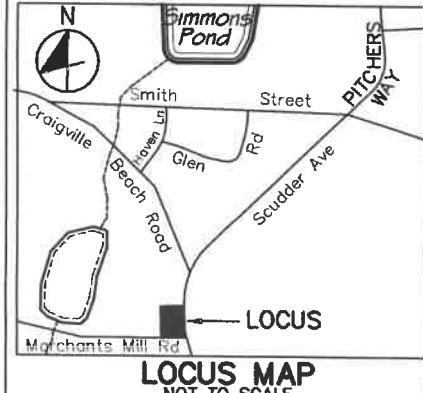


Table of Contents

No. 2020-016 McCarthy Page 1

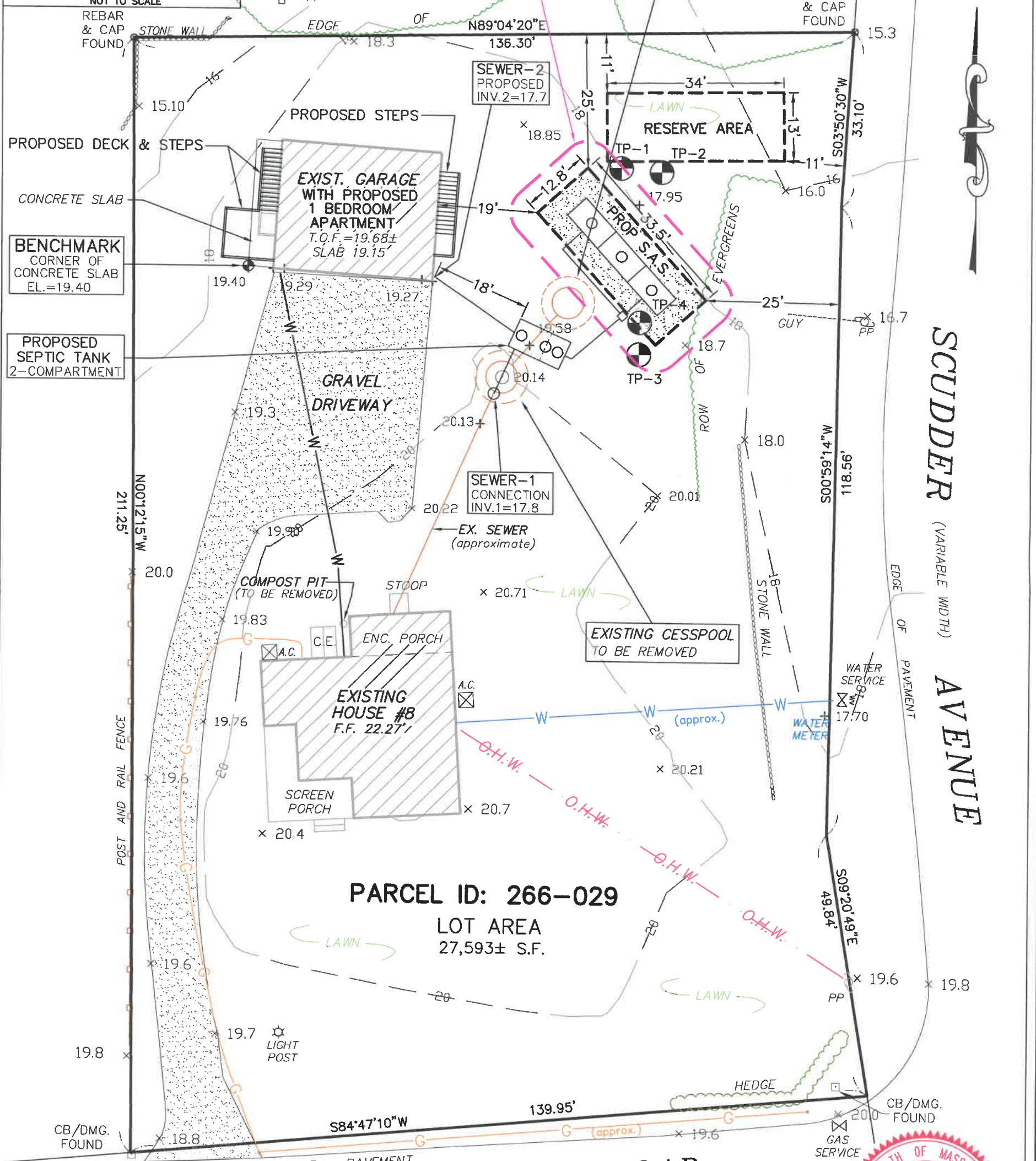
No. 2020-013 Goff Page 14

No. 2020-023 Windmill Sq Page 49



STRIPOUT BOUNDARY
AS REQUIRED IN NOTE 11, SHEET 2

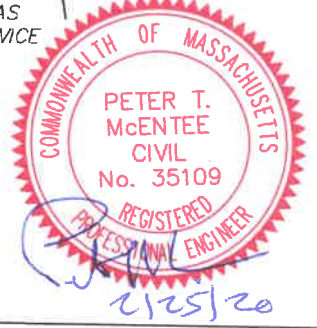
- 97 — EXISTING CONTOUR
 - x 100.98 EXISTING SPOT GRADE
 - W — EXISTING WATER SERVICE
 - W — PROPOSED WATER SVC.
 - G — EXISTING GAS SERVICE
 - O.H.W. — OVERHEAD WIRES
 - ⊙ TEST PIT
 - ⊙ BENCHMARK
- LEGEND**



PARCEL ID: 266-029
LOT AREA
27,593± S.F.

MARCHANT'S MILL ROAD RECEIVED

FEB 24 2020



OWNER OF RECORD
McCARTHY, THOMAS J & NANCY J
1077 FAIRFAX STREET
BIRMINGHAM, MI 48008

Engineering by:
Engineering Works, Inc.
12 West Crossfield Road, Forestdale, MA 02644
(508) 477-5313

SCALE 1"=20'	DRAWN P.T.M.	JOB. NO. 251-19
DATE 1/18/20	CHECKED P.T.M.	SHEET NO. 1 of 2

PROPOSED SEPTIC SYSTEM DESIGN PLAN
8 MARCHANT'S MILL ROAD, HYANNIS, MA
Prepared for: COTUIT BAY DESIGN, 43 Brewster Rd, Mashpee, MA 02649

SEPTIC TANK

INSTALL RISERS & COVERS OVER INLET & OUTLET AND SET TO 6" OF FINISH GRADE

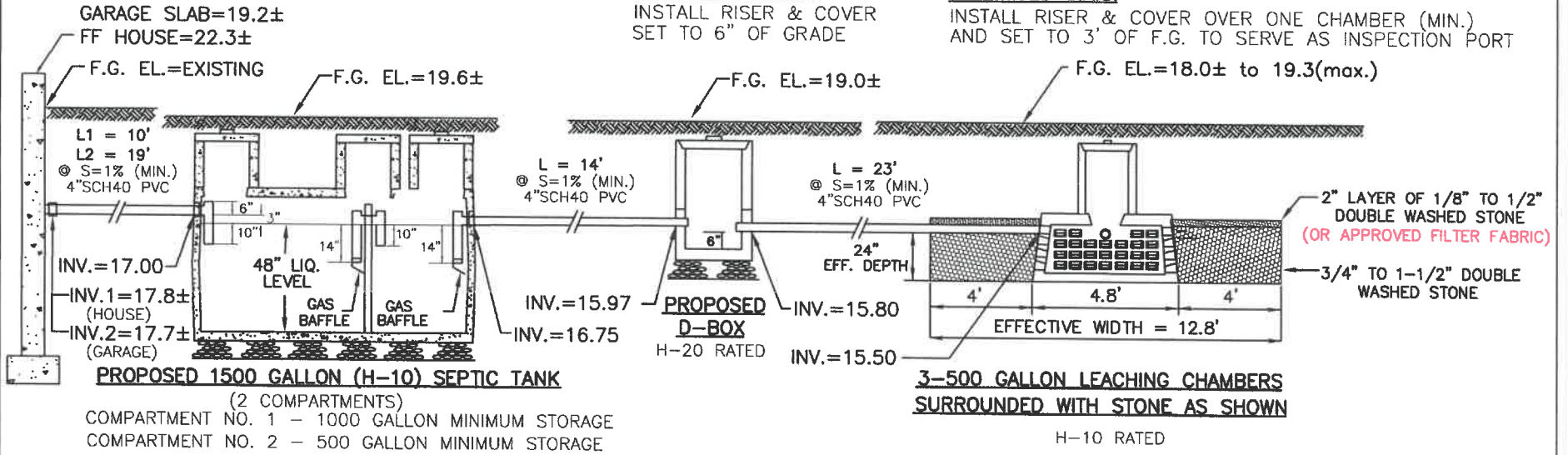
PROPOSED D-BOX

INSTALL RISER & COVER SET TO 6" OF GRADE

PROPOSED S.A.S.

INSTALL RISER & COVER OVER ONE CHAMBER (MIN.) AND SET TO 3' OF F.G. TO SERVE AS INSPECTION PORT

NOTE: TO PREVENT BREAKOUT, THE PROPOSED FINISH GRADE SHALL NOT BE < EL. 16.0 FOR A DISTANCE OF 15' AROUND THE PERIMETER OF THE S.A.S.



NOTES:

- 1) CONTRACTOR SHALL VERIFY ALL EXISTING PIPE INVERTS, PRIOR TO INSTALLATION.
- 2) SEPTIC TANK & D-BOX SHALL BE SET LEVEL AND TRUE TO GRADE ON A MECHANICALLY COMPACTED STABLE BASE OR SIX INCH AGGREGATE BASE, AS SPECIFIED IN 310 CMR 15.221(2).
- 3) INSTALL INLET & OUTLET TEES AS REQUIRED.
- 4) A GAS BAFFLE SHALL BE INSTALLED ON OUTLET TEE AS MANUFACTURED BY TUF-TITE, ZABEL OR EQUAL.

TOP CONC. ELEV.= 16.3±
BREAKOUT ELEV.= 16.00
INV. ELEV.= 15.50

4' OF NATURALLY OCCURRING PERVIOUS MATERIAL 5' (MIN.) ABOVE G.W.

NO G.W., TP-2, EL=6.0

SEPTIC SYSTEM PROFILE

GENERAL NOTES:

1. ALL CHANGES TO THIS PLAN MUST BE APPROVED BY THE LOCAL BOARD OF HEALTH AND THE DESIGN ENGINEER.
2. ALL WORK AND MATERIALS SHALL CONFORM TO THE REQUIREMENTS OF THE STATE ENVIRONMENTAL CODE, TITLE V, AND ANY APPLICABLE LOCAL RULES AND REGULATIONS.
3. THE SEWAGE DISPOSAL SYSTEM SHALL NOT BE BACKFILLED PRIOR TO INSPECTION AND APPROVAL BY THE BOARD OF HEALTH AND THE DESIGN ENGINEER.
4. ANY CONDITIONS ENCOUNTERED DURING CONSTRUCTION DIFFERING FROM THOSE SHOWN HEREON SHALL BE REPORTED TO THE DESIGN ENGINEER BEFORE CONSTRUCTION CONTINUES.
5. ALL ELEVATIONS BASED ON NAVD88.
6. THE DESIGN ENGINEER IS NOT RESPONSIBLE FOR THE FAILURE OF THE CONTRACTOR OR OWNER TO NOTIFY THE LOCAL BOARD OF HEALTH FOR PROPER INSPECTIONS DURING CONSTRUCTION.
7. WATER SUPPLY PROVIDED BY TOWN WATER SERVICE.
8. THERE ARE NO WELLS WITHIN 150' OF THE PROPOSED S.A.S.
9. ALL AREAS CLEARED FOR CONSTRUCTION SHALL BE RESTORED AS AGREED UPON BY OWNER AND CONTRACTOR OR AS OTHERWISE DIRECTED BY THE APPROVING AUTHORITIES.
10. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THE LOCATION OF ALL UNDERGROUND UTILITIES, PRIOR TO BEGINNING CONSTRUCTION.
11. WHERE REQUIRED, CONTRACTOR SHALL REMOVE ALL UNSUITABLE SOILS IN THE AREA BENEATH AND FOR 5' ON ALL SIDES OF THE S.A.S. AND REPLACE WITH CLEAN SAND AS SPECIFIED IN 310 CMR 255(3).
12. AREAS REQUIRING STRIPOUT OF UNSUITABLE MATERIALS SHALL BE INSPECTED BY DESIGN ENGINEER PRIOR TO BACKFILL.
13. THIS PLAN IS TO BE USED FOR SEPTIC SYSTEM PURPOSES ONLY AND NOT CONSIDERED TO BE A PROPERTY LINE SURVEY.
14. PROPERTY LINE INFORMATION TAKEN FROM PLAN ENTITLED "SITE PLAN FOR THOMAS & NANCY McCARTHY, 8 MARCHANT'S MILL RD, HYANNIS PORT, MA" BY WARWICK & ASSOCIATES, DATED 10/23/19.

SOIL LOG

DATE: OCTOBER 24, 2019 (REF#TPT-19-172)
SOIL EVALUATOR: PETER MCENTEE PE(SE#1542)
WITNESS: DAVID STANTON R.S. HEALTH AGENT

ELEV.	TP-1	DEPTH	ELEV.	TP-2	DEPTH
17.8		0"	17.5		0"
	FILL			FILL	
16.3	Ab	18"	16.0	Ab	18"
	LOAMY SAND 10YR 4/2			LOAMY SAND 10YR 4/2	
15.8	B	24"	15.5	B	24"
	LOAMY SAND 10YR 5/8			LOAMY SAND 10YR 5/8	
14.1	C	44"	14.0	C	42"
	MED. SAND 2.5Y 7/3			MED. SAND 2.5Y 7/3	
6.3		138"	6.0		138"

PERC RATE <2 MIN/IN. "C" HORIZON
NO GROUNDWATER ENCOUNTERED

DESIGN CRITERIA

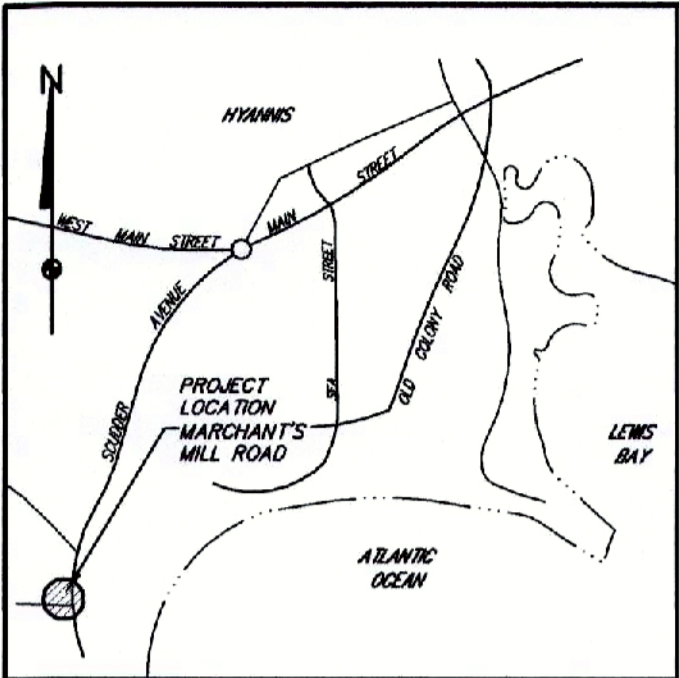
FACILITY USAGE: RESIDENTIAL HOUSE W/ GARAGE APARTMENT
NUMBER OF BEDROOMS: 4, 3 (HOUSE) + 1 (GARAGE APARTMENT)
SOIL TEXTURAL CLASS: CLASS I
DESIGN PERCOLATION RATE: 5 MIN/IN (LTAR=0.74 GPD/SF)
DAILY FLOW: 440 GPD
DESIGN FLOW: 440 GPD
GARBAGE GRINDER: NO
PROPOSED SEPTIC TANK: 1500 GALLON-2 COMPARTMENT
COMPARTMENT NO. 1 - 1000 GALLON MIN. STORAGE
COMPARTMENT NO. 2 - 500 GALLON MIN. STORAGE
PROPOSED DISTRIBUTION BOX: 1 OUTLET, 3 INLETS (H-20)
LEACHING AREA REQUIRED: (440 GPD) = 594.6 SF
0.74 GPD/SF
USE 3-500 GALLON LEACHING CHAMBERS IN SERIES SURROUNDED BY DOUBLE WASHED STONE ON ALL SIDES
SIDEWALL AREA: 2(12.8' + 33.5') x 2 = 185.2 SF
BOTTOM AREA: 12.8' x 33.5' = 428.8 SF
TOTAL AREA: 614.0 SF
DESIGN FLOW PROVIDED: 0.74 GPD/SF(614.0 SF) = 454.4 GPD

ELEV.	TP-3	DEPTH	ELEV.	TP-4	DEPTH
19.0	A	0"	18.8	A	0"
	LOAMY SAND 10YR 4/2			LOAMY SAND 10YR 4/2	
18.5	B	6"	18.3	B	6"
	LOAMY SAND 10YR 5.8			LOAMY SAND 10YR 5.8	
16.7	C	28"	16.3	C	30"
	MED. SAND 2.5Y 7/3			MED. SAND 2.5Y 7/3	
7.5		138"	7.3		138"

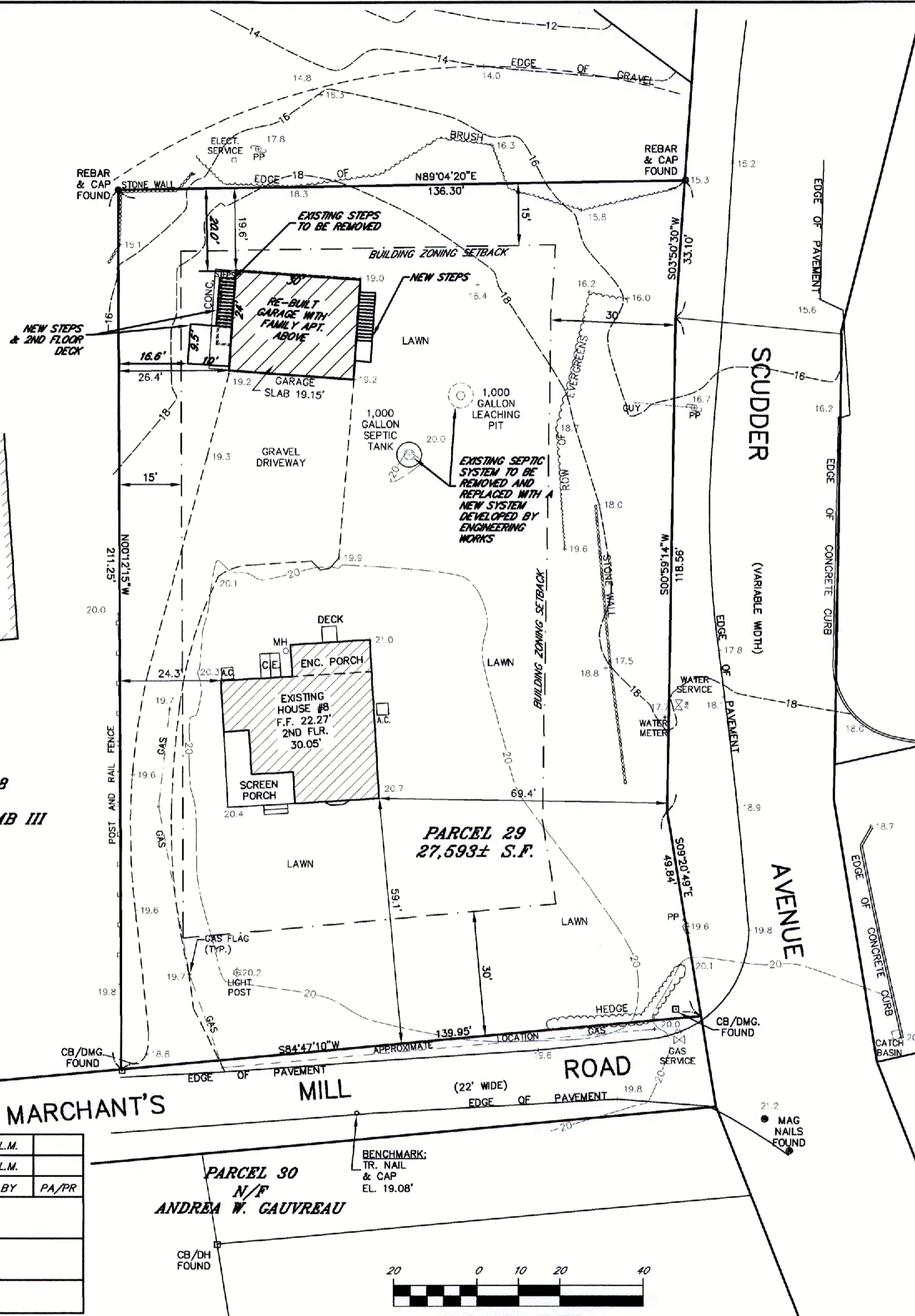
PERC RATE <2 MIN/IN. "C" HORIZON
NO GROUNDWATER ENCOUNTERED

RECEIVED
FEB 24 2020
ZONING BOARD OF APPEALS

Engineering by: Engineering Works, Inc. 12 West Crossfield Road, Forestdale, MA 02644 (508) 477-5313	SCALE N.T.S.	DRAWN P.T.M.	JOB. NO. 251-19	PROPOSED SEPTIC SYSTEM DESIGN PLAN 8 MARCHANT'S MILL ROAD, HYANNIS, MA Prepared for: COTUIT BAY DESIGN, 43 Brewster Rd, Mashpee, MA 02649
	DATE 1/18/20	CHECKED P.T.M.	SHEET NO. 2 of 2	



LOCUS MAP
NOT TO SCALE



GENERAL NOTES:

1. HOUSE NUMBER: 8
2. ASSESSOR'S INFORMATION: MAP 266, PARCEL 029
3. FLOOD ZONE: X (FEMA MAP 250001 0568 J, DATED JULY 16, 2014)
4. ZONING DISTRICT: RF-1
5. LOT COVERAGE BY:
 - A. EXISTING STRUCTURES: 2,102 S.F. / 27,593 S.F. = 7.6%
 - B. EXISTING & PROPOSED STRUCTURES: 2,235 S.F. / 27,593 S.F. = 8.1%
6. TOPOGRAPHIC INFORMATION COMPILED FROM AN ON THE GROUND SURVEY
7. ELEVATIONS SHOWN ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1988.

LEGEND

- 18 --- EXISTING 2' CONTOUR
- 20 --- EXISTING 10' CONTOUR
- x 18.5 EXISTING SPOT ELEVATION
- PP ◯ EXISTING UTILITY POLE
- CB ◻ CONCRETE BOUND



SITE PLAN

FOR
THOMAS & NANCY MCCARTHY
#8 MARCHANT'S MILL ROAD
HYANNISPORT, MA

Scale: 1"=20' Date: OCTOBER 23, 2019

Warwick & Associates Inc.
63 County Road Box 801
North Falmouth, Mass 02556
(508) 563 - 7777

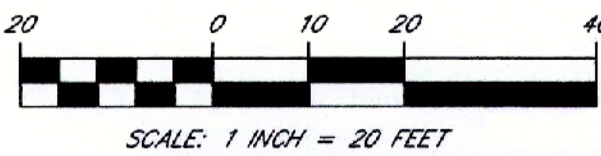
"PLAN REVISIONS"

NO.	DATE	DESCRIPTION	BY	PA/PR
2	2/24/20	ADD ZONING SETBACKS & SEPTIC NOTE.	L.M.	
1	2/20/20	ADD RE-BUILT GARAGE/FAMILY APT.	L.M.	

DRAWN BY: L.M., R.J.W. DATE: 10/23/19

CHECKED BY: GSL SHEET 1 OF 1

P: \Land Projects 2004\SS19061\dwg\SS19061SP.dwg



RECEIVED

FEB 24 2020

20 FEB 25 P1:33



ZONING BOARD OF APPEALS

**Town of Barnstable
Zoning Board of Appeals
Petition for a Special Permit**

Date Received
Town Clerk's Office:

For office use only:

Appeal # 2020-016
Hearing Date 03-25-20
Days Extended _____
Decision Due 06-03-20

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Petitioner's Name¹: THOMAS J + NANCY J McCAETHY, Phone: 248-496-3900
Petitioner's Address: 1077 FAIRFAX STREET BIRMINGHAM, MI 48008

Property Location: 8 MERCHANTS MILL ROAD
Property Owner: THOMAS J + NANCY J McCAETHY, Phone: 248-496-3900
Address of Owner: 1077 FAIRFAX STREET BIRMINGHAM, MI 48008
If applicant differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed _____ Plan 18001C 31606
page 195
Assessor's Map/Parcel Number: 266/029 Zoning District: RF-1
Number of Years Owned: 2 Groundwater Overlay District: _____

Special Permit Requested: 240-47.1 FAMILY APARTMENT SECT. B.4
Cite Section & Title from the Zoning Ordinance

Description of Activity/Reason for Request: CONVERT DETACHED GARAGE
SECOND FLOOR FOR FAMILY MEMBER USE

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit No Yes - _____
Permit # _____

¹ The Petitioner's Name will be the entity to whom the special permit will be issued to.
² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit - Page 2

Description of Construction Activity (if applicable): RE-BUILD EXISTING DETACHED GARAGE WITH A DECK AND EGRESS STAIRWAYS

Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: RESIDENTIAL - 2

Present Use(s): RESIDENTIAL

Existing Gross Floor Area: 1120 sq. ft. Proposed New Gross Floor Area: 1403 sq. ft.

Site Plan Review Number: _____ Date Approved: _____ (not required for Single or Two Family use)

- Is the property located in a designated Historic District?..... Yes [] No []
- Is this proposal subject to the jurisdiction of the Conservation Commission Yes [] No []
- Is this proposal subject to approval by the Board of Health Yes [] No []
- Is the building a designated Historic Landmark?..... Yes [] No []
- Have you applied for a building permit?..... Yes [] No []
- Have you been refused a building permit?..... Yes [] No []

The following Required Information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: Thomas J. McCarthy Date: 2/25/2020
Applicant's or Representative's Signature³

Print Name THOMAS J. MCCARTHY

Address: 1077 FAIRFAX STREET Phone: 248-496-3900

BIRMINGHAM, MI 48008 Fax No.: _____

e-mail Address: TJMCCARTHY@MONAGHANPC.COM

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FEB 24 2020

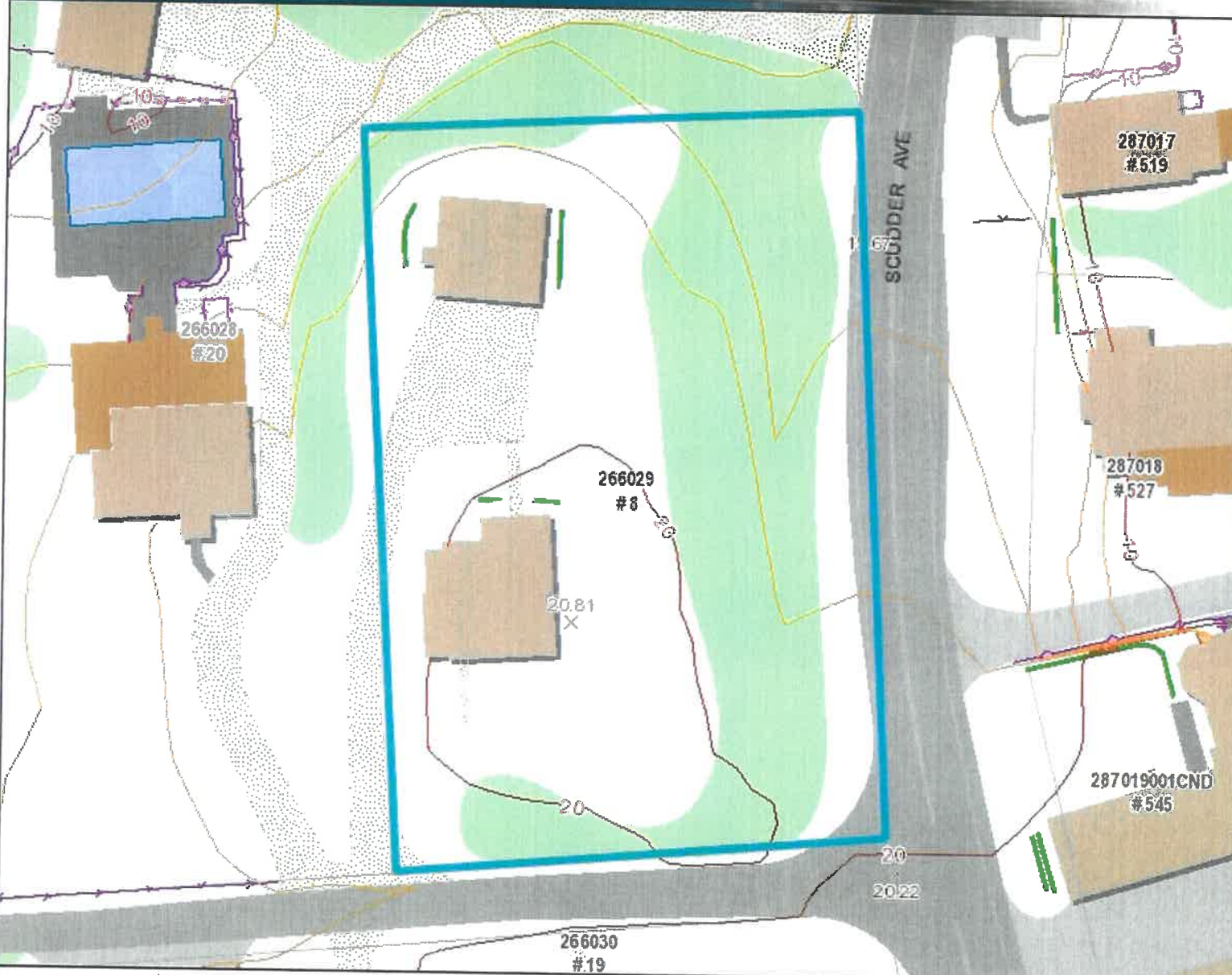
³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.



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FEB 24 2020

ZONING BOARD OF APPEALS



- Legend**
- × Spot Heights (NAVD88)
 - Intermediate Contours (NAVD88)
 - Index Contours (NAVD88)
 - Barriers**
 - Fences
 - Guardrails
 - Retaining Walls
 - Stone Walls
 - Other Walls
 - Hedges
 - Paths**
 - Sidewalks / Walkways**
 - Paved
 - Unpaved
 - Swimming Pools**
 - Above Ground Swimming Pools
 - In Ground Swimming Pools
 - Exterior Structures**
 - Decks
 - Patios
 - Exterior Stairways
 - Docks Piers
 - Boardwalks
 - Tanks**
 - Fuel Tanks
 - Water Tanks
 - Jetties / Revetments**
 - Stone Jetties Revetments
 - Concrete Jetties Revetments
 - Wood Jetties Revetments
 - Recreation Facilities**
 - Sports Areas
 - Golf Areas
 - Wooded Areas
 - Parcels
 - - - Town Boundary
 - Railroad Tracks
 - Buildings**
 - Approx. Building
 - Buildings
 - Painted Lines**
 - Parking Lots**
 - Paved
 - Unpaved
 - Driveways**

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FEB 24 2020

ZONING BOARD OF APPEALS

Map printed on: 8/7/2019

0 42 83 Feet

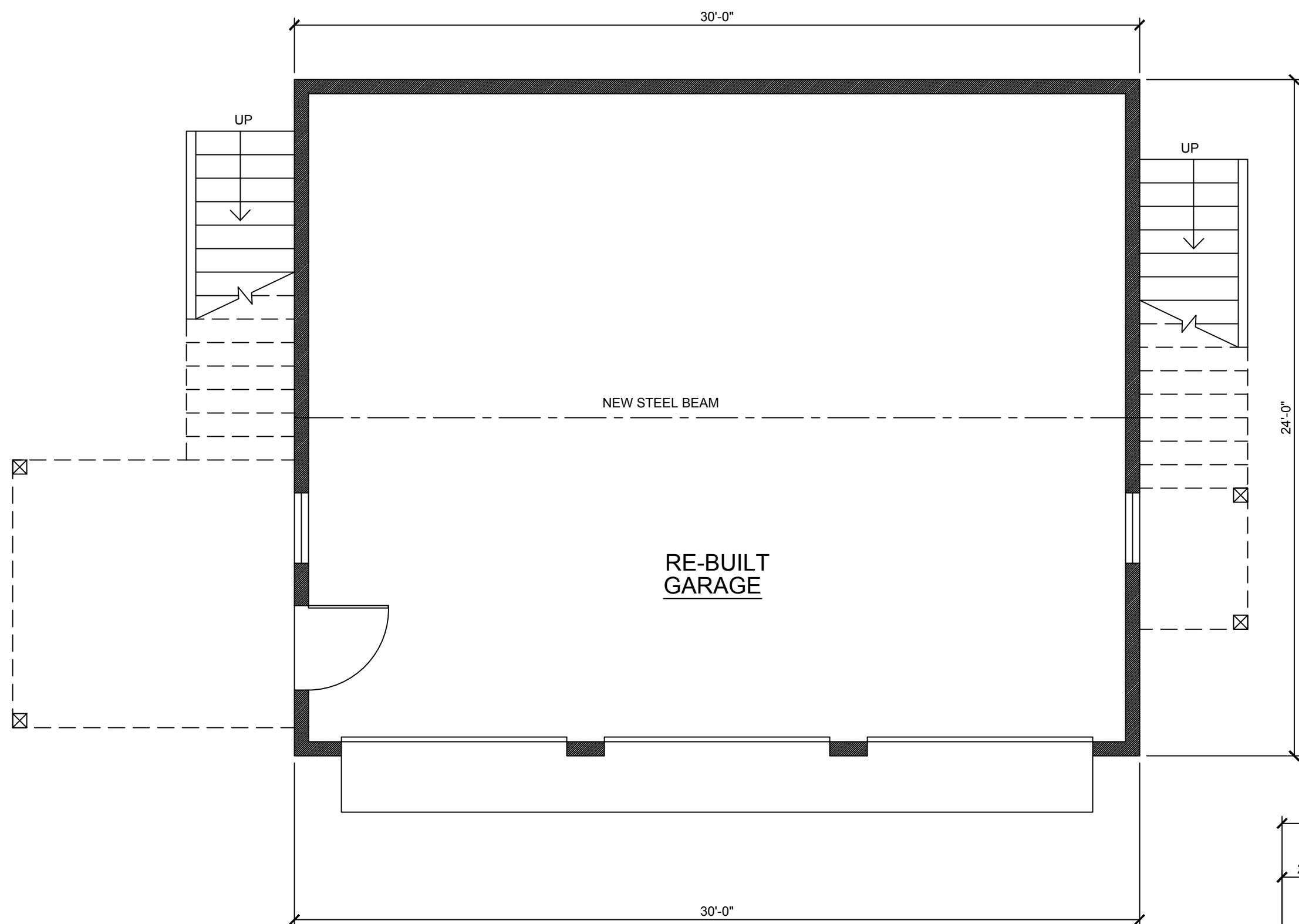
Approx. Scale: 1 inch = 42 feet

This map is for illustration purposes only. It is not adequate for legal boundary determination or regulatory interpretation. This map does not represent an on-the-ground survey. It may be generalized, may not reflect current conditions, and may contain cartographic errors or omissions.

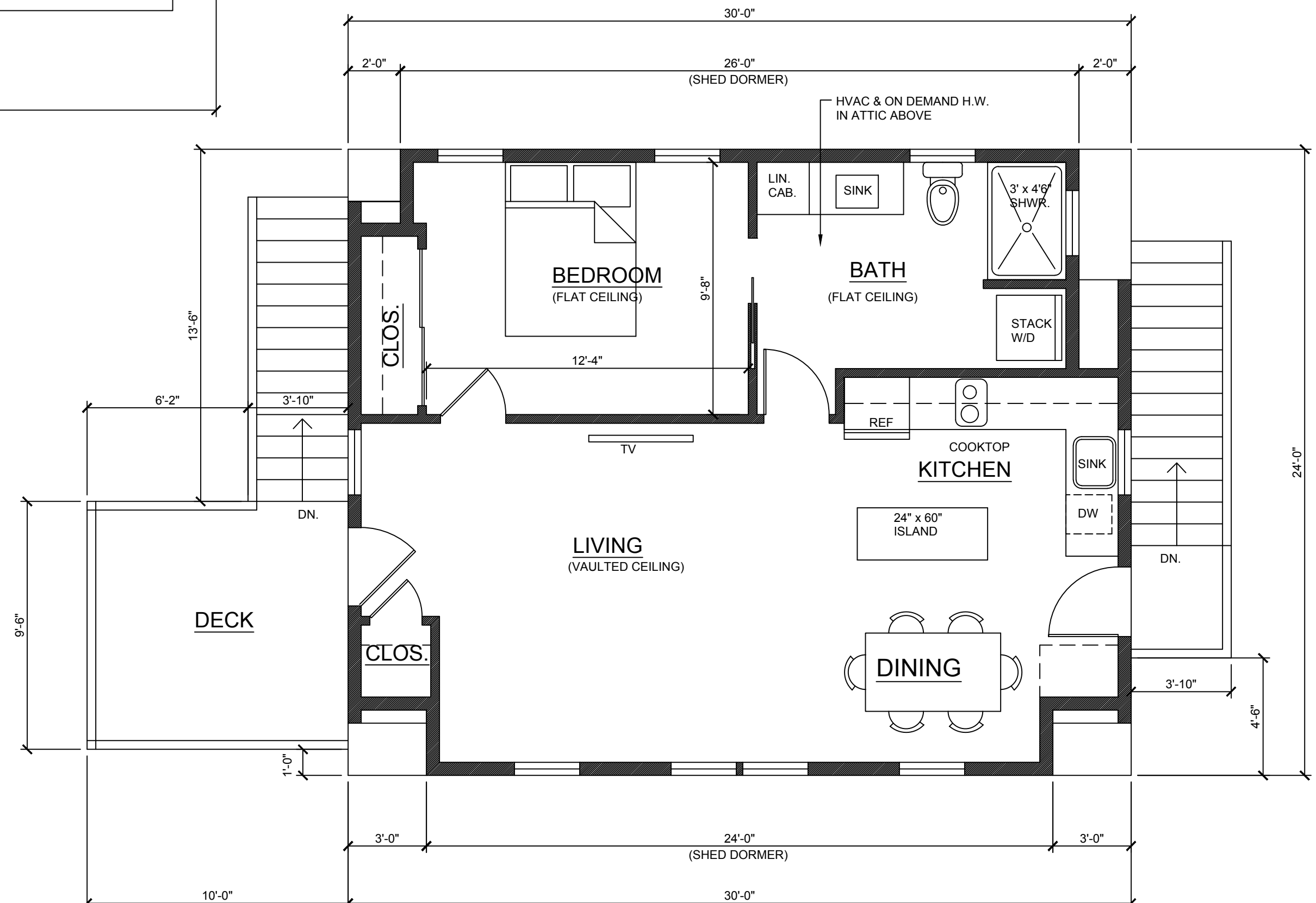
Parcel lines shown on this map are only graphic representations of Assessor's tax parcels. They are not true property boundaries and do not represent accurate relationships to physical objects on the map such as building locations.



