



Received & posted:

Cathy Murray

RECEIVED
LAKEVILLE TOWN CLERK

2020 DEC -8 PM 1:15

REMOTE MEETING NOTICE/ AGENDA

Posted in accordance with the provisions of MGL Chapter 30A, §. 18-25

Name of Board, Committee or Commission:	Planning Board
Date & Time of Meeting:	Thursday, December 10, 2020 at 7:00 p.m.
Location of Meeting:	REMOTE MEETING
Clerk/Board Member posting notice	Cathy Murray

AGENDA

1. In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A, §20, relating to the 2020 novel Coronavirus outbreak emergency, the December 10, 2020, public meeting of the **Planning Board** shall be physically closed to the public to avoid group congregation. **However, to view this meeting in progress, please go to [facebook.com/lakecam](https://www.facebook.com/lakecam) (you do not need a Facebook account to view the meeting). This meeting will be recorded and available to be viewed at a later date at <http://www.lakecam.tv/>**
2. **Site Plan Review, continued – 149 Bedford Street** – Meet with Jamie Bissonnette from Zenith Consulting Engineers, LLC (ZCE)
3. **ANR Plan – 138 County Street/1 Julias Way** – Meet with Jim Larson from Prime Engineering, Inc.
4. **Master Plan Implementation** – Update on Site Plan Review costs
5. **Development Opportunities District** – Update
6. **Southeastern Regional Planning & Economic Development District (SRPEDD)** – update by Barbara Mancovsky
7. **Approve Meeting Minutes for November 12, 2020 and February 27, 2020**
8. **Old Business**
9. **New Business**
 - a. Drafting Zoning Amendments handouts from CPTC
 - b. Draft meeting schedule for 2021
10. **Next meeting. . . January 14, 2021**
11. **Any other business that may properly come before the Planning Board.**
12. **Adjourn**

Please be aware that this agenda is subject to change. If other issues requiring immediate attention of the Planning Board arise after the posting of this agenda, they may be addressed at this meeting.

Read the following into the record:

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A, §20, relating to the 2020 novel Coronavirus outbreak emergency, the December 10, 2020, public meeting of the **Planning Board** shall be physically closed to the public to avoid group congregation. **However, to view this meeting in progress, please go to [facebook.com/lakecam](https://www.facebook.com/lakecam) (you do not need a Facebook account to view the meeting). This meeting will be recorded and available to be viewed at a later date at <http://www.lakecam.tv/>**

Cathy Murray, Appeals Board Clerk

From: Michele MacEachern <shell42880@gmail.com>
Sent: Tuesday, November 24, 2020 8:00 AM
To: Cathy Murray, Appeals Board Clerk
Subject: Fwd: 149 Bedford St

Hi Cathy,

I had directed Mr & Mrs Bird to view the plans submitted for 149 Bedford Street on the Town Website under Planning Board agendas. However, I do not see the plans posted, only the 1 page agenda. Do you know when/if the plans and supporting documents will be posted to the website?

Thank you!
Michele

----- Forwarded message -----

From: Michele MacEachern <shell42880@gmail.com>
Date: Mon, Nov 23, 2020 at 8:47 PM
Subject: 149 Bedford St
To: Mark Knox <mjknox05@gmail.com>, Barbara Mancovsky <bmancovsky@comcast.net>, Pete Conroy <pete.conroy@comcast.net>, Jack Lynch <jflyn678@gmail.com>, <cmurray@lakevillema.org>

Good Evening Planning Board,

I just wanted to let everyone know I was contacted by the abutting residents of 149 Bedford Street, Francis (Skip) and Michele Bird.

They would have liked to attend the previous meeting, but found it difficult as they are not familiar with Zoom. They said they think they have figured it out, and do plan to attend the next meeting.

They expressed the following concerns to me:

- 1) They are concerned about the close proximity of the proposed building to the road.
- 2) They are concerned with their privacy and would like to see a fence (not just arborvitae) along the side of their property.
- 3) During the ZBA meeting, the applicant (Madeline) mentioned a possible option regarding the abutters (the Birds) hooking up to the available city water, which they would be interested in doing (potentially eliminating the existing well on their property)

I let them know I would pass along this information for them.

Thanks!
Michele

#2

- SITE NOTES:**
- THE SITE IS SHOWN ON THE TOWN OF LAKEVILLE ASSESSORS MAP AS MAP 025 BLOCK 004 LOT 002. PROPERTY LINE INFORMATION WAS TAKEN FROM
 - FOR TITLE REFERENCE TO THE SUBJECT PROPERTY REFER TO BOOK 46008, PAGE 42 IN THE PLYMOUTH COUNTY REGISTRY OF DEEDS.
 - PLAN REFERENCES: PLAN BOOK 12 PAGE 860
PLAN BOOK 30 PAGE 924
PLAN BOOK 44 PAGE 532
 - "SEE STATE HIGHWAY DRAINAGE EASEMENT AS SHOWN ON PLAN #620 OF 1971, RECORDED IN DEED BOOK 3689 PAGE 395."
 - A PROPERTY LINE AND TOPOGRAPHY INFORMATION TAKEN FROM A FIELD SURVEY BY MADDIGAN LAND SURVEYING LLC, IN OCTOBER OF 2016 AND JULY OF 2020
 - THE SUBJECT PROPERTY IS LOCATED IN ZONE X, AS SCALED FROM THE FLOOD INSURANCE RATE MAP (F.I.R.M.) OF PLYMOUTH COUNTY, MAP NUMBER 25023C0427K, EFFECTIVE DATE JULY 16, 2015.
 - THE SUBJECT PROPERTY IS NOT LOCATED IN A ZONE II OR IIIA (WELL HEAD PROTECTION AREA).
 - THE SYSTEM IS NOT LOCATED WITHIN A ZONE A OF A SURFACE WATER SUPPLY
 - THE PROPERTY IS NOT LOCATED IN A PRIORITY HABITAT OR ESTIMATED HABITAT AS SHOWN ON THE MASSACHUSETTS NATURAL HERITAGE ATLAS 14TH EDITION EFFECTIVE DATE AUGUST 1, 2017.
 - THE PROJECT IS NOT LOCATED WITHIN AN AREA OF CRITICAL ENVIRONMENTAL CONCERN (ACEC).
 - THE SITE IS LOCATED IN AN OUTSTANDING RESOURCE WATER AREA (ORW).
 - ALL UNDERGROUND UTILITIES ARE TO BE CONSIDERED APPROXIMATE. LOCATIONS WERE TAKEN FROM PLANS OF RECORD WITH THE MUNICIPALITY, DIG SAFE LOCATIONS OR FIELD EVIDENCE. IT IS THE CONTRACTORS RESPONSIBILITY TO CONTACT DIG SAFE (1-888-DIG SAFE) AND ALL UTILITY COMPANIES TO CONFIRM LOCATIONS AND ELEVATIONS PRIOR TO THE START OF WORK.

