



REQUEST FOR DETERMINATION OF APPLICABILITY APPLICATION

To Confirm Wetland Resource Area Boundaries

At

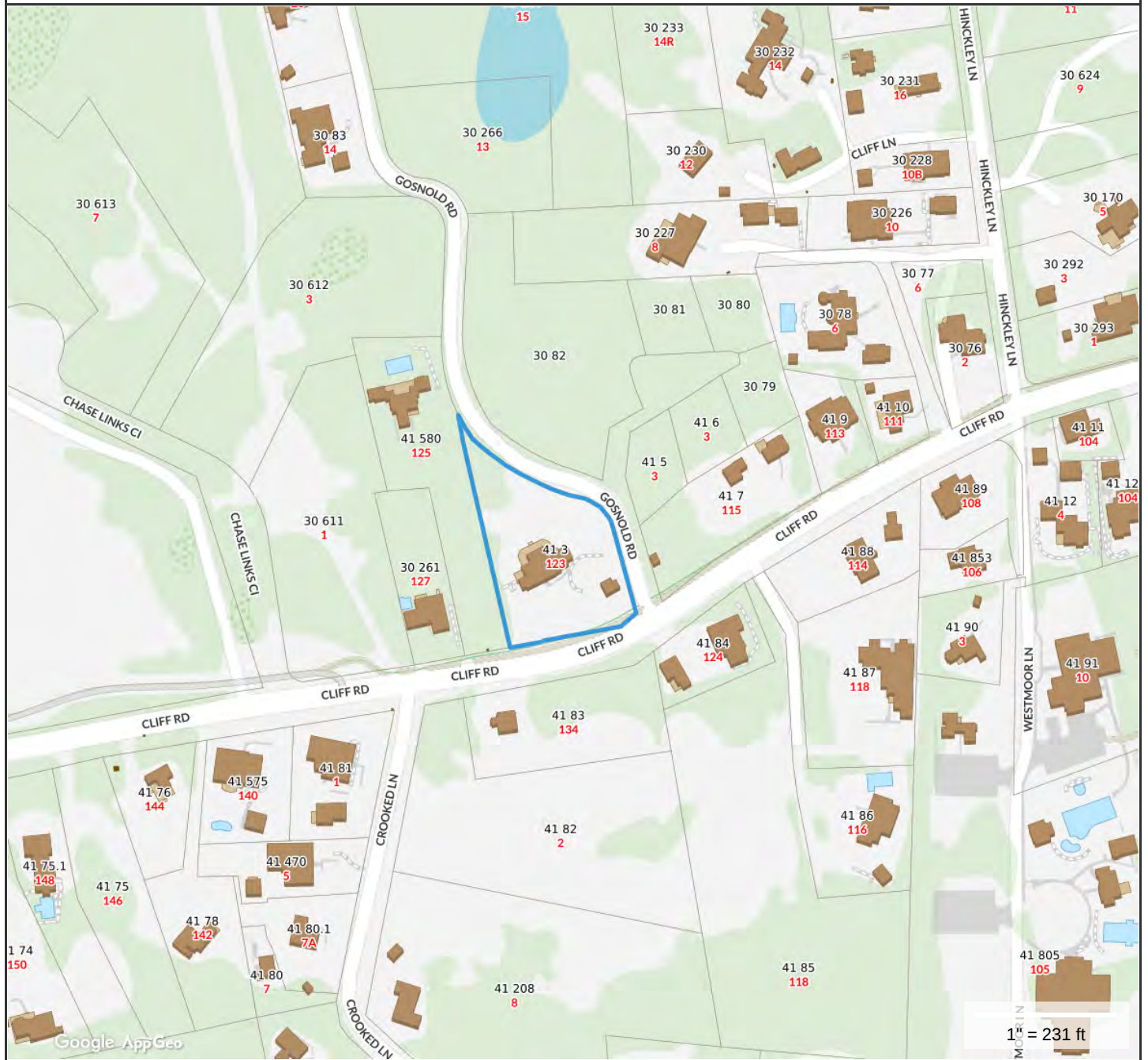
123 Cliff Road
Nantucket, MA

August 2019

Prepared For

123 CLIFF ROAD NOMINEE TRUST

Locus Map



Property Information

Property ID 41 3
Location 123 CLIFF RD
Owner 123 CLIFF RD NOM TRST



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.

Geometry updated 11/13/2018
 Data updated 11/19/2018



WPA Form 1- Request for Determination of Applicability

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

A. General Information

Important:

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



1. Applicant:

123 Cliff Road Nominee Trust, Matthew J. Lustig & Andrea
Lustig, Trustees

E-Mail Address

30 Rockefeller Plaza

Mailing Address

New York

City/Town

NY

State

10112

Zip Code

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Nantucket Engineering & Survey, P.C.