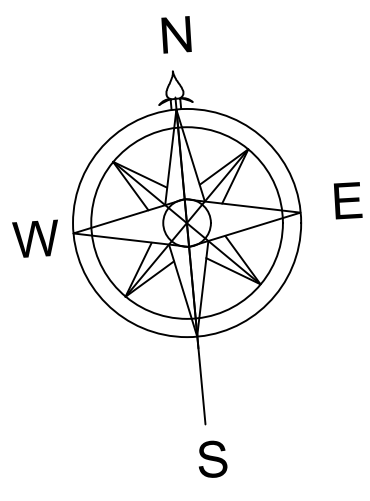
Town of Barnstable GIS Unit
 367 Main Street, Hyannis, MA 02601
 508-862-4624
 gis@town.barnstable.ma.us



FIRST FLOOR PLAN



SECOND FLOOR PLAN



COTUIT BAY DESIGN, LLC
 43 BREWSTER ROAD
 MASHPEE, MA. 02649
 PH. (508) 274-1166

NEW GARAGE/FAMILY APT. FOR:
MCCARTHY RESIDENCE
 8 MARCHANT MILL ROAD HYANNISPORT, MA

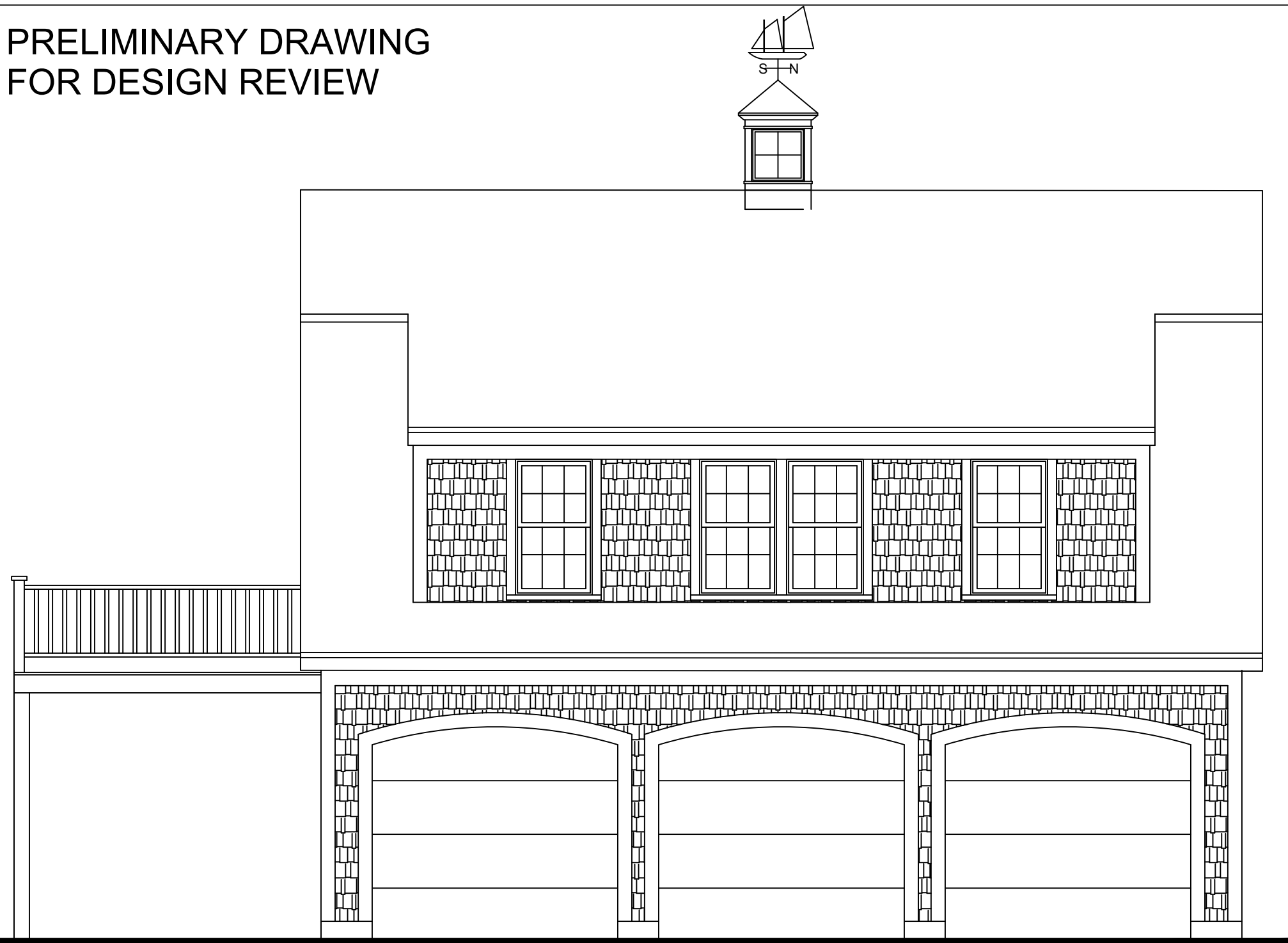
SCALE :
 1/4" = 1'-0"

DATE :
 2/17/2020

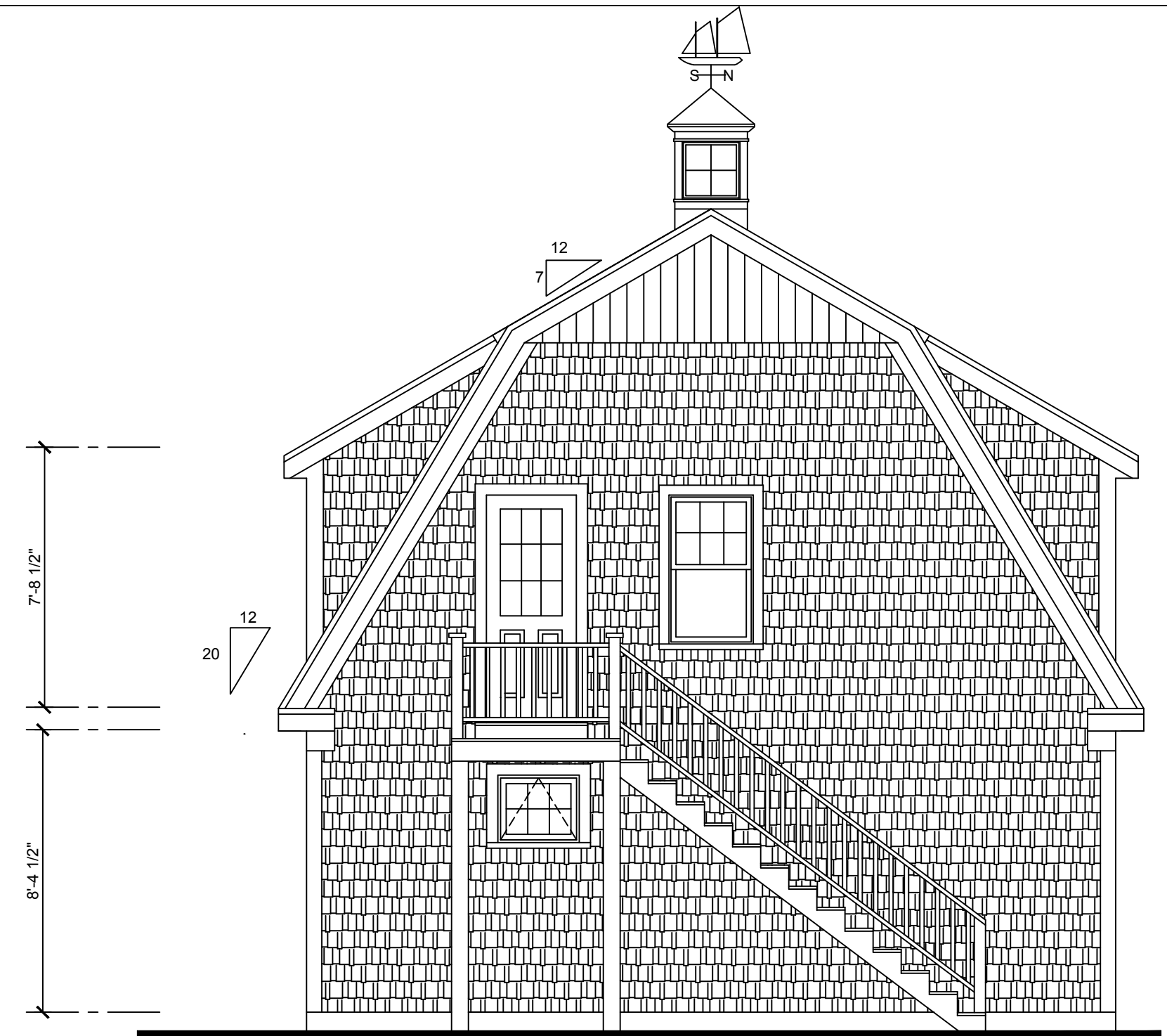
A1

PRELIMINARY DRAWING
 FOR DESIGN REVIEW

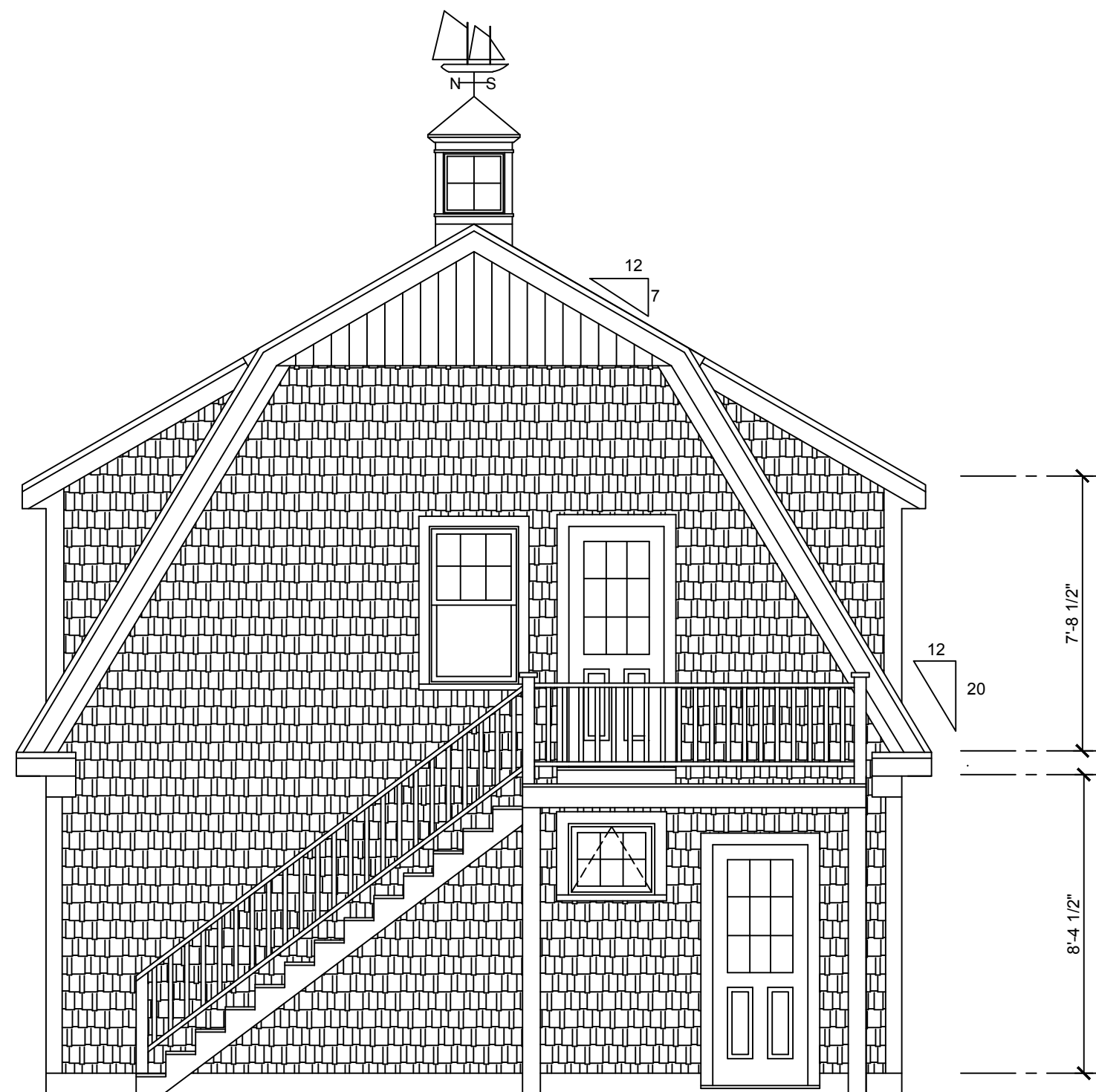
PRELIMINARY DRAWING
FOR DESIGN REVIEW



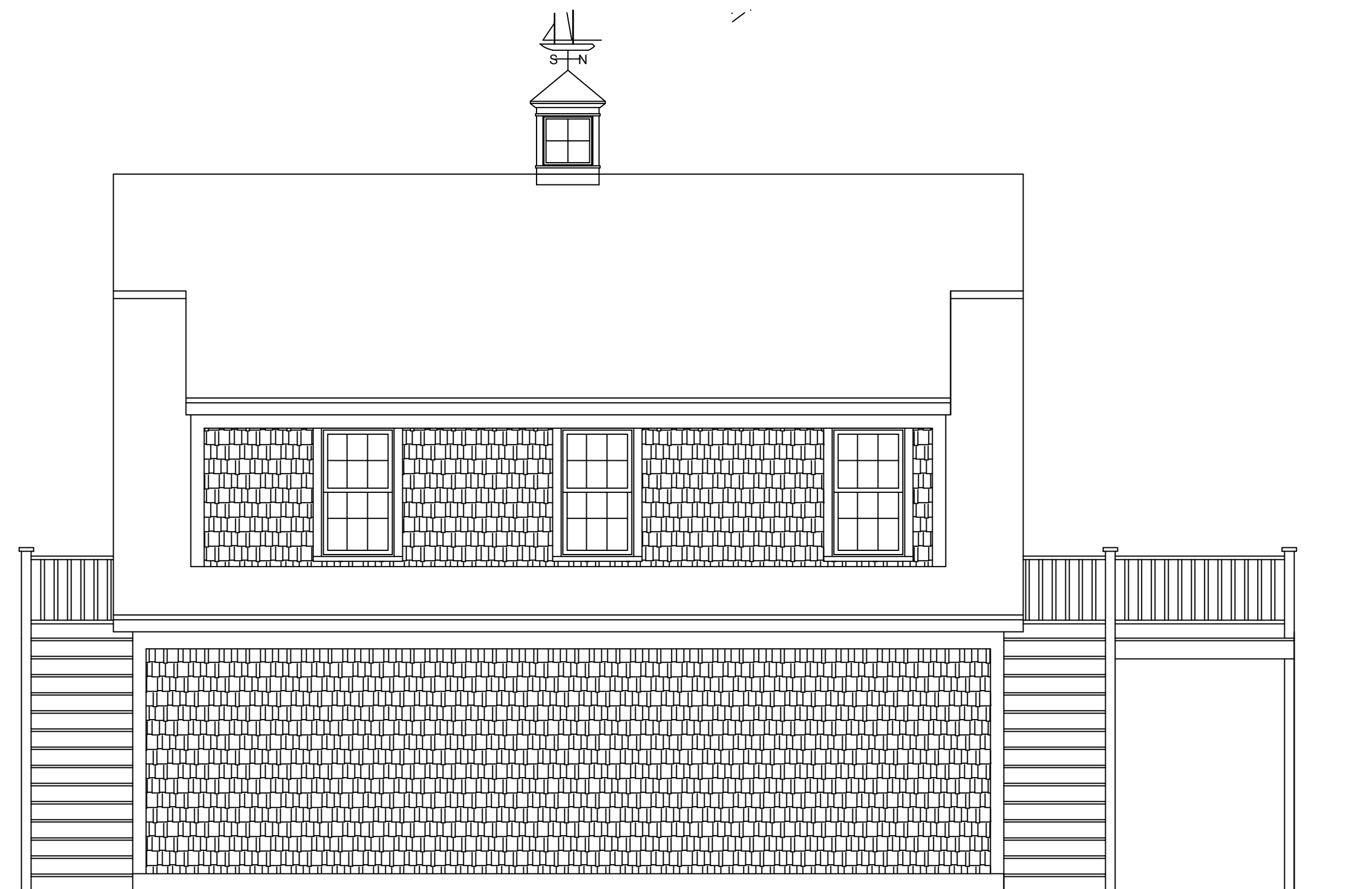
SOUTH ELEVATION



EAST ELEVATION

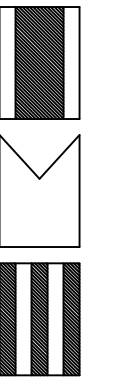


WEST ELEVATION



NORTH ELEVATION

COTUIT BAY DESIGN, LLC
43 BREWSTER ROAD
MASHPEE, MA. 02649
PH. (508) 274-1166



NEW ADDITION/REMODELING FOR;
MCCARTHY RESIDENCE
8 MARCHANT MILL ROAD HYANNISPORT, MA

SCALE :
1/4" = 1'-0"

DATE :
2/17/2020

A2



Town of Barnstable
 Planning and Development Department
 Elizabeth Jenkins, Director
 Staff Report

**Special Permit No. 2020-016 – McCarthy
 Section 240-47.1 (B) (4) – Family Apartment**

To establish a family apartment above the newly constructed garage

Date: March 4, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Applicant: **Thomas J. and Nancy J. McCarthy**
Property Address: 8 Marchant's Mill Road, Hyannis (Hyannisport), MA
Assessor's Map/Parcel: 266/029
Zoning: Residence F -1 (RF-1)

Filed: February 25, 2020

Hearing: June 10, 2020

Decision Due: July 3, 2020

Copy of Public Notice

Thomas J. and Nancy J. McCarthy have applied for a Special Permit pursuant to Section 240.47.1.B (4) – Family Apartments. The Applicants are proposing to remove an existing three-car detached garage down to the foundation and re-construct the 1,498 square foot detached garage with deck. A family apartment is to be located on the second floor of the proposed garage and consist of 683 square feet. The subject property is located at 8 Marchant’s Mill Road, Hyannis (Hyannisport), MA as shown on Assessor’s Map 266 as Parcel 029. It is located in the Residence F-1 (RF-1) Zoning District.

Background

The subject property consists of a .66 acre lot with frontage on Marchant’s Mill Road and Scudder Avenue in Hyannisport. According to the Assessors records, the lot is currently developed with a single family dwelling consisting of 1,991 square feet of living area (3,154 gross square feet), 3 bedrooms, and constructed in 1930. Barnstable Historic Commission may have jurisdiction over the garage if it is more than 75 years old. The dwelling will not change but the Applicants are proposing to remove the existing 3-car garage and reconstruct the garage on the same foundation. The second floor will be the family apartment. The area consists of various sized lots and residential in use.

Proposal & Relief Requested

The Applicants are proposing to remove an existing three-car detached garage down to the foundation and re-construct the 1,498 square foot detached garage with deck. A family apartment is to be located on the second floor of the proposed garage and consist of 683 square feet. The detached family apartment requires a Special Permit pursuant to Section 240-47.1, Subsection B. The subject property is located at 8 Marchant’s Mill Road, Hyannis (Hyannisport), MA.

Section 240-47.1 B. By special permit. The Zoning Board of Appeals may allow by special permit if:

- (1) A family apartment unit greater than 50% of the square footage of the dwelling.
- (2) A family apartment unit with more than two bedrooms.
- (3) Occupancy of a family apartment unit by greater than two adult family members.

- (4) A family apartment unit within a detached structure, with a finding that the single-family nature of the property and of the accessory nature of the detached structure are preserved.

Section 240-47.1 C. Conditions and procedural requirements. Prior to the creation of a family apartment, the owner of the property shall make application for a building permit with the Building Commissioner providing any and all information deemed necessary to assure compliance with this section, including, but not limited to, scaled plans of any proposed remodeling or addition to accommodate the apartment, signed and recorded affidavits reciting the names and family relationship among the parties, and a signed family apartment accessory use restriction document.

(1) Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.

(2) Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.

(3) At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.

(4) When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.

Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

1. **The application falls within a category specifically excepted in the ordinance for a grant of a special permit.** *Section 240-47.1. B. allows a Special Permit for a Family Apartment in a detached structure.*
2. **Site Plan Review is not required for single-family residential dwellings.**
3. **After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.**

The Board is also asked to find that:

4. **The proposed family apartment would not be substantially more detrimental to the neighborhood than the existing dwelling.**

5. The single-family nature of the property and of the accessory nature of the detached structure are preserved.

Suggested Conditions

Should the Board find to grant Special Permit No. 2020-016, it may wish to consider the following conditions:

1. Special Permit No. 2020-016 is granted to Thomas J. and Nancy J. McCarthy to remove the existing 3-car garage to the foundation and construct a garage with a family apartment on the second floor at 8 Marchant’s Mill Road, Hyannis, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled “Site Plan for Thomas & Nancy McCarthy” by Warwick & Associates Inc with a last revision date of February 24, 2020.
3. The proposed development shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures in addition to the family apartment and garage is prohibited without prior approval from the Board.
4. If the garage is over 75 years old, the Applicant must seek review and approval from Barnstable Historic Commission.
5. The Applicant must comply with the restrictions in Section 240-47.1 Family Apartments C. Conditions and Procedural Requirements 1-4 of the Ordinance as follows:
 - a. Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.
 - b. Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.
 - c. At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.
 - d. When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.
6. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
7. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building

Division prior to the issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicant (c/o Steve Cook)

Attachments: Application
Site Plan
Building plans
Assessor's Record & Aerial Photo

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ZONING BOARD OF APPEALS

DIRECTIONS:

From Wianno - Follow Main Street to the West
End Rotary: Take third exit onto Scudder Ave.
Turn right onto Smith Street at the stop sign.
Continue on to Craigville Beach Road and left
onto South Main Street. Continue over the
bridge to Osterville, and left onto West Boy
Street. Turn left onto Wianno Avenue.
#511 is on the left.

ASSESSORS REF.:

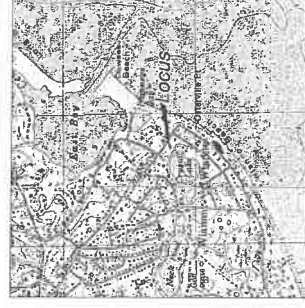
Map 152, Parcel 004

OVERLAY DISTRICT:

AP - Aquifer Protection District

FLOOD ZONE:

Zones X (0.2% Annual Chance)
& X (Min Flood Hazard)
Community Plan No.
#25200, 0418 D
July 18, 2014



LOCATION MAP:

Scale: 1" = 2000'

ZONE:

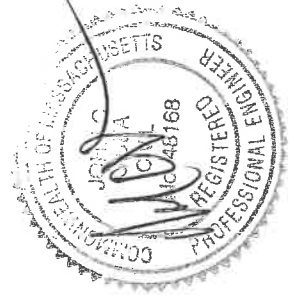
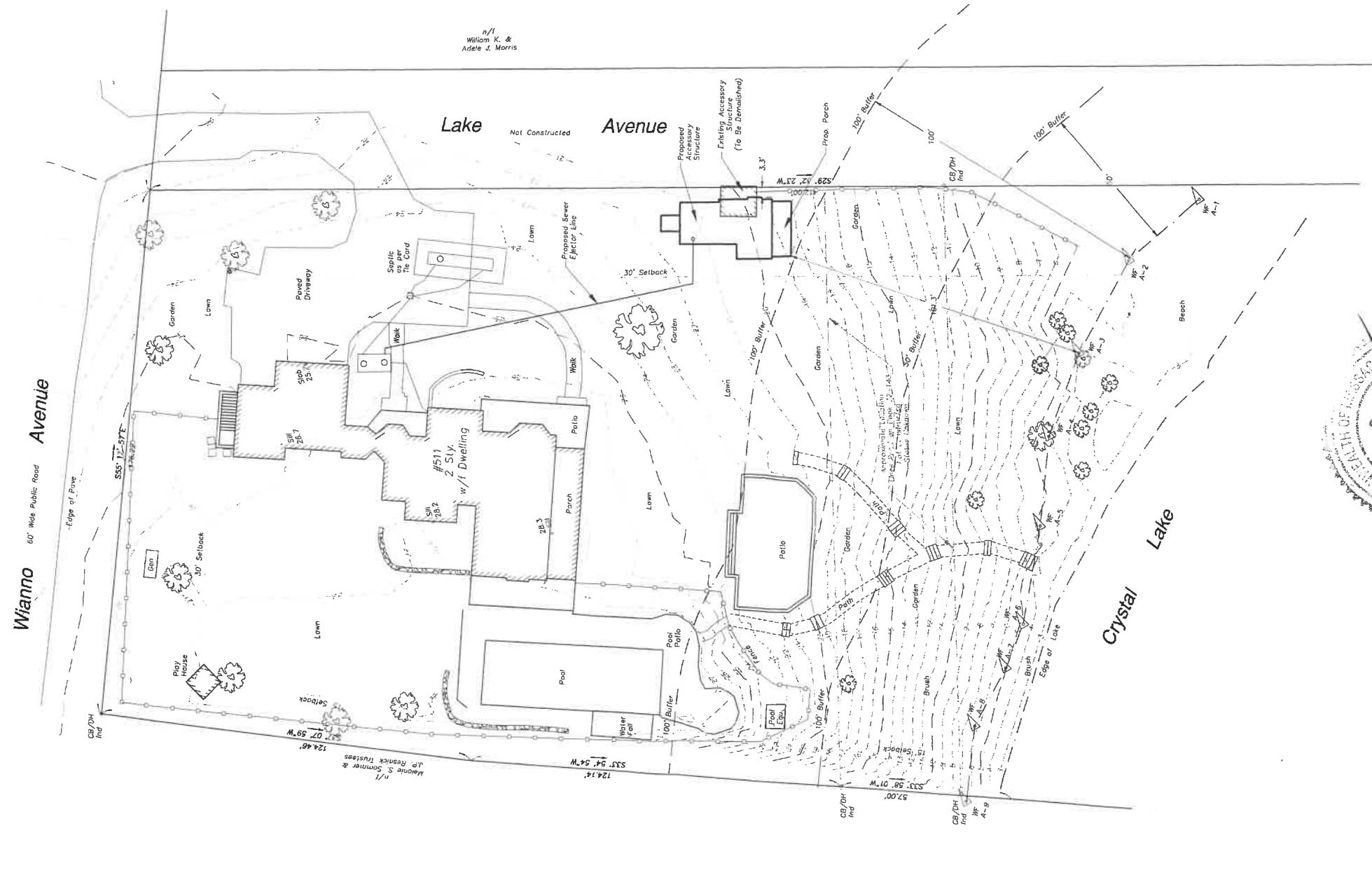
BF-1
Area (min.) 87,120 SF (RPDD)
Frontage (min) 20'
Width (min) 125'
Setbacks:
Front 30'
Side 15'
Rear 15'

REFERENCES:

Deed: 24764/287
Plan: LCP 15548A
LCP 1818H
LCP 13731A
PB 32-143

LEGEND:

- CD Cedar Tree
- HT Holly Tree
- DT Deciduous Tree
- CT Coniferous Tree
- Utility Pole
- Electric
- Gas
- Welland Flag
- Light Post
- CB/DH
- Overhead Wire
- Elevation Contour



TITLE:
Site Plan
Proposed Improvements
At
511 Wianno Avenue
Barnstable (Osterville) Mass.

PREPARED BY:
Sullivan Engineering & Consulting, Inc.
(608) 426-3344 • P.O. Box 689 • 711 Main Street, Osterville, MA 02865
sullivaneng.com • www.sullivaneng.com

Draft: ASL/CTR
Review: CTR
Project: Golf

Filed: WHK/CTR/JOD
Comp./Review: CTR/JOD
Project#: 390022

PREPARED FOR:
Jennifer M. Coff Trustee
Jennifer M. Coff 2010 Rev. Trust
1541 North Costle Road
Sonoma CA 95476



NOTES:

- 1) The property line information shown was compiled from available record information.
- 2) The structures located and topographic information was located using conventional survey method and RTK GPS on or between August 30 and September 13, 2019.
- 3) The datum used is NAVD 88.

DATE: February 13, 2020 **SCALE:** 1" = 20'

BARNSTABLE
TOWN CLERK

20 FEB 14 P2:24

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FEB 14 2020

ZONING BOARD OF APPEALS



**Town of Barnstable
Zoning Board of Appeals
Petition for a Special Permit**

Date Received
Town Clerk's Office:

For office use only:
Appeal # _____
Hearing Date _____
Days Extended _____
Decision Due _____

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Petitioner's Name¹: Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust, Phone: _____

Petitioner's Address: 1541 N. Castle Road, Sonoma, CA 95476

Property Location: 511 Wianno Avenue, Osterville, MA 02655

Property Owner: same as above, Phone: _____

Address of Owner: same as above
If applicant differs from owner, state nature of interest.²

Registry of Deeds/Land Court References: Deed 24764/291 Plan 32/143

Assessor's Map/Parcel Number: 162/004 Zoning District: RF-1

Number of Years Owned: 27 years Groundwater Overlay District: AP

Special Permit Requested: 240-92 Nonconforming buildings or structures used as a single and two family residences
Cite Section & Title from the Zoning Ordinance

Description of Activity/Reason for Request: Applicant seeks to demolish an existing accessory structure and construct a one bedroom accessory cottage
Attach additional sheet if necessary

Is the property subject to an existing Variance or Special PermitNo Yes - _____
Permit # _____

¹ The Petitioner's Name will be the entity to whom the special permit will be issued to.
² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

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Petition for a Special Permit - Page 2

ZONING BOARD OF APPEALS

Description of Construction Activity (if applicable): _____

Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: 2

Present Use(s): single family residential

Existing Gross Floor Area 1,200 sq. ft. Proposed New Gross Floor Area: 526 sq. ft.

Site Plan Review Number: N/A Date Approved: _____ (not required for Single or Two Family use)

Is the property located in a designated Historic District?..... Yes [] No [X]

Is this proposal subject to the jurisdiction of the Conservation Commission Yes [] No [X]

Is this proposal subject to approval by the Board of Health Yes [X] No []

Is the building a designated Historic Landmark?..... Yes [] No [X]

Have you applied for a building permit?..... Yes [] No [X]

Have you been refused a building permit?..... Yes [] No [X]

The following Required Information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: Michael F. Schulz Date: 2/14/20
Applicant's or Representative's Signature³

Print Name Michael F. Schulz, Esquire

Address: Schulz Law Offices, LLC Phone: (508) 428-0950
1340 Main Street
Osterville, MA 02655-542 Fax No.: (508) 420-1536

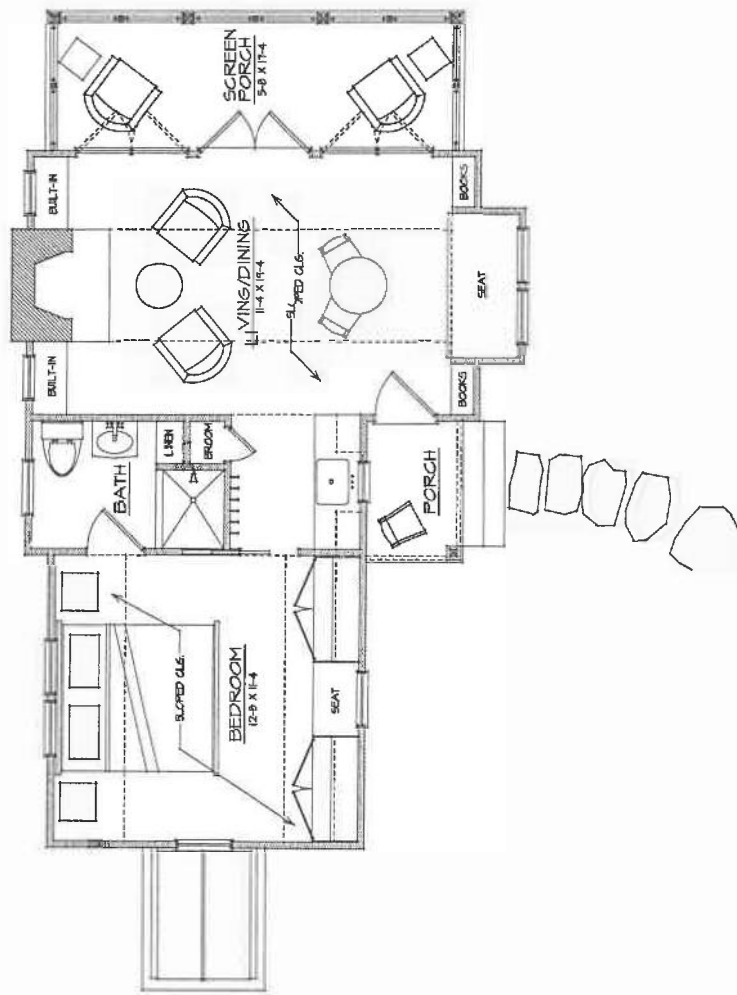
e-mail Address: mschulz@schulzlawoffices.com

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

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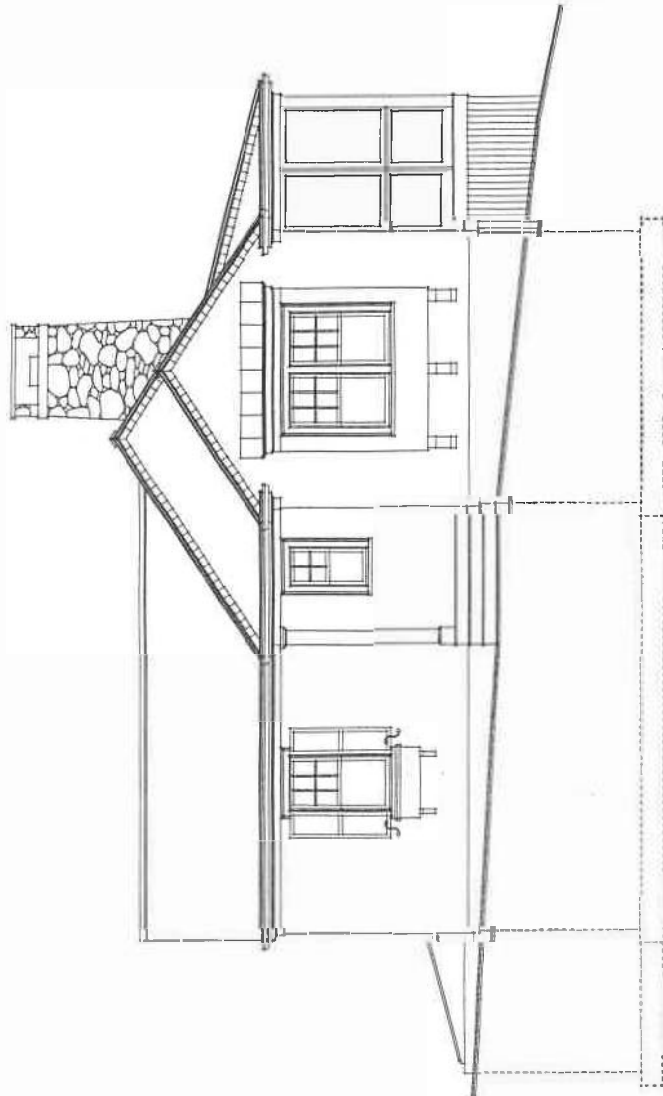
FEB 14 2020

ZONING BOARD OF APPROVAL



FLOOR PLAN
 SCALE: 3/16" = 1'-0"
 LIVING AREA = 526 SF

ARCHI-TECH ASSOCIATES, INC. residential design 6 school street • 508.420.5285 • info@architechassociates.com architect associates, com	Floor Plan 511 Wianno Avenue Osterville, Massachusetts	job no.: 1916 date: 11 FEB, 2020 scale: 3/16" = 1'-0" drawn: JAL
	guest cottage at the Goff Residence 511 Wianno Avenue Osterville, Massachusetts	



RIGHT / WEST ELEVATION
SCALE: 3/16" = 1'-0"



FRONT / NORTH ELEVATION
SCALE: 3/16" = 1'-0"

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ZONING BOARD OF APPEALS

6 school street • 508.420.8385 • 508.420.9304
 cotuit, ma 0255 • info@architechassociates.com
 architech associates.com

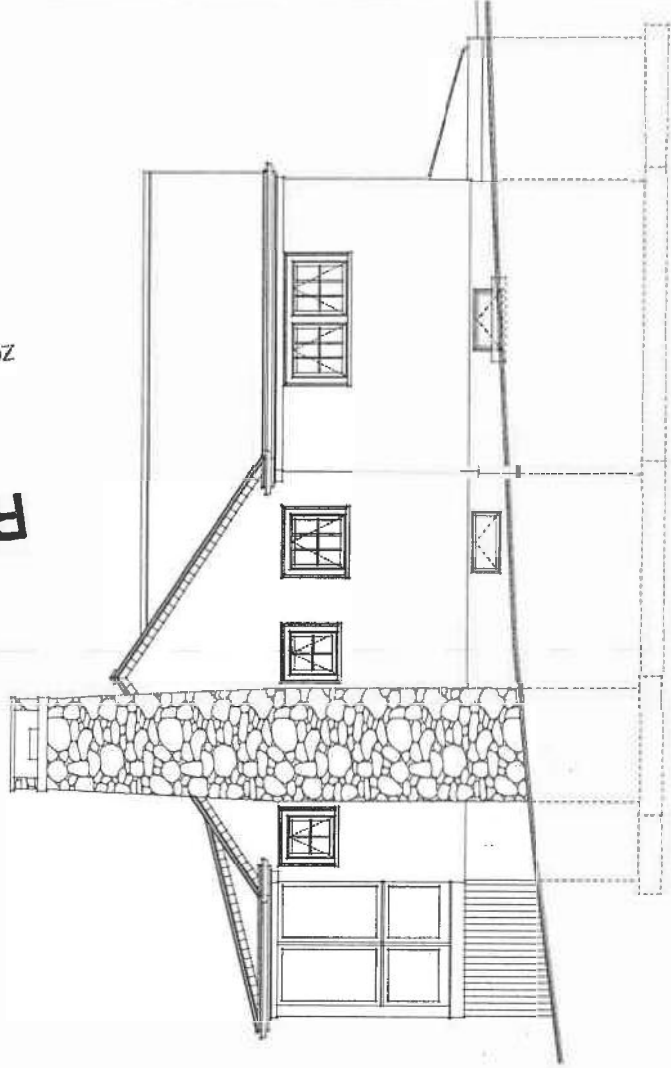
ARCHI-TECH ASSOCIATES, INC.



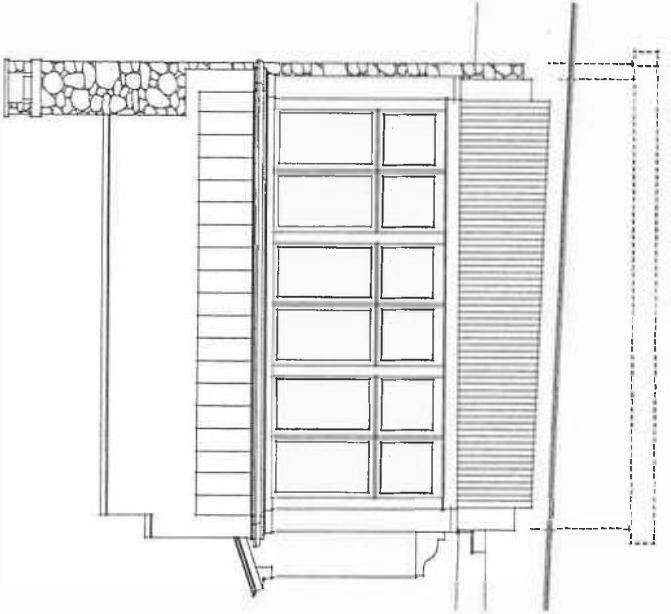
residential design

guest cottage at the
Goff Residence
 511 Wanno Avenue
 Osterville, Massachusetts
 Elevations

job no.: 1916
 date: 11 FEB. 2020
 scale: 3/16" = 1'-0"
 drawn: J.J.A.L.



LEFT / EAST ELEVATION
 SCALE: 3/16" = 1'-0"



REAR / SOUTH ELEVATION
 SCALE: 3/16" = 1'-0"

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 FEB 14
 ZONING DEPT.

SCHULZ LAW OFFICES, LLC
THE SAMUEL ISHAM HOUSE
1340 MAIN STREET
OSTERVILLE, MASSACHUSETTS 02655-1542
TELEPHONE (508) 428-0950
FACSIMILE (508) 420-1536

ALBERT J. SCHULZ
aschulz@schulzlawoffices.com

MICHAEL F. SCHULZ
mschulz@schulzlawoffices.com

June 2, 2020

Alex Rodolakis, Chair
Zoning Board of Appeals
Town of Barnstable
200 Main Street
Hyannis, Massachusetts 02601

Via Email: anna.brigham@town.barnstable.ma.us; carol.puckett@town.barnstable.ma.us

**Re: Jennifer M. Goff, Trustee – 511 Wianno Avenue, Osterville, Massachusetts
Appeal No. 2020-013**

Dear Chair Rodolakis and Members of the Board:

Jennifer M. Goff, Trustee of Jennifer M. Goff Revocable Trust has applied for a Special Permit (Appeal No. 2020-013) under Section 240-92(B) to demolish an existing accessory structure and construct a new one bedroom accessory cottage, which meets all of the performance criteria, with the exception that although it maintains or improves the current setbacks, it does not comply with the presently required thirty (30) foot front yard setback of the RF-1 District. This petition is scheduled for a hearing before the Zoning Board of Appeals (the “Board”) on the June 10, 2020 hearing agenda.

The Property

The property which is the subject of this petition is a residential property located at 511 Wianno Avenue in the Village of Osterville owned by Jennifer M. Goff, Trustee of Jennifer M. Goff Revocable Trust. **See Exhibit 1.** The Property is shown on the Town of Barnstable Assessor’s Map 162 as Parcel 004, and has frontage along Wianno Avenue and Lake Avenue (unconstructed paper street). **See Exhibit 2.** The Property is comprised of approximately 1.37 acres of upland and is situated within an RF-1 and AP Groundwater Overlay Protection District.

The property is currently improved with two structures, a five (5) single-family dwelling which according to Town Assessing records was constructed in approximately 1900 and an accessory structure which does not have an approximate date of construction according to Town Assessing records appears to be of the same era. **See Exhibit 3.** As shown on Exhibit 2, the principal dwelling and accessory structure are consistent with the rest of the neighborhood in terms of size and setback on the lot. **See Exhibit 2.**

Proposed Accessory Cottage

As shown on the site plan prepared by Sullivan Engineering & Consulting, Inc. and elevations by Archi-Tech Associates, Inc., Ms. Goff is proposing to demolish the existing accessory structure and construct a new one-bedroom accessory cottage in a revised location which will make it less nonconforming. **See Exhibits 4 and 5.** The proposed accessory cottage does not, and will not, contain any kitchen facilities because it will simply act as overflow guest space for the principal dwelling in a tranquil lake setting. As reflected on the plans by Sullivan Engineering & Consulting, Inc. and Archi-Tech Associates, Inc., the accessory cottage is customarily incidental to, subordinate to and on the same lot as the principal use that it serves. **See Exhibits 4 and 5.** The proposed location of the accessory cottage will improve the setback from Lake Avenue (unconstructed paper way) but since it does not comply with the presently required thirty (30) foot front yard of the RF-1 District, it requires a Special Permit from the Zoning Board of Appeals.

Appeal No. 2020-013

With Appeal No. 2020-013, Ms. Goff is seeking a Special Permit under Section 240-92(B), and respectfully bases her request pursuant to the following:

1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-92(B) allows for the alteration or expansion of a preexisting nonconforming structure where the proposed setbacks are equal to or greater than the existing setbacks.

2. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected. The Town Assessing records do not provide an approximate date for construction of the accessory structure but it appears to be of the same era (1900) as the principal dwelling which it serves. Although the 1938/43 and 1951/52 GIS aerial photographs are too blurry, the existing accessory structure can be seen on the 1968 GIS aerial photograph. **See Exhibit 6.** It is important to note that in 1968 the Zoning By-Law did not contain the present requirement “where a lot abuts on one or more than one street front yard setback shall be applicable from all streets” as this requirement came into effect in 1974. **See Exhibits 7 and 8.** Additionally, as shown on Exhibits 2 and 4, the existing and proposed location of the accessory structure is similar to other accessory structures in terms of size/scale of the surrounding neighborhood. With its revised location, the proposed accessory cottage will be 3.3 feet from its present location making it less nonconforming by increasing the setbacks.

Conclusion

Based on the foregoing evidence, I respectfully submit that the Board may make the required findings for the issuance of a special permit under Section 240-92(B) as the proposed accessory cottage will not be substantially more detrimental to the neighborhood than the existing structure.

As always, please do not hesitate to contact my office with any questions. Thank you for your consideration of the foregoing.

Very truly yours



Michael F. Schulz
Schulz Law Offices, LLC

cc: Jennifer M. Goff, Trustee

EXHIBIT 1

QUITCLAIM DEED

I, Jennifer M. Goff of 511 Wianno Avenue, Osterville, Massachusetts, as an individual, for no consideration, for the purpose of transferring the herein described real property, with **quitclaim covenants**, to myself as trustee of my revocable inter vivos trust, grant to Jennifer M. Goff, as trustee of the Jennifer M. Goff 2010 Revocable Trust, with full power to lease, sell, mortgage, or otherwise manage, encumber or transfer the property *511 Wianno Ave
Osterville Ma 02635*

A certain parcel of land together with the buildings thereon situated in the Town of Barnstable in that section known as Wianno in the County of Barnstable and Commonwealth of Massachusetts bounded and described as follows:

NORTHWESTERLY by Lot 6 as shown on Land Court Plan No. 1818H, three hundred three (303) feet, more or less;
NORTHEASTERLY by Wianno Avenue (formerly known as Ocean Avenue) one hundred seventy-six and 22/100 (176.22) feet;
SOUTHEASTERLY by Lake Street as shown on a "Plan of Lands belonging to Osterville Land Co." dated Nov. 1873 and filed with the Barnstable County Registry of Deeds in Plan Book 32, Page 143 about four hundred twelve feet (412.00);
SOUTHWESTERLY by Lot F on Land Court Plan No. 13731A, fifteen feet (15.00) more or less; and again
SOUTHWESTERLY by Crystal Lake as shown on said plan filed in Plan Book 32, Page 143.

Said parcel is shown as Block 8 on the plan filed in Plan Book 32, Page 132 and consisting of Lots 1,2,3,4,5, and an unnamed street sometimes known as Grove Street and an undesignated parcel lying between said Grove Street on the Northeast and Crystal Lake on the Southwest.

PROPERTY LOCUS: 511 Wianno Avenue, Osterville MA 02635

The premises are conveyed subject to rights, reservations and easements, if any, that are in force and applicable.

Meaning and intending to convey and hereby conveying the same premises conveyed in a deed dated June 10, 2009 and recorded in the Barnstable County Registry of Deeds, Book 23858, Page 318.

Executed as a sealed instrument this 8/17/2010 day of August, 2010.

Jennifer M. Goff
Jennifer M. Goff

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On this 17 day of August 2010, before me, the undersigned notary public, personally appeared JENNIFER M. GOFF, proved to me through satisfactory evidence of identification, which was CADRE LIC, to be the person whose name is signed on the preceding deed, and acknowledged to me that she signed it voluntarily for its stated purpose.