- CONSTRUCTION NOTES:**
- A NPDES FILING MUST BE SUBMITTED FOR THIS PROJECT PRIOR TO CONSTRUCTION.
 - CONTRACTOR TO VERIFY BENCHMARKS FOR CONSISTENCY PRIOR TO CONSTRUCTION AND SHALL NOTIFY ZENITH CONSULTING ENGINEERS, LLC, OF ANY DISCREPANCIES.
 - CONTRACTOR SHALL VERIFY WATER TABLE ELEVATIONS AND NOTIFY THE DESIGN ENGINEER OF ANY DISCREPANCIES FROM THE PLAN.
 - IT IS THE CONTRACTORS RESPONSIBILITY TO CONTACT DIG SAFE (1-888-DIG SAFE) PRIOR TO THE COMMENCEMENT OF WORK AND ALL UNDERGROUND UTILITY COMPANIES TO CONFIRM LOCATIONS AND ELEVATIONS.
 - SITE IS TO BE SERVICED BY MUNICIPAL WATER AND MUNICIPAL SEWER.
 - ALL PAVEMENT MARKING AND SIGNAGE SHALL CONFORM TO MUTCD STANDARDS.
 - PROPOSED UTILITIES AND CONSTRUCTION METHODS UNDER AREAS SUBJECT TO TRAFFIC LOADING SHALL BE INSTALLED TO WITHSTAND H-20-LOADING-TRAFFIC STANDARDS. CONTRACTOR SHALL VERIFY THAT ALL STRUCTURES COMPLY TO THIS STANDARD.
 - WHERE ALL CONCRETE STRUCTURES INTERCEPT THE SEASONAL HIGH GROUNDWATER TABLE, THE CONTRACTOR SHALL SEAL THE ENTIRE STRUCTURE WITH WATERPROOF SEALER.
 - IF APPLICABLE, ANY RETAINING WALLS SHALL BE DESIGNED BY A MASSACHUSETTS REGISTERED PROFESSIONAL STRUCTURAL ENGINEER.
 - ALL WORK SHALL CONFORM TO THE CITY OF TAUNTON RULES AND REGULATIONS AND THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION SPECIFICATIONS FOR HIGHWAY AND BRIDGES, MOST CURRENT VERSION OF PLAN SET.

SITE PLAN FOR 149 BEDFORD STREET (ASSESSORS MAP 025 BLOCK 004 LOT 002) LAKEVILLE, MASSACHUSETTS

LAKEVILLE PLANNING BOARD

APPROVED: _____

ENDORSED: _____



P.E. STAMP

OWNER
CEDAR BERRY HOLDING, LLC.
44 CLEAR POND ROAD
LAKEVILLE, MASSACHUSETTS

APPLICANT
EXPOSURE MARKETING GROUP LLC
139 STAPLES SHORE ROAD
LAKEVILLE, MASSACHUSETTS

ZCE
ZENITH CONSULTING ENGINEERS, LLC
3 MAIN STREET LAKEVILLE, MA 02347
PHONE: (508) 947-4208

SCHEDULE OF DRAWINGS

DRAWING NUMBER	PLAN TITLE	LATEST PLAN DATE
C1	COVER SHEET	12/03/2020
E1	EXISTING CONDITIONS PLAN	11/18/2020
L1	SITE LAYOUT PLAN	12/03/2020
G1	GRADING AND DRAINAGE PLAN	12/03/2020
V1	LANDSCAPING PLAN	12/03/2020
EC1	EROSION CONTROL PLAN 1	12/03/2020
D1	DETAIL SHEET 1	11/18/2020
D2	DETAIL SHEET 2	11/18/2020



**LOCUS PLAN
SCALE: 1"=200'**

LEGEND

EXISTING	DESCRIPTION	PROPOSED
--- 98 ---	CONTOURS	[72]
x69.4	SPOT GRADE	+98.5
□	BOUND	
TP 7	TEST PIT	
---	DRAIN LINE	---
⊙	DRAIN MANHOLE	⊙
■	CATCH BASIN	⊙
---	RETAINING WALL	---
OHW --- OHW	OVERHEAD WIRES	
⊙	LIGHT POLE	☆
---	STONEWALL	---
---	SEWER MAIN	S --- S
6" 12' E.M.	SEWER FORCE MAIN	FSM --- FSM
---	SIGN	---
---	CHAIN LINK FENCE	---
---	HYDRANT	---
12" GAS	GAS LINE	GAS --- GAS

REV.	DATE	DESCRIPTION	BY	APP.
1.	11/11/20	ADD EMERGENCY EXIT	RLG	JLB
2.	11/18/20	REVISIONS PER REVIEW COMMENTS	RLG	JLB
3.	12/3/20	REVISIONS PER GENERAL COMMENTS	RLG	JLB

DATE:	10/02/2020
PROJECT NUMBER:	0234-01-01
DRAWING SCALE:	VARIES
SHEET ID:	C

DRAWN BY:	JLB/RLG
DESIGNED BY:	JLB/RLG
CHECKED BY:	JLB
APPROVED BY:	JLB

COVER SHEET

149 BEDFORD STREET
LAKEVILLE, MASSACHUSETTS

EXPOSURE MARKETING GROUP LLC
139 STAPLES SHORE ROAD
LAKEVILLE, MASSACHUSETTS

SURVEY COMPANY OF RECORD:

