark</u>	<u>Rits</u>	
a. First Name	b. Last Name	
<u>Site Design Engineering, LLC</u>		
c. Company		
<u>11 Cushman Street</u>		
d. Street Address		
<u>Middleboro</u>	<u>MA</u>	<u>02346</u>
e. City/Town	f. State	g. Zip Code
<u>508-802-5832</u>	<u>508-967-0674</u>	<u>mrits@sitedesigneng.com</u>
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$110.00</u>	<u>\$42.50</u>	<u>\$67.50</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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City/Town

## A. General Information (continued)

6. General Project Description:

Relocation of an existing detached deck/viewing platform within the 100-foot Coastal Bank buffer zone.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

- 1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

a. County

b. Certificate # (if registered land)

c. Book

d. Page Number

## B. Buffer Zone & Resource Area Impacts (temporary & permanent)

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



WPA Form 3 - Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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City/Town

B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Table with 3 columns: Resource Area, Size of Proposed Alteration, Proposed Replacement (if any). Rows include Bank, Bordering Vegetated Wetland, and Land Under Waterbodies and Waterways.

Table with 3 columns: Resource Area, Size of Proposed Alteration, Proposed Replacement (if any). Rows include Bordering Land Subject to Flooding and Isolated Land Subject to Flooding.

- f. Riverfront Area
1. Name of Waterway (if available) - specify coastal or inland
2. Width of Riverfront Area (check one):
- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: square feet

4. Proposed alteration of the Riverfront Area:
a. total square feet b. square feet within 100 ft. c. square feet between 100 ft. and 200 ft.

5. Has an alternatives analysis been done and is it attached to this NOI? Yes No

6. Was the lot where the activity is proposed created prior to August 1, 1996? Yes No

3. Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Note: for coastal riverfront areas, please complete Section B.2.f. above.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

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Nantucket

City/Town

## B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	1. square feet _____	
	2. cubic yards dredged _____	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	1. square feet _____	2. cubic yards beach nourishment _____
e. <input type="checkbox"/> Coastal Dunes	1. square feet _____	2. cubic yards dune nourishment _____
	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	1. linear feet _____	
g. <input type="checkbox"/> Rocky Intertidal Shores	1. square feet _____	
h. <input type="checkbox"/> Salt Marshes	1. square feet _____	2. sq ft restoration, rehab., creation _____
i. <input type="checkbox"/> Land Under Salt Ponds	1. square feet _____	
	2. cubic yards dredged _____	
j. <input type="checkbox"/> Land Containing Shellfish	1. square feet _____	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	
	1. cubic yards dredged _____	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	1. square feet _____	

4.  Restoration/Enhancement  
If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.

\_\_\_\_\_ a. square feet of BVW

\_\_\_\_\_ b. square feet of Salt Marsh

5.  Project Involves Stream Crossings

\_\_\_\_\_ a. number of new stream crossings

\_\_\_\_\_ b. number of replacement stream crossings



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Notice of Intent – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

- a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581

2008 \_\_\_\_\_  
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); OR complete Section C.1.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

- c. Submit Supplemental Information for Endangered Species Review\*

1.  Percentage/acreage of property to be altered:

(a) within wetland Resource Area 0 \_\_\_\_\_  
percentage/acreage

(b) outside Resource Area 0 \_\_\_\_\_  
percentage/acreage

2.  Assessor's Map or right-of-way plan of site

2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*

(a)  Project description (including description of impacts outside of wetland resource area & buffer zone)

(b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

## C. Other Applicable Standards and Requirements (cont'd)

- (c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/ mesa/ mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/ mesa/ mesa_fee_schedule.htm)). Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

- (d)  Vegetation cover type map of site
- (e)  Project plans showing Priority & Estimated Habitat boundaries
- (f) OR Check One of the Following

1.  Project is exempt from MESA review. Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhesp/regulatory\\_review/ mesa/ mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhesp/regulatory_review/ mesa/ mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed. Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?
- a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
1213 Purchase Street – 3rd Floor  
New Bedford, MA 02740-6694  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



# WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Nantucket

City/Town

## C. Other Applicable Standards and Requirements (cont'd)

**Online Users:**  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
- a.  Yes  No      If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
- b. ACEC
5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
- a.  Yes  No
6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
- a.  Yes  No
7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
- a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
  2.  A portion of the site constitutes redevelopment
  3.  Proprietary BMPs are included in the Stormwater Management System.
- b.  No. Check why the project is exempt:
1.  Single-family house
  2.  Emergency road repair
  3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

## D. Additional Information

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



# WPA Form 3 – Notice of Intent

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## D. Additional Information (cont'd)

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

Proposed Conditions Site Plan

a. Plan Title

Site Design Engineering, LLC

Daniel C. Mulloy, P.E.

b. Prepared By

c. Signed and Stamped by

February 5, 2016

See Plan

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

9.  Attach Stormwater Report, if needed.

## E. Fees

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

2. Municipal Check Number

3. Check date

4. State Check Number

5. Check date

Site Design Engineering, LLC.

6. Payor name on check: First Name

7. Payor name on check: Last Name



### WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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#### F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

*William J. Welch*

1. Signature of Applicant

*2/2/16*

2. Date

3. Signature of Property Owner (if different)

4. Date

*03-FEB-2016*

5. Signature of Representative (if any)

6. Date

#### For Conservation Commission:

Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

#### For MassDEP:

One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a copy of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

#### Other:

If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.

## PROJECT NARRATIVE

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674

## PROJECT DESCRIPTION

101 Eel Point Road  
NANTUCKET, MASSACHUSETTS

February 5, 2016

### **INTRODUCTION**

The purpose of this Notice of Intent (NOI) application is to request approval from the Nantucket Conservation Commission (Commission) under the Massachusetts Wetlands Protection Act (WPA), its implementing regulations (CMR), the Town of Nantucket Wetlands Protection Bylaw (Bylaw) and its implementing regulations (Local Regs) for work within the buffer zone to a Coastal B resource area at 101 Eel Point Road in Nantucket (Subject Property). The proposed work includes the relocation of an existing deck/viewing platform landward from the top of the Coastal Bank and the extension of an existing wooden walkway.

This NOI application is presented by the following property owners:

**William J. and Denise C. Welsh**  
(Map 32 Lot 7)  
1088 Park Avenue #11A  
New York, NY 10128

### **SITE OVERVIEW & EXISTING CONDITIONS**

The Subject Property consists of an approximately 8,700 square foot (0.20 acre) parcel located north of Eel Point Road (see Figures 1 through 3 and Site Plan). To the north the Subject Property is bordered by Nantucket Sound. To the east and west the Subject Property is bordered by residentially developed properties. To the south the Subject Property is bordered by Eel Point Road, an unpaved public way, and an undeveloped property.

