SIMMONS/BURNS
4, 6, 8 & 10 Deacons Way
(40-83, 84, 85, & 86) RDA '94

310 CMR 10.99
Form 2

Commonwealth of Massachusetts

DEP File No. _____
(To be provided by DEP)

City/Town Nantucket

Applicant Simmons/Burns

Date Request Filed: 6/27/94

Determination of Applicability

issued under the
Massachusetts Wetlands Protection Act (G. L. c.131, Sec. 40)
and the
Nantucket Wetlands Bylaw (Chapter 136)

From the Nantucket Conservation Commission, Issuing Authority, to:

Hardwick Simmons and Michael R. Burns
(Name of person making request)

_____
(Name of property owner)

c/o Prudential Securities
(Address) 1111 Santa Monica Blvd.
Los Angeles, CA90025

_____
(Address)

This determination is issued for property at this location: Tax Map # 40, Parcel # 83,84,85,86

Project Street Address: 4,6,8,& 10 Deacon's Way

Certificate # 13401, Book & Page _____, Land Court Plan: 9070-D

and delivered as follows:

☐ by hand delivery to person making request on _____ (date)

☒ by certified mail, return receipt requested, on July 8, 1994 (date)

Pursuant to the authority of G. L. c. 131, Sec. 40, and the Nantucket Wetlands Bylaw (Chapter 136), the Conservation Commission has considered your request for a Determination of Applicability and its supporting documentation, and has made the following determination (check whichever is applicable):

This Determination is positive:

1. ☑ The area described below, which includes all/part of the area described in your request, is an Area Subject to Protection Under the Act/Bylaw. Therefore, any removing, filling, dredging, altering, or building upon that area requires the filing of a Notice of Intent.

Approval of wetland boundaries on plans revised on July 6, 1994.

2. ☐ The Work described below, which includes all/part of the work described in your request, is within an Area Subject to Protection Under the Act/Bylaw and will remove, fill, dredge, alter, or build upon that area. Therefore, said work requires the filing of a Notice of Intent.

3. ☐ The work described below, which includes all/part of the work described in your request, is within the Buffer Zone, as described in the regulations, and will alter an Area Subject to Protection Under the Act and/or Bylaw. Therefore, said work requires the filing of a Notice of Intent.

This Determination is negative:

1. ☐ The area described in your request is not an Area Subject to Protection Under the Act or Bylaw.

2. ☐ The work described in your request is within an Area Subject to Protection Under the Act and/or the Bylaw, but will not remove, fill, alter, or build upon that area. Therefore, said work does not require the filing of a Notice of Intent.

3. ☐ The work described in your request is within the Buffer Zone, as defined in the regulation, but will not alter an Area Subject to Protection Under the Act or the Bylaw. Therefore, said work does not require the filing of a Notice of Intent.

4. ☐ The area described in your request is Subject to Protection Under the Act and.or the Bylaw, but since the work described therein meets the requirements for the following exemption, as specified in the Act and/or Bylaw and the regulation, no Notice of Intent is required: _____

Issued by the Nantucket Conservation Commission:

Signature(s) Peter M. Wilson

Peter M. Wilson, Jr., Chairman

William W. Welch

David R. Wiley

This Determination must be signed by a majority of the Conservation Commission.

On this 7th day of July 19 94, before me personally appeared the above commissioners, to me known to be the persons described in, and who executed, the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Bruce W. Perry
Notary Public

Feb 13, 1998
My commission expires

This Determination does not relieve the applicant from complying with all other applicable federal, state or local statutes, ordinances, by-laws or regulations. This determination shall be valid for three years from the date of issuance.