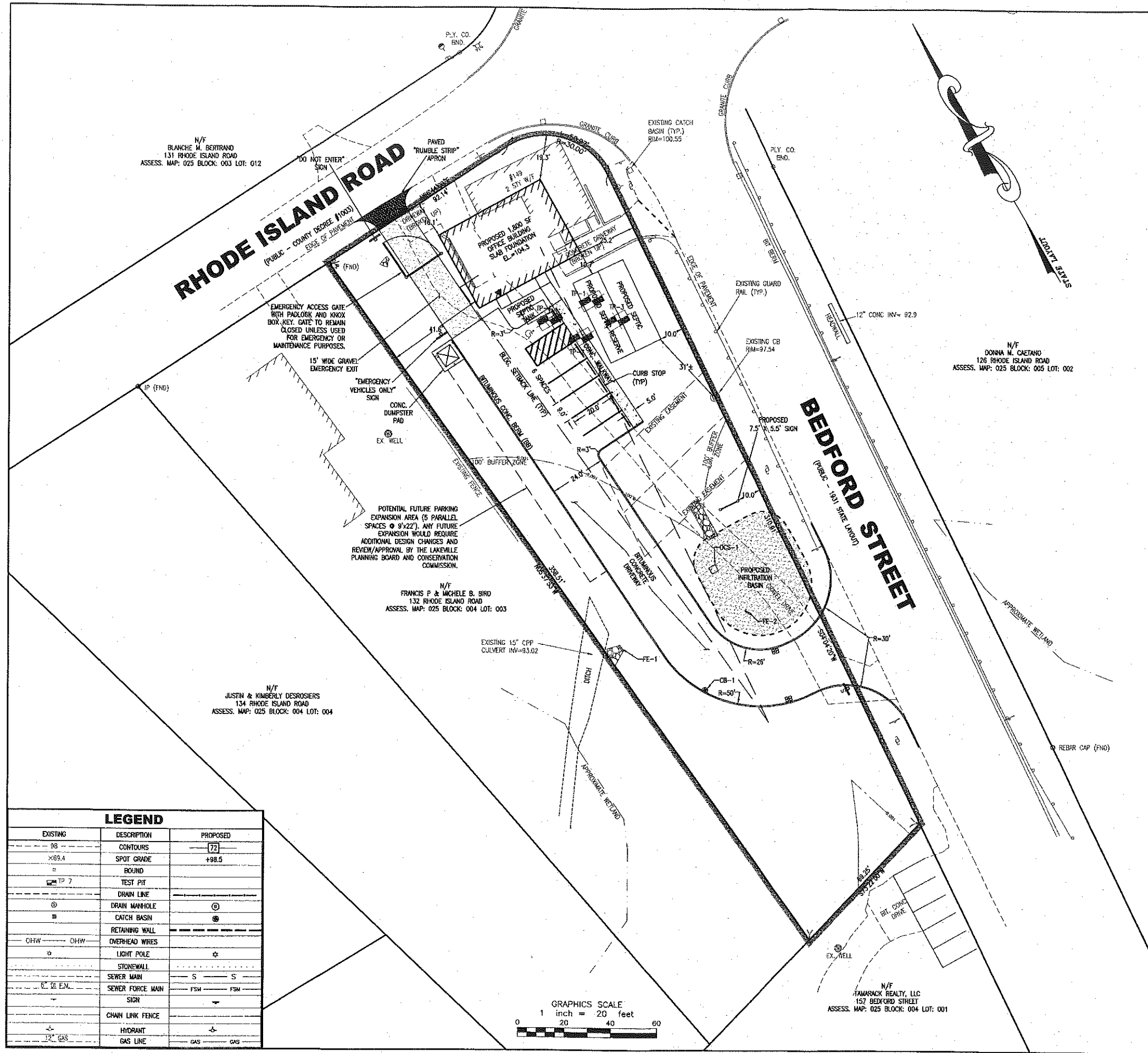
MADDIGAN
LAND SURVEYING,
LLC.

88 EAST GROVE STREET
MIDDLEBORO, MA 02346
T: 774-213-5196
DMADDIGAN@COMCAST.NET

REVISED

OCTOBER 2, 2020

S:\Civil Engineering Projects\Lakeville\Bedford Street\149 Bedford Street\DWG\Site Plan Base-113020.dwg



N/F
BLANCHE M. BERTRAND
131 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 003 LOT: 012

N/F
DONNA M. CAETANO
126 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 005 LOT: 002

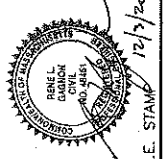
N/F
FRANCIS P. & MICHELE B. BIRD
132 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 004 LOT: 003

N/F
JUSTIN & KIMBERLY DESROSIERS
134 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 004 LOT: 004

N/F
TANARACK REALTY, LLC
157 BEDFORD STREET
ASSESS. MAP: 025 BLOCK: 004 LOT: 001

LAKEVILLE PLANNING BOARD

APPROVED: _____
ENDORSED: _____



ZENTH CONSULTING ENGINEERS, LLC
3 MAIN STREET LAKEVILLE, MA 02347
PHONE: (508) 947-4208

ZONING DISTRICT: BUSINESS

	REQUIRED	PROVIDED
LOT AREA	70,000 SF	33,527 SF
LOT FRONTAGE	175 FT.	454 FT.
FRONT YARD SETBACK	40 FT.	15.1 FT. (1.6' EXISTING)
SIDE YARD SETBACK	40 FT.	40+ FT.
REAR YARD SETBACK	40 FT.	40+ FT.
MAXIMUM HEIGHT	35 FT.	<35 FT.
MAXIMUM IMPERVIOUS AREA	50%	33.0%

IMPERVIOUS COVER
(PER LAKEVILLE ZONING SECTION 5.2.2.1.)

TOTAL LOT AREA	33,527 SF
WETLAND AREA	0 SF
PROPOSED DRAINAGE BASIN & BERM	4,831 SF
ADJUSTED AREA FOR IMPERVIOUS CALCULATION	28,696 SF
PROPOSED ROOF AND PAVEMENT AREA	9,468 SF
IMPERVIOUS AREA = 9,468 ± SF	
ADJUSTED AREA = 28,696 SF	33.0%

PARKING SUMMARY
OFFICE:
ZONING REGULATION 8.5.3.3 - 1 SPACE / 300 SF
MINIMUM REQUIRED: 1,800 SF / 300 SF = 6 SPACES
TOTAL SPACES REQUIRED: 6 SPACES
PROVIDED: 6 SPACES
HANDICAPPED PARKING
ADA STANDARDS FOR ACCESSIBLE DESIGN 28 CFR PART 36
MINIMUM REQUIRED: 1 FOR PARKING LOT BETWEEN 1 AND 25 SPACES
PROVIDED: 1 HC SPACE (VAN ACCESSIBLE)

SITE LAYOUT NOTES:
1. ALL PAVEMENT MARKING AND SIGNAGE SHALL CONFORM TO MUTCD STANDARDS.

