



**MassWildlife**

Commonwealth of Massachusetts

Bk 14438 Pg 116 #29060  
11-06-2015 @ 11:16a

# Division of Fisheries & Wildlife

Jack Buckley, Director

November 5, 2015

Robert Messina  
Messina Development Co., Inc.  
277 Washington Street  
Groveland, MA 01834

RE:     Applicant:                     Robert Messina  
         Project Location:             Boxford Street, North Andover  
         Project Description:         Residential Subdivision "Wellington Woods" (Assessors Map 105C  
Parcel 22, Essex County Registry of Deeds Book 5407, Page 47)  
and Two (2) Form A Residential Dwellings (Lot 1 Assessors Map  
105C Parcel 82, Lot 2 Assessors Map 105C Parcel 83, Essex County  
Registry of Deeds Book 14223, Page 282)  
  
         NHESP Tracking No.:         14-33638  
         Documents Referenced:

- Blanding's Turtle Protection Plan "Wellington Woods" North Andover, MA (dated October 15, 2015; prepared by Goddard Consulting, LLC)

Dear Applicant:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") received the MESA Project Review Checklist, projects plans entitled "DRAFT PLAN OF NATIONAL HERITAGE & ENDANGERED SPECIES AREA" (dated September 25, 2015, revised October 27, 2015; prepared by Christiansen & Sergi, Inc.; the "Project Plan"), and other required materials for review pursuant to the Massachusetts Endangered Species Act (M.G.L. c. 131A) and its implementing regulations (321 CMR 10.00) (MESA).

The Division has determined that portions of the proposed project are located within the mapped habitat of the Blanding's Turtle (*Emydoidea blandingii*), a species state-listed as "Threatened." This species and its habitats are protected pursuant to the MESA. A Fact Sheet for this species can be found on our website, [www.mass.gov/nhesp](http://www.mass.gov/nhesp).

As proposed, the project includes the construction of a seven (7) lot residential subdivision, access road and drives, grading, utilities, and stormwater management structures on a ±17.91-acre lot (Wellington Way and Lots 1-7, Open Space A, and Open Space B; Book 5407, Page 47, Essex County North Registry of Deeds), as shown on the Project Plan. The project also includes construction of two (2) additional Form A residential dwellings and associated site work on two additional lots (Boxford Street, Lot 1 and Lot 2) totaling ±4 acres (Book 14223, Page 282, Essex County North Registry of Deeds), as shown on the Project Plan. In total, the project will result in ±6.2 acres of disturbance (hereinafter, the "Work") on a ±21.92-acre property (the "Property").

[www.mass.gov](http://www.mass.gov)

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

The Division understands that the Applicant intends to permanently protect  $\pm 11.04$  acres of land, as shown on the Project Plan (labeled "Open Space B") through a Conservation Restriction conveyed to the Town of North Andover Conservation Commission or another qualified land trust, nonprofit organization or government entity. The Applicant has also proposed to protect an additional  $\pm 4.13$  acres of land located on each of the individual lots through a Division-approved Declaration of Restriction. Collectively, the Applicant is proposing to protect  $\pm 15.17$  acres of land as open space and rare species habitat (the "Open Space"), as shown on the Project Plan. The Applicant is also proposing to install permanent markers and signs to physically demarcate the boundaries of the Open Space, and to eliminate road curbing associated with Wellington Way to ensure that turtles may escape from roads and other developed areas.

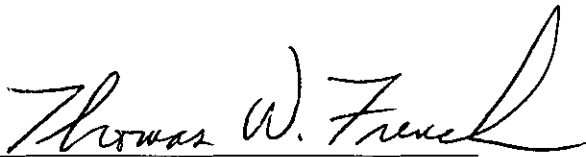
Based on the information provided and the information contained in our database, the Division has determined that this project, as currently proposed, **must be conditioned in order to avoid a prohibited "take" of state-listed species (321 CMR 10.18(2)(a))**. The project must adhere to the following conditions:

1. Prior to the start of Work, or as otherwise approved by the Division, the Applicant shall:
  - a. Record this determination letter and the Project Plan in the Essex County North Registry of Deeds or the Land Court for the district in which the Property is located so as to become a record part of the chain of title of the Property, and provide the Division with proof of said recordation.
  - b. Implement the Blanding's Turtle Protection Plan referenced above. Any changes to said Plan must be submitted to the Division for review and written approval prior to implementation of said changes.
  - c. Install symbolic flagging along portions of the Open Space boundary abutting at the limits of Work shown on the Project Plan, and provide the Division with proof of said installation. Said flagging shall be maintained throughout the construction period.
2. Within three (3) months of the start of Work, or as otherwise approved by the Division, the Applicant shall:
  - a. Install permanent markers and signs in accordance with the Project Plan. Said markers and signs shall be maintained in good condition and repaired or replaced, as necessary. A Massachusetts Registered Land Surveyor shall certify to the Division in writing that said markers and signs have been installed in accordance with the Project Plan and that no work has occurred within the Open Space.
  - b. Record a Division-approved Declaration of Restriction over the portion of the Open Space located on individual lots (totaling  $\pm 4.13$  acres), and provide the Division with proof of said recordation.
3. Within six (6) months of the start of Work, or as otherwise approved by the Division, the Applicant shall provide proof of having protected "Open Space B" (totaling  $\pm 11.04$  acres) through a Division-approved Conservation Restriction and/or another mechanism reviewed and approved in writing by the Division.
4. Any mechanized maintenance (e.g. mowing, etc.) of stormwater management systems associated with Wellington Woods shall occur during the turtle inactive season (October 15 - November 1), unless otherwise approved in writing by the Division.

Provided the above-noted conditions are fully implemented and there are no changes to the Project Plan, this project will not result in a "take" of state-listed species. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the Project Plan may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project. The Division notes that all work is subject to the anti-segmentation provisions (321 CMR 10.16) of the MESA.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Jesse Leddick, Endangered Species Review Biologist, at (508) 389-6386 or [jesse.leddick@state.ma.us](mailto:jesse.leddick@state.ma.us).

Sincerely,



Thomas W. French, Ph.D.  
Assistant Director  
Massachusetts Division of Fisheries & Wildlife

On this 5<sup>th</sup> day of November, 2015, before me, the undersigned notary public, personally appeared Thomas W. French, Ph.D., Assistant Director, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.



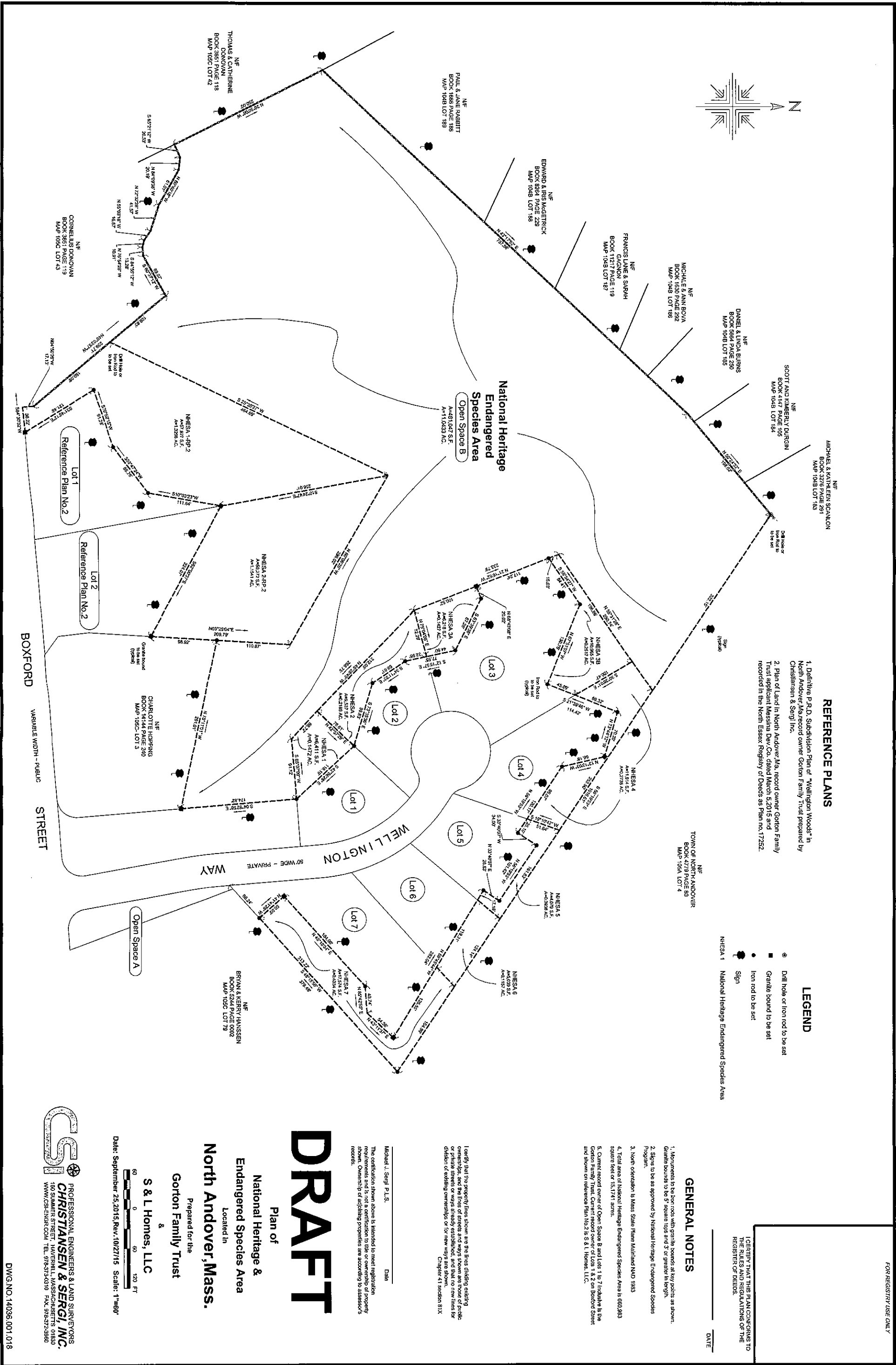
Lauren C. Glorioso, Notary Public  
My Commission expires: February 6, 2020