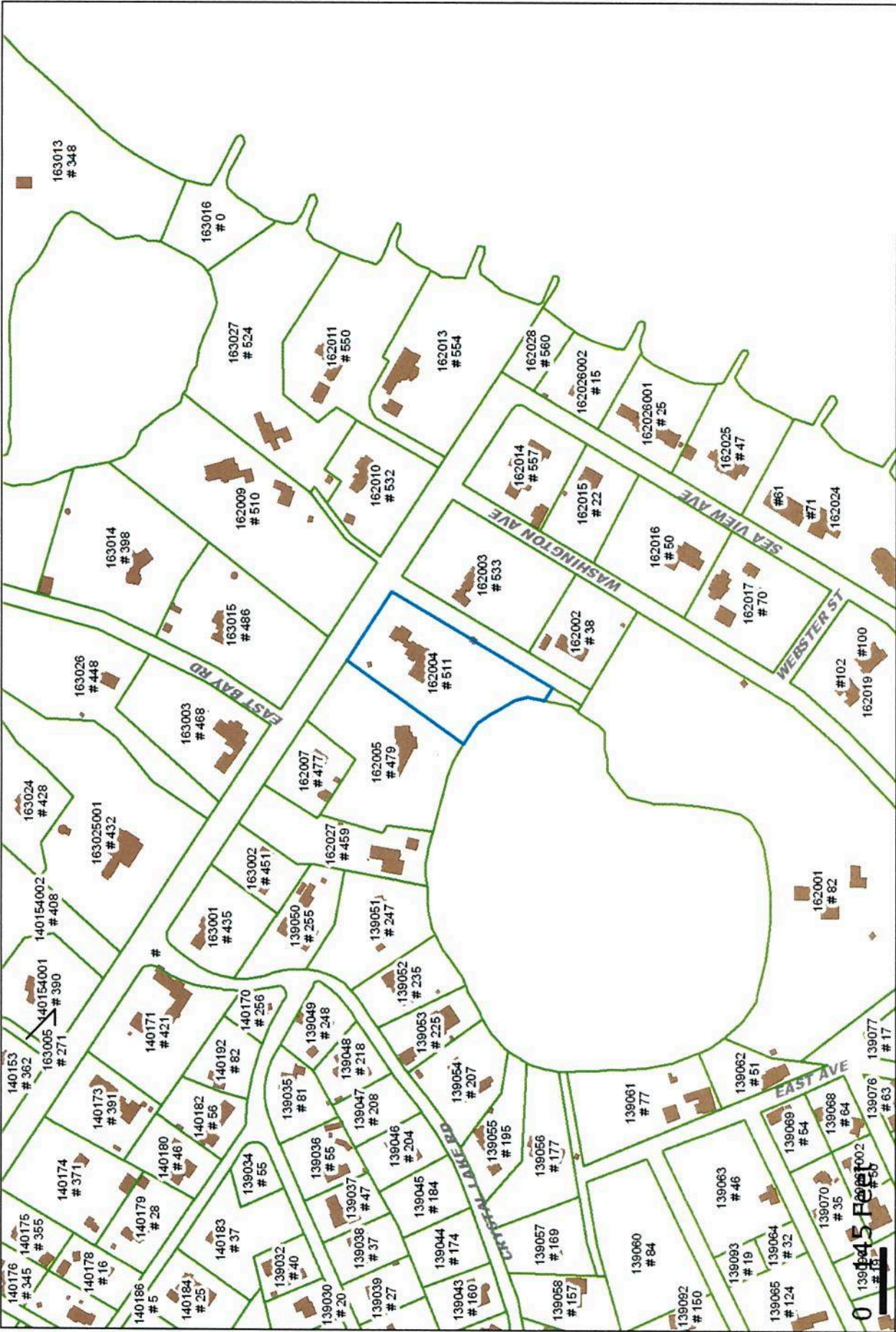
Aditi Sharma
Notary Public
My Commission Expires: 1/11/2013



PROPERTY LOCUS: 511 Wianno Avenue, Osterville MA 02635

BARNSTABLE REGISTRY OF DEEDS

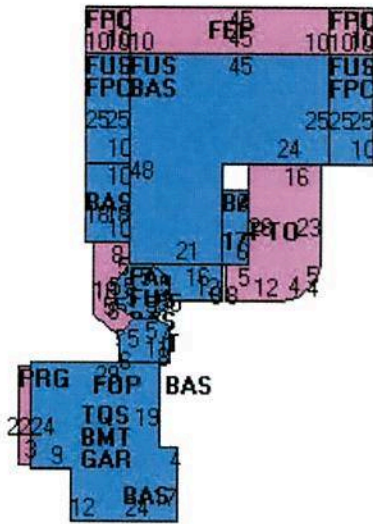
EXHIBIT 2



	<p>Selected Parcel</p> <p>Abutters</p> <p>Buffer</p>	<p>Map: 162 Parcel: 004</p> <p>Owner: GOFF, JENNIFER M TR</p> <p>Co-Owner: JENNIFER M GOFF 2010 REV</p> <p>Location: WIANNO AVENUE</p> <p>Total Assessed Value: \$2753400</p> <p>Acreage: 1.48999082 acres</p>	<p>DISCLAIMERS: This map is for planning purposes only. It is not adequate for legal boundary determination or regulatory interpretation. Enlargements beyond a scale of 1"=100' may not meet established map accuracy standards. The parcel lines on this map are only graphic representations of Assessor's tax parcels. They are not true property boundaries and do not represent accurate relationships to physical features on the map such as building locations.</p>
--	--	--	--

EXHIBIT 3





As Built Cards: Click card # to view: [Card #1](#)

B2N Barn-any 2nd story area	FPC Open Porch Concrete Floor	REF Reference Only
BAS First Floor, Living Area	FTS Third Story Living Area (Finished)	SOL Solarium
BMT Basement Area (Unfinished)	FUS Second Story Living Area (Finished)	SPE Pool Enclosure
BRN Barn	GAR Garage	TQS Three Quarters Story (Finished)
CAN Canopy	GAZ Gazebo	UAT Attic Area (Unfinished)
CLP Loading Platform	GRN Greenhouse	UHS Half Story (Unfinished)
FAT Attic Area (Finished)	GXT Garage Extension Front	UST Utility Area (Unfinished)
FCP Carport	KEN Kennel	UTQ Three Quarters Story (Unfinished)
FEP Enclosed Porch	MZ1 Mezzanine, Unfinished	UUA Unfinished Utility Attic
FHS Half Story (Finished)	PRG Pergola	UUS Full Upper 2nd Story (Unfinished)
FOP Open or Screened in Porch	PRT Portico	WDK Wood Deck
	PTO Patio	

Construction Details

Building		Details		Land	
Building value	\$ 1,251,200	Bedrooms	5 Bedrooms	USE CODE	1010
Replacement Cost	\$1,563,957	Bathrooms	5 Full-0 Half	Lot Size (Acres)	1.49
Model	Residential	Total Rooms	13 Rooms	Appraised Value	\$ 1,215,600
Style	Conventional	Heat Fuel	Gas	Assessed Value	\$ 1,215,600
Grade	Exceptional	Heat Type	Hot Air		

Year Built	1900	AC Type	Central
Effective depreciation	20	Interior Floors	Hardwood
Stories	2 Stories	Interior Walls	Plastered
Living Area sq/ft	5,112	Exterior Walls	Wood Shingle
Gross Area sq/ft	9,554	Roof Structure	Gable/Hip
		Roof Cover	Wood Shingle

Outbuildings and Extra Features

Code	Description	Units/SQ ft	Appraised Value	Assessed Value
FPL2	Fireplace 1.5 stories	1	\$ 4,600	\$ 4,600
SPL3	Pool Gunite	1200	\$ 39,300	\$ 39,300
GAR	Attached Garage	1004	\$ 48,200	\$ 48,200
PATF	Flagstone Pavers on conc	518	\$ 9,300	\$ 9,300
FPL3	Fireplace 2 story	1	\$ 5,400	\$ 5,400
PATF	Flagstone Pavers on conc	852	\$ 14,500	\$ 14,500
FOPC	Open Prch-roof, ceiling	700	\$ 40,500	\$ 40,500
PATF	Flagstone Pavers on conc	1916	\$ 28,300	\$ 28,300
PATF	Flagstone Pavers on conc	226	\$ 4,600	\$ 4,600
STRS	Stairs to Water	20	\$ 2,000	\$ 2,000
SPH4	Pool Heater 1000+sf pool	1	\$ 4,600	\$ 4,600
GEN	Emergency Generator	1	\$ 4,700	\$ 4,700
PRG1	Pergola-Avg	66	\$ 900	\$ 900
FPIT	Fire Pit	1	\$ 2,900	\$ 2,900
FEP	Enclosed porch-roof, ceiling	450	\$ 42,900	\$ 42,900
BMT	Basement-Unfinished	1124	\$ 23,000	\$ 23,000
FOP	Open Porch-roof-ceiling	127	\$ 10,900	\$ 10,900

EXHIBIT 4

DIRECTIONS:

From Hyannis - Follow Main Street to the West End Rotary. Take third exit onto Scudder Ave. Turn right onto Smith Street at the stop sign. Continue on to Drayville Beach Road and left onto South Main Street. Continue over the bridge to Osterville, and left onto West Bay Road. Turn left onto Wianno Avenue. #511 is on the left.

ASSESSORS REF.:

Map 162, Parcel 004.

OVERLAY DISTRICT:

AP - Aquifer Protection District

FLOOD ZONE:

Zones X (0.2% Annual Chance) & Y (Min Flood Hazard)
Community Parcel No. #50301 0018 0
July 16, 2014



LOCATION MAP:

Scale: 1" = 2000'

ZONE:

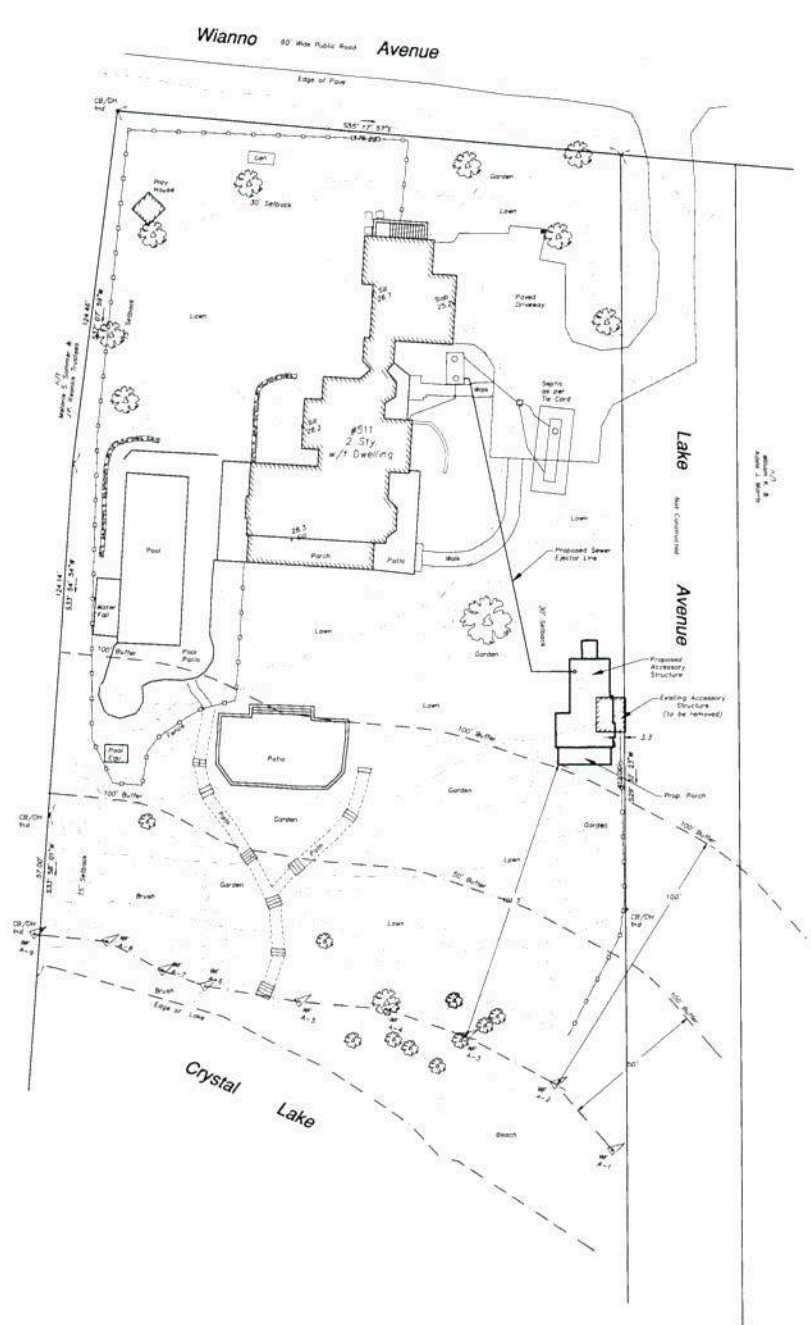
#1-1
Area (min.) 87,120 SF (AP00)
Frontage (min.) 20'
Width (min.) 125'
Setbacks:
Front 30'
Side 15'
Rear 15'

REFERENCES:

Deed: 24-764/291
Plan: LCP-15488A
LCP-18106
LCP-13731A
PB-32-143

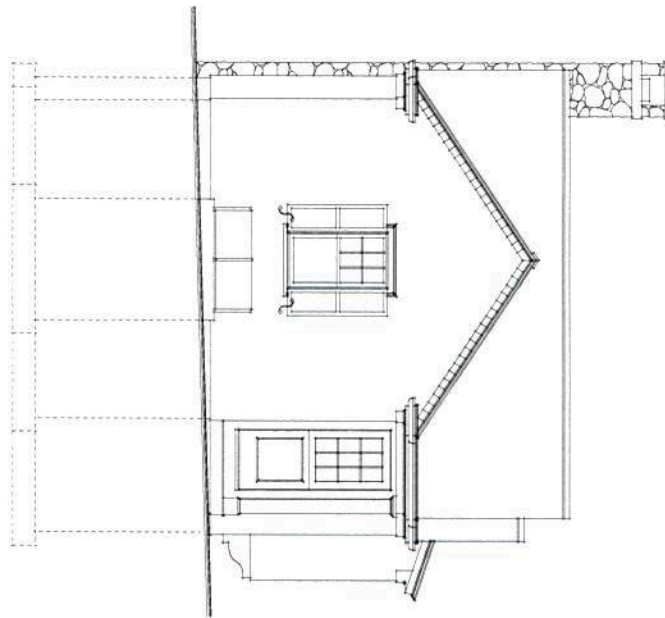
LEGEND:

- L1 Leafy Tree
- M1 Moss Tree
- D1 Deciduous Tree
- C1 Coniferous Tree
- Utility Pole
- Electric
- Gas
- Natural Gas
- Light Pole
- CB/CH
- Overhead Wire
- 25' Elevation Contour

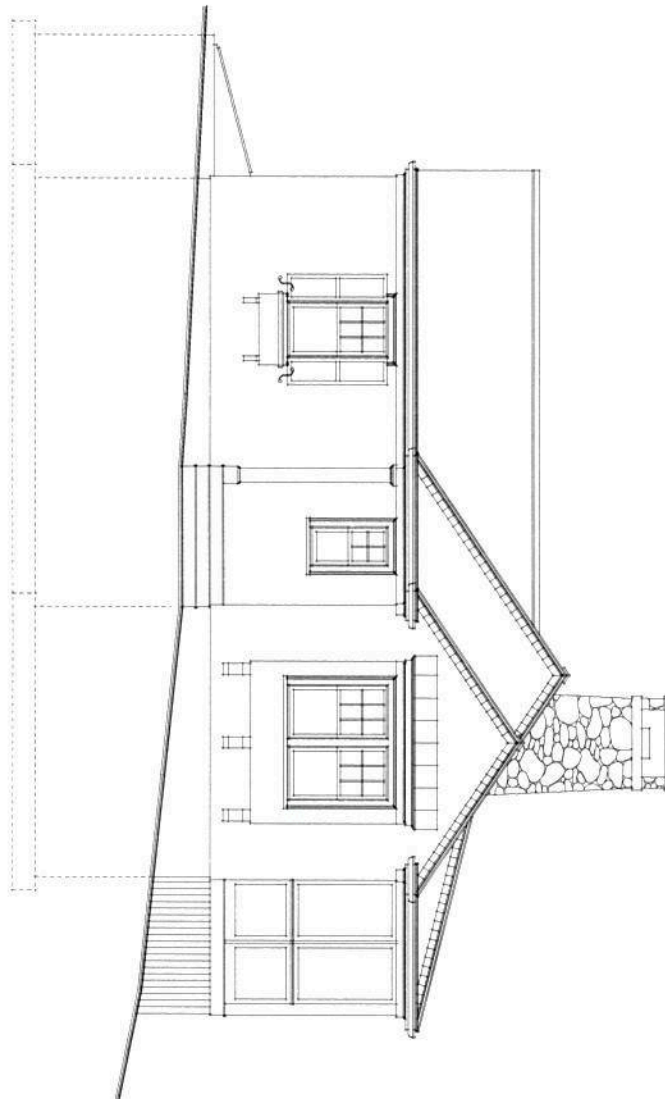


<p>TITLE:</p> <p>Site Plan Proposed Improvements At 511 Wianno Avenue Barnstable (Osterville) Mass.</p> <p>DATE: February 13, 2020 SCALE: 1" = 20'</p>	<p>PREPARED BY:</p> <p>Sullivan Engineering & Consulting, Inc. (508) 429-2344 • P.O. Box 629 • 711 Main Street, Osterville, MA 02655 sec@sullivanengin.com • www.sullivanengin.com</p>	<p>PREPARED FOR:</p> <p>Jennifer M. Goff trustee Jennifer M. Goff 2010 Rev. Trust 1541 North Castle Road Sanoma CA 95476</p>	<p>NOTES:</p> <p>1) The property line information shown was compiled from available record information.</p> <p>2) The structures located and topographic information was located using conventional survey methods and RTK GPS on or between August 30 and September 13, 2019.</p> <p>3) The datum used is NAVD '88.</p>
	<p>Drawn: ASL/CPK Field: MBK/CTR/ADD</p> <p>Review: CTR Comp./Review: CTR/ADD</p> <p>Project: Goff Project#: 390622</p>	<p>20 0 10 30 40 60</p>	

EXHIBIT 5



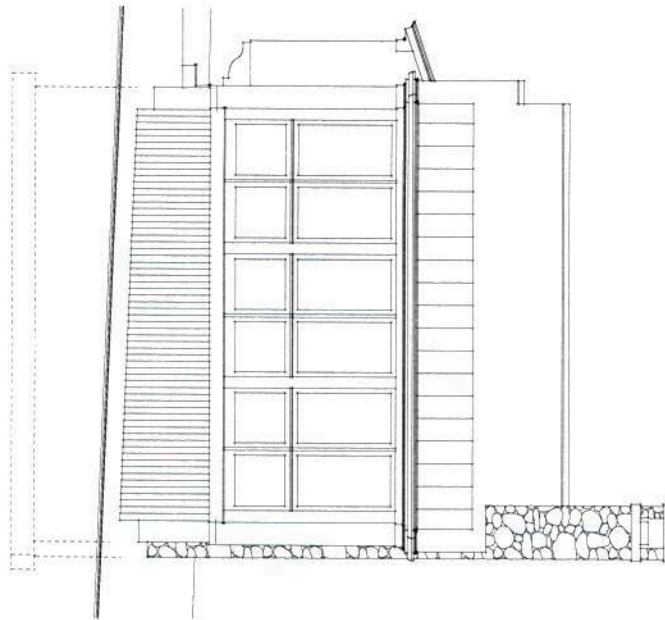
FRONT / NORTH ELEVATION
SCALE: 3/16" = 1'-0"



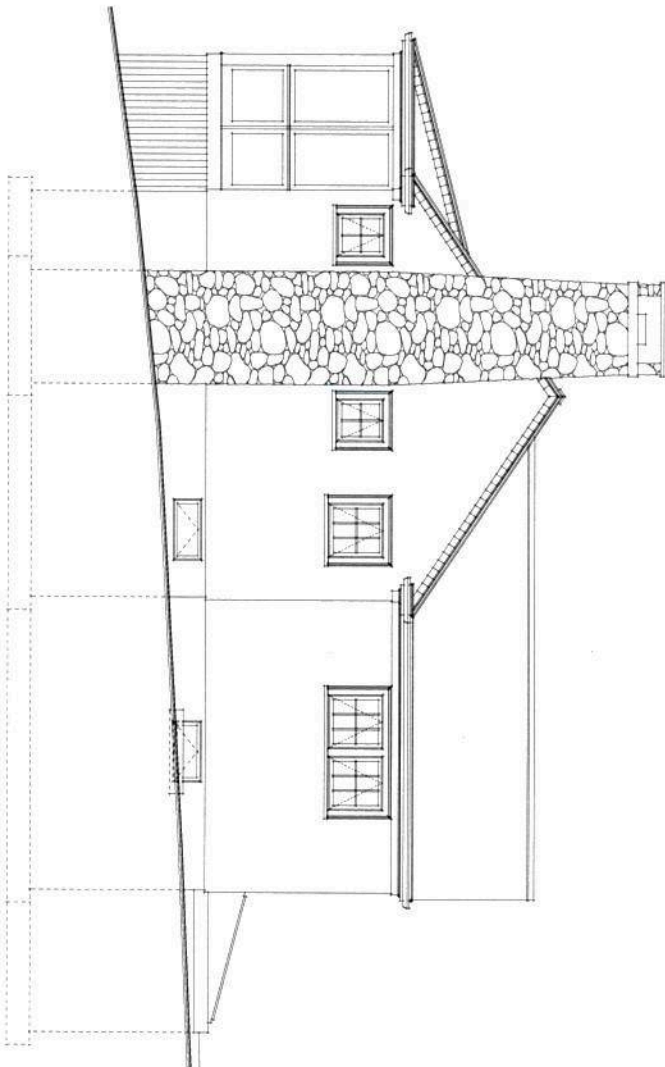
RIGHT / WEST ELEVATION
SCALE: 3/16" = 1'-0"


job no. 1416 date 11 FEB 2020 scale 3/16" = 1'-0" drawn JAL	<p>guest cottage at the Goff Residence 511 Wianno Avenue Osterville, Massachusetts</p> <p>Elevations</p>	 <p>ARCHI-TECH ASSOCIATES residential design</p>	6 school street t 508.420.5335 f 508.420.5304 cotuit, ma 02635 e info@architechassociates.com architechassociates.com
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REAR / SOUTH ELEVATION
SCALE: 3/16" = 1'-0"

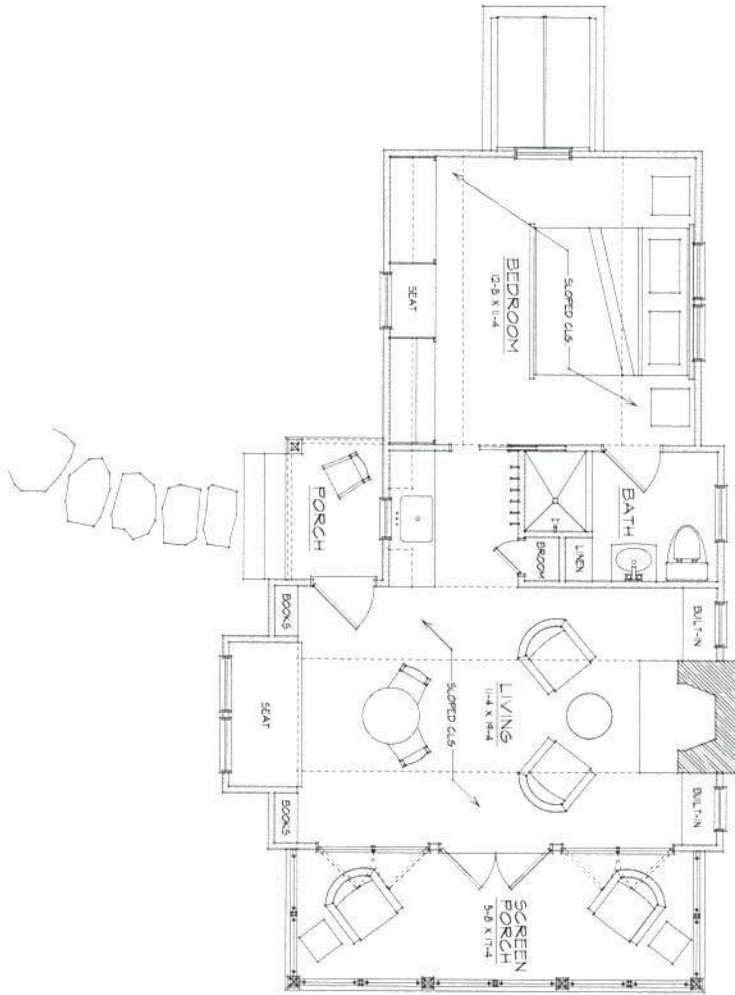


LEFT / EAST ELEVATION
SCALE: 3/16" = 1'-0"



job no. 1916 date 11 FEB 2020 scale 3/16" = 1'-0" client JAL	guest cottage at the Goff Residence 511 Wianno Avenue Osterville, Massachusetts	 ARCHI-TECH ASSOCIATES residential design	6 school street t 508.420.5335 f 508.420.5304 cotuit, ma 02935 e info@architechassociates.com
	Elevations		architechassociates.com

FLOOR PLAN
 SCALE: 3/16" = 1'-0"
 LIVING AREA = 526 SF



guest cottage at the Goff Residence 511 Wianno Avenue Osterville, Massachusetts	 ARCHI-TECH ASSOCIATES residential design	6 school street t 508.420.5335 f 508.420.5304 cotuit, ma 02635 e info@architechassociates.com
		architechassociates.com
date 11 FEB 2020 scale 3/16" = 1'-0" drawn JAL	floor no 1 of 6 Floor Plan	

EXHIBIT 6



	<p>Selected Parcel</p> <p>Abutters</p> <p>Buffer</p>	<p>Map: 162 Parcel: 004</p> <p>Owner: GOFF, JENNIFER M TR</p> <p>Co-Owner: JENNIFER M GOFF 2010 REV</p> <p>Location: WIANNO AVENUE</p> <p>Total Assessed Value: \$2753400</p> <p>Acreage: 1.48999082 acres</p>	<p>DISCLAIMERS: This map is for planning purposes only. It is not adequate for legal boundary determination or regulatory interpretation. Enlargements beyond a scale of 1"=100' may not meet established map accuracy standards. The parcel lines on this map are only graphic representations of Assessor's tax parcels. They are not true property boundaries and do not represent accurate relationships to physical features on the map such as building locations.</p>
--	--	--	--

EXHIBIT 7

g. Hospitals - (non-veterinarian). This district added by 1970 An 105, approved by the Atty. Gen. June 19, 1970.

Sub-paragraph: (b-Apartments) amended by adding "and subject to the modification allowed by Section P" An 127, approved by the Atty. Gen. June 22, 1971.

L. INTENSITY REGULATIONS - NON-RESIDENTIAL DISTRICTS

A. Any building hereafter erected in any Non-Residential District shall comply with the minimum requirements for size of lot, width, set back, side and rear yard requirements set forth in the following table: (Appendix B)

B. In an Urban Business District or in a Highway Business District, each lot shall have a green strip ten (10) feet in width along each side abutting on an existing roadway, on which grass, bushes, flowers, trees or a combination thereof, shall be maintained.

C. In a Highway Business District, each lot shall have a green strip ten (10) feet in width along each side abutting on an existing roadway, on which grass, bushes, flowers, trees, or a combination thereof, shall be maintained.

D. In a Business Limited C District the use shall retain the essential residential character of the contiguous residential district, including minimum lot size and setback requirements.

APPENDIX B - INTENSITY REGULATION

District	Area	Setback	Side	Rear	Lot	Width	Height	Other
BUSINESS A	N/A	N/A	N/A	N/A	20(1)	N/A	N/A	N/A
BUSINESS LIMITED A	7,500	75	20	7 1/2	10	N/A	N/A	N/A
BUSINESS LIMITED B	7,500	75	20	7 1/2	10	7 1/2	7 1/2	15
BUSINESS LIMITED C	20,000	125	30	15	30	15	15	15
MARINE BUSINESS A								
MARINE BUSINESS B	7,500	75	10	30(2)	30			
HIGHWAY BUSINESS	40,000	160	50	30(2)	20	30%		
VILLAGE BUSINESS A	10,000	100	10	30(2)	20			
VILLAGE BUSINESS B	35,000	160	10	30(2)	20			
URBAN BUSINESS								
SERVICE								
& DISTRIBUTION	43,560	150	60	25	40	35%		
INDUSTRIAL								
PROFESSIONAL								
RESIDENTIAL	7,500	75	20	7 1/2	10	7 1/2	7 1/2	15

Professional residential added by 1970 An 105, approved by the Atty. Gen. June 19, 1970.

ART. 120 c. No apartment structure shall be higher than three (3) stories and the height shall be limited to thirty-five (35) feet from ground level to the plate.

1. Front Yard Setback in Business District along Route 132 shall be 50'.
2. Side Yard shall be a minimum total of 30', which may be divided at the discretion of the owner, but in no case less than 10' on any one side, except where it abuts a Residence District, Side Yard must be 20'.
3. Set Back where lot abuts a residentially zoned area shall be 50'.

M. SPECIAL REGULATIONS - APARTMENTS

1. Apartment dwelling structures may hereafter be built where authorized, but only in accordance with the following requirements:
 - a. The gross land area of the lot or group of contiguous lots on which an apartment structure is permitted shall be not less than the product of two thousand five hundred (2500) square feet per apartment dwelling unit times the number of such units in the apartment structure proposed.
 - b. Apartment buildings shall not cover more than twenty-five percent (25%) of the gross land area of the lot or combination of lots.
 - c. No apartment structure shall be higher than two and one-half (2 1/2) stories or thirty-five (35) feet.
 - d. No apartments shall be erected nearer to any street line than two (2) times the distance from the ground grade to the top of the plate. Rear and side setbacks shall be not less than the distance from the ground grade to the top of the plate.
- The word "No" changed to "any" in Sub-paragraph (d) by 1970 An 107, approved by the Atty. Gen. June 19, 1970.
- e. An unbroken yard space not less than ten (10) feet depth shall be established all along the entire perimeter of the lot or group of lots on which is located an apartment structure. Such yard space shall be planted and maintained. In such yard space, there shall be no off-street parking nor driveway(s) except a driveway crossing that part of such yard space as is bordered by a street.
- f. Paved off-street automobile parking spaces shall be provided on the lot or group of lots containing an apartment structure and each such space shall be easily accessible from a paved driveway on the property. There shall be not less than one (1) such space per apartment dwelling unit on the property. Each such space shall be not less than two hundred (200) square feet paved area, exclusive of driveway.

ART. 119 g. No living units will be allowed to be constructed or used below ground level.

ART. 121 Each parking space shall be located not less than fifteen feet from the base of the building.

1969

ARTICLE III, CHAPTER III
ZONING BY-LAWS

A. PURPOSE

1. The purpose of these by-laws is to promote the health, safety, convenience, morals and/or general welfare of the inhabitants of the Town of Barnstable, to protect and conserve the value of the property within the town, to increase the amenities of the town, and to secure safety from seasonal or periodic flooding, fire, congestion or confusion, all in accord with the General Laws, Tercentenary Edition of the Commonwealth of Massachusetts, Chapter 40A, Section one (1) to twenty-two (22), or amendments thereto. For this purpose, the height, number of stories, size of buildings and structures, size and width of lots, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, marine business, industry, agriculture, residence or other purposes are regulated within the Town of Barnstable as hereinafter provided.

B. ESTABLISHMENT OF DISTRICTS

1. The Town of Barnstable is hereby divided, as shown on a map entitled "ZONING MAP OF BARNSTABLE, MASS. DATED FEB. 3, 1969", as revised at the March 8, 1970 and March 27, 1971 annual town meetings and the August 31, 1971 special town meeting and on file with the Town Clerk, into the following Districts:

- Residence A
- Residence A-1
- Residence B
- Residence C
- Residence C-1
- Residence D
- Residence D-1
- Residence D-2
- Residence D-3
- Residence E
- Residence E-1
- Residence F
- Residence F-1
- Business
- Business A
- Business Limited A
- Business Limited B
- Business Limited C
- Marine Business A
- Marine Business B
- Village Business A
- Village Business B
- Highway Business
- Urban Business
- Industrial
- Service and Distribution
- Professional Residential

C. DEFINITIONS

1. In this by-law, the following terms shall have the meanings indicated, unless a contrary meaning is required by the context:

ZONING BY-LAWS

and

BUILDING CODE



TOWN OF BARNSTABLE

MASSACHUSETTS

EXHIBIT 8

fifteen (15) feet in width on each side, and along each side abutting an existing roadway, on which, grass, bushes, flowers, trees, or a combination thereof shall be maintained. Where the lot abuts a residentially zoned area, screening consisting of compact evergreen hedge or equivalent obscuring natural vegetation of not less than (3) feet in height at the time of original planting shall be provided and maintained in good condition and no advertising shall be placed thereon.

Paragraph E added by 1974 An 105, approved by the Atty. Gen. July 16, 1974.

APPENDIX B — INTENSITY REGULATION

DISTRICT	Area in Sq. Ft.	Width in Sq. Ft.	Frontage in feet	Front Yard Setback in feet	Side Yard Setback in feet	Rear Yard Setback in feet	Minimum Clearance of Building in Sq. Ft.
BUSINESS	N/A	N/A	N/A	20(1)	N/A	N/A	N/A
BUSINESS A	N/A	N/A	N/A	10	N/A	N/A	N/A
Business Limited A deleted by 1973 An 152, approved by the Atty. Gen. June 15, 1973.							
BUSINESS LIMITED B	7,500	75	—	20	7 1/2	7 1/2	—
BUSINESS LIMITED C	20,000	125	—	30	15	15	—
MARINE BUSINESS A	—	—	—	—	—	—	—
MARINE BUSINESS B	7,500	75	—	10	30(2)	30	—
HIGHWAY BUSINESS	40,000	160	—	60	30(2)	20	30%
VILLAGE BUSINESS A	10,000	100	—	10	30(2)	20	—
VILLAGE BUSINESS B	42,560	—	160	40	30	30	25%
Prior Specified regulations for a Village Business District B deleted and the above regulations inserted therein by 1974 An 104, approved by the Atty. Gen. July 16, 1974.							
URBAN BUSINESS	—	—	—	20(3)	—(3)	—(3)	35%
SERVICE & DISTRIBUTION INDUSTRIAL	43,560	160	—	60	25	40	25%
90,000	200	—	60	30	30	25%	
Prior Specified regulations for an Industrial District deleted and the above regulations inserted therein by 1973 An 136, approved by the Atty. Gen. June 15, 1973.							

PROFESSIONAL RESIDENTIAL 7,500 75 20 7 1/2 7 1/2 25%

Professional residential added by 1970 An 105, approved by the Atty. Gen. June 19, 1970.

1. Front Yard Setback in Business District along Route 132 shall be 50'.

2. Side Yard shall be a minimum total of 30', which may be divided at the discretion of the owner, but in no case less than 10' on any one side, except where it abuts a Residence District, Side Yard must be 20'.

3. Set Back where lot abuts a residentially zoned area shall be 50'.

4. Along Route 28 (Falmouth Road) in Precinct 3, where the lot abuts a residentially zoned area, the 50 foot setback shall include a 25 foot green belt.

Sub-paragraph (4) added by 1973 An 155, approved by the Atty. Gen. June 15, 1973.

5. Front yard set back distances shown above mean from sideline of

the street. Where a lot abuts on one or more than one street front yard setback shall be applicable from all streets.

Paragraph 5 added by 1974 An 147, approved by the Atty. Gen. July 16, 1974.

M. SPECIAL REGULATIONS — APARTMENTS

1. Apartment dwelling structures may hereafter be built where authorized, but only in accordance with the following requirements:

a. The gross land area of the lot or group of contiguous lots on which an apartment structure is permitted shall be not less than the product of two thousand five hundred (2500) square feet per apartment dwelling unit times the number of such units in the apartment structure proposed.

b. Apartment buildings shall not cover more than twenty-five percent (25%) of the gross land area of the lot or combination of lots.

c. No apartment structure shall be higher than three (3) stories and the height shall be limited to thirty-five (35) feet from ground level to the plate.

Prior Sub-paragraph (c) deleted and new Sub-paragraph (c) in series by 1972 An 120, approved by the Atty. Gen. Aug. 3, 1972.

d. No apartments shall be erected nearer to any street line than two (2) times the distance from the ground grade to the top of the plate. Rear and side setbacks shall be not less than the distance from the ground grade to the top of the plate.

The word "the" changed to "any" in Sub-paragraph (d) by 1970 An 107, approved by the Atty. Gen. June 19, 1970.

e. An unbroken yard space not less than ten (10) feet depth shall be established all along the entire perimeter of the lot or group of lots on which is located an apartment structure. Such yard space shall be planted and maintained. In such yard space, there shall be no off-street parking nor driveway(s) except a driveway crossing that part of such yard space as is bordered by a street.

f. Paved off-street automobile parking spaces shall be provided on the lot or group of lots containing an apartment structure and each such space shall be easily accessible from a paved driveway on the property. There shall be not less than one (1) such space per apartment dwelling unit on the property. Each such space shall be not less than two hundred (200) square feet paved area, exclusive of driveway. Each parking space shall be located not less than fifteen (15) feet from the base of the building.

Sub-paragraph (f) amended by 1973 An 121, approved by the Atty. Gen. Aug. 3, 1972.

g. No living units will be allowed to be constructed or used below ground level.

Sub-paragraph (g) added by 1972 An 119, approved by the Atty. Gen. Aug. 3, 1972.

RECEIVED

APR 9 1979

BARNSTABLE PLANNING
BOARD

ZONING

BY-LAWS



NOVEMBER 5, 1977

TOWN OF BARNSTABLE

MASSACHUSETTS

PRINTED ON CAPE COD AT THE PATRIOT PRESS, HYANNIS, MASS.

Amended March 6, 1969, Approved July 8, 1969
Amended October 23, 1969, Approved December 17, 1969
Amended March 10, 1970, Approved June 19, 1970
Amended April 7, 1971, Approved June 22, 1971
Amended August 31, 1971, Approved March 2, 1972
Amended April 5 and 6, 1972, Approved August 3 and 23, 1972
Amended August 14, 1972, Approved September 20, 1972
Amended March 23 and 29, 1973, Approved June 15, 1973
Amended July 11, 1973, Approved August 24, 1973
Amended March 27 and 28, April 2 and 3, 1974, Approved July 16, 1974
Amended July 30, 1974, Approved September 5, 1974
Amended December 18, 1974, Approved December 23, 1974.
Amended April 2, 1975, Approved June 18, 1975.
Amended April 2, 1975, Approved July 22, 1975.
Amended November 6, 1977, Approved January 12, 1978.



Town of Barnstable
 Planning and Development Department
 Elizabeth Jenkins, Director
 Staff Report

Special Permit No. 2020-013 – Goff, as Trustee
Section 240-92 (B) Nonconforming Buildings

To allow the demolition of existing accessory structure and construction of new cottage

Date: February 24, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Applicant: **Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust**
Property Address: 511 Wianno Avenue, Osterville, MA
Assessor's Map/Parcel: 162/004
Zoning: Residence F-1 (RF-1)

Filed: February 14, 2020

Hearing: March 11, 2020

Decision Due: May 20, 2020

Copy of Public Notice

Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust, has applied for a Special Permit in accordance with Section 240-92 Nonconforming building or structures used as single and two family residences. The Applicant is requesting to demolish an existing accessory structure and construct a one-bedroom accessory cottage. The subject property is located at 511 Wianno Avenue, Osterville, MA as shown on Assessors Map 162 as Parcel 004. It is located in the Residence F-1 (RF-1) Zoning District.

Background

The subject property is a 1.49 acre lot with frontage on Wianno Avenue and overlooking Crystal Lake. The subject lot is improved with one 5-bedroom dwelling with attached 3 car garage, pool, porch, two patios, and existing accessory structure. The principal dwelling has 9,554 gross floor area (5,112 square feet of living area) and was constructed in 1900. The lot is served by public water, gas, and septic.

Proposal & Relief Requested

Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust, has applied for a Special Permit to demolish an existing accessory structure and construct a one bedroom cottage. The property is located at 511 Wianno Avenue, Osterville. It is located in the Residence F-1 (RF-1) Zoning District. The relief is sought pursuant to Section 240-92 (B) Nonconforming buildings or structures used as a single- and two- family residences. The existing accessory structure does not meet the required front yard setback of 30 feet from Lake Avenue. The proposed accessory cottage will have a nonconforming front yard setback of 3.3 feet from Lake Avenue where 30 feet is required.

Under Section 240-92 (B) the Zoning Board of Appeals may allow a preexisting nonconforming building or structure that is used as a single- or two-family residence to be physically altered or expanded only as follows:

A preexisting nonconforming building or structure that is used as a single- or two-family residence may be physically altered or expanded only as follows:

- A.** As of right. If the Building Commissioner finds that:
 - (1)** The proposed physical alteration or expansion does not in any way encroach into the setbacks in effect at the time of construction, provided that encroachments into a

ten-foot rear or side yard setback and twenty-foot front yard setback shall be deemed to create an intensification requiring a special permit under Subsection B below; and

(2) The proposed alteration or expansion conforms to the current height limitations of this chapter.

B. By special permit. If the proposed alteration or expansion cannot satisfy the criteria established in Subsection A above, the Zoning Board of Appeals may allow the expansion by special permit, provided that the proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.

In the case of a special permit, the Board must find the proposed alteration or expansion will not be substantially *more* detrimental to the neighborhood than the existing building or structure (emphasis added).

Staff Comments

The Board should note that cottages used as living quarters are not a principal permitted use in the RF-1 District.

Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- 1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit.** Section 240-92 (B) Nonconforming buildings or structures used as a single- and two- family residences allows for alterations.
- 2. Site Plan Review is not required for single family residential dwellings.**
- 3. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.**
- 4. Pursuant to Section 240-92 (B), the proposed alteration or expansion will not be substantially more detrimental to the neighborhood than the existing building or structure.**

Suggested Conditions

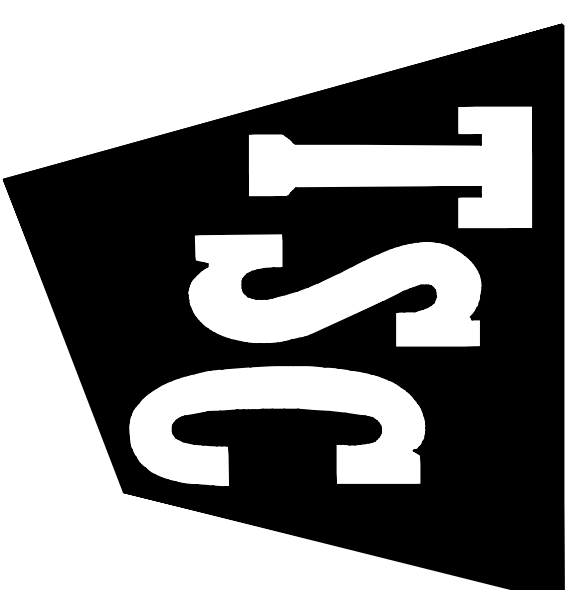
Should the Board find to grant the Special Permit No. 2020-013, it may wish to consider the following conditions:

1. Special Permit No. 2020-013 is granted to Jennifer M. Goff, Trustee of Jennifer M. Goff 2010 Revocable Trust, to demolish an existing nonconforming accessory structure and construct a nonconforming accessory cottage at 511 Wianno Avenue, Osterville.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan Proposed Improvements at 511 Wianno Avenue Barnstable (Osterville) Mass" prepared by Sullivan Engineering & Consulting, Inc dated February 13, 2020.
3. The proposed redevelopment shall represent full build-out of the lot. Further alteration or expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.

4. All mechanical equipment associated with the dwellings (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
5. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicant (Attorney Michael Schulz)

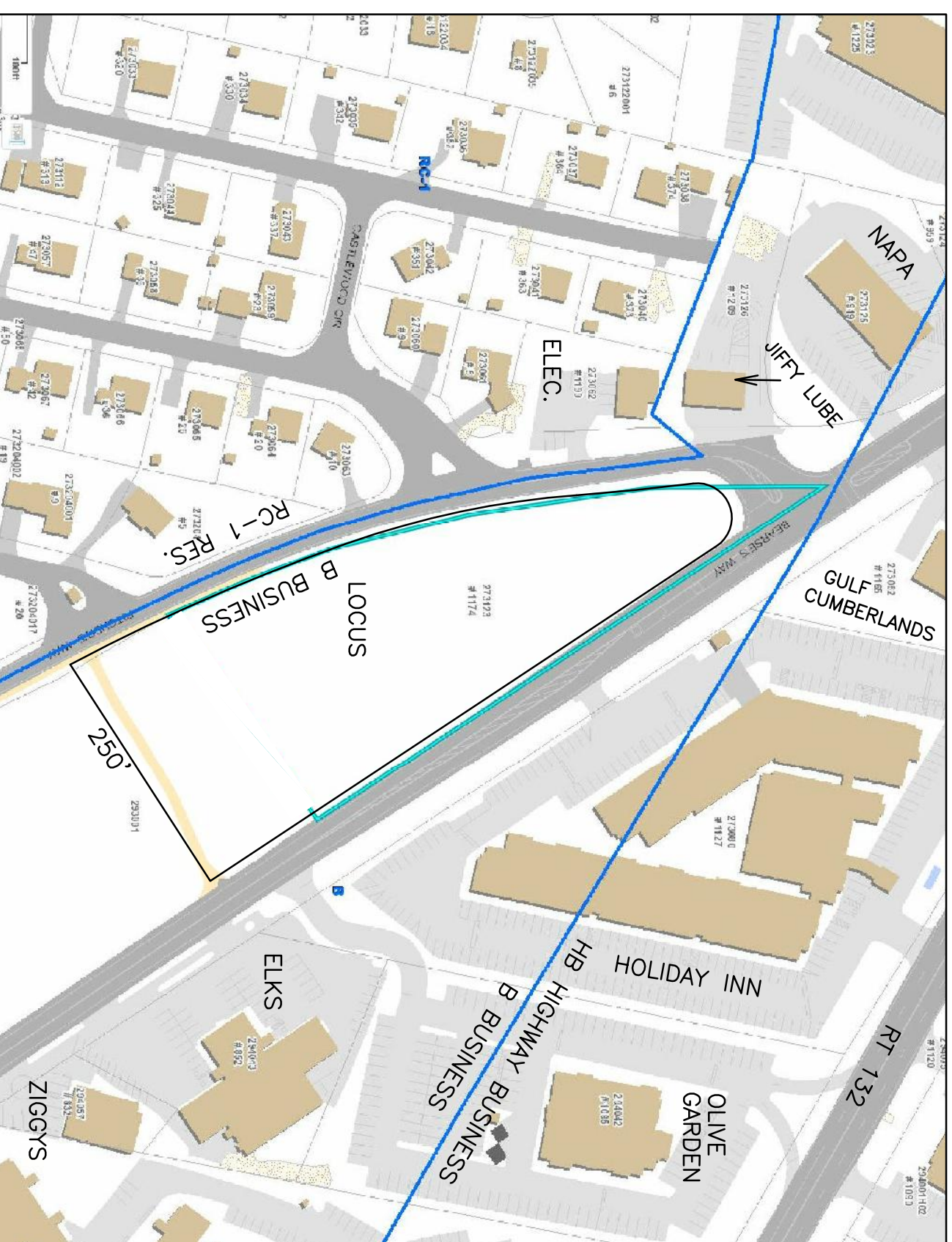
Attachments: Application
 Site Plan
 Building plans
 Assessor's Record & Aerial Photo



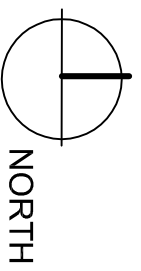
TRACTOR SUPPLY COMPANY

Tractor Supply Company Site Construction Plans

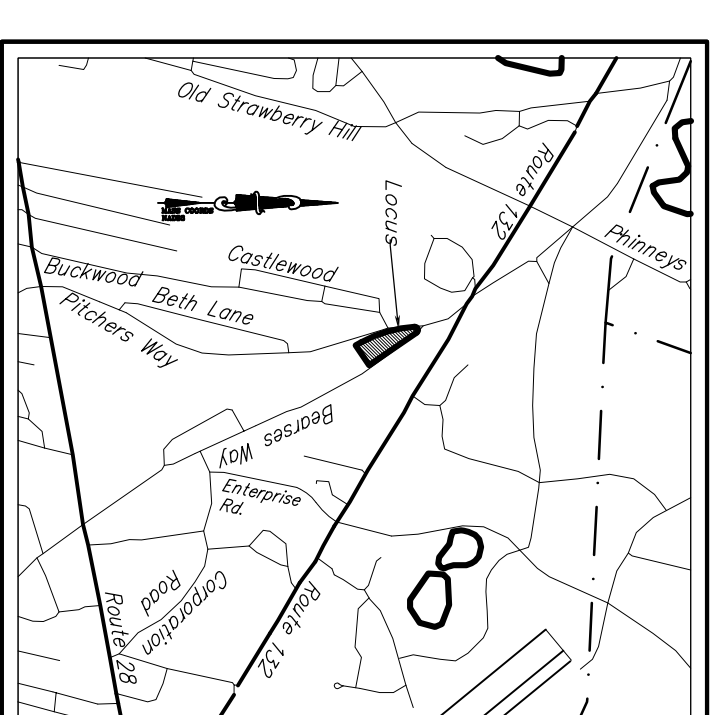
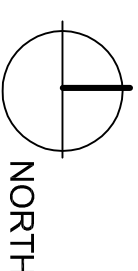
**1174 Pitchers Way,
Hyannis, MA 02601**



TOWN GIS MAP: B (BUSINESS) ZONING DISTRICT
RC-1 RESIDENTIAL TO WEST
SITE WITHIN ECONOMIC CENTER BOUNDARY



2014 AERIAL IMAGE TOWN OF BARNSTABLE GIS, N.T.S.



LOCUS MAP

SCALE 1"=2000'±
ASSESSORS MAP 273 PARCEL 123
ADDRESS: #1174 PITCHERS WAY, HYANNIS, MA 02601

ZONING SUMMARY

ZONING DISTRICT: B DISTRICT	REQUIRED:	PROPOSED:
MIN. LOT SIZE	20'	113522 S.F.±
MIN. FRONT YARD SETBACK	20'	
MIN. SIDE SETBACK	20'	
MIN. REAR SETBACK	—	
MAX. BUILDING HEIGHT	30'	
MAX. IMPERVIOUS AREA	50%	44.1% (50,079 S.F.)
MIN. NATURAL STATE	30%	38.7%* (43,960 S.F.)