SIGN LEGEND

	PROPOSED
STOP -	
ONE WAY -	
HANDICAP -	
RIGHT TURN ONLY -	
LEFT TURN ONLY -	
DO NOT ENTER -	
DO NOT BLOCK INTERSECTION -	
DELIVERY VEHICLES ONLY -	

SURVEY COMPANY OF RECORD:

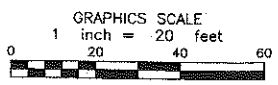
MADDIGAN
LAND SURVEYING,
LLC.
88 EAST GROVE STREET
MIDDLEBORO, MA 02346
T: 774-213-5196
DMADDIGAN@COMCAST.NET



David J. Maddigan
PROFESSIONAL LAND SURVEYOR, PLS. DATE: 12-3-2020

LEGEND

EXISTING	DESCRIPTION	PROPOSED
98	CONTOURS	72
X59.4	SPOT GRADE	+98.5
—	BOUND	
TP 7	TEST PIT	
—	DRAIN LINE	
⊙	DRAIN MANHOLE	⊙
⊙	CATCH BASIN	⊙
—	RETAINING WALL	
OHW	OVERHEAD WIRES	
⊙	LIGHT POLE	☆
—	STONEWALL	
S	SEWER MAIN	S
FSM	SEWER FORCE MAIN	FSM
—	SIGN	
—	CHAIN LINK FENCE	
⊙	HYDRANT	⊙
—	GAS LINE	—



REV.	DATE	DESCRIPTION	BY	APP.
1.	11/11/20	ADD EMERGENCY EXIT	RLG	JLB
2.	11/18/20	REVISIONS PER REVIEW COMMENTS	RLG	JLB
3.	12/3/20	REVS. PER GENERAL COMMENTS	RLG	JLB

DATE:	10/02/2020
PROJECT NUMBER:	0234-01
DRAWING SCALE:	1"=20'
SHEET ID:	L

DATE:	12/3/2020
DESIGNED BY:	JLB/RLG
CHECKED BY:	JLB
APPROVED BY:	JLB

SITE LAYOUT PLAN
149 BEDFORD STREET
LAKEVILLE, MASSACHUSETTS
EXPOSURE MARKETING GROUP LLC
139 STAPLE SHORE ROAD
LAKEVILLE, MASSACHUSETTS

S:\Civil Engineering Projects\Lakeville\Bedford Street\149 Bedford Street\DWG\Site Plan Base-113020.dwg

WATER NOTES:

1. BACKFLOW PROTECTION IS REQUIRED ON ALL WATER LINES.
2. A FIRE FLOW TEST IS REQUIRED PRIOR TO THE INSTALLATION OF ANY FIRE SUPPRESSION LINES.
3. RADIO WATER METERS, SUPPLIED BY THE TAUNTON WATER DIVISION, SHALL BE INSTALLED ON ALL DOMESTIC WATER LINES.

N/F
BLANCHE M. BERTRAND
131 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 003 LOT: 012

N/F
FRANCIS P & MICHELE B. BIRD
132 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 004 LOT: 003

N/F
JUSTIN & KIMBERLY DESROSIERS
134 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 004 LOT: 004

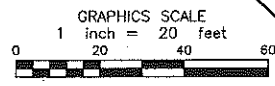
N/F
DONNA M. CHATAHO
126 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 006 LOT: 002

N/F
TAMARACK REALTY, LLC
157 BEDFORD STREET
ASSESS. MAP: 025 BLOCK: 004 LOT: 001

RHODE ISLAND ROAD
(PUBLIC - COUNTY DEED (1985))
EDGE OF PAVEMENT

BEDFORD STREET
(PUBLIC - 8/1 STATE UNDER EX)

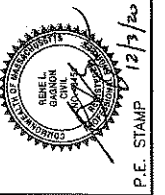
LEGEND		
EXISTING	DESCRIPTION	PROPOSED
98	CONTOURS	72
x99.4	SPOT GRADE	+98.5
□	BOUND	
TP 7	TEST PIT	
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⊞	CATCH BASIN	⊞
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OHW	OVERHEAD WIRES	
*	LIGHT POLE	*
—	STONEWALL	
—	SEWER MAIN	S
6" DE E.M.	SEWER FORCE MAIN	FSM
—	SIGN	
—	CHAIN LINK FENCE	
+	HYDRANT	
12" GAS	GAS LINE	GAS