**LAUREN C. GLORIOSO**  
NOTARY PUBLIC  
Commonwealth of Massachusetts  
My Commission Expires  
February 6, 2020

cc: Philip Christiansen, Christiansen & Sergi, Inc.  
John Smolak, Smolak & Vaughan LLP

Encl. "DRAFT PLAN OF NATIONAL HERITAGE & ENDANGERED SPECIES AREA" (dated September 25, 2015, revised October 27, 2015; prepared by Christiansen & Sergi, Inc.)



REFERENCE PLANS

1. Definitive P.R.D. Subdivision Plan of "Wellington Woods" in North Andover, Mass. record owner Gorton Family Trust prepared by Christiansen & Sergi Inc.
2. Plan of Land in North Andover, Mass. record owner Gorton Family Trust applicant Massena Dev. Co. dated March 5, 2015 and recorded in the North Essex Registry of Deeds as Plan no. 17252.

LEGEND

- Drill hole or iron rod to be set
- Granite bound to be set
- Iron rod to be set
- Sign
- National Heritage Endangered Species Area

GENERAL NOTES

1. Monuments to be for rods with granite bounds at key points as shown. Granite bounds to be 5' square tops and 3' or greater in length.
2. Signs to be as approved by National Heritage Endangered Species Program.
3. North orientation is Mass State Plane Mainland NAD 1983.
4. Total area of National Heritage Endangered Species Area is 680.863 square feet or 15.741 acres.
5. Current record owner of Open Space B and Lots 1 to 7 include the Gorton Family Trust. Current record owner of Lots 1 & 2 on Boxford Street and shown on reference Plan No. 2 is S & L Homes, LLC.

I certify that the property lines shown are the lines dividing existing ownership, and the lines of streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown.

Chapter 41 section 61X

Michael J. Sergi P.L.S. Date

The certification shown above is intended to meet registration requirements of the National Heritage Endangered Species Act. The owner's responsibility for maintaining the property is not affected by this certification. Ownership of adjoining properties are according to state's records.

**DRAFT**

Plan of  
National Heritage &  
Endangered Species Area  
Located in  
North Andover, Mass.

Prepared for the  
Gorton Family Trust  
&  
S & L Homes, LLC

Date: September 25, 2015, Rev. 10/27/15 Scale: 1"=60'

**CS**  
PROFESSIONAL ENGINEERS & LAND SURVEYORS  
**CHRISTIANSEN & SERGI, INC.**  
180 SUMMIT STREET, HAVERHILL, MASSACHUSETTS 01830  
WWW.CS-ENGR.COM TEL: 978-373-0310 FAX: 978-373-3560

DWG. NO. 14036.001.018