



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

**Meeting of the Mashpee Planning Board
Wednesday, October 6, 2021
Waquoit Meeting Room
Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649
7:00 PM**

Broadcast Live on Local Channel 18

Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-18>

Call Meeting to Order

- Pledge of Allegiance

Approval of Minutes

- Review of Meeting Minutes from September 14, 2021

Public Discussion

Public discussion intended for dialogue on matters that are not pertinent to duly advertised public hearings on the agenda.

Public Hearing – 7:10 PM

To review the following zoning articles proposed for action at the October 18, 2021 Town Meeting:

- *To see if the Town will vote to amend Section 174-48.1 Subsection B (Plan Review Committee)*
- *To amend §174-31 Land Space Requirements Table by adding new special footnote*
- *To amend §174-3 Terms Defined (proposed solar overlay)*
- *To amend §174-4, Enumeration of Districts (proposed solar overlay)*
- *To amend §174-5, Establishment of Zoning Map by adding §174-5 (H) (proposed solar overlay)*
- *To amend §174-25 (H)(12) of the Mashpee Zoning By Law. (proposed solar overlay)*
- *To add new section 174-45.7: Solar Energy Systems to the Mashpee Zoning Bylaws (proposed solar overlay)*

Approval Not Required

Applicant: Mark and Donna Lopez
Location: 103 Meetinghouse Road (Parcel 45-50-0)
Request: Lot consists of 279,933 +/- sq. ft. upland area located on the west side of Meetinghouse Road and east of the Mashpee River. Purpose of the ANR is to create two building lots with frontage on an ancient way.

MASHPEE TOWN CLERK

SEP 30 2021

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New Business

- Review Open Meeting Law Complaints filed against the Planning Board on July 21, 2021 and September 24, 2021 by Meredith L.M. Kilpatrick and discuss the Board's response.
- Review submitted road taking plans and vote on a recommendation to Town Meeting to accept the layouts.
- Review and sign draft decision for the South Cape Village Special Permit Modification approved on 9/14/2021.
- Willowbend requests a minor special permit modification to allow the use of an already constructed shared driveway to serve three (3) homes on Teal Circle.

Chairman's Report

- Miscellaneous updates

Town Planner Report

- LCP Update
- Consultant Procurement
- Housing Production Plan

Board Member Committee Reports

- Cape Cod Commission, Community Preservation Committee, Design Review, Plan Review, Environmental Oversight Committee, Historic District Commission, Military Civilian Advisory Council.

Correspondence

- Town of Falmouth Notices
- Town of Sandwich Notices
- Waterways Application – Edward W. & Carolyn B. Allen – 52 Seconsett Point Road
- Waterways application – Daniel R. Marie & Karen S. Joyce – 78 Popponesset Island Road
- August 2021 Discharge Monitoring Report for South Cape Village – N= 2.6
- July 2021 Discharge Monitoring Report for South Cape Village – N=5.8
- June 2021 Discharge Monitoring Report for South Cape Village – N=2.7

Additional Topics (not reasonably anticipated by Chair)

Adjournment

MASHPEE TOWN CLERK

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Mashpee Planning Board Minutes of Meeting

**Wednesday, September 14, 2021 at 7:00PM
Mashpee Town Hall - Waquoit Meeting Room
16 Great Neck Road North
Mashpee, Ma 02649**

Broadcast Live on Local Channel 18

Call-in Conference Number: (508)-539-1400 x 8585

Streamed Live on the Town of Mashpee website <https://www.mashpeema.gov/channel -18>

Present: Chairman John Fulone, John (Jack) Phelan, Mary Waygan, Joseph Callahan, Dennis Balzarini, Robert (Rob) Hansen

Also Present: Evan Lehrer – Town Planner, Ed Pesce – Consulting Engineer, Eliza Cox- Nutter McClennen & Fish LLP, Myles Ostroff – Charter Realty & Development, Matthew Eddy – Baxter-Nye Engineering, Hernan Pagan – Phase Zero Design

CALL TO ORDER

Chairman Fulone called the meeting of the Planning Board to order at 7:00PM. The Pledge of Allegiance was recited.

PUBLIC DISCUSSION

John Muczko- He lives in Deer Crossing. His address is 9 Shellback Way. It conflicts with the address that is being proposed (in the public hearing). He was here a couple years ago when another agency was pursuing the property. His address on his driver's license and all legal papers say 9 Shellback Way. He appealed before this Board previously and it was voted on then and recognized that his address will remain. He is concerned about this mix up. His second concern with the Shellback Way entrance, especially around Ace Hardware and the bank, is a pinhole. The stop sign is hidden, it is very dangerous, and the space to enter is very narrow. He hopes this will be addressed.

Mr. Lehrer took a moment to inform everyone wanting to speak this evening for an advertised public hearing to hold off on speaking until the public hearing. The one at 7:10p.m. is a mandatory referral to the Cape Cod Commission for a Development of Regional Impact. He thanked Mr. Musco for his comments, and informed him there is an address working group in Town for conflicting addresses, primarily for fire safety purposes. The address will most certainly be rectified. He would ask that comments relevant to either of the public hearings wait until it is addressed and there will be ample time to respond at those times, and the presenters will be available to answer any questions.

Kimberley Yout- Her concerns are traffic and privacy. She does not like the idea of taking out all the trees and having a parking lot backed up to her yard. She doesn't like to lock up her house, but now she feels it will be unsafe and she may need to lock her door. There needs to be some barrier or motion light system between the grocery store and her neighborhood.



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Chairman Fulone noted again the public hearing for the grocery store will begin shortly.

Mr. Lehrer wanted to clarify as well, there will be no deliberations made this evening for the public hearing at 7:10p.m., nor public comment. As a mandatory referral to the Commission, his recommendation be that the Board continue the public hearing following the outcome of the DRI, as it will be referred back to the Board. It will be months as it is a lengthy process. As general practice the abutting properties will get notification when deliberations will resume at the Board level.

Chairman Fulone echoed for everyone, it gets referred to the Commission, then it comes back to the Board, then there will be opportunity for public comment.

Ms. Waygan asked when something gets referred to the Commission, do they hold hearings as well? Will the abutters get notification for the Commission hearings?

Mr. Lehrer responded yes for both.

Vera Cirrincione– Lives at Shellback Way, she is concerned about this at two levels. One being traffic, there is already a bottleneck on a small stretch of road. She happens to know what the commercial building is as it is on their website. She noted Trader Joes in Mashpee. Egress in and out is impossible, never mind all the trees coming down and the people who will be parking backed up to their yards. She asked why they could not make a road going out to Job's Fishing Road. This is a conundrum because it is not feasible unless there is something done with the road system.

Mr. Balzarini said years ago there was a project going there. They asked Mashpee Commons if they could come out to Job's Fishing Road. Mashpee Commons said no.

Mr. Lehrer wants to caution the Board to refrain on offering any additional comments until the public hearing resumes.

Mary and Jeff Fresia – Among the problems that have already been mentioned, water waste is one and right now developing is moving forward with the sanitary facility, but it's not there yet. What is going to be done in the meantime, dilute our water? A new structure with use of a lot of resources. The treatment plant is in the works but it is going to be years, and we are talking about this now.

Marjorie Hecht- First, what avenues are being pursued by the Planning Board to ensure developers are building housing to meet Mashpee's needs, specifically year round housing for lower and middle income families. Historically, Mashpee Commons is not a reliable partner, under 40b they could build 96 affordable units out of 382. They said it themselves, it's not profitable. It's clear the bottom line is profit, not providing housing. The Town has two projects for affordable housing: Falmouth Rd. and Commercial St. Are there other parcels the Town owns or could acquire that could be used for mixed income housing? She would suggest a moratorium on any building that increases the nitrogen output. Mashpee's waters are already in a nitrogen emergency, why increase the nitrogen burden? A moratorium would give the Town time to plan remedies without further jeopardizing water bodies. If no one can swim or fish in Mashpee waters no one would want to come here.



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Arden Russell- Thanked the Board for increasing the opportunity for public comment. There was a clear takeaway for her from the Town Planner's opinion piece of the buildout, it was neither thorough nor comprehensive. In order for it to be truly comprehensive there needs to be review of the entire Town's zoning. She notes the LCP update is happening soon, and it is a citizen driven comprehensive approach, not developer driven. She does not want to allow or rely on a for profit shopping mall developer to respond to community character or protect sensitive and historic resources. Why consider a massive zoning change in one location, on one parcel, owned by one developer? That is the opposite of comprehensive. If adding attainable housing is a goal, Mashpee Commons is not the developer we should rely on based on previous unfulfilled commitments. For 14 years they have had a permit to build housing for 382 families with 96 affordable. She noted a glaring omission from the memo was the work of the Affordable Housing Committee. They are currently involved in two projects right now that will significantly add to the housing stock. Using municipal land is key. What about waste water, traffic, the effects on municipal and environment? In her opinion, the build out was inadequate and fell short.

Chairman Fulone responded by saying the build out was what current zoning would allow today, not any impacts other than current zoning and what it allows. He notes in Mr. Lehrer's analysis, there was a strong recommendation to advise to the Affordable Housing Committee. It was based on fact, not opinionated, and Chairman thought it was very well done, very thorough, and very comprehensive.

Mr. Lehrer welcomed the comment. He noted it was a database memo designed to inform the community about what the potential is for the buildout, which was the scope of the analysis.

Ms. Russell chimed in if that were the case she thinks there would have been fewer personal recommendations, just solely based on fact.

Chairman Fulone retorted he is the Town Planner, he is the professional. The Board seeks his professional recommendations.

Ms. Russell stated again, then it is an opinion piece.

Mr. Fulone ended the conversation by refuting her statement, saying it was based on fact and it was his recommendation.

Lynne Barbee- She appreciates the opportunity for dialogue, she is hoping to have some questions answered tonight. She wanted to echo what Arden said that the affordable housing projects were omitted from the buildout, she thinks they at least should have been mentioned. It also omitted the outstanding 40b permit that would also provide affordable housing. The elected representatives, staff, and Town need to be advocates for the residents, not cheerleaders for Mashpee Commons. She asked Mr. Lehrer if this was an oversight on his part, leaving out the 40b and two town projects.

Mr. Lehrer said he tries to be professional when providing council to the Board using technical best practice and he takes issue with the last two takeaways he has heard. Primarily, he really cares about the future of this Town, he is from here, and his grandparents built their house on Johns Pond in the



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60's. He worked very hard on producing a data driven memo so the Town can understand what the impacts of doing nothing means. The scope of the memo was not in regards to design. When you do a Build out analysis pursuant to zoning bylaw, the affordable housing projects are not permitted under local zoning. It would not make any sense from a technical analysis point of view in a buildout analysis that is using zoning. They are 40b projects. 40b allows a developer to circumvent zoning and he cannot anticipate what a developer would do. He very clearly pointed out mixed used development in all commercial areas for diversified housing. Mashpee Commons just so happens to own a lot of property. He was offering analysis pursuant to the Development Agreement application. This matters to him. He does not try to insert opinion or be a policy maker, but he cares intensely and he will continue to do his best.

Ms. Barbee elaborated she was not intending to malign his character, she was just curious if that was an oversight. A lot of people care a lot, and it's not that they are opposed to changes in Mashpee there will be changes, she wants them to be appropriate. We would love to see a Development Agreement. The memo didn't seem to have a broad perspective on what zoning could be. Her interpretation implied that this was the only way we would get affordable housing.

Mr. Fulone stated the application is still in the works. The Town will be involved every step of the way. The Development Agreement will go to Town Meeting for the residents to approve or not approve. Before that we will seek input, public comment, discussion during the Development Agreement, and then it will go to Town Meeting and residents vote to pursue it or not.

Mr. Lehrer wanted to add that the primary takeaway should have been that affordable housing development is very limited. Under current zoning, except OSID, at best can produce 40 units. 40b is not local zoning so it wouldn't be included. He could make a note of it, but it would bear no impact. We don't have the potential to create affordable or diversified housing under current regulations, that's the facts.

APPROVAL OF MINUTES – September 01, 2021

Ms. Waygan referred to page 7, the amended motion says "as required by MEPA". She wanted to note that refers to the environmental impact report and not the traffic study.

MOTION

Mr. Balzarini made a motion to accept the minutes for September 1, 2021 meeting minutes with aforementioned edit. Seconded by Mr. Phelan. All in favor.

PUBLIC HEARING – 7:10p.m. (Continued from 8/18/21)

Applicant: Longfellow Design Build
Location: 9 Shellback Way / 647 Falmouth Road (Route 28)
Request: Requesting a special permit to construct a 12,500 s.f. commercial building to be used for retail grocery sales on a 4 acre +/- parcel located at property addressed as 9 Shellback Way, Mashpee, MA 02649. This application is made pursuant to Sections 174-24C (1) and under Section 174-25E (1) and 174-25E (2). This proposal



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triggers a mandatory referral to the Cape Cod Commission for review as a Development of Regional Impact.

Mr. Fulone is looking for a motion to recommend a referral of the project as a DRI.

MOTION

Mr. Balzarini made a motion to refer the project to the Cape Cod Commission as a Development of Regional Impact. Seconded by Mr. Phelan. All in favor.

Mr. Lehrer additionally needs a motion to continue until the Board receives findings from Cape Cod Commission.

MOTION

Mr. Balzarini made a motion to continue the public hearing until the Cape Cod Commission's findings come back. Seconded by Mr. Phelan. All in favor.

PUBLIC HEARING – 7:20p.m. (Continued from 9/1/21)

Applicant: DPF Mashpee, LLC
Location: South Cape Village Center located between Routh 28, Donna's Lane and Great Neck Road South
Request: Requesting a special permit to modification to construct a 4,860 s.f. commercial building to be used for two retail tenants in the development identified as South Cape Village Shopping Center. The Planning Board approved the South Cape Village Shopping Center as a 160,000 s.f. Commercial Center on May 2, 2001. The special permit decision has been modified periodically over the past 20 years and has included and shown the future location of "Building G" being contemplated in the request for a special permit modification.

Ms. Waygan is saying she cannot stay, she recommends the alternate member be seated.

(Alternate being Mr. Hansen).

Mr. Phelan asked if an alternate was needed.

Mr. Lehrer stated for a special permit four out of five votes were needed, and the applicant would most likely want a five member Board.

Eliza Cox introduced herself and is here on behalf of the applicant. Joining her is Myles Ostroff from Charter Realty & Development. His company manages South Cape Village. Matthew Eddy is also present from Baxter-Nye Engineering. Lastly, she introduced Hernan Pagan who is the project architect with the company Phase Zero Design.



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Ms. Cox wanted to give some background history with this property. She has a permit notebook that has thirty-seven decisions between the Town and the Cape Cod Commission relating to this property. Originally, it was permitted by Mashpee in May 2001 as a commercial center with up to 160,000 s.f. of space. There have been numerous local modifications made before this Board as the designs were tweaked in accordance with the original special permit. A DRI was triggered by the Commission. It was originally granted by the Commission in December 2000 approving the 160,000 s.f. outlet mall. Subsequent to the approval, two major modifications were made in 2003 and 2005 that changed from an outlet center to the shopping center. There were many minor modifications at the Commission as well. During public comment there was a question whether the Commission's decision is still valid in relation to this project, and it is. In October 2015 an extension of DRI permit was sought and granted, extending decision to March 31, 2021. In addition, as a result of Covid-19, the legislature created an extension during the state of emergency. There is confirmation that will expire July 6, 2022. That decision remains in effect.

With reference to what was permitted, allowing 160,00 s.f. spread out over eight buildings labeled A-H, complete with landscaping, parking, roadways, septic, drainage, site improvements, and mitigation. What exists now is 147,000 s.f., which is far less than what is allowed. There are 7 buildings A-F and building H. Tonight we are seeking approval of building G, one of the original buildings permitted in the master plan. This site is located at the corner of Charles St. and South St. Charles St. was originally Shellback Way so there may be reference to that on the initial permits. Historically, building G's original approval showed a footprint of 10,000s.f. In 2017, when we were before the Board for Home Goods, we were proposing additional parking spaces close to building G. It also showed a shrinking of the footprint for building G from the 2017 plans approved by Board.

What they are proposing now is a single story building consisting of 4,850 s.f., which is 5,100 s.f. less than what was originally approved. With this new building the total floor area is 152,000 s.f., well within and less than what's been approved by this Board and the Cape Cod Commission.

Matt Eddy introduced himself. He explained how the site currently has all the utilities available. There is an on-site wastewater treatment plant. Water, electric, gas, and sewer stubs could make connections to existing utilities. The site layout proposes 4,860 s.f. two retail spaces for two retail tenants. Access is from South St. Loading dock is on the east end of the building. Parking has been expanded at Home Goods. Some slight reconfigurations with parking, losing two spots but providing 700 spaces throughout. That equates to 5.1 parking spaces for 1,000s.f. Handicap existing was intended for building G, entry ways are located central to the building, so they have been relocated to be the shortest feasible distance to both entrances. During construction the parking area will be torn up but it will all be addressed as part of the construction process. Storm water management and drainage runoff is being contained on site. They submitted a storm water management report which Mr. Pesce reviewed and commented on. They are tying into existing storm water facilities currently designed. A small portion of the proposed building could not get over to the storm water system and leaching basins were installed to catch the runoff. Plan and Design Review gave approval from both Committees. Minor landscaping modifications will replace the current vegetation to a climbing hydrangea on the lattice. The island on the easterly end of the ten parking spaces will have landscaping like shrubs and grass. In going through Mr. Pesce's comment letter, in regards to the setback standpoint. Mr. Eddy's personal



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involvement with this project has been since 2005, and there have been many modifications with special permit going through the process. We are at 4.6 feet off of Charles St. an internal road, which is greater than the setbacks at Roche Bros. Internally, it's in keeping with what's consistent. The overall perimeter is maintained from original approvals. Mr. Pesce also commented on handicap space relocations. He recommended adding a note for the 90* cut off for black sky ordinance. On the storm water, he suggested added invert elevations where storm drain pipes can be added.

Ms. Cox resumed by stating Mr. Eddy covered a lot of what she was going to discuss, unless the Board had further questions. Locally, in addition to Design and Plan Review, they also filed the plans with the Commission, their review is at staff level to determine the building is consistent with DRI decision. Those paths can happen simultaneously. She doesn't have comments back from the Commission yet. In addition, when plans were submitted to the Commission, out of abundance of caution the Commission's decisions require certificates to be issued before the DRI expires. The Commission wants all their certificates which include construction. They have sought an extension. The site has already been approved and authorized. They are seeking to build less than what the Board has previously approved for this shopping center. The plan is consistent and the entire team is present for questions.

Mr. Balzarini reiterated it was two stores with one building. Where is the dumpster? Do the delivery trucks come at a certain time of day? Historically there have been problems with Home Goods delivery trucks, and the morning is a very busy time for deliveries.

Ms. Cox noted the building is laid out to accommodate two retail tenants.

Mr. Eddy referred to sheet 3.0, the rear loading dock area. There is a potential of sharing the dumpster. They can use the areas in the alleyway between C-D that have doors. If they don't, there is a location at the loading dock area.

Myles Ostroff explained that all leases have language for rules and regulations that are enforced and put in place by the landlord. Once a tenant is finalized, they address their loading requests at that time. A lot of mornings, he is aware it needs to be managed.

Mr. Phelan asked if this was the same plan presented to Plan Review. He asked if the building had sprinkler fire protected systems. Could they potentially use the alleyway dumpster?

Mr. Ostroff stated the location in question plans for the dumpster in the loading area. They are working with the tenant to utilize two dumpsters in building F2, a closer location. In both cases they don't anticipate heavy trash use.

Mr. Phelan noted to Mr. Balzarini's point, many delivery trucks don't use that alleyway. A lot of trucks are parked on South St. This may be something to keep an eye on, especially with morning traffic and construction.



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Mr. Hansen had a question regarding the DRI extension. It was to expire March 31, 2001. It was then extended to July 6, 2022, is that documented? He also referenced a letter submitted by Meredith Kilpatrick. Some issues he is concerned with as a resident himself, which she referenced, one being the serious and continuous water runoffs collecting in parking lots not adjacent or within building G.

Ms. Cox will submit the e-mail from Erin Perry, Deputy Director at the Cape Cod Commission confirming the extensions approval.

Mr. Ostroff was able to read Ms. Kilpatrick's letter prior. There were comments in her letter referring to the ownership entity and the location of the management team, for the record, the ownership of this particular property is based in CT. It is nearby and involved. His company, Charter Realty, deals with daily management, and he has been involved since 2015. They are both regional and local. He is the direct managing agent and he is local living in Falmouth. Had she reached out to any of the tenants who know him personally and know how to reach him, he would have addressed this directly. With regards to the run off at Roche Bros specifically, this is the result of an irrigation main break fed by well water. He immediately opened a work order with his local landscaping contractor. They have been experiencing staffing challenges. In the meantime, they do try to intermittently shut it down, but to do so in high heat would have resulted in many flowers and grass dying. However, they turned it off when they could. This of course is not an ideal situation, but in the height of summer the decision was made to let the system bleed while they irrigated the entire property. The landscaping design is a complex selection of plants like a home design, and we did not want to risk losing it. The problem has been resolved by our local contractors. It is not associated with the waste water treatment facility. There were multiple breaks in irrigation heads and lines. The other comment that pertained to daily operations, she referenced an abundance of litter. Again, another local company handles site sweeping, sidewalk blow offs, litter picking along the property, and Donna's Lane as a courtesy. He has reviewed the scope of work and he doesn't feel there is a litter problem, per say. He is very hands on and at the center daily and takes it personally.

Mr. Pesce referred to Mr. Eddy when sending revised plans, can he comment like he did verbally this evening. How there is 780 parking spaces, and 5.1 per thousand. Was the wastewater plant designed with the original 160,000 s.f. in mind, he assumes it was. He just wants to make sure they aren't exceeding limits by the addition of building G. He advised to go through the comments and respond with a cover letter for record.

Mr. Lehrer did not have much else to add or discuss. He hasn't seen updated sheets yet, he would ask any recommendations made pursuant to Plan Review approvals be added to the plan. Updated landscaping plans need to be included pursuant to Design Review for approval. A note to the Board, he was contacted by the applicant in relation to Sherwin Williams. They will no longer be occupying that space.

There was an opportunity for public comment specific to this petition.



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MOTION

Mr. Balzarini made a motion to close the public hearing. Mr. Callahan seconded. All in favor.

MOTION

Mr. Balzarini made a motion to accept the plans as shown with conditions there will be revised plans submitted at a later date. Seconded by Mr. Phelan. All in favor.

Mr. Lehrer will prepare a draft decision and provide to Ms. Cox for review and will return to the Board for signatures as well.

APPROVAL NOT REQUIRED

Applicant:	Fain Gildea
Location:	#22 and #26 Oyster Way (Map 89 Parcels 77 and 75 respectively)
Request:	Purpose of the ANR is to show that there is adequate access to the parcels from Oyster Way and that there is 150' of frontage along River Road.

Mr. Lehrer noted these are two lots in Sandalwood. They are still vacant because the original subdivision gave all of the frontage for 22 and 26 to adjacent properties, with no frontage on the cul-de-sac. Their frontage was designed to be on River Rd., which is a 40ft. public way unimproved. The Town took a portion, about 300 ft., from the boundary of 26 Oyster Way. He drove a portion of the road with Mr. Phelan. ANR requires the Board to find there is frontage on a public way, which there is on River Road, and access to the lot is adequate. By definition it requires the street be approved by Planning Board or by a street founded by the Planning Board to have adequate access to abutting property.

The standard for endorsing ANR is River Road of suitable width, grade, and construction for the passing of a car. Basically, can you drive a car down it? It is narrow, about 10-12 feet, there is one section that is washed out and creates a topographical challenge if you go past 26 and towards 22. In his opinion, it is entitled for an endorsement under the subdivision control law as ANR. An endorsement does not guarantee building rights for the project. It shows adequate frontage on River Road, River Road is of adequate width for a passing of a vehicle, and it has access to Oyster Way. The adjacent property owners with similar frontage issues, they got a variance for frontage from Board of Appeal. This is the regulatory pathway, where the Planning Board can make findings for access and then building permits can be achieved. Recommendation is entitled to ANR endorsement.

Mr. Balzarini asked they are looking for 150 ft. on each lot, not looking to make it a buildable lot.

Mr. Lehrer stated these lots are grandfathered from 1973, with intention of using River Road as primary frontage, it was never improved. Endorsement would put the property owner in a position to get a building permit.

Mr. Phelan noted in the condition they are at now, there would have to be significant improvements made if they wanted to put houses in there. We have to go forward with the ANR.



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Mr. Lehrer noted an endorsement of an ANR does not give any approvals other than say their road is an appropriate access point.

A resident in attendance was asking questions as a neighbor/abutter of this ANR property. They were told they could speak to Mr. Phelan after the meeting. Mr. Lehrer said he is also available.

MOTION

Mr. Balzarini made a motion to endorse the ANR by acknowledging there is 150' of frontage along River Road. Mr. Phelan seconded. All in favor.

CHAIRMANS REPORT

Chairman had a resident ask him a question recently. They asked him if the Cape Cod Commission's traffic analysis of the Mashpee Commons scope of work had come back and suggested that the scope of work was completely inadequate and needed to be more robust, would your opinion of the Commission's review had been different than what it is? You both were critical of their review. (This question was directed towards Mr. Balzarini and Ms. Waygan specifically).

Mr. Balzarini is saying no, it would not be any different.

Ms. Waygan agrees with Dennis.

TOWN PLANNER UPDATE

LCP Update

Contracts for Weston and Sampson were sent back to the legal team for execution. It took time to get back from town council. Procurement will be completed hopefully within the month. More to come on LCP update.

Consultant Procurement

He is finalizing the procurement documents to submit to the Town Manager relative to motions made at the last meeting. He hopes to have that to him by the end of this week. It was hard to draft a solid detailed RFQ, but he is working diligently.

BOARD MEMBER COMMITTEE REPORTS

Cape Cod Commission –

No Report

Community Preservation Committee –

On the draft Town Meeting Warrant - expenditures of CPA funds. Get to Board for next meeting.

Design Review -

No Meeting

Plan Review -

No Meeting

Environment Oversight Committee -

No Meeting

Historic District Commission -

Meeting on September 21, 2021

Military Civilian Advisory Council -

No Meeting



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Ms. Waygan asked Mr. Phelan which council he represented as she toured the Base and she was informed he was on two. Mr. Phelan noted he is aware of what she is talking about, but he is only a representative on one council.