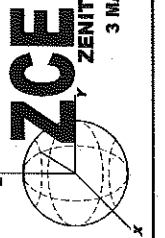
LAKEVILLE PLANNING BOARD

APPROVED: _____

ENDORSED: _____



ZENITH CONSULTING ENGINEERS, LLC
3 MAIN STREET LAKEVILLE, MA 02347
PHONE: (508) 947-4208



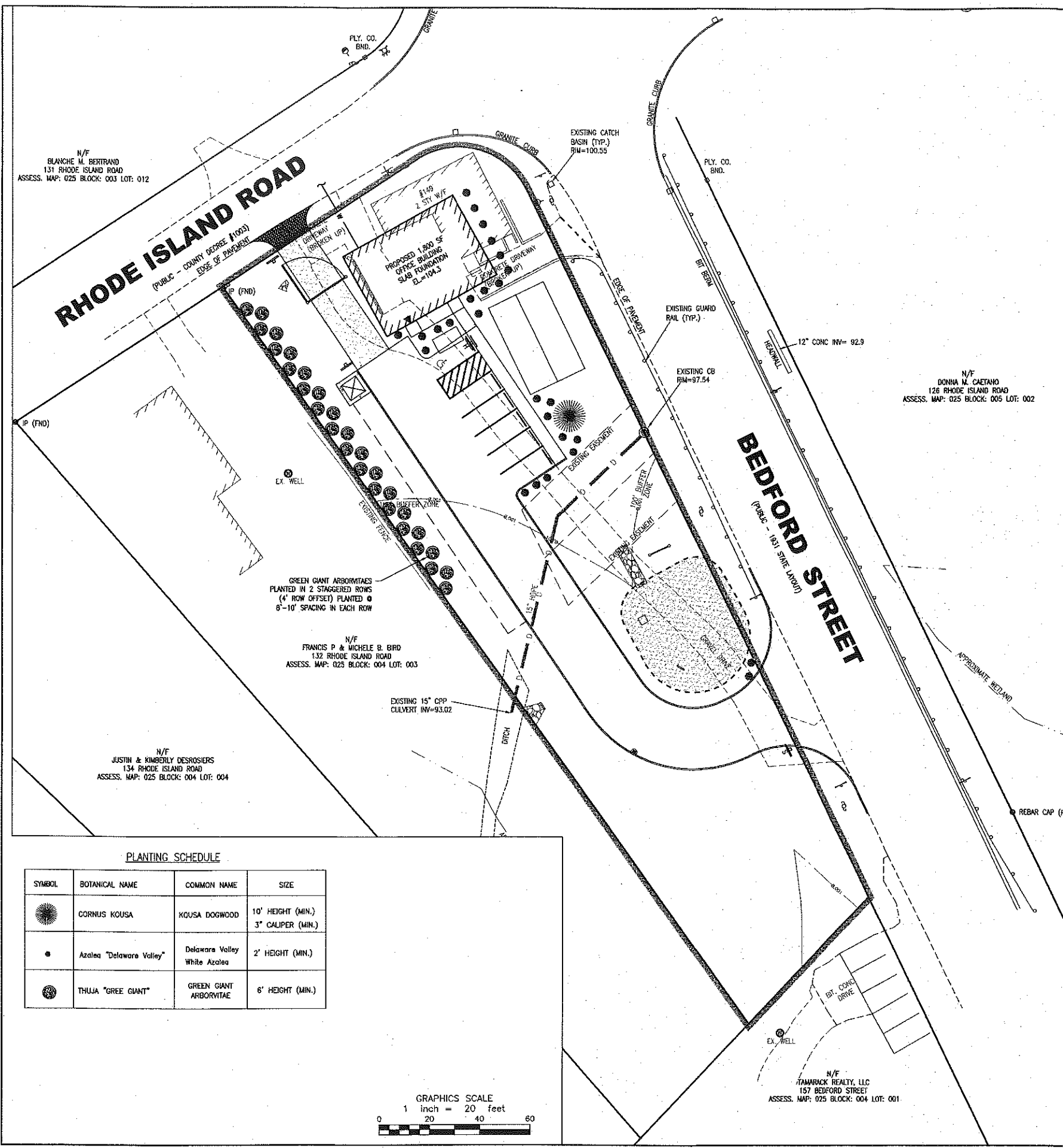
GENERAL NOTES:

1. ALL ELEVATIONS REFER TO AN NAVD-88 DATUM. CONTRACTOR TO VERIFY BENCHMARKS FOR CONSISTENCY PRIOR TO CONSTRUCTION.
2. EXISTING UTILITIES LOCATIONS WERE TAKEN FROM AS-BUILT PLANS, DIG SAFE MARKINGS OR LOCATED IN THE FIELD. THEY ARE TO BE CONSIDERED APPROXIMATE AND MUST BE CONFIRMED BY THE SITE CONTRACTOR PRIOR TO THE START OF CONSTRUCTION.
3. IT IS THE CONTRACTOR'S RESPONSIBILITY TO CONTACT DIG SAFE (1-888-DIG SAFE) PRIOR TO THE COMMENCEMENT OF WORK AND ALL UNDERGROUND UTILITY COMPANIES TO CONFIRM LOCATIONS AND ELEVATIONS.
4. ALL BENDS, CAPS AND TEES ON WATER PIPES SHALL BE INSTALLED WITH THRUST BLOCKS AND MEGA-LUG RESTRAINTS.
5. THE SITE CONTRACTOR IS RESPONSIBLE TO ENSURE THAT THE PROPOSED WATER MAINS AND SERVICE LINES HAVE PROPER FROST PROTECTION AT TIME OF INSTALLATION.
6. SITE IS TO BE SERVICED BY MUNICIPAL WATER, AN ON-SITE SANITARY DISPOSAL SYSTEM, AND UNDERGROUND ELECTRIC/CABLE.
7. ALL DRAINAGE PIPE IS TO BE ADS N-12 STYLE PIPE OR APPROVED EQUAL.
8. ELECTRIC, TELEPHONE AND CABLE LINE LOCATIONS TO BE DESIGNED BY MIDDLEBOROUGH GAS AND ELECTRIC OR OTHERS.
9. PROPOSED UTILITIES AND CONSTRUCTION METHODS UNDER AREAS SUBJECT TO TRAFFIC LOADING SHALL BE INSTALLED TO WITHSTAND H-20 LOADING TRAFFIC STANDARDS. CONTRACTOR SHALL VERIFY THAT ALL STRUCTURES COMPLY TO THIS STANDARD.
10. WHERE ALL CONCRETE STRUCTURES INTERCEPT THE SEASONAL HIGH GROUNDWATER TABLE, THE CONTRACTOR SHALL SEAL THE ENTIRE STRUCTURE WITH WATERPROOF SEALER.
11. IF DISCREPANCIES FROM THE PLAN.
12. IF APPLICABLE, ANY RETAINING WALLS SHALL BE DESIGNED BY A MASSACHUSETTS REGISTERED PROFESSIONAL STRUCTURAL ENGINEER.
13. ANY SOILS EXCAVATED FROM THE ROADWAY AREA TO BE REPLACED WITH GRAVEL BORROW MEETING THE SPECIFICATION OF THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION.
14. ALL WATER AND SEWER LINE CROSSINGS SHALL CONFORM WITH 310 CAR 15.00 (TITLE 5).

REV.	DATE	DESCRIPTION	BY	APP.
1.	11/11/20	ADD EMERGENCY EXIT	JLB	JLB
2.	11/18/20	REVISIONS PER REVIEW COMMENTS	JLB	JLB
3.	12/23/20	REVS. PER GENERAL COMMENTS	JLB	JLB

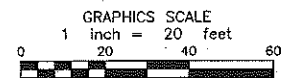
DATE:	10/02/2020
PROJECT NUMBER:	0234-01-01
DRAWING SCALE:	1"=20'
SHEET ID:	G

GRADING AND DRAINAGE PLAN
149 BEDFORD STREET LAKEVILLE, MASSACHUSETTS
EXPOSURE MARKETING GROUP LLC 139 STAPLES SHORE ROAD LAKEVILLE, MASSACHUSETTS



PLANTING SCHEDULE

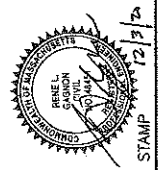
SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE
	CORNUS KOUSA	KOUSA DOGWOOD	10' HEIGHT (MIN.) 3" CALIPER (MIN.)
	Azalea "Delaware Valley"	Delaware Valley White Azalea	2' HEIGHT (MIN.)
	THUJA "GREE GIANT"	GREEN GIANT ARBOVITAE	6' HEIGHT (MIN.)