SITE IS LOCATED WITHIN THE GROUNDWATER PROTECTION OVERLAY DISTRICT

*INCLUDES AREAS TO BE RE-VEGETATED. DOES NOT INCLUDE FUTURE BIKE PATH
FLOODZONE: X (NOT A FLOOD HAZARD ZONE)
SITE WITHIN ECONOMIC CENTER BOUNDARY

OWNER: WINDMILL SQUARE, LLC
297 NORTH STREET
HYANNIS, MA 02601

APPLICANT: WINDMILL SQUARE, LLC

EXISTING USE: VACANT
PROPOSED USE: RETAIL (TRACTOR SUPPLY CO.)

MAX. BLDG. HEIGHT: 2 STORES; 30' TO TOP PLATE
FRONT YARD LANDSCAPE SETBACK: 10' ALONG ROADS
SITE IS ON TOWN WATER (HYANNIS WATER SYSTEMS)
SITE IS ON TOWN SEWER (TOWN OF BARNSTABLE)

PLAN SHEET INDEX:

- C001 Cover Sheet
- C100 Existing Conditions Plan
- C200 Landscape/Layout
- C300 Utilities/Grading Plan
- C400 Civil Detail Sheet 1
- C401 Civil Detail Sheet 2

COVER SHEET SITE PLAN

#1174 PITCHERS WAY
HYANNIS, MA

PREPARED FOR
WINDMILL SQUARE LLC

DATE: 4-21-2020
REV. 5-14-2020 (SPR COMMENTS)

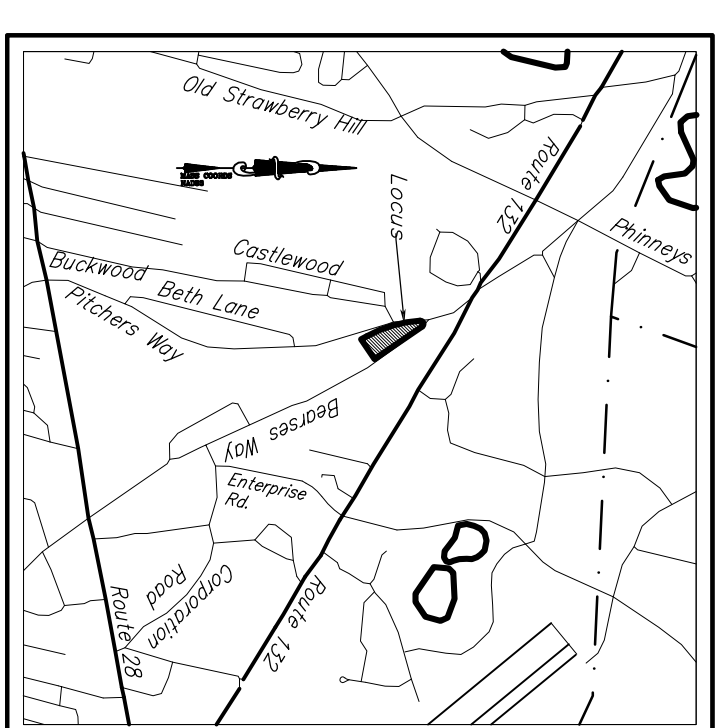
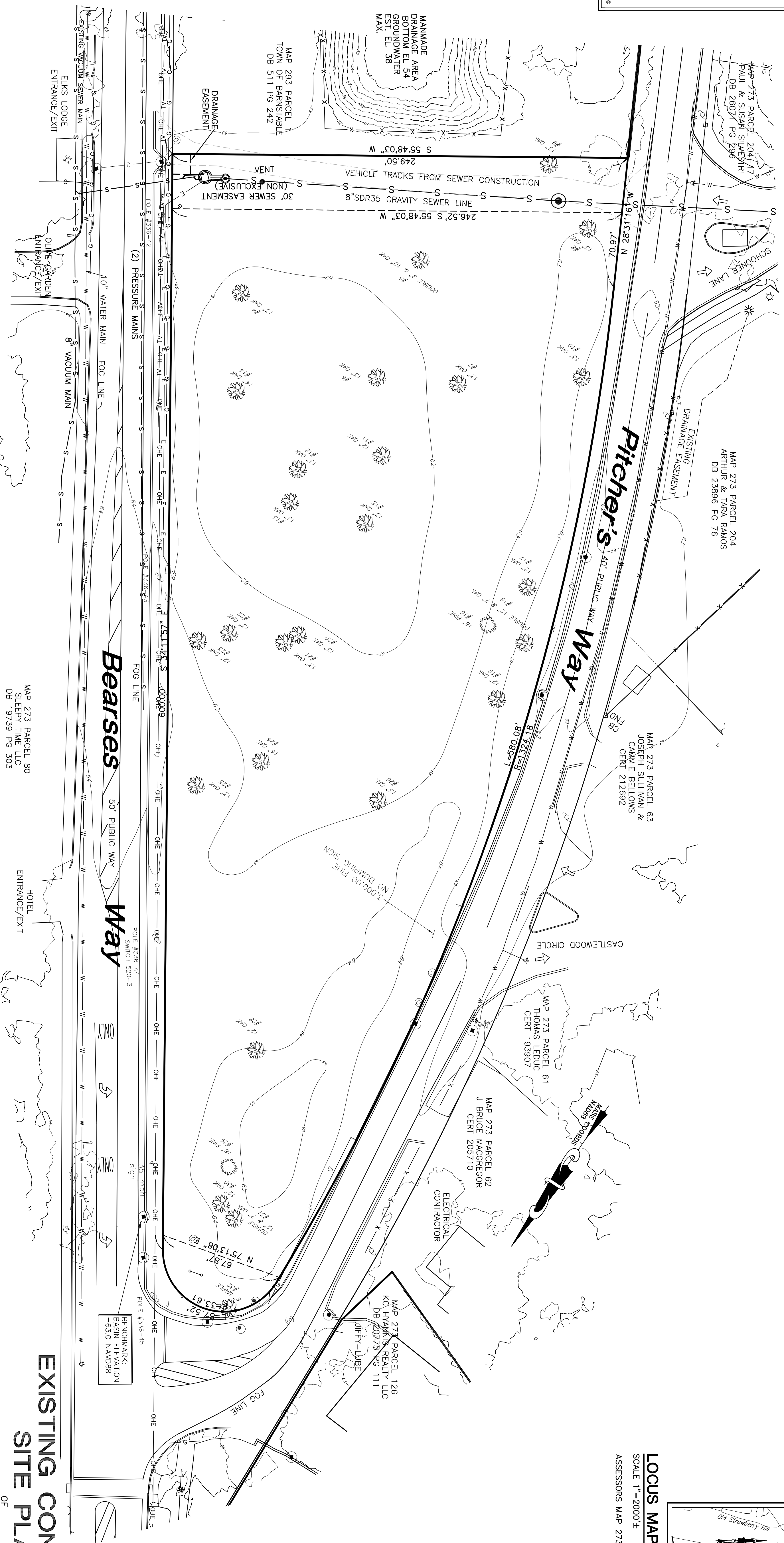


DANIEL A. OJALA, P.E., P.L.S. DATE 5-14-2020
PERMIT SET, NOT FOR CONSTRUCTION

C001
SHEET 1 OF 6



LEGEND	
99	EXISTING CONTOUR
X 99.7	EXIST SPOT ELEV.
-199.3	PROPOSED CONTOUR
[88.4]	PROPOSED SPOT EL.
TH	TEST HOLE
CB	CATCH BASIN
UP	UTILITY POLE
FP	FIRE HYDRANT
PL	PROPOSED LIGHT
MANHOLE	MANHOLE
WS	WATER SHUTOFF
GW	GUY WIRE
○	SIGN
W	WATER LINE
G	GAS LINE
—	OVERHEAD ELECTRIC
NOTE: NOT ALL SYMBOLS MAY APPEAR IN DRAWING	

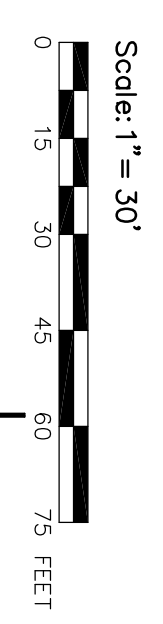


LOCUS MAP
SCALE 1"=2000'
ASSESSORS MAP 273 PARCEL 123

**EXISTING CONDITIONS
SITE PLAN**

**#1174 PITCHER'S WAY
HYANNIS, MA**
PREPARED FOR
WINDMILL SQUARE LLC

DATE: 4-21-2020
REV. 5-14-2020 (SPR COMMENTS)



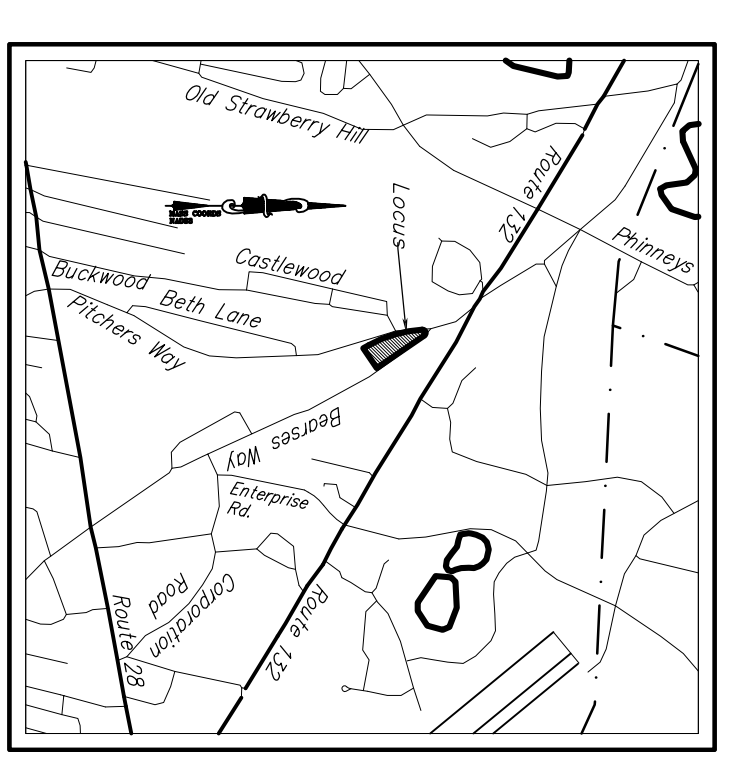
COMMERCIAL ENGINEERING
DANIEL A. OJALA
No. 40990
REGISTERED PROFESSIONAL ENGINEER
MASSACHUSETTS
5-14-2020
DATE
DANIEL A. OJALA, P.E., P.L.S.
PERMIT SET, NOT FOR CONSTRUCTION

**C100
SHEET 2 OF 6**

down cape engineering, inc.
civil engineers
land surveyors
939 Main Street (Rte 6A)
YARMOUTHPORT MA 02675
tel 508-382-4541
fax 508-382-9880
downcape.com

LEGEND	
— 99 —	EXISTING CONTOUR
X 39.1	EXIST. SPOT ELEV.
— [98.4] —	PROPOSED CONTOUR
(98.4)	PROPOSED SPOT EL.
TH1	TEST HOLE
⊙	CATCH BASIN
⊙	UTILITY POLE
⊙	FIRE HYDRANT
⊙	PROPOSED LIGHT
⊙	MANHOLE
⊙	WATER SHUTOFF
⊙	CITY WIRE
⊙	IRON
— W —	WATER LINE
— G —	GAS LINE
— OH —	OVERHEAD ELECTRIC

NOTE: NOT ALL SYMBOLS MAY APPEAR IN DRAWING.



LOCUS MAP
 SCALE 1"=2000'-L
 ASSESSORS MAP 273 PARCEL 123

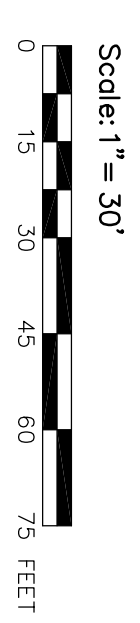
ZONING SUMMARY

ZONING DISTRICT:	REQUIRED:	PROPOSED:
DISTRICT: B	REQUIRED:	113522 S.F. ±
MIN. LOT SIZE	20'	20'
MIN. LOT FRONTAGE	20'	20'
MIN. FRONT SETBACK	20'	20'
MIN. SIDE SETBACK	—	—
MIN. REAR SETBACK	—	—
MAX. BUILDING HEIGHT	30'	30'
MAX. IMPERVIOUS AREA	50%	44.1% (50,079 S.F.)
MIN. NATURAL STATE	50%	38.7%* (43,960 S.F.)

PARKING CALCULATIONS:
 RETAIL: 12,695 S.F. (1/200 S.F.F.) = 64 SPACES
 STORAGE: 6,155 S.F. (1/700 S.F.F.) = 9 SPACES
 TOTAL = 73 SPACES REQUIRED
 60 SPACES PROVIDED INCLUDING 4 HANDICAP SPACES
 60/8 = 8 TREES REQUIRED, 10+ TREES PROVIDED

LAYOUT OF #1174 PITCHER'S WAY SITE PLAN
 OF WINDMILL SQUARE LLC
 PREPARED FOR
#1174 PITCHER'S WAY HYANNIS, MA
 WINDMILL SQUARE LLC

DATE: 4-21-2020
 REV. 5-14-2020 (SPR COMMENTS)

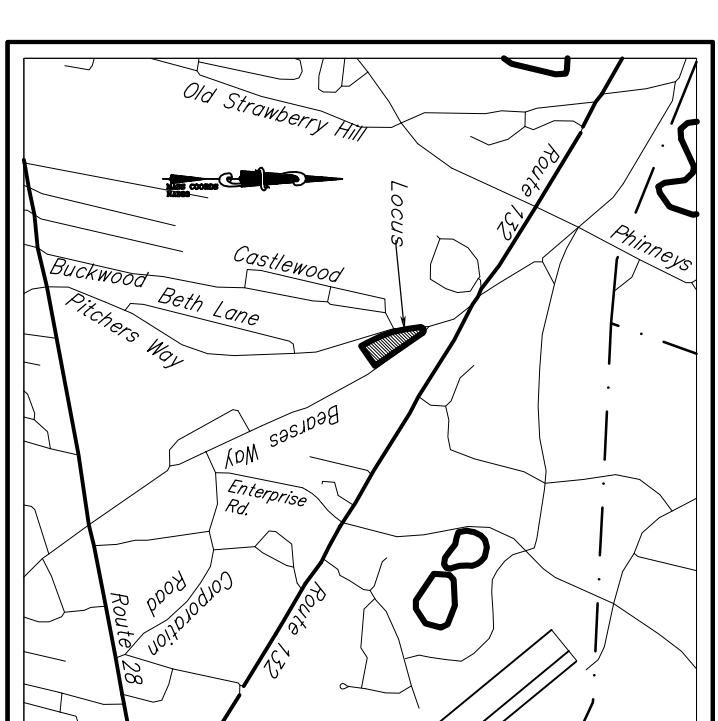
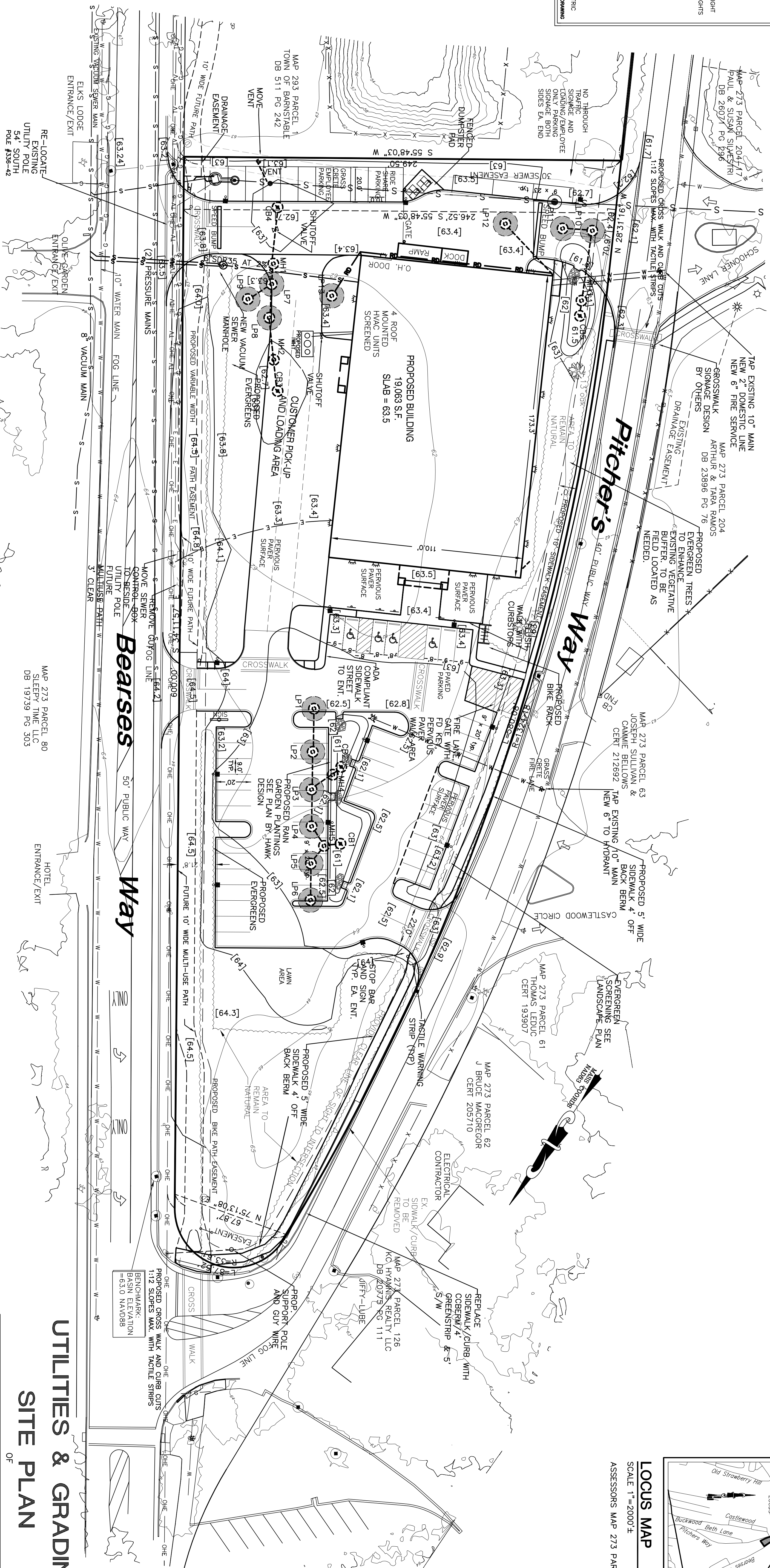


C200 SHEET 3 OF 6

down cape engineering, inc.
 civil engineers
 land surveyors
 939 Main Street (Rte 6A)
 YARMOUTHPORT MA 02675
 508-882-4841
 downcapeng.com

DANIEL A. OVALA, P.E., P.L.S.
 5-14-2020 DATE
 PERMIT SET, NOT FOR CONSTRUCTION

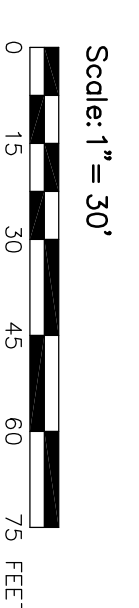
LEGEND	
99	EXISTING CONTOUR
X 99.1	EXIST. SPOT ELEV.
[99]	PROPOSED CONTOUR
[98.4]	PROPOSED SPOT EL.
TH	TEST HOLE
○	CATCH BASIN
○	UTILITY POLE
○	FIRE HYDRANT
○	PROPOSED BLUE LIGHT
○	PROPOSED POLE LIGHTS
○	MANHOLE
○	6x6' LIFT
○	WATER SHUTOFF
○	CLAY WIRE
○	SIGN
○	ROOF DRAIN LINE
○	SEWER LINE
○	WATER LINE
○	GAS LINE
○	ONE
○	OVERHEAD ELECTRIC
NOTE: NOT ALL SYMBOLS MAY APPEAR IN DRAWING	



LOCUS MAP
SCALE 1" = 2000' ±
ASSESSORS MAP 273 PARCEL 123

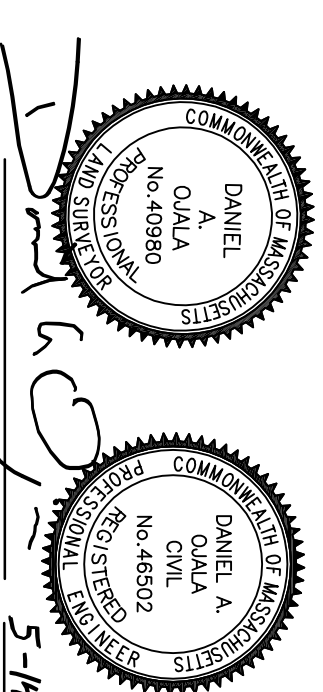
**UTILITIES & GRADING
SITE PLAN**
OF
**#1174 PITCHER'S WAY
HYANNIS, MA**
PREPARED FOR
WINDMILL SQUARE LLC

DATE: 4-21-2020
REV: 5-14-2020 (SPR COMMENTS)

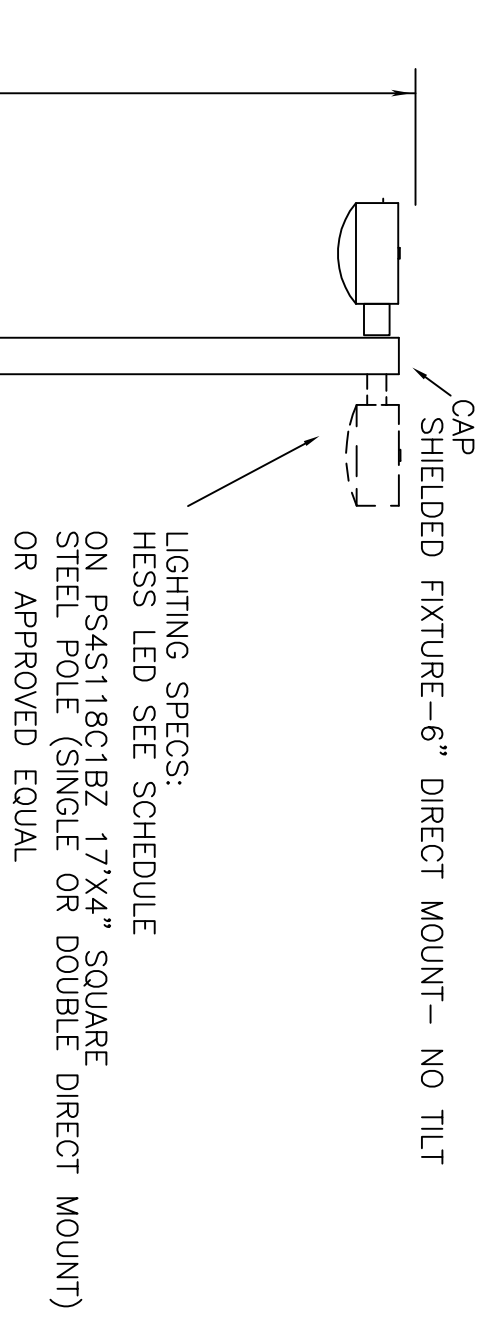


C300
SHEET 4 OF 6

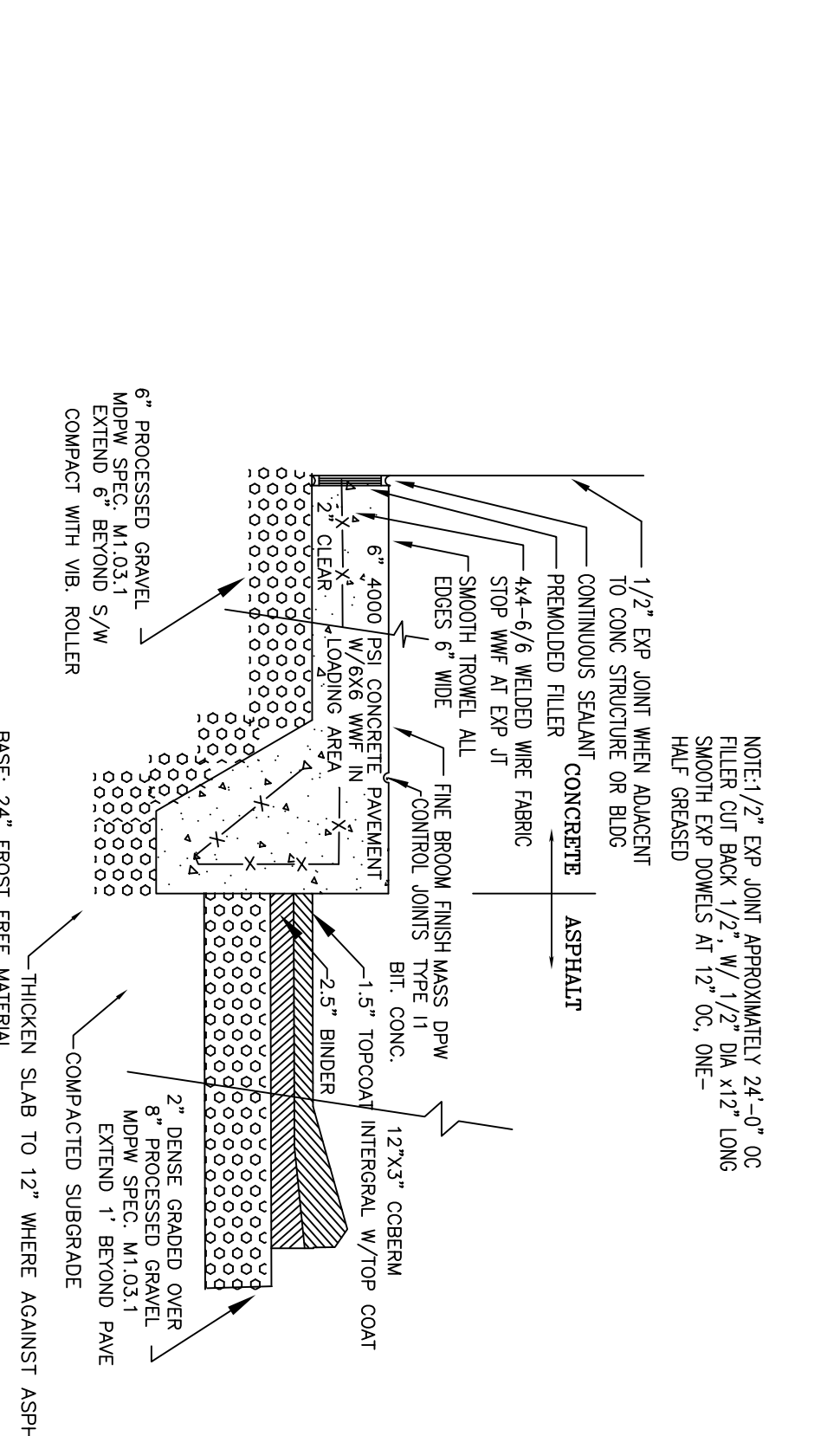
down cape engineering, inc.
civil engineers
and surveyors
939 Main Street (Rte 6A)
YARMOUTHPORT MA 02675
Tel: 508-362-4541
Fax: 508-362-8860
downcape.com



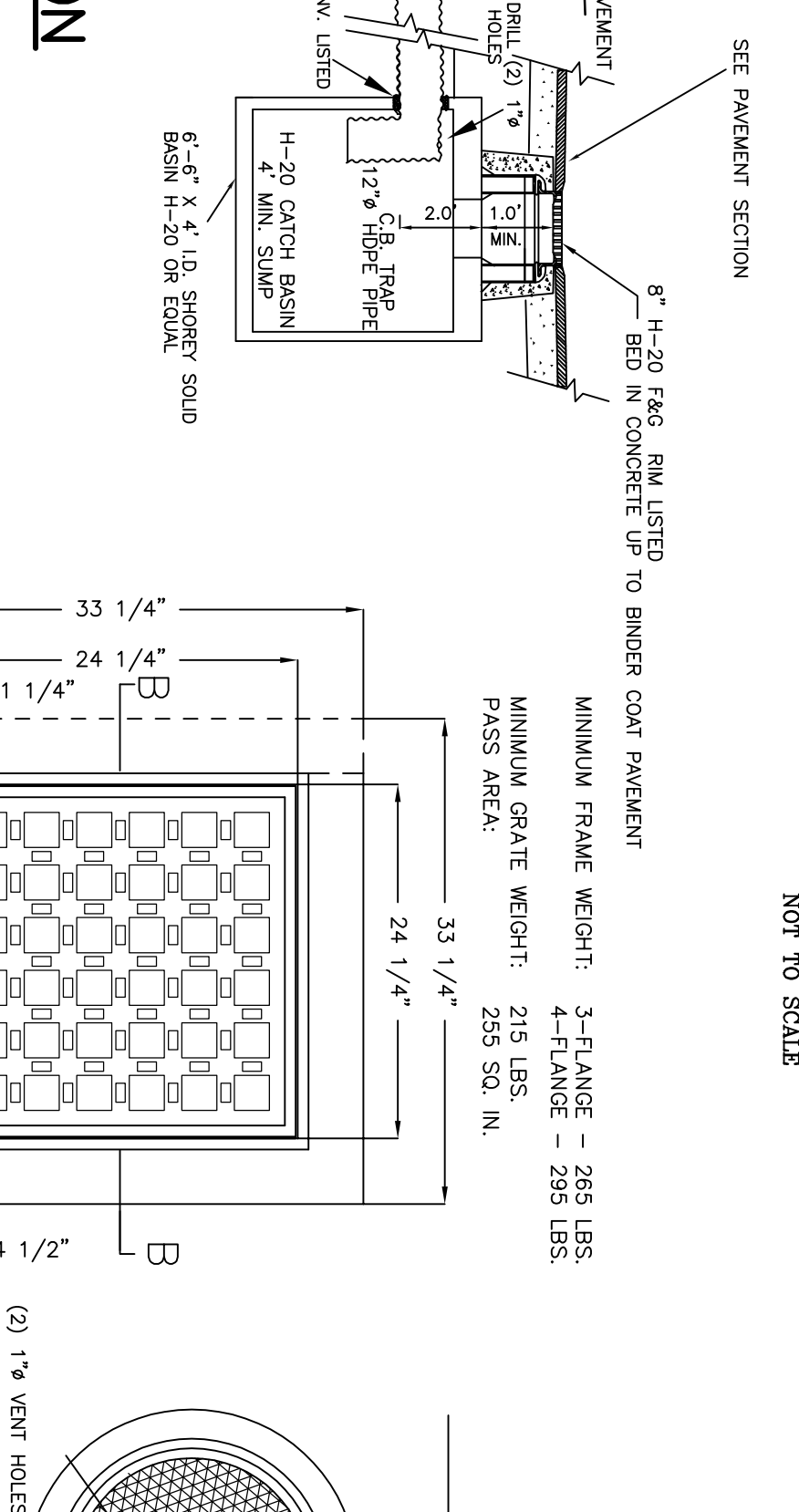
DANIEL A. OJALA, P.E., P.L.S. DATE: 5-14-2020
PERMIT SET, NOT FOR CONSTRUCTION



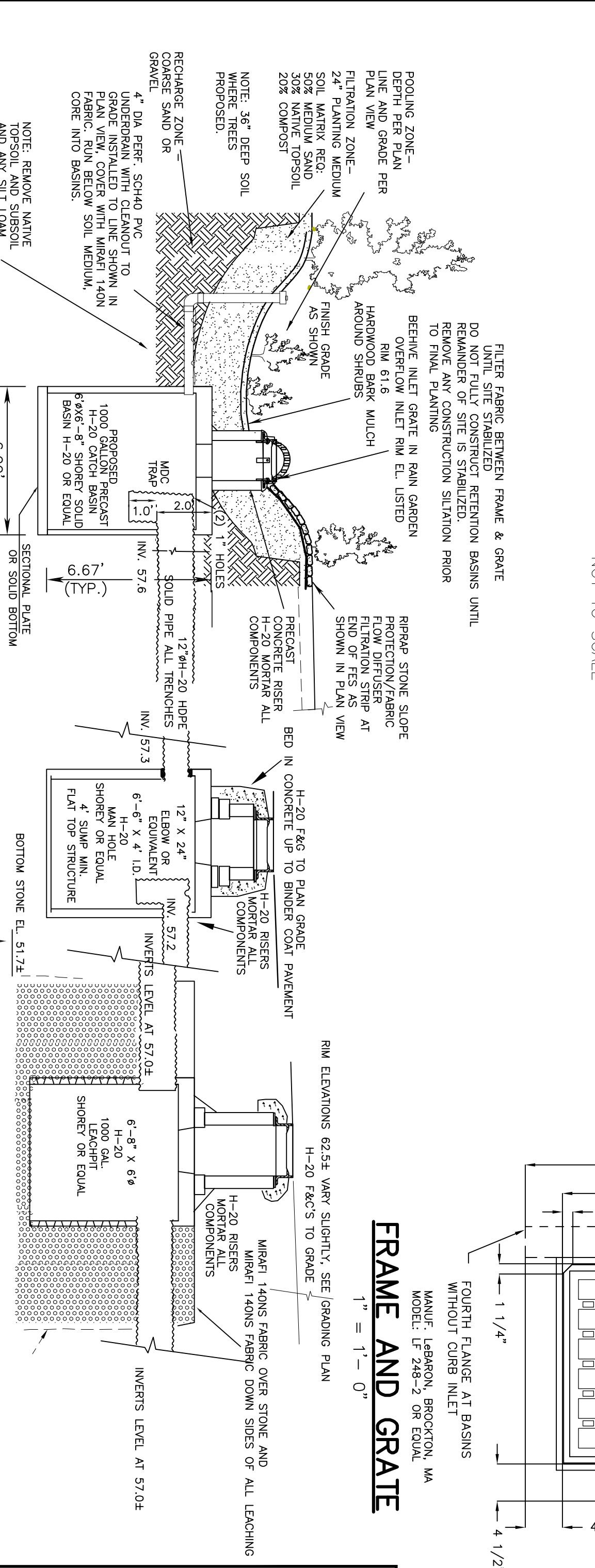
BRICK PAVERS SECTION
NOT TO SCALE



CONC. S/W & PAVEMENT CROSS SECTIONS
NOT TO SCALE

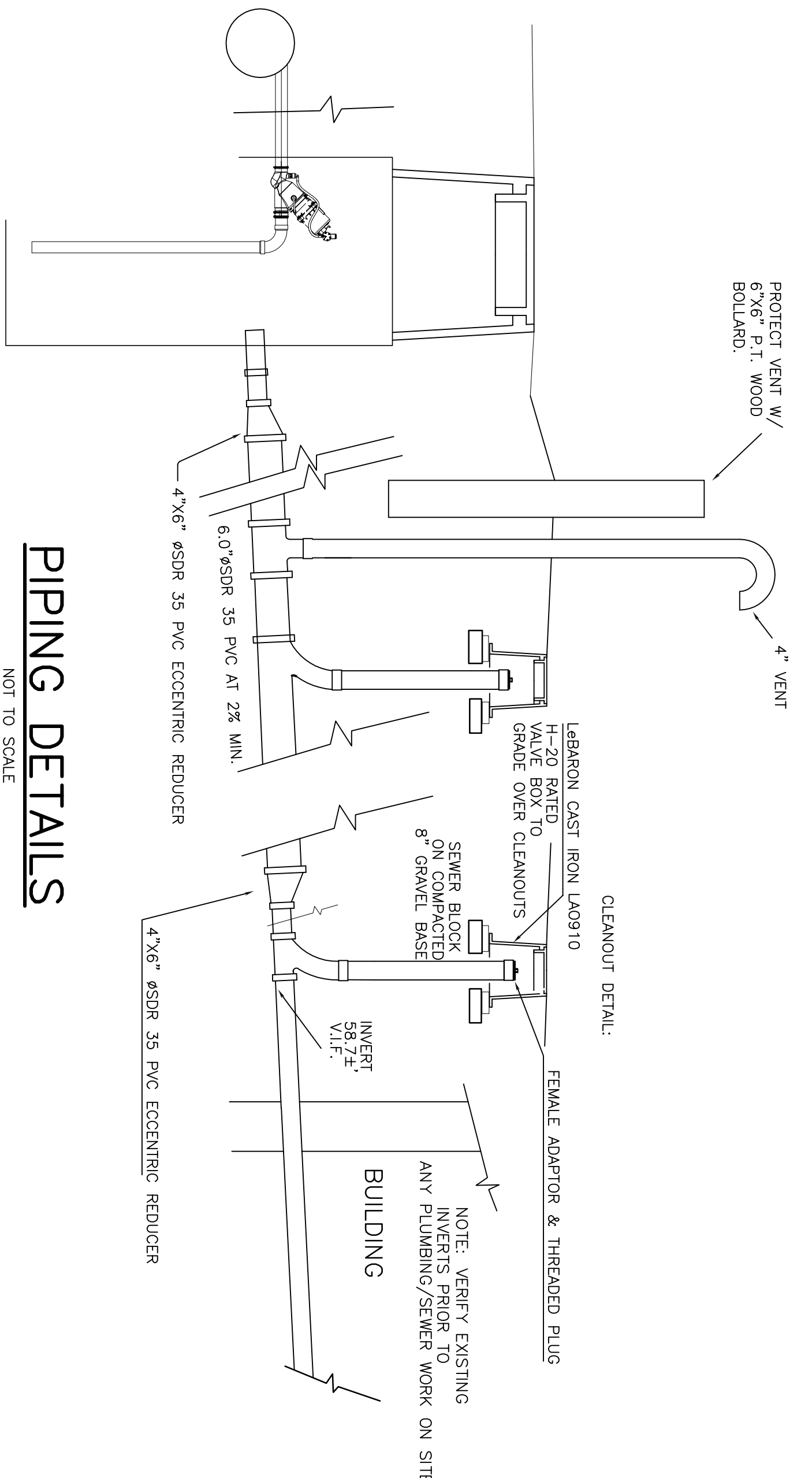


DRAINAGE CROSS SECTION
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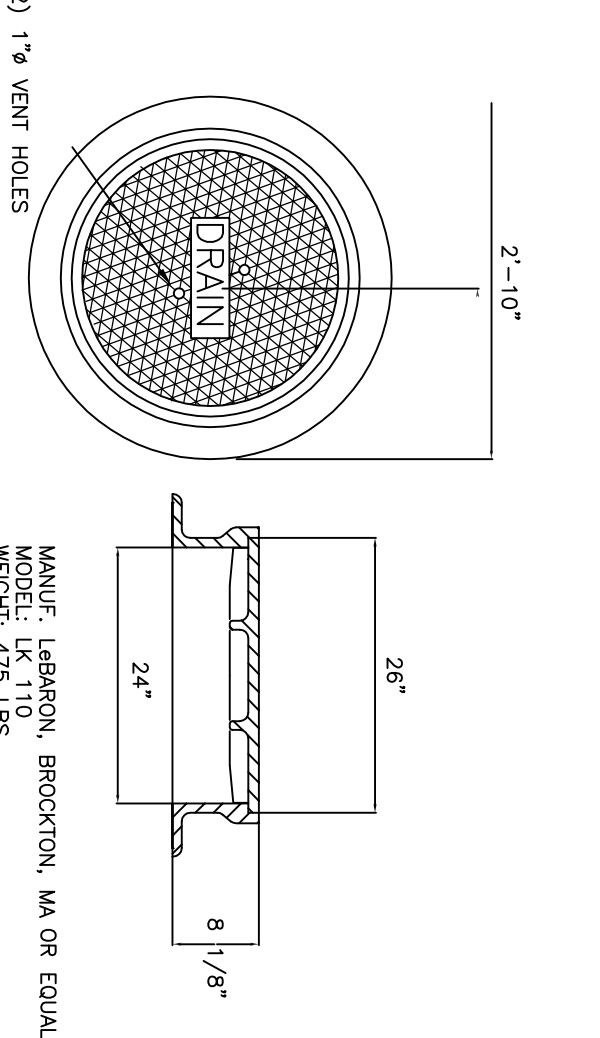


W/OVERFLOW CATCH BASIN
NOT TO SCALE

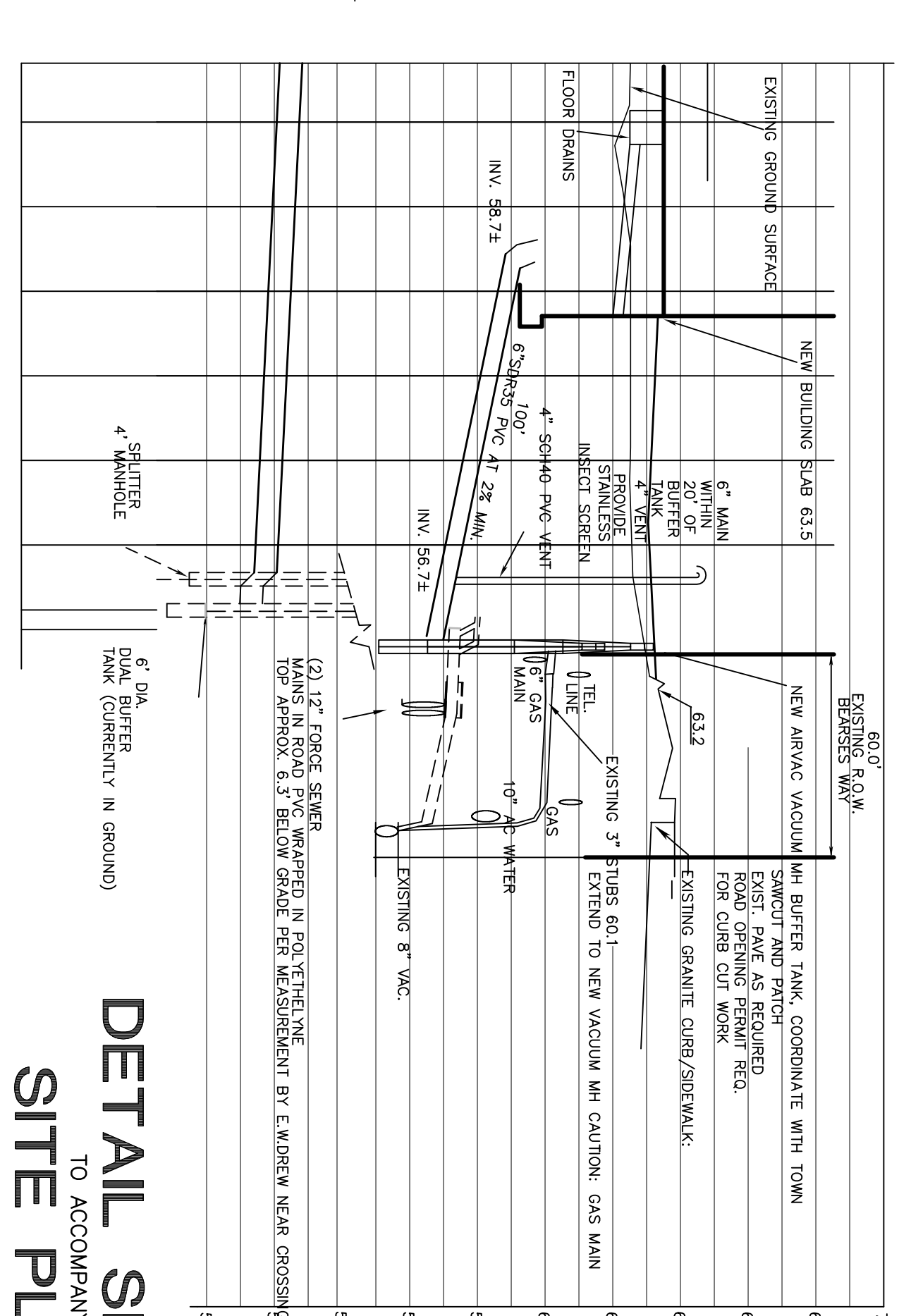
STORMWATER INFILTRATION LEACH PIT
NOT TO SCALE