NEW BUSINESS

Mr. Balzarini noted Blue Castle Drive had mud all over the place, the cloth fell through and it looks like a muddy river.

Mr. Pesce noted he followed up about the filter fabric in the catch basins but has not done anything else. The filter fabric is working, but the filters leave the residual, silt sacks are best. Before he closes out the subdivision he will require all the catch basins be pumped out so the system can start fresh. He will reach out after the meeting.

ADJOURNMENT

Mr. Balzarini made a motion to adjourn the meeting at 8:21p.m. Seconded by Mr. Phelan. All in favor.

The meeting ended at 8:21p.m.

Next Meeting: Wednesday, October 06, 2021 at 7:00p.m.

Respectfully Submitted,

Christine M. MacDonald
Board Secretary



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LIST OF DOCUMENTS

Additional documents may be available in the Planning Department.

- Town of Falmouth Notices
- Town of Sandwich Notices
- Waterways Application – Kathryn and Alan Clapp – 3 Keelan Way
- Waterways Application – Stuart and Christine Nixdorff – 18 Little Neck Lane
- July 2021 Discharge Monitoring Report for South Cape Village – N= 5.8
- June 2021 Discharge Monitoring Report for South Cape Village – N= 2.7
- May 2021 Discharge Monitoring Report for South Cape Village – N= 3.6

DRAFT



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16 Great Neck Road North
Mashpee, Massachusetts 02649

MASHPEE PLANNING BOARD PUBLIC HEARING NOTICE

Broadcast Live on Local Cable Channel 18

***Streamed Live on the Town of Mashpee Website:** <https://www.mashpeema.gov/channel-18>*

Pursuant to Massachusetts General Laws, Chapter 40A, Section 5 the Mashpee Planning Board will hold a public hearing on Wednesday, October 6 at 7:10 p.m. from the Mashpee Town Hall, 16 Great Neck Road North in the Waquoit Meeting Room to review the following zoning articles proposed for action at the October 18, 2021 Town Meeting.

Warrant Article ___:

To see if the Town will vote to amend Section 174-48.1 Subsection B (Plan Review Committee)

This warrant article would add the newly appointed Town Engineer and any successors to that position as a member of the Plan Review Committee whose duties are to advise the Building Inspector, Board of Selectmen, Planning Board and Board of Appeals on matters related to the areas of expertise of its members, and to provide informal advice and review to prospective applicants for permits.

Warrant Article ___:

To amend §174-31 Land Space Requirements Table by adding new special footnote

This article would create a special exemption in the land space requirements table specifically for solar carports. This exemption would allow lot coverage to exceed 20% solely for this use in approved parking areas. Currently the Town is limited in its ability to utilize approved or proposed parking lots for solar energy systems (roof mounted panels on a carport structure) primarily due to the manner in which the Zoning Bylaw defines structures and lot coverage. This article was submitted by petition.

Warrant Article ___:

To amend §174-3 Terms Defined

This article would define terms that are used in the new proposed Solar Energy Systems Overlay District. The proposed definitions are consistent with the definitions recommended by the Commonwealth of Massachusetts for solar energy systems. This article was submitted by petition.

Warrant Article ___:

To amend §174-4, Enumeration of Districts

MASHPEE TOWN CLERK

AUG 26 2021

RECEIVED BY: _____



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

This article would create a new Solar Energy Systems Overlay District. The Zoning Bylaw and Town of Mashpee Zoning must clearly delineate all zoning districts and zoning overlay districts which this article would. This article was submitted by petition.

Warrant Article ____:

To amend §174-5, Establishment of Zoning Map by adding §174-5 (H).

This article would establish the bounds of the proposed Solar Energy Systems Overlay District within the Zoning Bylaw. Only the parcels identified in this proposed new section would permit medium and large scale solar energy systems. This article was submitted by petition.

Warrant Article ____:

To amend §174-25 (H)(12) of the Mashpee Zoning By Law.

Currently Medium and Large Scale solar energy systems are allowed within the Industrial Zoning Districts by Plan Review. This article would enable the development of medium and large scale solar energy systems within the area defined as the Solar Energy Systems Overlay District proposed in another warrant article by amending the table of uses in the Zoning bylaw accordingly. This article was submitted by petition.

Warrant Article ____:

To add new section 174-45.7: Solar Energy Systems to the Mashpee Zoning Bylaws

This section promotes the creation of new small, medium and large-scale, ground-mounted solar energy systems within a new proposed Solar Energy Systems Overlay District on specific parcels within the R5 and C2 Zoning Districts by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations. This new section would provide the standards of review that the Planning Board as Special Permit Granting Authority would utilize to scrutinize any applications submitted for the development of medium and large scale solar energy systems within the proposed Solar Energy Systems Overlay District. This article was submitted by petition.

Submitted by:

John Fulone, Chair

Mashpee Planning Board

Publication dates: Friday, September 10, 2021
Friday, September 17, 2021

MASHPEE TOWN CLERK

AUG 26 2021

RECEIVED BY:

df




TOWN OF MASHPEE

OFFICE OF SELECTMEN

16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone - (508) 539-1401
bos@mashpeema.gov

MEMORANDUM

TO: Members of the Planning Board
CC: Town Manager, Town Planner

FROM: Terrie Cook – Administrative Assistant to the Town Manager 

DATE: August 11, 2021

RE: ***2021 October Town Meeting Zoning Bylaw and Road Taking Warrant Articles***

The 2021 October Town Meeting Zoning Bylaw Warrant Articles are attached for your reference and discussion.

Thank you.

Article _

To see if the Town will vote to amend Section 174-48.1 Subsection B (Plan Review Committee) of the Mashpee Zoning Bylaws by adding "Town Engineer," as follows:

B. Membership of the Plan Review Committee shall consist of the Town Engineer, Building Inspector, Health Agent, Town Planner, Conservation Agent, Fire Chief, Police Chief, Director of Public Works and Town Manager or their designees. The Committee may organize itself in any way it deems appropriate and establish rules and procedures it deems necessary for the performance of its functions. The Committee may meet as a group to discuss projects, in which case it shall follow the requirements of the "Open Meeting Law", or it may establish procedures under which, for certain types of uses, the members may file individual recommendations regarding a project with the Building Inspector, who shall compile the Committee's decision or recommendation letter, provide it to the applicant and, if appropriate, to the Special Permit granting authority, and record it with the Town Clerk.

Submitted by the Board of Selectmen

Explanation: This warrant article would add the newly appointed Town Engineer and any successors to that position as a member of the Plan Review Committee whose duties are to advise the Building Inspector, Board of Selectmen, Planning Board and Board of Appeals on matters related to the areas of expertise of its members, and to provide informal advice and review to prospective applicants for permits.

The Board of Selectmen recommends approval of Article by a vote of 5-0

The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to authorize and empower the Board of Selectmen to prepare a plan laying out and defining Canonchet Avenue and to accomplish said purpose and for expenses related thereto, the Town vote to appropriate and transfer from revenue available for appropriation \$5,000* to the Canonchet Avenue Roadways Account, or take any other action relating thereto.

Submitted by Petition

Explanation: This article authorizes the Town to layout and define Canonchet Avenue and to appropriate funding for that purpose.

The Board of Selectmen recommends approval of Article by a vote of 5-0

The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to accept the layouts as public ways of Cedar Street, Chestnut Street, Devon Street, Ash Street, Hawthorne Street, and Gina’s Way as shown on plans entitled “Cedar Street, Devon Street, Ash Street, Road Taking Plan,” in Mashpee, MA (Barnstable County), dated January 28, 2021 and prepared by Cape & Islands Engineering, Inc., which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of vote hereunder, and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain taking any land necessary for the purposes of such ways as so laid out, and to appropriate the sum of \$ 311,010.00 to the “Cedar Street, Chestnut Street, Devon Street, Ash Street, Hawthorne Street, and Gina’s Way” Roadways Account, and to raise said appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time, under and pursuant to Chapter 44 Section 7 or 8, or any other enabling authority for such purchase or taking and layout, including costs of constructing such ways, and legal financing, and other costs incidental and related thereto, and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, or take any other action relating thereto.

Submitted by Petition

Explanation: This article authorizes the Town to complete the private to public road conversion process for Cedar Street, Chestnut Street, Devon Street, Ash Street, Hawthorne Street, and Gina’s Way.

The Board of Selectmen recommends approval of Article by a vote of 5-0

The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to accept the layouts as public ways of Oldham Circle, as shown on plans entitled “Oldham Circle, Road Taking Plan,” in Mashpee, MA (Barnstable County), dated December 20, 2020 and prepared by Cape & Islands Engineering, Inc., which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of vote hereunder, and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain taking any land necessary for the purposes of such ways as so laid out, and to appropriate the sum of \$ 387,906.75 to the “Oldham Circle” Roadways Account, and to raise said appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time, under and pursuant to Chapter 44 Section 7 or 8, or any other enabling authority for such purchase or taking and layout, including costs of constructing such ways, and legal financing, and other costs incidental and related thereto, and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, or take any other action relating thereto.

Submitted by Petition

Explanation: This article authorizes the Town to complete the private to public road conversion process for Oldham Circle.

The Board of Selectmen recommends approval of Article by a vote of 5-0

The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to amend Article VII Land Space Requirement, Section 174-31, Land Space Requirement Table by adding footnote "25" to "maximum of lot coverage (percent)." Footnote 25 would read as follows:

Structures erected solely for the purpose of roof-mounted solar energy systems in permitted parking lots/areas shall not contribute to a parcel's lot coverage maximum but shall comply with all setback criteria of the applicable zoning district. For medium and large scale solar energy systems requiring a special permit from the Planning Board, pursuant to Sec XXXX Solar Energy Systems Overlay District, the Planning Board may, at its sole discretion, approve in its decision a solar energy system whose lot coverage exceeds 20% in consideration of site specific conditions.

Submitted by Petition

Explanation: Rationale and support for zoning change to enhance the density of solar projects in Mashpee: In 2018 the Commonwealth of Massachusetts put forth a new solar initiative called the Smart program. This groundbreaking concept will help Massachusetts be a leader in solar energy. Given the high cost of land in Mashpee, it is essential to achieve enough density to make a solar project meaningful. The proposed footnote to the By-Law will give the planning board sufficient tools and oversight to achieve an appropriate balance between solar project density and the needs of the community.

The Board of Selectmen recommends approval of Article by a vote of

The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to amend §174-3 of the Mashpee Zoning By-Law, Terms Defined as follows:

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

Rated Nameplate Capacity: The maximum rated output of electric power production of a photovoltaic system in watts of Direct Current (DC).

Solar Collector: A device, structure or a part of a device or structure for the primary purpose of harvesting solar energy for use in a solar energy system.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System: A device or structural design feather for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

Solar Energy System, Active: A solar energy system that collects and transforms solar energy into another form of energy or transfers heat from a solar collector to another medium, via mechanical, electrical or chemical means.

Solar Energy System, Grid-Intertie: A photovoltaic system or other active solar energy system designed to generate electricity that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An active solar energy system that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Solar Energy System, Large Scale: An active solar energy system that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Solar Energy System, Medium Scale: An active solar energy system that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10-150 kW DC).

Solar Energy System, Off-Grid: A photovoltaic system or other active solar energy system designed to generate electricity in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System, Roof-Mounted: An active solar energy system that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Solar Energy System, Small-Scale: An active solar energy system that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 15 kW DC or less).

Submitted by Petition

Explanation: This amendment serves to define terms that are used in the new proposed Solar Energy Systems Overlay District.

The Board of Selectmen recommends approval of Article by a vote of
The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to amend §174-4, Enumeration of Districts by adding SOLAR ENERGY SYSTEMS OVERLAY DISTRICT

Submitted by Petition

Explanation: This article would create and establish a Solar Energy System Overlay District as enumerated in proposed Section 174-47.7.

The Board of Selectmen recommends approval of Article by a vote of
The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to amend §174-5, Establishment of Zoning Map by adding §174-5 (H) as follows:
The Solar Energy Systems Overlay District shall include all of the parcels of land described as follows:
All of the land as shown on Town of Mashpee Assessor Fiscal Year 2021 Tax Maps:72-117; 72-113; 72-112; 72-111; 72-110; 72-118; 79-80; 79-79; 79-71; 79-72; 79-73; 79-74; 79-75; 79-76; 79-77 and 79-78.
All are located in the R-5 and C-2 Zoning District.

Submitted by Petition

Explanation: This Article is intended to define by reference to the Mashpee Assessor Fiscal Year 2021 tax maps, the land within the Solar Energy Systems Overlay District that should be attached to this zoning map.

The Board of Selectmen recommends approval of Article by a vote of
The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to amend §174-25 (H)(12) of the Mashpee Zoning By Law "Table of Use Regulations by adding "SP" under Zoning Districts R-5 and C-2

TYPE OF USE	RESIDENTIAL		COMMERCIAL			INDUSTRIAL
	R-3	R-5	C-1	C-2	C-3	I-1
Medium-scale and Large-scale Ground mounted Solar Energy Systems, provided that neighboring properties are effectively protected from any significant adverse impacts from glare, that any such systems are properly fenced or otherwise secured, and that no hazardous materials are stored in quantities greater than permitted by other sections of this By-Law, subject to approval by the Plan Review Committee and Design Review Committee (Allowed by SP under 174-45.7 only in the Solar Energy System Overlay District).		SP		SP		PR

Submitted by Petition

Explanation: This article would allow the development of medium and large scale solar energy systems in the residential (R-5) and commercial (C-2) zoning districts with a Special Permit from the Planning Board provided they are within the Solar Energy Systems Overlay District.

The Board of Selectmen recommends approval of Article by a vote of
The Finance Committee recommends approval of Article by a vote of

Article_

To see if the Town will vote to establish within the Town of Mashpee a Solar Energy System Overlay District by adding a new Section 174-45.7as follows:

SOLAR ENERGY SYSTEMS OVERLAY DISTRICT

A. Purpose and Intent

1. This section promotes the creation of new small, medium and large-scale, ground-mounted solar energy systems overlay district, in the areas which are delineated on a map dated January 25, 2021 and entitled "Solar Energy Systems Overlay District, ROUTE 151, ALGONQUIN AVENUE AND OLD BARNSTABLE ROAD, Mashpee, Massachusetts," (attached hereto) and which shall be considered as superimposed over other districts established by the zoning by-laws of the Town. This map, as it may be amended from time to time, is on file with the office of the Town Clerk and with any explanatory material therein, is hereby made a part of this chapter, by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations. This Overlay District Ordinance is adopted pursuant to the Commonwealth of Massachusetts Green Communities Act and Massachusetts General Laws Chapter 40A Section 3.

2. Uses, other than Solar Energy Systems, otherwise not permitted in the portions of a zoning district superimposed by this district shall not be permitted in this district.

3. The Solar Energy Systems Overlay District shall include all of the land within the lines described in subsection B, which are in the R-5 and C-2 zoning districts. Medium and large scale solar energy systems located in the industrial zoning district (I-1) are exempt from the requirements of this chapter and require approval only from the Plan Review Committee pursuant to the applicable dimensional criteria of the zoning district.

B. Bounds

1. Including all of the land within the following described lines:

Property Description: The land in the Town of Mashpee, Barnstable County, Massachusetts beginning at the Northeast corner of the premises at Route 151; thence South 05°54'17" West, a distance of 203.10'; thence South 82°22'02" East, a distance of 107.07'; thence South 08°34'16" West, a distance of 154.18'; thence South 84°05'40" East, a distance of 272.51'; thence South 09°46'40" West, a distance of 1,026.79' by Algonquin Avenue; thence North 77°51'29" West, a distance of 320.36' by Old Barnstable Road; thence South 89°31'13" West, a distance of 731.65' by Old Barnstable Road; thence North 73°24'07" West, a distance of 125.90' by Old Barnstable Road; thence North 66°44'57" West, a distance of 568.90' by Old Barnstable Road; thence Northerly along centerline old brick yard road West, a distance of 1,080'+/-; thence North 83°31'22" West, a distance of 27.59' +/- to ditch; thence Northerly along ditch West a distance of 175'+/-; thence North 85°34'30" East a distance of 5'+/-; thence North 24°26'35" West, a distance of 150.11' to Old Barnstable Road; thence With a curve turning to the left with an arc length of 76.29' by Route 151 with a radius of 4,189.42' to a concrete bound; thence South 09°02'50" East, a distance of 159.61'; thence

South 10°46'40" East a distance of 42.72'; thence
South 04°15'30" East, a distance of 206.16'; thence
South 76°43'49" East, a distance of 300.57'; thence
North 09°46'40" East, a distance of 433.00' to Route 151; thence
South 84°05'40" East, a distance of 63.18' by Route 151; thence
With a curve turning to the left with an arc length of 37.30' with a radius of 25.00'; thence
South 09°46'40" West, a distance of 154.04'; thence
South 80°13'20" East, a distance of 199.99'; thence
North 09°46'36" East, a distance of 190.94' to Route 151; thence
South 84°05'40" East, a distance of 405.08' along Route 151, which is the point of beginning and
having an area of 39.674 acres.

Meaning and intending to include all of the land as shown on Town of Mashpee Assessor Fiscal
Year 2021 Tax Maps:72-117; 72-113; 72-112; 72-111; 72-110; 72-118; 79-80; 79-79; 79-71; 79-
72; 79-73; 79-74; 79-75; 79-76; 79-77 and 79-78.

C. Permitted Uses

Within the Solar Energy Systems Overlay District, the following uses are permitted provided all necessary permits, orders and approvals required by local, state and federal law are obtained.

1. Any medium or large scale solar energy system shall be allowed in the Solar Energy Overlay District only after the issuance of a Special Permit by the Planning Board. In issuing such Special Permit, the Board shall ensure that neighboring properties are effectively protected from any significant adverse impacts from glare that any such systems are properly fenced or otherwise secured and that no hazardous materials are stored in quantities greater than permitted by other sections of this by-law, subject to approval by the Plan Review Committee and Design Review Committee.
2. The Solar Energy System's owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the ground-mounted solar energy system and any access road(s).

D. Dimensional Criteria

Small, Medium and Large Scale Solar Energy Systems

1. Small, Medium and Large Scale Solar Energy Systems may be accessory to another principal structure or use provided that they satisfy the dimensional criteria and performance standards contained in this section.
2. Ground-mounted solar energy systems shall be set back a distance of at least 100 feet from a public or private way. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
3. Ground-mounted solar energy systems shall be set back a distance of at least 125 feet from any inhabited residence, and 100 feet from any property in residential use. For the purposes of this section, a residence is defined as a primary living structure and not accessory structures. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
4. Ground-mounted solar energy systems shall be set back a distance of at least 50 feet from any commercial property or use and 25 feet from any industrial property or use notwithstanding the provisions of paragraph 2 above (relative to medium and large scale solar energy systems). The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.

5. Ground-mounted solar energy systems shall be set back a distance of at least 50 feet from abutting conservation land and any property not included in the Ground-mounted solar array application. The Planning Board may reduce the minimum setback distance as appropriate based on site specific considerations.
6. Fixed tilt Ground-mounted solar energy systems shall have a maximum height of 15 feet above grade. In the case of single or dual axis tracking Ground-mounted solar energy systems, the Planning Board may increase the maximum height as appropriate based on site-specific considerations.
7. Inverters, energy storage systems, and transmission system substations shall be set back a distance of at least 200 feet from any residence. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific conditions.

E. Special Permits Rules and Application Requirements

A Solar Energy System Special Permit shall not be granted unless each of the following requirements, in addition to the requirements in §174-24 C Special Permit use, are satisfied:

1. A properly completed and executed application form and application fee.
2. Any requested waivers. To this end, as part of its Special Permit decision, the Planning Board may, at its sole discretion, establish a lot coverage maximum that exceeds 20% in consideration of site specific conditions.
3. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.
4. Names, contact information and signatures of any agents representing the project proponent.
5. Name, address and contact information for proposed system installer.
6. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar energy system.
7. Proposed hours of operation and construction activity.
8. Blueprints or drawings of the solar energy system signed by a Massachusetts licensed Registered Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures.
9. Utility Notification: Evidence that the utility company that operates the electrical grid where a grid-intertie solar energy system is to be located has been informed of the system owner or operator's intent to install an interconnected facility and acknowledges receipt of such notification, and a copy of an Interconnection Application filed with the utility including a one or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code (527 CMR§ 12.00) compliant disconnects and overcurrent devices. Off-grid solar energy systems shall be exempt from this requirement.
10. Documentation of the major system components to be used, including the electric generating components, battery or other electric storage systems, transmission systems, mounting system, inverter, etc.
11. Preliminary Operation and Maintenance Plan for the solar energy system, which shall include measures for maintaining safe access to the installation, storm water management, vegetation controls, and general procedures for operational maintenance of the installation.

12. Abandonment and Decommissioning Plan: Any ground-mounted solar energy system which has reached the end of its useful life or has been abandoned (i.e., when it fails to operate for more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. The Abandonment and Decommissioning Plan shall include a detailed description of how all of the following will be addressed:

- (a) Physical removal of all structures; equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.
- (b) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow landscaping or below-grade foundations left *in situ* in order to minimize erosion and disturbance of the site.
- (d) Description of financial surety for decommissioning: Proponents of ground-mounted solar energy systems shall provide a form of surety, either through escrow account, bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be commercially reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.
- (e) It shall be a condition of any special permit that all legal documents required to enable the Town to exercise its rights and responsibilities under the plan to decommission the site, enter the property and physically remove the installation shall be provided prior to the issuance of a building permit.

F. Required Performance Standards: Small, Medium and Large Scale Solar Energy Systems

1. Visual Impact Mitigation: The site plan for a ground-mounted solar energy system shall be designated to screen the array to the maximum extent practicable year round from adjacent properties in residential use and from all roadways.
2. All required setbacks shall be left in their undisturbed natural vegetated condition for the duration of the solar energy system's installation. In situations where the naturally vegetated condition within required setback is not wooded and does not provide adequate screening of the solar array, the Planning Board may require additional intervention including, but not limited to:
 - (a) A landscaping plan showing sufficient trees and understory vegetation, of a type common in natural areas of Mashpee, to replicate a naturally wooded area and to constitute a visual barrier between the proposed array and neighboring properties and roadways.
 - (b) Berms along property lines and roadways with suitable plantings to provide adequate screening to neighboring properties and roadways.

3. Lighting: Lighting of ground-mounted solar energy systems shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
4. Signage: Signs on ground-mounted solar energy systems shall comply with all applicable regulations of this by-law and/or any Town sign by-law. A sign shall be required to identify the owner, operator and interconnected utility and provide a 24-hour emergency contact phone number. Ground-mounted solar energy systems shall not be used for displaying any advertising signage.
5. Utility Connections: Within setback distances and except where soil conditions, location, property shape, and topography of the site or requirements of the utility provider prevent it, all utility connections from grid-intertie solar energy systems shall be placed underground. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
6. Vegetation Management: All land associated with the ground-mounted solar energy system shall be covered and grown in natural vegetation. The height of vegetation must be managed by regular mowing or grazing so as to minimize the amount and height of combustible material available in case of fire. Herbicides, pesticides, or chemical fertilizers shall not be used to manage vegetation. To the greatest extent practicable, a diversity of plant species shall be used, with preference give to species that are native to New England. Use of plants identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts department of Agricultural Resources is prohibited. Management of all vegetated areas shall be maintained throughout the duration of the solar energy system's installation through mechanical means without the use of chemical herbicides.
7. Noise Generation: Noise generated by ground-mounted solar energy systems and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality Noise Regulations, 310 CMR 7.10.
8. Fencing: Fencing around solar arrays shall provide a minimum 6" clearance between the fence bottom and the ground to allow passage of small wildlife. The Planning Board shall require resident style fencing where necessary to screen the solar energy systems year round from adjacent residences.
9. Land Clearing and Soil Erosion: Clearing of natural vegetation and topsoil shall be limited to what is necessary for the construction, operation and maintenance of the ground-mounted solar energy system. No topsoil removed during construction shall be exported from the site.
10. Erosion Control and Stormwater: Erosion Control and Stormwater Management notation shall be included to show that adequate provisions against erosion and adverse impacts of runoff are appropriately mitigated.
11. Emergency Services: The ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Mashpee Fire Department and any other neighboring Fire Department upon request. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

Submitted by Petition

Explanation: This section promotes the creation of new Solar Energy Systems Overlay District for small, medium and large-scale, ground-mounted solar energy systems on land with the Overlay District currently zoned R-5 and C-2 by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installation.

The Board of Selectmen recommends approval of Article by a vote of
The Finance Committee recommends approval of Article by a vote of



NextGrid

Mashpee Project

September/October 2021

OUR COMPANY

- NextGrid develops and builds solar farms that deliver clean energy savings to communities, public users, and private users, throughout the country.
- Currently developing similarly sized projects throughout New England.
- We have constructed projects in Chatham and Dennis; are in construction in Yarmouth; and have fully permitted projects in Bourne, Brewster and Harwich.

CHOICE OF LAND

- We specialize in previously disturbed and underperforming land.
- The Mashpee Solar Project is a roughly 40 acre former sandpit. Much of the land has been cleared since the 1960's with some new growth appearing over the last few years.
- Solar is the highest and best use for this site. Many other Cape communities have adopted solar overlay districts to allow direct renewable energy development to sandpits, brownfields and landfills











PROJECT OVERVIEW

- Consists of 9MW DC of fixed tilt solar, central inverters, and a battery storage facility.
- No moving parts, inaudible to abutters, not visible from major rights-of-way.
- Half the site is over portions of the former sandpit while the remaining portions are wooded.
- Battery Storage Skid coupled with a chemical free fire suppression system.



PROPOSED SOLAR OVERLAY

- The majority of this land is zoned R5 for commercial/mixed use.
- As opposed to a zone change we are simply requesting to introduce a new use to the R5 zone district only on this parcel where it is the highest and best use.
- A solar overlay district allows for an additional use (large ground mounted photovoltaic facilities) on certain parcels.