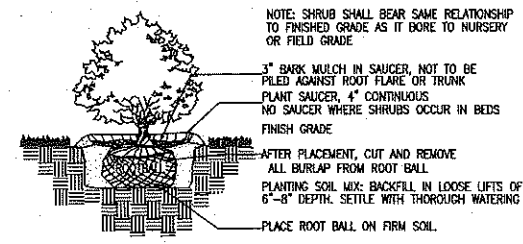
LAKEVILLE PLANNING BOARD

APPROVED: _____

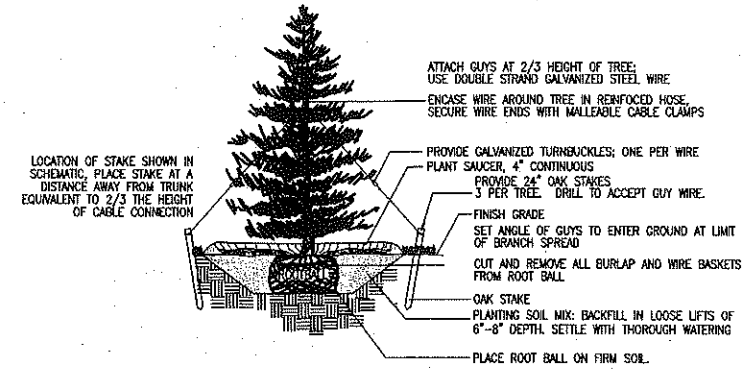
ENDORSED: _____



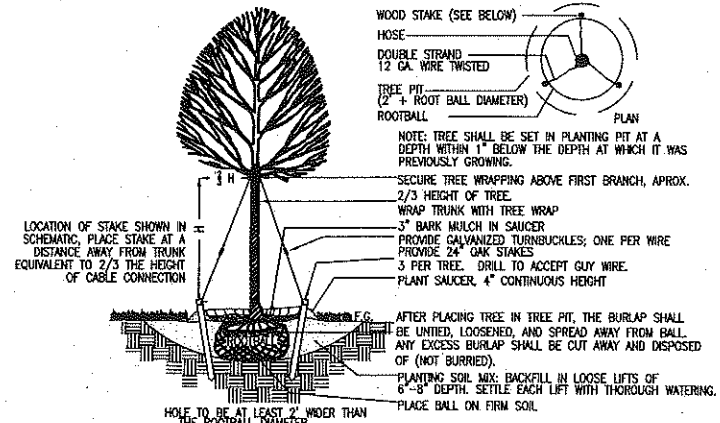
ZCE
ZENTITH CONSULTING ENGINEERS, LLC
 3 MAIN STREET LAKEVILLE, MA 02347
 PHONE: (508) 947-4208



TYPICAL SHRUB PLANTING
NOT TO SCALE



EVERGREEN TREE PLANTING
NOT TO SCALE



DECIDUOUS TREE PLANTING AND STAKING
NOT TO SCALE

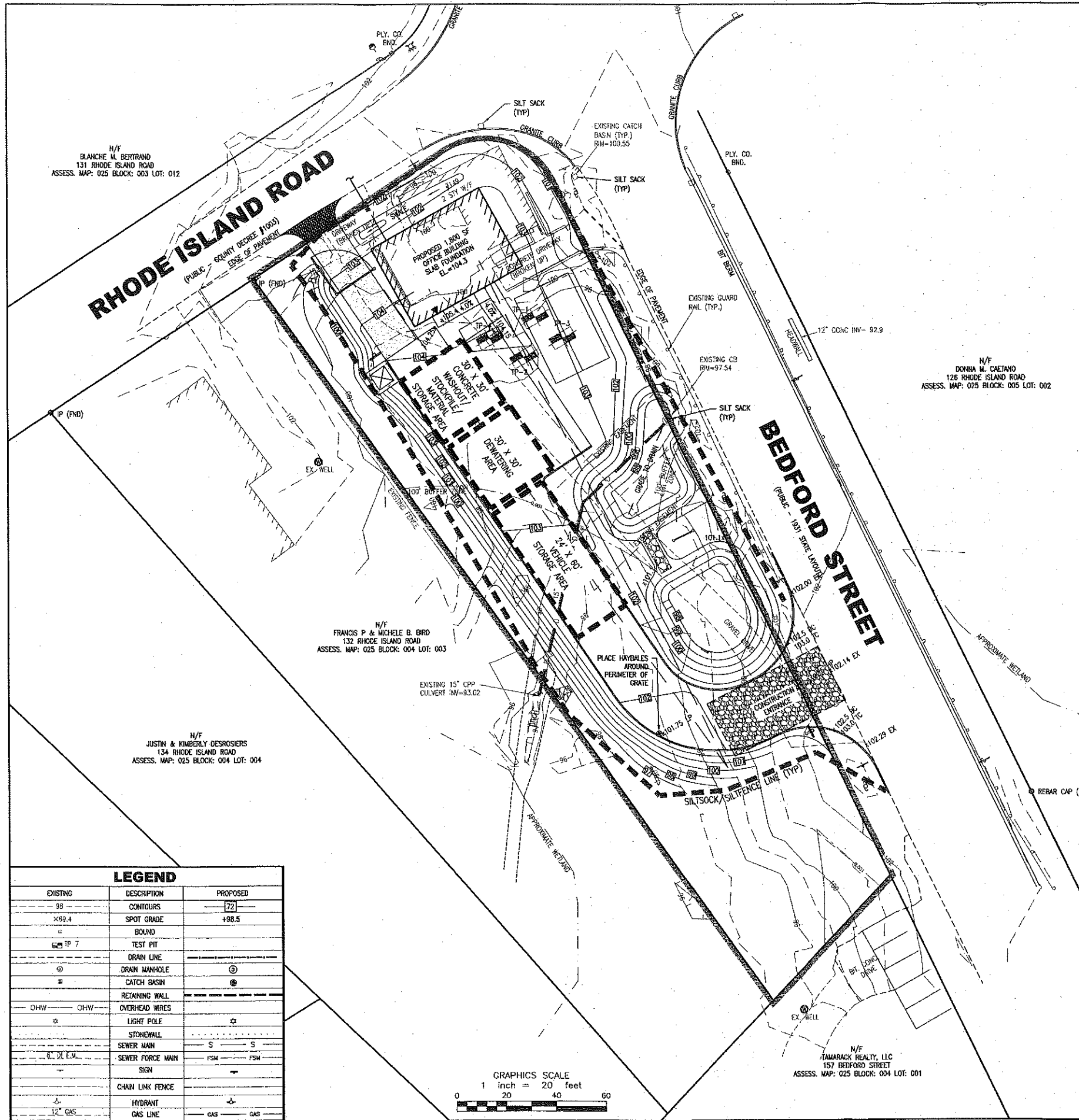
DATE	REV.	DESCRIPTION	BY		APP.	
			DATE	DATE	DATE	DATE
10/02/2020	1.	ADD EMERGENCY EXIT	JLB	JLB		
11/11/20	2.	REVISIONS PER REVIEW COMMENTS	JLB	JLB		
02/24/21	3.	REVISIONS PER GENERAL COMMENTS	JLB	JLB		
02/24/21	3.	REVISIONS PER GENERAL COMMENTS	JLB	JLB		