PIPING DETAILS
NOT TO SCALE



TYPICAL ACCESS COVER
SCALE: 3/4" = 1'-0"



SEWER CONNECTION PROFILE
1'-40" HZ 1" = 4" VERTICAL

DETAIL SHEET
TO ACCOMPANY
SITE PLAN
OF
#1174 PITCHER'S WAY
HYANNIS, MA
PREPARED FOR
WINDMILL SQUARE LLC

DATE: 4-21-2020
REV. 5-14-2020 (SPR COMMENTS)

GENERAL NOTES:

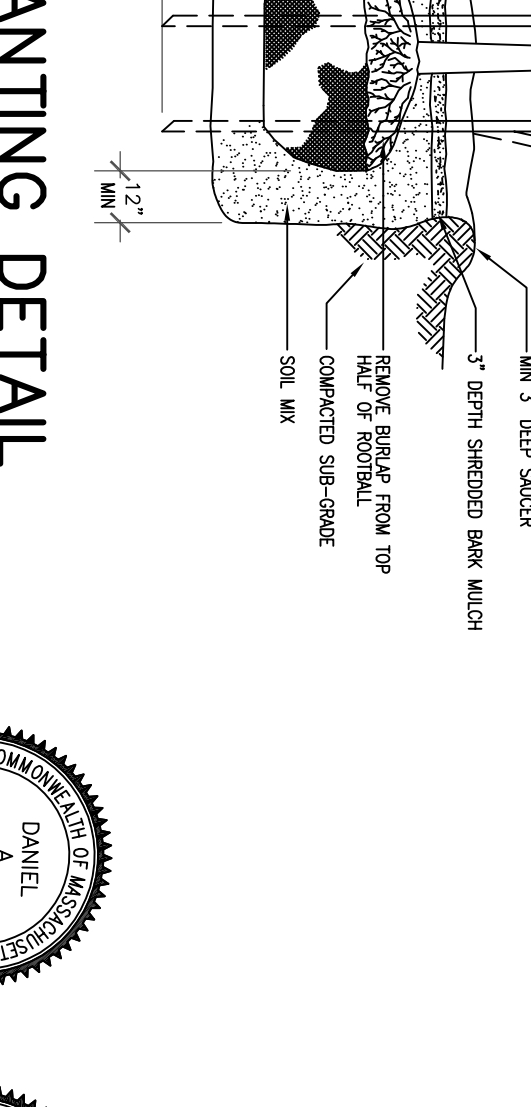
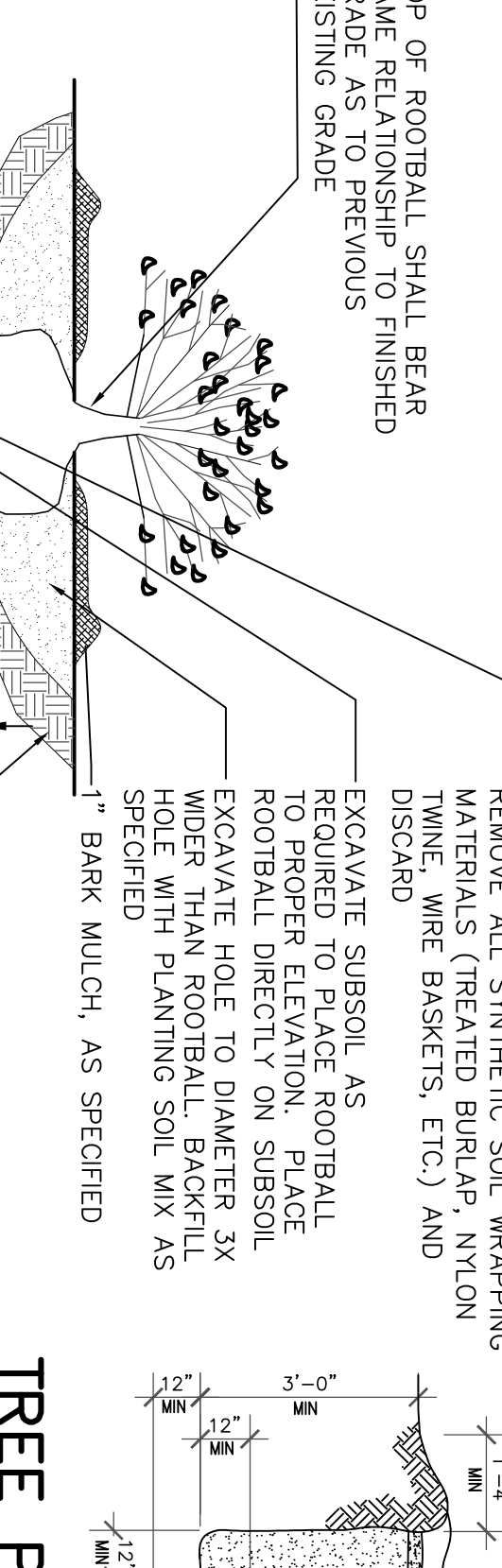
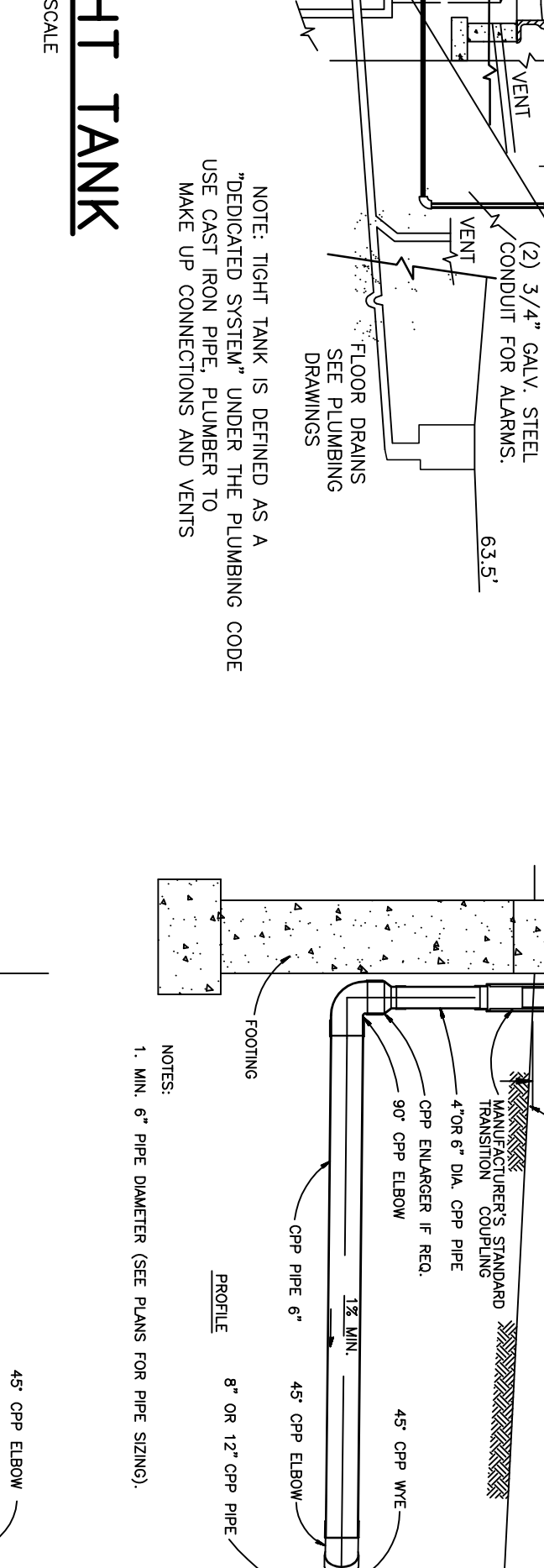
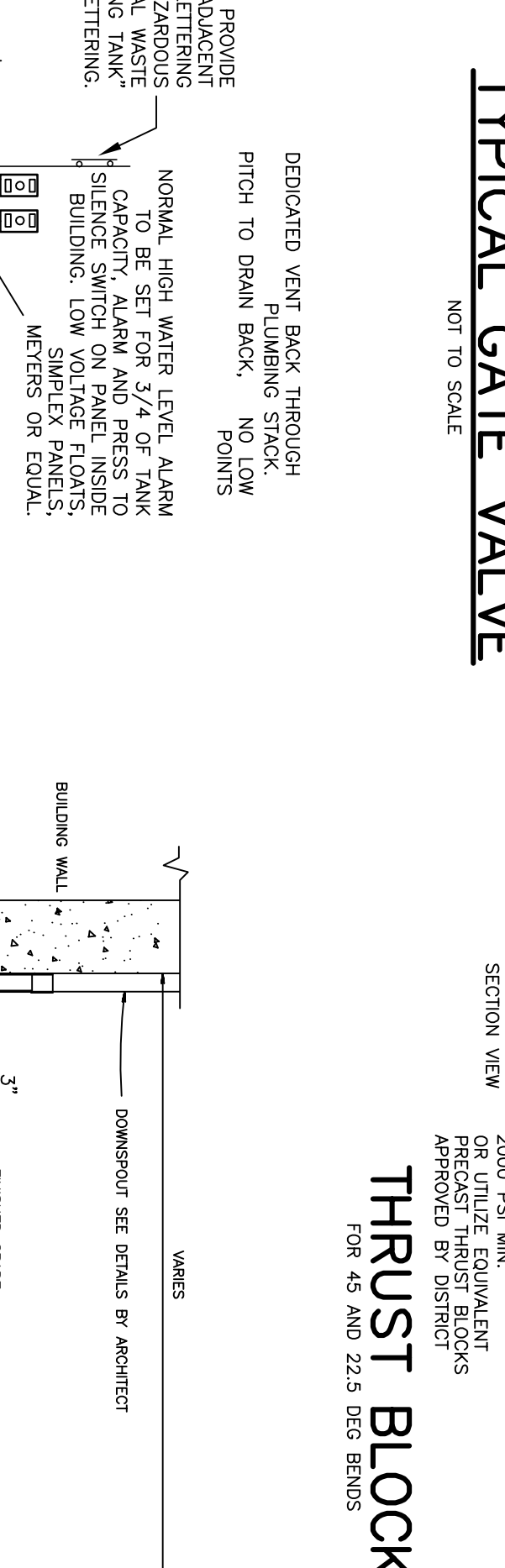
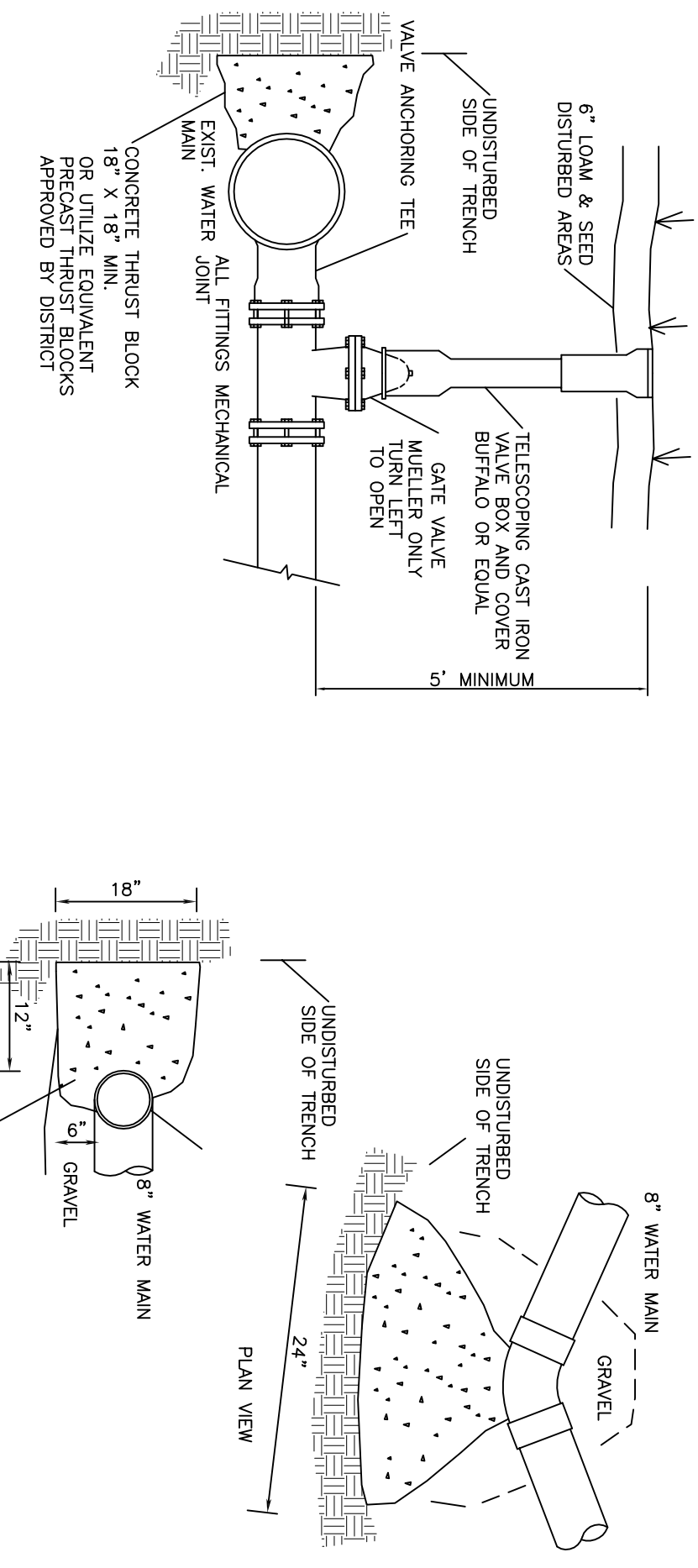
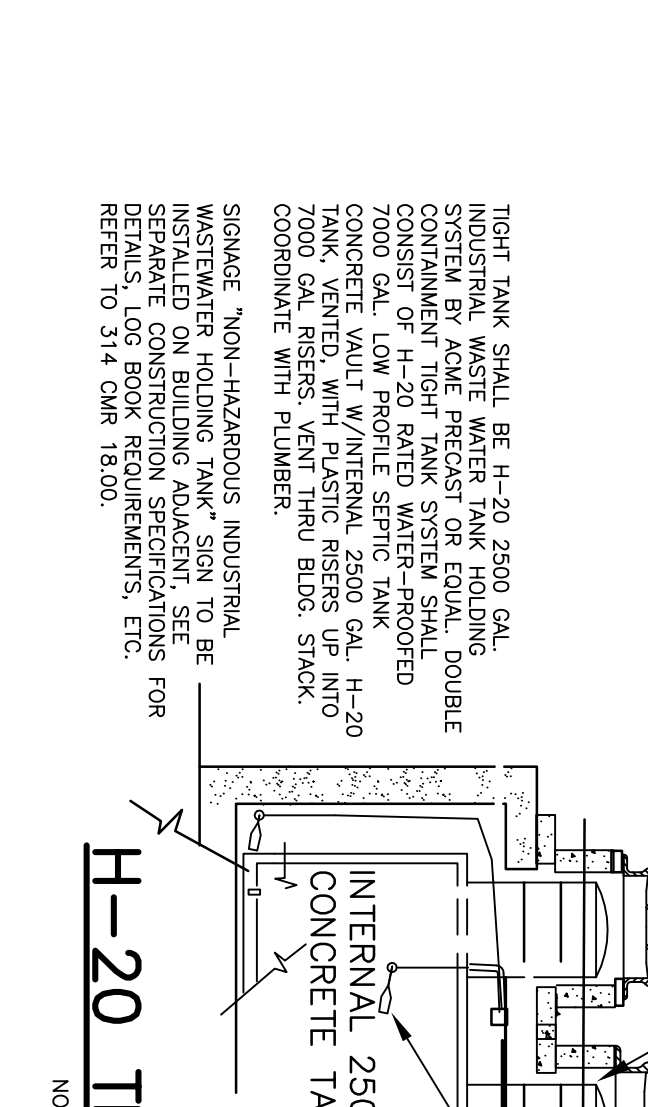
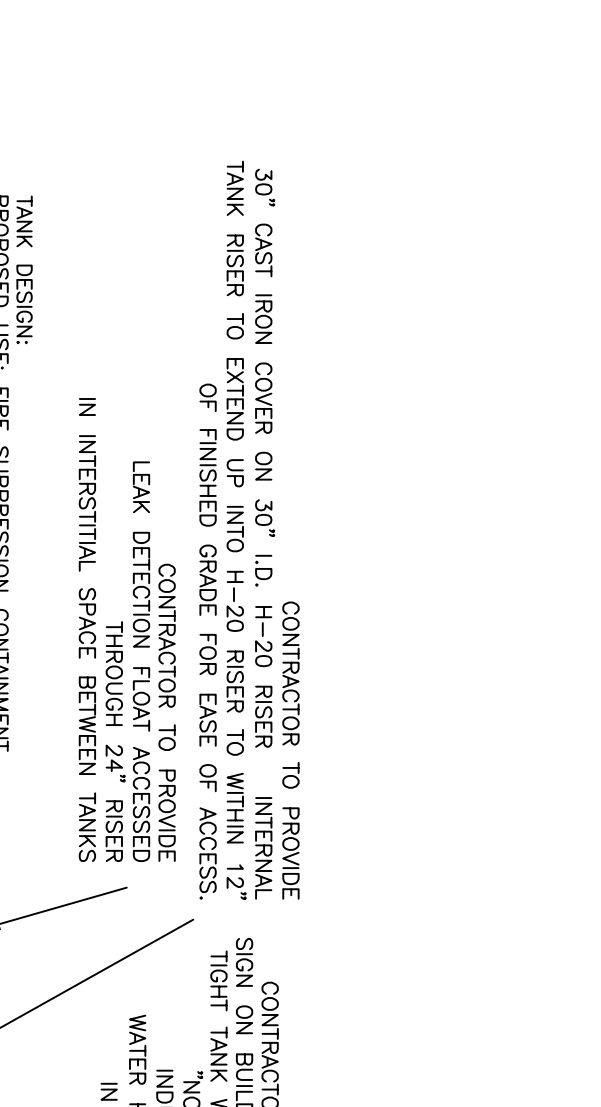
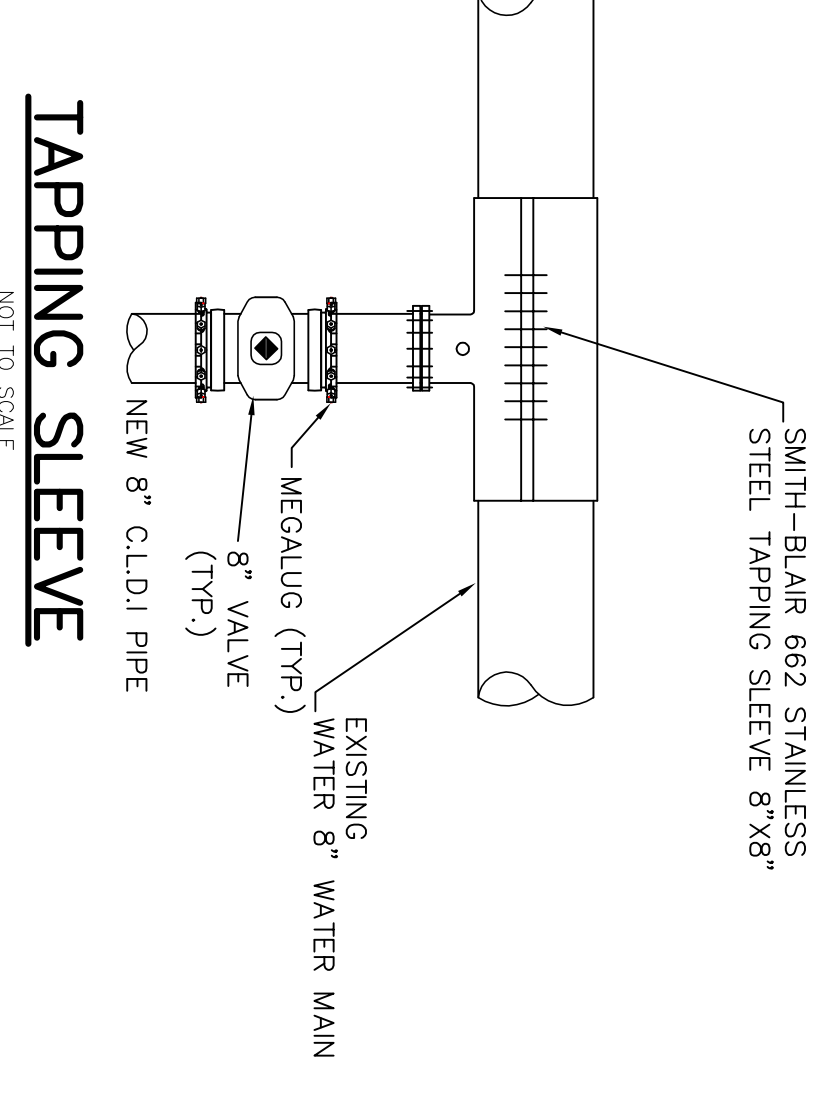
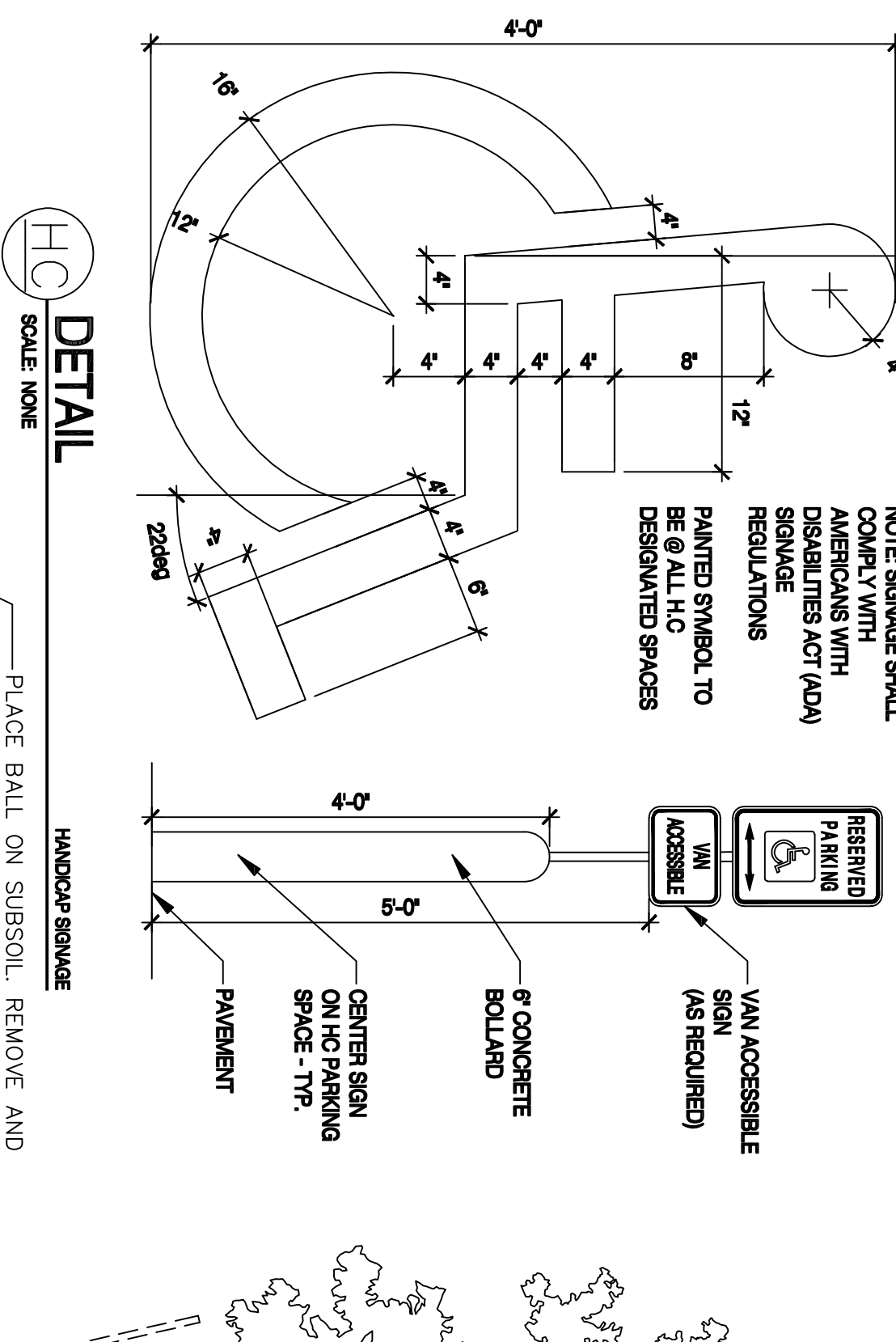
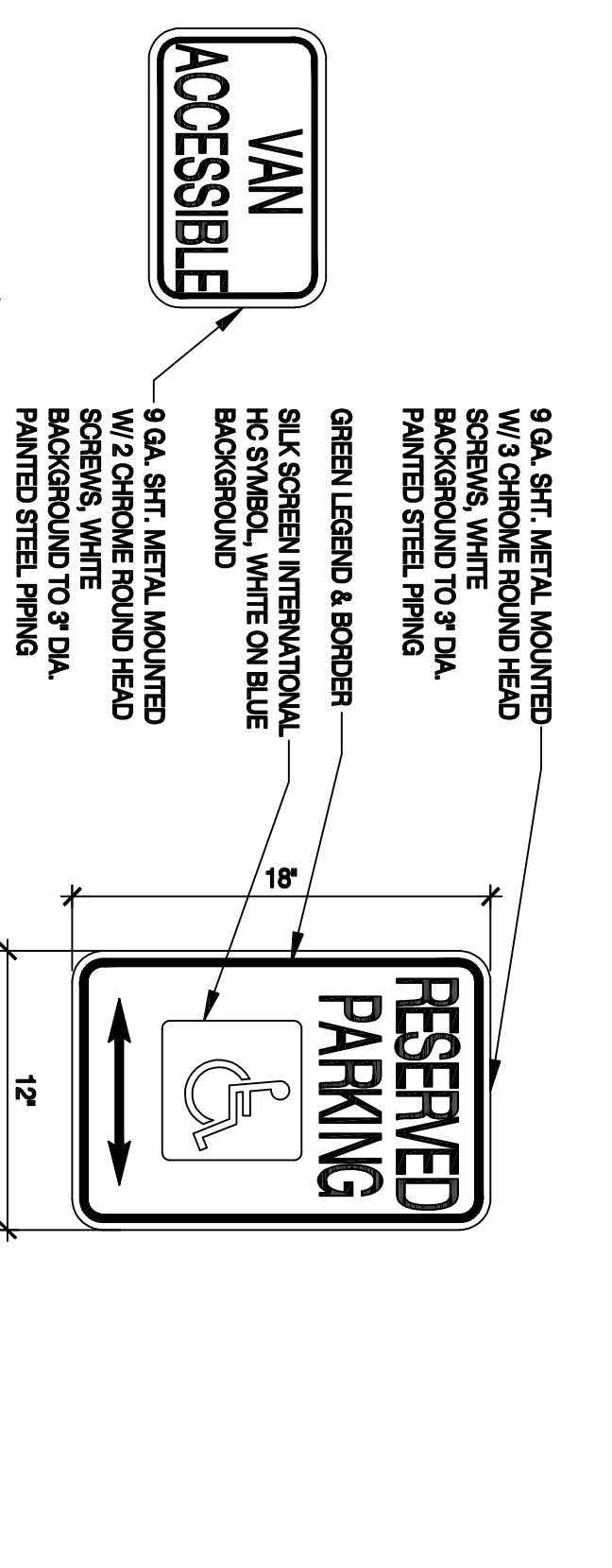
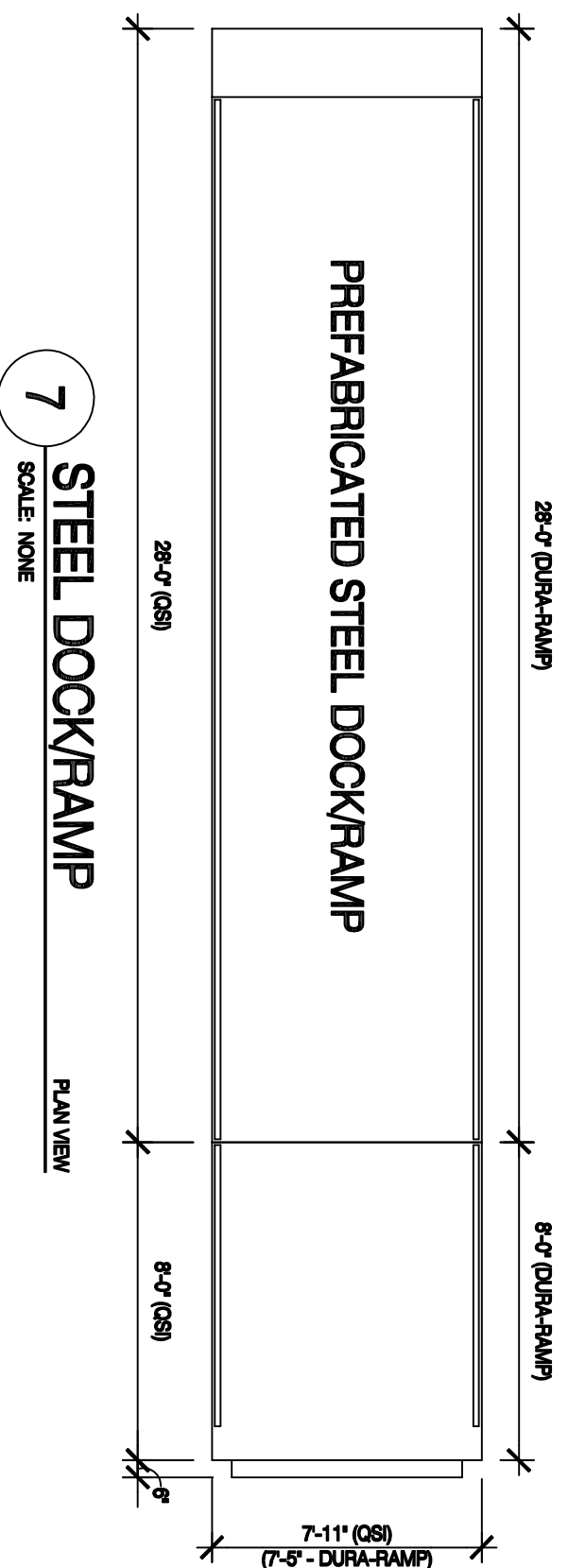
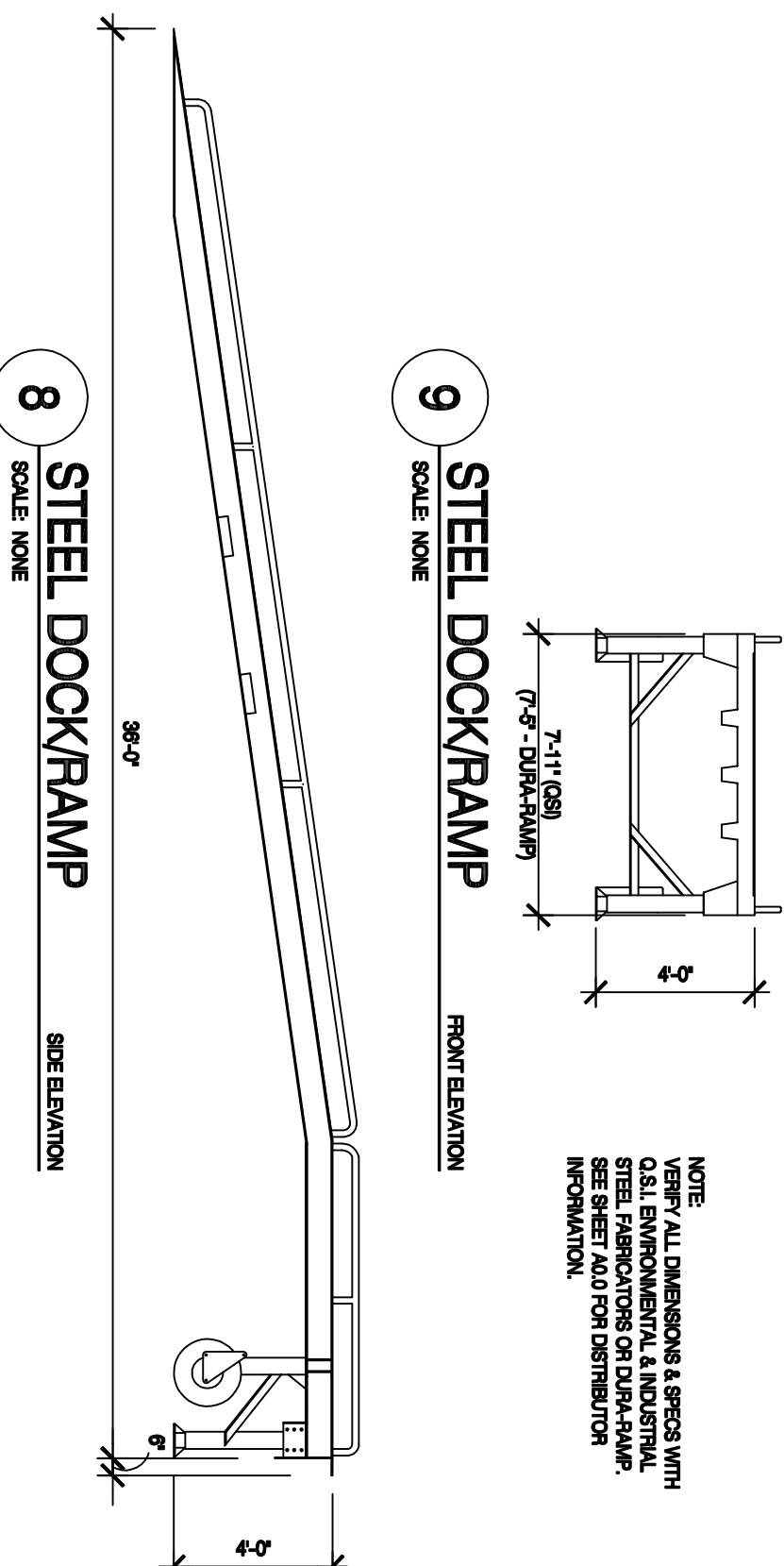
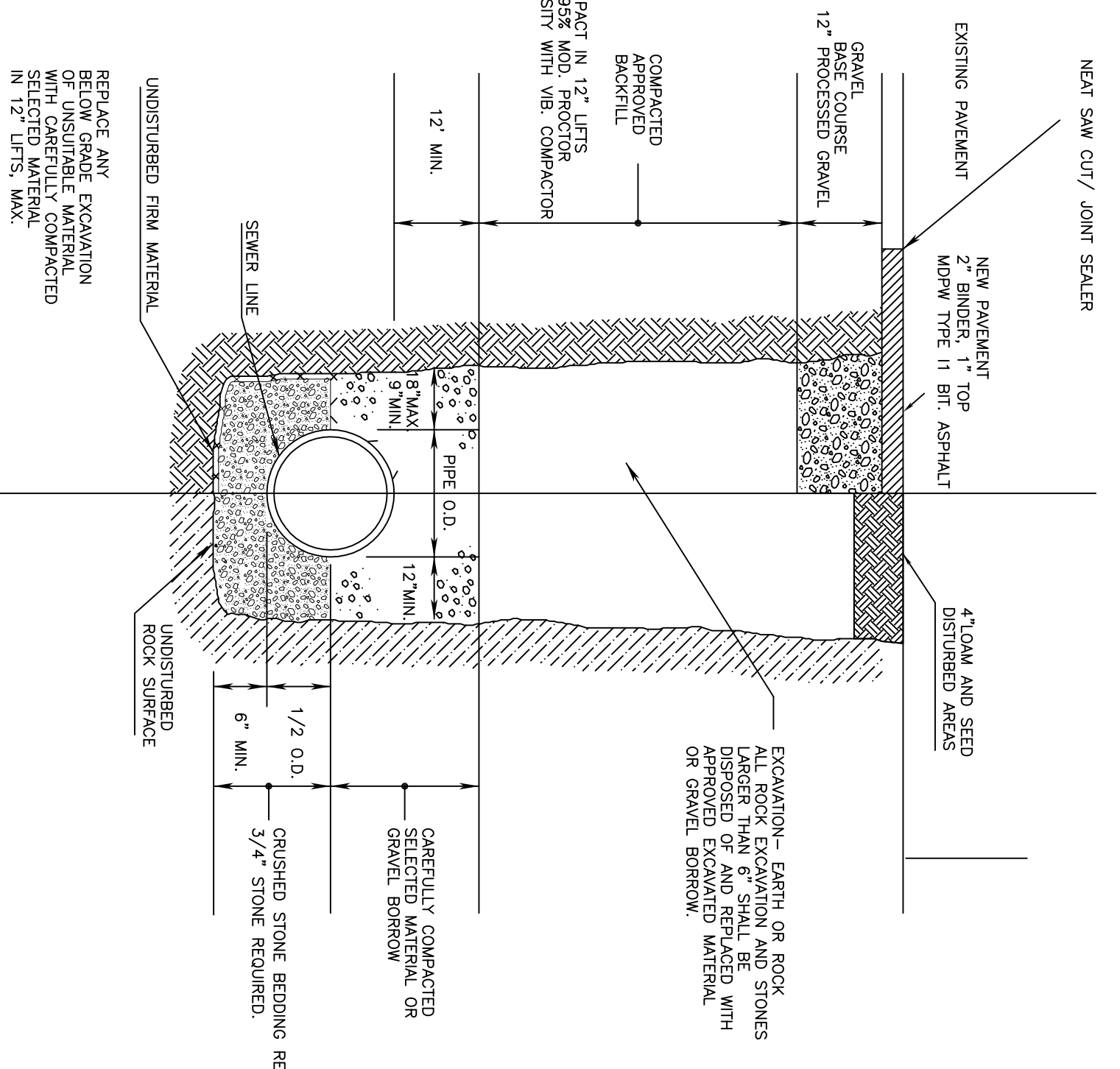
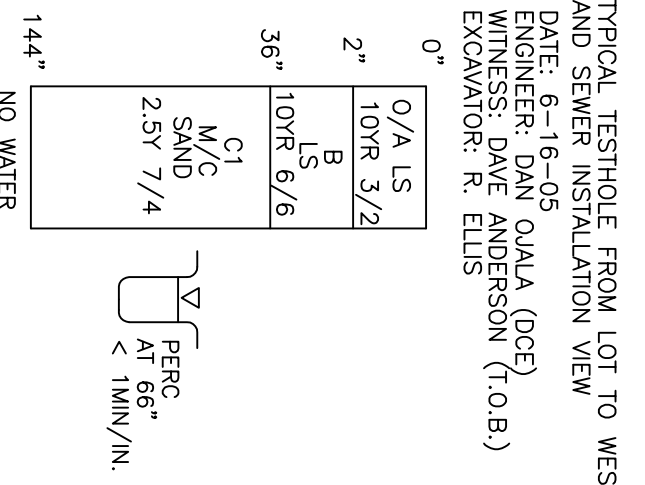
1. THE LOCATION OF EXISTING UNDERGROUND UTILITIES SHOWN ON THIS PLAN IS APPROXIMATE. PRIOR TO ANY EXCAVATION WORK, THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES BY SHIELDING SURVEY TO THE DEPTH OF 11'-888-344-2233 OR 817) AND ANY OTHER UTILITIES WHICH MAY HAVE CABLE, PIPE OR EQUIPMENT IN THE CONSTRUCTION AREA FOR VERIFICATION OF LOCATIONS.
2. ALL CONSTRUCTION MATERIALS, COMPONENTS, AND METHODS EMPLOYED ON THIS PROJECT WORK SHALL CONFORM TO THE TERMS OF BARNSTABLE SUBDIVISION REGULATIONS AND/OR THE MASSACHUSETTS DEPARTMENT OF PUBLIC WORKS STANDARD SPECIFICATIONS FOR BRIDGES AND HIGHWAYS AS AMENDED TO PRESENT.
3. VERTICAL DATUM IS NAVD88
4. ON-SITE TOPOGRAPHY AND DETAIL FROM AERIAL AND FIELD SURVEY BY DOWN CAPE ENGINEERING.
5. DESIGN LOADING FOR ALL PRECAST UNITS TO BE MSHTO-H20 UNLESS NOTED.
6. THIS PLAN IS FOR PROPOSED PERMITTING ONLY AND IS NOT TO BE USED FOR PROPERTY LINE STAKING OR ANY OTHER PURPOSES.
7. ALL SITE LIGHTING SHALL NOT CAUSE GLEARE FOR MOTORISTS, PEDESTRIANS, OR NEIGHBORING PREMISES. SEE LIGHTING PLAN.
8. 6" LOAM AND SEED ALL DISTURBED AREAS NOT PAVED, M6.03.0 SEED.
9. DRAINAGE COMPONENTS NOT TO BE ACQUIRED OR CONCEALED WITHOUT INSPECTION BY OWNER'S ENGINEER AND PERMISSION OBTAINED.
10. ALL DRAINAGE PIPING: 12" H-20 CPP AT 1% PITCH UNLESS NOTED.
11. COMPACT CLEAN FILL IN 6" LIFTS TO 95% MODIFIED PROCTOR DENSITY.
12. SEPARATE WRITTEN SPECIFICATIONS FOR FURNITURE AND STEELWORK WILL APPLY. STEELWORK NOT TO BE FILED. CONSTRUCTION PERIOD CONTROLS AND STRESS ARE TO BE INCORPORATED INTO THESE PLANS BY REFERENCE.

WATER LINE NOTES:

1. ALL UTILITIES AND WORKMANSHIP TO CONFORM TO THE RULES, REGULATIONS AND SPECIFICATIONS OF THE MASSACHUSETTS DEPARTMENT OF PUBLIC WORKS AS AMENDED TO PRESENT. DISTRICT HAS AUTHORITY TO REVISIONS.
2. WATER MAINS TO BE CLASS 3 8" CEMENT LINED DUCTILE IRON PIPE TO DISTRICT SPECIFICATIONS.
3. GATE VALVE SHALL BE MALLEABLE ONLY, IRON BODY, BRONZE MOUNTED DOUBLE DISC, WITH TWO NON-OPERATING NOT WITH STRENGTHENED JOINT SHALL BE DESIGNED FOR 250 PSI WORKING AND 500 PSI TEST PRESSURE AND SHALL OPEN LEFT.
4. VALVES SHALL ALSO CONFORM TO THE SPECIFICATIONS OF THE AWWA AS TO SIZE, STEEL, FINISH, GASKET SEATING AREA SHALL BE FULLY MAINTAINED TO THE FIXED DIMENSIONS AND TOLERANCES AS PER AWWA SPECIFICATIONS. ALL VALVES SHALL BE PROVIDED WITH 10" RINGS. THE DESIGN OF THE UNDER PRESSURE IN THE FULLY OPEN POSITION SHALL BE FITTED WITH NEW 10" RINGS WHILE THE VALVE IS UNDER PRESSURE. THE VALVE SHALL BE FITTED WITH NEW 10" RINGS WHILE THE VALVE IS UNDER PRESSURE. THEY SHALL BE CAST IRON, PAINTED, SLIDING TYPE ADJUSTABLE VALVE BOXES TOGETHER WITH CAST IRON COVERS. SEE DISTRICT REGULATIONS.
5. HANNIS WATER SYSTEMS APPROVED CONTRACTOR AND INSPECTOR REQUIRED.
6. CONTRACTOR RESPONSIBLE FOR AS-BUILTS AND PLOTTING SAME ON ENGINEERED DRAWING AND SUBMITTING TO WATER DEPT. FOR THEIR RECORDS.

WATER AUTHORITY:

T.O.B. DPW- WATER SUPPLY DIVISION
 Hons Kaiser Supervisor
 P.O. Box 326 #47 Old Yarmouth Road
 Hyannis, MA 02601-0326
 PH. 1-508-775-0063
 FAX 1-508-790-1313



DETAIL SHEET TO ACCOMPANY #1174 PITCHER'S WAY OF HYANNIS, MA WINDMILL SQUARE LLC

DATE: 4-21-2020
 REV. 5-14-2020 (SPR COMMENTS)



DANIEL A. OALA, P.E., P.L.S. DATE PERMIT SET, NOT FOR CONSTRUCTION



PRINCI MILLS LAW PC

300 Barnstable Road, Hyannis, Massachusetts 02601
Telephone: (508) 775-1160 • Fax: (774) 810-7122
www.princimills.com

Robert F. Mills
rmills@princimills.com
Michael J. Princi
mprinci@princimills.com

Gerald S. Garnick (Of Counsel)
ggarnick@princimills.com

May 11, 2020

Hand Delivered

Town of Barnstable
Ann Quirk
Records and Access Officer
367 Main Street
Hyannis, MA 02601

Re: Variance Application – Windmill Square, LLC
Property Location: 1174 Pitcher’s Way, Hyannis, MA
Project: Tractor Supply

Dear Clerk Quirk:

I hope this letter finds your family, colleague, friends, and you healthy.

With respect to the above captioned matter, I enclose the Application Package for Variance for your date stamp. I have a copy for your records. Please stamp the Original cover letter to the ZBA and the Application with today’s date and time of delivery.

Thank you in advance for your cooperation and assistance.

If you should have any questions please feel free to contact me or my assistant, Aimee.

Very truly yours,

PRINCI MILLS LAW PC

Michael J. Princi, Esq.

