



Commonwealth of Massachusetts

Division of Fisheries & Wildlife

MassWildlife

Wayne F. MacCallum, *Director*

15 November 2005

Chris Newhall
Coler & Colantonio, Inc.
101 Accord Park Drive
Norwell, MA 02061

RECEIVED
11/22/05

RE: **Project Location:** 708 Prentice Street
Project Description: Proposed Cedar Ridge Estates - Subdivision of ~53 dwelling buildings and associated amenities, roadways, drainage and utilities.
NHESP Tracking No. 04-13962

Dear Mr. Newhall:

Thank you for submitting the project plans (dated 19 January 2005) and Rare Species Habitat Assessment (dated October 2005) for the Spotted Turtle (*Clemmys guttata*) on the subject property. We are reviewing the above referenced project for compliance with the Massachusetts Endangered Species Act (MESA) (M.G.L. c. 131A) and its implementing regulations (321 CMR 10.00), which prohibits the "take" of state-listed species. The "take" of state-listed species is defined as "in reference to animals, means to harass, harm, pursue, hunt, shoot, hound, kill, trap, capture, collect, process, disrupt the nesting, breeding, feeding or migratory activity...Disruption of nesting, breeding, feeding or migratory activity may result from, but is not limited to, the modification, degradation or destruction of Habitat." (321 CMR 10.02).

The subject property is partially located within *Priority Habitat* (PH 909) and *Estimated Habitat* (WH 245). Based on a review of the information provided and the information currently contained in our database, the NHESP has determined that this project is located **within actual habitat** of the Spotted Turtle (*Clemmys guttata*), a species that is state-listed as "Special Concern" in accordance with the Massachusetts Endangered Species Act (MESA, MGL c131A) and its implementing regulations (321 CMR 10.00). A fact sheet for this species can be found on our website <http://www.nhesp.org>.

It is our opinion that this project as currently proposed, will result in a prohibited "take" of the Spotted Turtle. Proposed work has the potential to kill or harm spotted turtles when moving between wetlands on the project site, and to disrupt estivation, feeding and possibly nesting behavior. NHESP believes the project could be redesigned to avoid a prohibited "take" of Spotted Turtles by avoiding work (including stormwater management structures) a *minimum* of 100 ft of the A, B, C, and D series wetlands and avoiding work within the potential nesting habitat. From the information in the Habitat Assessment, ortho-photos, and the photos provided, there appears to be an extensive area of grass and potentially sandy areas located between the D series wetland and the existing shrub-line the would offer potential nesting habitat. The creation of an unpaved walking trail would be acceptable, but the final location and timing for construction would need to be evaluated in the context of avoiding disturbance to potentially nesting turtles. This "no-work" zone, the vernal pool, and the A, B, C and D series wetlands to the west should be provided perpetual habitat protection through an EOE (Executive Office of Environmental Affairs) approved Conservation Restriction or other appropriate mechanism.

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