DATE: 10/02/2020
 PROJECT NUMBER: 0234-01-01
 DRAWING SCALE: 1"=20'
 SHEET ID: V

LANDSCAPING PLAN

149 BEDFORD STREET
LAKEVILLE, MASSACHUSETTS
EXPOSURE MARKETING GROUP LLC
 139 STAPLES SHORE ROAD
 LAKEVILLE, MASSACHUSETTS

S:\Civil Engineering\Projects\Lakeville\Bedford Street\149 Bedford Street.dwg (Site Plan Base=11/30/20.dwg)



N/F
BLANCHE M. BERTRAND
131 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 003 LOT: 012

N/F
FRANCIS P & MICHELE B. BRD
132 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 004 LOT: 003

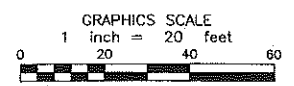
N/F
JUSTIN & KIMBERLY GESROSIERS
134 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 004 LOT: 004

N/F
DONIA M. CAETANO
126 RHODE ISLAND ROAD
ASSESS. MAP: 025 BLOCK: 005 LOT: 002

N/F
TAMARACK REALTY, LLC
157 BEDFORD STREET
ASSESS. MAP: 025 BLOCK: 004 LOT: 001

LEGEND

EXISTING	DESCRIPTION	PROPOSED
SB	CONTOURS	72
X99.4	SPOT GRADE	+98.5
—	BOUND	—
TP 7	TEST PIT	—
—	DRAIN LINE	—
⊙	DRAIN MANHOLE	⊙
⊙	CATCH BASIN	⊙
—	RETAINING WALL	—
OHW	OVERHEAD WIRES	—
*	LIGHT POLE	*
—	STONEWALL	—
—	SEWER MAIN	S
8" D.I.W.	SEWER FORCE MAIN	FSM
—	SIGN	—
—	CHAIN LINK FENCE	—
—	HYDRANT	—
12" GAS	GAS LINE	GAS



CONSTRUCTION OPERATION AND MAINTENANCE SCHEDULE

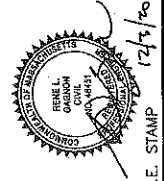
- THE OPERATION AND MAINTENANCE (O&M) SCHEDULE DURING THE CONSTRUCTION PHASE IS THE RESPONSIBILITY OF THE DEVELOPER AND/OR SITE CONTRACTOR. THE OUTLINE BELOW SHALL BE ADHERED TO AS CLOSELY AS POSSIBLE TO ENSURE THE PROPER CONSTRUCTION AND FUNCTION OF THE DRAINAGE SYSTEM.
- PRIOR TO CONSTRUCTION, SILT SOCK SHALL BE INSTALLED PER THE APPROVED PLANS. THE SILT SOCK SHALL BE INSPECTED PRIOR TO A LARGE STORM EVENT TO ENSURE THAT THE EROSION CONTROL WILL FUNCTION AS REQUIRED AND FOLLOWING A STORM TO INSPECT FOR DAMAGE TO THE EROSION CONTROL ELEMENTS. ANY DAMAGE OR IMPROPER INSTALLATION THAT IS NOTICED PRIOR TO OR FOLLOWING A STORM EVENT SHALL BE PROMPTLY REPLACED OR REPAIRED IN A SATISFACTORY MANNER SO AS TO PREVENT SEDIMENT FROM BYPASSING THE EROSION CONTROL BARRIER.
 - THE LIMIT OF CLEARING SHOWN ON THE APPROVED PLAN SHALL BE STRICTLY ADHERED TO. IT SHALL BE THE CONTRACTORS RESPONSIBILITY TO DETERMINE THE LEVEL OF SAFETY OF STANDING TREES.
 - IN CONJUNCTION WITH THE SITE CONSTRUCTION, ALL DRAINAGE STRUCTURES, INCLUDING THE INFILTRATION BASINS, SHALL BE CONSTRUCTED AND STABILIZED AS SOON AS POSSIBLE. METHODS OF STABILIZATION INCLUDE, BUT ARE NOT LIMITED TO, HYDROSEED, LOAM AND SEED, STRAW MULCH, EROSION CONTROL BLANKETS, ETC.
 - THE CATCH BASINS, DRAINAGE MANHOLES, OIL WATER SEPARATORS AND FIRST DEFENSE TREATMENT UNITS SHALL BE INSPECTED WEEKLY DURING CONSTRUCTION. ANY SEDIMENT BUILDUP OF EIGHT (8) INCH DEPTH IN EITHER OF THE STRUCTURES SHALL BE PROMPTLY REMOVED BY HAND OR MECHANICAL METHODS AND ALL DEBRIS REMOVED IN ACCORDANCE WITH ALL LOCAL, STATE, AND FEDERAL REGULATIONS.
 - THE INFILTRATION BASINS SHALL BE INSPECTED WEEKLY OR AFTER ALL RAINFALL EVENTS GREATER THAN 1/2 INCH, WHICHEVER OCCURS SOONER. ANY EROSION WITHIN THE BASINS SHALL BE FILLED AND RESTABILIZED IN A MANNER TO PREVENT FUTURE EROSION. IN ADDITION, THE OUTER PORTIONS OF THE INFILTRATION BASINS SHALL BE INSPECTED IN A SIMILAR MANNER.