20 MAY 15 P 3:39

BARNSTABLE
TOWN CLERK

MJP:alu
Application package copy

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MAY 18 2020

ZONING BOARD OF APPEALS



**Town of Barnstable
Zoning Board of Appeals
Application for a Variance**

Date Received
Town Clerk's Office:

For office use only:

Appeal # _____
Hearing Date _____
Decision Due _____

The undersigned hereby applies to the Zoning Board of Appeals for a Variance, in the manner and for the reasons set forth below:

Applicant's Name:¹ Windmill Square, LLC, Phone: 508-775-9316

Applicant's Address: 297 North Street, Hyannis, MA 02601

Property Location: 1174 Pitcher's Way, Hyannis, MA 02601

Property Owner: Windmill Square, LLC, Phone: 508-775-9316

Address of Owner: 297 North Street, Hyannis, MA 02601

If petitioner differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed Book 28991, Page 315 Plan _____

Assessor's Map/Parcel Number: 273 / 123 Zoning District: Business B - Chapter H Economic Center

Number of Years Owned: _____ Groundwater Overlay District: GP Overlay District

Variance Requested: Section 240-35F(2)(u) and (v); Section 240-53; Section 240-53(B); and Section 240-56
Cite Section & Title of the Zoning Ordinance

Description of Activity/Reason for Request: See attached

Attach additional sheet if necessary

Does the property have any existing Variance or Special Permit issued to it? No [X] Yes []

Permit #: _____

¹ The Applicant's Name will be the entity to whom the variance will be issued to.

² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

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Application for a Variance - Page 2

Existing Level of Development of the Property - Number of Buildings: None ZONING BOARD OF APPEALS

Present Use(s): Vacant Land

Existing Gross Floor Area: N/A sq. ft. Proposed New Gross Floor Area: 19,072 sq. ft.

Site Plan Review Number: #032-19 Date Approved: _____ (not required for Single or Two Family use)

- Is the property located in a designated Historic District?..... Yes [] No [X]
- Is this proposal subject to the jurisdiction of the Conservation Commission Yes [] No [X]
- Is this proposal subject to approval by the Board of Health Yes [X] No []
- Is the building a designated Historic Landmark?..... Yes [] No [X]

- Have you applied for a building permit?..... Yes [] No [X]
- Have you been refused a building permit?..... Yes [] No [X]

The following Required Information, as applicable to application, must be submitted with the application at the time of filing. Failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: Michael J. Lynch Date: 05/11/2020
Attorney for Applicant
Applicant or Representative's Signature³

Print Name Stuart A. Bornstein

Address: 297 North Street Phone: 508-775-9316

Hyannis, MA 02601 Fax No.: _____

e-mail Address: tbusby@hollymanagement.com

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Petitioner, a letter authorizing the Representative to act on behalf of the Petitioner shall be required.

Tractor Supply ZBA Application for Variance

Owner - Windmill Square, LLC

Property 1174 Pitcher's Way
Hyannis, Massachusetts 02601

2.8 ± acres

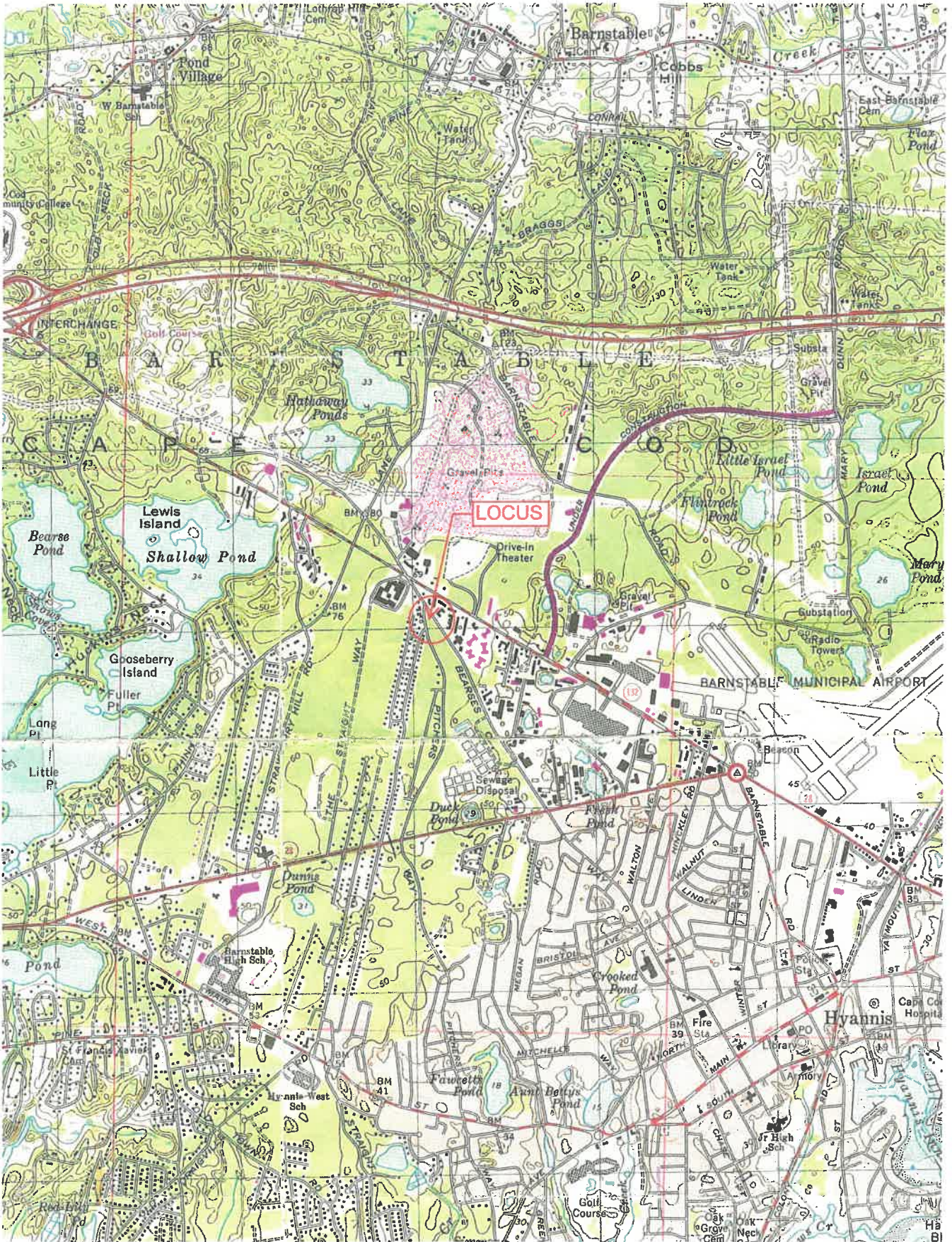
Business B District
Growth Incentive Zone
Economic Center

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ZONING BOARD OF APPEALS





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MA 13-029

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MAY 18 2020

Project Description and Design Narrative

Opening Statement. Applicant intends to construct as a matter of right a retail business known as “Tractor Supply” pursuant to a Site Plan Review # 032-19 Approval, which is attached as **Exhibit A**. The site is serviced by Town sewer and water. The Variance Application seeks relief from landscape setbacks, parking requirements, and the sale of retail petroleum products and fertilizers.

If the Variance is approved, the Applicant will provide two substantial easements as shown on the proposed plan - a bike path/all-purpose easement on Pitcher’s Way and sidewalk easement on Bearse’s Way. The Town requested the easements, which in part necessitate the Applicant’s request to reduce landscape buffers by 2’ on the West side and the number of parking spaces from 73 to 60. The parking relief allows the Applicant to create more open space, the pervious pick up area, and two easements. The traffic study attached supports the Applicant’s position that Tractor Supply is a low impact retail store and that the variance of 13 spaces will not impact or derogate from the intent of Section 240-56.

With respect to the requested variances under Section 240-35F (2) (u) and (v), Tractor Supply, as a retail farming oriented store will sell fertilizer, small retail quantities of liquid petroleum products (kerosene and certain lubricants).

The Site Plans, **Exhibit B**, include the Existing Condition Plan, a detailed Landscape Plan, building plans, elevation plans, and the layout of the floor drains and retention tank were approved by Site Plan Review. The Town’s adoption of Chapter H (approved by the Cape Cod Commission) permits as a matter of right construction of a 20,000 sq. ft. building.

Tractor Supply is a national specialty retailer and considered a low traffic generator, selling mechanical parts, mowers, agricultural and farm products, landscaping equipment, fencing, etc. and boasts itself as a “lifestyle” retail company selling mostly specialty products to the farm community and those looking to sell sustainable horticultural products such as fruit trees, edible plants, and farming products. The lifestyle customers are landowners with acreage, farms, equine facilities, livestock, and the like. Formed in 1938, the company focused on selling agricultural supplies to farmers, but presently offers some of the same products offered by hardware stores and home centers. The proposed building is an improvement on current big box stores.

Tractor Supply’s mission statement states: “Work hard, have fun and make money by providing legendary service and great products at everyday low prices”. Core products are as follows:

- Equine, livestock, cat and small animal products including items necessary for their health, care, growth and containment. (44% of total sales)
- Hardware, truck, towing, and tool products. (22% of total sales)

- Seasonal products, including lawn and garden items, power equipment, gifts and toys. (20% of total sales)
- Maintenance products for agricultural and rural use.
- Work/recreational clothing and footwear. (9% of total sales)
- Other agricultural products (5% of total sales)

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MAY 18 2020

ZONING BOARD OF APPEALS

Tractor Supply hires and trains within the local community and boasts a pay scale at or above the average pay scale for similar jobs in the area. Typically, Tractor Supply provides medical and dental plans, sales training, and other competitive benefits, including 401(k) retirement plans, employee stock purchase plans, annual sales bonuses, monthly store bonuses, and competitive wages.

History of Site: The site is in a B District, an Economic Incentive zone, and GP Overlay District. The Hyannis Fire District formerly owned the site and planned to build a new Hyannis Fire Station, which, if built, would by necessity store HAZMAT and Petroleum products. If that building had been built, it would have housed all of the department vehicles, fire trucks, equipment, firefighting materials, offices, barracks, etc. for the Hyannis Fire District, the storage of fuel and petroleum products, fire-fighting solvents, and other HAZMAT materials. The Applicant purchased the Fire District Pitcher’s Way site at full value in a competitive bid process and sold the Fire District its present site under-market.

The Applicant performed substantial due diligence with Town officials and Site Plan Review in preparing and presenting this proposed development and variance request. In good faith and in mitigation of the petroleum variance requests, the Applicant removed thousands of gallons of petroleum from an off-site location to offset the introduction of small quantities of retail, liquid petroleum, household products and materials to be sold by Tractor Supply by entering into an agreement with the former of Savon Gas Station on 326 West Main Street, Hyannis, MA (See Agreement and Assessor’s Map attached as **Exhibit D**) and then permanently removed gasoline tanks totaling 30,000 gallons from a ground water protection location in Hyannis. While not available for offset, in recent years this Applicant removed forty thousand (40,000) gallons of gasoline from old Texaco Site on Route 132 (now Town Fair Tire), also in the GP District.

Business Abutters (also in the GP District) to the proposed Development are Jiffy Lube, NAPA Auto Parts and Cumberland Farms Gas Station. See Google Map attached as **Exhibit E**. The applicant designed the building with floor drains and a 2500 gal tight holding tight tank to prevent any petroleum products from entering the groundwater even in the event of a catastrophic occurrence where all containers released at the same time.

Under Section 240-35 (F) (2)(u), the storage of liquid petroleum products contemplated for

resale by Tractor Supply may require relief. Exception 1 excludes products sold for normal household use and outdoor maintenance or heating of a structure. Tractor Supply sells kerosene and lubricating oils relating to farm or farm-oriented household use and activities. Tractor Supply will also sell fertilizer and will need relief from 240-35 (F) (2) (v). Attached as **Exhibit F** is a summary of petroleum products sold by Tractor Supply. Tractor Supply has a detailed protocol for handling of HAZMAT, generated, sold, or stored in their stores and will provide a detailed Emergency Response Plan as requested by Site Plan. (See Tractor Supply HAZMAT Disposal Program, HAZMAT Disposal Protocol, and Contract with Safety-Kleen all attached as **Exhibit G**). Attached as part of **Exhibit B** is the floor plan showing the drains and 2500 gallon tank.

The Building. The proposed building will be one (1) story and enclosed 19,072 gross square feet of interior space. See **Exhibit H** for floor plan and elevations. The building is designed to accommodate roughly 8-10 employees, approximately 20-30 customers and/or guests at peak hours. The Site Plans lays out in detail the location of the building, pick up areas, and parking. (**Exhibit B**)

In locating the building to the southerly side of the lot, the Applicant retained significant natural vegetation located at the northerly apex where Bearse’s Way and Pitcher’s Way meet and screening from the residential subdivisions to the west. The interior of the retail store will be on one (1) level as shown on the building design and site plans (**Exhibit H**).

Parking and Traffic Study. The Applicant initially designed the site to allow for the required parking of seventy-three (73); however, based upon an enhanced Landscape Plan, the pervious loading area, and the two easements to the Town, the Applicant is now 13 spaces short. The Traffic Study (Summary and Slides - **Exhibit C**) supports the reduced parking since the store is a low impact traffic site. Site Plan and the Building Commissioner support this relief. If the Applicant were to develop the site without variance relief, the permissible multiple uses would generate substantially more traffic than Tractor Supply and have substantially more pavement.

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Detailed Development and Site Statistics:

ZONING BOARD OF APPEALS

Total Site Area			
	Upland Area	2.6 acres	113,522 SF
	Wetland Area	0 acres	0 SF
Lot Coverage (structures)			
	Allowed	30.00%	34,056 SF
	Proposed	16.8%	19,072 SF
Impervious Coverage			
	Existing	0%	0 SF
	Allowed	50%	56,761 SF
	Proposed	44.1%	50,079 SF

Development Areas	See detailed calculation in the Opens Space section of the Response to the RPP		
Total Development	New Construction		
	First Floor	GSF	19,072 GSF
	Net Occupied Building Area		19,072 GSF
Parking and Paving	Existing across all sites	Per Site Plan and Building Commissioner 60 Spaces suitable	

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Conclusion. General Laws c. 40A, s 10 and the Town by-law authorizes the Board to grant a variance where it specifically finds
ZONING BOARD OF APPEALS

(a) that owing to circumstances relating to the soil conditions, shape, or topography of such land ... and especially affecting such land ... but not affecting generally the zoning district in which it is located,

(b) a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant,

(c) that desirable relief may be granted without substantial detriment to the public good and

(d) without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.” Warren v. Bd. of Appeals of Amherst, 383 Mass. 1, 9–10, 416 N.E.2d 1382, 1387–88 (1981)

The magnitude of the threat of harm to a potential abutter in relation to the threat of harm from a use permissible as of right by the applicant is a factor that may be considered. Marashlian v. Zoning Bd. of Appeals of Newburyport, 421 Mass. 719, 724, 660 N.E.2d 369, 373 (1996)

Here, the Applicant’s parcel is particularly odd shaped and development creates many challenges. Applicant has met the shape factor.

A literal enforcement of the sections for which the Applicant seeks relief would present substantial hardship if the Applicant were to develop the parcel with complete conformance to the Zoning By-law. The Applicant could develop three separate business sites with three engineering

costs, three architects, three sewer hook-ups, three construction sites, three separate tenants, more expensive buildouts, lower rents, and three separate tenants at substantial additional costs of development with a lower rate the rate of return than the single use, low impact, Tractor Supply. The Applicant estimates the costs of developing three separate and varied sites would be 30% higher than Tractor Supply. Additionally, national retailers are better quality, higher paying, more solvent tenants, who typically agree to long term leases, ensuring a higher and more secure rate of return. The current COVID crisis supports the potential hardship argument.

The Applicant paid top dollar for the site and needs to get the highest, most secure, and cost-effective return. The site is located next to the Town Sewage treatment plant, much less desirable than alternative sites. Given the availability of vacant business buildings already available in Hyannis and the susceptibility of smaller businesses, the Applicant would have difficulty finding tenants for the three separate buildings to pay the required rent over the long term. Even if tenants could be found, they will not have the financial strength of Tractor Supply to enter long term secure leases. Another hardship in building the three separate business sites is the substantial additional traffic. This will affect the abutters, including the Applicant, who owns the Holiday Inn across the street on Bearse's Way.

The relief sought would not be a detriment, substantial or otherwise, to the public good. Abutting the site are several high-volume sellers of petroleum products, who have not affected the GP District. The Applicant has agreed to install a 2500 gal holding tank to ensure complete containment in case of the remote possibility of a release of 100 % release of all petroleum products on site. As to the parking and landscape setback relief, the parking relief is justified by the parking study that shows the store as a low impact generator of traffic. The alternative and permissible development would generate substantially more traffic and have more impervious parking. Ironically, the permissible alternative to Tractor Supply would be a greater detriment to the public good. The two-foot relief from the landscape setbacks and the parking relief results from the Applicant providing the Town with two easements and additional vegetation. This relief enhances the public good and does not derogate from the intent of the by-law.

Respectfully submitted
By and Through Applicant's Counsel



Michael J. Princi, Esq. (BBO# 406680)
PRINCI MILLS LAW PC
300 Barnstable Road
Hyannis, MA 02601
Tele: (508) 775-1160
Fax: (774) 810-7122
mprinci@princimills.com

RECEIVED

MAY 18 2020

ZONING BOARD OF APPEALS

May 14, 2020

Page 7 of 7

EXHIBIT A



Town of Barnstable

Site Plan Review

200 Main Street, Hyannis, MA 02601

www.town.barnstable.ma.us

Office: 508-862-4679



May 15, 2020

Stuart Bornstein
297 North Street
Hyannis, MA. 02601

SPR 032-19 Tractor Supply Co.
1174 Pitchers Way, Hyannis
Map 273, Parcel 123
Zoning: B, GP Overlay

Proposal: Existing vacant lot to be improved with a 19,072 s.f. retail building. Proposed low impact site design including parking, lighting landscaping, and storm water control. Formal Site Plan Review and Zoning relief is needed for natural state coverage, quantities of hazardous materials, and buffer reductions to accommodate a future bike path/easement.

Dear Mr. Bornstein,

As a result of the informal site plan review meeting held on May 5, 2020 and subsequent written submittals (May 15, 2020 letter from Attorney Princi) it was determined by the Building Commissioner that the above proposal is approvable and may proceed to the Zoning Board of Appeals. The Site Plan Review Committee makes the following additional comments:

Review is based upon revised site plans entitled: 1174 Pitchers Way, Hyannis dated 05-14-2020

- **Brian Florence:**
 - The outside area depicted to the north of the parking as "pervious paver surface will be removed and shown as grass.
 - The Customer pick-up area will be used solely for customer pick-up and deliveries and not for display of merchandise.
 - Other areas available for outside display in the front of the building during business hours will not result in the applicant or the tenant exceeding 20,000 sq. ft. established under Chapter H.
 - Outside displays shall not exceed 937 sq. ft.
 - Project does not meet the parking requirements
- **Paul Wackrow:**
 - The project will require the following zoning relief:
 - Parking - the project is short, (60 versus 73 spaces)
 - Landscaping
 - GP overlay district - hazmat
 - Provide plyometric plan.
 - Easements to be completed as soon as litigation matter resolved.

Contact: Paul Wackrow, Senior Planner. Paul.Wackrow@town.barnstable.ma.us

- **Hyannis Fire:** Per Lt. Greg Shopshire
 - Add lockbox or padlock on the north corner gate.
 - Fire protection plan – alarm panel and sprinkler placement.Contact: Gshopshire@hyannisfire.org

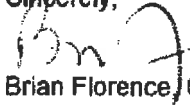
- **David Stanton:** Register Haz-Mat materials with the Board of Health.

- **Nathan Collins:**
 - Provide final sewer design work; coordinated through DPW.
 - Complete easement process as soon as possible. Contact: Nathan.Collins@town.barnstable.ma.us

- Applicant must obtain all other applicable permits, licenses and approvals required.

- Upon completion of all work, a registered engineer or land surveyor shall submit a certified "as built" site plan and a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Zoning Section 240-105 (G)). This document shall be submitted prior to the issuance of the final certificate of occupancy

Sincerely,



Brian Florence, CBO
Chairman

Cc: Site Plan Review Committee

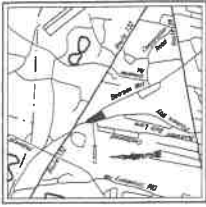
EXHIBIT B



TRACTOR SUPPLY COMPANY

Tractor Supply Company Site Construction Plans

1174 Pitchers Way,
Hyannis, MA 02601



LOCUS MAP

SCALE 1"=2000'

ASSESSORS MAP 273 PARCEL 123
ADDRESS: #174, PITCHER'S WAY, HYANNIS, MA 02601

ZONING SUMMARY

ZONING DISTRICT: B BUSINESS
PROPOSED: RC-1
FORMER: 113222 S.F.#
MIN. LOT SIZE: 20'
MIN. LOT FRONTAGE: 20'
MIN. LOT DEPTH: 20'
MIN. SIDE SETBACK: 20'
MIN. REAR SETBACK: 20'
MAX. BUILDING HEIGHT: 30'
MAX. IMPERVIOUS AREA: 50%
MIN. NATURAL STATE: 44.1%
54.4%
SITE IS LOCATED WITHIN THE CHRONOWATER PROTECTION CRITICAL DISTRICT
INCLUDES AREAS TO BE RE-VEGETATED, DOES NOT INCLUDE AREAS TO BE RE-VEGETATED, DOES NOT INCLUDE AREAS TO BE RE-VEGETATED, DOES NOT FLOODING X (NOT A FLOOD HAZARD ZONE)
SITE WITHIN ECONOMIC CENTER BOUNDARY

OWNER: WINDMILL SQUARE, LLC
1174 PITCHER'S WAY
HYANNIS, MA 02601

APPLICANT: WINDMILL SQUARE, LLC

EXISTING USE: VACANT
PROPOSED USE: RETAIL (TRACTOR SUPPLY CO.)

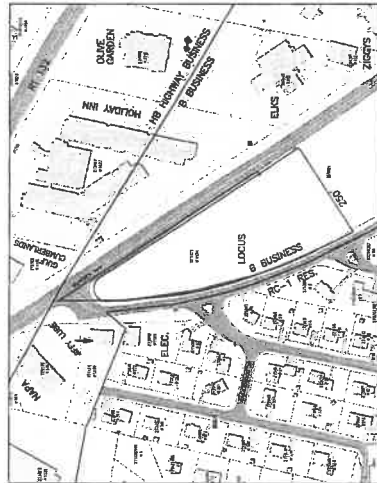
MAX. BLDG. HEIGHT: 2 STORES, 30' TO TOP PLATE
FRONT YARD LANDSCAPE SETBACK: 10' ALONG ROADS
SITE IS ON TOWN WATER (HYANNIS WATER SYSTEMS)
SITE IS ON TOWN SEWER (TOWN OF BARNSTABLE)



2014 AERIAL IMAGE TOWN OF BARNSTABLE GIS, N.T.S.



NORTH



TOWN GIS MAP: B (BUSINESS) ZONING DISTRICT
RC-1 RESIDENTIAL TO WEST
SITE WITHIN ECONOMIC CENTER BOUNDARY



NORTH

COVER SHEET SITE PLAN OF #174 PITCHER'S WAY HYANNIS, MA

PREPARED FOR

WINDMILL SQUARE LLC

DATE: 4-21-2020
REV. 5-9-2020 (SPR COMMENTS)

PLAN SHEET INDEX:

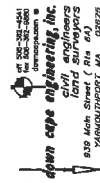
- C001 Cover Sheet
- C100 Existing Conditions Plan
- C200 Landscapel Layout
- C300 Utilities/Grading Plan
- C400 Civil Detail Sheet 1
- C401 Civil Detail Sheet 2



DANIEL & DANA, P.E., P.L.L.C. DATE: 5-5-2020
PRINT SET, NOT FOR CONSTRUCTION

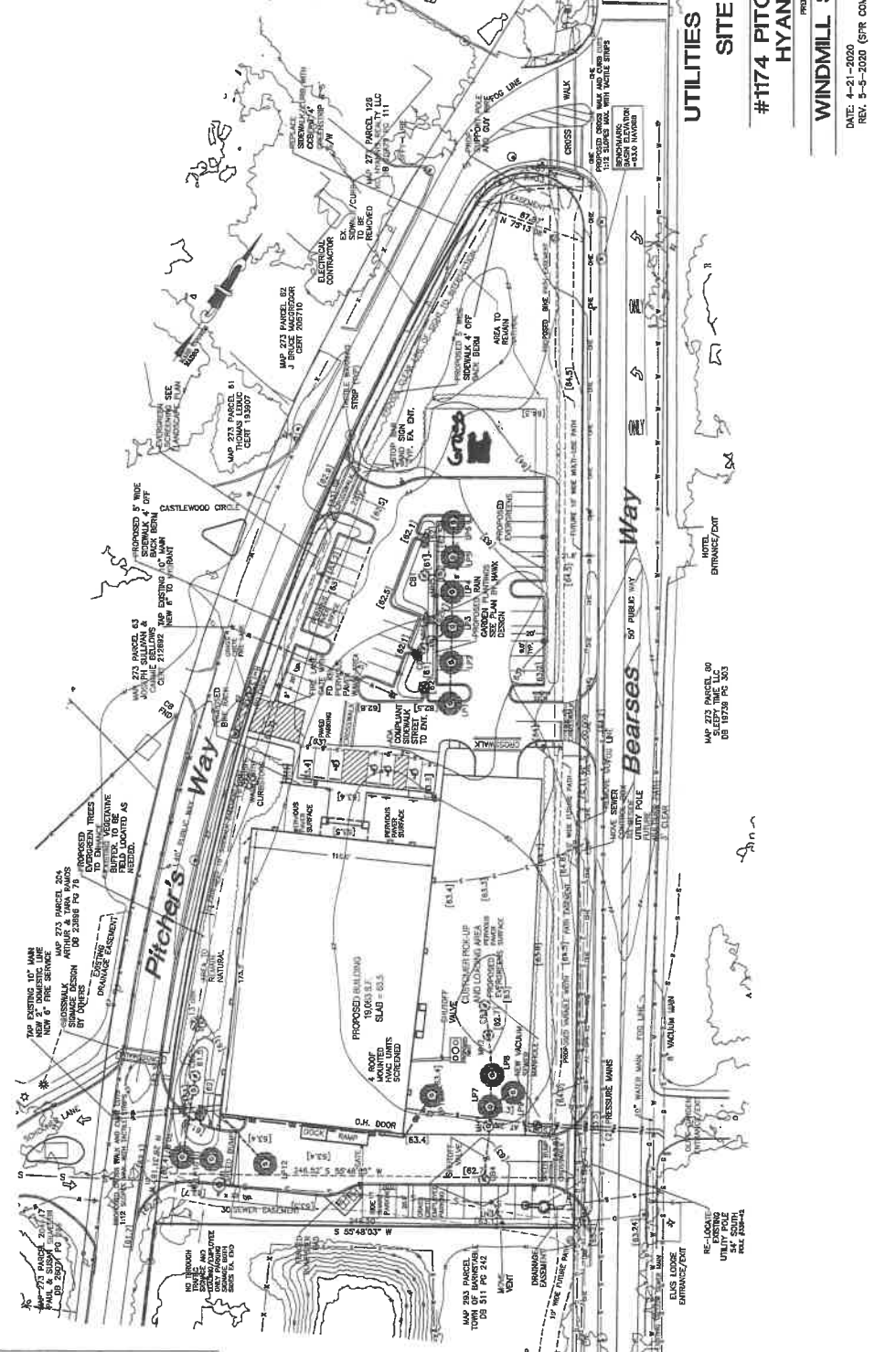
C001

SHEET 1 OF 6





LOCUS MAP
 SCALE 1" = 3000'
 ASSESSORS MAP 273 PARCEL 123

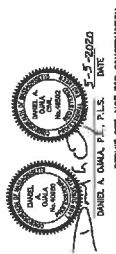


LEGEND	
○	EXISTING CONDUIT
○	EXIST. SPOUT UNK.
(90)	PROPOSED CONDUIT
(90)	PROPOSED SPOUT
○	EXIST. FIRE HYDRANT
○	PROPOSED FIRE HYDRANT
○	EXIST. WATER MAIN
○	PROPOSED WATER MAIN
○	EXIST. SEWER MAIN
○	PROPOSED SEWER MAIN
○	EXIST. STORM WATER PIPE
○	PROPOSED STORM WATER PIPE
○	EXIST. ELECTRICAL
○	PROPOSED ELECTRICAL

**UTILITIES & GRADING
 SITE PLAN**
 of
**#174 PITCHER'S WAY
 HYANNIS, MA**
 PROVIDED FOR
WINDMILL SQUARE LLC

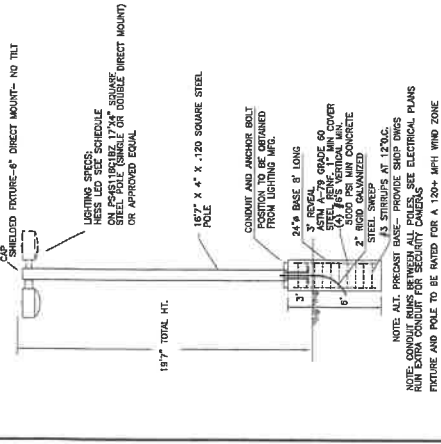
DATE: 4-21-2020
 REV. 5-9-2020 (SPR COMMENTS)

Scale: 1" = 30'
 0 10 20 30 40 50 60 70 80 FEET



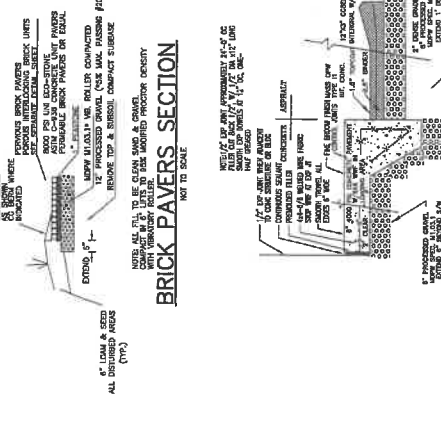
**C300
 SHEET 4 OF 6**

PERMIT SET, NOT FOR CONSTRUCTION



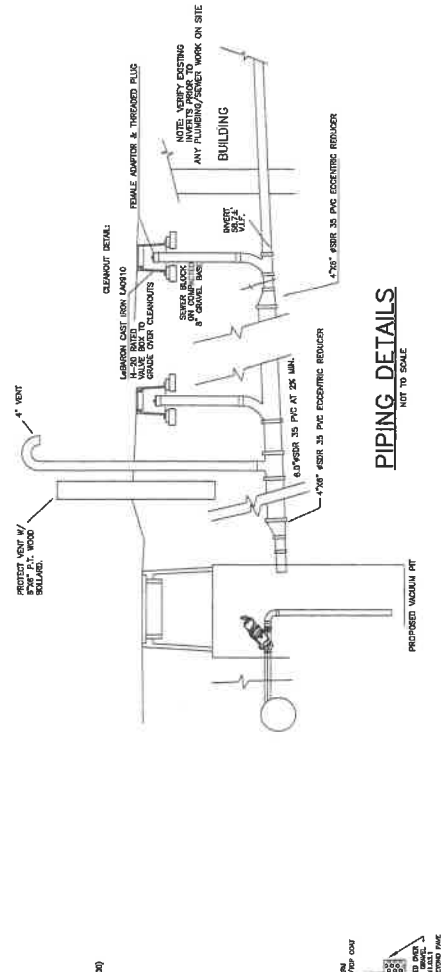
SITE LIGHTING DETAIL - SECTION VIEW
NOT TO SCALE

NOTE: ALL PRECAST BASES - PROVIDE SHOP DRINGS
RUN EXTRA CONDUIT FOR SECURITY COVERS
FITURE AND POLE TO BE RATED FOR A 120+ MPH WIND ZONE



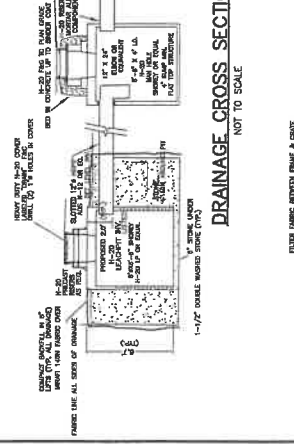
BRICK PAVERS SECTION
NOT TO SCALE

NOTE: ALL PAVEMENT SHALL BE 4\"/>



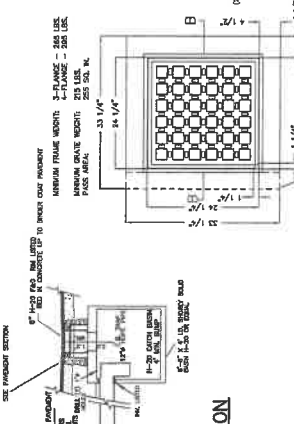
PIPING DETAILS
NOT TO SCALE

NOTE: VERIFY EXISTING
INVERTS PRIOR TO
ANY PAVING/ASPHALT WORK ON SITE
BUILDING



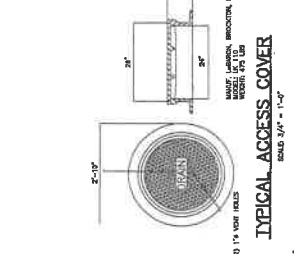
DRAINAGE CROSS SECTION
NOT TO SCALE

NOTE: ALL PRECAST BASES - PROVIDE SHOP DRINGS
RUN EXTRA CONDUIT FOR SECURITY COVERS
FITURE AND POLE TO BE RATED FOR A 120+ MPH WIND ZONE

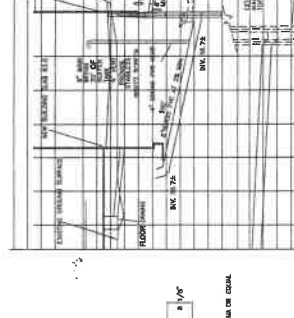


CONC. S/W & PAVEMENT CROSS SECTIONS
NOT TO SCALE

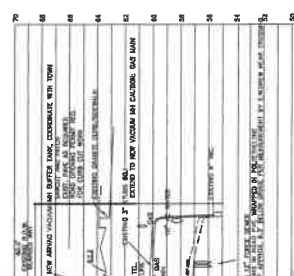
NOTE: ALL PAVEMENT SHALL BE 4\"/>



TYPICAL ACCESS COVER
30\"/>



SEWER CONNECTION PROFILE
1-1/2\"/>



DETAIL SHEET TO ACCOMPANY SITE PLAN

PREPARED FOR
#174 PITCHER'S WAY
HYANNIS, MA
WINDMILL SQUARE LLC

DATE: 4-21-2020
REV. 5-5-2020 (SPR COMMENTS)

DATE: 4-21-2020
REV. 5-5-2020 (SPR COMMENTS)

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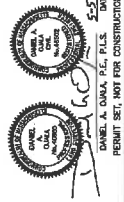
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DATE: 4-21-2020
REV. 5-5-2020 (SPR COMMENTS)



Daniel A. Oama, P.E., License No. 55-2020
REMIT SET NOT FOR CONSTRUCTION

Daniel A. Oama, P.E., License No. 55-2020
REMIT SET NOT FOR CONSTRUCTION

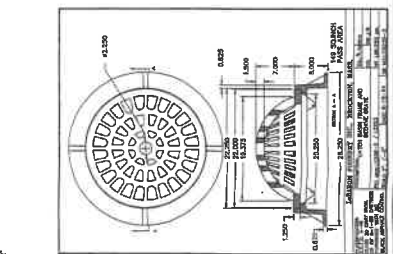
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REMIT SET NOT FOR CONSTRUCTION

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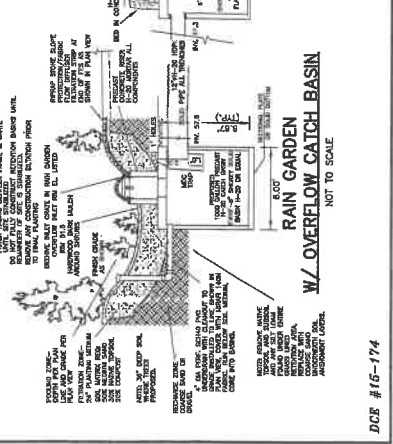
Daniel A. Oama, P.E., License No. 55-2020
REMIT SET NOT FOR CONSTRUCTION

DCE #16-174

STORMWATER INFILTRATION LEACH PIT
(DO NOT SCALE)



FRAME AND GRATE
30\"/>



RAIN GARDEN W/ OVERFLOW CATCH BASIN
NOT TO SCALE

NOTE: ALL PRECAST BASES - PROVIDE SHOP DRINGS
RUN EXTRA CONDUIT FOR SECURITY COVERS
FITURE AND POLE TO BE RATED FOR A 120+ MPH WIND ZONE

GENERAL NOTES:

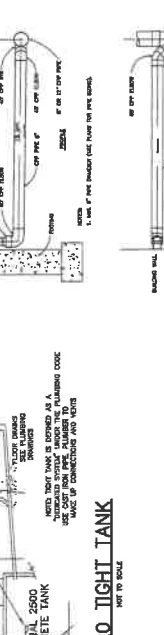
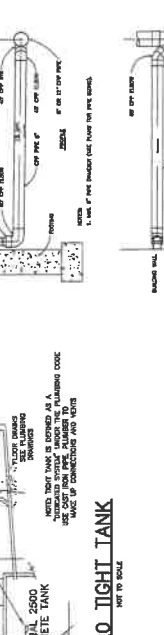
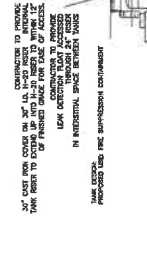
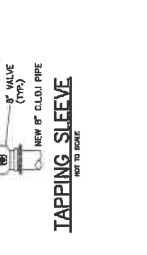
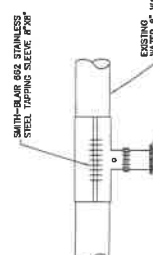
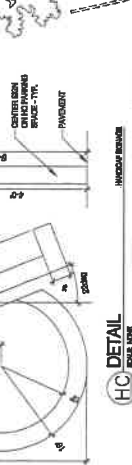
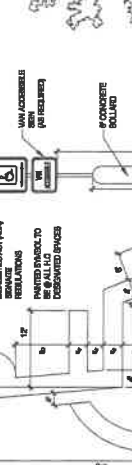
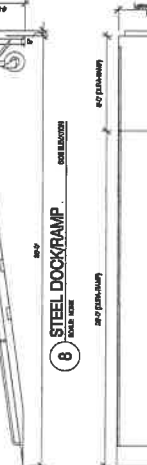
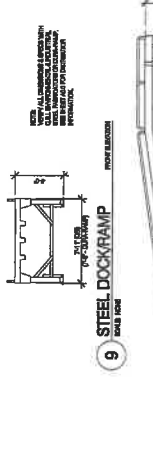
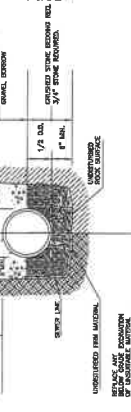
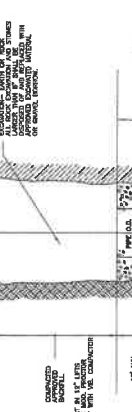
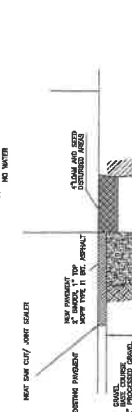
- THE LOCATION OF EXISTING UNDERGROUND UTILITIES SHOWN ON THIS PLAN IS APPROXIMATE. REFER TO ANY EXISTING RECORD DRAWINGS AND FIELD SURVEY FOR EXACT LOCATIONS. VERIFY ALL UTILITIES BEFORE CONSTRUCTION.
- ALL CONSTRUCTION MATERIALS, COMPONENTS, AND METHODS SHOWN ON THIS PLAN SHALL BE IN ACCORDANCE WITH THE SPECIFICATIONS AND STANDARDS LISTED IN THE PROJECT MANUAL.
- INSTALLATION OF ALL UTILITIES SHALL BE IN ACCORDANCE WITH THE SPECIFICATIONS AND STANDARDS LISTED IN THE PROJECT MANUAL.
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-2020

WATER LINE NOTES:

- THE LOCATION OF EXISTING UNDERGROUND UTILITIES SHOWN ON THIS PLAN IS APPROXIMATE. REFER TO ANY EXISTING RECORD DRAWINGS AND FIELD SURVEY FOR EXACT LOCATIONS. VERIFY ALL UTILITIES BEFORE CONSTRUCTION.
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WATER AUTHORITY:

WATER SUPPLY DIVISION
 700 BAY ST. 2ND FL. NEWPORT NEWS, VA 23603
 PH: 804-247-2000
 FAX: 804-247-2001

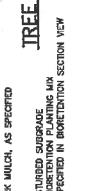


DETAIL SHEET
 TO ACCOMPANY
SITE PLAN
 OF
#174 PITCHER'S WAY
HYANNIS, MA

PREPARED FOR
WINDMILL SQUARE LLC

DATE: 4-21-2020 (SFR COMMENTS)
 REV: 5-5-2020 (SFR COMMENTS)

C401
SHEET 6 OF 6



PERMIT SET, NOT FOR CONSTRUCTION

EXHIBIT C

TRANSPORTATION SUMMARY

- Traffic Projections based on Empirical Counts
- Potential Alternative Use of Property for Comparison
- Potential Alternative Use of Property for Comparison

EMPIRICAL TRAFFIC COUNTS

- Proposed Facility: 33,662 sf (19,097 building and 14,590 sf out-door)

- Empirical Counts:

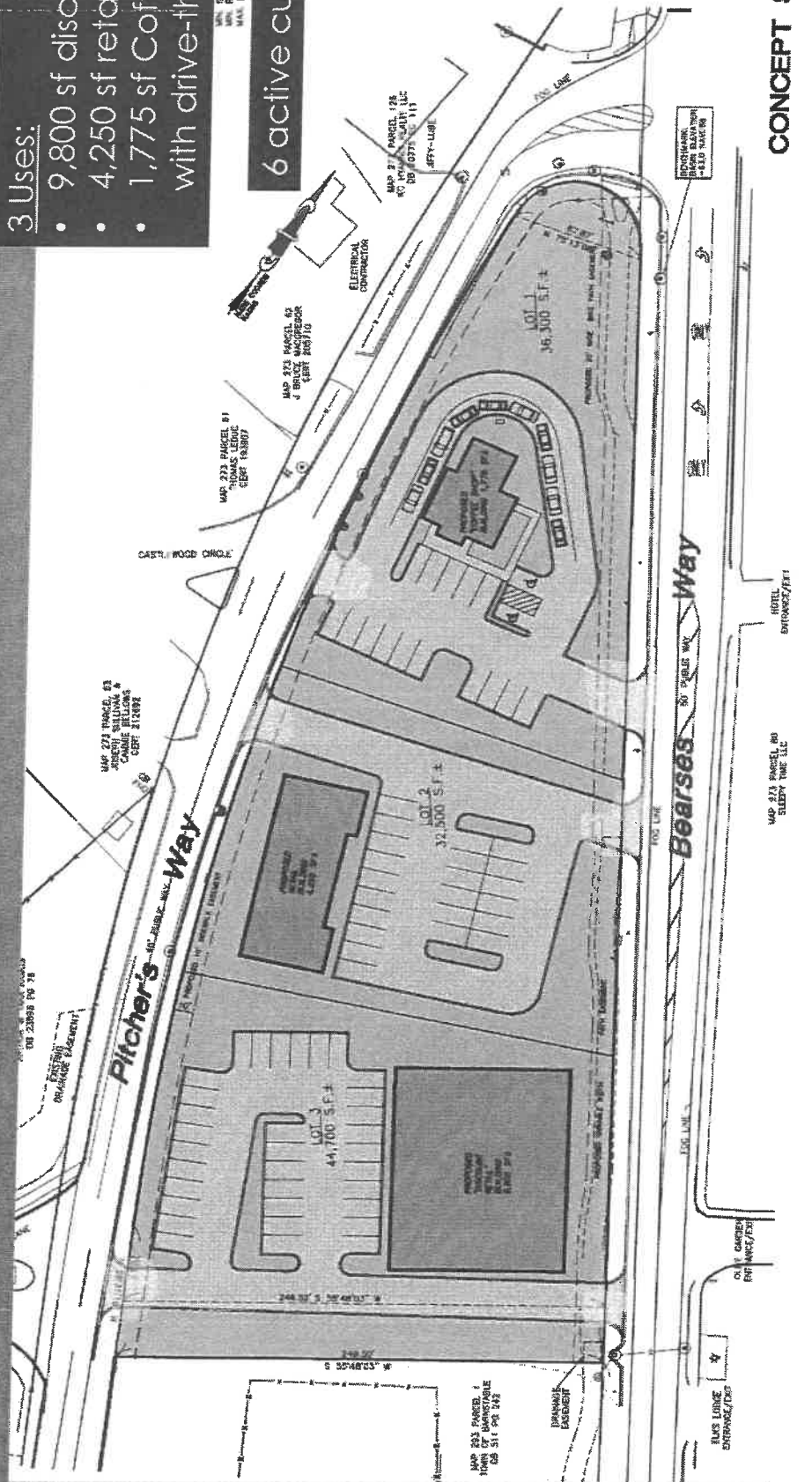
- East Wareham 35,388 sf
- Millbury 34,097 sf
- Leicester 34,097 sf