The portion of the Subject Property bordering Nantucket Sound is comprised of a steep eroding Coastal Bank. Glacial Soils are periodically visible along the seaward portion of the Coastal Bank. The Coastal Bank is fronted by a gently sloping medium- to fine-grained Coastal Beach. There is no vegetation on the upper Coastal Beach or on the face of the Coastal Bank. The extent of the Coastal Bank resource area was previously delineated as part of NOI SE48-2572 which was issued on July 23, 2013. A Certificate of Compliance (COC) was issued for work performed under SE48-2572. However, the delineation of the resource area is valid until July 23, 2016.

#### ***Land Subject to Coastal Storm Flowage (LSCSF)***

The Coastal Beach and lower portions of the Coastal Bank are located within the 100-year flood zone A5 (elevation 8) as determined from the Digital FEMA Q3 Flood Maps available from MassGIS (see Figure 6 and Site Plan) and therefore a portion of the Subject Property is within Land Subject to Coastal Storm Flowage (LSCSF). However, all proposed activities will be located landward of the top of the Coastal Bank and will therefore be outside of LSCSF.

#### ***Existing Development***

The Subject Property is currently developed and is the site of a single family residence (SFR), attached deck, detached deck/viewing platform, driveway, and associated landscaping (See Figures 2, 3 and Site Plan). The existing SFR was relocated under SE48-2572. Additionally, the Applicant has previously received an Order of Conditions (OOC) to construct a restored and

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### ***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346  
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enhance a coastal dune along the seaward portion of the Subject Property (SE48-2534 issued March 6, 2013). That work has been completed in compliance with the conditions set forth in SE48-2534 and is currently being maintained.

### **PROPOSED ACTIVITIES**

#### *Deck/Viewing Platform Relocation*

The existing detached deck/viewing platform is located approximately 4 feet from the top of the Coastal Bank. The Applicant is proposing to relocate the existing detached deck/viewing platform landward and attach it to the existing SFR and deck placing it approximately 31 feet from the top of the Coastal Bank (see Site Plan). The location of the existing detached deck/viewing platform will be replanted with American beach grass.

#### *Walkway Extension*

An existing wooden boardwalk and removable aluminum beach access stairway are found on the northern portion of the Subject Property. The Applicant is proposing to maintain the existing stairway (as permitted under SE48-2534) and to extend the existing wooden boardwalk such that it connects to the relocated deck (see Site Plan). The extended walkway will provide pedestrian access to the beach and will minimize impacts to the portion of the buffer zone which will be restored following the relocation of the existing SFR.

### **NHESP / MESA**

The Subject Property is located entirely within mapped Priority Habitat of Rare and Endangered Species as indicated on the 2008 Natural Heritage Endangered Species Program (NHESP) Atlas available through MassGIS (see Figure 5). A copy of this NOI application will be submitted to NHESP for review under the WPA and MESA.

### **EROSION / SEDIMENTATION CONTROL & CONSTRUCTION PROTOCOL**

In order to minimize impacts to the coastal resource areas and associated buffer zones, the majority of work associated with the SFR relocation will be staged from the upland portion of the Subject Property. The existing detached deck/viewing platform will be removed and attached to the existing deck/SFR using hand held tools. No significant excavation or site alteration will be required to perform the proposed work. Upon completion of the relocation, open areas will be replanted using American beach grass.

### **WETLAND RESOURCE AREAS**

The Proposed Project is a buffer zone project. All work associated with the Proposed Project will be located in the following wetland resource area buffer zones subject to the jurisdiction of the Nantucket Conservation Commission under the State Wetlands Protection Act (WPA) and 310 CMR (CMR), the Nantucket Wetlands Protection Bylaw (Bylaw) and the Nantucket Wetland Protection Regulations (Local Regs):

- 100-foot Coastal Bank Buffer Zone (Figure 4 and Site Plan)

### **COMPLIANCE WITH STATE AND LOCAL PERFORMANCE STANDARDS**

The relocation of the existing detached deck/viewing platform will occur within the 100-foot buffer zone to the top of the Coastal Bank.

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## ***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346

P: 508-967-0673 F: 508-967-0674

## **State Wetlands Performance Standards**

### **Coastal Banks**

*"WHEN A COASTAL BANK IS DETERMINED TO BE SIGNIFICANT TO STORM DAMAGE PREVENTION OR FLOOD CONTROL BECAUSE IT SUPPLIES SEDIMENT TO COASTAL BEACHES, COASTAL DUNES, OR BARRIER BEACHES, 310 CMR 10.30(3) through (5) SHALL APPLY:"*

#### *310 CMR 10.30(3)*

*"No new bulkhead, revetment, seawall, groin, or other coastal engineering structure shall be permitted on such a coastal bank except that such a coastal engineering structure shall be permitted when required to prevent storm damage to buildings constructed prior to the effective date of 310 CMR 10.21 through 10.37 or constructed pursuant to a Notice of Intent filed prior to the effective date of 310 CMR 10.21 through 10.37 (August 10, 1978), including reconstructions of such buildings subsequent to the effective date of 310 CMR 10.21 through 10.37, provided that the following requirements are met:*

- (a) a coastal engineering structure or a modification thereto shall be designed and constructed so as to minimize, using best available measures, adverse effects on adjacent or nearby coastal beaches due to changes in wave action, and*
- (b) the applicant demonstrates that no method of protecting the building other than the proposed coastal engineering structure is feasible.*
- (c) protective plantings designed to reduce erosion may be permitted."*

This standard is not applicable. The Proposed Project does not include the construction of any coastal engineering structures on the Coastal Bank. The Proposed Project includes the relocation of an existing detached deck/viewing platform away from the top of a Coastal Bank.

#### *310 CMR 10.30(4)*

*"Any project on a coastal bank or within 100 feet landward of the top of a coastal bank, other than a structure permitted by 310 CMR 10.3(3), shall not have an adverse effect due to wave action on the movement of sediment from the coastal bank to coastal beaches or land subject to tidal action."*

The Proposed Project includes the relocation of an existing detached deck/viewing platform away from the top of a Coastal Bank and will not have an adverse effect on the ability of the Coastal Bank to function as a sediment source.

#### *310 CMR 10.30(5)*

*"The Order of Conditions and the Certificate of Compliance for any new building within 100 feet landward of the top of a coastal bank permitted by issuing authority under M.G.L. c. 131, § 40 shall contain the specific condition : 310 CMR 10.30(3), promulgated under M.G.L. c. 131, § 40, requires that no coastal engineering structure, such as a*

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*bulkhead, revetment, or seawall shall be permitted on an eroding bank at any time in the future to protect the project allowed by this Order of Conditions."*

This standard is not applicable. The Proposed Project does not include the construction of any new buildings or coastal engineering structure on the Coastal Bank. The Proposed Project includes the relocation of an existing detached deck/viewing platform away from the top of a Coastal Bank.

*"WHEN A COASTAL BANK IS DETERMINED TO BE SIGNIFICANT TO STORM DAMAGE PREVENTION OR FLOOD CONTROL BECAUSE IT IS A VERTICAL BUFFER TO STORM WATERS, 310 CMR 10.20(6) through (8) SHALL APPLY:"*

*310 CMR 10.30(6)*

*"Any project on such a coastal bank or within 100 feet landward of the top of such a coastal bank shall have no adverse effects on the stability of the coastal bank."*

The Proposed Project includes the relocation of an existing detached deck/viewing platform away from the top of the Coastal Bank and will not have an adverse impact on the stability of the Coastal Bank.

