



The Commonwealth of Massachusetts

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March 10, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS ON THE ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : 121 Eel Point Road
PROJECT MUNICIPALITY : Nantucket
PROJECT WATERSHED : Islands
EOEA NUMBER : 13714
PROJECT PROPONENT : Beth Tractenberg
DATE NOTICED IN MONITOR : January 25, 2006

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

As described in the Environmental Notification Form (ENF), the proposed project consists of the on-site relocation/transplantation of Nantucket Shadbrush, a designated significant plant habitat within the proponent's 3.97-acre property located off Eel Point Road in Nantucket. According to the information provided in the ENF, and supplemental information provided by the proponent in response to questions raised at the MEPA Scoping session held for this project on February 10, 2006, this project is being proposed as part of the proponent's current construction of a primary residence house (4,545 sf), a separate guest house (1,494 sf), an in-ground pool with pool house, tennis court, garden gazebo, driveway, and the reconstruction of an existing beach access stairway located within the Eel Point Road project site. This residential development project also includes the construction of an on-site potable water supply well and a Title 5 septic system to serve the water supply needs and wastewater flows for the main residence house and guest house, respectively. According to the proponent, a number of project-related construction activities were previously reviewed and approved by the Nantucket Conservation Commission including: the reconstruction of a beach access stairway, coastal bank vegetation clearing, and the construction of an in-ground pool, pool house and associated landscaping.

The project is undergoing review pursuant to section 11.03 (2)(b)(1) (a) of the MEPA

regulations, because the project will result in a "take" of a designated significant plant habitat. The project will also require an Order of Conditions from the Nantucket Conservation Commission. The project must comply with the National Pollution Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site of over one acre. The project may require a Federal Consistency Review by the Office of Coastal Zone Management (CZM).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to issues that may cause Significant Damage to the Environment and that are within the subject matter of required state permits. In this case, MEPA jurisdiction extends to broad issues related land alteration, water quality, and rare species.

Rare Species:

As noted in the ENF, the entire 3.95-acre project site is mapped as estimated and priority habitat for the Nantucket Shadbush, (*Amelanchier nantucketensis*), a state listed species of special concern. The applicant is proposing to relocate/transplant 24 plant colonies (approximately 2,800 sf) of Nantucket Shadbush from the southwestern corner of the property to another colony of Nantucket Shadbush located in the southeastern corner of the property.

In their comments, the Natural Heritage and Endangered Species Program (NHESP) has indicated that the proponent's proposed on-site relocation and transplantation of Nantucket Shadbush colonies, constitutes a "take" of state listed species under the Massachusetts Endangered Species Act (MESA) (321 CMR 10.02). According to NHESP, there appear to be project alternatives, including the reconfiguration of individual site plan elements, which would avoid direct harm to the Nantucket Shadbush. As a result, the proponent has not adequately demonstrated to NHESP that project impacts to the Nantucket Shadbush have been avoided or minimized to the greatest extent practicable. The proponent will need to continue to work closely with NHESP to identify opportunities to further revise the project design to avoid or significantly minimize impacts to Nantucket Shadbush. If NHESP determines that a "take" cannot be avoided the proponent will need to apply to NHESP for a Conservation and Management permit pursuant to MESA (321 CMR 10.23), and will need to demonstrate that the proponent's proposed conservation plan provides a net benefit to the conservation of the Nantucket Shadbush. I ask that the proponent also consult with the Town of Nantucket's Conservation Commission during final project design and/or during the design process undertaken to develop a proposed conservation plan. The proponent should notify the MEPA Office of any changes to the proposed project design.

NHESP's Conservation and Management permit process should contain conditions relative to the coordination of all work and improvements to be permitted for this site. The proponent should forward a copy of a conservation plan to the MEPA Office for the project file. I conclude that no further MEPA review is required at this time. The review of the ENF has served to demonstrate that the impacts of the project do not warrant the preparation of an EIR.

March 10, 2006
DATE


Stephen R. Pritchard, Secretary

Comments received:

02/06/06	Massachusetts Office of Coastal Zone Management (CZM)
02/15/06	Natural Heritage and Endangered Species Program (NHESP)
02/27/06	Nantucket Conservation Commission
02/27/06	MA Department of Environmental Protection – SERO
02/28/06	Nantucket Land Council, Inc.
02/28/06	MassAudubon
02/28/06	Nantucket Conservation Commission

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