The applicant, the owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Determination of Applicability, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7), within ten days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

310 CMR 10.99
Form 1

DEP File No. _____
(To be provided by DEP)

Commonwealth of Massachusetts

City/Town Nantucket

Applicant Simmons/Burns

Request for a Determination of Applicability

issued under the
Massachusetts Wetlands Protection Act (G. L. c.131, Sec. 40)
and the
Nantucket Wetlands Bylaw (Chapter 136)

1. I, the undersigned, hereby request that the Nantucket Conservation Commission make a determination as to wheteher the area, described below, or work to be performed on said area, also described below, is subject to the jurisdiction of the wetlands Protection Act, G. L. c. 131, Sec. 40 and/or the Nantucket Wetlands Bylaw, Chapter 136 of the Nantucket Code of Bylaws and Ordinances.

2. The area is described as follows. (Use maps or plans, if necessary, to provide a description and the location of the area subject to this request.)

Location: Street Address #4,6,8&10 Deacon's Way

Lot Number: _____ Assessor's Map # 40 Parcel # 86,85,84,83

Certificate #: 13401 or Book _____ Page _____

Land Court Plan: _____

3. The work in said area is described below. (Use additional paper, if necessary, to describe the proposed work.)

It is requested that the Nantucket Conservation Commission review and confirm the wetland boundary as delineated on the attached plan titled "Plan to Accompany Request for Determination, 4,6,8,10 Deacons Way, Prepared for Micheal Burns and Hardwick Simmons by Blackwell and Associates, 6/6/94." No work is proposed at this time. The confirmed delineation will be used for future planning on the lots.

RECEIVED
JUN 27 1994
NANTUCKET CONSERVATION COMMISSION

4. The owner(s) of the area, if not the person making this request, has been given written notification of this request on _____ (date)

The name(s) and address(es) of the owner(s):

Hardwick Simmons
Michael R. Burns
c/o Prudential Securities
1111 Santa Monica Boulevard, Suite 2050
Los Angeles, CA 90025

5. I have filed a complete copy of this request with the appropriate regional office of the Massachusetts Department of Environmental Protection 13 June 1994 (date)

DEP Southeast Regional Office
20 Riverside Drive
Route 105
Lakeville, MA 02347

6. I understand that notification of this request will be places in a local newspaper at my expense in accordance with Section 10.05(3)(b)1 of the regulations by the Conservation Commission.

Signature Leo C. Asadoorian (agent) Name Hardwick Simmons/Michael Burns

c/o Prudential Securities
Address 1111 Santa Monica Boulevard, Suite 2050 Tel. 310-996-2929
Los Angeles, CA 90025

Representative Leo C. Asadoorian Firm Blackwell & Associates, Inc.

Address 6 Young's Way, Nantucket, MA 02554 Tel. 508-228-9026

Please send the original Determination of Applicability to the applicant's representative.

Haines Hydrogeologic Consulting

specialising in groundwater & wetlands

141 Old Enfield Road
Belchertown
Mass. 01007
413 323 7156

Blackwell & Associates, Inc.
6 Young's Way
Nantucket, MA 02554

8 June 1994

Attn: Leo C. Asadoorian

Re: Wetland Evaluation - 4,6,8, & 10 Deacons Way (Lots 29, 30, 31 & 32), Nantucket, Massachusetts

Dear Mr. Asadoorian:

As you requested, the above-referenced property has been evaluated for jurisdiction under the Massachusetts Wetlands Protection Act (MGL 131 Sec.40), its Regulations (310 CMR 10.00), Section 404 of the Federal Clean Water Act (33 USC 1344), and the Nantucket Wetlands By-law (Ch.136-7). The site was found to contain resource areas subject to these regulations, specifically Isolated Wetlands under the local by-law and the Clean Water Act, Isolated Land Subject to Flooding under the state act and the local by-law, and the associated 100-foot Buffer Zone under the local by-law only. Any work within these resource areas requires permitting from the appropriate agencies.

The site consists of four lots located on the west side of Deacons Way which is currently under construction in Nantucket, Massachusetts. There are three isolated wetland systems; one north of Lot 32; one along the western side of Lots 30 and 31; and one on Lot 29. These wetlands are all isolated with no inlets or outlets and do not border on permanent water bodies. They all occupy "kettle hole" depressions.