*310 CMR 10.30(7)*

*"Bulkheads, revetments, seawalls, groins or other coastal engineering structures may be permitted on such a coastal bank except when such bank is significant to storm damage prevention or flood control because it supplies sediment to coastal beaches, coastal dunes, and barrier beaches."*

This standard is not applicable. The Proposed Project does not include the construction of any bulkheads, revetments, seawalls, groins, or other coastal engineering structures.

*310 CMR 10.30(8)*

*Notwithstanding the provisions of 310 CMR 10.30(3) through (7), no project may be permitted which will have any adverse effect on specified habitat sites of rare vertebrate or in vertebrate species, as identified by procedures established under 310 CMR 10.37."*

Portions of the Proposed Project will be located within mapped NHESP Estimated or Priority Habitat of Rare or Endangered Species as indicated on the 2008 NHESP Atlas (MassGIS Edition) (see Figure 5). A copy of this NOI application will be submitted to NHESP for review under the WPA and MESA regulations.

### **Local Wetlands Performance Standards**

#### **Coastal Banks**

*"Coastal Banks or Land within 100 feet of a Coastal Bank shall be presumed significant to the Interests Protected by the Bylaw as referenced in Section A, therefore the following regulations shall apply."*

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## **SITE DESIGN ENGINEERING, LLC.**

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2.05B(1)

*"No new bulkheads, coastal revetments, groin, or other coastal engineering structures shall be permitted to protect structures constructed, or substantially improved, after 8/78 except for public infrastructures. Bulkheads and groins may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem, including in appropriate cases the moving of the threatened buildings and/or public infrastructure. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure that has not been substantially improved or public infrastructure built prior to 9/78, from imminent danger."*

This standard is not applicable. The Proposed Project does not include the construction of any coastal engineering structures.

2.05B(2)

*"Piers shall be constructed in compliance with the Town of Nantucket Zoning Bylaws using procedures determined by the Commission to be the best available measures to minimize adverse effects on Interests Protected by the Bylaw."*

This standard is not applicable. The Proposed Project does not include the construction of any piers.

2.05B(3)

*"All projects shall be restricted to activity as determined by the Commission to have no adverse effect on bank height, bank stability, wildlife habitat, vegetation, wetland scenic view, or the use of a bank as a sediment source."*

The Proposed Project includes the relocation of an existing detached deck/viewing platform from its current location which is 4 feet from the top of a Coastal Bank to a proposed location in excess of 31 feet from the top of the Coastal Bank and will result in a net enhancement/benefit to the resource area.

2.05B(4)

*"Elevated walkways designed not to affect bank vegetation shall be required for pedestrian passage over a bank."*

An existing set of beach stairs is currently maintained on the Subject Property (SE48-2534). The Applicant is proposing to extend the existing wooden boardwalk so that it connects to the relocated deck.

2.05B(5)

*"All projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to a coastal bank. All structures which are not water dependent shall be at least 50 feet from a coastal bank."*

The Proposed Project includes the relocation of an existing detached deck/viewing platform from within the 25-foot Coastal Bank buffer zone to a location inside of the 50-foot Coastal Bank

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buffer zone. The proposed work may require a waiver under the bylaw (see Waiver Request Section below).

*2.05B(6)*

*"The septic leach facility of a septic system shall be at least 100 feet from the top of the coastal bank and shall not be located within the face of the coastal bank."*

This standard is not applicable. The Proposed Project does not include the construction of a new septic system.

*2.05B(7)*

*"In areas of eroding shoreline, the distance from all new structures to the coastal bank shall be at least 20 times the average annual shoreline erosion or 100 feet, whichever is the lesser. The average annual shoreline erosion rate shall be determined by averaging the annual erosion over 150-year period ending the date the NNOI was filed, or if no NNOI was filed, the date construction began. If erosion data is not available for the 150-year period, the Commission shall determine the average annual erosion rate from such lesser time for which erosion data is available. In cases where documentation can be provided to show that use of the 150-year period is inappropriate to existing coastal shoreline characteristics and trends, alternate shoreline change rates may be used with the approval of the Commission."*

The Proposed Project includes the relocation of an existing detached deck/viewing platform on the Subject Property. The detached deck/viewing platform will be relocated to a location which is in excess of 31 feet landward of the top of the existing Coastal Bank and will be attached to the existing SFR and deck.

*2.05B(8)*

*All permits issued for the construction of buildings under the Bylaw within 100 feet landward of the top of a coastal bank shall contain the specific condition that no coastal engineering structure of any kind shall be permitted on an eroding bank in the future to protect the project allowed by this permit, except those coastal engineering structures allowed by a waiver issued pursuant to Section 1.03F of these regulations."*

This standard is not applicable. The Proposed Project does not include the construction of any new buildings.

*2.05B(9)*

*"The Commission may impose such additional requirements as are necessary to protect the Interests Protected by the Bylaw."*

The Applicant acknowledges the right of the Commission to apply additional requirements to protect the Interests of the Bylaw.

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**Estimated Habitat for Rare/Significant Wildlife and Rare/Significant Flora and Fauna (for Coastal Wetlands)**

*"Estimated habitat areas shall be presumed significant to the Interests Protected by the Bylaws as referenced in Section A, therefore the following regulations shall apply:"*

**2.11B(1)**

*"No activity shall be permitted that alters existing vegetation within 25 feet of verified rare/significant species habitat."*

A copy of this NOI Application will be submitted to NHESP for review under both the MESA and WPA regulations. The Proposed Project is a relocation project and will not increase the overall alteration of the Subject Property. The majority of the proposed activities will occur within previously altered portions of the Subject Property.

**2.11B(2)**

*"No activity shall be permitted that results in the construction or enlargement of a structure within 50 feet of verified rare/significant species habitat."*

A copy of this NOI Application will be submitted to NHESP for review under both the MESA and WPA regulations. The majority of the proposed activities will occur within previously altered portions of the Subject Property.

**2.11B(3)**

*"No alteration of topography (filling or cutting) and/or drainage characteristics shall be permitted within 50 feet of verified rare/significant species habitat."*

A copy of this NOI Application will be submitted to NHESP for review under both the MESA and WPA regulations. The majority of the proposed activities will occur within previously altered portions of the Subject Property.

**2.11B(4)**

*"No new construction or enlargement of drainage facilities within 25 feet of verified rare/significant species habitat shall be permitted."*

A copy of this NOI Application will be submitted to NHESP for review under both the MESA and WPA regulations. The majority of the proposed activities will occur within previously altered portions of the Subject Property.

**2.11B(5)**

*"No part of any septic system shall be placed within 50 feet and no leaching facility shall be placed within 100 feet of a verified rare/significant species habitat."*

A copy of this NOI Application will be submitted to NHESP for review under both the MESA and WPA regulations. The majority of proposed activities will occur within previously altered portions of the Subject Property.