ENVIRONMENTAL IMPACT

- Has a raised fence to allow for most local wildlife to enter and exit the site freely.
- Seed the land with a New England Pollinator Mix and cut the grass manually as needed.
- Try to maintain the site like a meadow encouraging flora and fauna to thrive.
- There will be a 50 to 60 ft. wooded buffer around the project and Evergreen or Cypress trees planted so won't be visible during winter.

ECONOMIC IMPACT

- The project will not cost taxpayers anything. This project will only add to the tax base.
- This project will not add stress to the school district, police department, or any other town services.
- Mashpee residents are invited to opt into the project which would get them approximately \$0.02 per kWh off their bills which generally translates to 10-15% in savings.
- Based on preliminary numbers, Mashpee would receive approximately \$2.6 million dollars over the next twenty years.

ADDRESSING CONCERNS

- Previously a notice has been sent to approximately 30 abutters. To date, no abutter has called a Select Board member or Town Manager to express concern.
- NextGrid is purchasing the parcel from Mr. William Haney. As soon as the zoning amendment passes, and permitting completed, we should be able to close this land deal and Mr. Haney will no longer be involved at any level.
- After the useful life of the project the land will revert to NextGrid who will be the long term stewards of the land.
- The Town of Mashpee will have an option for expanding the agreement with NextGrid in five-year increments after the twenty-year period has concluded.

NEXT STEPS

- Obtain Discretionary Permits including, Site Plan Review and Special Permit.
- Finalize PILOT Agreement with The Town.
- Finalize lease owner operator agreement, land transfer and lease agreements with The Town.
- Construct Project: 3-5 Month Timeline.



FORM A

APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE APPROVAL

Date: September 17, 2021

To the Planning Board: The undersigned, believing that the accompanying plan of his or her property in the Town of Mashpee does not constitute a subdivision within the meaning of the Subdivision Control law, herewith submits said plan for a determination and endorsement that Planning board approval under the Subdivision Control Law is not required.

Name of Applicant Mark and Donna Lopez Phone 508-477-7272

Address 103 Meetinghouse Road, Mashpee, MA 02649

Owner, if different SAME AS ABOVE Phone 508-477-7272

Address _____

Attach copies of (a) most recent recorded deed and (b) tax bill or Assessor's certification.

Engineer or Surveyor Cape & Islands Engineering Inc. Phone 508-477-7272

Address 800 Falmouth Road, Suite 301 C, Mashpee, MA 02649

Deed of property recorded in Barnstable County Registry Book 3183 Page 272

Land Court Certificate of Title No. _____

Location and description of property 103 Meetinghouse Road, Mashpee, MA consisting of 279,933 +/- sq. ft. upland area located on the west side of Meetinghouse Road and east of the Mashpee River. Property is Zone R-5. Purpose of the ANR is to create two building lots with frontage on an Ancient Way.

Mashpee Assess map(s) and Block(s) 45-50-0

Signature of Owner or Authorized Representative _____

Cape & Islands Engineering, Inc.

Attach written authorization signed by owner.

Planning Board
Form N

Notice of Filing
of Application with the Mashpee Planning Board

To the Mashpee Town Clerk:

This is to notify you that on September 17, _____, 20 21 an application for

- endorsement of a plan believed not to require approval
 approval of preliminary plan
 approval of definitive plan

was submitted to the Mashpee Planning Board at its public meeting by

Mark and Donna Lopez _____, 103 Meetinghouse Road, Mashpee, MA 02649 _____
Applicant name Applicant address

The land to which the application relates appears on the current Mashpee Assessors Maps as
45 - 50 - 0

and is generally described as located

103 Meetinghouse Road, Mashpee, MA consisting of 279,933 +/- sq. ft. area. Located on the west side of Meeting house Road and east of Mashpee River. Zone R-5. Purpose of ANR is to create Lot 1 and Lot 2.

This notice must be submitted to the Town Clerk by delivery or by registered or certified mail, postage prepaid, along with a copy of the application and submitted plans.

Received by Planning Board on _____, 20 21.

for Mashpee Planning Board

MARK V LOPEZ
DONNAJEAN LOPEZ
PH. 508-477-3361
103 MEETINGHOUSE RD.
MASHPEE, MA 02649

53-8458/2113

3437

DATE 9-10-21 FMP

PAY TO
THE ORDER OF

Town of Mashpee \$ 100.00
One hundred 00/100 DOLLARS

← Heat
Reactive
Ink



Fairhaven, Massachusetts 02719
www.firstcitizens.org

MEMO Annular Filing Fee A.N.R. Mark V. Lopez MP

⑆ 211384586⑆ 23702546⑆ 3437

LOOK FOR FRAUD-DETECTING FEATURES INCLUDING THE SECURITY SQUARE AND HEAT-REACTIVE INK. DETAILS ON BACK.

© DELUXE or deluxe.com/credits
SPECIALTY BLUE HIGH SECURITY



September 8, 2021

Mr. Evan Lehrer, Town Planner
Town of Mashpee Planning
16 Great Neck Road North
Mashpee, MA 02649

**RE: Application for Approval Not Required 103 Meetinghouse Road, Mashpee,
MA**

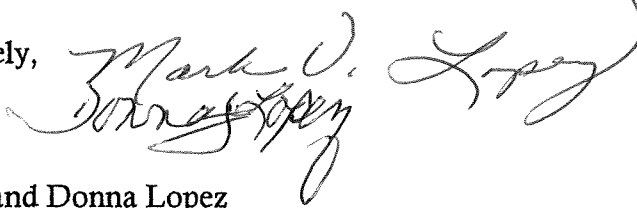
Dear Mr. Lehrer:

This letter is in regard the above referenced application.

Please accept this letter as my written authorization to allow Matthew C. Costa,
P.L.S., R.S., President, Cape and Islands Engineering, Inc. and/or his Associates to
represent this Approval Not Required Application on my behalf.

If you have any questions, please feel free to contact me at 774-521-7026.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark V. Lopez". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Mark and Donna Lopez
103 Meetinghouse Road
Mashpee, MA 02649
774-521-7026

Cc: Cape & Islands Engineering, Inc.

VINCENT C. LOPEZ and CAROL A. LOPEZ, husband and wife, both

of Mashpee, Barnstable County, Massachusetts
~~xxxxxxxxxxxxxxxx~~ for nominal non-monetary consideration paid

grant to MARK V. LOPEZ and DONNA JEAN LOPEZ, husband and wife, as joint tenants,

of 497 Hatchville Road, Hatchville, Massachusetts 02536, with quitclaim covenants

~~the land~~ A certain parcel or lot of land in the Town of Mashpee, Barnstable County, Massachusetts on the westerly side of Meetinghouse Road and the easterly side of the Mashpee River, shown as Parcel "B" on a plan entitled, "Division Plan of Land in Mashpee, Mass. showing Parcel B. which is to be conveyed to Donna J. Lopez from Vincent C. Lopez, Scale: 1" = 60', August 13, 1980, Doyle Associates, Falmouth, Mass." to be recorded herewith to which plan reference is made for a more particular description, Reference PLAN BOOK 347, PAGE 39.

There is conveyed appurtenant to said Parcel "B" the right to pass and repass along the Ancient Way shown over both of Parcel "A" shown on said plan to the Meetinghouse Road.

For title see deed of Violet E. Salmon to us dated September 10, 1959 and recorded at the Barnstable County Registry of Deeds Book 1056, Page 462.

Executed as a sealed instrument this 16th day of October 19 80

Vincent C. Lopez
Vincent C. Lopez

Carol A. Lopez
Carol A. Lopez

The Commonwealth of Massachusetts

Barnstable ss. October 16, 19 80

Then personally appeared the above named CAROL A. LOPEZ

and acknowledged the foregoing instrument to be HER free act and deed,

Before me, Arthur H. Rapoza
Arthur H. Rapoza
Notary Public

My commission expires October 1, 19 82

**Town of Mashpee
Planning Board**

I hereby attest that Mark V. Lopez and Donna Jean Lopez

OWNER OF RECORD

Assess Map 45 Parcel 50, 103 Meetinghouse Road, Mashpee, MA 02649

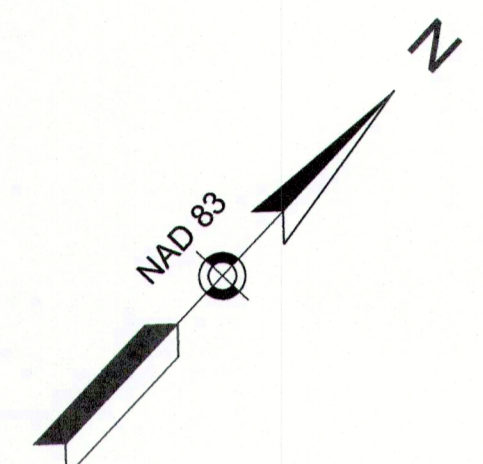
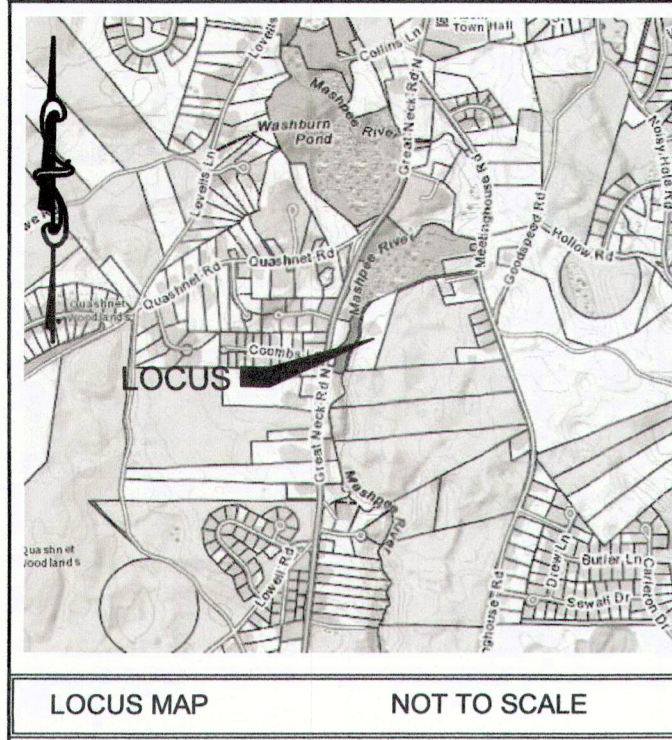
ADDRESS

Is (are) the owner(s) of the above-referenced property.

I hereby further attest that the owner of the above-cited property is not, to the best of my knowledge, in arrears of payment of any local taxes as may be applicable under Section 1 of Chapter 112 of the Mashpee Code.

Patricia A. Magyri
Treasurer/Collector

9-3-21
Date



APPROVAL UNDER THE SUBDIVISION CONTROL LAW IS NOT REQUIRED

NO DETERMINATION AS TO COMPLIANCE WITH ZONING REQUIREMENTS HAS BEEN MADE OR INTENDED BY THIS ENDORSEMENT UNDER MGL CHAPTR 41, SECTION 81L.

DATE APPROVED _____ DATE SIGNED _____

MASHPEE PLANNING BOARD

I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

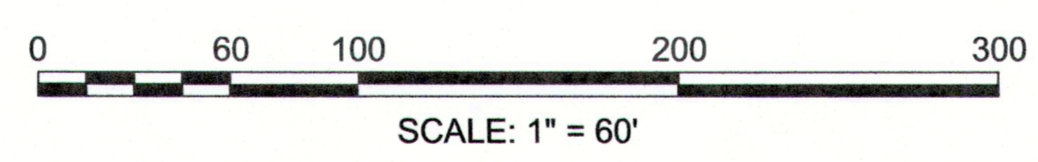
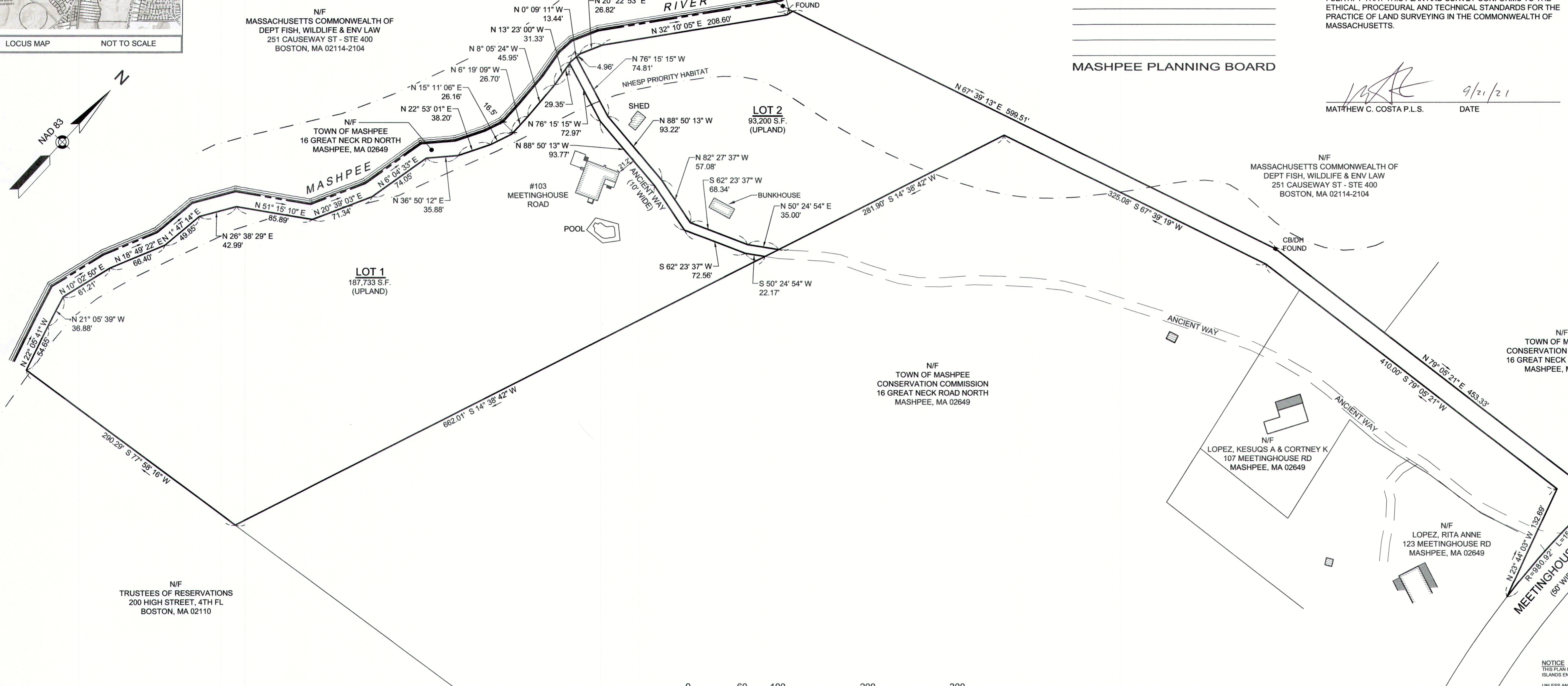
[Signature] 9/21/21
 MATTHEW C. COSTA P.L.S. DATE

I CERTIFY THAT THIS PLAN AND SURVEY CONFORMS TO THE ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

[Signature] 9/21/21
 MATTHEW C. COSTA P.L.S. DATE

FOR REGISTRY USE ONLY

NOTES:
 ASSESSORS PARCEL: 45 50 0
 PARCEL ADDRESS: 103 MEETINGHOUSE ROAD
 OWNER: MARK V. & DONNA JEAN LOPEZ
 103 MEETINGHOUSE ROAD
 MASHPEE, MA 02649
 DEED BOOK 3183 PAGE 272
 PLAN BOOK 347 PAGE 39
 ZONING: R5



- LEGEND**
- CB CONCRETE BOUND
 - SB STONE BOUND
 - RC ROD CAP
 - IP IRON PIPE FOUND



NOTICE
 THIS PLAN MAY NOT BE ADDED TO, DELETED FROM, OR ALTERED IN ANY WAY BY ANYONE OTHER THAN CAPE & ISLANDS ENGINEERING, INC.
 UNLESS AND UNTIL SUCH TIME AS AN ORIGINAL (RED) STAMP APPEARS ON THIS PLAN NO PERSON OR PERSONS, MUNICIPAL OR PUBLIC OFFICIAL, MAY RELY UPON THE INFORMATION CONTAINED HEREIN; AND THIS PLAN REMAINS THE PROPERTY OF CAPE AND ISLANDS ENGINEERING, INC.
 COPYRIGHT (C) BY CAPE & ISLANDS ENGINEERING, INC. ALL RIGHTS RESERVED

REV.	DATE	DESCRIPTION	BY	APPR
OWNER OF RECORD: MARK & DONNA LOPEZ 103 MEETINGHOUSE ROAD MASHPEE, MA				
PROJECT: 103 MEETINGHOUSE ROAD IN MASHPEE, MASSACHUSETTS				
SHEET NO.: 1 OF 1		DATE: AUGUST 31, 2021		
DRAWING FILE NAME: MEETINGHOUSE_103_LOPEZ_ANR				
DRAWN BY: JVB		CHECKED BY: MC		
PREPARED BY:				
CAPE & ISLANDS ENGINEERING				
SUMMERFIELD PARK 800 FALMOUTH ROAD SUITE 301C 508.477.7272 PHONE info@CapeEng.com MASHPEE, MA 02649 508.477.9072 FAX www.CapeEng.com				
DRAWING TITLE: PLAN OF LAND				
ASSESSORS INFORMATION:		45-50-0		

Meredith L. M. Kilpatrick

508-539-1990 (H) 978-621-1489 (C) P.O. Box 1481; Mashpee, MA 02649 mkilpatrick@kw.com

21 JULY 2021 – electronically and by USPS

Town of Mashpee
Select Board Chair, Carol Sherman
16 Great Neck North
Mashpee, MA 02649

RE: OPEN MEETING COMPLAINT – Planning Board Chair, John F. Fulone
& “Acts of 2020 Chapter 53”

Dear Chair Sherman,

Thank You in advance for your time and attention. Attached please find an “Open Meeting Complaint” submitted for the conduct of Mashpee Planning Board Chair, John F. Fulone.

Over the last few months, I have had the privilege of being able to attend various Town Meetings including the Select Board, Planning Board and Affordable Housing meetings. I commend both you and the Town Manager, Rodney Collins for your professional and efficient meeting structure, which allows and encourages Public Comment.

The current Expansion Proposal submitted by the Mashpee Commons Limited Partnership and Mashpee Commons II Limited Partnership, at 1.2 million square feet of Commercial space and 1,710 Residential units is the largest planned development for Mashpee, in fact the largest ever for Cape Cod. Public attention and concern are therefor quite expected and natural. Public comment should be encouraged, welcomed, and solicited by every town official. It is unfortunate that Planning Board Chair, Mr. Fulone has been disrespectful toward the community, other Planning Board members, operates Planning Board meetings without consistency, especially regarding public comment and has now removed the opportunity for public comment at Planning Board meetings.

Mr. Fulone is sowing the seeds of mistrust in the community by not allowing public comment and when it is allowed, restricting comments to 2 minutes instead of a reasonable, minimum standard of 3 minutes as most communities in Massachusetts allow.

There are numerous complicated factors to consider on a proposal of this enormous scale and scope. The Town Manager offered, over a month ago at the joint Select and Planning Board meeting, that town resources were available to assist the Planning Board in the variety of independent experts that would be required for reviewing this development including but not limited to Traffic, Economic, Water, Wastewater and Environmental studies. To date, the Planning Board has not requested any of these resources, nor has the Chair, Mr. Fulone even put them on the Planning Board meeting agenda.

As you are already aware, through Public Records requests made of the Cape Cod Commission (CCC) it became evident there are documents and information in their possession from the developer or regarding this development that were not made readily available to the town. It is disconcerting to me that, even at the initial suggestion and vote to form a Tri-Party agreement with the Cape Cod Commission the town was not offered all relevant information from the CCC. The VHB traffic study proposal contents do not match the maps or numbers proposed to the town by the developer, and it is dated January 2021?

Mashpee was not offered a complete Development Application or one that had been secured with an official fee payment. The CCC has not received any payment from this developer for review and acceptance of the Development Application.

Meredith L. M. Kilpatrick

508-539-1990 (H) 978-621-1489 (C) P.O. Box 1481; Mashpee, MA 02649 mkilpatrick@kw.com

Again, through public records requests, the CCC offered an explanation that the standard fee required was being “tolled” as allowed by the recent “Acts of 2020 Chapter 53” pandemic adjustments. It is quite acceptable and understandable to enact the allowances offered in Chapter 53. The Developer should “toll” for a complete application AND payment. It seems most appropriate for the Town of Mashpee to “put the brakes on” encourage the Developer to submit a fully completed application and to make payment of the requisite 50% review fee.

Additionally, is the Town of Mashpee aware of consequences of this same developer not completing the terms of the 2007 40B Special Permit? Where are the 386 residential units, with 96 of those to be affordable units that allowed for the streamlined process? Mashpee received and accepted over \$800K from a MASSWORKS grant for the construction of Market Street based on this 40B Special Permit. What are the consequences of accepting this grant and this incomplete 14-year-old open permit?

With these concerns, I reached out to Senator Julian Cyr’s office to review the situation. It is with their encouragement to seek out more communication with our local officials, I am reaching out to you today. Your civil and professional approach are to be the standard for all town committees and boards. I am submitting a formal “Open Meeting Complaint” and am asking the Select Board and the Town Manager to initiate removal of Mr. Fulone as Planning Board Chair because of his disregard for community input in a project that will change the community profoundly. I am requesting that the opportunity for Public Comment at Planning Board (and all town committees/boards) be aligned with that of the Select Board where it is an agenda item at every public meeting and that it be minimally set, respectfully at 3 minutes per individual.

It is my hope that the Select Board will review the new items of information that have been made available from the Cape Cod Commission through the various public records requests and consider rescinding the acceptance of the TriParty Agreement with the CCC until a formal, complete Development Application, with the requisite 50% payment are properly submitted.

Thank you again for your time and attention.

Kind Regards,

Meredith L. M. Kilpatrick, signed electronically 21JUL21

Meredith L. M. Kilpatrick

N.B. Individuals mentioned in this communication are included below along with the Town Clerk.

- Mashpee Town Manager, Rodney Collins
- Mashpee Select Board Member, John Cotton
- Mashpee Planning Board Chair, John F. Fulone and -Mashpee Town Planner, Evan Lehrer
- Mashpee Town Clerk, Deborah Dami
- MA State Senator Julian Cyr
- Office of MA State Senator Cyr – Legal Counsel, Elizabeth Ganz
- Office of MA State Senator Cyr – Legislative Aide, Ashley Benson

Meredith L. M. Kilpatrick

508-539-1990 (H) 978-621-1489 (C) P.O. Box 1481; Mashpee, MA 02649 meredith.kilpatrick@exprealty.com

24SEP2021 – electronically and by USPS

Town of Mashpee
Planning Board Chair, John Fulone
16 Great Neck North
Mashpee, MA 02649

RE: OPEN MEETING COMPLAINT 21JUL21 – No Response is a violation.

Dear Chair Fulone,

Thank You in advance for your time and attention. I have included Mashpee Select Board Chair, Carol Sherman, Town Manager, Rodney Collins and Town Clerk, Deborah Dami in this correspondence to clarify information I received from the Massachusetts Attorney General's Office pertaining to the Open Meeting Law complaint process.

I submitted an Open Meeting Law Complaint via email and USPS 21JUL21 to the Planning Board, with a cover letter attached addressed to Select Board Chair, Carol Sherman. The complaint was specific to the Planning Board as the governing entity in question. I did not receive a formal response to this complaint.

Additionally, in August without having yet received a response, I reached out and you obliged to meet to review the opportunity to improve upon in offering public participation, public response, public frustration during Town meetings. I'm pleased that you offered your time to review to this matter with me directly and more importantly, that you have since actively offered the opportunity of "public dialog" at Planning Board meetings. Thank You.

The formality that I'm addressing today however, is the information I received from the Massachusetts Attorney General's office as it relates to a lack of a formal, written response from the Town of Mashpee Planning Board on this Open Meeting Law complaint. I have been advised by the Attorney General's office to submit a new Complaint, as the "lack of a response to an Open Meeting Law Complaint is in fact a violation."

Process accountability and confirmation of detailed information is at a peak need here in our community. As written previously, the current Expansion Proposal submitted by the Mashpee Commons Limited Partnership and Mashpee Commons II Limited Partnership, at 1.2 million square feet of Commercial space and 1,710 Residential units is the largest planned development for Mashpee, in fact the largest ever for Cape Cod. Public attention and concern are therefor quite expected and natural. Public comment should be encouraged, welcomed, and solicited by every town official.

It is my hope that the Planning Board, and all boards and committees in the town of Mashpee will vigorously open their meetings to the public for inclusion, for dialog to encourage a path of transparency.

Thank you again for your time and attention.

Kind Regards,

Meredith L. M. Kilpatrick signed electronically 24SEP21

Meredith L. M. Kilpatrick

N.B. Individuals mentioned in this communication are:

- Mashpee Select Board Chair, Carol Sherman
- Mashpee Town Manager, Rodney Collins
- Mashpee Town Clerk, Deborah Dami
- MA State Senator Julian Cyr, &-Office of MA
- Office of MA State Senator Cyr – Legislative Aide, Ashley Benson & Legal Counsel, Elizabeth Ganz



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body **AND** to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at openmeeting@state.ma.us.



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Meredith Last Name: Kilpatrick

Address: P.O. Box 1481

City: Mashpee State: MA Zip Code: 02649

Phone Number: H | 508-539-1990 Ext. C | 978-621-1489

Email: mkilpatrick@kw.com

Organization or Media Affiliation (if any): _____

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Town of Mashpee - Planning Board

Specific person(s), if any, you allege committed the violation: John F. Fulone, Town of Mashpee, Planning Board Chair

Date of alleged violation:

July 21, 2021
June 30, 2021

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

This Open Meeting Complaint is being filed against Town of Mashpee, Planning Board Chairperson, Mr. John F. Fulone for discouraging, limiting and omitting the opportunity for Public Discussion.