Firm

Arthur D. Gasbarro, PE, PLS

Contact Name

art@NantucketEngineer.com

E-Mail Address

20 Mary Ann Drive

Mailing Address

Nantucket

City/Town

MA

State

02554

Zip Code

508-825-5053

Phone Number

Fax Number (if applicable)

B. Determinations

1. I request the Nantucket _____ make the following determination(s). Check any that apply:
Conservation Commission

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

Nantucket
Name of Municipality
- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



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C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

<u>123 Cliff Road</u>	<u>Nantucket</u>
Street Address	City/Town
<u>41</u>	<u>3</u>
Assessors Map/Plat Number	Parcel/Lot Number

b. Area Description (use additional paper, if necessary):

The property is located at the corner of Cliff Road and Gosnold Road on the northern side of Nantucket Island. There are no resource areas on locus, though there is a bordering vegetated wetland system to the northeast across Gosnold Road.

c. Plan and/or Map Reference(s):

<u>Site Plan to Accompany a Request for Determination of Applicability</u>	<u>8/7/19</u>
Title	Date
<u> </u>	<u> </u>
Title	Date
<u> </u>	<u> </u>
Title	Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

No Work is Proposed.



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C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

No Work is Proposed.

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



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D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

123 Cliff Road Nominee Trust, Matthew J. Lustig & Andrea Lustig, Trustees

Name

30 Ruckerfeller Plaza

Mailing Address

New York

City/Town

NY

State

10112

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Agent

Signature of Applicant

8/8/19

Date

Signature of Representative (if any)