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2.11B(6)

*"The Commission may impose such additional requirements as are necessary to protect the Interests Protected by the Bylaw."*

The Applicant acknowledges the right of the Commission to apply additional requirements to protect the Interests of the Bylaw.

**CONCLUSION**

The Proposed Project includes the relocation of an existing detached deck/viewing platform which is located approximately 4 feet from the top of a Coastal Bank to a location in excess of 31 feet from the top of the Coastal Bank. The detached deck/viewing platform is being relocated to the maximum feasible distance from the top of the Coastal Bank. The Proposed Project, as designed, will move an existing structure away from the resource area thereby enhancing and benefiting the resource area. The Proposed Project includes work within coastal resource area buffer zones (Coastal Bank). The Proposed Project is a retreat project which consists of relocation of an existing detached deck/viewing platform away from the resource area. The Applicant respectfully requests that the Commission grant permission to construct the project as proposed.

**WAIVER REQUEST**

***Proposed Addition***

The Applicant is proposing to relocate an existing detached deck/viewing platform landward away from the top of the Coastal Bank. The existing deck/viewing platform is located approximately 4 feet from the top of the Coastal Bank and will be relocated to a position approximately 31 feet from the top of the Coastal Bank. Under the Bylaw the proposed relocation may require a waiver for structures within the 50-foot Coastal Bank buffer zone. Therefore, the Applicant is respectfully requesting the necessary waivers from the following sections of the Nantucket Wetlands Protection Bylaw:

2.05B(5)

*"All projects which are not water dependent shall maintain at least a 25-foot natural undisturbed area adjacent to a coastal bank. All structures which are not water dependent shall be at least 50 feet from a coastal bank."*

Although the proposed relocation will be within the 50-foot Coastal Bank buffer zone, the proposed relocation will move the existing structure away from the top of the Coastal Bank resulting in a significant net benefit to the resource area and associated buffer zones. The area vacated by the existing deck/viewing platform will be replanted with American beach grass. The Applicant is requesting a waiver for the proposed relocation which will be located within the 50-foot buffer zone to a Coastal Bank under section 1.03F(3)(A) of the Bylaw which states the following:

*Section 1.03F(3)(C):*

*"The Commission may grant a waiver from these regulations when the Commission finds that a project will provide a long-term net benefit/improvement to the resource area, provided any adverse effects are minimized by carefully considered conditions. However, no such project may be permitted which could have an adverse effect on rare wildlife species."*

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The proposed relocation will place an existing structure which is currently 4 feet from the top of the Coastal Bank to a location in excess of 31 feet from the top of the Coastal Bank. The area vacated by the existing detached deck/viewing platform will be replanted with American beach grass. The proposed project will result in a significant net benefit to the resource area and associated buffer zones. Therefore, the Applicant requests that the Commission grant the necessary waiver and approve the Project as proposed.

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***SITE DESIGN ENGINEERING, LLC.***

11 Cushman Street, Middleboro, MA 02346

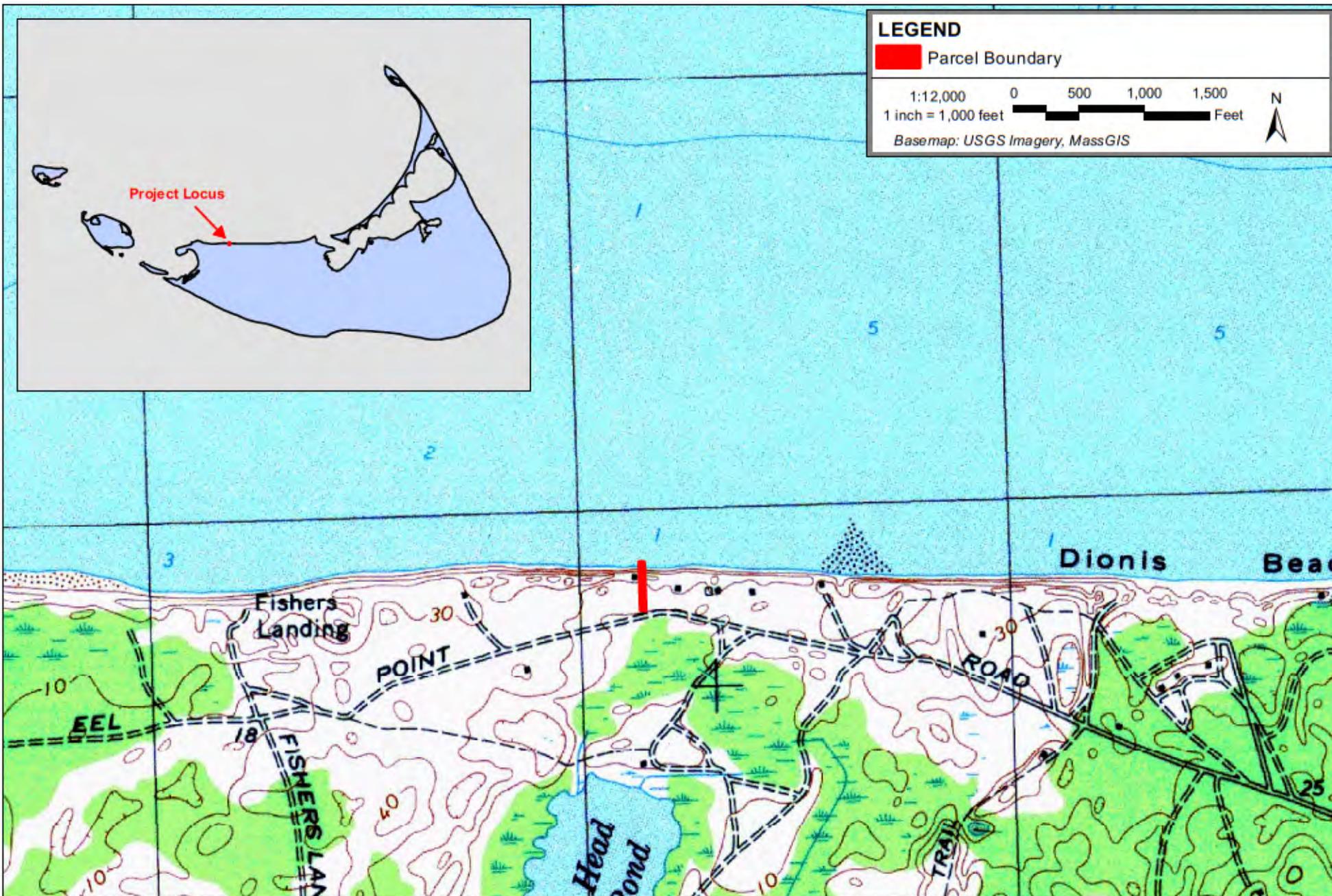
P: 508-967-0673 F: 508-967-0674

## FIGURES

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***SITE DESIGN ENGINEERING, LLC.***