Mr. Fulone's repeated unprofessional behaviors and overall conduct during the months of June and July 2021 are unacceptable. Appreciating that a complaint must remain specific to within 30 days of any incidents, please note the following most recent:

30JUNE2021 – Mr. Fulone restricted individual public comment to 2 minutes and instructed attending liaison Select Board member John Cotton to be the timekeeper. Mr. Fulone's tone and disposition toward the public has been consistently disrespectful, unwelcoming and derogatory. Please note, the Town of Mashpee Select Board allows for individual comment at 3 minutes.

21JULY021 – Mr. Fulone removed public comment from the Planning Board Meeting Agenda.

His response to inquiries on this item "There is no public comment scheduled for tomorrow's meeting."

An inquiry to the Town of Mashpee Planner, Evan Lehrer as to the omission of Public Comment elicited this response:

"No, the omission was not inadvertent. As the Planning Board made the decision at its previous meetings to engage in an educational opportunity to learn more about the architectural and urban design principles baked into the proposed Community Activity Center Overlay District at tonight's meeting, 7/21, it was decided, especially after the close of the special meeting schedule conducted throughout June and the Selectmen's decision to forego any zoning articles at the October Town Meeting, to return (at least for the time being) to the Board's adopted policies and procedures with regard to accepting public comment. Public comment may be accepted at the discretion of the Chair during a public meeting, but must be taken during a duly advertised public hearing. After the Board's opportunity to listen and engage in the presentation this evening, the zoning deliberations will pause until Mashpee Commons is further along in the Development Agreement Process as was also decided at a previous meeting. As I have stated on numerous occasions relative to Mashpee Commons and other topics, written comments and questions will always be accepted into the record. I invite you to submit any additional questions or comments you may have to me in writing or by emailing PlanningBoard@mashpeema.gov.

Mr. Fulone is sowing the seeds of mistrust in the community by not allowing public comment and when allowed, restricting comments to 2 minutes instead of a reasonable, minimal standard of 3 minutes as most communities in Massachusetts allow. He is in violation of the spirit, content and outline of the Massachusetts Open Meeting Law by limiting and omitting Public Comment.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

- 1.The Mashpee Planning Board to confirm the opportunity for Public Comment as a standard agenda item for all Public meetings.
- 2.The Mashpee Planning & Select Boards to uniformly offer a MINIMUM of 3 minutes each for individual Public Comments.
- 3.The Mashpee Planning Board to offer a consistent method of signing up for Public Comment at each Planning Board meeting.
- 4.Remove/Replace Mr. John F. Fulone as Planning Board Chair for violation of the Open Meeting law. Mr. Fulone's conduct is unprofessional for an elected official and unbecoming of a town representative.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

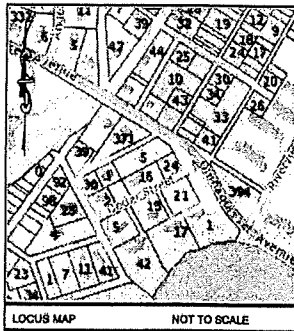
The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Meredith L. M. Kilpatrick dotloop verified
07/21/21 1:30 PM EDT
 HNHI-UALJ-KFZF-WYGG

Date: _____

For Use By Public Body	For Use By AGO
Date Received by Public Body:	Date Received by AGO:



I, _____, CLERK OF THE TOWN OF MASHPEE, HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE TOWN OF MASHPEE PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND THAT NO APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.

MASHPEE TOWN CLERK _____ DATE _____

PLANNING BOARD APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

DATE APPROVED _____ DATE SIGNED _____

MASHPEE PLANNING BOARD

NO DETERMINATION AS TO COMPLIANCE WITH ZONING REQUIREMENTS HAS BEEN MADE OR INTENDED BY THIS ENDORSEMENT UNDER MGL CHAPTER 41, SECTION 61L.

PLAN EASEMENT TAKING FOR ROADWAY PURPOSES UNDER ORDER OF TAKING ADOPTED ON (DATE) _____

SELECTMEN OF MASHPEE

VOTED UNDER ARTICLE _____ OF THE TOWN MEETING

GENERAL NOTES

THE INTENT OF THIS PLAN IS TO DELINEATE THE EASEMENT TAKING FOR ROADWAY PURPOSES TO BENEFIT THE TOWN OF MASHPEE WITHIN AND ALONG CHESTNUT STREET, CEDAR STREET, DEVON STREET, ASH STREET, HAWTHORNE STREET AND GINA WAY, MASHPEE, MA.

THE PROPERTY LINE INFORMATION SHOWN IS BASED ON CURRENT AVAILABLE PLAN INFORMATION.

LOCATIONS ARE BASED ON AN "ON THE GROUND" INSTRUMENT SURVEY. COORDINATE SYSTEM USED IS THE MA-MAINLAND COORDINATE SYSTEM, DATUM: NAD 83, UNITS: U.S. SURVEY FEET.

I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

MATTHEW C. COSTA P.L.S. DATE 4/5/21

I CERTIFY THAT THIS PLAN AND SURVEY CONFORMS TO THE ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

MATTHEW C. COSTA P.L.S. DATE 4/5/21

FOR REGISTRY USE ONLY

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ENGINEERING
SUMNERFIELD PARK
500 FALMOUTH ROAD SUITE 301C
MASHPEE, MASSACHUSETTS
508.477.7373 PHONE
508.477.5672 FAX
www.Cape-Eng.com

NOTICE: THIS PLAN MAY NOT BE ADDED TO, DELETED FROM, OR OTHERWISE ALTERED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF CAPE & ISLANDS ENGINEERING, INC. UNLESS AND UNTIL SUCH TIME AS AN ORIGINAL SET OF THIS PLAN IS FILED WITH THE REGISTRY OF DEEDS. OFFICIALS MAY RELY UPON THE INFORMATION CONTAINED HEREIN AND THIS PLAN REMAINS THE PROPERTY OF CAPE & ISLANDS ENGINEERING, INC. COPYRIGHT (C) BY CAPE & ISLANDS ENGINEERING, INC. ALL RIGHTS RESERVED.



Drawn By: JVB

Checked By: MC

By: _____

Date: _____

Description: _____

Rev: _____

Date: _____

Description: _____

Rev: _____

Date: _____

Description: _____

Rev: _____

Date: _____

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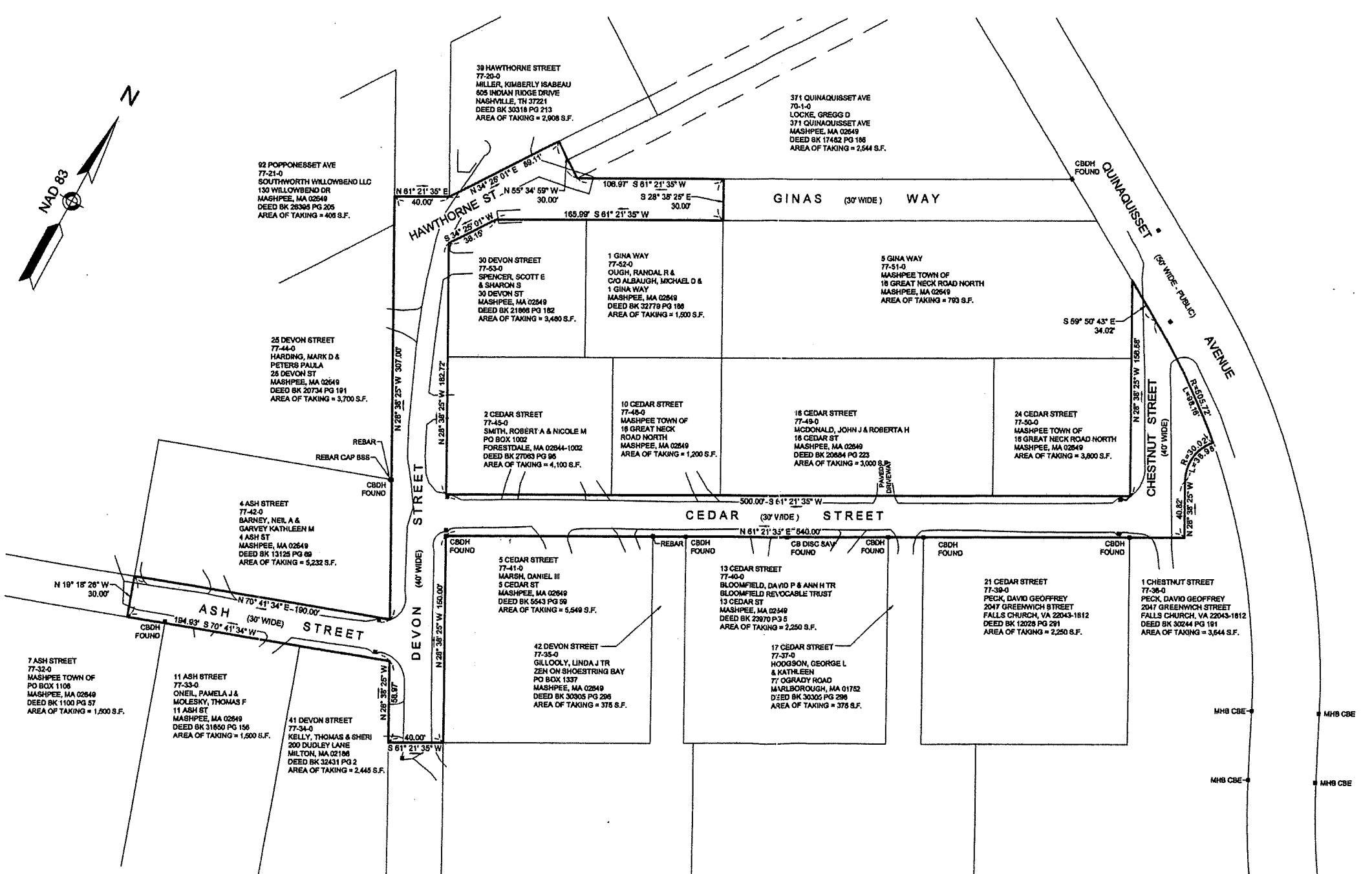
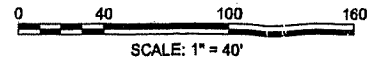
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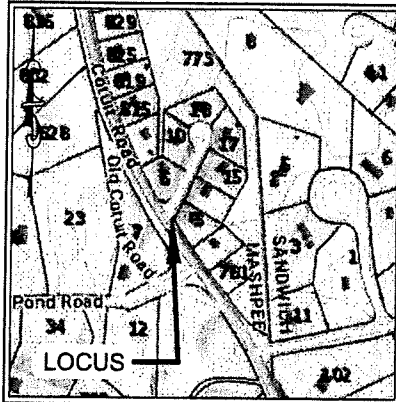
Description: _____

Rev: _____

Date: _____

LEGEND
■ CATCH BASIN SQUARE
○ DRAIN MANHOLE





PLAN EASEMENT TAKING FOR ROADWAY PURPOSES
UNDER ORDER OF TAKING ADOPTED ON
(DATE) _____

SELECTMEN OF MASHPEE

VOTED UNDER ARTICLE _____ OF THE _____ TOWN MEETING

I, _____, CLERK OF THE TOWN OF MASHPEE,
HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY
THE TOWN OF MASHPEE PLANNING BOARD HAS BEEN RECEIVED AND
RECORDED AT THIS OFFICE AND THAT NO APPEAL WAS RECEIVED
DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND
RECORDING OF SAID NOTICE.

MASHPEE TOWN CLERK _____ DATE _____

PLANNING BOARD APPROVAL UNDER THE
SUBDIVISION CONTROL LAW NOT REQUIRED

DATE APPROVED _____ DATE SIGNED _____

MASHPEE PLANNING BOARD

NO DETERMINATION AS TO COMPLIANCE WITH ZONING
REQUIREMENTS HAS BEEN MADE OR INTENDED BY THIS
ENDORSEMENT UNDER MGL CHAPTER 41, SECTION 81L.

GENERAL NOTES

THE INTENT OF THIS PLAN IS TO DELINEATE THE EASEMENT TAKING
FOR ROADWAY PURPOSES TO BENEFIT THE TOWN OF MASHPEE
WITHIN AND ALONG OLDHAM CIRCLE, MASHPEE, MA.

THE PROPERTY LINE INFORMATION SHOWN IS BASED ON CURRENT
AVAILABLE PLAN INFORMATION.

LOCATIONS ARE BASED ON AN "ON THE GROUND" INSTRUMENT
SURVEY. COORDINATE SYSTEM USED IS THE MA-MAINLAND
COORDINATE SYSTEM, DATUM: NAD 83, UNITS: U.S. SURVEY FEET.

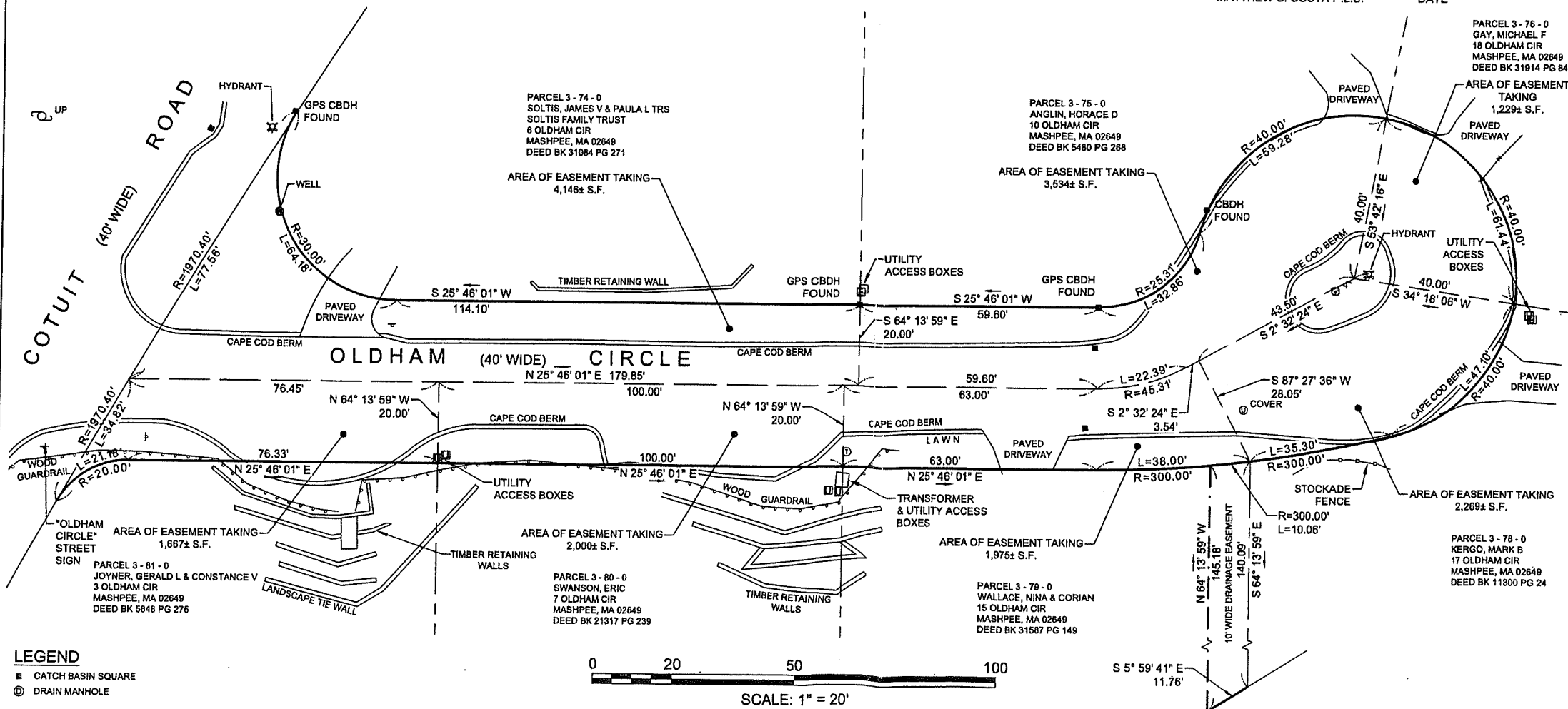
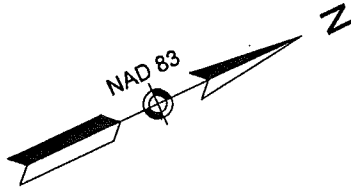
I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE
REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY
OF DEEDS.

MATTHEW C. COSTA P.L.S. _____ DATE _____

I CERTIFY THAT THIS PLAN AND SURVEY CONFORMS TO THE
ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE
PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF
MASSACHUSETTS.

MATTHEW C. COSTA P.L.S. _____ DATE _____

LOCUS MAP NOT TO SCALE



LEGEND
■ CATCH BASIN SQUARE
⊙ DRAIN MANHOLE

0 20 50 100
SCALE: 1" = 20'

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CAPE & ISLANDS
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SUMMERFIELD PARK
800 PALMOUTH ROAD SUITE 301C
MASHPEE, MA 02649
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www.CapeEng.com

Drawn By:	JVB
Checked By:	MC
By	JVB
Description	ADD EXIST. RET. WALLS
Date	5/16/2021
Rev	1

Prepared For:
TOWN OF MASHPEE
16 GREAT NECK ROAD NORTH
MASHPEE, MA 02649

Project:
OLDHAM CIRCLE
IN
MASHPEE, MA 02649

Drawing Title:
ROAD TAKING PLAN

Date: DECEMBER 20, 2020



MASHPEE PLANNING BOARD
Modification of Special Permit Decision
September 14, 2021
DPF Mashpee, LLC
South Cape Village

The undersigned, being the duly authorized members of the Planning Board of the Town of Mashpee, hereby adopt the following Modification of Special Permit.

I. Proposal.

This decision concerns the application of the DPF Mashpee, LLC, c/o Dividend Capital Diversified Property Fund Inc., 518 17th Street, 17th Floor, Denver, CO 80202, (the "Applicant") for approval of a modification to the Special Permit approved by the Mashpee Planning Board on May 2, 2001 for a 160,000 sq. ft. Commercial Center known as "South Cape Village" (the "Project") on 25 acres located between Route 28, Donna's Lane and Great Neck Road South in Mashpee, Massachusetts (the "Property"). The Property is identified on the Mashpee Assessors Maps as Map 81, Blocks 4, 16 and 25. (It should be noted that Map 81, Block 26, as it appears on the 2016 Mashpee Assessors' Maps, which had originally been part of the property has been deeded to the Commonwealth Electric Company as part of a 3-way land exchange supported by the Town of Mashpee and is no longer part of the Project area.) The original Special Permit is recorded in the Barnstable County Registry of Deeds at Book 16641, Page 122. The Special Permit was subsequently modified on April 23, 2003 (Book 16641 Page 122), October 19, 2005 (Book 20500 Page 265), April 16, 2008 (Book 23085 Page 29), June 18, 2008 (Book 23242 Page 169), February 3, 2010 (Book 24530 Page 216), October 7, 2015 (Book 29215 Page 52) and May 3, 2017 (Book 30562 Page 222) after public hearings. In addition, modifications involving only site plan changes were approved at regular posted Board meetings on August 4, 2004, February 15, 2006, August 16, 2006, January 3, 2007, April 4, 2007, November 7, 2007, December 19, 2007, September 2, 2009, November 3, 2010, September 21, 2011, and February 3, 2016. In addition, the Board approved a Definitive Subdivision Plan for Commercial Street and Charles Street within the project on October 19, 2005, which was subsequently modified on February 3, 2010.

The current proposal involves a further modification to the Special Permit decision with the following changes: Construction of new 'Building G' totaling approximately 4,860 square feet as shown on plans entitled "Proposed Building G at South Cape Village Shopping Center, Mashpee, MA, Prepared for DPF Mashpee, LLC", Sheets C0.0, C1.0, C2.0, C3.0, C3.1, C4.0, C5.0, C6.0, C6.1, by Baxter Nye Engineering & Surveying, revision date. architectural plans for the proposed new building consisting of five sheets for DPF Mashpee LLC by Phase Zero Design, including "Schematic Plan", "Schematic Elevations", "Material Board", "Rendered Perspective 1," and "Rendered Perspective 2", and dated September 14, 2021.

II. Jurisdiction.

The application was made and this decision is issued by the Mashpee Planning Board pursuant to Article VI, Section 174-24.C. (Special Permit Use) and Article IX, Section 174-45.1 (Commercial Centers) of the Mashpee Zoning Bylaws as they existed on May 2, 2001, the date on which the original special permit application for the project was approved by the Mashpee Planning Board. Where reference is made herein to the Mashpee Zoning Bylaw, it shall refer to the provisions thereof as they existed on said date.

III. Chronology.

An Application for Special Permit Modification was filed with the Town Clerk by the applicant's authorized representative on July 28, 2021 along with the required plans and filing and review fees.

On August 17, 2021, the plans were reviewed by the Plan Review and Design Review Committees. The Design Review Committee recommended approval subject to the following conditions: 1) Modification to the landscaping plan to show Climbing Hydrangea on lattice along the southern wall of Building G fronting on Charles Street. The Plan Review Committee recommended approval subject to the following conditions: 1) the applicant should work in coordination with the Mashpee Fire Department to relocate the FDC ; 2) that the applicant revise the submitted plans consistent with any comments received by the Planning Board consulting engineer Ed Pesce.

A hearing was opened before the Mashpee Planning Board at Mashpee Town Hall, 16 Great Neck Road North, Mashpee, MA on September 1, 2021 at 7:10pm, of which notice had been posted by the Mashpee Town Clerk on August 6, 2021. Notice was also duly given to abutters in accordance with Massachusetts General Laws Chapter 40A and by publication in the Mashpee Enterprise, a newspaper of general circulation in the Town of Mashpee, on August 13 and August 20, 2021. Planning Board Members Mr. Fulone (Chair), Mr. Phelan, Mr. Balzarini, and Mr. Callahan were present at the September 1, 2021 public hearing. At the request of the applicant, the hearing was subsequently continued to September 14, 2021. At 7:20pm on September 14, 2021 the continued public hearing was re-opened. Planning Board members Fulone (Chair), Phelan, Balzarini, Waygan, and Callahan were present. Chair Fulone, at the request of member Waygan who was participating remotely and unable to give full attention to the proceeding, seated Associate Member Rob Hansen to hear and vote on the application.

IV. Decision and Findings.

The Board voted on September 14, 2021 to close the public hearing and to approve amendment of the Special Permit and project site plan per the plans referenced above and the following Findings and Conditions, with members Fulone, Phelan, Balzarini, Callahan, and Hansen (Associate) all voting in favor and none opposed.

1. The proposed modification involves less than 10% increase in the area of any use and is therefore, under the provisions of Section 174-24.C.(9)(d) of the Zoning By-law, subject to the dimensional and other relevant provisions of the Zoning By-law as it existed on May 2, 2001, the date on which the original Special Permit decision was approved.
2. The existing Special Permit allows the development of a 160,000 square foot commercial center on the Property. As of the date of this decision, the center contains 7 buildings which collectively total approximately 147,000 square feet of gross floor area. After the Project, the commercial center will contain 8 buildings which will collectively consist of approximately 151,860 square feet of gross floor area; this is well within the confines of the square footage approved in the existing Special Permit decision.
3. The Applicant is not requesting any changes to the permissible uses allowed in this commercial center pursuant to the existing Special Permit decision.
4. The Board received a letter dated August 30, 2021 from its Consulting Engineer Ed Pesce outlining suggested minor changes to the site plans. He recommended that a Note be added to the plans regarding exterior site lighting; "All exterior site lighting shall be fitted to have proper guards/shielding with a 90-degree vertical cutoff in order to be "Dark Sky" compliant." Further, he recommended that, For better clarity during construction, the Grading & Drainage Plan show the proposed roof drain invert elevations for the east side connection to the existing stormwater piping, and the rims & invert elevations of the proposed leaching pits on the west side of the building. Revised sheets were submitted by the applicant's engineer consistent with Mr. Pesce's comments and the revised sheets are cited under Section V: Conditions.
5. The project satisfies the requirements of Massachusetts General Law Chapter 40A, in that it complies with the general purposes and intent of the Mashpee Zoning By-Law on the applicable dates.
6. The proposal is subject to review by Cape Cod Commission staff for consistency with the approved Development of Regional Impact decision on the SouthCape Village project.
7. In conformance with the provisions of Article VI, Section 174-24.C.(2) of the Zoning Bylaw, the Planning Board finds that the proposal will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or ground water quality or air quality, will not have significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibration, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the town's landfill and waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other wastes, will provide adequate off street parking, will not cause excessive erosion or cause increase runoff into neighboring properties or into any natural river, stream, pond or water body and will not otherwise be detrimental to the town or the area.

V. Conditions.

1. The proposed modifications to the project shall be done in conformance with a) the set of site plans entitled "Proposed Building G at South Cape Village Shopping Center, Mashpee, MA, Prepared for: DPF Mashpee, LLC", Sheets C0.0 (revised 9/30/2021), C1.0, C2.0, C3.0, C3.1(revised 9/30/2021),

C4.0(revised 9/30/2021), C5.0 (revised 9/30/2021), C6.0, C6.1 by Baxter Nye Engineering & Surveying, architectural plans for the proposed new building consisting of five sheets for DPF Mashpee LLC by Phase Zero Design, including "Schematic Plan", "Schematic Elevations", "Material Board", "Rendered Perspective 1," and "Rendered Perspective 2" and dated September 14, 2021.

2. As depicted on the Project Plans, the applicable setback for Building G shall be no closer than 4.2 feet off of Commercial Street and the Special Permit is herein modified to permit setback off of Charles Street.
5. Except as modified by this decision, all conditions applicable to the original Special Permit and subsequent modifications remain in effect.
6. All conditions of this Special Permit Modification shall be binding not only upon the Applicant but also on all successors in interest and assigns of the Applicant.
7. A copy of this Special Permit Modification Decision, showing the Book and Page at which it was recorded at the Barnstable County Registry of Deeds, shall be submitted to the Board within 60 days of its endorsement by the Board.

VI. Expiration, Extension or Modification.

Pursuant to Massachusetts General Law, Chapter 40A, Section 9 and Article IX, Subsection 174-47.C.(5) of the Mashpee Zoning Bylaw, the rights provided under the original 2001 Special Permit and subsequent modifications have vested.

Any further modifications of this Special Permit decision and accompanying plans shall require approval by the Board pursuant to the provisions of Section 174-24.C.(9) of the Zoning Bylaw.