All three wetland areas qualify as wetlands under the local by-law and Section 404 of the Clean Water Act. Since they are isolated, they are not considered Bordering Vegetated Wetlands under the Massachusetts Wetlands Protection Act. The vegetated wetlands consist of shrub swamp with some areas of wet meadow and shallow fresh marsh. The vegetation in these wetlands includes Sweet Pepperbush, Highbush Blueberry, Winterberry Holly, Shadbush, Arrowwood, Soft Rush, goldenrods (Solidago spp.) sedges (Carex spp.), and hydrophilic grasses.

The soils in these areas consist of thick, seasonally saturated, black silty loams and muck. At the time of the site visit, 13 May 1994, the wetlands contained standing water. Any work proposed in these areas requires a permit under the local by-law and from the Clean Water Act. A water quality certificate may also be required from the state Department of Environmental Protection.

Isolated Land Subject to Flooding consists of those areas of the site below the 100-year flood elevation. The two larger wetland systems appear to annually contain at least 1/4-acre foot of water to a depth of six inches and therefore come under jurisdiction of the Massachusetts Wetlands Protection Act and the local by-law. The smaller wetland on Lot 1 does not appear to qualify under the state regulations but does qualify under the local by-law because it is greater than 1000 square feet in size. Any work done in the these areas requires a permit from the state and/or the town.

The 100-foot Buffer Zone, pertinent under the local by-law only, extends into the upland portions of Lots 29, 30, 31 and 32. Any work within this Buffer Zone requires the approval of the Nantucket Conservation Commission.

A review of the 1994 "Atlas of Estimated Habitats of State-listed Rare Wetlands Wildlife", prepared by the Massachusetts Natural Heritage and Endangered Species Program, indicates that the site is not within the known range of any state-listed rare wetlands wildlife species.

If you have any questions, please call.

Sincerely,

David M. Haines
Hydrogeologist/Wetland Scientist

DMH/rh:najbdwwe

B-2581

$200

TOWN OF NANTUCKET
CONSERVATION COMMISSION

List of Parties in interest in the matter of the Petition of:

PROPERTY OWNER: MICHAEL BURNS AND HARDWICK SIMMONS

MAILING ADDRESS:

PROPERTY LOCATION: #'s 4,6,8 & 10 DEACONS WAY

ASSESSORS MAP/PARCEL: 40-83,84,85 & 86

SUBMITTED BY: BLACKWELL & ASSOCIATES/ LEO C. ASADOORIAN

SEE ATTACHED 1 PAGES

I certify the foregoing is a list of persons who are owners of land abutting the property and owners of land directly opposite the property across a street, way, stream or pond (except when the property is more than 300 feet across a pond), or diagonally across from an intersection of roads, all as they appear on the most recent applicable tax list.

6-7-94
DATE

Lynne M. McKeon
ASSESSORS Office
TOWN OF NANTUCKET

MAY 25

Date received:

Map	Block	Lot	Owner's/Co-Owner's Name	Mailing Address/City State Zip	Property Location
0040		0017	RABINOWITZ SAMUEL N TR C/O RUBENSTEIN MARK E	1500 WASHINGTON LN RYDAL PA 19046	0010 OLD HARBOR RD
0040		0082	SIMMONS HARDWICK & BURNS MICHA C/O SHERBURNE, POWERS	0018 BROAD ST NANTUCKET MA 02554	0007 DEACONS WAY
0040		0087	SIMMONS HARDWICK & BURNS MICH C/O SHERBURNE, POWERS	00018 BROAD ST NANTUCKET MA 02554	0005 DEACONS WAY
0040		0088	SIMMONS HARDWICK & BURNS MICHA C/O SHERBURNE, POWERS	0018 BROAD ST NANTUCKET MA 02554	0003 DEACONS WAY
0040		0056	*TOWN OF NANTUCKET		0212 CLIFF RD
0040		0055	NORWOOD FARM TRUST C/O JENSON JULIUS III TR	0021 DEXTER ST DEDHAM MA 02026	0216 CLIFF RD
0040		0054	MCELDERRY MARY E ETAL	PO BOX 629 NANTUCKET MA 02554	0213 CLIFF RD
0040		0053	MCELDERRY JOHN B & MARY	PO BOX 629 NANTUCKET MA 02554	0009 CAPAUM POND RD
0040		00531	NANTUCKET HISTORICAL ASSN	0000 WASHINGTON ST NANTUCKET MA 02554	0007 CAPAUM POND RD

