

DEPARTMENT OF INLAND FISHERIES & WILDLIFE
Environmental Permit Review
Wildlife Division - Region C
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Project #: L-23278-82-A-N	Regulatory Agency: DEP
Comment Due Date: December 6, 2006	Application Type: NRP _A
Date Comments Sent: January 8, 2007	
Project Location: Town: Lubec	County: Washington
Applicant's Name: Norman Hunt	
Essential Habitat #:	
Significant Habitat #: Shorebird Area #691 (or type, if unnumbered)	
Wildlife Biologist: Richard Bard	

I. Project Description, Acreage, Habitat Type(s):

The applicant proposes to build a home with attached garage that will total approximately 2676 sq. ft. with associated 500' long driveway. The house will be 75' from the shore in a mix of wetland and shrubby reverting uplands.

II. Essential and/or Significant Wildlife Habitat(s) affected by the project (as recognized by the Endangered Species Act or the Natural Resources Protection Act):

The following recommendations should be considered by the project review agency as a means to avoid or ameliorate anticipated negative effects on Essential or Significant habitat(s). These recommendations may be used as the basis for permit modification or denial:

As proposed, the entire house footprint and about half of the driveway would impact the 250 foot upland zone of Shorebird Area #691, a Significant Wildlife Habitat. In addition, since the house is proposed to be at exactly 75 feet from the spring high tide line, construction activities will result in impacts to soil and vegetation closer to the shore.

I disagree with the applicant's claim that this project is infill of a developed area. While the area is not pristine, it is far from a developed shoreline. The shoreline in the general area of the parcel is mostly undeveloped, with 2 cottages to the north roughly 100 feet from the shore (one of which is a seasonal rental which is not always occupied, use of the other is unknown). To the south, the adjacent lot (or possibly 2) is undeveloped. The closest development to the south is a house roughly 100 yards away on a high bluff above the beach. Most development on South Lubec Road is located closer to the road.

The following recommendations are adapted from the document, "Recommended Land Use Guidelines in Shorebird Feeding and Roosting Areas," the draft of which is currently in final review by DEP and IF&W.

New development should be planned outside of a Shorebird Feeding or Roosting Area wherever possible. If this is not feasible in this case:

Due to the lack of vegetative buffer in the 75 foot shoreland zone, the house footprint should be moved back to at least 150 feet from spring high tide. This will increase the vegetative buffer, decreasing disturbances to feeding shorebirds. Although wetland impacts will be increased by moving the house off the one area of upland, this will be offset by increased protection for shorebirds. At this distance and following the vegetation

clearing guidelines below, the applicant will still have an almost unobstructed view of the bay.

The proposed construction plan (attachment 7) should be modified so that no outside construction (excavation, framing, or other continuous, loud activities) is permitted between July 15 and September 15 to prevent disruption of shorebird feeding and roosting.

The following recommendations are offered with the assumption that, as recommended above, the residence footprint will be moved back to 150 ft. from the upland edge of the SFA. If that recommendation is rejected by DEP, IF&W would like the opportunity to change the following recommendations accordingly.

- Clearing or removal of vegetation for activities other than timber harvesting (including lawn development):
 - Except to remove safety hazards, there shall be no clearing or removal of vegetation within 75 feet horizontal distance from the upland edge of a SFA (Shorebird Feeding Area) with the exception of alders or other woody species that typically grow to over 5 feet in height. The intent is that native grasses and low shrubs, including beach rose, will not be altered or mowed, but maintained as the dominant ground cover within 75 feet of the upland edge of the SFA. A meandering footpath not to exceed 6 feet in width is allowed provided that a cleared straight line to the water through the buffer strip is not created.
 - At distances greater than 75 feet and up to 250 feet horizontal distance from the upland edge of a SFA, there shall be allowed on any lot, in any 10 year period, selective cutting of not more than 40 percent of the volume of trees 4 inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40 percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.
 - In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared.
- Accessory structures should be placed outside the Shorebird Area or at least as far from shore as house. Although there is no mention of a septic system in the application, through discussion with Dean Bradshaw, the applicant's agent, I understand that the plan is to pump sewage to the strip of upland along the road. That plan is preferable to siting a leach-field inside the Shorebird Area.

3' wide cut
of slope with
a 6' x 8' bank
on shore at high
water mark

III. Other Wildlife Habitats of Special Concern:

The following suggestions are offered for serious consideration as a means to avoid or ameliorate anticipated negative effects on habitat(s) of special concern to MDIF&W. However, these suggestions are not intended to provide the sole basis for permit modification or denial:

As noted above, the proposed project takes place in a Shorebird Feeding Area, which extends out to low tide. Additionally, the mudflat adjacent to the subject parcel is a Tidal Waterfowl/Wading Bird Habitat (which has no upland zone). The applicant should be advised that any plans for future development that will affect the intertidal zone (such as docks or piers) might be impacted by the presence of these Significant Wildlife Habitats.

IV. Additional Wildlife Related Observations or Comments:

The following observations and comments are offered for consideration by the project applicant as a means to harmoniously integrate the proposed project with the surrounding wildlife habitat. These comments should not be used as the basis for permit modification or denial:

The shorebirds whose habitat is protected by the Significant Wildlife Habitat migrate through Maine from July 15 to September 15 (or later). Unnecessary disturbances to the birds during that period can result in inadequate fat reserves, reducing survivability during the migration to the southern hemisphere. It is highly recommended that the Hunt's, and their guests who use their

property to access the shore, limit their activities on the beach during the migration period. In his application, Mr. Hunt expressed his appreciation for the shorebirds who use the Lubec mudflats. IF&W is always willing to consult with landowners interested in minimizing impacts to wildlife or enhancing wildlife habitat.

to Norman Hunt
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