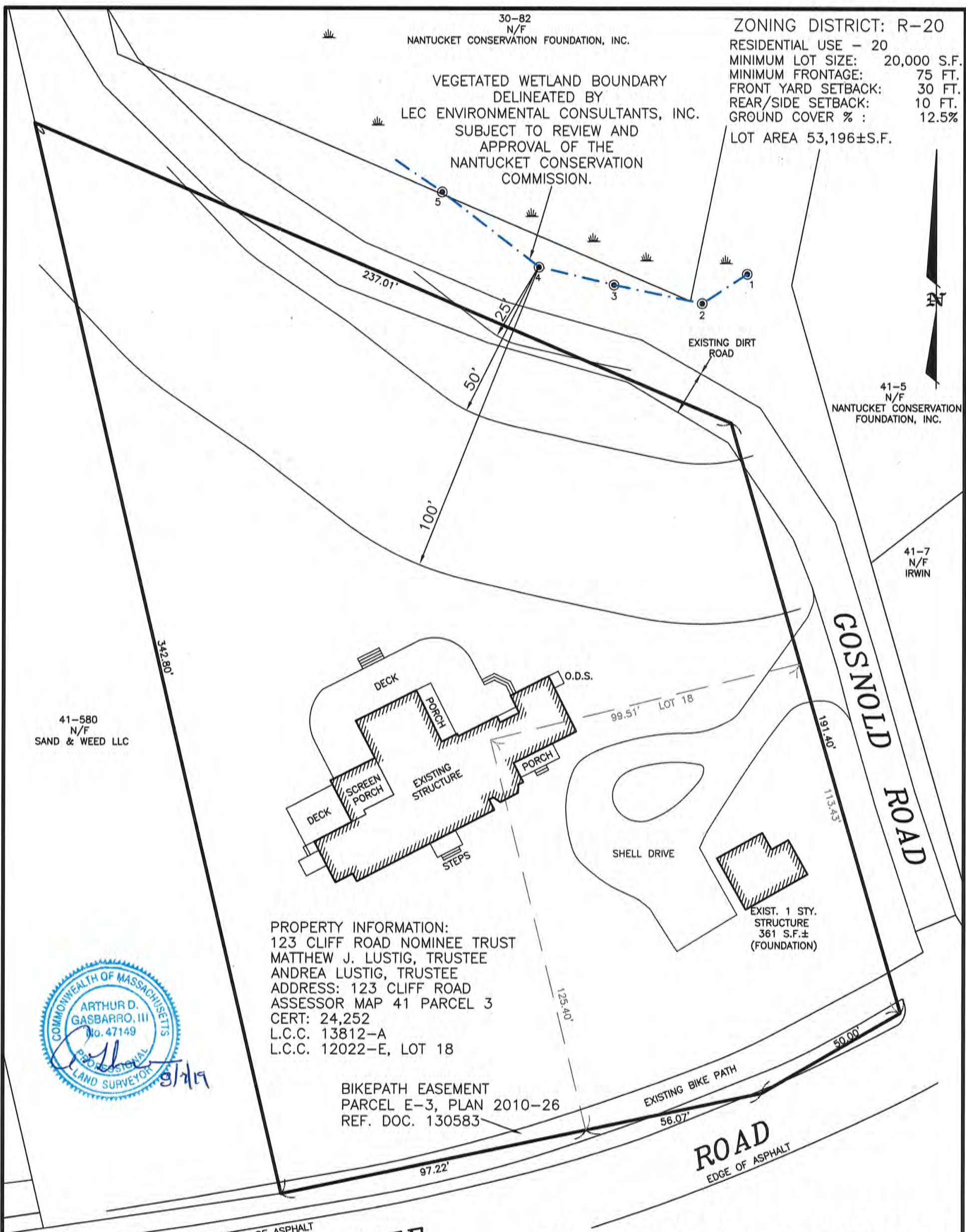
8/8/19

Date

30-82
N/F
NANTUCKET CONSERVATION FOUNDATION, INC.

ZONING DISTRICT: R-20
RESIDENTIAL USE - 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 53,196±S.F.

VEGETATED WETLAND BOUNDARY
DELINEATED BY
LEC ENVIRONMENTAL CONSULTANTS, INC.
SUBJECT TO REVIEW AND
APPROVAL OF THE
NANTUCKET CONSERVATION
COMMISSION.



41-580
N/F
SAND & WEED LLC

41-5
N/F
NANTUCKET CONSERVATION
FOUNDATION, INC.

41-7
N/F
IRWIN

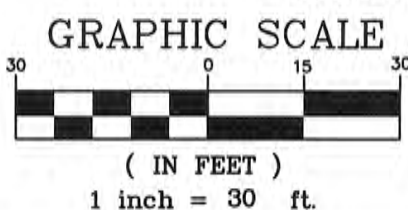
PROPERTY INFORMATION:
123 CLIFF ROAD NOMINEE TRUST
MATTHEW J. LUSTIG, TRUSTEE
ANDREA LUSTIG, TRUSTEE
ADDRESS: 123 CLIFF ROAD
ASSESSOR MAP 41 PARCEL 3
CERT: 24,252
L.C.C. 13812-A
L.C.C. 12022-E, LOT 18

BIKEPATH EASEMENT
PARCEL E-3, PLAN 2010-26
REF. DOC. 130583



**SITE PLAN OF LAND TO ACCOMPANY A
REQUEST FOR DETERMINATION OF
APPLICABILITY
IN NANTUCKET, MA
PREPARED FOR
123 CLIFF ROAD NOMINEE TRUST
123 CLIFF ROAD
MAP 41 PARCEL 3
AUGUST 7, 2019 SCALE: 1"=30'**

THIS PLOT PLAN WAS PREPARED FOR PERMITTING PURPOSES 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. THIS PLOT PLAN IS NOT A CERTIFICATION AS TO TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE SHOWN ACCORDING TO CURRENT ASSESSOR RECORDS.



**NANTUCKET
ENGINEERING
& SURVEY, PC**
20 Mary Ann Drive Nantucket, MA 02554
NantucketEngineer.com 508-826-5083



August 9, 2019

Email (art@nantucketengineer.com)

Arthur D. Gasbarro, PE, PLS
Nantucket Engineering & Survey, P.C.
20 Mary Ann Drive
Nantucket, MA 02554

**Re: Wetland Resource Area Analysis
123 Cliff Road (41-3)
Nantucket, Massachusetts**

[LEC File #: NESPC\19-043.01]

Dear Art:

As requested, LEC Environmental Consultants, Inc., (LEC) conducted a site evaluation on February 5, 2019, at the above-referenced subject parcel to determine the presence or absence of on-site or adjacent Wetland Resource Areas protected under the *Massachusetts Wetlands Protection Act* (M.G.L., c. 131, s. 40), its implementing *Regulations* (310 CMR 10.00), and/or the *Town of Nantucket Bylaw* (Chapter 136) and *Wetlands Protection Regulations*. LEC specifically demarcated the boundary of Bordering Vegetated Wetlands (BVW)/Vegetated Wetlands north of Gosnold Road. No protectable Wetland Resource Areas were documented on the subject parcel as described below. The following provides a description of general site conditions, wetland delineation methodology, and Wetland Resource Areas.