NUMBER OF RECORDS = 9

NO.	DATE	DESCRIPTION	BY
1	7-6-94	CONNECT WLF #3 TO #1 per field inspec.	B.PERRY

Massachusetts Coordinate System
Island Zone

LOT 32
#10
40-83

LOT 31
#8
40-84

LOT 30
#6
40-85

LOT 29
#4
40-86

DEACONS WAY

CLIFF ROAD

VEGETATED WETLAND
(LOCAL & FEDERAL)

ISOLATED LAND
SUBJECT TO FLOODING
(LOCAL & STATE JURISD.)

#1 #2 #3 #4 #5 #6 #7 #8 #9

100 FOOT BUFFER ZONE
(LOCAL JURISDICTION ONLY)

#10 #11 #12 #13 #14 #15 #16 #18 #19 #20 #21 #22 #23 #24 #25 #26 #27 #28 #29 #30 #31 #32

LIMIT OF VEGETATED WETLAND
(LOCAL & FEDERAL JURISD.)
ALSO - APPROX. LIMIT OF
ISOLATED LAND SUBJECT TO FLOODING
(LOCAL & STATE JURISDICTION)

VEGETATED WETLAND
(LOCAL & FED. JURISDICTION)

#50 #51 #52 #53 #54 #55 #56 #57 #58 #59 #60 #61 #62 #63 #64 #65 #66

100 FOOT BUFFER ZONE
(LOCAL JURISDICTION ONLY)

PLAN TO ACCOMPANY REQUEST for DETERMINATION

#4,#6,#8&#10 DEACONS WAY JUNE 6, 1994

REVISED: JULY 6, 1994

prepared for:
MICHAEL BURNS and HARDWICK SIMMONS

BLACKWELL & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
6 YOUNG'S WAY
NANTUCKET, MASS. 02554
(508) 228-9026

COMMONWEALTH OF MASSACHUSETTS
LEO C. ASADOORIAN
No. 33930
REGISTERED PROFESSIONAL LAND SURVEYOR
7/6/94

GRAPHIC SCALE
60 0 30 60 120 240
(IN FEET)
1 inch = 60 ft.

RECEIVED
JUL - 7 1994
NANTUCKET CONSERVATION COMMISSION

OWNERS REFERENCE:
MICHAEL BURNS AND HARDWICK SIMMONS
CERT. OF TITLE : 13,401
LC PL. 9070-D
ASSESSOR MAP: 40, PARCELS 83-86