POTENTIAL DEVELOPMENT FOR COMPARISON

3 Uses:

- 9,800 sf discount retail
- 4,250 sf retail
- 1,775 sf Coffee Shop with drive-thru

6 active curb-cuts



CONCEPT SKETCH
OF

TRAFFIC GENERATION COMPARISON

Table 2

Comparison

Time Period	Direction	Net New Trips (Concept Sketch)	Net New Trips (Tractor Supply)	Difference
Weekday Daily	Enter	842	211	631
	<u>Exit</u>	<u>842</u>	<u>203</u>	<u>639</u>
	Total	1,684	414	1,270
Weekday Morning Peak Hour	Enter	76	12	64
	<u>Exit</u>	<u>69</u>	<u>13</u>	<u>56</u>
	Total	145	25	120
Weekday Evening Peak Hour	Enter	61	25	36
	<u>Exit</u>	<u>60</u>	<u>23</u>	<u>37</u>
	Total	121	48	73

TRANSPORTATION

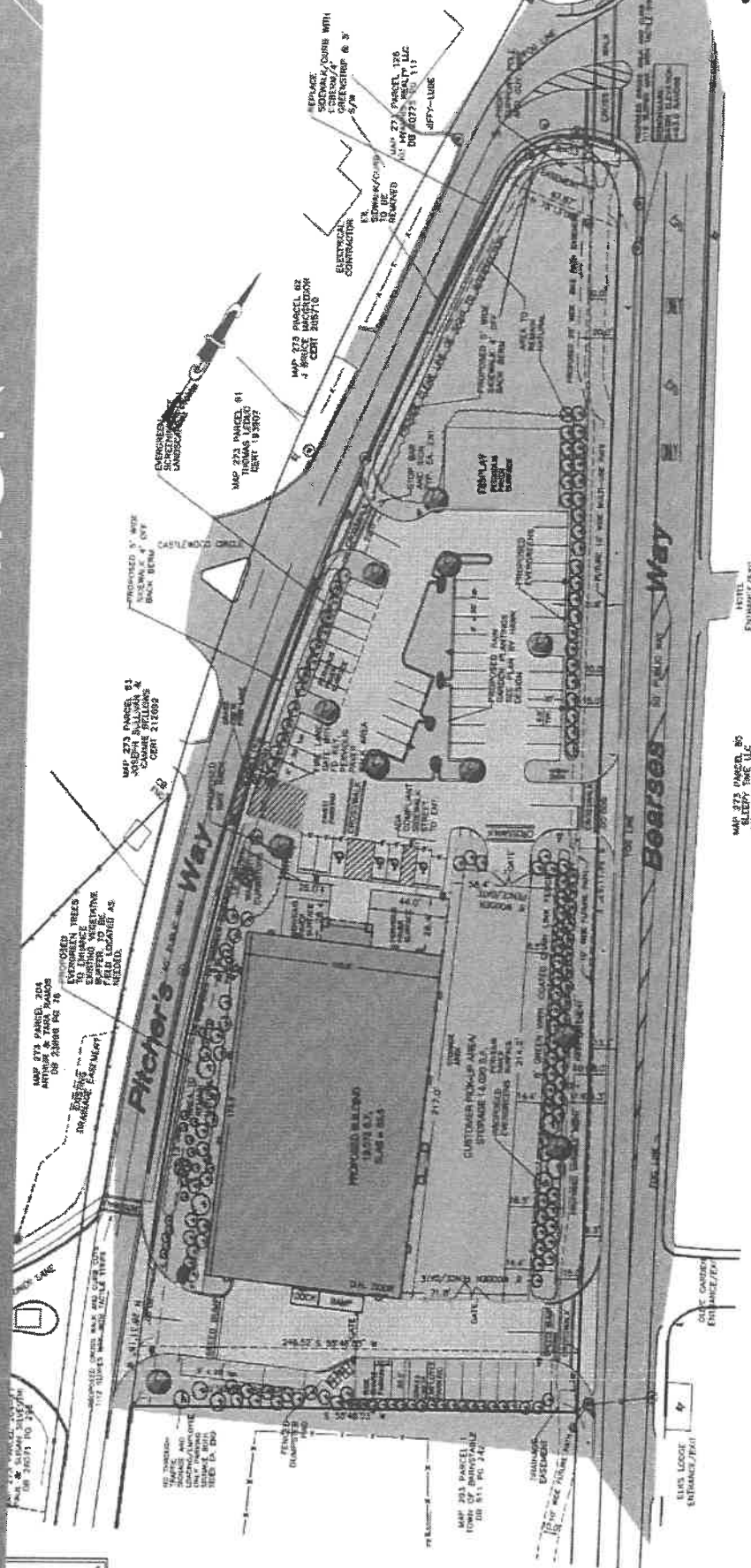
LOCUS MAP
SCALE 1" = 2000'
ASSESSOR'S MAP: 273 PARCEL 12

ZONING SUMMARY
ZONING DISTRICT: B DISTRICT
MIN LOT AREA: 20'
MIN FRONT SETBACK: 20'
MIN REAR SETBACK: -
MAX BUILDING HEIGHT: 30'
MAX IMPERVIOUS AREA: 50%
MIN NATURAL STATE: 30%
SITE IS LOCATED WITHIN THE ONE-
*INCLUDES AREAS TO BE RE-
FUTURE TREE PATH

PARKING CALCULA
NETAL: 12,865 SF. (1/200 S.F.) =
6,432.5 S.F. (1/700 S.F.) = 9
TOTAL: 23 SPACES
23 SPACES PROVIDED INCLUDING
23/20 = 8 TREES REQUIRED, 104-

OPEN SPACE OI
DEVELOPMENT AREA: 8133
11 TREES # 2005 WHEN

LAYOUT SITE PLAN OF #1174 FITCHER'S V HYANNIS, MA



MAP 273 PARCEL 81
ANDREW & TAMARA
DB 23098 PG 26

PROPOSED 3" WIDE
SIDEWALK 4' WIDE
DARK BENCH

MAP 273 PARCEL 81
ANDREW & TAMARA
DB 23098 PG 26

MAP 273 PARCEL 81
ANDREW & TAMARA
DB 23098 PG 26

MAP 273 PARCEL 82
4' SIDEWALK
DB 23098 PG 26

REPLACE
SCISSOR CURB WITH
CONCRETE
5/8"

MAP 273 PARCEL 126
DB 2072 PG 11
APPLY-LINE

REPLACE
SCISSOR CURB WITH
CONCRETE
5/8"

MAP 273 PARCEL 86
SLEEPY SUE LLC
DB 19128 PG 35

REPLACE
SCISSOR CURB WITH
CONCRETE
5/8"

MAP 273 PARCEL 86
SLEEPY SUE LLC
DB 19128 PG 35

REPLACE
SCISSOR CURB WITH
CONCRETE
5/8"

MAP 273 PARCEL 86
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SLEEPY SUE LLC
DB 19128 PG 35

REPLACE
SCISSOR CURB WITH
CONCRETE
5/8"

MAP 273 PARCEL 86
SLEEPY SUE LLC
DB 19128 PG 35

MITIGATION

- Transportation Demand Management Program
- Capacity Improvements at Rt. 132/Bearse's Way
- Safety Improvements at Rt. 132/Bearse's Way
- Fair share/Plymouth toward Improvements at Bearse's/Pitchers Way
- Comprehensive Safety Program
-



Executive Summary

VHB, Inc. has prepared a traffic impact and access study (TIAS) for the proposed Tractor Supply Company (the "Project") to be located on Bearses Way and Pitchers Way in Hyannis, Massachusetts. The proposed project would involve the construction of a 19,097 square foot (s.f.) Tractor Supply Company retail store and approximately 13,500 s.f. of outdoor retail space on the currently vacant site. Four proposed full access driveways, two located on Bearses Way, and two located along Pitchers Way, will provide access to the site. Two of the four proposed driveways will be dedicated to deliver truck activity at the rear of the site and as a result will be used infrequently.

Based on a review of the anticipated trip generation and trip distribution for the proposed project, a study area was established. The study area was established also in part based on a review of the RPP and the RPP Functional Classification of Cape Cod Roadways Map and with consultation with CCC staff. Using this approach, the project study area will include the following six intersections and five roadway links:

Intersections:

- Iyannough Road (Route 132) at Bearses Way
- Bearses Way at Pitchers Way
- Bearses Way at North Site Driveway (proposed)
- Bearses Way at South Site Driveway (proposed)
- Pitchers Way at North Site Driveway (proposed)
- Pitchers Way at South Site Driveway (proposed)

Roadway Links:

- Bearses Way between Iyannough Road (Route 132) and Pitchers Way
- Bearses Way between Pitchers Way and North Site Driveway
- Bearses Way between North Site Driveway and South Site Driveway
- Pitchers Way between Bearses Way and North Site Driveway
- Pitchers Way between North Site Driveway and South Site Driveway

Turning movement counts (TMC), collecting *peak hour* data, were conducted at each of the study area intersections during the weekday morning peak period from 7:00 AM to 9:00 AM in August 2018 and evening peak period from 4:00 PM to 6:00 PM in April 2018 and were adjusted upward to represent 2019 conditions. Concurrent with



the TMCs, 72-hour automatic traffic recorder (ATR) counts were conducted at the following two locations:

- Bearses Way, south of Pitchers Way
- Pitchers Way, south of Castlewood Circle

The proposed project is expected to result in a total of 414 net new trips (211 entering/203 exiting) on a typical weekday. In addition, the proposed project is expected to result in a total of 25 net new vehicle trips (12 entering/13 exiting) during the weekday morning peak hour and 48 net new vehicle trips (25 entering/23 exiting) during the weekday evening peak hour.

Capacity analyses were conducted for each of the study area intersections and roadway segments under 2019 Existing conditions, 2026 No-Build conditions (without the proposed development), and 2026 Build conditions (with the proposed development). Based on the results of these analyses and the anticipated site-generated traffic, the proponent proposes consideration of the following measures:

- Transportation Demand Management Program
- Intersection safety and capacity enhancements at Route 132 at Bearses Way
- Provide a monetary contribution for Fair Share (congestion mitigation)

Overall, VHB concludes that the implementation of the above-mentioned mitigation measures offsets the potential traffic increases associated with the Project and provides funds to improve the transportation infrastructure within the Town in the future.



6

Conclusion

VHB, Inc. has prepared a traffic impact and access study (TIAS) for the proposed Tractor Supply Company. Access to the site would continue to be provided by the four proposed driveways, two along Bearses Way and two along Pitchers Way.

Based on a review of the anticipated trip generation and trip distribution for the proposed project, a study area was established. The study area was established also in part based on a review of the RPP and the RPP Functional Classification of Cape Cod Roadways Map. Using this approach, the project study area will include the following six intersections and five roadway links:

Intersections:

- Iyannough Road (Route 132) at Bearses Way
- Bearses Way at Pitchers Way
- Bearses Way at North Site Driveway (proposed)
- Bearses Way at South Site Driveway (proposed)
- Pitchers Way at North Site Driveway (proposed)
- Pitchers Way at South Site Driveway (proposed)

Roadway Links:

- Bearses Way between Iyannough Road (Route 132) and Pitchers Way
- Bearses Way between Pitchers Way and North Site Driveway
- Bearses Way between North Site Driveway and South Site Driveway
- Pitchers Way between Bearses Way and North Site Driveway
- Pitchers Way between North Site Driveway and South Site Driveway

Turning movement counts (TMC), collecting *peak hour* data, were conducted at each of the study area intersections during the weekday morning peak period from 7:00



AM to 9:00 AM in August 2018 and evening peak period from 4:00 PM to 6:00 PM in April 2018. Concurrent with the TMCs, 72-hour automatic traffic recorder (ATR) counts were conducted at the following two locations:

- Bearses Way, south of Pitchers Way
- Pitchers Way, south of Castlewood Circle

The proposed project is expected to result in a total of 414 net new trips (211 entering/203 exiting) on a typical weekday. In addition, the proposed project is expected to result in a total of 25 net new vehicle trips (12 entering/13 exiting) during the weekday morning peak hour and 48 net new vehicle trips (25 entering/23 exiting) during the weekday evening peak hour.

Capacity analyses were conducted for each of the study area intersections and roadway segments under 2019 Existing conditions, 2026 No-Build conditions (without the proposed development), and 2026 Build conditions (with the proposed development). Based on the results of these analyses and the anticipated site-generated traffic, the proponent proposes consideration of the following measures:

- Transportation Demand Management Program
- Intersection safety and capacity enhancements at Route 132 at Bearses Way
- Provide a monetary contribution for Fair Share (Congestion Mitigation)

Overall, VHB concludes that the implementation of the above-mentioned mitigation measures offsets the potential traffic increases associated with the Project and provides funds to improve the transportation infrastructure within the Town in the future.



Appendix

- Conceptual Site Plan
- Traffic Volume Count Data
- Seasonal Adjustment Factors
- Public Transportation
- Vehicular Crash Data
- Historic Traffic Growth
- Background Projects
- Trip Generation
- Intersection Capacity Analyses – Peak Season
- Roadway Segment Capacity Analyses – Peak Season
- Traffic Volume Networks – Average Season
- Intersection Capacity Analyses – Average Season
- Roadway Segment Capacity Analyses – Average Season
- Sight Distance Worksheets
- Mitigation Calculations

EXHIBIT D

AGREEMENT

By and between WINDMILL SQUARE, LLC (Contractor) and VWM ASSOCIATES, LLC (Owner) made this 20 day of SEPTEMBER 2018.

Owner holds title to the premises located at 326 West Main Street, Barnstable (Hyannis), Barnstable County, Massachusetts (the "Locus");

Contractor is willing to remove the underground fuel storage tanks located at the Locus at its sole cost to allow it to obtain mitigation credits from the Town of Barnstable for use at its premises located at 1174 Pitcher's Way, Barnstable (Hyannis), Barnstable County, Massachusetts (the "Site").

IT IS UNDERSTOOD AND AGREED AS FOLLOWS:

1. The performance of this Agreement by the Contractor is contingent upon it obtaining confirmation that the tank removal from the Locus (the "Work") will be available to the Contractor for said mitigation credits for the proposed development by the Contractor at the Site on or before November 30, 2018.
2. Prior to beginning the Work, the Contractor will:
 - a. obtain approvals from all required local, county and state jurisdictions to complete the Work, at Contractor's sole cost; and
 - b. obtain public liability insurance coverage against all risks involved in carrying on the Work, from a company and in an amount satisfactory to the Owner, naming the Owner as an additional insured and provide a certificate of such insurance to the Owner, at Contractor's sole cost.
3. Once the Work is complete, the Contractor will cause any disturbed areas to the surface of the Locus to be leveled out with clean material.
4. The Owner hereby authorizes the Contractor to enter upon the Locus to carry on the Work and agrees to execute any and all documents necessary to be signed by the Owner to permit the Work to be completed.
5. The Work will be completed by the Contractor within a reasonable time after it begins the Work and in a good and workmanlike manner.
6. Included in the Work to be done by the Contractor is the removal from the Locus of said tanks and the disposal of the same at a duly authorized disposal site, all at Contractor's sole cost.

7. The Owner further agrees to record a restrictive covenant "in form and substance acceptable to the Town" at the Barnstable County Registry of Deeds for the benefit of the Town of Barnstable that Lot 605 will never be used as a filling station.

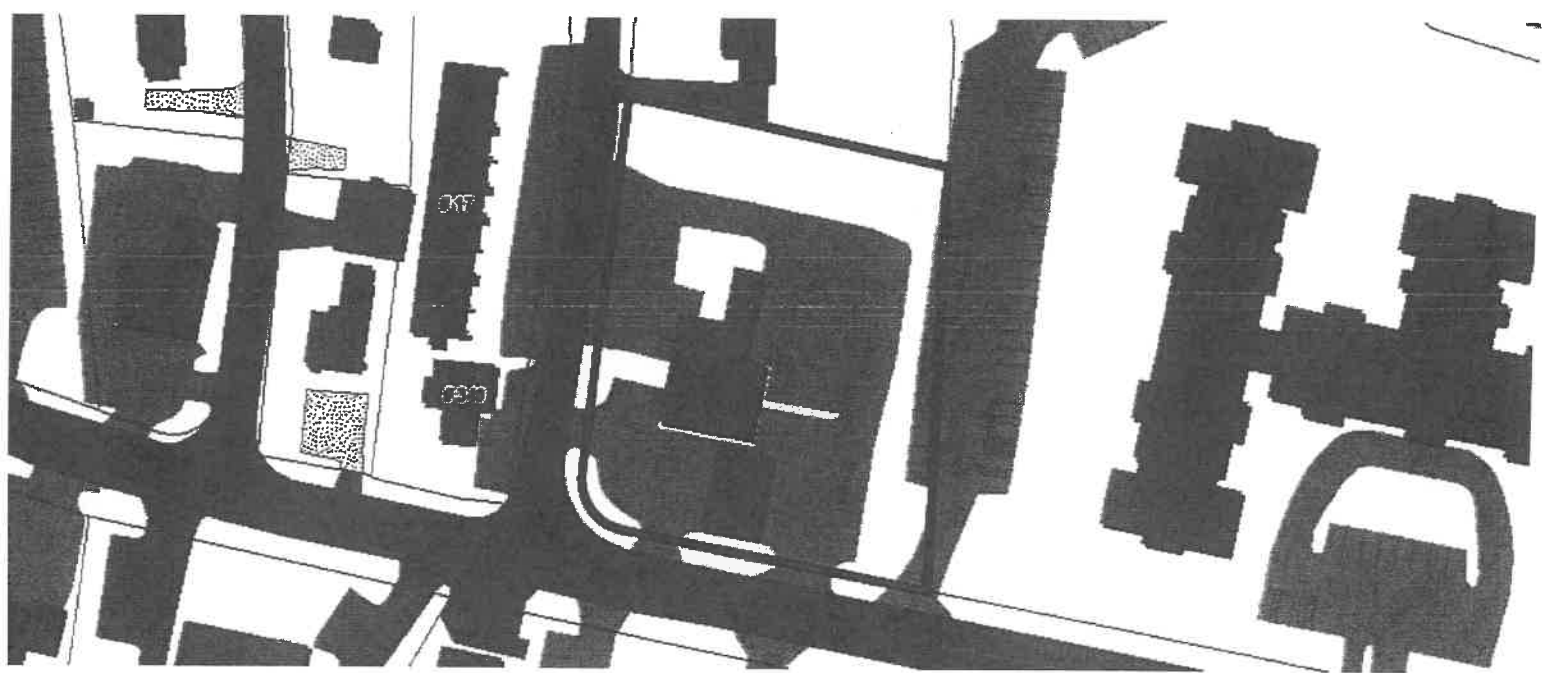
Executed as a sealed instrument this 28th day of SEPTEMBER 2018.

WINDMILL SQUARE, LLC
BY: HOLLY MANAGEMENT & SUPPLY CORP.
ITS MANAGER

BY: 
STUART A. BORNSTEIN, its President

VWM ASSOCIATES, LLC

BY: 
KIM B. VERMETTE, its Manager





• **Owner Information - Map/Block/Lot: 269 / 159/ - Use Code: 3340**

Owner

	Map/Block/Lot	<u>GIS</u>
	269 / 159/	<u>MAPS</u>
V W M	Property Address	
ASSOCIATES LLC	326 WEST MAIN	
Owner Name as of 1/1/17	22 CAMPION RD	
	STREET	
	Village: Hyannis	
	Town Sewer At Address:	
	Yes	
	GIS Zoning Value:	
	SPLIT HB;RB	
YARMOUTH PORT,		
MA. 02675		

Co-Owner Name

• **Assessed Values 2018 - Map/Block/Lot: 269 / 159/ - Use Code: 3340**

2018 Appraised Value 2018 Assessed Value Past Comparisons

	2018 Appraised Value	2018 Assessed Value	Year Assessed Value
Building Value:	\$ 412,000	\$ 412,000	
Extra Features:	\$ 0	\$ 0	2017 - \$ 738,900
Outbuildings:	\$ 109,800	\$ 109,800	2016 - \$ 738,900
Land Value:	\$ 226,200	\$ 226,200	2015 - \$ 694,700
2018 Totals	\$ 748,000	\$ 748,000	

2014 - \$
 696,600
2013 - \$
 698,600
2012 - \$
 636,100
2011 - \$
 628,000
2010 - \$
 618,700
2009 - \$
 656,700
2008 - \$
 572,200
2007 - \$
 572,200

• **Tax Information 2018 - Map/Block/Lot: 269 / 159/ - Use Code: 3340**

Taxes

Hyannis FD Tax \$
(Commercial) 3,208.92
Hyannis FD Tax \$ 0
(Residential)
Community
Preservation Act Tax \$ 195.45
Town Tax \$
(Commercial) 6,515.08
Town Tax (Residential) \$ 0
 \$

Fiscal Year 2018 TAX RATES
HERE

9,919.45

• **Sales History - Map/Block/Lot: 269 / 159/ - Use Code: 3340**

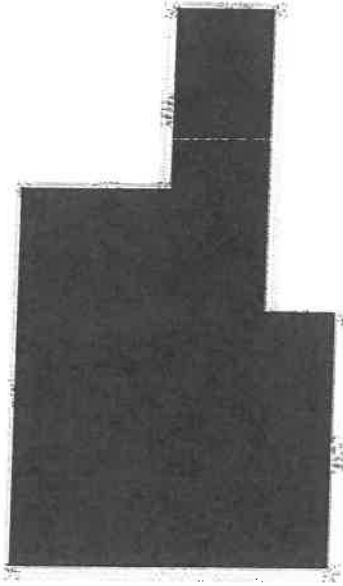
History:

Owner:	Sale Date	Book/Page:	Sale Price:
V W M ASSOCIATES LLC	2001-09-06	14210/120	\$1
VERMETTE, KIM B	2001-09-06	14210/117	\$1
WILLARD, P & SULLIVAN C TRS	1984-08-15	4225/305	\$0
WILLARD, P & SULLIVAN C TRS	1984-08-15	4225/303	\$0
WILLARD, P & SULLIVAN C TRS	1984-08-15	4225/300	\$0
WILLARD, P & SULLIVAN C TRS	1984-08-15	4225/298	\$0
WILLARD, PRISCILLA ETAL TRS	1982-03-15	3443/347	\$0

• **Photos 269 / 159/ - Use Code: 3340**



• **Sketches - Map/Block/Lot: 269 / 159/ - Use Code: 3340**



AsBuilt Card N/A

- **Constructions Details - Map/Block/Lot: 269 / 159/ - Use Code: 3340**

Building		Details		Land	
Building value	\$ 412,000	Bedrooms	00	USE CODE	3340
Replacement Cost	\$633,904	Bathrooms	0 Full-0 Half	Lot Size (Acres)	0.96
Model	Serv Station	Total Rooms		Appraised Value	\$ 226,200
Style	Mini-Mart/Gas	Heat Fuel	Oil	Assessed Value	\$ 226,200
Grade	Average	Heat Type	Hot Air-No Duc		
Year Built	1950	AC Type	None		
Effective depreciation	35	Interior Floors	Concr Finished		

Stories	1	Interior Walls	Minimum
Living Area sq/ft	3,526	Exterior Walls	Concr/Cinder
Gross Area sq/ft	3,526	Roof Structure	Gable/Hip
		Roof Cover	Asph/F Gls/Cmp

• **Outbuildings & Extra Features - Map/Block/Lot: 269 / 159/ - Use Code: 3340**

Code	Description	Units/SQ ft	Appraised Value	Assessed Value
CNPG	Gas Pump Cpy	1536	\$ 33,300	\$ 33,300
GAS9	Fibergl Dbwl 18M gas tank	1	\$ 60,300	\$ 60,300
PAV1	PAVING- ASPHALT	9000	\$ 16,200	\$ 16,200

• **Sketch Legend**

Property Sketch Legend

B2N Barn-any 2nd story area	FPC Open Porch Concrete Floor	REF Reference Only
BAS First Floor, Living Area	FTS Third Story Living Area (Finished)	SOL Solarium
BMT Basement Area (Unfinished)	FUS Second Story Living Area (Finished)	SPE Pool Enclosure
BRN Barn	GAR Garage	TQS Three Quarters Story (Finished)
CAN Canopy	GAZ Gazebo	UAT Attic Area (Unfinished)
CLP Loading Platform	GRN Greenhouse	UHS Half Story (Unfinished)
FAT Attic Area (Finished)	GXT Garage Extension Front	UST Utility Area (Unfinished)

FCP Carport	KEN Kennel	UTQ Three Quarters Story (Unfinished)
FEP Enclosed Porch	MZ1 Mezzanine, Unfinished	UUA Unfinished Utility Attic
FHS Half Story (Finished)	PRG Pergola	UUS Full Upper 2nd Story (Unfinished)
FOP Open or Screened in Porch	PRT Portico	WDK Wood Deck
	PTO Patio	

EXHIBIT E

aps



EXHIBIT F

TYPICAL TYPES AND VOLUMES OF OILS ON HAND AT TRACTOR SUPPLY

OIL TYPE	CONTAINER SIZE	EST. TOTAL GALLONS
HYDRAULIC OIL	Gallon or 5-Gallon Pail	1000
MOTOR OIL	Quart or Gallon	400
2-CYCLE OIL	Quart or Gallon	50
GEAR OIL	Pint, Quart or Gallon	20
GREASE	Ounce to Quart	20
BAR & CHAIN OIL	Quart or Gallon	20
LUBE OIL	Pint, Quart or Gallon	10
MISC. OIL	Ounce to Quart	7
KEROSENE	Gallon or 5-Gallon	70

EXHIBIT G



MASTER SERVICES AGREEMENT

On this 27th day of October, 2014, the parties, Safety-Kleen Systems, Inc., a Wisconsin corporation and its affiliates, subsidiaries, and parents ("Safety-Kleen"), with a place of business located at 2600 North Central Expressway, Suite 400, Richardson, Texas 75080, and Tractor Supply Company, a corporation organized under the laws of the state of Delaware with its principal place of business located at 5401 Virginia Way, Brentwood, Tennessee 37027 and its affiliates, subsidiaries and parent (collectively, "Customer"), have entered into this Master Services Agreement (the "Agreement").

TERMS AND CONDITIONS

1. **Scope of Services.** Safety-Kleen agrees to perform the services described in Attachment A ("Services") at Customer's locations listed in Attachment B. The intervals at which the Services will be provided and other details regarding the Services are set forth in the attachments to this Agreement and the supplemental documents, such as Customer's written request for services, sales and service acknowledgments, proposals, placement documents, and receipts for services (individually and collectively referred to as "Supporting Documents"), all of which are incorporated herein by reference.
2. **Preferred Provider.** Safety-Kleen is Customer's preferred provider for those Services identified as preferred in Attachment A ("Preferred Services"). Customer agrees to purchase from Safety-Kleen all of its requirements for the Preferred Services during the term of this Agreement.
3. **Price and Payment.**
 - a. Prices for the Services are listed in Attachment C. Unless otherwise stated herein, all prices will be effective 15 business days after execution of this Agreement by both parties. Applicable taxes and similar assessments are not included in the prices as specified in Attachment C and will be billed separately on Customer's invoice. If transportation is provided by Safety-Kleen, shipping terms are F.O.B. point of transfer. Safety-Kleen may charge a reasonable fuel surcharge. Safety-Kleen's prices are subject to change upon 30thirty (30) days prior written notice to the Customer.
 - b. Payments are due within thirty (30) days of the invoice date. Safety-Kleen and Customer agree that, in the event Customer fails to make payment when due, an amount equal to the lesser of (i) 1.5% per month (18% per annum) or (ii) the maximum amount allowed by law, will be added to all amounts outstanding which have not in good faith been disputed by Customer. In the event that Customer in good faith disputes the charges set forth in an invoice, Customer shall so notify Safety-Kleen within 30 days of its receipt of such invoice. Customer will pay all undisputed charges in accordance with this Section 3.
4. **Term and Termination.**
 - a. The term of this Agreement shall commence on the date first written above and shall continue for a period of three (3) years unless earlier terminated as provided herein. Unless either party gives the other written notice at least thirty (30) days prior to expiration of the current term, this Agreement shall automatically renew for the same term thereafter and shall continue to renew at the expiration of each subsequent term.
 - b. Either party may terminate this Agreement, without prejudice to any other remedy the terminating party may have:

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- i. Immediately if the other party is adjudicated insolvent, seeks any remedy for itself under any present or future law related to bankruptcy, insolvency or other relief for debtors; or
 - ii. If the other party repeatedly fails to perform in accordance with this Agreement or breaches any term of this Agreement and fails to correct such default or neglect within 30 days after notice thereof.
- c. Termination in accordance with this Section shall not affect the parties' uncompleted obligations, including payment for Services rendered by Safety-Kleen and upon termination, Safety-Kleen shall be entitled to recover Safety-Kleen owned equipment and materials, including but not limited to parts cleaners and solvents within thirty (30) days of the date of termination.
- d. If any change or communication from any municipal, local, state, provincial, federal or interstate agency occurs with respect to any laws, rules, regulations or ordinances applicable to the rights or obligations contained in this Agreement or which materially impacts either party hereto (including but not limited to changes which increase the cost of providing Services or affect facility permit status), either party shall have the option to immediately terminate this Agreement or to have the terms of this Agreement renegotiated to bring this Agreement and the respective obligations or rights of the parties into compliance with such change or changes.

5. Composition of Waste Material.

- a. Safety-Kleen will collect, transport, treat, recycle and/or dispose of streams of waste material generated at Customer's locations (the "Waste Material"). Customer agrees to provide Safety-Kleen information concerning the Waste Material in a form acceptable to Safety-Kleen so that Safety-Kleen may prepare a description which characterizes and classifies the Waste Material (the "Waste Description") for Customer's approval and signature. The Waste Description will include a description of the chemical components of the Waste Materials, including the percentage composition of each such component stated in ranges acceptable to Safety-Kleen; the process creating the Waste Material; analytical results of the testing of the Waste Material, if available; and a listing of physical characteristics of the Waste Material. The Waste Description will be part of the Supporting Documents.
- b. Upon request by Safety-Kleen, Customer agrees to provide Safety-Kleen a sample of the Waste Material in an appropriate container. Safety-Kleen has the right, but is not obligated, to inspect, sample, analyze, test, or retain the Waste Material sample prior to collecting, transporting, recycling and/or disposing such Waste Material.

6. Title and Nonconforming Waste.

- a. Provided the Waste Material is as described in the applicable Waste Description and the Waste Material is properly packaged, coded, marked and labeled, title, risk of loss and all other incidents of ownership with respect to the Waste Material will be transferred from Customer to Safety-Kleen at either (i) the time Safety-Kleen takes possession of, signs for, and removes the Waste Material from Customer's location or (ii) the time Customer's Waste Material is delivered to Safety-Kleen. Any marketable or usable material Safety-Kleen may recover from the Waste Material shall be the sole property of Safety-Kleen.
- b. Waste Material will be considered nonconforming waste ("Nonconforming Waste") if it fails to conform to the applicable Waste Description or if any packaging and/or marking provided by Customer is not in accordance with applicable Laws and requirements provided in advance to Customer by Safety-Kleen. In the event Waste Material is determined to be Nonconforming Waste, Safety-Kleen may reject or revoke its acceptance of the Waste Material. The rejection or revocation of acceptance shall be effective immediately upon receipt of written notice, to Customer. Customer and

Safety-Kleen will have 7 days to seek an alternative manner of disposition of the Nonconforming Waste, unless it is necessary by reason of law, facility permit or facility operating procedure to move the Nonconforming Waste in less than 7 days. If Customer and Safety-Kleen cannot agree on an alternative manner of disposition within the relevant period, Safety-Kleen shall either return the Nonconforming Waste to Customer or unilaterally determine and arrange for an alternative, lawful manner of disposition. Customer shall pay Safety-Kleen its reasonable expenses and charges for Services provided in relation to such Nonconforming Waste, including analytical work, transportation, storage, repair, replacement, decontamination and cleaning of applicable equipment and Nonconforming Waste charges

- c. Safety-Kleen's acceptance of any load of Nonconforming Waste shall not be deemed a waiver of Safety-Kleen's right to reject any other loads of Nonconforming Waste.
- d. In the event of a dispute under this section, Safety-Kleen may have a sample or samples of such Waste Material analyzed by a qualified, reputable, independent chemical laboratory. If chemical analysis shows that the particular Waste Material in question has the chemical composition as described in the Waste Description, then Safety-Kleen will pay the expense of the independent laboratory in performing the chemical analysis and continue its Services as originally agreed. If the chemical analysis shows that the chemical composition of the Waste Material is not as described in the Waste Description, then Safety-Kleen will proceed as set forth in this Section 6 and Customer will pay the reasonable expense of the independent laboratory in performing the chemical analysis.

- 7. **Title to Solvent and Equipment.** Safety-Kleen will at all times retain title to its solvents or other cleaning solutions provided as part of the Services. Unless Customer purchases the equipment, Safety-Kleen shall also retain title to any equipment, including, without limitation, parts washers or storage containers, placed by Safety-Kleen at Customer's locations. Customer agrees to pay for replacement of Safety-Kleen property due to loss or damage caused by Customer.
- 8. **Access to Premises.** Customer grants to Safety-Kleen, its agents, employees, and subcontractors reasonable access to Customer's premises for purposes of providing the Services. Customer warrants that any right-of-way provided by Customer to/from Customer's premises to/from the most convenient public way, is sufficient to bear the weight of all Safety-Kleen equipment and vehicles reasonably required to perform the Services. Safety-Kleen will not be responsible for damages caused to any private pavement or accompanying subsurface of any route reasonably necessary to perform the Services
- 9. **Safety-Kleen Representations and Warranties.** Safety-Kleen represents and warrants that:
 - a. Safety-Kleen is engaged in the business of providing the Services and understands the currently known hazards related to the handling of the Waste Material;
 - b. Safety-Kleen will perform all work in a safe and efficient manner and using industry accepted practices;
 - c. Safety-Kleen will comply with all requirements of applicable federal, state, provincial and local laws, rules, regulations, by-laws, ordinances and orders ("Laws") applicable to the Services to be performed;
 - d. Safety-Kleen agrees to comply with Customer's safety procedures while on Customer's premises to the extent procedures have been reasonably provided in writing to Safety-Kleen in advance of performance of Services;
 - e. Safety-Kleen will provide Customer with current Material Safety Data Sheets, equipment, cleaners and solvents; and

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- f. Safety-Kleen will provide any and all tools and equipment needed for their use, including but not limited to, ladders and forklifts.

10. **Customer Representations and Warranties.** Customer agrees, represents and warrants that:

- a. Upon delivery of Services, Customer agrees to sign the applicable Supporting Documents;
- b. Any description of or information regarding the Waste Material and/or the generation of the Waste Material given to Safety-Kleen by Customer will be true, accurate and complete regardless of whether or not Safety-Kleen has sampled or analyzed the Waste Material ;
- c. If Customer is provided with equipment and/or material (including cleaning fluids) owned by Safety-Kleen, Customer will handle such equipment and material with reasonable care and not alter such equipment in any way, including but not limited to alteration of the electrical, mechanical or structural aspects of the mechanized equipment. All equipment provided by Safety-Kleen will remain the property of Safety-Kleen and will be made available for Safety-Kleen to recover upon termination of this Agreement pursuant to Section 4(c);
- d. If Customer is responsible for packaging and marking the Waste Material, the Waste Material (i) shall be described, coded, packaged and labeled in accordance with Safety-Kleen's directions; (ii) will conform to the Waste Description provided to Safety-Kleen; and (iii) will be produced as described in the Waste Description;
- e. Customer will notify Safety-Kleen immediately upon any change to the process by which characterized Waste Material is generated;
- f. Customer has not and will not mix the Waste Material with any other materials, including, without limitation, materials containing PCBs or otherwise alter the characteristics of the Waste Material;
- g. To the customer's best knowledge, Customer is currently in compliance and will comply during the term of this Agreement with all of applicable Laws relating to the Waste Material that are communicated by Safety-Kleen to the Customer.
- h. Except as otherwise provided in this Agreement, Customer holds clear title to all Waste Material to be transferred hereunder, and it is under no legal restraint or order which would prohibit transfer of possession or title to such Waste Material to Safety-Kleen; and
- i. Customer will instruct all of its employees, agents, contractors, and consultants using Safety-Kleen owned or provided equipment and material (including cleaning fluids) as to the proper use of such equipment and materials in accordance with all user manuals, the Material Safety Data Sheet ("MSDS") and label instructions, and as to the importance of maintaining the integrity of all Waste Material.

11. **Insurance.** Safety-Kleen agrees to procure and maintain at least the following insurance (where applicable) covering the Services to be performed under this Agreement and Customer will be named as an additional insured under all General Liability and Automobile Liability policies:

- a. Workers' Compensation
Statutory
- b. Employer's Liability
\$1,000,000 per occurrence

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- c. General Liability (bodily injury and property damage - combined single limit)
\$2,000,000 per occurrence, \$5,000,000 annual aggregate
- d. Automobile Liability (and MCS-90 Motor Carriers Act of 1980 endorsement)
\$2,000,000 combined single limit
- e. Pollution Legal Liability-Sudden and Accidental and Gradual
(Safety-Kleen sites and Safety-Kleen approved disposal sites)
\$5,000,000 per occurrence, \$10,000,000 annual aggregate
- f. Contractor's Environmental Pollution Liability-Sudden and Accidental
(Safety-Kleen professional and contracting operations)
\$5,000,000 per occurrence, \$10,000,000 annual aggregate

Upon request, Safety-Kleen shall furnish certificates of such insurance to Customer.

12. Indemnification.

- a. Safety-Kleen agrees to indemnify, hold harmless and defend Customer, its directors, officers, employees, parent, affiliates, successors, assigns and agents ("Customer Indemnified Parties") from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense, settlement and attorneys' fees, consultant or other professional fees and the costs of investigation, containment and cleanup and any remedial actions required by law, regulation or order, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or comparable state superfund law [applicable only in the United States]) (collectively referred to as "Damages"), which Customer Indemnified Parties may hereafter incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of Laws, to the extent that such Damages were caused by: (i) Safety-Kleen's breach of any material term or provision of this Agreement; (ii) the failure of any representation or warranty of Safety-Kleen to be true, accurate and complete; or (iii) any negligent act or omission or willful misconduct of Safety-Kleen or its employees or agents.
- b. Customer agrees to indemnify, hold harmless and defend Safety-Kleen, its directors, officers, employees and agents from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (Safety-Kleen Damages), which it may hereafter incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of applicable Laws, to the extent that such Safety-Kleen Damages were caused by: (i) Customer's breach of any material term or provision of this Agreement; (ii) the failure of any representation or warranty of Customer to be true, accurate and complete; or (iii) any negligent act or omission or willful misconduct of Customer or its employees or agents.
- d. In no event shall either party be liable for any special, indirect, incidental, punitive or consequential damages, whether based in contract, warranty, indemnity or tort, negligence or strict liability.

13. Confidentiality.

- a. The parties recognize that the other party's business involves specialized and proprietary knowledge, information, methods, processes, techniques and skills peculiar to their security and growth. The parties acknowledge that any disclosure of such information relating to the other party's business or technology including, but not limited to, financial information or data, marketing techniques and materials, business plans and strategies, business operations and systems, pricing policies, information concerning employees, customers, and/or vendors, trade secrets, discoveries, inventions, improvements, research, development, know-how, designs, products, compositions, prototypes, and manufacturing processes, and any copy or reproduction of the information ("Confidential Information") would substantially injure the business of the party disclosing such information (the "Disclosing Party"), impair its investments and

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goodwill. The party receiving such Confidential Information (the "Recipient") hereby understands that any Confidential Information revealed to it by the Disclosing Party will remain the exclusive property of the Disclosing Party and its successors and assigns, unless expressly stated otherwise.

- b. The Recipient agrees to use the Confidential Information solely for the purpose of performing under this Agreement ("Business Purpose") and to only disclose it to those of its affiliates, officers, directors, employees, attorneys or agents (collectively, "Representatives") who have a need to know the information in order to perform under this Agreement and will not use the Confidential Information for any other purpose or disclose it to any third party except as otherwise expressly provided herein for a period of two (2) years from termination of this Agreement. Recipient will be responsible for breach of this Agreement by any of its Representatives. The Recipient agrees to treat and maintain the Confidential Information with at least the same degree of care as it accords to its own confidential or proprietary information but, in no event shall this degree of care be less than a reasonable degree of care. The Recipient shall notify the Disclosing Party in writing immediately upon discovery of any disclosure or use of the Confidential Information in violation of this Agreement. The Recipient shall cooperate with the Disclosing Party in regaining possession of the Confidential Information and preventing its further unauthorized disclosure or use.
 - c. Confidential Information shall not include information that (i) was lawfully in the Recipient's possession at the time the Disclosing Party disclosed the information to the Recipient; (ii) was acquired by the Recipient from a third party who, to Recipient's knowledge, had the right to possess the information and did not violate any obligation regarding its disclosure or use in providing it to the Recipient in violation of this Agreement; (iii) is in or enters into the public domain, through no act or fault of the Recipient; (iv) is independently developed by the Recipient; or (v) is required to be disclosed by court order, or legal or regulatory process, provided the Recipient gives the Disclosing Party sufficient notice of such anticipated disclosure so that the Disclosing Party might, at the Disclosing Party's expense, seek a protective order or other remedy it deems appropriate to prevent disclosure of the Confidential Information.
 - d. In the event of a breach or threatened breach of the provisions of this Section, the Recipient agrees that no adequate remedy to enforce compliance may exist at law, and that the Disclosing Party may suffer irreparable harm. Therefore, the Disclosing Party shall be entitled to seek injunctive relief to enforce the terms hereof. This provision shall in no way limit the Disclosing Party's right to recover damages or exercise any other remedy available to it at law or equity.
14. **Force Majeure.** No delay or failure in performance by either party hereto, except for the payment for Services previously performed, shall constitute default hereunder or give rise to any claim for damages, if, and to the extent, such delay or failure is caused by an occurrence beyond the reasonable control and without the fault or negligence of the party affected and which said party is unable to prevent or provide against by exercise of reasonable diligence, including, but not limited to, acts of God or the public enemy, unavoidable casualties, expropriation or confiscation of facilities, changes in applicable law, court orders, acts, orders or regulations of any governmental agency, revocation or modification of governmental permits or other required licenses or approvals, war, rebellion, sabotage or riots, floods, adverse weather conditions, fires, explosions, or similar catastrophes, strikes, lockouts or similar occurrences .
15. **Independent Contractor.** Safety-Kleen is, and shall perform this Agreement as an independent contractor and as such, shall have and maintain complete control over all of its employees and operations. Neither Safety-Kleen nor anyone employed by it shall be, represent, act, purport to act, or be deemed to be the agent, representative, employee or servant of Customer.

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16. Notice.

- a. Notice regarding price changes, Customer Service requirements and Nonconforming Waste shall be delivered either verbally followed by writing or in writing to the address of the parties as set forth below.
- b. All other notices required or permitted to be given under this Agreement shall be in writing and addressed or delivered by certified mail or overnight courier with tracking capabilities to the parties at the following addresses:

Safety-Kleen:

Safety-Kleen Systems, Inc.
2600 N. Central Expressway, Ste. 400
Richardson, TX 75080
Attn: National Account Specialist

With a copy to:

Safety-Kleen Systems, Inc.
2600 N. Central Expressway, Ste. 400
Richardson, TX 75080
Attn: Legal Department - Contracts

Customer:

Tractor Supply Company
5401 Virginia Way
Brentwood, TN 37027

With a copy to:

Tractor Supply Company
5401 Virginia Way
Brentwood, TN 37027
Attn: Office of the General Counsel

- c. Customer will give written notice to Safety-Kleen of a claim for indemnification under Section 12 promptly following Customer's first knowledge of the event or occurrence which gives rise to that claim. Upon receipt of notice, and determination by Safety-Kleen that Customer has a valid claim for indemnification, Safety-Kleen shall have the right to retain counsel to defend, negotiate, adjust, and/or settle a claim against Customer. Safety-Kleen has no obligation to indemnify Customer when Customer does not provide timely notice of a claim allowing Safety-Kleen the timely opportunity to defend, negotiate, adjust, and/or settle the claim.

- 17. Assignment. Neither party may assign or subcontract its rights and/or responsibilities under this Agreement without the other party's prior written approval, which shall not be unreasonably withheld. Notwithstanding the foregoing, Customer shall have the right to assign or transfer this Agreement to its parent company or to an affiliated company owned by the same parent company, or to a successor company; provided, however, that the credit worthiness of an affiliated company of Customer is not materially weaker than the credit worthiness of the Customer.
- 18. Governing Laws. This Agreement shall be considered as entered into and governed by the laws of the State of Tennessee, excluding its conflicts of law provisions.
- 19. Defined Terms. All defined terms herein, designated by initial capitalization, shall have the meaning so ascribed, said meaning being equally applicable to both singular and plural forms or to grammatical variations (including but not limited to masculine, feminine and neuter pronouns), as the case may be. The paragraph headings in this Agreement are inserted for the convenience of the parties only and shall not in any manner define, limit or describe the intent or scope or in any manner affect this Agreement.
- 20. Waiver. Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provisions or conditions.
- 21. Severability. If any section of this Agreement shall be found to be unenforceable, such finding shall not affect the enforceability of any other section or the Agreement as a whole.