VII. Signature and Filing.

This special permit modification decision document, which incorporates by reference herein all appendices and plans, has been approved on this 14th Day of September 2021. A copy of same shall be filed with the Town Clerk in accordance with applicable law.

Mashpee Planning Board - Duly Authorized Member

Commonwealth of Massachusetts

Barnstable, ss

On this ____ day of _____ 2021, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

A copy of this decision and the accompanying plans endorsed by the Planning Board as been duly filed on _____, 2017 with the Town Clerk of Mashpee.

Town Clerk

Notice of this decision was mailed on _____ to the applicant, to the parties in interest designated in Massachusetts General Law, Chapter 48, Section 11 and all persons at the hearing who requested such notice. Any appeal should be made pursuant to Section 17 of Chapter 48 of the Massachusetts General Laws 20 days after the date of such filing.

I, Deborah Dami, Town Clerk of the Town of Mashpee, hereby certify that a copy of this decision and the accompanying plans endorsed by the Planning Board were filed with the office of the Town Clerk on _____, 2021 and that no appeal of that decision was filed within 20 days thereafter.

Town Clerk
Date:

Upon expiration of the statutory appeal period with no appeal having been filed, this special permit decision has been endorsed by the undersigned members of the Mashpee Planning Board on _____, 2021 and may be recorded.

JACK McELHINNEY
Attorney at Law

63 Shore Road, Suite 23
Winchester, MA 01890
jmcclhin@aol.com

Office: 781.729.7299
Cell: 617.816.4092

September 29, 2020

By Email

Planning Board
Town of Mashpee
16 Great Neck Road North
Mashpee, MA 02649

Attn: Evan Lehrer, Town Planner

Re: Willowbend Country Club – Request for Minor Modification of Special Permit

Dear Members of the Planning Board:

Enclosed please find an application for a Minor Modification of the Willowbend Special Permit made by Southworth Mashpee Properties LLC with respect to the premises located at Nos. 8, 10A and 10B Teal Circle. The application seeks the Planning Board's approval to modify the Special Permit to allow the continued use and maintenance of an existing common driveway serving these three parcels. The common driveway contains water and sewer utilities serving the two parcels and the driveway has been in existence for at least twenty years.

In Modification No. 18 to the Special Permit issued in November 1998 (see Exh. 1), the Planning Board approved the proposed layout of the utilities, including water sewer lines and fire hydrants throughout the Shoestring Bay subdivision. Modification No. 18 allowed the connection of the entire Shoestring Bay subdivision, including these three parcels, to the larger Willowbend project. The meeting minutes from the hearing on that approval (See Exh. 2) confirm that the roads and utilities were reviewed by the Town's consulting engineer as part of that approval. The engineering plans from 1998 on file at the Planning Board show a proposed easement for the common driveway serving Nos. 8, 10A and 10B Teal Circle and the utilities and hydrant within the easement. However, due to an oversight, we do not believe that permission was ever requested to approve the common driveway under Section 174-25: I. 14 of the Bylaw. The issue recently came to light last month as the new owner, who purchased the development rights to the 10B lot earlier this year, sought a building permit.

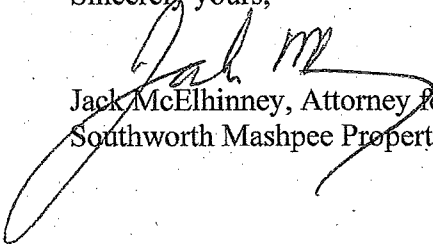
A formal easement between the lots was recorded in 2001 along with a stamped surveyors plan (Exh. 3) showing the as-built driveway, hydrants, lamppost and entrance

gates in the same position they are located today. In its worth noting, that none of the three lots involved actually depends on the common driveway for its required frontage or access, as alternate useable access is available either through Teal Circle or Simons Narrows Roads.

Given that the driveway at issue has been in existence for at least twenty years, we are requesting that the Board waive the \$5,000 peer review fee that typically applies to new projects. I am enclosing an application fee check of \$230.00 payable to the Town of Mashpee. We are requesting that this be application be treated as a minor modification and scheduled for the next available hearing date.

Please feel free to contact me should you have any questions.

Sincerely yours,



Jack McElhinney, Attorney for
Southworth Mashpee Properties LLC

cc: Scott Miller



Town of Mashpee

Planning Board

16 Great Neck Road, North
Mashpee, Massachusetts 02649

APPLICATION FOR SPECIAL PERMIT MODIFICATION

Date received by Town Clerk: 9/27/2021 Town Clerk Signature / Seal Deborah F Davis

The undersigned hereby applies for a Modification of the Special Permit approved by the Mashpee Planning Board on April 15, 1987 for a project entitled Willowbend Country Club.

The original Special Permit and any Modifications have been recorded in the Barnstable County Registry of Deeds at the following Book(s) and Page(s): 5707, Page 290, Modif. No. 18 Bk.Bk. 11807, Pg 221.

Name of Applicant Southworth Mashpee Properties LLC Phone 508-539-5200

Address 130 Willowbend Drive

Owner, if different _____ Phone _____

Address _____

Attach copies of (a) most recent recorded deed and (b) tax bill or Assessors' certification. Deed of property recorded in Barnstable County Registry Book _____ Page _____ or Land Court Certificate of Title No. _____

Location and description of property: Nos. 8, 10A and 10B Teal Circle

Mashpee Assessors Map(s) and Block(s): 83-123, 83-215 and 83-2116

Zoning District(s) in which property is located: R-3

How long have you owned the property? 2012

Section(s) of the Zoning Bylaw which require(s) the permit you seek: _____

Present use of property: Single Family Residential, Vacant

Description of proposed modification (*attach plans and documents as required by the Zoning By-law and Special Permit Regulations*):

Applicant is seeking to modify the Special Permit (as previously approved in Modification No. 18) to permit the continued use of a paved driveway originally constructed in 1999 to serve Nos. 8, 10A and 10B to continue to be used as a common driveway under Section 174-25 of the Bylaw

Signature of Owner or Authorized Representative [Signature]

Attach written authorization signed by owner.

PLANNING BOARD DECISION**WILLOWBEND SPECIAL PERMIT
MODIFICATION NO. 18****I. REGARDING:**

Reference is made to a Special Permit Decision issued by the Mashpee Planning Board, dated April 15, 1987 and recorded with the Barnstable County District Registry Deeds at Book 5707, Page 290, as amended from time to time (hereinafter the "Special Permit"). By decision dated August 7, 1991, the Special Permit was transferred to Bent Twig Limited Partnership whose interest was subsequently assigned to Willowbend Development Corporation. Willowbend Development Corporation is hereinafter referred to as the "New Owner" or "applicant". The Special Permit authorizes construction of a residential/golf course community known as Willowbend south of Route 28 in East Mashpee (the "Project").

II. JURISDICTION:

This modification is issued pursuant to Sections 9.3 and 9.4 of the Mashpee Zoning By-Law as they existed on November 6, 1985 and applicable provisions of M.G.L. Chapter 40A, Section 9.

III. FACTS AND FINDINGS:

At a public hearing held on August 19, 1998 and continued to September 2, 1998, the applicant presented the Planning Board with a proposed modification to the Special Permit for the Project showing a proposed access connection from Herring Gull Road to the Willowbend Phase I area. The proposed access drive and utility plans are shown on a set of plans entitled "Construction Plans for Shoestring Bay Estates, Mashpee, Massachusetts prepared for Willowbend Development Corporation" dated August 26, 1998 consisting of Sheets 1-9 and a plan entitled "Willowbend Development Corporation, Shoestring Bay Estates, Special Permit Modification Number 18" dated July 29, 1998. The road will be 22 feet in width and will traverse the 40 foot buffer zone around Willowbend's property. Willowbend will build the road to subdivision specifications although subdivision approval is not being requested as the new access will not serve as frontage.

The Board finds that the modifications to the original plans and the changes to the area do not differ significantly from the layout of this area as shown on the original Special Permit Plan. The addition of a second access point will increase the ability of emergency vehicles to access the back of Phase I as well as the Shoestring Bay lots. The looping of the water system will also increase pressure. The applicant has met with the Mashpee

Water District to discuss plans to extend the water system in Willowbend down Herring Gull Road and Shoestring Bay Road to a point of connection with Quaker Run and has received permission to do so. In response to requests by the neighborhood, the applicant is proposing to connect up to 38 building sites within the Shoestring Bay subdivision to the sewage treatment plant. It is the applicant's intention that the Shoestring Bay lots be incorporated into the Willowbend Community Trust/condominium regime that owns and operates the plant. The applicant presented an analysis by Earth Tech showing the permitted design flow of the sewage treatment plant is 113,000 gallons per day and that the design capacity of the plant and effluent disposal area is 132,500 gallons per day. The report shows that even with the addition of the 38 Shoestring Bay lots and assuming full build out of the 853 residential bedrooms allowed per Willowbend's special permit, additional capacity would exist although a permit modification would be required if full build out were to be reached.

Based on the foregoing and additional information presented at the meeting, the Board finds that the development as herein modified is to be constructed in substantial compliance with the requirements of the original Special Permit. The Board also finds, for reasons enumerated above, that the modifications sought are: (1) consistent with, and do not derogate from, the intent of the Zoning By-law; (2) in general harmony with the purposes and intents of the Zoning By-law; (3) in compliance with the provisions of M.G.L. Chapter 40A, Section 9 and applicable provisions of the Zoning By-law including requirements of Sections 9.3 and 9.4; and (4) in furtherance of the public good and not substantially detrimental to adjoining land.

IV. MODIFICATIONS:

Willowbend is authorized to construct the access road and utility connections per referenced plans in accordance with the following conditions:

1. A minimum of twenty and up to all thirty-eight of the Shoestring Bay Estates subdivision may be connected to the Willowbend sewage treatment plant, provided that said connection is approved by the Massachusetts Department of Environmental Protection (DEP) and provided that no more than 249 homes may be constructed within the original Willowbend development until DEP has approved any necessary increase in the permitted design flow of the sewage treatment plant and effluent discharge area to handle the flow from the combined Willowbend and Shoestring Bay projects.
2. This decision does not constitute an approval under the Subdivision Control Law and the access road may not be used to provide frontage for any lots for zoning purposes. The access road shall be built to subdivision specifications as approved for Eagle Drive.
3. An Easement Plan showing the access and utilities shall be recorded with this Special Permit.

- 4. Bryant's Cove Road, which traverses the site, will be maintained as a way open to the public.

This modification represents a further refinement and specification of the original Special Permit that relates back to and is hereby deemed part of the original Special Permit decision.

V. SIGNATURE AND FILING:

In all other respects, the Special Permit and Special Permit Plans as modified shall remain in full force and effect and subject to all the terms and conditions contained therein.

This Special Permit decision, which includes all referenced plans, has been approved on this 2nd day of September, 1998.

A true copy
Attest

[Signature]
Member, Mashpee Planning Board

COMMONWEALTH OF MASSACHUSETTS

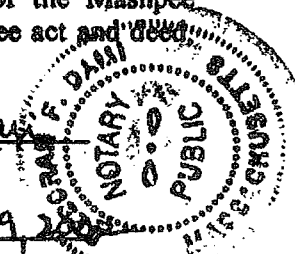
Barnstable, ss.

September 3, 1998

Then personally appeared [Signature], a member of the Mashpee Planning Board and acknowledged the foregoing instrument to be his free act and deed before me.

Deborah F. Davis
Notary Public

My Commission expires: July 29, 2000



A copy of the decision and the accompanying plans endorsed by the Planning Board have been duly filed on September 3, 1998 with the Town Clerk of Mashpee.

Deborah F. Davis
Town Clerk

Notice of this decision was mailed on September 8 1998 to the applicant, to the parties in interest designated in M.G.L. Chapter 40A, Section 11 and to all persons at the hearing who requested such notice. Any appeal shall be made pursuant to Section 17 of

the Chapter 40A of the Massachusetts General Laws within twenty (20) days after the date of said filing.

I, Deborah F. Dani, Town Clerk of the Town of Mashpee, hereby certify that a copy of this decision and the accompanying plans endorsed by the Planning Board were filed with the office of the Town Clerk on Sept 8, 1998 and that no appeal of that decision was filed within twenty (20) days thereafter.

October 6, 1998
Date

Deborah F. Dani
Town Clerk

Upon expiration of the statutory appeal period with no appeal having been filed, this special permit decision has been signed by the Mashpee Planning Board on 7 Oct, 1998 and may be recorded.

[Signature]
Dennis H. Borzini
[Signature]

Exh. 2

Mr. Bonvie informed the Board of an arrangement he has with Mr. Robicheau, whereby he has agreed to clean-up debris caused as a result of the last hurricane.

There being no further public comment, the Chairman addressed the matter of a lawsuit filed by Louise Behrman. Due to the fact that Ms. Behrman was unavailable to attend this Meeting, the Chairman inquired of Applicant whether or not anything being proposed this date would be in violation of the agreement of said lawsuit.

Mr. Bonvie responded he was "aware of nothing". And that the matter being disputed is in reference to the moving of the fence line/process. Mr. Bonvie further stated he is not at this time instituting any moving of or design change to the fence line/buffer zone.

The Board Members indicated their approval of the proposed revegetation plan. The Chairman entertained a motion for approval be made.

MOTION: James Dorgan made a Motion to approve the proposed Revegetation Plan as presented, as prepared by Abbeline, Inc., dated September 1, 1998; which Motion was seconded by Dennis Balzarini and so voted unanimously.

The Chairman entertained a motion be made relative to approval of Phase II extension.

MOTION: Dennis Balzarini made a Motion to approve Extension of Phase II to January 22, 1999; which Motion was seconded by James Dorgan and so voted unanimously. (This matter concluded at 7:21 p.m.)

Public Hearing
Willowbend Development Corporation
Between the Heights and Shoestring Bay Estates
Special Permit Modification #18

The Chairman called this matter to order and recognized Attorney McElhinney, who stated an informal site-walk had taken place with some of the Board Members. The road has been cut through in its approximate location.

A set of plans have been produced by Tom Hardman, in response to the Board's request, which indicate profile of the area, as well as cross sections. Attorney McElhinney stated the Consulting Engineer has been provided with a copy of said plans, has reviewed them, and has responded with minor comments.

Attorney McElhinney then made reference to the draft Decision, addressing comments raised by the Board at a previous Meeting. He stated language has been added which requires

Applicant to connect a minimum of twenty (20) and up to a total of thirty-eight (38) lots within the Shoestring Bay Subdivision to the sewer line. Language has also been added stating that no more than two hundred forty-nine (249) homes are to be built in Willowbend until such time as assurance is obtained from DEP acknowledging adequate capacity.

Attorney McElhinney stated he has met with Mr. Hart, an abutter, for discussion purposes regarding access/Herring Gull Road.

Attorney McElhinney also reported he has met with the Water District and is in receipt of a Memorandum of Understanding authorizing installation of the water line connecting Willowbend Phase I to Herring Gull Road.

Further, language has been included to assure these lots are tied into Willowbend Community Trust/Condominium regime and are referred to as building sites.

At this point Attorney McElhinney provided copies of the revised Draft Decision for all Board Members.

There was some discussion between the Chairman and Mr. Hardman with reference to comments made by the Consulting Engineer regarding drainage issues. Mr. Hardman stated the runoff can be calculated and basins can be provided, as requested by the Consulting Engineer. The Chairman inquired as to the drainage matter on Herring Gull Road. Attorney McElhinney responded Applicant would more than likely provide for a gatehouse on the side of the road. Attorney McElhinney suggested this matter be further addressed by the Fire Chief and DPW Director.

The Chairman requested Mr. Rowley address the matter of construction security. Mr. Rowley stated the development has been released in its entirety and that the roads have been completed in accordance with the Rules and Regulations. Mr. Rowley acknowledged that although Applicant has always performed their construction and maintenance in good form, the existing pavement in this area will have to be disturbed in order to install water and sewer. As a point of discussion, Mr. Rowley suggested the surface areas be inspected at some point after the construction is completed. Mr. Rowley stated that although the Planning Board has no jurisdiction at this point, the roads will be in a different condition than when they were released.

Attorney McElhinney suggested he provide the Planning Board with a construction schedule, including specifications, and agree to a condition stipulating an inspection be made after the fact.

POINT OF INFORMATION: After some discussion, Attorney McElhinney agreed to the following: Acknowledgement of full

responsibility for the condition of said roads which have been previously released; an inspection of the road after all construction is completed, at which time Attorney McElhinney stated that upon completion of construction, said roadway will be in better condition than it is currently; and to submit said agreement in writing to the Planning Board/Department for the record.

At this point the Chairman determined there was no public input. He then entertained a motion be made in this matter.

MOTION: Dennis Balzarini made a Motion for approval of Special Permit Modification #18-Willowbend Development Corporation-Construction of Road Connection Between Willowbend and Shoestring Bay Estates; which Motion was seconded by James Dorgan and so voted unanimously.

Voting in favor: Patrick Coffey, Dennis Balzarini, John Kuchinski, and James Dorgan. (This matter concluded at 7:50 p.m.)

Definitive Plan

John Drew-Baxter & Nye - Signature of Definitive Plan

The Assistant Town Planner explained Mr. Drew was unable to attend the Meeting, and that the Plan meets the conditions of the Planning Board.

The Chairman entertained a motion be made in this matter.

MOTION: James Dorgan made a Motion to sign the Definitive Plan; which Motion was seconded by Dennis Balzarini and so voted unanimously. (An original and four copies were signed by Patrick Coffey, Dennis Balzarini, John Kuchinski, and James Dorgan.)

Discussion

Carl Grassetti-Northland - Stratford Ponds
Final Plans for Bishop Park

The Assistant Town Planner informed the Board that Mr. Grassetti was unable to attend this Meeting, and that the matter has been rescheduled to September 16, 1998. He also noted plans have been provided to the Consulting Engineer.

Covenant Release

Anthony LaCava-Baxter & Nye - Quashnet Valley

The Assistant Town Planner informed the Board that this matter had been cancelled by the Applicant.

Board Items

Approval of Revised Special Permit Application Form

ACCESS EASEMENT

Willowbend Development Corporation, a Massachusetts corporation, organized and existing under the laws of the Commonwealth of Massachusetts, having a mailing address of 130 Willowbend Drive, Mashpee, MA 02649, as Declarant under the Master Deed of the Shoestring Bay at Willowbend Condominium dated December 17, 1999 recorded with the Barnstable County Registry of Deeds in Book 12736, Page 129 (the "Grantor") and pursuant to rights reserved to Grantor therein, for consideration paid, GRANTS to Pamela Zuker, Trustee of the 306SN Nominee Trust, under Declaration of Trust dated June 6, 2001 to be herewith recorded at the Barnstable County Registry of Deeds and having a mailing address of 406 Lacet Lane, Aspen, Colorado 81611 (the "Grantees"), the perpetual, non-exclusive right and easement to pass and repass by vehicular traffic or otherwise and to install, maintain, repair and replace electrical, sewer, cable, water or other utilities on, in or under the land area designated as Easement Area "A" and Easement Area "B" on the attached plan. The land to which the foregoing right and easement is appurtenant is all of the land shown as Lots 37 and 38 on a plan entitled "Plan of Easements Lots 19, 37 & 38 Teal Circle and Simons Narrows Road Shoestring Bay at Willowbend Condominium Scale: 1"=40' Date: April 27, 2001" and attached hereto as Exhibit A (the "Benefited Premises").

Grantees acknowledge that the Owner of any future Unit constructed on Future Phase Parcel 19 as shown on said plan shall have the right to use Easement Area "A" as shown on said plan for purposes of access to and extension of utilities for said Parcel 19.

The undersigned, Janice and Garret Youlden of 77 Winding Cove Road, Marstons Mills, MA (the "Owner") for themselves and their successors in interest join in this instrument for purposes of (i) acknowledging the rights of Grantees in the Access Easement Area and (ii) acknowledging the obligation, of the Owner from time to time of Parcel 19 to share in expenses of maintaining and repairing the Access Easement Area.

With respect to the right and easements hereby created, the Grantee and Owner, for themselves and for their successors and assigns, hereby agrees as follows:

- a) The costs of all routine maintenance of the Access Easement Area, such as snow plowing and leaf removal, shall be shared equally by the parties;
- b) If in connection with the exercise of said right and easement, the Grantee or Owner shall make any excavations in the Access Easement Area, the party so excavating will as soon as possible restore said easement and the surface thereof to their prior condition;
- c) Each will indemnify and save the other harmless from and against any loss, damage, or liability arising out of their exercise of said right and easement.
- d) The foregoing rights and easements shall be exercisable only by the Owner and Grantee and their respective successors and assigns and others to whom said rights and easements may be specifically assigned.

Lots 37 and 38 Simons Narrows Road, Mashpee

Plan 569/14
* Nominal

WITNESS the execution hereof under seal this 16th day of October, 2001.

Accepted and agreed to:

Willowbend Development Corporation

Janice S. Youlden
Janice Youlden

John E. McElhinney
John E. McElhinney, its
Executive Vice President

Garrett Youlden
Garrett Youlden

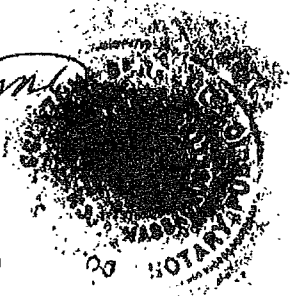
THE COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Date: October 17, 2001

Then personally appeared the above-named John E. McElhinney, Executive Vice President of Willowbend Development Corporation and acknowledged the foregoing instrument to be his free act and deed on behalf of Willowbend Development Corporation, before me.

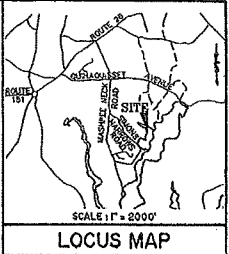
Donna S. Eggleton Bergamo
Notary Public
My Commission Expires: _____



DONNA S. EGGLETON - BERGAMO
NOTARY PUBLIC
My Commission Expires June 18, 2004

569-14

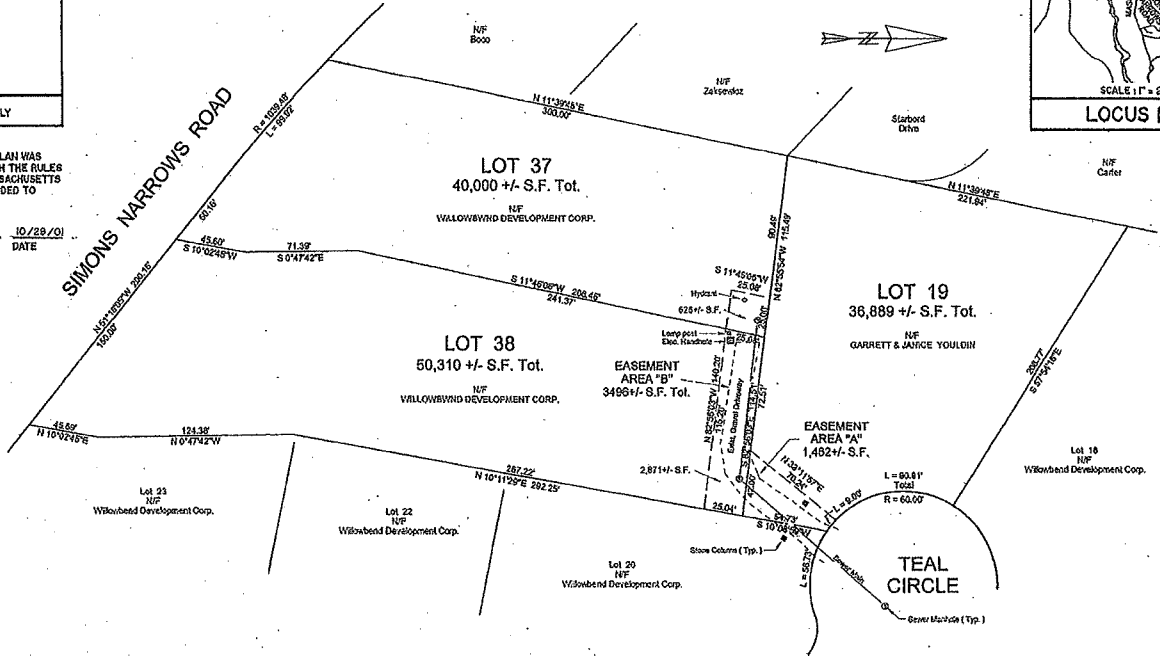
RECEIVED & RECORDED
2001 OCT 31 P 3:30
DARVISHALE COUNTY
REGISTRY OF DEEDS
JOHN F. HEARDE



FOR REGISTRY USE ONLY

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE MASSACHUSETTS REGISTRY OF DEEDS AS AMENDED TO JANUARY 7, 1988.

Norman Grossman 10/28/01
NORMAN GROSSMAN, RPLS DATE



I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS AND THAT THE LINES OF STREETS OR WAYS SHOWN ARE THE LINES OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR THE DIVISION OF OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

Norman Grossman 10/29/01
NORMAN GROSSMAN, PLS DATE

NOTES:
EASEMENT AREA "A" IS FOR THE BENEFIT OF LOTS 19, 37 & 38.
EASEMENT AREA "B" IS FOR THE BENEFIT OF LOTS 37 AND 38.



Land in Mashpee
PLAN OF EASEMENTS
LOTS 19, 37 & 38 TEAL CIRCLE
& SIMONS NARROWS ROAD
SHOESTRING BAY AT
WILLOWBEND CONDOMINIUM
SCALE: 1" = 40' DATE: APRIL 27, 2001

NORMAN GROSSMAN PLS
10 MARSH VIEW ROAD
EAST FALKLOUTH, MA. 02538
508-648-1920

569-14

After recording return to:
Jack McElhinney, Esq.
63 Shore Road, Suite 23
Winchester, MA 01890

RELEASE OF DECLARATION OF RESTRICTION

The Town of Mashpee, a municipal corporation of the Commonwealth of Massachusetts acting by and through its Conservation Commission and having its usual place of business at 16 Great Neck Road North, Mashpee, Massachusetts 02649 (the "Town") and the Commonwealth of Massachusetts, acting by and through the Division of Fisheries and Wildlife, signing pursuant to the Massachusetts Endangered Species Act (MESA) (MGL. c. 131A) and its implementing regulations (321 CMR 10.00) (the "Division") having the benefit of certain restrictions set forth in the Declaration of Restriction dated October 1, 2009 and recorded with the Barnstable County Registry of Deeds in Book 24685, Page 114 (the "Declaration"), hereby release for themselves, their successor and assigns, all restrictions set forth in the Declaration encumbering that certain parcel of land known as Willowbend Circle, Mashpee, Massachusetts (the "Property"), and any and all rights to enforce the same.

