



The Commonwealth of Massachusetts

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April 7, 2006

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

PROJECT NAME : Cozy Hearth Community Corporation Chapter 40B
Subdivision
PROJECT MUNICIPALITY : Edgartown, Martha's Vineyard
PROJECT WATERSHED : Oyster Pond
EOEA NUMBER : 13742
PROJECT PROPONENT : Cozy Hearth Community Corporation
DATE NOTICED IN MONITOR : March 8, 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 project involves the development of a Chapter 40B affordable housing subdivision that will create 11 homes located on a 10.93-acre site on Watcha Path in Edgartown. The land is currently undeveloped and completely wooded with no on-site roads and no utilities. A Conservation Restriction will be placed on 67% of the 10.93-acre property.

The project is undergoing review pursuant to section 11.03 (2)(b)(2) of the MEPA regulations, because the project involves the "taking" of a state-listed rare species, and the project site is greater than two acres and contains an area mapped as rare species habitat. The project requires a Conservation Permit from the Division of Fisheries and Wildlife's Natural Heritage and Endangered Species Program (NHESP). It must also comply with the National Pollutant

Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. The project requires Comprehensive Permit from the Town of Edgartown's Board of Appeals pursuant to M.G.L. Chapter 40B (and hence an approval from the Massachusetts Housing Appeals Committee in the event of an appeal of the local Comprehensive Permit).

Because the proponent is not seeking financial assistance from the Commonwealth for the project, MEPA jurisdiction extends to those aspects of the project that may cause significant Damage to the Environment and that are within the subject matter of the required state permit. In this case, MEPA jurisdiction exists over rare species issues.

The proposed project occurs within Priority Habitat of Rare Species (PH 1730) as indicated in the 11th Edition of the Massachusetts Natural Heritage Atlas. The project is within actual habitat for eight rare species. NHESP has determined that the proposed project will result in the "take" of two of these species, the Pink Sallow Moth, *Psectraglaea carnos*, which is a species of Special Concern, and the Faded Gray Geometer, *Stenoporpia polygrammari*, which is a Threatened species. These species are protected pursuant to the provisions of the Massachusetts Endangered Species Regulations (321 CMR 10.00).

The project proponent has been engaged in permitting consultations with NHESP since August 2005 to resolve rare species concerns for the proposed project. As mitigation for potential impacts on rare species, the project will involve the permanent protection of 67% of the total site as open space by a Conservation Restriction. NHESP has expressed concern that the some of the allocated open space is isolated and fragmented away from the larger habitat block, which would reduce the quality of the remaining habitat for either the Pink Sallow Moth or Faded Gray Geometer. In addition, I note that during the review period, an abutter to the proposed property notified NHESP that boundaries of the project may be located 50 feet further south than as shown in the ENF. If verified during NHESP permitting, this may result in a "take" of all eight rare species, which would require further mitigation. The proponent should continue to work closely with NHESP and resolve the outstanding details related to the Conservation and Management Permit application as described in NHESP's comment letter.

The Massachusetts Historical Commission (MHC) review of the Inventory of Historic and Archaeological Assets of the Commonwealth indicates there are no recorded historic or archaeological resources within the project area. However, based on previous town-wide research for the area, MHC has determined that the project area is archaeologically sensitive, which means it is may contain archaeological sites associated with ancient and historic period occupation of the Edgartown area. MHC, therefore, indicates that the site may warrant an archaeological survey. The proponent should consult with MHC to discuss the proposed project in more detail.

I remind the proponent that approval from the Department of Environmental Protection (DEP) is required for the Title 5 Shared Systems that are proposed for this subdivision [310CMR15.290 to 310CMR15.293]. All shared systems require both DEP review and approval (BRP WP 58b). I advise the proponent to contact DEP and the local Board of Health to begin this process. In addition, the proponent must demonstrate and document to DEP where the water supply comes from for the proposed project. The documentation should include information on the complete and separate ownership or proposed ownership of each individual lot.

I conclude that no further MEPA review is required. If the project design undergoes a material change as a result of requirements imposed by the state permitting agency (NHESP), the proponent should file a timely Notice of Project Change that addresses impacts and mitigation.

April 7, 2006

Date



Stephen R. Pritchard

Comments received:

03/23/06	Martha's Vineyard Commission
03/23/06	Division of Marine Fisheries
03/27/06	Massachusetts Historical Commission
03/28/06	Division of Fisheries and Wildlife's Natural Heritage and Endangered Species Program (NHESP)
03/28/06	Karen and Paul Hannigan
03/30/06	Department of Environmental Protection, SERO

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