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22. **Entire Agreement.** Attachments A, B, and C to this Agreement are attached hereto and incorporated herein by reference. This Agreement and the Supporting Documents constitute the entire agreement between Customer and Safety-Kleen related to the Services and shall supersede all previous communications, proposals, representations and agreements, either oral or written, between the parties hereto with respect to the subject matter hereof. If any discrepancy exists between this Agreement and the Supporting Documents, the terms and conditions of this Agreement shall control. The parties agree that preprinted terms and conditions on a Customer purchase or work order shall be of no force and effect, even if signed by both parties. No amendment to, or modification, waiver or discharge of, any provision of this Agreement or the Supporting Documents shall be binding on Safety-Kleen or Customer unless in writing and signed by both parties.

23. **Survival.** Sections 3(b) (Price and Payment), 9 (Safety-Kleen Representations and Warranties), 10 (Customer Representations and Warranties), 12 (Indemnification), 13 (Confidentiality), 16 (Notice), 17 (Assignment), 18 (Governing Laws), 20 (Waiver), 21 (Severability) and 23 (Survival) of this Agreement shall survive termination of this Agreement, without regard to the reason for termination.

IN WITNESS WHEREOF, the parties have read, understand and agree to be bound by the terms of this Agreement and have executed this Agreement by their duly authorized representatives as of the date first written above.

Customer

Safety-Kleen

TRACTOR SUPPLY COMPANY

SAFETY-KLEEN SYSTEMS, INC.

By: Math McBrat

By: But Willson

Math McBrat VP/Dan
Print Name and Title

But Willson, Director
Print Name and Title

12-1-14
Date

12-1-2014
Date

Reviewed and Approved by
TSC Legal Department

M Golden 10-27-14

**Attachment A. Scope of Services
Preferred Service: Used Oil Collection Services**

To ensure that all services provided by Safety-Kleen meet Customer's needs and expectations, Customer will:

- For each location, identify the authorized position(s) to request and establish services from Safety-Kleen. These authorized position(s) are: **(LIST NAMES OF POSITIONS HERE)**

Locations	Positions
All locations in Attachment B.	

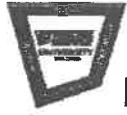
Safety-Kleen, in consultation with approved Customer personnel, will:

- Identify the types of used oil collection services requested by the Customer;
- Determine the service intervals for each used oil collection service placed at the Customer's location;
- Complete for Customer's signature a Placement Document (which becomes part of the Supporting Documents) specifying the type(s) of services provided; and
- Implement used oil collection services at the Customer location(s) as specified by authorized Customer personnel.

Safety-Kleen, in consultation with the Customer, will perform the following used oil collection services (which could include the collection of used oil, oily water, and/or antifreeze waste) at the Customer's location:

- Properly characterize and classify the used oil wastes generated by the Customer;
- Provide labeled containers (if requested by Customer) to store used oil wastes at the Customer location;
- Check Customer's used oil for the presence of halogenated constituents, and notify Customer of their used oil management options if the presence of these compounds are detected at a level exceeding 1,000 parts per million;
- Obtain a retain sample of the Customer's used oil wastes at the time of service;
- Remove Customer's used oil wastes from Customer's tanks, containers, or other storage units into a Safety-Kleen vehicle; and
- Appropriately manage Customer's used oil wastes to final disposition.

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Recycling Used Oil Daily Sales Huddle



Introduction

Tractor Supply and Safety-Kleen have partnered for the past 16 years on a closed-loop used oil recycling program. The benefits to Tractor Supply, the environment and you are infinite. Use this Huddle to explain the benefits to your Team Members.

Facts

Here are some helpful facts about oil recycling and re-refining:

- Customers who return used oil are reported to spend an average of \$60 per store visit, more than five times a year
 - Through our combined efforts Safety-Kleen collects, re-refines and places back into the marketplace 140 million gallons of oil each year
 - Oil re-refining is the superior recycling method, reducing the production of greenhouse gases by 85% and heavy metal emissions by up to 99.5% compared to burning the used oil as fuel
 - An estimated 60%, or 180 million gallons, of DIY collectible used oil annually remain uncollected
 - A single gallon of oil can contaminate one million gallons of drinking water
 - You can collect up to 30 gallons of oil per consumer (*Note: the maximum allowed in Illinois is 5-gallons per customer per day*). Large tractors can hold up to 30-gallons of collectible oil
-

Ways You Can Make an Immediate Difference

Make customers aware Tractor Supply collects oil and be the point of their destination!

- Awareness is the key to the success of this program
 - Helpful Hint: Any customer buying oil, or other automotive products, could potentially return their oil to Tractor Supply and spend additional money on other store products
 - As you walk customers to the tank, there is a great opportunity to interact with customers, build rapport, create retention and sell the latest product offerings at Tractor Supply
-

Continued on next page

Recycling Used Oil Daily Sales Huddle, Continued

Operating the Program

To make the program a success:

1. Accompany the customer to the tank and confirm it is an acceptable material
2. Visually inspect the oil for **ACCEPTABLE** petroleum based products to recycle such as:
 - a. Used Motor Oil
 - b. Hydraulic Oil
 - c. Gear Oil
 - d. Transmission Fluid
 - e. Power Steering Fluid
3. If you notice any of the below issues with the customer's DIY oil, politely return the material:
 - a. A color other than black, or dark brown, could indicate paint, or another material, is present
 - b. Separation into layers – oil doesn't separate
 - c. Large amount of water
4. If there is an obvious odor, especially gasoline or chlorine odors, tell the consumer the material is unacceptable. Most communities have a household hazardous waste (HHW) program
5. Common items consumers try to return which are **NOT ACCEPTABLE** items are listed below
 - a. **NOTE:** If these items are placed in a DIY tank, the entire tank will be contaminated. A contaminated tank is considered hazardous and will result in additional charges to Tractor Supply.
 - i. Gasoline
 - ii. Kerosene
 - iii. Paint
 - iv. Brake Fluid
6. If the contents are acceptable: document the customer information on the DIY oil logsheet

IMPORTANT: The tank should remain locked at all times when not in use.
Procedural suggestion: Place the DIY Used Oil Log on a clipboard. Connect the key for the tank lock to the clipboard (using string). When a customer wants to recycle acceptable materials, take the clipboard (with log and key) and accompany the customer to the tank.

Continued on next page

Recycling Used Oil Daily Sales Huddle, Continued

Store's Responsibility

Stay Compliant:

- Be familiar with the DIY Procedure Manual
 - Oil Log: Have customers fill out the oil log
 - Labels:
 - Your tank requires a Used Oil label, a No Smoking Label and an NFPA Diamond
 - Tanks in Massachusetts and California require Hazardous Material labels
 - **If you do not have these labels please contact Safety-Kleen's DIY Hotline number (800) 545-3520**
 - *If oil is spilled during the pour, immediately call Infotrac (800-535-5053) for proper clean up, handling, and disposal procedures. It is important to contain the spill from entering any drainage, or water supply.*
-

What if you need a pick up?

For oil service call the DIY Hotline at 1-800-545-3520

Safety-Kleen's Responsibility

Safety-Kleen Drivers Should:

- Identify themselves to the store manager
 - Check the level of the tank and test the oil
 - Inspect the tank for missing parts or labels
 - Perform the service
 - Wipe off the tank
 - Have you sign the receipt
-

POP in Stores

We will recycle your used oil!

GO GREEN AT TRACTOR SUPPLY

We accept for free:

- Motor Oil
- Hydraulic Oil
- Transmission Fluid
- Power Steering Fluid
- Gear Oil

Through our combined efforts 130 million gallons of used oil is put back into the marketplace each year, reducing the production of greenhouse gases by 86% and heavy metal emissions by up to 61.6%. It also saves one gallon of oil to create 1,000,000 gallons of drinking water.



USED OIL LOG Retailer: _____ Store #: _____

ACCEPTABLE OIL	UNACCEPTABLE FLUIDS - THESE MATERIALS WILL CONTAMINATE THE OIL!	
Used Motor Oil	Gasoline	Paints & Lacquer Thinners
Gear Oil	Solvents	Insecticides
Hydraulic Oils	Antifreeze	Brake Fluid
Transmission Fluid	Paints & Varnishes	Household Cleaners
Power Steering Fluid	Any mix of unacceptable materials with acceptable oils	

By signing this log, I certify that I am a Conditionally Exempt Small Quantity Generator (CESQG) and that the materials submitted consist entirely of "acceptable oil" which was removed from a motor vehicle without charge.

200_ Date	Name FIRST/M.I./LAST	Address NUMBER/STREET	City CITY/STATE	Zip Code	# of Gals

This Used Oil Log serves as documentation that the contents of the DIY used oil collection container is regulated as used oil under 40 CFR Part 279.10 (b)(3) because it was generated by Conditionally Exempt Small Quantity Generators.

WE CANNOT ACCEPT USED OIL CONTAINERS



CRITICAL STORE PROCEDURES

Contact/Phone # Reference

Please fill out the following information for quick reference.

- Police _____
- Fire _____
- Ambulance _____
- Help Desk _____
- District Manager: _____ Phone: _____
- Landlord Contact Information:
Contact: _____ Phone: _____
- Team Member & Customer Accident Reporting:

Company: _____ Phone: _____
Departments>Risk Management>Accident Reporting Procedures
- Spill Contact: _____
Departments>Risk Management>Hazardous Material & Spills
- Outside Meeting Area in case of Fire or Evacuation:

- Safety Area(s) for Severe Weather or Tornados (ex. break room, bathrooms)

Severe Weather

Severe Weather can include any of the following: **tornado, flood, severe thunderstorm, severe winter weather, and hurricanes**. If severe weather is issued for your area please take the following measures to help ensure the safety of our team members and customers.

Weather Monitoring

If there is threat of severe weather conditions, designate a Team Member to monitor any weather updates and inform Team Members of what is happening. The weather can be monitored by the following means:

- Weather radio
- Local radio station
- Local TV channel

Ensure the above can be accessed by battery power in case of power outage

Tornado Watch

This means that the conditions in the area are favorable for a tornado. If issued for your area please designate someone to watch for any potential tornadic activity.

Tornado Warning

This means that a tornado has been sighted in the area. Take cover immediately upon notification.

Action – Tornado Warning

- The following announcement should be made:

“May I have your attention please. We have an emergency weather situation in the area. For your safety, all Team Members and customers should calmly and quickly make your way to (the Designated Safety Area). Please find the nearest Team Member if you need assistance. Thank you.”

- Team Members should be designated to check and assist customers, including any customer or Team Member with disabilities.
-

Safety Area

The safety area will be different for each store location. Please designate an inner area of the building without any windows. This could include areas such as the break room, bathroom, or manager’s office. This will need to be communicated to all team members.

Safety Area: _____

Fire

In the event of a fire, the Store Manager/Team Leader should determine if it is safe to distinguish or call the fire department. Your safety and the safety of others should remain most important in a fire situation.

Fire Extinguisher

If safe to do so, a fire extinguisher should be used to extinguish small fires only.

Use the P.A.S.S Method with Fire Extinguishers

- | | |
|---|--|
| P | Pull the pin and start 8 feet away |
| A | Aim at base of fire using extinguisher upright |
| S | Squeeze the lever |
| S | Sweep side to side |

Action

If it is determined that the fire creates a dangerous condition, call the fire department, activate the fire alarm, and evacuate the building.

- Please make the following announcement:

*“May I have your attention please. We have an emergency situation in the building. For your safety, all Team Members and customers should calmly and quickly make your way to the nearest marked exit. ***When making the announcement, be sure to let Team Members and customers know where the danger is located. (ex. Do not exit towards the front of the building)*** Please find the nearest Team Member if you need assistance.*

- Direct customers and Team Members to the nearest exits. If time permits search all fitting rooms, restrooms, and back rooms.
 - Have Team Members and customers meet at outside meeting area. All Team Members should be accounted for at this time.
 - Store Managers/Team Leaders please make yourself available to help assist the fire department upon arrival.
-

Safety Area

Outside Safety Area: _____

Burglary Procedures

Effective: **June 1, 2004**

- Overview** Following the proper procedure in dealing with a burglary is very important in:
- Ensuring the accurate reporting of losses.
 - Getting the proper repairs completed in a timely manner.
-

- Policy**
- Never enter the store without the responding police officer or until the store has been deemed clear by the police.
 - Assess the damage to the facility and alarm system to begin repair process.
 - Attempt to determine the extent of losses checking the safe and high ticket items. Create a list of known loss items to give the police.
 - Temporarily secure the building before leaving the store.
 - Local emergency repairs may be deemed necessary before leaving the store unattended.
 - Any facility repairs during normal business hours may be coordinated through the Real Estate department.
 - Alarm equipment damage may be reported to the 24hr ADT emergency service number for urgent repairs.
 - Alarm equipment repairs during normal business hours may be coordinated through Loss Prevention.
-

- Communication**
- Contact your District Manager as soon as possible.
 - Forward burglary information to the Loss Prevention department within 48 hours for proper documentation of the incident. Include the police report number and summary of losses.
-

Robbery Procedures

Effective: June 1, 2004

- Overview** Following the proper procedure in dealing with an armed robbery is very important in:
- Reducing safety risks of all Team Members during a robbery.
 - Getting the suspect out of the store as quickly as possible.
 - Providing the police with good information.
-

- Policy**
- Remain calm and follow the suspect's instructions.
 - Open the register and remove the cash if instructed.
 - **Never argue with the suspect.**
 - Attempt to get a good description without staring. Note any tattoos, piercing, etc.
 - Upon the suspects exit, note the car description, license plate #, and direction of travel. Do not risk personal safety to accomplish this task.
 - Call 911 to report the crime.
 - Seal off any area the subject may have touched or come in contact with.
 - Write down everything you remember about the suspect and incident as soon as possible.
 - Ask customers if they could write down identifying information they might have noticed.
 - Wait for the police to arrive for further instructions.
-

IMPORTANT At no time should a Tractor Supply Company team member chase or attempt to detain a robbery suspect!

- Communication**
- Contact your Store Manager and District Manager as soon as possible.
 - Forward robbery information to the Loss Prevention department with 48 hours for proper documentation.
-

Shoplifting Apprehension Policy

Revised: October, 2015

Effective: June 1, 2004

Overview Following the proper procedure in dealing with a shoplifting incident is very important in:

- Reducing safety risks of all TSC team members
- Reducing losses due to external theft
- Minimizing the liability of TSC with regard to shoplifting incidents

Policy

- First, attempt to deter the potential shoplifter using direct customer service techniques.
- Approach the individual and offer your assistance multiple times if necessary.

If all attempts to deter the theft using customer service fail, the Store Manager or Assistant Store Manager may confront a shoplifter if all of the following steps have been fulfilled. Please note that each step must be completed by the management person making the stop.

5 Step Process

1. Suspect is observed entering the department without the merchandise
2. Suspect is observed removing the merchandise from the display location.
3. He or she is then observed concealing the item.
4. The management team member must maintain continual, unobstructed observation of the suspect. (This ensures the individual didn't drop the merchandise)
5. The suspect will then have to pass the cash register area and exit the store, which confirms their intentions not to pay for the item.

Upon successful observation of all five steps, the suspect may be approached in the vestibule or at the exit doorway by the member of management. Do not follow them into the parking lot.

Continued next page

**Confronting
Suspect**

The Store Manager or Assistant Store Manager should approach the suspect in this manner:

- Identify themselves as a Tractor Supply Manager
- Do not grab or hold the suspected shoplifter
- Ask the suspect if you can help them with their purchase of the item in question.
- If you receive a negative response, be more direct
- “Sir, can I help you with the drill bits in your jacket pocket”

If the suspect cooperates, the merchandise should be returned to the store and the suspect should be allowed to leave and advised not to return. Your Regional Loss Prevention Manager should be notified immediately as well.

If the suspect does not produce the merchandise in question, they should not be restrained or followed. Doing so presents a safety risk to all parties involved.

If the suspect flees, the Store Manager or Assistant Store Manager should gather any relevant information and contact their Regional Loss Prevention Manager immediately to discuss options for involving law enforcement.

DO NOT approach their vehicle or engage in a pursuit on foot or in a vehicle.

If the suspect threatens or engages in violence, a 911 call should be placed immediately by any team member. No Tractor Supply team member should instigate a physical confrontation with a suspect. If a suspect instigates an assault on a team member, that team member should defend themselves in a reasonable manner until help arrives. The District Manager and Regional Loss Prevention Manager should be notified and updated immediately in these situations.

In certain cases, email notifications (BOLOs) will be sent to stores regarding individuals suspected in large scale theft rings. The instructions in those emails should be followed on a case by case basis and may require immediate calls to law enforcement.

Shoplifters may ONLY be detained by the District Manager, Store Manager or Assistant Store Manager.

Team Leaders, Receivers, and Team Members may not detain a shoplifter even if they have previous Loss Prevention or Law Enforcement work experience.

Contact your Regional Loss Prevention Manager with any questions.

Accident Reporting

Refer to the complete list of procedures for reporting accidents: **Departments>Risk Management>Accident Reporting**. Following are highlights from the Accident Reporting procedures.

Workers Compensation

- See that medical treatment is provided as well as transportation as needed.
 - Refer TM to the designated Drug Free Workplace collection site with the Chain of Custody Form.
 - Report the Claim.
 - Forward related Medical bills to Hartford for payment.
-

General Liability or Customer claims

- Provide whatever assistance is necessary and do the right thing!
 - Obtain the customer's name, phone number, and his/her description of the incident.
 - Obtain any witnesses' names, phone numbers, and description of the incident.
 - Document any TM witnesses and their descriptions of the incident.
 - Document relevant claim information such as;
 - Make/Model of vehicle
 - Item/Merchandise involved with incident.
 - What customer was doing
-

Sprinkler Valve

Emergency Shut Off

- Situations may arise in which the sprinkler system is activated but the store does not have a fire situation (ex. Sprinkler head accidentally hit by forklift driver. A sprinkler pipe freezes and ruptures.)
- If your store is in a strip mall, the valve may be located in another part of the building that does not belong to Tractor Supply Company.
- The sprinkler control valve will be locked in the open position. A key or set of bolt cutters will be needed to disengage the chain and turn off the control valve.

Procedures

1. Location: _____

2. Instructions for Turning off Valve: _____

3. Contact: _____ Phone: _____

If the valve is located in a different part of the building not owned by TSC

Spills

Introduction Any spill should be dealt with immediately no matter the size. Not all spills are hazardous but all spills need our attention.

- Actions
- Mark off the area of the spill using caution cones and wet floor signs. (Do not leave the area unattended!)
 - Evacuate the area/store if necessary. Contact your Manager and the Help Desk immediately.
 - Refer to designated MSDS contact for Chemical spills/exposures assistance:
Company: _____
Phone #: _____
They will advise proper handling, clean up, and disposal procedures.
 - If special assistance is needed please contact the Risk Management Department at Store Support.
 - When dealing with any spill, wear all required Personal Protective Equipment (PPE).
 - Dispose of any waste or hold for hazmat collection as instructed.
-

Refer to the following for complete and current instructions: Departments>Risk Management>Hazardous Materials & Spills

Media Inquiries

What to do if approached by the media

- DO NOT discuss any issue with the media or provide any information.
 - DO NOT say “No comment.” Rather, let them know if they will provide their specific question and contact information, you will forward it to the proper person for response.
 - Immediately contact Jonathan Swiskow, Marketing Director, at 615/324-4224 or notify your District Manager.
 - TSC Marketing/Advertising Department in conjunction with our Public Relations firm will provide a quote and respond on our behalf, or direct you on how to respond.
-

Bomb Threat

Actions

- Immediately evacuate the store and notify the police of any instance of a suspected bomb or bomb threat.
- Do not attempt to find a bomb or touch any suspicious object.
- The following announcement should be made:

“May I have your attention please. We have an emergency situation in the building. For your safety, all Team Members and customers should calmly and quickly make your way to the nearest marked exit. Please find the nearest Team Member if you need assistance.”

- If time permits, Store Managers/Team Leaders should re-check all dressing rooms, restrooms, back room and office areas to ensure every is out.
 - Secure the building and wait for the proper authorities to arrive and give clearance before re-entering the building.
 - Notify your District Manager or The Help Desk of the situation.
-

Hurricane Procedures

Following are highlights from the procedures. The complete Hurricane procedures document can be found: *Departments>Risk Management>2005 Hurricane Procedures*

Hurricane Preparation Checklist – *Approximately June 1*

- Initial Hurricane Season Preparation
 1. Update Emergency Contact Numbers
 2. Develop a Team Member Contact List, including phone number, address, and directions to home from store and a communication plan
 3. Be sure you have:
 - Ample supply of counter tickets
 - Manual credit card imprinter
 - Register keys
 - Merchant Phone # ID stickers on store phones
If not, contact the Help Desk for assistance.
 4. Ensure first aid kit is well stocked
-

Evacuation

- Evacuation will be at the discretion of the Store Manager and in conjunction with local authorities.
 - Be sure to give Team Members ample time to get home safely and to evacuate the area as needed, keeping in mind heavy traffic due to evacuations.
 - Remember: Safety 1st!
 - Notify the DM and the Help Desk of store closure.
-

Continued next page

Operating the Store without Power

Operating the store without power

- Customers value our stores being open during times of disaster to supply their needs. Listed below are steps to ensure customers are able to shop and checkout in our stores during these times. **Stores should not re-open unless safe to do so and a minimum of 3 Team Members are available.**

STEP	ACTION
1	Before opening, mark off areas that are not safe enough for shopping.
2	Mark off the front of the store to only allow customers in one at a time and prepare the area so a line can be formed if needed. Have 1 Team Member man the door.
3	Each customer should be accompanied by a Team Member with a flashlight at all times while inside the store during any power outage.
4	<p>If the store has generator power, it should be used to power:</p> <ul style="list-style-type: none"> • Register • Adapter for scanner • Shop Lights • Barn Fan • Vet cooler <p>Generator Safety Precautions:</p> <ol style="list-style-type: none"> 1. Never use a generator indoors. 2. Generator should have 3 to 4 feet of clear space on all sides and above it for proper ventilation. 3. Before refueling, shut down and let generator cool. 4. Store fuel containers a safe distance from generator.
5	<p>To transact sales without generated power the following items will be necessary to have at the register :</p> <ul style="list-style-type: none"> ~Scanner from receiving ~Calculator (battery powered) ~Credit card imprinter ~Credit card slips ~Counter Tickets ~Register Keys <p>See sections below on how to process transactions based upon tender type.</p>
6	<p>To Help Reduce Shrink:</p> <ul style="list-style-type: none"> • Cash should be pulled from registers every two hours (or sooner if needed) and taken to the safe. • Cash register drawers should be closed after each transaction. • Bank deposits must be made daily, including checks. Write "For Deposit Only" on the back of each check.

Continued next page

Processing Cash Sales

- Scan the items with the scanner from the backroom.
 - Record the SKU, description, quantity, retail and tax amount on a counter ticket.
 - Add all retails together and multiply by the local tax percentage.
Example: If the tax is 9.25% and the subtotal is \$48.76, you would multiply \$48.76 by .0925 for the amount of tax to charge.
 - Tax Exempt sales must include the customer's information (name, address, phone number) to enter into POS when the sales can be keyed.
 - Total the sale and use the Register Keys to open the cash drawer to make change and put the money in the till. Close the register drawer after each transaction.
 - Note on counter ticket – cash sale.
-

Processing Credit Card Sales

- Scan the items with the scanner from the backroom.
 - Record the SKU, description, quantity, retail and tax amount on a counter ticket.
 - Add all retails together and multiply by the local tax percentage.
Example: If the tax is 9.25% and the subtotal is \$48.76, you would multiply \$48.76 by .0925 for the amount of tax to charge.
 - Tax Exempt sales must include the customer's information (name, address, phone number) to enter into POS when the sales can be keyed.
 - Total the sale and use the credit card imprinter to swipe the card. (If your store does not have an imprinter, please notify the Help Desk and one will be ordered for your store.)
 - The floor limit for credit card sales is \$200. It is absolutely imperative that you call for authorization on any credit card sale over \$200 during this time. The phone #'s for authorization are located on the phones at the registers. If your phones are missing the Merchant ID's, let the Help Desk know and they will send new ones to your store.
 - Have the customer sign the credit card slip and staple the merchant copy to the counter ticket the information is recorded on. Print the name and phone number on the credit card slip or counter ticket.
 - Note the credit card type, account # and expiration date on the counter ticket for keying purposes.
 - Note on counter ticket – credit sale.
-

Continued next page

**Processing
Check Sales**

- Scan the items with the scanner from the backroom.
- Record the SKU, description, quantity, retail and tax amount on a counter ticket.
- Add all retails together and multiply by the local tax percentage.
Example: If the tax is 9.25% and the subtotal is \$48.76, you would multiply \$48.76 by .0925 for the amount of tax to charge.
- Tax Exempt sales must include the customer's information (name, address, phone number) to enter into POS when the sales can be keyed.
- For checks over \$100, check the customers ID and record the information on the check.
- For checks over \$200, in addition to the above verifications, call Telecheck @ (800) 366-5010 for authorization.
- Note on counter ticket – check sale.

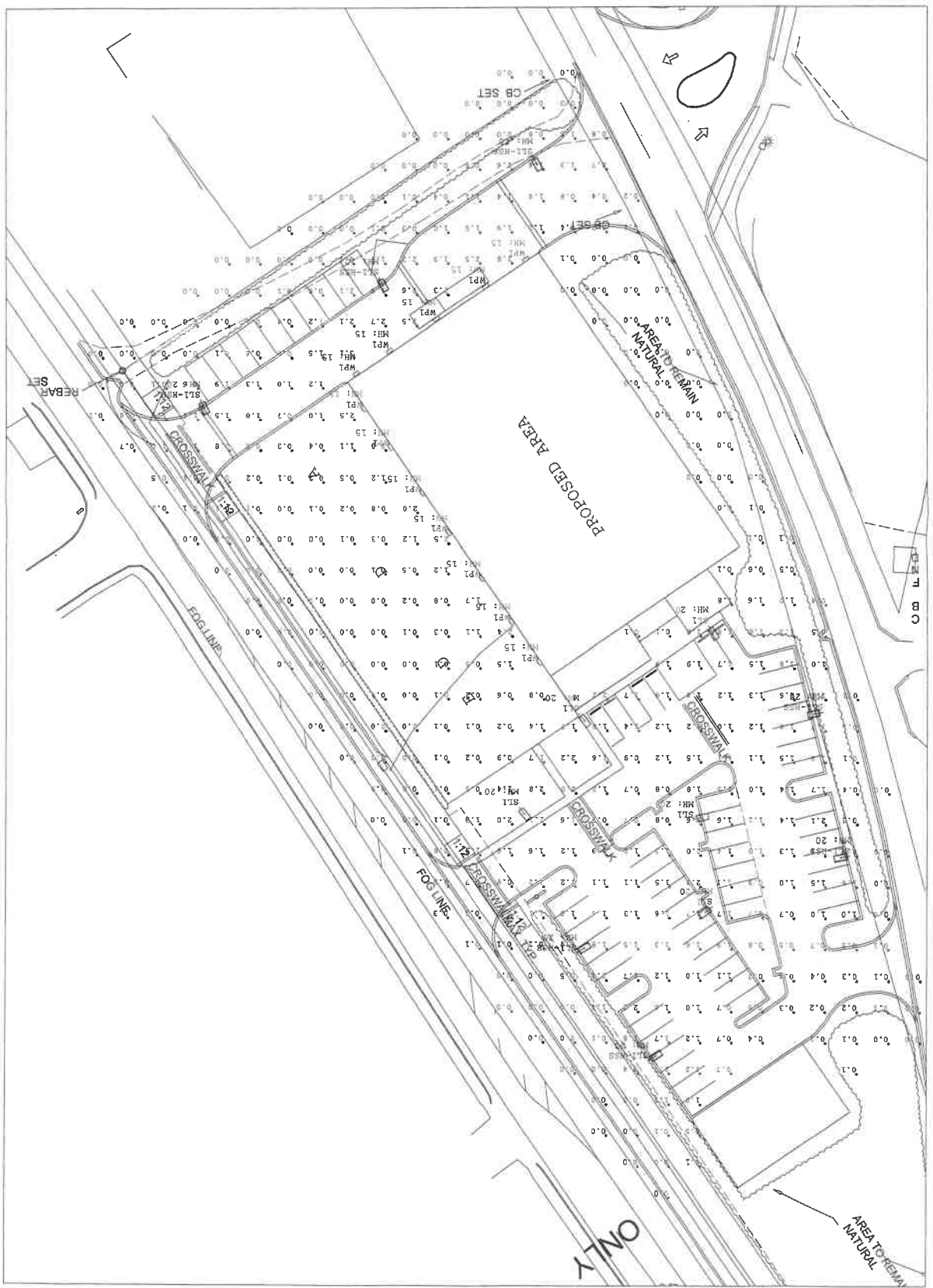
**Keying Sales
into POS**

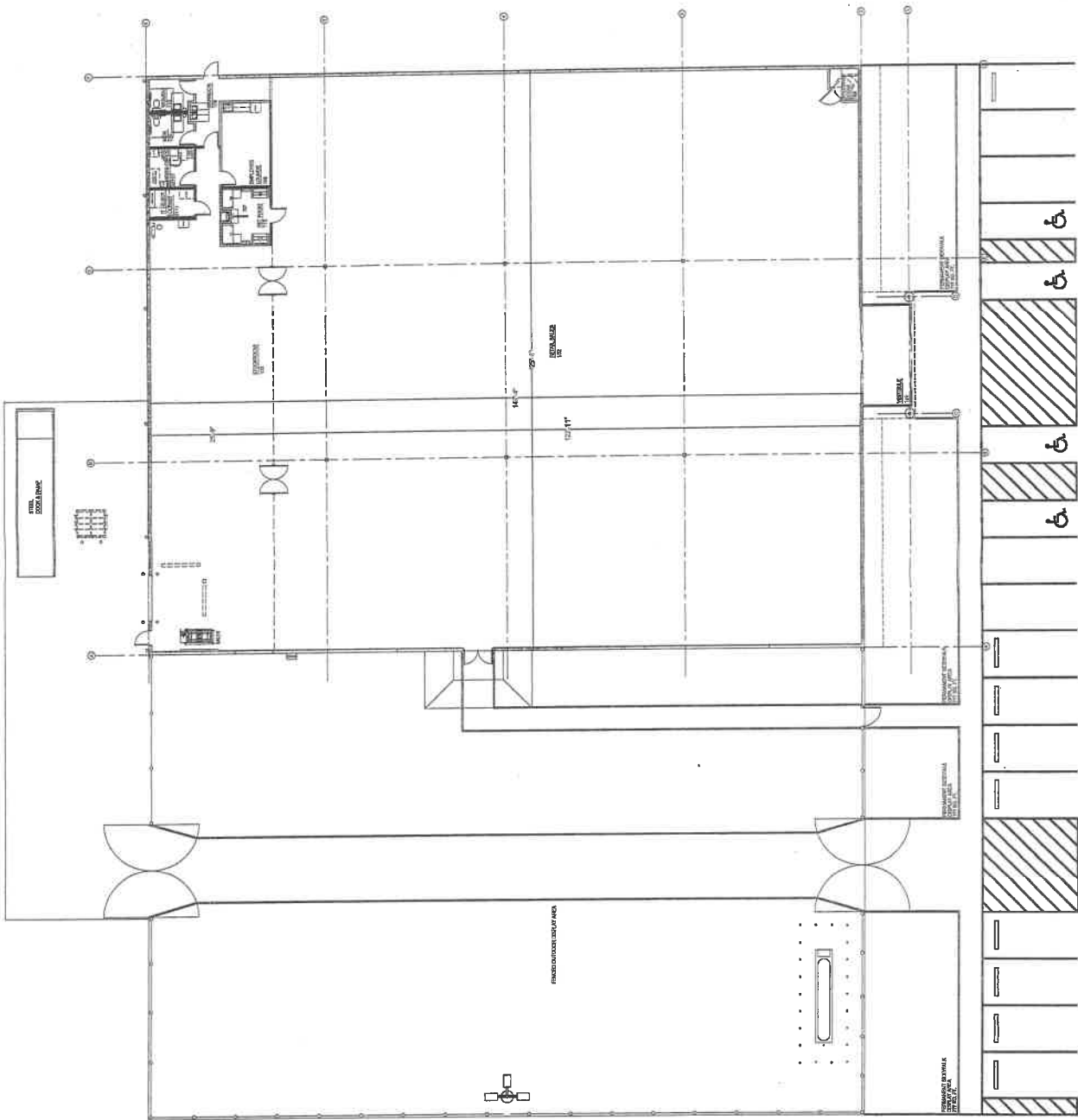
- After power is restored, it will be necessary to key each sale into POS.
 - Manually key in each counter ticket that was created during the power outage.
 - Pay special attention to quantities when keying these sales.
 - After keying the items in, select the tender and process the sale.
 - For cash sales the money will already be in the till so just close the register when it opens.
 - For check sales, when POS prompts you to enter the check to “frank” it, enter the counter ticket instead. (Note: Checks should be deposited daily—write “For Deposit Only” on the back of each.)
 - For credit card sales it will be necessary to staple the signed credit card slip to the POS generated receipt.
-

EXHIBIT H

Scale: 1" = 40'	Project: 174 Pitchers Way
Client: [Redacted]	Design: 10/15/15
Drawn By: [Redacted]	Checked By: [Redacted]
1 Date: [Redacted]	2 Date: [Redacted]

Station	Label	QC	Label	Station
12	MPI	12	MPI	12
7	SLI-RSS	7	SLI-RSS	7
5	SLI	5	SLI	5
3	SLI	3	SLI	3
1	SLI	1	SLI	1





TO: Alex Rodolakis, Chair, ZBA
FROM: Felicia Penn, Hyannis Resident
RE: Appeal # 2020-023, Windmill Square, LLC
Date: June 5, 2020

I write in opposition to two of the variances requested from Windmill Square, LLC.

Section 240-35 section F(2) items u & v of the Code of the Town of Barnstable, specifically prohibits the storage of liquid petroleum products and commercial fertilizers. Here is exact verbiage from the code:

GP Groundwater Protection Overlay District regulations.

(2) PROHIBITED USES. THE FOLLOWING USES ARE PROHIBITED IN THE GP GROUNDWATER PROTECTION OVERLAY DISTRICT:

(U) STORAGE OF LIQUID PETROLEUM PRODUCTS OF ANY KIND, except those incidental to:

[1] Normal household use and outdoor maintenance or the heating of a structure;

[2] Waste oil retention facilities required by MGL Ch. 21, § 52A;

[3] Emergency generators required by statute, rule or regulation;

[4] Treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

[5] ANY OTHER USE, WHICH INVOLVES AS A PRINCIPAL ACTIVITY OR USE THE GENERATION, STORAGE, USE, TREATMENT, TRANSPORTATION OR DISPOSAL OF HAZARDOUS MATERIALS.

(V) STORAGE OF COMMERCIAL FERTILIZERS, AS DEFINED IN MGL C 128, § 64, UNLESS SUCH STORAGE IS WITHIN A STRUCTURE DESIGNED AND ENGINEERED TO PREVENT ESCAPE OR TRANSPORT OF COMMERCIAL FERTILIZERS TO THE GROUNDWATER UNDER ANY CIRCUMSTANCES.

[Added 1-17-2013 by Order No. 2013-001]

Other retail establishments facing this prohibition worked around this issue by making exceptional and extensive investments so as to contain hazardous materials on-site should a spill or infiltration of soil occur. Such expenditures included rubber membranes below and above the foundation, raised catch basins that do not allow seepage into the water table, and other such mechanisms to prevent the hazardous materials from gaining access to the groundwater. They also agreed to reduce their normal inventory levels. I am speaking of BJ's, which was a Development of Regional Impact and negotiated by the Cape Cod Commission, since BJ's was planning to build in a sand pit that was in a zone of contribution for Hyannis drinking water supply.

For your information, here is an excerpt from that Development Agreement:

“Provision of an internal and external containment system in the proposed BJ's store as described in the "Hazardous Materials Release & Contingency Program," dated October 1, 2001 prepared by Green Seal, consisting of raised grates in the floor inside the proposed BJ's store (approximately 1 inch above the floor surface) that are piped to an additional exterior retention structure. The exterior retention structure is proposed to be equipped with an oil/water separator with a 1,000 gallon holding capacity at its connection to the piping coming from the store, and to be lined with an oil/chemical resistant high density polyethylene (HDPE) liner system (i.e. a 40 mil landfill liner) with a clay, hardening or vegetative layer on top. The building will also be lined with this oil/chemical resistant high density polyethylene (HDPE) liner system. Permanent removal of a 10,000 gallon underground fuel storage tank. Submission of an emergency response plan entitled "Spill Prevention Control and Countermeasure Plan" dated September 5, 2001, which is consistent with Development Review Policy 4.2.2.4.”

Obviously, those making the planning and regulatory decisions at the time felt that the inventories, prices, selection and general presence of a BJ's in Hyannis in this location was more of a benefit than a detriment, and therefore required the comprehensive mitigation measures of internal and external containment systems to accommodate the project. (Note, at the time, there was grave concern about BJ's in this location and it only passed by one vote.)

In the request before you, there is nothing unique enough about the inventory, prices and/or selection carried by the Tractor Supply Company that would obligate the town to issue a variance to the prohibition on hazardous materials in a Groundwater Protection Overlay District (GPOD). Every item carried by the proposed retailer is available elsewhere on Cape Cod, and from local merchants. There is no compelling reason to issue a variance.

The development agreement for this project indicates that this building will contain floor drains and a double walled holding tank. No building membrane, and no containment to keep the product from entering the drains. What company locations do they have that are located in areas with a single source aquifer? Where else have they built in a Groundwater Protection Overlay District? What is this company's experience/history with containing hazardous materials?

There is mention in the Development Agreement that for mitigation, this project removed (or will remove) a 30,000-gallon underground gas tank from the Save-On gas station on West Main Street. That may be positive for the environment in general, but how exactly does that mitigate the potential future damage a variance may allow in this location in the GPOD? How does that protect our groundwater going forward?

There are over 10,000 residential properties in Hyannis. Our water is already compromised by PFC contamination, and we are currently buying some of our water from the Town of Yarmouth until the compromised wells are restored. I live in Hyannis and get my water from the Hyannis Water System. I do not see how the town can responsibly issue a variance to allow two prohibitive uses in this location at this time. Issuing a variance has the potential to exponentially compromise the Hyannis Water System even more than it is now.

The Town Code forbids hazardous materials from being stored or sold in a GPOD for good reason.

- I ask that you please deny their request for a variance for 240-35. F (2) u & v.

RE: applicant's request for a variance for 240-53 (B) landscape buffer setbacks:

From the TOB Code: (emphasis, mine)

"Screening from residential districts: Where a parking lot containing five or more spaces abuts a residential district, or is located across the road from a residential district, it shall be screened as follows: (a) retention or planting of a sufficient area of natural vegetation to provide a dense screen; and/or (b) a dense hedge providing year-round screening, and/or (c) where vegetative screening is not practical, a fence, with not more than 50% open space between the panels. Such screening shall be maintained in good condition at all times, and no advertising shall be placed upon the screening. In an Historic District, fences and hedges may be subject to other regulation."

The location of the proposed project is currently an undeveloped wooded lot. It is directly across the street from two large residential developments. There is no reason the applicant can't show some respect for the people who live here and retain at least a 20' natural wooded buffer along Pitcher's Way in order to conform to this requirement.

- Request for a variance for 240-53 (B) should be denied.

Thank you for your consideration in denying requests for variances for 240-35 F (2) u & v and 240-53 (B).

Sincerely,



Felicia R Penn
15 Daisy Bluff Lane
Hyannis, MA 02601



Town of Barnstable
Planning and Development Department
Elizabeth Jenkins, Director
Staff Report

Variance No. 2020-023 – Windmill Square, LLC
Section 240-35 F. (2) (u) and (v) – Groundwater Protection Overlay District
Section 240-53 – Landscape Requirements for Parking Lots
240-56 – Schedule of Off-Street Parking Requirements

To allow the construction of a new 19,072 square foot retail building

Date: May 28, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner
Petitioner: **Windmill Square, LLC**
Property Address: 1174 Pitcher's Way, Hyannis, MA
Assessor's Map/Parcel: 273/123
Zoning: Business (B), Chapter H Economic Center, GP Groundwater Protection Overlay Zoning Districts

Filed: May 15 2020

Hearing: June 10, 2020

Decision Due: August 23, 2020

Copy of Public Notice

Windmill Square, LLC., has petitioned for a Variance in accordance with Section 240-35.F(2)(u) and (v)- GP Groundwater Protection Overlay District Regulations, 240-53 – Landscape Requirements for Parking Lots, 240-53(B) Landscape Requirements for Parking Lots in Office and Commercial districts and Section 240-56 – Schedule of Off Street Parking Requirements. The Petitioner is seeking to construct a 19,072 square foot retail building and associated site improvements, including a customer pick up and loading area. The subject property is located at 1174 Pitcher's Way, Hyannis, MA as shown on Assessor's Map 273 as Parcel 123. It is located in the Business (B) Zoning District and Groundwater Protection (GP) Overlay Zoning District.

Background

The subject property is located at the intersection of Bearse's Way and Pitcher's Way in Hyannis. The site contains 2.8 acres, is triangular in shape, and has approximately 620 feet of frontage on Bearse's Way and approximately 580 feet of frontage on Pitcher's Way. The site is currently vacant and has a residential subdivision, commercial uses, and the Water Pollution Control Facility as abutters. The site is located within the Business Zoning District as well as the Groundwater Protection (GP) Overlay District. Town water and sewer are available at this site.

In February, Windmill Square, LLC., petitioned for a Variance in accordance with Section 240-35.F - GP Groundwater Protection Overlay District Regulations, 240-53 – Landscape Requirements for Parking Lots, and Section 240-56 – Schedule of Off Street Parking Requirements. The Petitioner was seeking to construct a 19,072 square foot retail operation with approximately 14,020 square feet of outdoor customer pick up/storage fenced in area. The proposal had been approved by the Cape Cod Commission but later appealed. The Peitioner then withdraw the original Petition. This revised site plan reconfigures development in such a way that does not exceed DRI thresholds, as determined by the Building Commissioner.

Proposal & Relief Requested

Windmill Square, LLC., has petitioned for a Variance in accordance with Section 240-35.F - GP Groundwater Protection Overlay District Regulations, Section 240-53 – Landscape Requirements for Parking Lots, and Section 240-56 – Schedule of Off Street Parking Requirements. The

Petitioner is seeking to construct a 19,063 square foot retail operation known as “Tractor Supply” outdoor customer pick up, and 4 curbcuts. Also proposed are two easements: one for a future 10 foot wide multi-use path along Bearse’s Way and the other for a future sidewalk along Pitcher’s Way. This project has been found approvable by the Town of Barnstable’s Site Plan Review Committee subject to conditions that include relief necessary from the Zoning Board of Appeals. It is located in the Business (B) and Groundwater Protection (GP) Overlay Zoning Districts, and an Economic Center subject to a Chapter H Decision from the Cape Cod Commission.

The Petitioner is proposing to provide two easements, discussed above, which necessitated the need to reduce some landscaped buffers by 2 feet from the required 10 feet on the West side and to reduce the number of parking spaces from 73 to 60. The Petitioner states that with respect to the requested relief from the GP, Tractor Supply, as a retail farming orientated store, will sell fertilizer, small quantities of liquid petroleum products like kerosene and certain lubricants which fall under Section 240-35 F (2) (u).

About Chapter H

In 2019, as part of ongoing economic development efforts, the Town sought to raise Development of Regional Impact (DRI) thresholds to promote and attract economic development opportunities within the Town’s Economic Centers and the Industrial Service and Trade Area. The application increased the DRI thresholds for proposed developments from 10,000 square feet for commercial/industrial land uses to 20,000 square feet in Economic Centers and 40,000 square feet in Industrial Service and Trade Areas. The proposed building is 19,063 square feet.

Chapter H of the Cape Cod Commission Regulations provides a process that implements a regulatory approach to guide growth towards areas that are adequately supported by infrastructure, and away from areas that must be protected for ecological or historical reasons. The application that revised the DRI thresholds provided greater creative development potential that will be more cost effective and predictable for private developers and businesses.

About GP

The purpose of the Groundwater Protection Overlay District is to protect the public health, safety, and welfare by encouraging nonhazardous, compatible land uses within groundwater recharge areas. The Applicant is seeking a variance from Section 240-35 F. (2) (u) and (v) Prohibited Uses in the GP:-

(u) Storage of liquid petroleum products of any kind, except those incidental to:

- [1]** Normal household use and outdoor maintenance or the heating of a structure;
- [2]** Waste oil retention facilities required by MGL Ch. 21, § 52A;
- [3]** Emergency generators required by statute, rule or regulation;
- [4]** Treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;

And provided that such storage is either in a freestanding container within the building or in a freestanding container above ground level with protection adequate to contain a spill the size of the container’s total storage capacity; however, replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline is allowed consistent with state and local requirements; and

[5] Any other use which involves as a principal activity or use the generation, storage, use, treatment, transportation or disposal of hazardous materials.

(v) Storage of commercial fertilizers, as defined in MGL c 128, § 64, unless such storage is within a structure designed and engineered to prevent escape or transport of commercial fertilizers to the groundwater under any circumstances.

[Added 1-17-2013 by Order No. 2013-001]

Previous Approvals

Site Plan Review approval (see letter dated May 15, 2020).

Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

1. owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located;
2. a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and
3. desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

An application for a variance that has met all three requirements “does not confer ... any legal right to a variance.” The Board still has the discretionary power to grant or not to grant the variance.

Suggested Variance Conditions

Staff has not drafted Conditions at this time.

Copies: Petitioner (c/o Attorney Michael Princi)
Attachments: Petition
 Aerial Photo
 Assessor's Record
 Plans
 Site Plan Review letter dated