The parties hereby agree that the Declaration is hereby terminated and is of no further force or effect.

{Signature page to follow}

Willowbend Circle, Mashpee

WITNESS the execution hereof under seal this 11th day of ~~June~~ ^{August}, 2021.

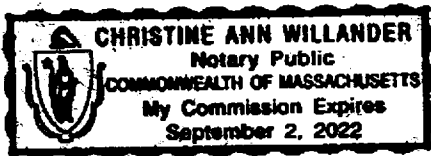
TOWN OF MASHPEE
By its Conservation Commission

By: Chad R Smith
Print Name: Chad Smith
Title: Chairman

COMMONWEALTH OF MASSACHUSETTS

Barnstable County, ss.

On this 11th day of ~~June~~ ^{August}, 2021 before me the undersigned notary public, personally appeared Chad Smith, who proved to me through satisfactory evidence of identification, which was MA Drivers License, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily, as their free act and deed, for its stated purpose as Chair of the Conservation Commission of the Town of Mashpee.



Christine Ann Willander
Notary Public: Christine Ann Willander
My Commission Expires: 9-2-2022

WITNESS the execution hereof under seal this 25th day of ~~June~~ August, 2021.


DIVISION OF FISHERIES AND WILDLIFE

By: [Signature]
Print Name: EVEROSE SCHULTER
Title: Assistant Director

Worcester COUNTY, ss. COMMONWEALTH OF MASSACHUSETTS

On this 25th day of August, 2021 before me the undersigned notary public, personally appeared EVEROSE SCHULTER, who proved to me through satisfactory evidence of identification, which was PERSONAL KNOWLEDGE, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily, as their free act and deed, for its stated purpose as Assistant Director of the Division of Fisheries and Wildlife.

[Signature]
Notary Public: Melany Cheeseman
My Commission Expires: January 24, 2025

 **MELANY CHEESEMAN**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
January 24, 2025



SEP 24 2021

TOWN OF FALMOUTH
MASSACHUSETTS

BOARD OF APPEALS

Notice of Decision

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by Falmouth Housing Trust, Inc., 55 Lewis Neck Road, East Falmouth, Ma. (Map 40 Lot 002C) under MGL Ch. 40B as amended to **grant** the comprehensive permit to construct 3 detached dwelling units, 2 of which will be affordable.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **September 22, 2021** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460
or Noreen.stockman@falmouthma.gov if you have any questions or comments
full text of decision available at <http://www.falmouthmass.us>



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

BOARD OF APPEALS NOTICE OF PUBLIC HEARING

SEP 21 2021

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

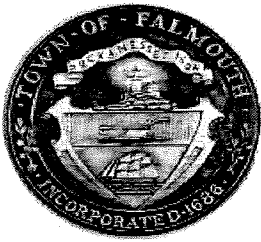
Application # 072-21 Doris Frechette, 79 Jones Road, Falmouth, Ma.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. of the Code of Falmouth to construct an addition to the pre-existing, non-conforming accessory structure on subject property known as 79 Jones Road, Falmouth, Ma.

Map 38 Section 04 Parcel 030 Lot(s) 000

A public hearing will be given on this application, in the Selectmen's Meeting Room, Town Hall, on **Thursday, October 7, 2021 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, Terrence Hurrie

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. *Plans are available to review at <http://www.falmouthmass.us/1113/Applications-under-review-by-the-ZBA>*



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

BOARD OF APPEALS NOTICE OF PUBLIC HEARING

SEP 21 2021

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

Application # 073-21 Lisa A. and Andrew J. Perrin, Trustees, 14 Charles River Drive, Franklin, Ma.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to construct an attached garage addition with habitable space above; exceeding 20% lot coverage by structures on subject property known as 54 Marshall Drive, East Falmouth, Ma.

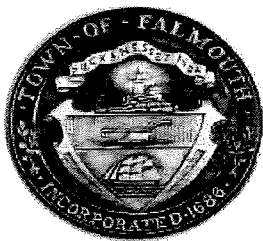
Map 32 Section 11 Parcel 000B Lot(s) 022

A public hearing will be given on this application, in the Selectmen's Meeting Room, Town Hall, on **Thursday, October 7, 2021 at 6:30PM**

You are invited to be present.

By Order of the Board of Appeals,
Chairman, Terrence Hurrie

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. *Plans are available to review at <http://www.falmouthmass.us/1113/Applications-under-review-by-the-ZBA>*



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

SEP 07 2021

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

Application # 071-21 Thomas and Kara Crowley, 101 Old Farm Road, Milton, Ma.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. of the Code of Falmouth to elevate the existing dwelling to comply with flood zone standards on subject property known as 12 Coatuit Road, North Falmouth, Ma.

Map 13 Section 11 Parcel 000 Lot(s) 038

A public hearing will be given on this application, in the Selectmen's Meeting Room, Town Hall, on **Thursday, October 7, 2021 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, Terrence Hurrie

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. *Plans are available to review at <http://www.falmouthmass.us/1113/Applications-under-review-by-the-ZBA>*



SEP 14 2021

TOWN OF FALMOUTH
MASSACHUSETTS

BOARD OF APPEALS

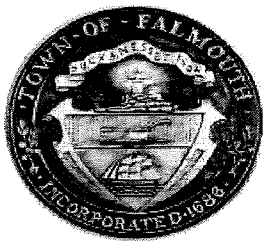
Notice of Decision

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by **James R. Fucigna**, 92 Bridge Street, East Falmouth, Ma.

(Map 45 Lot 021) **under** 240-69 E. of the Zoning By-Law, as amended to **grant** the special permit to construct a pool exceeding 20% lot coverage by structures.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **August 25, 2021** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460
or Noreen.stockman@falmouthma.gov if you have any questions or comments
full text of decision available at <http://www.falmouthmass.us>



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

SEP 14 2021

BOARD OF APPEALS NOTICE OF PUBLIC HEARING

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

Application # 069-21 Falmouth Housing Corporation and Affirmative Investments, Inc., 704 Main Street, Falmouth, Ma. and 33 Union Street, Boston, Ma.: Applied to the Zoning Board of Appeals for a Comprehensive Permit pursuant to MGL Chapter 40B to raze the existing building and construct forty-eight (48) affordable rental apartments with retail space on the first floor and age restricted for 62+. The subject properties are 763 Main Street and 24 Scranton Avenue, Falmouth, Ma.

Map 47B Section 09 Parcel 013 Lot(s) 022 – 763 Main Street
Map 47B Section 09 Parcel 010 Lot(s) 002 – 24 Scranton Avenue

A public hearing will be given on this application, in the Selectmen's Meeting Room, Town Hall, on **Thursday, September 16, 2021 at 6:30PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, Terrence Hurrie

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. *Plans are available to review at <http://www.falmouthmass.us/1113/Applications-under-review-by-the-ZBA> *

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



SEP 21 2021

Board of Appeals

16 Jan Sebastian Drive
Sandwich, MA 02563
Phone: 508-833-8001
Fax: 508-833-8006
E-mail: planning@sandwichmass.org

Petition #	Special Permit
Current Property Owner(s):	Certificate of Approval
Applicant:	21-17
Property Address:	Tsakalos Realty Trust
Map, Parcel	Tsakalos Realty Trust
	280 Route 130
	22-188

TOWN CLERK
TOWN OF SANDWICH

SEP 17 2021

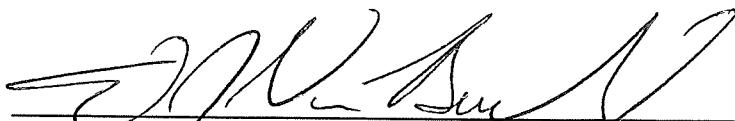
1 H 46 M P MS
RECEIVED & RECORDED

On September 14, 2021 the Board of Appeals voted to approve a special permit from Section 1330 & 2200 2) of the Sandwich Zoning By-law for property located at 280 Route 130, as shown on Assessor's Map 22, Parcel 188, for the purpose of operating a drive-through facility in association with a restaurant use.

The Board of Appeals certifies that the decision attached hereto is a true and correct copy of its decision to approve a special permit and that copies of said decision, and of all plans referred to in the decision, have been filed with the Board of Appeals and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed in the office of the town clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering. A copy of that registered decision shall be returned to the Planning & Development office as proof of filing.

Any person aggrieved by this decision may appeal to the Superior Court or Land Court as in Section 17 of Chapter 40A, M.G.L. by filing a NOTICE OF ACTION AND COMPLAINT with the Town Clerk within twenty (20) days of the date of filing of this decision.


Board of Appeals Member

9/17/21
Date

PROCEDURAL HISTORY

1. Application from Section 1330 & 2200 2) of the Zoning By-Law for property located at 280 Route 130 was filed on July 27, 2021.
2. After proper notice was given the public hearing was opened on September 14, 2021 and closed on September 14, 2021
3. The application was accompanied by a plan entitled:
SITE DEVELOPMENT PLAN
For
Heritage Park Restaurant
SANDWICH, MA
Date: 01/29/2019
4. The Board reviewed the application and all other materials submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing.
5. The following members attended the public hearing:

Erik Van Buskirk
Christopher Neeven
Robert Jensen
Chase Terrio
Gerry Nye

FINDINGS

The Zoning Board of Appeals finds that:

1. The Board of Appeals finds that this application meets the requirements of Section 9, M.G.L. Chapter 40A
2. Subject property is located within the B2 Zoning District.
3. Subject property is approximately 548,829 square feet.
4. Subject property has approximately 1700 feet of frontage on Cotuit Road and Route 130.
5. The building is located in the Heritage Park Plaza, a multi-use commercial park.
6. Heritage Park was developed by Special Permit.
7. Applicant is requesting relief under section 1330 and 2200 2) for the purpose of operating a drive through facility in conjunction with a restaurant.
8. A restaurant use is by-right in the B2 district.
9. Section 1330 requirements:

- a) The Board of Appeals does not find that there are conditions peculiar to this case but not generally true for similar permitted uses on other sites in the same district;
- b) The Board of Appeals finds that nuisance, hazard or congestion will not be created;
- c) The Board of Appeals finds that there will not be substantial harm to the neighborhood;
- d) The Board of Appeals finds that there is no derogation from the intent of the bylaw such that the districts' objectives will be satisfied.

Motion: I, Robert Jensen, move to adopt these findings as the findings of the Board of Appeals.

Second: Christopher Neeven

Vote:	Erik Van Buskirk	Yes
	Christopher Neeven	Yes
	Robert Jensen	Yes
	Chase Terrio	Yes
	Gerry Nye	Yes

CONDITIONS:

At the public hearing, the Board of Appeals considered potential conditions of approval for the special permit. The Board of Appeals voted that the following conditions of approval shall be imposed upon any approval of a special permit and that these conditions are reasonable and that the applicant and its successor-in-interest shall be bound by these conditions:

1. Failure to comply with all the conditions set forth in this decision shall terminate the grant of this special permit.
2. Pursuant to the requirements of Sandwich Protective Zoning By-law Section 1330, the grant of special permit shall expire upon:
 - (a) Transfer of ownership, prior to initiation of substantial construction on or occupancy of the site unless such transfer is authorized in this permit, or
 - (b) If no substantial construction or occupancy takes place within (3) three years of special permit approval, excluding such time required to pursue or await the determination of an appeal referred to in MGL C 40A, Section 17.

3. The special permit shall not take effect until it is recorded at the Barnstable County Registry of Deeds and a copy of the recorded special permit is provided to the Board of Appeals.
4. Drive-through hours of operation are as follows: 7 days a week 7am to 11pm.
5. Applicant shall provide two handicap parking spaces.

Motion: I, Robert Jensen, move to impose the above conditions of approval upon any approval of the special permit.

Second: Christopher Neeven

Vote:	Erik Van Buskirk	Yes
	Christopher Neeven	Yes
	Robert Jensen	Yes
	Chase Terrio	Yes
	Gerry Nye	Yes

DECISION:

After reviewing the application, the plan and other materials submitted and after giving due consideration to testimony given at the public hearing, the Board hereby approves the special permit application for property located at 280 Route 130, as shown on Assessor's Map 22, Parcel 188, for the purpose of operating a drive-through facility in conjunction with a restaurant use.

Motion: I, Robert Jensen, move to approve the special permit application.

Second: Christopher Neeven

Vote:	Erik Van Buskirk	Yes
	Christopher Neeven	Yes
	Robert Jensen	Yes
	Chase Terrio	Yes
	Gerry Nye	Yes



SEP 14 2021

**CLUSTER SPECIAL PERMIT
CERTIFICATE OF APPROVAL**

TOWN CLERK
TOWN OF SANDWICH

SEP 10 2021

10 H 37 M AM
RECEIVED & RECORDED

On September 7, 2021, the Planning Board voted to grant a Cluster Special Permit under Article IV, Section 4400 of the Sandwich Protective Zoning By-laws for property located at 21 Pauls Way, Sandwich as shown on Assessor's Map 13, Parcel 154.

The Planning Board certifies that the decision attached hereto is a true and correct copy of its decision to grant a special permit and that copies of said decision, and of all plans referred to in the decision have been filed with the Planning Board and the Town Clerk.

The Planning Board also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed in the office of the town clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering. A copy of that registered decision shall be returned to the Planning & Development office as proof of filing.

Any person aggrieved by this decision may appeal to the Superior Court or Land Court as in Section 17 of Chapter 40A, M.G.L. by filing a NOTICE OF ACTION AND COMPLAINT with the Town Clerk within twenty (20) days of the date of filing of this decision.

Planning Board Member

9/8/2021

PROCEDURAL HISTORY

1. An application for a Cluster Development Special Permit was filed on July 27, 2021 in conjunction with an Approval Not Required Plan filed on August 17, 2021.
2. After proper notice was given the public hearing was opened on August 17, 2021 and closed on September 7, 2021.
3. The application was accompanied by a plan entitled "Flexible Cluster Plan of Land", drawn by Existing Grade Inc. and dated August 31, 2021.
4. The Board reviewed the application, the plan and all other materials submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing.
5. The following members attended the public hearing:

Jeffrey Picard
Jennifer Reisig
Robert King*
David Darling
Mark Callahan
Paul Coteus*
James Dever

*Missed one meeting, but listened to the full audio recording and reviewed all materials in the project file, which allows member to participate in the deliberation of this decision under general law c. 39.

Protective Zoning By-Law Findings:

1. The Planning Board finds that the cluster plan substantially conforms to Section 4400 of the Sandwich Protective Zoning By-law and the Cluster Special Permit Regulations of the Sandwich Planning Board.
2. The Planning Board finds the project's proposed division of land does not constitute a "Subdivision" as defined under M.G.L. Chapter 41, Section 81L and therefore a definitive plan approval was not required for the project under section 3 C of the, "Town of Sandwich Planning Board Subdivision Rules & Regulations."
3. The Planning Board finds that the proposed project satisfies the requirements of Section 4432, as the land area is comprised of more than twice the lot area required in the R-2 Zoning District.
4. The Planning Board finds that the proposed project meets the criteria of Zoning By-Law Section 4440 as follows:
 - a) Section 4441a. The number of dwelling units is equal to the number that could be constructed with a conventional grid subdivision as demonstrated on the plan entitled Demonstration Plan.
 - b) Section 4443. The dimensions of the lots shown on the plan as described herein conform to the dimensions set forth in this section.

- c) Section 4446. The open space is preserved for recreation or conservation and does comprise not less than thirty percent (30%) of the area of the proposed development, excluding land subject to inland wetland regulations Section 40, Chapter 131 M.G.L and that building coverage within the open space does exceed five percent (5%) of the open space area.
5. The Planning Board finds that the proposed project is superior to a conventional grid subdivision in all the following ways:
 - a) In preserving open space for conservation or recreation;
 - b) In utilizing natural features of the land;
 - c) In allowing more efficient provision of streets, utilities and other public services;
 - d) And is at least equal to a conventional plan in other respects.

Cluster Development Special Permit Regulation Findings:

1. 1.B.1.A. The Planning Board finds that the proposed cluster subdivision encompasses at least twice the lot area required in the R-2 Zoning District.
2. 1.B.1.B. The Planning Board finds that the plan does not involve more than one ownership.
3. 1.B.1.C. The Planning Board finds that the application includes proposed restrictions regarding landscaping and structures.
4. 1.B.2.A. The Planning Board finds that each landowner's interest in the land to be developed is included in the application materials.
5. 1.B.2.B. The Planning Board finds that the form of organization to own and maintain common open space is included in the application materials.
6. 1.B.2.C. The Planning Board finds that the covenants and grants of easement are included in the application materials.
7. 1.B.3.A The Planning Board finds that the cluster development open space is held for the common use of residents of the development according to the application materials.
8. 1.B.3.B The Planning Board finds that portions of the open space are not utilized for a 50' buffer.
9. 1.B.3.C. The Planning Board finds that common open space is to be preserved for recreation or conservation and that proposed building coverage is less than 5% of the open space area according to the application materials. The Planning Board finds that common open space comprises not less than 30% of the entire proposed development and shall be preserved for recreation and conservation for the community use of the residents.
10. 1.B.3.D The Planning Board finds that ownership of the common open space is arranged and maintenance of the open space is guaranteed to the community use and enjoyment of the residents of the development tract serving residents and non-paying guests or for recreation.

Motion: I, Jennifer Reisig, move to adopt these as the findings of the Planning Board

Second: Robert King

Vote: Jeffrey Picard	Yes
Jennifer Reisig	Yes
Robert King	Yes
David Darling	Yes
Mark Callahan	Yes
Paul Coteus	Yes
James Dever	Yes

CONDITIONS of APPROVAL FOR GRANT OF SPECIAL PERMIT:

At the public hearing, the Planning Board considered potential conditions of approval for this special permit. The Planning Board voted that the following conditions of approval shall be imposed upon the special permit approval and that these conditions are reasonable and that the applicant and its successor-in-interest shall be bound by these conditions:

1. Failure to comply with all the conditions set forth in this decision shall terminate the grant of this special permit.
2. Pursuant to the requirements of Sandwich Protective Zoning By-law Section 1330, the grant of special permit shall expire upon:
 - a) Transfer of ownership, prior to initiation of substantial construction on or occupancy of the site unless such transfer is authorized in this permit; or
 - b) If no substantial construction or occupancy takes place within three (3) years of special permit approval, excluding such time required to pursue or await the determination of an appeal referred to in MGL C 40A, Section 17.
3. The special permit shall not take effect until it is recorded at the Barnstable County Registry of Deeds and a copy of the recorded special permit is provided to the Planning Board.
4. The applicant and its successors in interest shall comply with the Town of Sandwich Planning Board Cluster Special Permit Regulations throughout the duration of the Cluster subdivision.

Motion: I, Jennifer Reisig, move to adopt these as the conditions of the Planning Board.

Second: Robert King

Vote: Jeffrey Picard	Yes
Jennifer Reisig	Yes
Robert King	Yes
David Darling	Yes
Mark Callahan	Yes
Paul Coteus	Yes
James Dever	Yes

DECISION

After reviewing the application, the plan and other materials submitted and after giving due consideration to testimony given at the public hearing, the Board hereby approves the Cluster Special Permit application for property located at 21 Pauls Way, Sandwich as shown on Assessor's Map 13, Parcel 154 pursuant to Sandwich Protective Zoning By-law Section 4400, and as further described in the Cluster Development Special Permit Regulations of the Sandwich Planning Board.

Motion: I, Jennifer Reisig, move to approve the Cluster Special Permit in consideration of the findings of the Planning Board and subject to the conditions as stated herein.

Second: Robert King

Vote:	Jeffrey Picard	Yes
	Jennifer Reisig	Yes
	Robert King	Yes
	David Darling	Yes
	Mark Callahan	Yes
	Paul Coteus	Yes
	James Dever	Yes

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



Planning Board

16 Jan Sebastian Drive
Sandwich, MA 02563
Phone: 508-833-8001
Fax: 508-833-8006
Email: planning@sandwichmass.org

SEP 22 2021

The Planning Board of the Town of Sandwich hereby gives notice that it will hold a Public Hearing on proposed amendments to the Sandwich Protective Zoning By-Law.

Date and Time: October 5, 2021 at 7:00 p.m.

Location: Upper Meeting Room, Human Services Building, 270 Quaker Meetinghouse Rd.

Proposed Amendments:

- Proposed amendment to Article II Section 2220 for the purpose of allowing Motor Vehicle Rental Establishment by Special Permit in the B2 Zoning District.
- Proposed amendment to Definitions for the purpose of striking height definition illustration.

Full text of the proposed Zoning Amendments, along with the current Protective Zoning By-Law and current Zoning Map may be viewed in the following ways:

1. Request a PDF from the Office of Planning & Development at planning@sandwichmass.org
2. Visit the Office of Planning & Development at 16 Jan Sebastian Drive, Sandwich, MA.
3. Call (508) 833-8001 if other accommodations are needed.

Jeffrey Picard, Chair
Sandwich Planning Board
Publication: Sandwich Enterprise
Publication Dates: 17 September, 24 September 2021

TOWN CLERK
TOWN OF SANDWICH

SEP 17 2021
1 H 46 M P.M.
RECEIVED & RECORDED

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



BOARD of APPEALS
16 Jan Sebastian Drive
Sandwich, MA 02563
Phone: 508 833 8001
Fax: 508 833 8006
E-mail: planning@sandwichmass.org

SEP 21 2021

**TOWN OF SANDWICH
PUBLIC HEARING NOTICE
BOARD OF APPEALS**

The Sandwich Board of Appeals will hold a Public Hearing on the application of Robyn and Paul Carlucci, Applicants and Property Owners, for a Variance under Section 2600 of the Sandwich Protective Zoning By-Law for property located at 19 Wood Avenue, Sandwich, MA Assessor's Map #88, Parcel #183, for the purpose of a Variance. The Public Hearing will be held on September 28, 2021, in the upper meeting room of the Human Services Building, 270 Quaker Meetinghouse Road, East Sandwich, MA at 6:00 p.m. The public record information can be viewed at the Planning & Development office, 16 Jan Sebastian Drive, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

Erik Van Buskirk, Chair
Sandwich Board of Appeals
Publication: Sandwich Enterprise
Publication Dates: September 10 and September 17, 2021

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



BOARD of APPEALS
16 Jan Sebastian Drive
Sandwich, MA 02563
Phone: 508 833 8001
Fax: 508 833 8006
E-mail: planning@sandwichmass.org

SEP 21 2021

**TOWN OF SANDWICH
PUBLIC HEARING NOTICE
BOARD OF APPEALS**

The Sandwich Board of Appeals will hold a public hearing on the application of WingsWay, LLC, applicant and property owner, for a Special Permit under Sections 1330, 2420, 2600 (c), 4350 (2) and 4390 of the Sandwich Protective Zoning By-Law for property located at 14 Beach Way, East Sandwich, MA, Assessor's Map #57, Parcel #1, for the purpose of elevating, renovating and enlarging a pre-existing nonconforming structure with associated site improvements. The Public Hearing will be held on September 28, 2021, in the upper meeting room of the Human Services Building, 270 Quaker Meetinghouse Road, East Sandwich, MA at 6:00 p.m. The public record information can be viewed at the Planning & Development office, 16 Jan Sebastian Drive, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

Erik Van Buskirk, Chair
Sandwich Board of Appeals
Publication: Sandwich Enterprise
Publication Dates: September 10 and September 17, 2021



**TOWN OF SANDWICH
PUBLIC HEARING NOTICE
BOARD OF APPEALS**

SEP 21 2021

The Sandwich Board of Appeals will hold a public hearing on the application of Jeremiah Ellis, applicant and Adam and Maryellen Trayner, property owners, for a Special Permit under Sections 1380 & 2200 of the Sandwich Protective Zoning By-Law for property located at 15 Jan Sebastian Drive, Unit 3D, Sandwich, MA, Assessor's Map #27, Parcel #33-03D for the purpose of operating a motorcycle repair/retail business. The Public Hearing will be held on September 28, 2021, in the upper meeting room of the Human Services Building, 270 Quaker Meetinghouse Road, East Sandwich, MA at 6:00 p.m. The public record information can be viewed at the Planning & Development office, 16 Jan Sebastian Drive, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

Erik Van Buskirk, Chair
Sandwich Board of Appeals
Publication: Sandwich Enterprise
Publication Dates: September 10 and September 17, 2021

SEP 21 2021

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERWAYS REGULATION PROGRAM

Notice of License Application Pursuant to M. G. L. Chapter 91
Waterways License Application Number W21-6050
Daniel R. Marie & Karen S. Joyce

NOTIFICATION DATE: October 1, 2021

Public notice is hereby given of the waterways application by Daniel R. Marie & Karen S. Joyce to construct and maintain a pier, ramp, float and piles at 78 Popponeset Island Road in the municipality of Mashpee, in and over flowed tidelands of Popponeset Bay. The proposed project has been determined to be water-dependent.

The Department will consider all written comments on this Waterways application received within thirty (30) days subsequent to the "Notification Date". Failure of any aggrieved person or group of ten citizens or more, with at least five of the ten residents residing in the municipality(s) in which the license or permitted activity is located, to submit written comments to the Waterways Regulation Program by the Public Comments Deadline will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c).