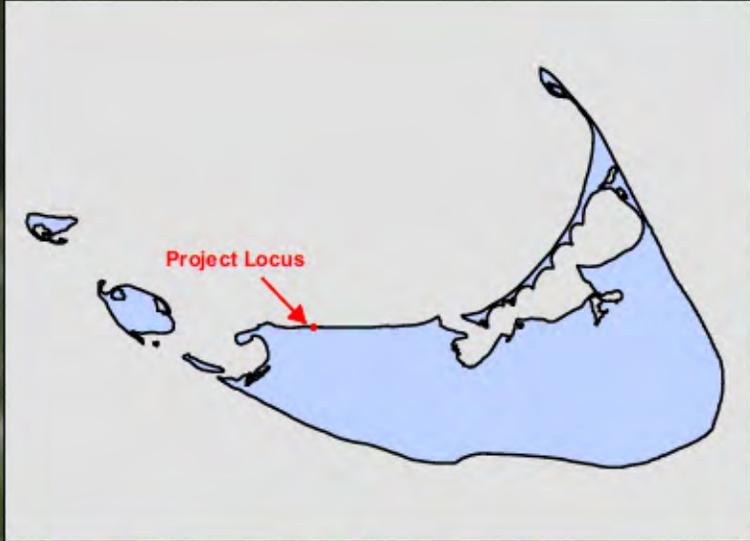
11 Cushman Street, Middleboro, MA 02346  
P: 508-967-0673 F: 508-967-0674



101 Eel Point Road - Nantucket, Massachusetts  
 Map 32 Lot 7  
 SDE Project No. 13005

Figure 1 - USGS Locus Map  
 February 4, 2016





**LEGEND**

 Parcel Boundary

1:12,000    0    500    1,000    1,500  
1 inch = 1,000 feet     Feet    

Basemap: 2014 Orthophotography, MassGIS



101 Eel Point Road - Nantucket, Massachusetts  
Map 32 Lot 7  
SDE Project No. 13005

Figure 2 - Site Overview  
February 4, 2016





101 Eel Point Road - Nantucket, Massachusetts  
 Map 32 Lot 7  
 SDE Project No. 13005

Figure 3 - Detailed Site Overview  
 February 4, 2016

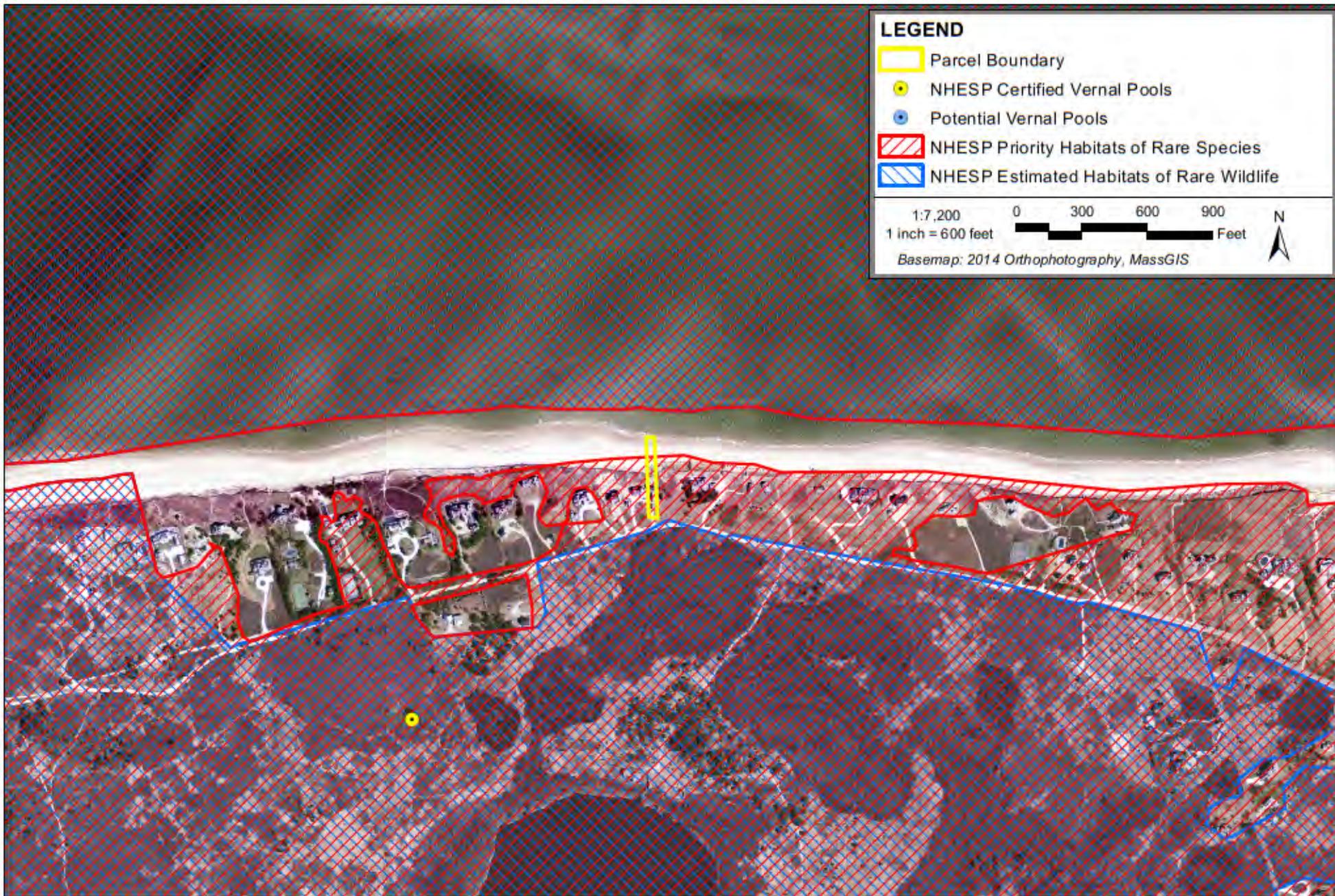




101 Eel Point Road - Nantucket, Massachusetts  
 Map 32 Lot 7  
 SDE Project No. 13005

Figure 4 - DEP Listed Wetland Boundaries  
 February 4, 2016





**LEGEND**

- Parcel Boundary
- NHESP Certified Vernal Pools
- Potential Vernal Pools
- NHESP Priority Habitats of Rare Species
- NHESP Estimated Habitats of Rare Wildlife