General Site Description

The 1.2± acre subject parcel is located at the corner of Gosnold Road and Cliff Road northwest of downtown Nantucket. Gosnold Road forms the easterly and northerly property boundaries, while Cliff Road exists to the south. Developed residential properties essentially surround the subject parcel, while an expansive cattail marsh (BVW/Vegetated Wetlands) is located north of the site and Gosnold Road.

The property is improved by a single-family dwelling and detached garage, accessed via a gravel driveway, and surrounded by lawn/landscaping. Fringing patches of upland vegetation primarily consist of black cherry (*Prunus serotina*), bush honeysuckle (*Lonicera* sp.), bayberry (*Myrica pensylvanica*), and arrowwood (*Viburnum dentatum*). Privet (*Ligustrum* sp.) hedgerows occur throughout the property. A grassed walking path extends north of the dwelling to Gosnold Road. A seasonally mowed landscaped area exists east of the path within the northeastern portion of the property, representing the topographic low point on the property; however, topographically higher than the off-site wetland system. Due to the mowed conditions at the time of the site evaluation, LEC conducted a soil plot within the topographic low

LEC Environmental Consultants, Inc.

www.lecenvironmental.com

12 Resnik Road
Suite 1
Plymouth, MA 02360
508-746-9491
508-746-9492 (Fax)

PLYMOUTH, MA

380 Lowell Street
Suite 101
Wakefield, MA 01880
781-245-2500
781-245-6677 (Fax)

WAKEFIELD, MA

100 Grove Street
Suite 302
Worcester, MA 01605
508-753-3077
508-753-3177 (Fax)

WORCESTER, MA

P. O. Box 590
Rindge, NH 03461
603-899-6726
603-899-6726 (Fax)

RINDGE, NH



point located proximate to Gosnold Road to confirm high groundwater is not present within 18 inches per the *Bylaw*. Redoximorphic features, indicative of high groundcover, were documented at 33 inches below grade, while weeping groundcover was observed at 36 inches (see soil plot). As such, no protectable Wetland Resource Areas are present on-site.

According to the June 9, 2014, Federal Emergency Management Agency Flood Insurance Rate Map for the Town of Nantucket (25019C0086G), the project site is located within Zone X, *Areas determined to be outside of the 2% annual chance flood*.

Wetland Boundary Determination Methodology

The extent of BVW/Vegetated (Freshwater) Wetlands north of Gosnold Road was determined through observations of the existing plant communities, using the “fifty percent criteria” to determine dominance of wetland/upland vegetation, the interpretation of soil characteristics, and other indicators of hydrology, in accordance with the principals of DEP’s handbook, *Delineating Bordering Vegetated Wetlands under the Massachusetts Wetlands Protection Act* (March 1995), the *Field Indicators for Identifying Hydric Soils in New England-Version 4, May 2017*, and the criteria set forth in 310 CMR 10.55(2) and the *Bylaw*, specifically analyzing the depth of high groundwater within 18 inches of the ground surface. Based on these methods, the boundaries of BVW/Vegetated Wetlands north of Gosnold Road were demarcated with wetland flags 1-7.

Bordering Vegetated Wetlands

BVW is defined in 310 CMR 10.55(2) as *freshwater wetlands which border on creeks, rivers, streams, ponds, and lakes. In these areas soils are saturated and/or inundated such that they support a predominance of wetland indicator plants. The boundary of BVW is the line within which 50% or more of the vegetational community consists of wetland indicator plants and saturated or inundated conditions exist.*

A vegetated Freshwater Wetland is defined within Section 1.02 of the *Nantucket Wetlands Protection Regulations* as a *wet meadow, freshwater marsh, swamp, bog, pond, lake, creek, or stream; an area of low topography where ground water, flowing water, standing surface water, or ice provides a significant part of the supporting substrate for a plant community for at least five months a year; characterized by emergent and submergent plant communities in inland waters; and/or where depth to high groundwater is within 18 inches of the ground surface, and/or exhibits hydric soil characteristics and includes that portion of any inland bank which touches any inland waters. Freshwater wetlands are not defined to include drainage facilities constructed to include wetland vegetation as treatment for stormwater runoff.*

The interior of the wetland system north of Gosnold Road is dominated by cattail (*Typha* sp.), while the perimeter is mostly occupied by bayberry, arrowwood, poison ivy (*Toxicodendron radicans*), and winterberry (*Ilex verticillata*), along with cinnamon fern (*Osmunda cinnamomea*), sensitive fern (*Onoclea sensibilis*), and marsh fern (*Thelypteris thelypteroides*).