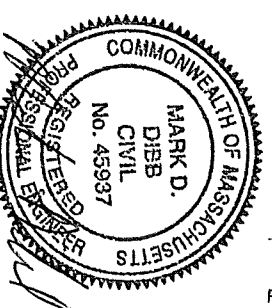
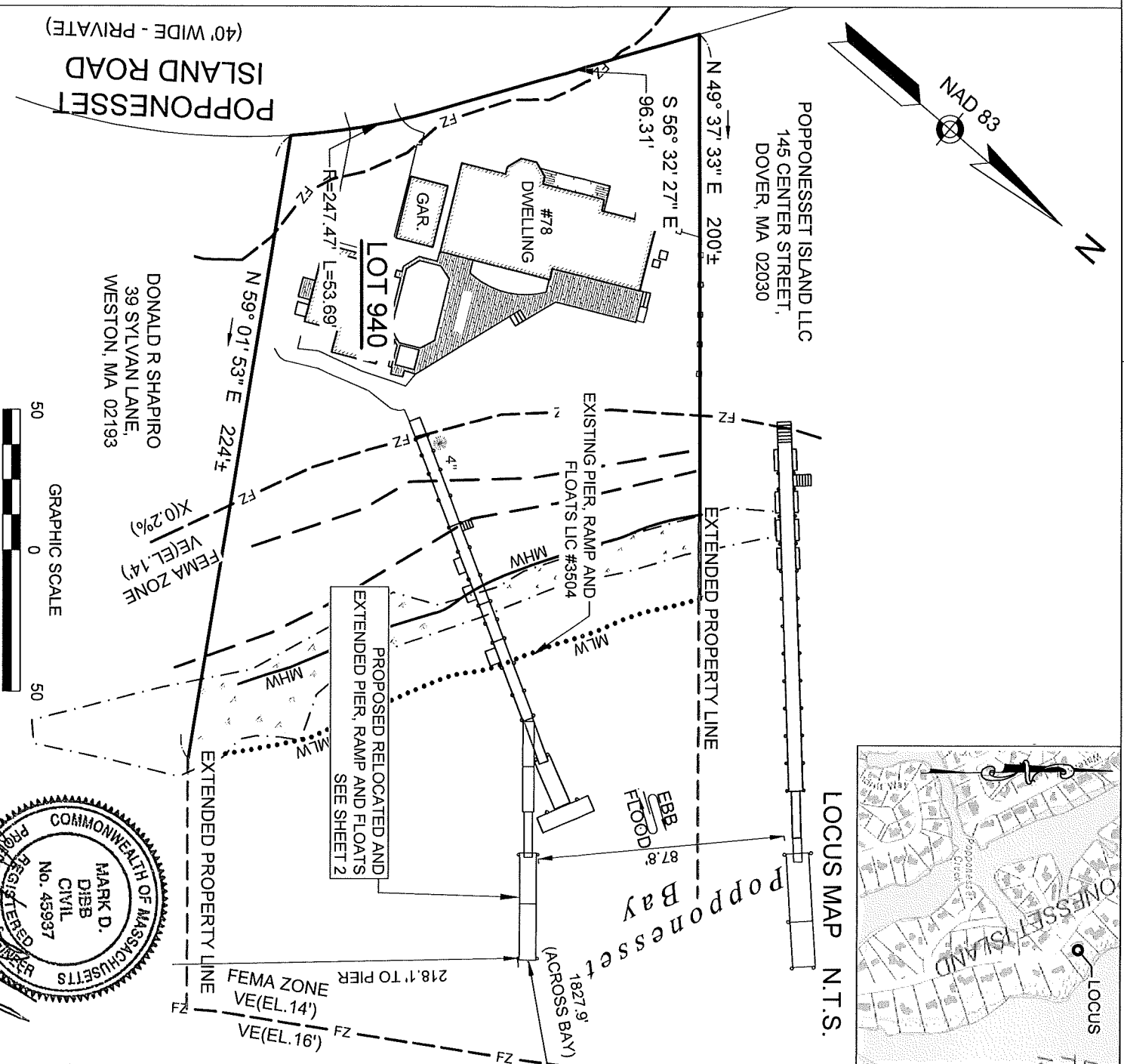
Additional information regarding this application, including plans and associated documents, may be obtained by contacting the Waterways Regulation Program at (508) 946-2707 or brendan.mullaney@mass.gov.

Written comments must be addressed to: Brendan Mullaney, Environmental Analyst, DEP Waterways Regulation Program, 20 Riverside Drive, Lakeville, MA 02347 or brendan.mullaney@mass.gov.

I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.



MARK DIBB, P.E.



PROPOSED PIER EXTENSION AND RAMP & FLOAT RELOCATION PLAN

PARCEL ADDRESS: 78 POPPO NESSETT ISLAND ROAD, MASHPEE, MA PLAN ACCOMPANYING PETITION OF DANIEL R. MARIE & KAREN S. JOYCE

TO CONSTRUCT, & MAINTAIN A PIER, PILES, RAMP AND FLOATS IN AND OVER THE WATERS OF POPPO NESSETT BAY, MASHPEE, MASSACHUSETTS

TIDE RANGE: ±2.7
LATITUDE: 41°45'00.52"
LONGITUDE: 70°27'31.37"
DATUM: NAVD = 0.00 FT.
ELEVATIONS IN FEET

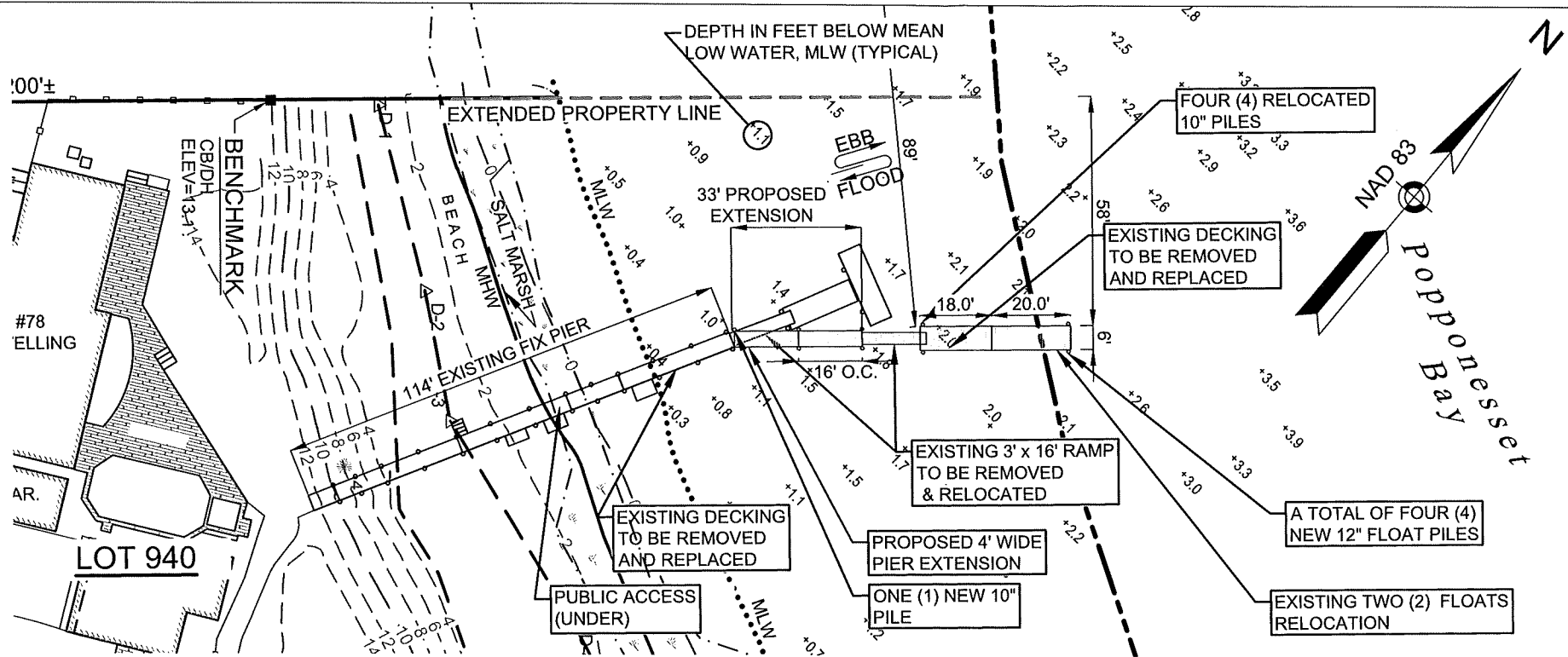
PARCEL ID MAP 106 PARCEL 30 SHEET 1 OF 4

PLAN BY: CAPE & ISLANDS ENGINEERING, INC.
508.477.7272 DATE: JUNE 16, 2021

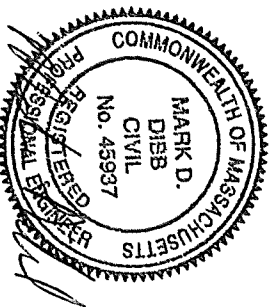
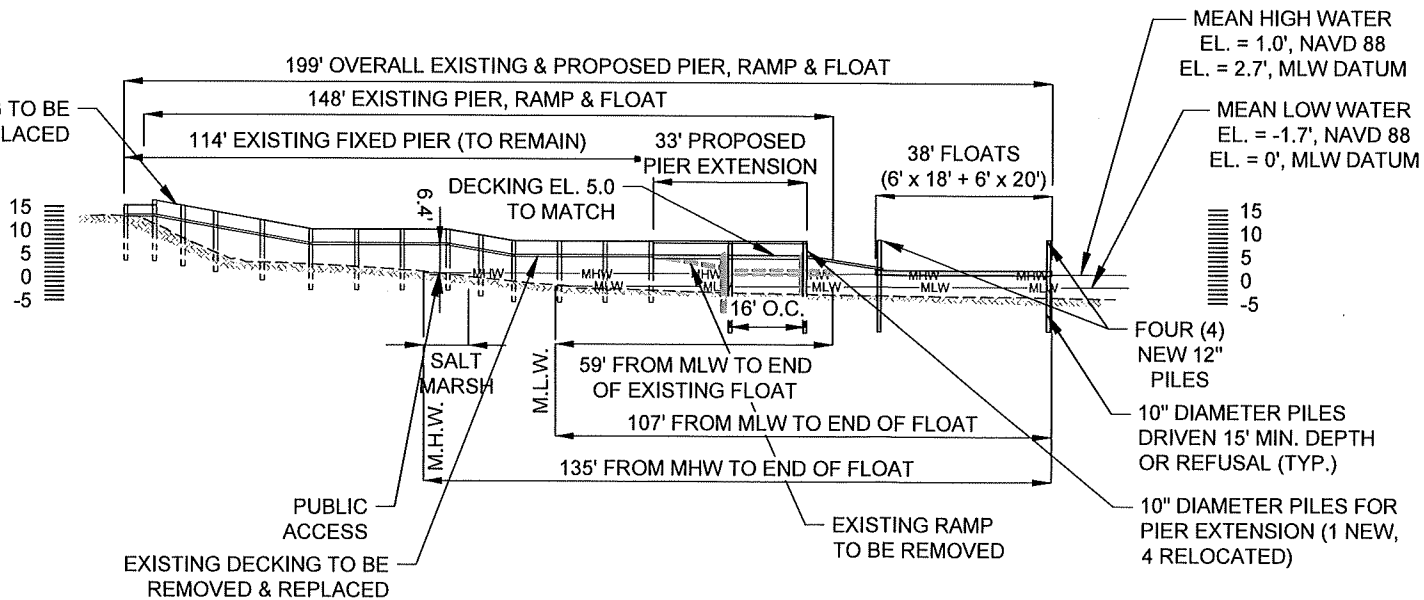
HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

Mark D. Dibb

MARK DIBB, P.E.



PROPOSED PROFILE

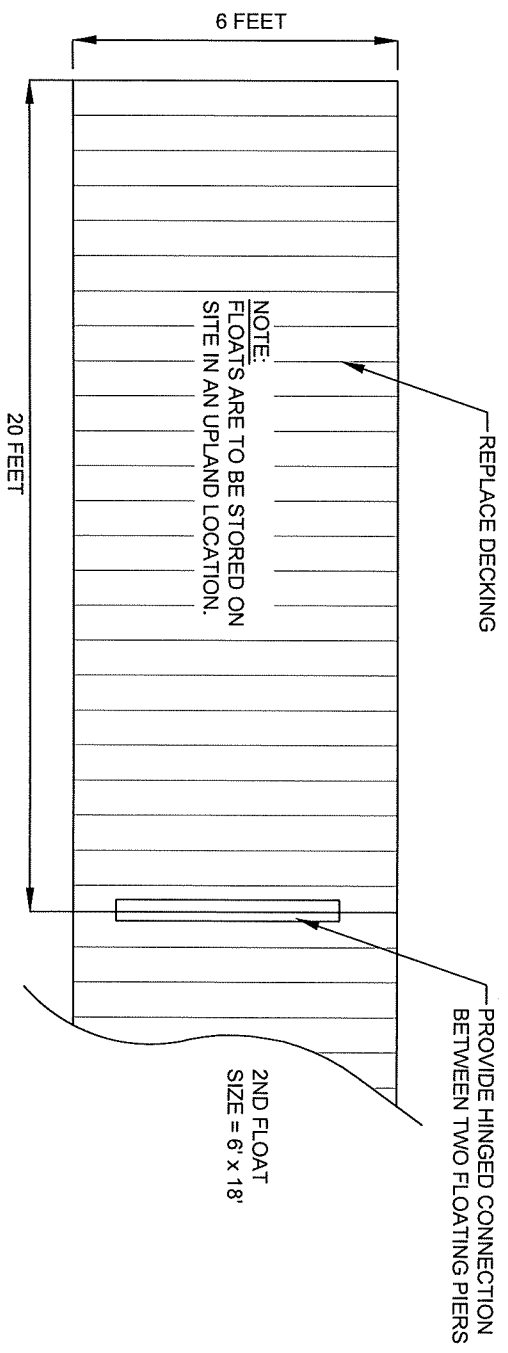


PARCEL ADDRESS: 78 POPPONESSET ISLAND ROAD, MASHPEE, MA
 PLAN BY: CAPE & ISLANDS ENGINEERING, INC.
 508.477.7272 DATE: JUNE 16, 2021
 DATUM: NAVD = 0.00 FT.
 ELEVATIONS IN FEET
 PARCEL ID MAP 106 PARCEL 30 SHEET 2 OF 4

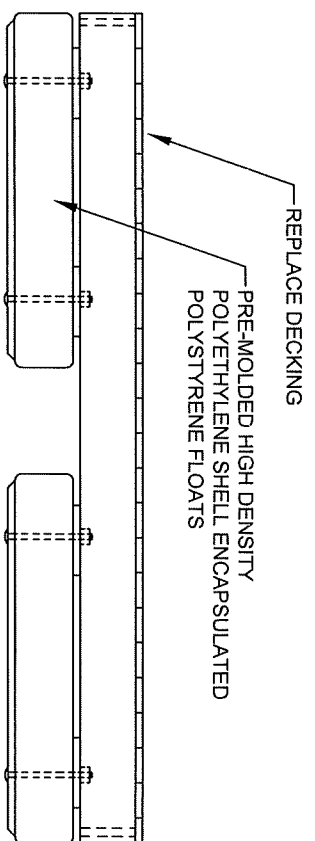
I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.



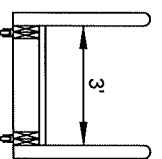
MARK DIBB, P.E.



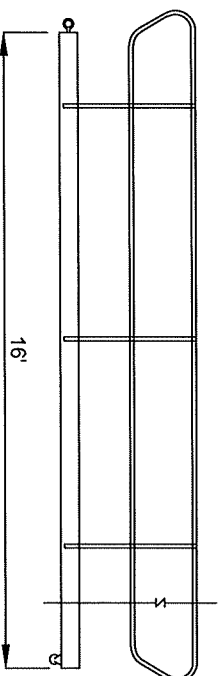
PLAN VIEW



SECTION VIEW



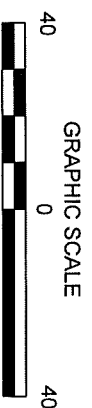
SECTION VIEW



PROFILE VIEW

EXISTING RAMP DETAIL

NOT TO SCALE



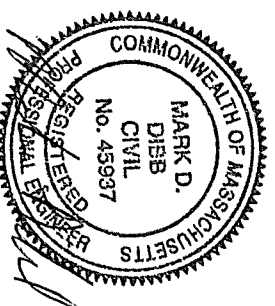
GRAPHIC SCALE

FLOAT DETAILS

PARCEL ADDRESS: 78 POPPONSETT ISLAND ROAD, MASHPEE, MA

PLAN BY: CAPE & ISLANDS ENGINEERING, INC. DATE: JUNE 16, 2021

PARCEL ID MAP 106 PARCEL 30 SHEET 3 OF 4

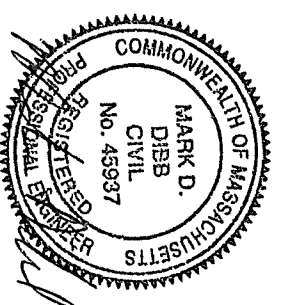
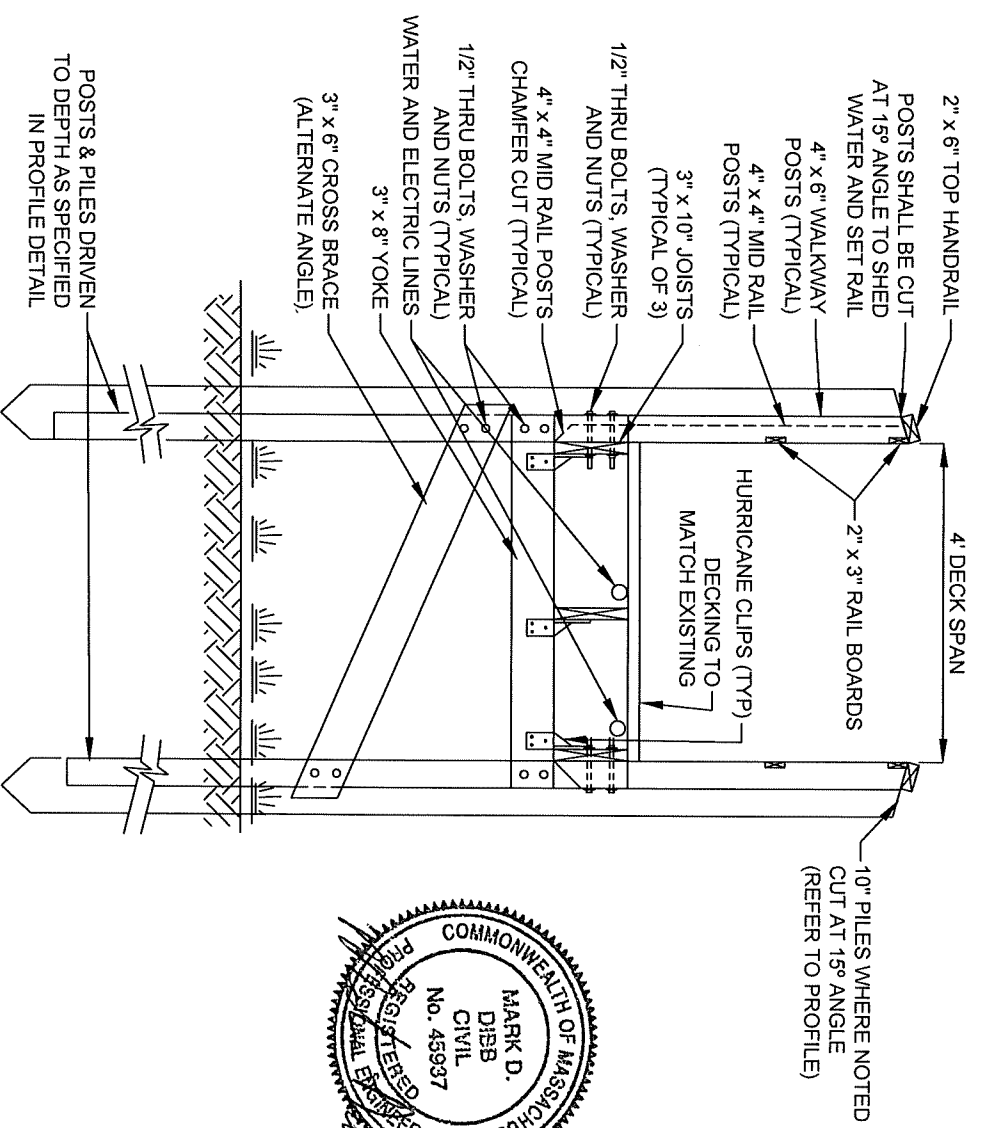


DATUM: NAVD = 0.00 FT. ELEVATIONS IN FEET

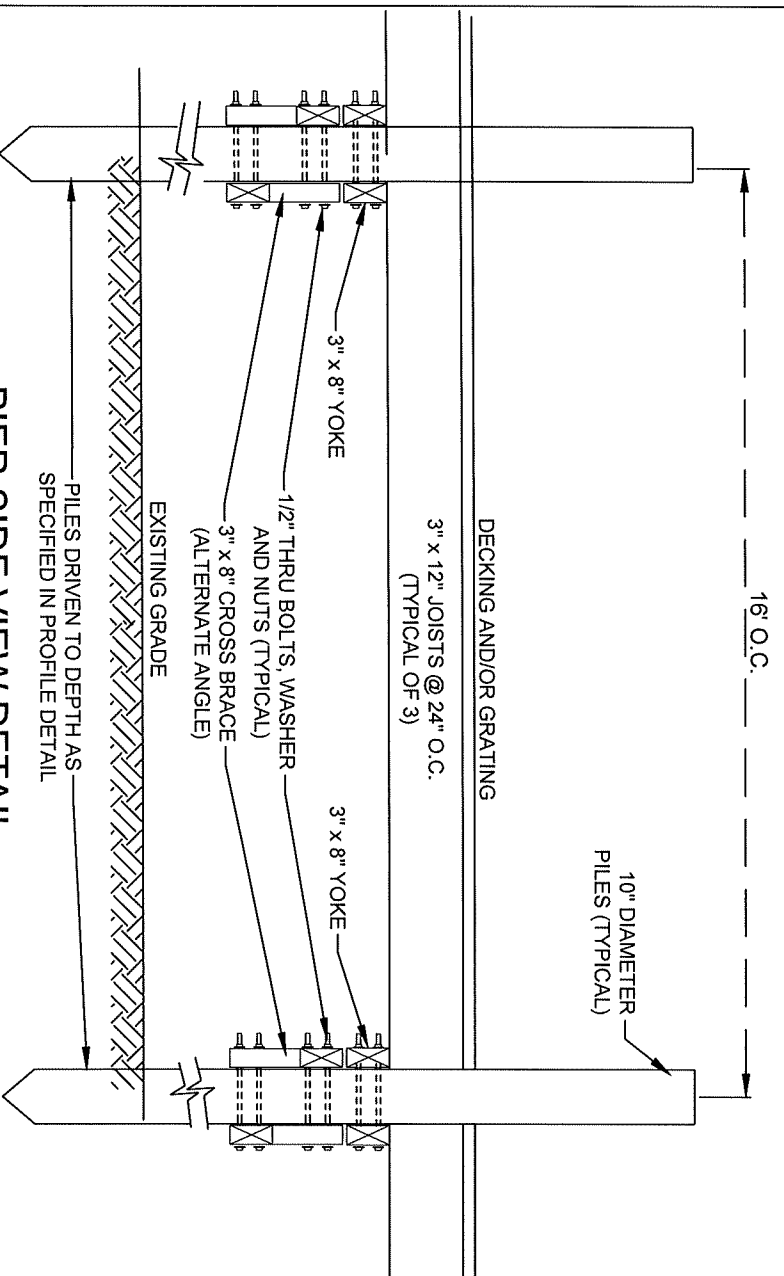
I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

Mark D. Dibb

MARK DIBB, P.E.



PIER SECTION DETAIL
NOT TO SCALE



BENT SECTION

PIER SIDE VIEW DETAIL
NOT TO SCALE

PARCEL ADDRESS: 78 POPPONNESSET ISLAND ROAD, MASHPEE, MA
 PLAN BY: CAPE & ISLANDS ENGINEERING, INC.
 508.477.7272 DATE: JUNE 16, 2021

PARCEL ID MAP 106 PARCEL 30 SHEET 4 OF 4
 DATUM: NAVD = 0.00 FT.
 ELEVATIONS IN FEET

SEP 21 2021

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERWAYS REGULATION PROGRAM

Notice of License Application Pursuant to M. G. L. Chapter 91
Waterways License Application Number W21-6049
Edward W. & Carolyn B. Allen, Trustees

NOTIFICATION DATE: October 1, 2021

Public notice is hereby given of the waterways application by Edward W. & Carolyn B. Allen, Trustees to construct and maintain a pier, ramp and float at 52 Seconsett Point Road in the municipality of Mashpee, in and over flowed tidelands of Little River. The proposed project has been determined to be water-dependent.

The Department will consider all written comments on this Waterways application received within thirty (30) days subsequent to the "Notification Date". Failure of any aggrieved person or group of ten citizens or more, with at least five of the ten residents residing in the municipality(s) in which the license or permitted activity is located, to submit written comments to the Waterways Regulation Program by the Public Comments Deadline will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c).