1:7,200  
1 inch = 600 feet

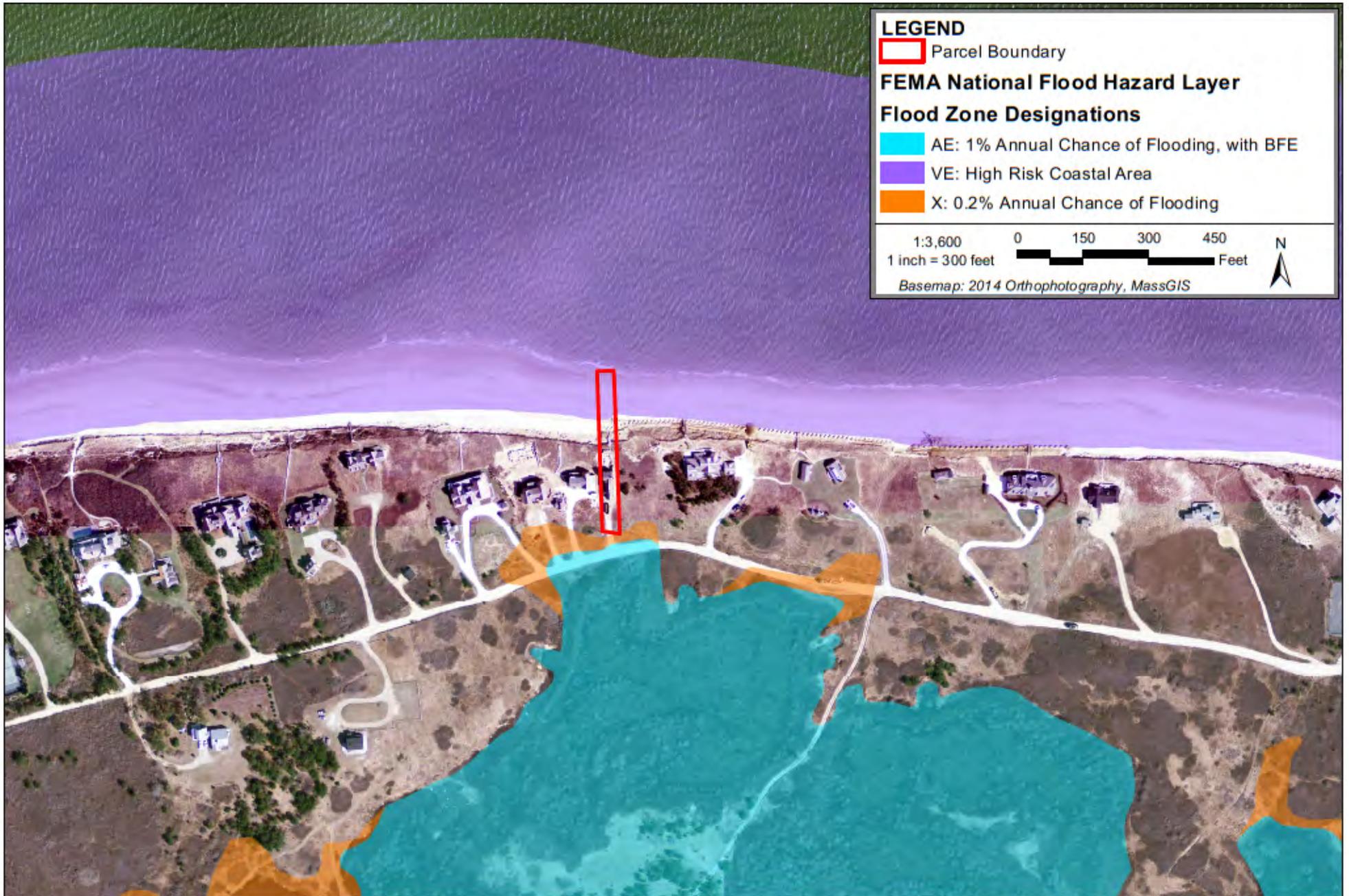
0 300 600 900 Feet

Basemap: 2014 Orthophotography, MassGIS

101 Eel Point Road - Nantucket, Massachusetts  
Map 32 Lot 7  
SDE Project No. 13005

Figure 5 - NHESP Habitat  
February 4, 2016



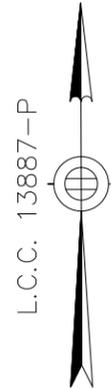
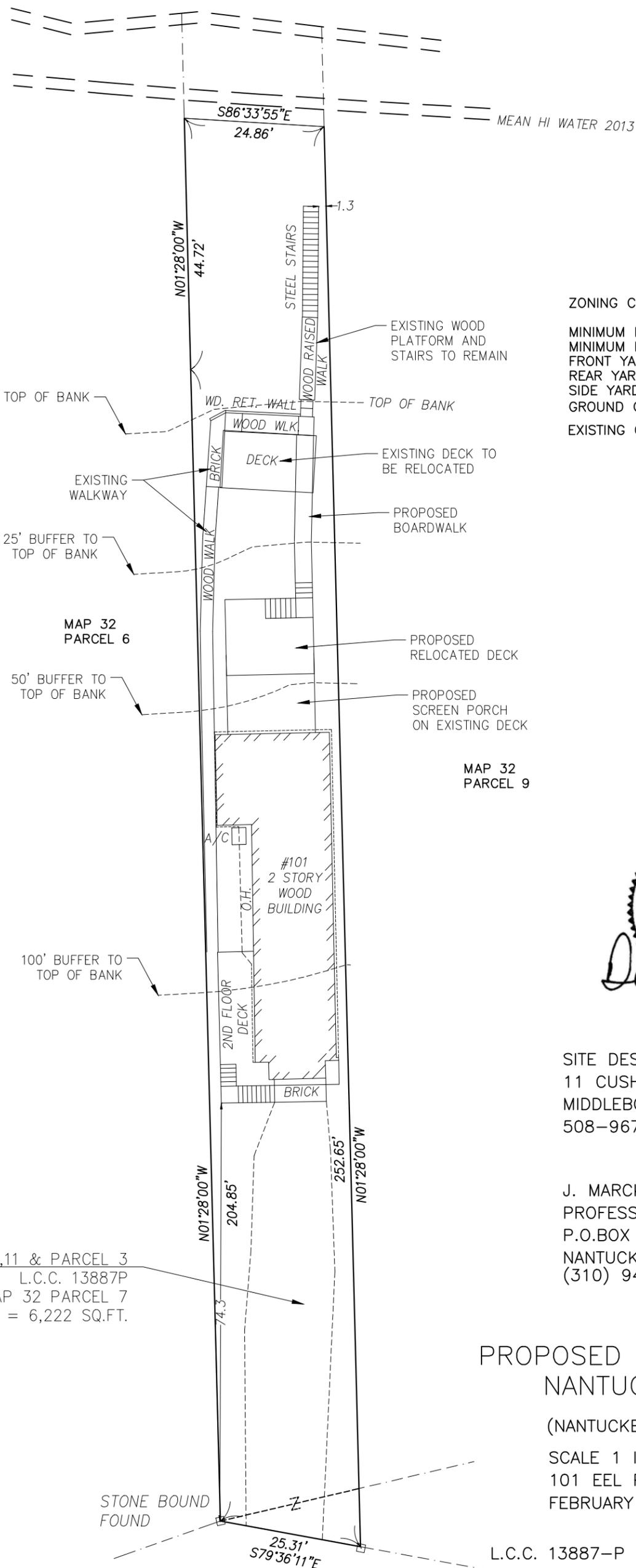