Summary

LEC demarcated the extent of protectable BVW/Vegetated Wetlands north of the subject parcel and Gosnold Road. No protectable Wetland Resource Areas were documented on-site. Proposed work activities within the 100-foot Buffer Zone require the filing of a Request for Determination (RDA) or Notice of Intent (NOI) application with the Nantucket Conservation Commission and/or MA DEP.

If you should have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

LEC Environmental Consultants, Inc.

A handwritten signature in black ink, appearing to read "Brian T. Madden".

Brian T. Madden
Wildlife Scientist

123 Cliff Rd
Nantucket

Section II. Indicators of Hydrology

Hydric Soil Interpretation

1. Soil Survey

Is there a published soil survey for this site? yes no

title/date: NRCS web soil survey

map number:

soil type mapped: Evesburg sand

hydric soil inclusions: Freetown and Swansea mucks

Are field observations consistent with soil survey? yes no

Remarks:

Generally

2. Soil Description

Horizon	Depth	Matrix Color	Mottles Color
O	0.25-0"		
A	0-18"	10YR 2/1	Sandy loam N/A
B	18-36"	10YR 5/6	sl @ 33" 5YR 4/6

Remarks:

Plot taken with soil spade within topographic low point of property northeast of the dwelling.

3. Other:

High Groundwater @ 33"/weeping @ 36"

Conclusion: Is soil hydric? yes no

N/A

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

- 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: _____

Vegetation and Hydrology Conclusion

	yes	no
Number of wetland indicator plants \geq number of non-wetland indicator plants	<input type="checkbox"/>	<input 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.

**Abutter Notification,
Certified Abutter List &
Copies of Certified Mail Receipts**

**NANTUCKET CONSERVATION COMMISSION
NOTICE OF PUBLIC HEARING**

Dear Abutter:

In accordance with MGL Chapter 131, Section 40, and pursuant to Regulation 310 CMR 10.05, et seq., and Nantucket By-Law Chapter 136, Section 4, you are hereby notified that a Public Hearing will be held during the Conservation Commission Meeting which begins at 5:00 p.m. in the second floor meeting room at the Public Safety Facility located at 4 Fairgrounds Road, Nantucket, MA 02554 on the following date:

August 28, 2019

Date of Public Hearing

123 Cliff Road / Map 41 Parcel 3

Street Address/ Map & Parcel

The purpose of the meeting is to open a Public Hearing on a Notice of Intent, an Amended Order of Conditions or a Request for Determination.

Description of Work Proposed.

No work is proposed.

The Applicant, 123 Cliff Road Nominee Trust,
seeks to confirm the wetland resource area
boundaries.

For a digital version of the filing please email
jdodd@nantucket-ma.gov and jcarlson@nantucket-ma.gov
Copies of the complete application are available for examination at
The Conservation Commission/ Natural Resources Department
2 Bathing Beach Road, Nantucket 508-228-7230.
Business hours (Monday-Friday 9AM-1pm)



ARTICLE ADDRESSED TO:
127 CLIFF NOM TRUST
133 LORDS HIGHWAY
WESTON CT 06883-1716

9414 7118 9956 1525 6812 40

CERTIFIED MAIL
TRACKING NUMBER

FEES
Postage Per Piece \$0.50
Certified Fee 3.50
Return Receipt Fee 2.80
Total Postage & Fees \$6.80

Post Mark
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ARTICLE ADDRESSED TO:
NANTUCKET CLIFF LLC
18 HARKNESS RD
Pelham MA 01002-9704

9414 7118 9956 1525 6054 37

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TRACKING NUMBER

FEES
Postage Per Piece \$0.50
Certified Fee 3.50
Return Receipt Fee 2.80
Total Postage & Fees \$6.80

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ARTICLE ADDRESSED TO:
NANTUCKET CONSERVATION FOUNDATION
PO BOX 13
NANTUCKET MA 02554-0013

9414 7118 9956 1525 6813 63

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Total Postage & Fees \$6.80

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RICHARD J GLIDDEN TR
37 CENTER STREET
NANTUCKET MA 02554-3659

9414 7118 9956 1525 6021 39

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ARTICLE ADDRESSED TO:
SAND & WEED LLC
PO BOX 778
NEW YORK NY 10013-0778

9414 7118 9956 1525 6030 20

CERTIFIED MAIL
TRACKING NUMBER

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Certified Fee 3.50
Return Receipt Fee 2.80
Total Postage & Fees \$6.80

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ARTICLE ADDRESSED TO:
VIRGINIA DAVIS IRWIN
23 WILD DUCK ROAD
WILTON CT 06897-2828

9414 7118 9956 1525 6043 55

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