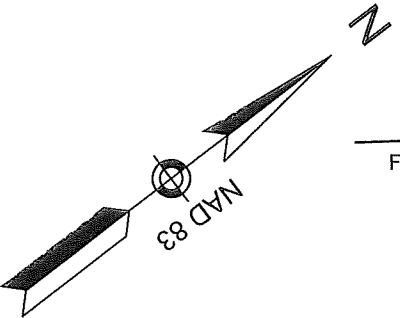
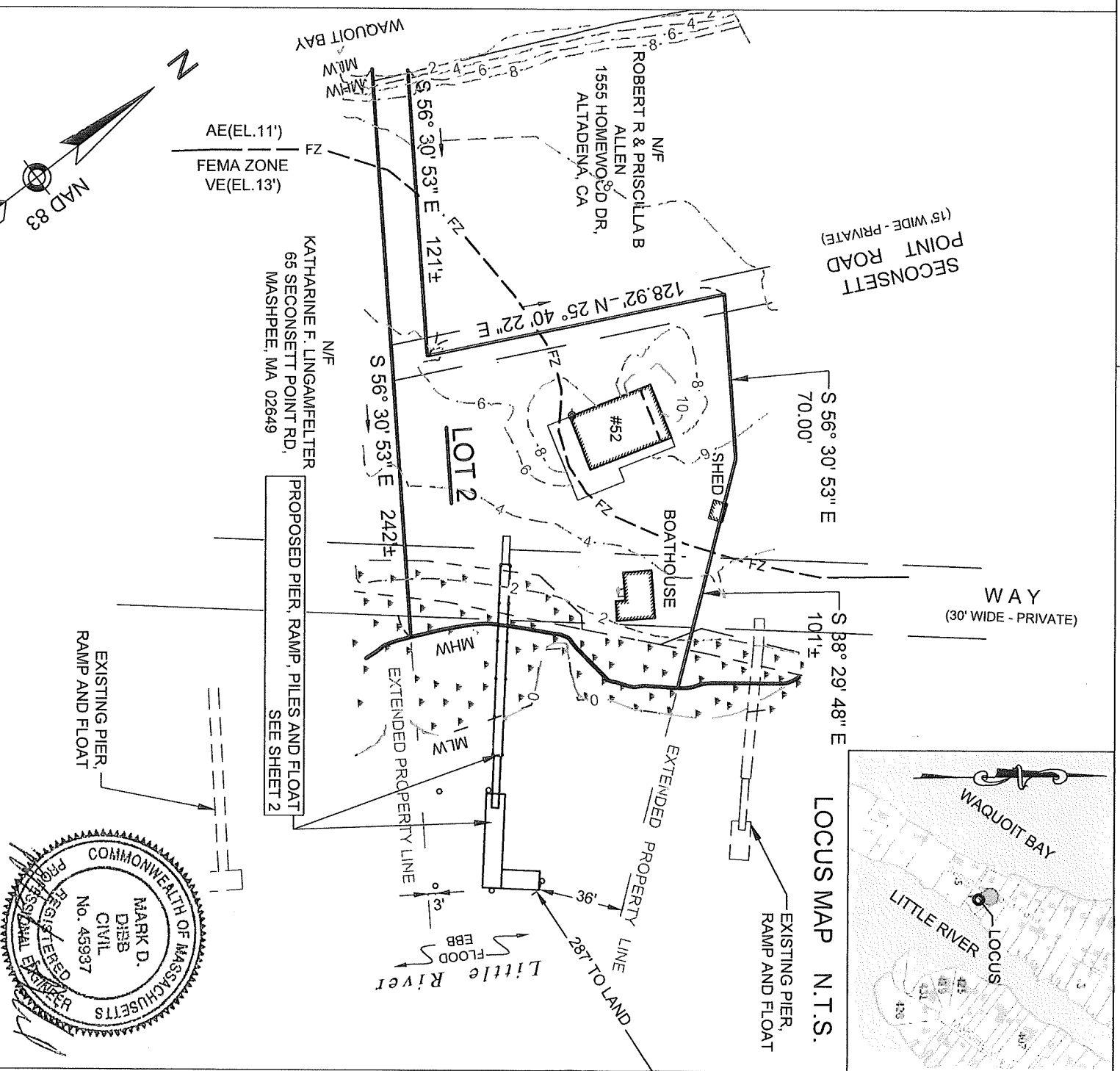
Additional information regarding this application, including plans and associated documents, may be obtained by contacting the Waterways Regulation Program at (508) 946-2707 or brendan.mullaney@mass.gov.

Written comments must be addressed to: Brendan Mullaney, Environmental Analyst, DEP Waterways Regulation Program, 20 Riverside Drive, Lakeville, MA 02347 or brendan.mullaney@mass.gov.

I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

Mark D. Dibb

MARK DIBB, P.E.



PROPOSED PIER, RAMP & FLOAT PLAN

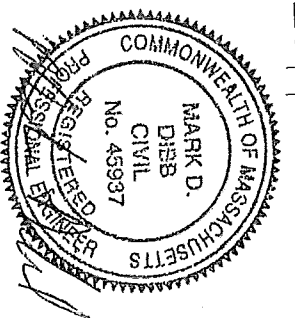
PARCEL ADDRESS: 52 SECONSETT POINT ROAD, MASHPEE, MA,
PLAN ACCOMPANYING PETITION OF

EDWARD W. & CAROLYN B. ALLEN, TRUSTEES

TO CONSTRUCT & MAINTAIN A PIER, RAMP & FLOAT
IN AND OVER THE WATERS OF
LITTLE RIVER, MASHPEE, MASSACHUSETTS

PARCEL ID MAP 124 PARCEL 15 SHEET 1 OF 4

TIDE RANGE: ±1.9'
LATITUDE 41°33'46.72"
LONGITUDE 70°30'50.07"
DATUM: NAVD = 0.00 FT.
ELEVATIONS IN FEET

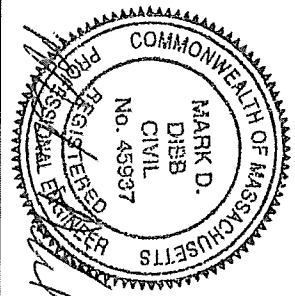
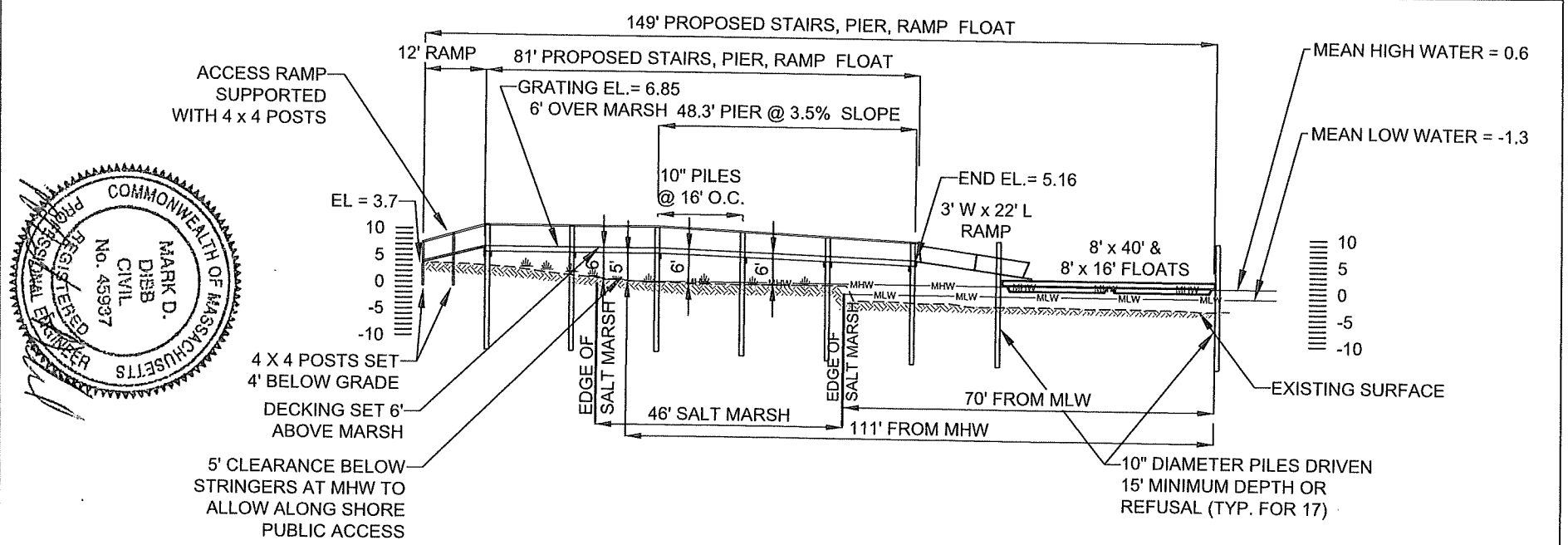
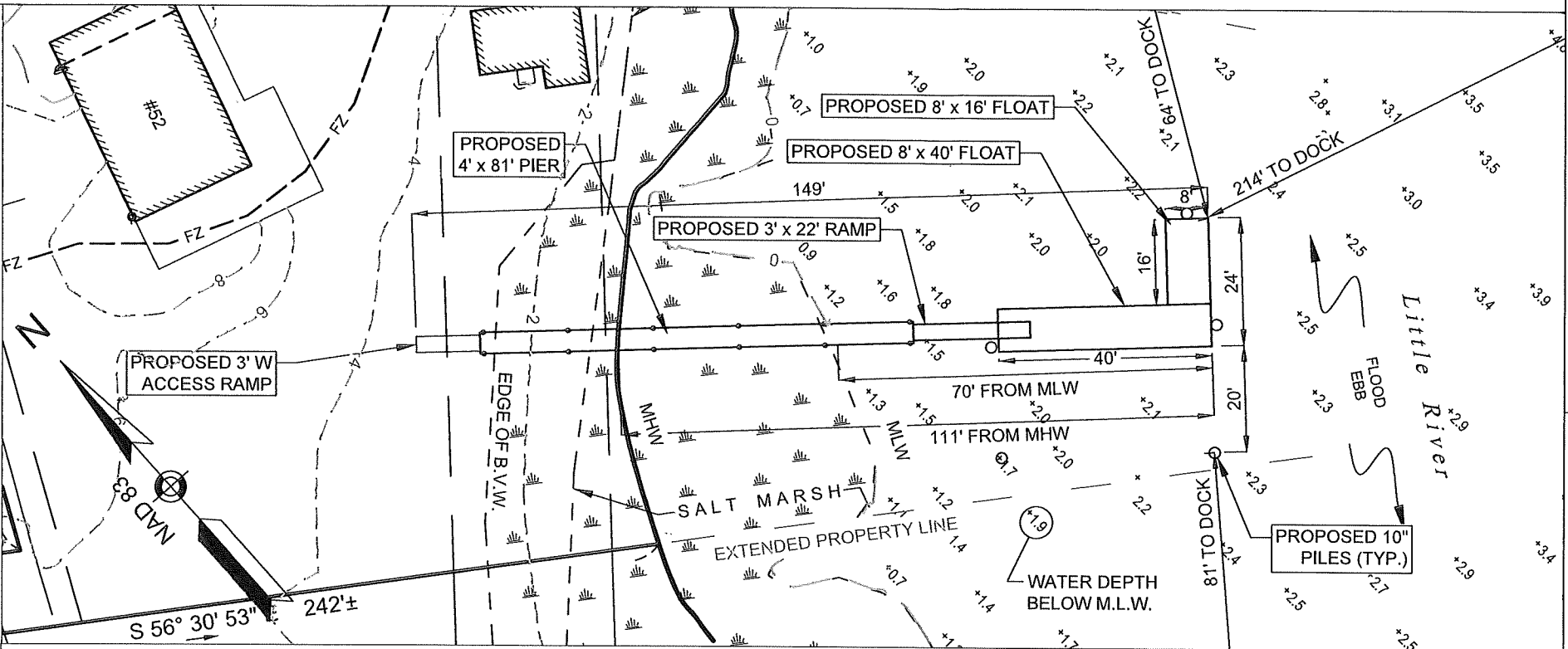


PLAN BY: CAPE & ISLANDS ENGINEERING, INC.
508.477.7272 DATE: JUNE 18, 2021

HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

Mark D. Dibb

MARK DIBB, P.E.



PROPOSED PROFILE



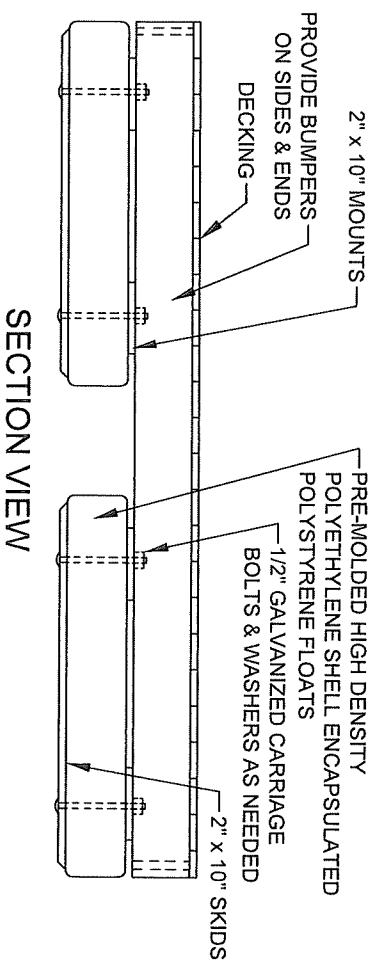
PARCEL ADDRESS: 52 SECONSETT POINT ROAD, WASHPEE, MA
 PLAN BY: CAPE & ISLANDS ENGINEERING, INC.
 508.477.7272 DATE: JUNE 18, 2021

PARCEL ID MAP 124 PARCEL 15 SHEET 2 OF 4
 DATUM: NAVD = 0.00 FT.
 ELEVATIONS IN FEET

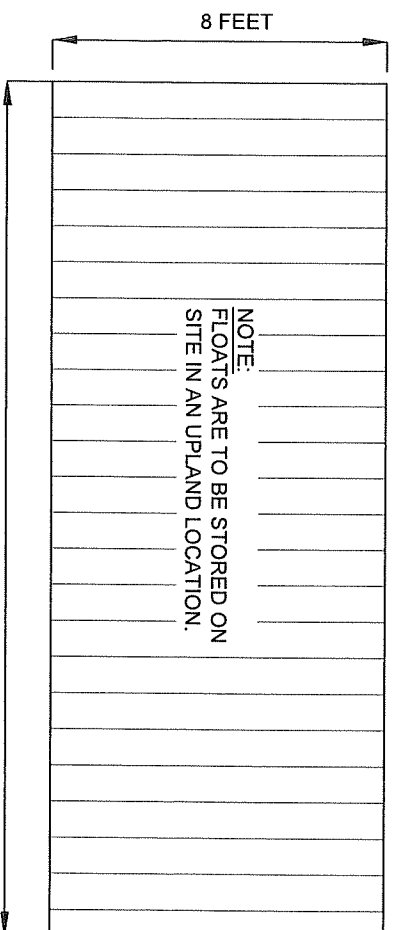
I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.



MARK DIBB, P.E.



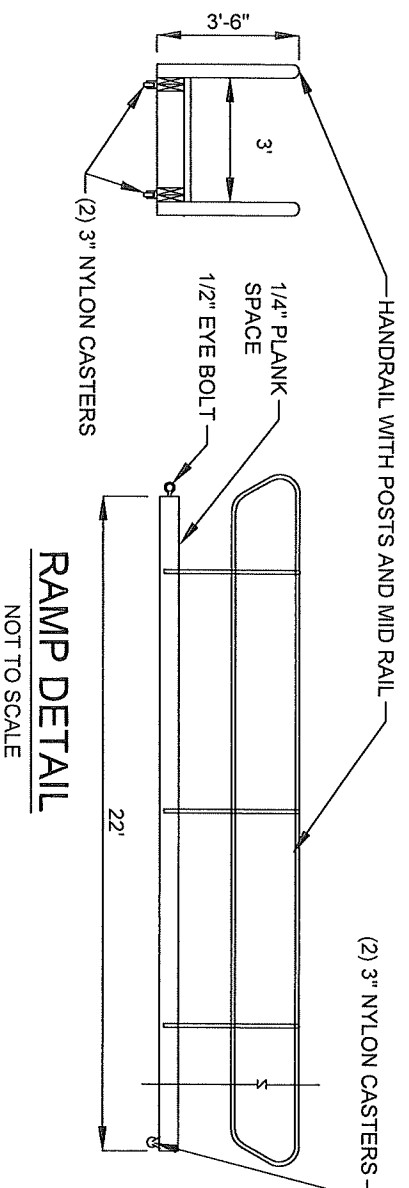
SECTION VIEW



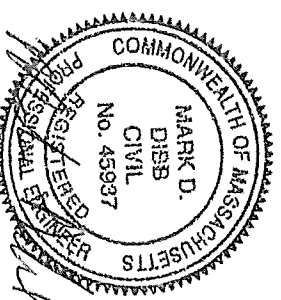
NOTE:
FLOATS ARE TO BE STORED ON SITE IN AN UPLAND LOCATION.

PLAN VIEW

FLOAT DETAIL
NOT TO SCALE



RAMP DETAIL
NOT TO SCALE



FLOAT DETAILS

PARCEL ADDRESS: 52 SECONSETT POINT ROAD

PLAN BY: CAPE & ISLANDS ENGINEERING, INC.

508.477.7272 DATE: JUNE 18, 2021



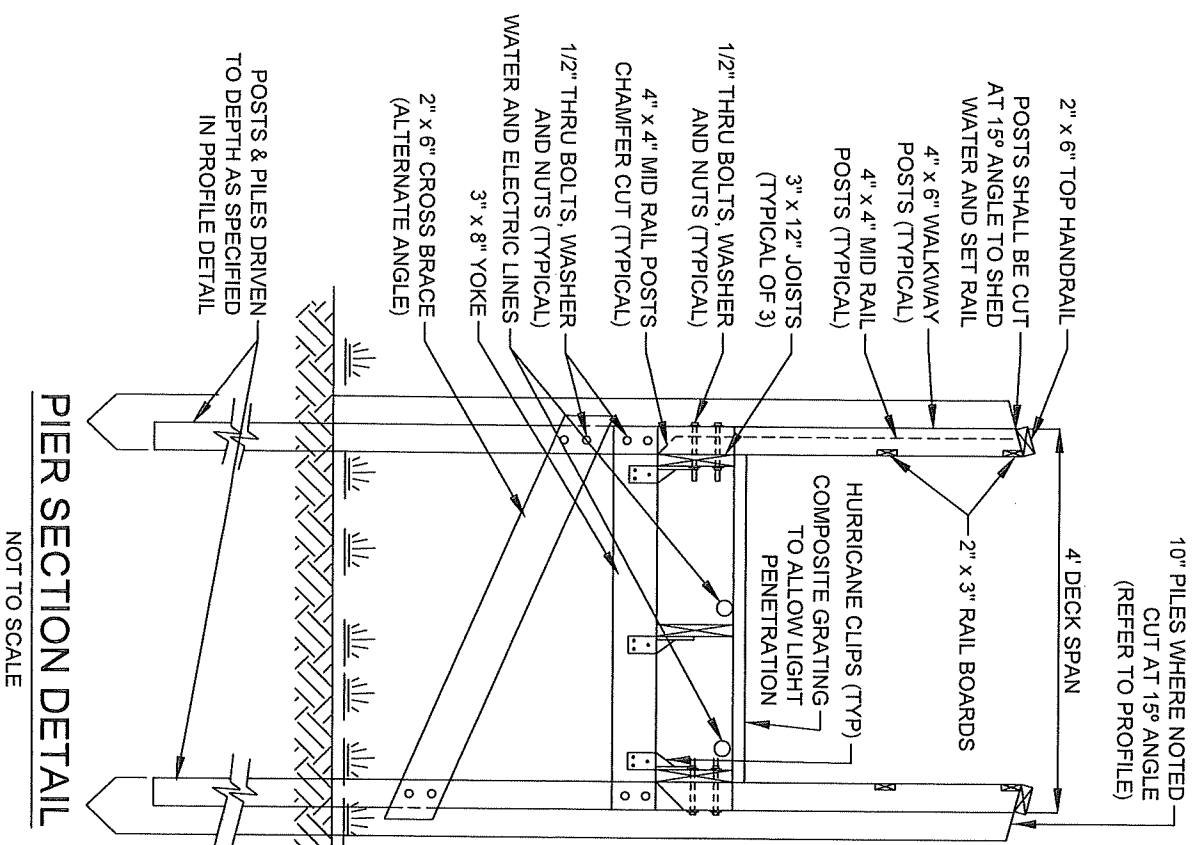
PARCEL ID MAP 124 PARCEL 15 SHEET 3 OF 4

DATUM: NAVD = 0.00 FT.
ELEVATIONS IN FEET

I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.



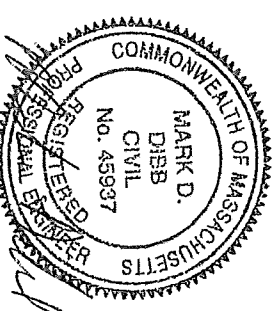
MARK DIBB, P.E.



BENT SECTION

PARCEL ADDRESS: 52 SECONSETT POINT ROAD
PLAN BY: CAPE & ISLANDS ENGINEERING, INC.
508.477.7272 DATE: JUNE 18, 2021

DATUM: NAVD = 0.00 FT.
ELEVATIONS IN FEET
PARCEL ID MAP 124 PARCEL 15 SHEET 4 OF 4





Massachusetts Department of Environmental Protection

eDEP Transaction Copy

Here is the file you requested for your records.

To retain a copy of this file you must save and/or print.

Username: **EBELAIR**

Transaction ID: **1305587**

Document: **Groundwater Discharge Monitoring Report Forms**

Size of File: **1032.69K**

Status of Transaction: **Submitted**

Date and Time Created: **9/28/2021:2:30:43 PM**

Note: This file only includes forms that were part of your transaction as of the date and time indicated above. If you need a more current copy of your transaction, return to eDEP and select to "Download a Copy" from the Current Submittals page.



Groundwater Permit
DISCHARGE MONITORING REPORT

668
1. Permit Number
[REDACTED]
2. Tax identification Number
2021 AUG MONTHLY
3. Sampling Month & Frequency

A. Facility Information

Important:When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

8/3/2021

a. Date Sampled (mm/dd/yyyy)

RI

b. Laboratory Name

NICOLE SKYLESON

c. Analysis Performed By (Name)

B. Form Selection

1. Please select Form Type and Sampling Month & Frequency

Discharge Monitoring Report - 2021 Aug Monthly

All forms for submittal have been completed.

2. This is the last selection.

3. Delete the selected form.



Groundwater Permit
DISCHARGE MONITORING REPORT

668
1. Permit Number
[REDACTED]
2. Tax identification Number
2021 AUG MONTHLY
3. Sampling Month & Frequency

D. Contaminant Analysis Information

- For "0", below detection limit, less than (<) value, or not detected, enter "ND"
- TNTC = too numerous to count. (Fecal results only)
- NS = Not Sampled

1. Parameter/Contaminant	2. Influent	3. Effluent	4. Effluent Method Detection limit
Units			
BOD	240	ND	3.0
MG/L			
TSS	320	ND	2.0
MG/L			
TOTAL SOLIDS	800		
MG/L			
AMMONIA-N	48		
MG/L			
NITRATE-N		0.52	0.050
MG/L			
TOTAL NITROGEN(NO3+NO2+TKN)		2.6	0.50
MG/L			
OIL & GREASE		ND	0.50
MG/L			



Groundwater Permit

DAILY LOG SHEET

668
1. Permit Number
[REDACTED]
2. Tax identification Number
2021 AUG DAILY
3. Sampling Month & Frequency

A. Facility Information

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1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

8/31/2021

a. Date Sampled (mm/dd/yyyy)

WHITEWATER

b. Laboratory Name

JAIME STEWART

c. Analysis Performed By (Name)

B. Form Selection

1. Please select Form Type and Sampling Month & Frequency

Daily Log Sheet - 2021 Aug Daily

All forms for submittal have been completed.

2. This is the last selection.

3. Delete the selected form.



Groundwater Permit
DAILY LOG SHEET

668
1. Permit Number
2. Tax identification Number
2021 AUG DAILY
3. Sampling Month & Frequency

C. Daily Readings/Analysis Information

Date	Effluent Flow GPD	Reuse Flow GPD	Irrigation Flow GPD	Turbidity	Influent pH	Effluent pH	Chlorine Residual (mg/l)	UV Intensity (%)
1	10148							
2	11758					7.3		
3	11481					7.1		
4	11586					7.3		
5	11192					7.2		
6	11451					7.3		
7	11451							
8	11451							
9	11398					7.2		
10	8504					7.4		
11	7680					7.5		
12	11411					7.4		
13	11242					7.5		
14	11242							
15	11242							
16	8359					7.2		
17	11681					7.5		
18	11126					7.4		
19	11046					7.3		
20	8313					7.5		
21	8313							
22	8313							
23	11820					7.3		
24	10993					7.1		
25	7933					7.3		
26	12083					7.3		
27	6146					7.2		
28	6146							
29	6146							
30	10858					7.1		
31	11539					7.1		



Groundwater Permit
MONITORING WELL DATA REPORT

668
1. Permit Number
[REDACTED]
2. Tax identification Number
2021 AUG MONTHLY
3. Sampling Month & Frequency

A. Facility Information

Important:When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



- Facility name, address:

SOUTH CAPE VILLAGE		
a. Name		
672 FALMOUTH ROAD/RTE. 28		
b. Street Address		
MASHPEE	MA	02649
c. City	d. State	e. Zip Code
- Contact information:

MYLES OSTROFF		
a. Name of Facility Contact Person		
6174311097	myles@chartweb.com	
b. Telephone Number	c. e-mail address	
- Sampling information:

8/10/2021	WHITEWATER
a. Date Sampled (mm/dd/yyyy)	b. Laboratory Name
JAIME STEWART	
c. Analysis Performed By (Name)	

B. Form Selection

- Please select Form Type and Sampling Month & Frequency

Monitoring Well Data Report - 2021 Aug Monthly
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 - All forms for submittal have been completed.
- This is the last selection.
- Delete the selected form.



Groundwater Permit
 MONITORING WELL DATA REPORT

668
1. Permit Number
[REDACTED]
2. Tax identification Number
2021 AUG MONTHLY
3. Sampling Month & Frequency

C. Contaminant Analysis Information

- For "0", below detection limit, less than (<) value, or not detected, enter "ND"
- TNTC = too numerous to count. (Fecal results only)
- NS = Not Sampled
- DRY = Not enough water in well to sample.

<

Parameter/Contaminant	P-1	P-2	P-4	P-6		
Units	Well #: 1	Well #: 2	Well #: 3	Well #: 4	Well #: 5	Well #: 6
PH	5.7	DRY	6.1	5.9		
S.U.						
STATIC WATER LEVEL	19.2	DRY	46.9	50.5		
FEET						
SPECIFIC CONDUCTANCE	1175	DRY	462	825		
UMHOS/C						



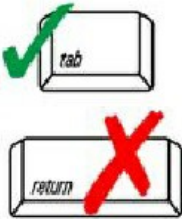
Groundwater Permit

668

1. Permit Number

2. Tax identification Number

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Any person signing a document under 314 CMR 5.14(1) or (2) shall make the following certification

If you are filing electronic-ally and want to attach additional comments, select the check box.



Facility Information

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

ELIZABETH BELAIR

a. Signature

9/28/2021

b. Date (mm/dd/yyyy)

Reporting Package Comments

PLANT MET ALL DISCHARGE PERMIT REQUIREMENTS FOR AUGUST 2021.PUMPED 5,600 FROM ANOXIC TANK.