101 Eel Point Road - Nantucket, Massachusetts  
 Map 32 Lot 7  
 SDE Project No. 13005

Figure 6 - FEMA Flood Zones  
 February 4, 2016



# NANTUCKET SOUND



ZONING CLASSIFICATION: LUG-2

MINIMUM LOT SIZE = 80,000 SQ. FT.  
 MINIMUM FRONTAGE = 150 FT.  
 FRONT YARD SETBACK = 35 FT.  
 REAR YARD SETBACK = 15 FT.  
 SIDE YARD SETBACK = 15 FT.  
 GROUND COVER RATIO = 4%  
 EXISTING GROUND COVER RATIO = 15.5%



SITE DESIGN ENGINEERING LLC  
 11 CUSHMAN STREET  
 MIDDLEBORO, MA 02346  
 508-967-0673

J. MARCKLINGER & ASSOCIATES  
 PROFESSIONAL LAND SURVEYORS  
 P.O. BOX 896  
 NANTUCKET, MA. 02554  
 (310) 945-7054

## PROPOSED BUILDING PLAN NANTUCKET, MA.

(NANTUCKET COUNTY)

SCALE 1 IN. = 20 FT  
 101 EEL POINT ROAD  
 FEBRUARY 4, 2016

L.C.C. 13887-P CERT: 16014  
 DEED BOOK 430, PAGE 5

ASSESSORS MAP 32, PARCEL 7  
 PREPARED FOR: WILLIAM & DENISE WELSH

# EEL POINT ROAD

LOTS 8, 11 & PARCEL 3  
 L.C.C. 13887P  
 MAP 32 PARCEL 7  
 AREA = 6,222 SQ.FT.

MAP 32  
 PARCEL 6

MAP 32  
 PARCEL 9

STONE BOUND  
 FOUND

# AMENDED ORDER OF CONDITIONS REQUESTS

Mscisz

51 Crooked Lane

(41-531)

SE48-2737

# Haines Hydrogeologic Consulting

specialising in groundwater & wetlands

141 Old Enfield Road  
Belchertown  
Mass. 01007  
413 323 7156  
Fax 413 323 4776

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

February 4, 2016

Re: Request for Amended Order of Conditions – Mscisz Site, 51 Crooked Lane,  
Nantucket, MA Map 41 Parcel 53 DEP #SE48-2737

Dear Commission Members:

This letter is to request an amendment to the Order of Conditions for the above-referenced project. The amendment involves a reconfiguration of the existing deck on the house. Since the proposed deck will encroach on the 50-foot no-structure setback to a Bordering Vegetated Wetland, a waiver from the *Nantucket Wetland By-law* is required and is being sought. The current Order of Conditions allows for the construction of a pool, repair/replacement of the existing retaining wall, construction of steps, construction of a patio and accessory structure, dewatering, invasive species management, restoration of buffer zone, grading, landscaping and installation of utilities. Of these activities, the repair of the retaining wall and construction of steps were within 50 feet of the wetland boundary and were granted a waiver. The retaining wall is being repaired and steps are being constructed. The steps were incorporated into the retaining wall so that they were farther from the wetland boundary than approved.

A portion of the expansion of the existing two-story deck will be within 50 feet of the wetland boundary but will be landward of the retaining wall. A small portion of the existing deck extends into the 50-foot setback. The deck will be on piers. The deck will also have a spiral staircase. The steps are being proposed on the deck to avoid an existing door but will be within 50 feet of the wetland. A waiver from the by-law is being requested to allow for the construction of this portion of the deck.

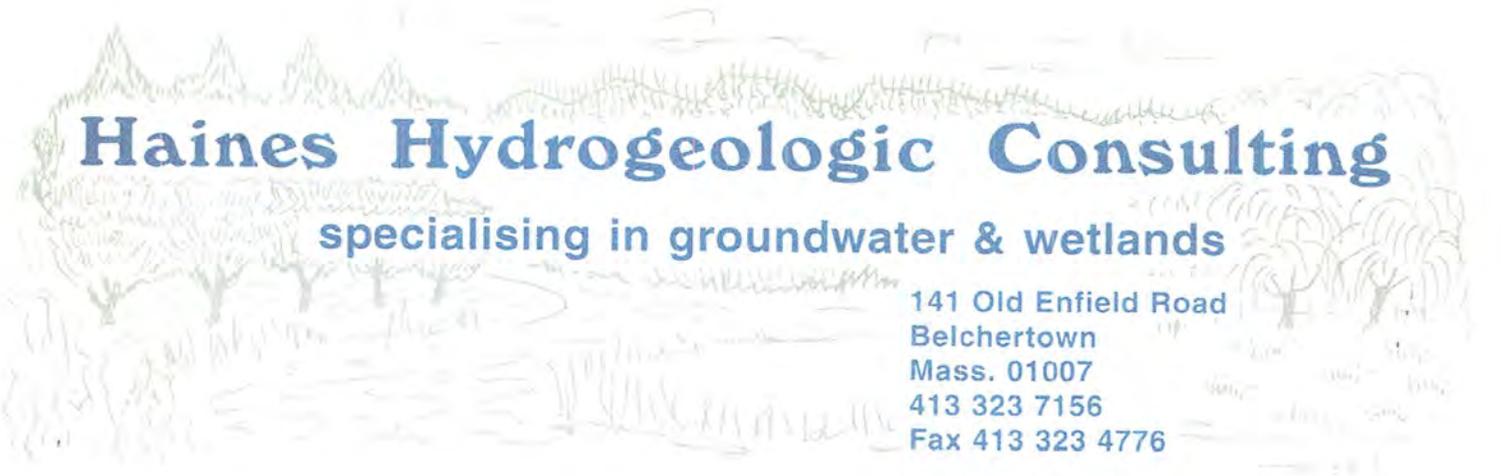
All other work is being done as proposed. Thank you for considering this request.

Yours truly,

  
David M. Haines, Hydrogeologist/Wetland Scientist

Cc: Edward King

Encl.



# Haines Hydrogeologic Consulting

specialising in groundwater & wetlands

141 Old Enfield Road  
Belchertown  
Mass. 01007  
413 323 7156  
Fax 413 323 4776

Nantucket Conservation Commission  
2 Bathing Beach Road  
Nantucket, MA 02554

February 4, 2016

Re: Waiver Request for Amended Order of Conditions– Mscisz Site, 51 Crooked Lane, Nantucket

Dear Commission Members:

This letter is to request a waiver from the *Nantucket Wetlands By-law* for work on structures within 50 feet of a Bordering Vegetated Wetland. The entire existing house is within the 100-foot Buffer Zone to the Bordering Vegetated Wetlands on the site.

The approved work involves the construction of a pool, a cabana and patio for an existing house. The entire upland area of the site is within the 100-foot Buffer Zone to Bordering Vegetated Wetlands. The work does include repair of an existing retaining wall and the installation of stairs, both of which are within 50 feet of the wetland boundary and require waivers from the *By-law*.

Waivers may be granted when a “project will not adversely impact the interests identified in the *By-law* and there are no reasonable conditions or alternatives that would allow the project to proceed in compliance with the regulations”.