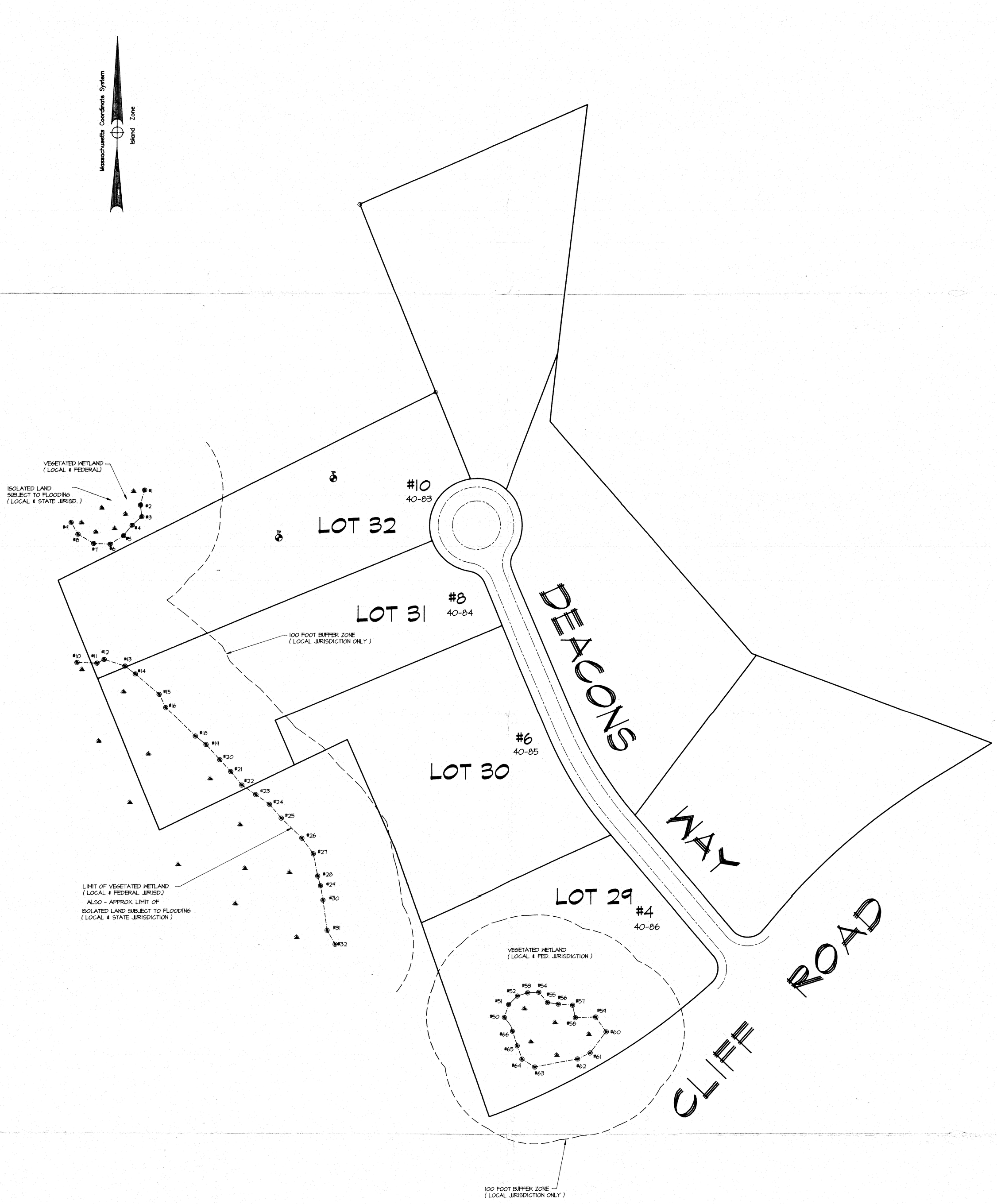
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B-2581

NO.	DATE	DESCRIPTION	BY

Massachusetts Coordinate System
Island Zone



PLAN TO ACCOMPANY
REQUEST for DETERMINATION

#4,#6,#8&#10 DEACONS WAY JUNE 6, 1994

prepared for:
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JUN 27 1994
NANTUCKET CONSERVATION COMMISSION

COMMONWEALTH OF MASSACHUSETTS
LEO C. ASADOORIAN
No. 33930
REGISTERED PROFESSIONAL LAND SURVEYOR
6/27/94

GRAPHIC SCALE

60 0 30 60 120 240

(IN FEET)
1 inch = 60 ft.

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