The previously approved steps have been relocated and incorporated into the repaired retaining wall, and thereby have moved farther from the wetland boundary. The amended work involves the expansion of the existing two-story deck. The expansion extends into the 50-foot no-structure setback and therefore requires a waiver. A small portion of the existing deck already extends into the 50-foot setback. The deck will be landward of the existing bulkhead and will be on piers. The expansion into the 50-foot setback is to accommodate a spiral staircase and to not block an existing doorway.

The proposed deck expansion involves an existing deck and incorporates a set of stairs which cannot be placed in front of the existing door. Therefore, there is no other reasonable location.

Since the work will not adversely impact the resource areas and there is no other reasonable alternative, a waiver from the *Nantucket Wetland By-law* may be granted.

Thank you for considering this request. Please call if you have any questions.

Yours truly,

A handwritten signature in black ink, appearing to read "D. Haines", written over a light blue horizontal line.

David M. Haines  
Hydrogeologist/Wetland Scientist



2015 00000295

Bk: 1470 Pg: 243 Page: 1 of 17  
Doc: OOC 01/30/2015 03:42 PM



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

### WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40  
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:  
SE48-2737  
MassDEP File #

eDEP Transaction #  
Nantucket  
City/Town

#### A. General Information

1. From: Nantucket  
Conservation Commission

2. This issuance is for (check one):  
a.  Order of Conditions b.  Amended Order of Conditions

3. To: Applicant:

Jennifer Mscisz  
a. First Name b. Last Name

c. Organization

22 High Street  
d. Mailing Address

MA 01983  
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

Kate Weid  
a. First Name b. Last Name

c. Organization

51 Crooked Lane  
d. Mailing Address

Nantucket MA 02554  
e. City/Town f. State g. Zip Code

5. Project Location:

51 Crooked Lane Nantucket  
a. Street Address b. City/Town

41 531  
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: 41°16'51.204"N 70°07'9.984"W  
d. Latitude e. Longitude

CURRENT ZONING CLASSIFICATION:  
Residential 20 (R-20)

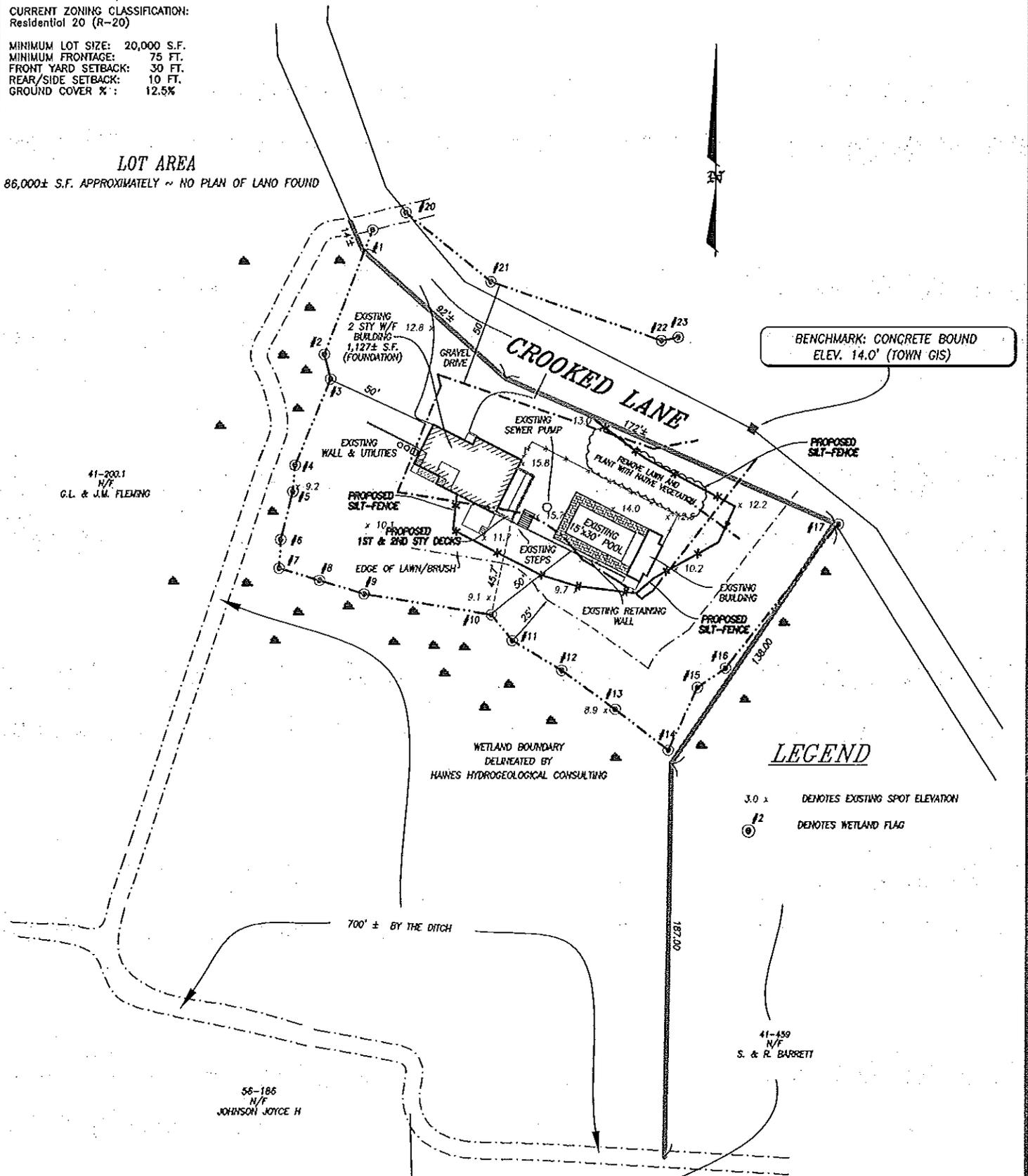
MINIMUM LOT SIZE: 20,000 S.F.  
MINIMUM FRONTAGE: 75 FT.  
FRONT YARD SETBACK: 30 FT.  
REAR/SIDE SETBACK: 10 FT.  
GROUND COVER % : 12.5%

**LOT AREA**

86,000± S.F. APPROXIMATELY ~ NO PLAN OF LAND FOUND

41-200.1  
N/F  
G.L. & J.M. FLEMING

BENCHMARK: CONCRETE BOUND  
ELEV. 14.0' (TOWN GIS)



**LEGEND**

3.0 x DENOTES EXISTING SPOT ELEVATION  
#2 DENOTES WETLAND FLAG

**SITE PLAN AT 51 CROOKED LANE  
IN  
NANTUCKET, MASS.**

SCALE: 1" = 30' DATE: JANUARY 20, 2016

Owner: JENNIFER M. MSCISZ & STEVEN MSCISZ . . .  
Deed/Cert.: 1472-94 . . . Plan: NONE FOUND . . .  
Assessor Map: 41-531. Locust: 51 CROOKED LANE.

**ISLAND SURVEYORS, LLC**  
Professional Land Surveyors  
90 OLD SOUTH ROAD  
NANTUCKET, MASS. 02554  
(508) 228-2720