CONSTRUCTION SEQUENCE OF OPERATIONS

- THE FOLLOWING SEQUENCE OF OPERATIONS SHALL BE FOLLOWED TO ENSURE THE PROPER CONSTRUCTION AND FUNCTION OF THE DRAINAGE AND EROSION CONTROL SYSTEMS.
- PRIOR TO ANY EARTH DISTURBING ACTIVITIES, THE EROSION CONTROL BARRIERS CONSISTING OF SILT FENCE AND SILT SOCK SHALL BE INSTALLED IN THE LOCATIONS SHOWN ON THE SITE PLANS.
 - THE EXISTING TREES AND SHRUBS WITHIN THE LIMIT OF WORK SHALL THEN BE CLEARED AND GRUBBED.
 - THE CONSTRUCTION PHASE OF THE PROJECT SHALL BEGIN WITH THE CONSTRUCTION OF THE INFILTRATION BASIN.
 - THE AREA SHALL THEN BE FILLED AND COMPACTED IN 12 INCH LIFTS TO THE PROPOSED FINISH GRADE.
 - SIDE SLOPES THAT ARE TO BECOME LAWN IN THE FINAL CONDITION SHALL THEN RECEIVE A 4 INCH LAYER OF LOAM AND THEN BE SEEDED WITH A QUALITY HYDROSEED MIX. THOSE SLOPES THAT ARE DESIGNATED TO RECEIVE SPECIAL SLOPE STABILIZATION AS SHOWN ON SHEET EC1 SHALL BE TREATED AS DESCRIBED FOR THAT METHOD.
 - THROUGHOUT THE REMAINDER OF THE CONSTRUCTION PHASE, THE ENTIRE PROJECT SITE SHALL BE INSPECTED ON A WEEKLY BASIS AND AFTER ANY RAIN EVENT GREATER THAN 1 INCH FOR INDICATIONS OF EROSION. ANY ERODED AREAS SHALL BE REPAIRED IMMEDIATELY AND STABILIZED WITH VEGETATION, GEOGRID OR ANY METHOD THE CONTRACTOR DETERMINES TO BE ADEQUATE.

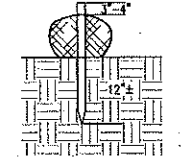
LAKEVILLE PLANNING BOARD

APPROVED: _____
 ENDORSED: _____

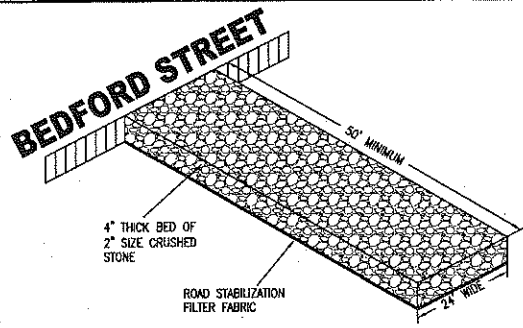


ZCE
 ZENITH CONSULTING ENGINEERS, LLC
 3 MAIN STREET LAKEVILLE, MA 02347
 PHONE: (508) 947-4208

STAKE ON 10' LINEAL SPACING WITH 2" X 2" WOODEN STAKE



SILT SOCK DETAIL
NOT TO SCALE



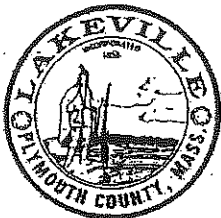
ANTI-TRACKING PAD
NOT TO SCALE

REV.	DATE	DESCRIPTION	BY	APP.
1.	11/11/20	ADD EMERGENCY EXIT	JLB	JLB
2.	11/18/20	REVISIONS PER REVIEW COMMENTS	JLB	JLB
3.	12/3/20	REVISIONS PER GENERAL COMMENTS	JLB	JLB

EROSION CONTROL PLAN	DATE: 10/02/2020	PROJECT NUMBER: 0234-01-01	DRAWING SCALE: 1"=20'	SHEET ID: EC
PROJECT SITE: 149 BEDFORD STREET LAKEVILLE, MASSACHUSETTS	DESIGNED BY: JLB/RMF	CHECKED BY: JLB	APPROVED BY: JLB	
CLIENT INFO: EXPOSURE MARKETING GROUP LLC 138 STAPLES SHORE ROAD LAKEVILLE, MASSACHUSETTS				

S:\Civil Engineering Projects\Lakeville\Bedford Street\149 Bedford Street\DWG\Site Plan Base-11.30.20.dwg

Date Submitted: _____



Town of Lakeville
PLANNING BOARD
346 Bedford Street
Lakeville, MA 02347
508-946-8803

FORM A

APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL (ANR)

To the Planning Board:

The undersigned believing that the accompanying plan of this property in the Town of Lakeville does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for determination and endorsement that Planning Board approval under this Subdivision Control Law is not required.

Approval Under The Subdivision Control Law Not Required Plan of Land in Lakeville, MA

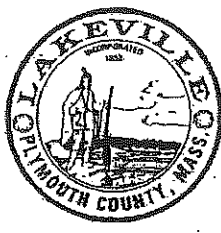
PLAN TITLE:

prepared for Stephen P. and Erica Pereira and Christopher M. and Cassandra E. Hudson

SEP. 21, 2020

- Owner's Signature: [Signature] Date: 11/16/2020
- Owner's Name (Please Print): STEPHEN P. PEREIRA ERICA L. PEREIRA
Owner's Address: 138 COUNTY ST. LAKEVILLE, MA 02347
- Name of Land Surveyor: JAMES R. CARSON, P.L.S.
Surveyor's Address: PRIME ENGINEERING, INC. 350 BEDFORD ST. LAKEVILLE, MA 02347
Surveyor's Telephone: 508-523-0227 (C) 508-947-0050 (O)
- Deed of property recorded in PLYMOUTH COUNTY Registry,
Book 44840 Page 335
- Assessors' Map, Block and Lot (MBL) 14-004-002-01
- Location and Description of Property: 138 COUNTY ST., LAKEVILLE, MA
- Plan Contact Name and Telephone Number: 508-947-0050 (O)
Contact Name: JAMES R. CARSON, P.L.S. Telephone: 508-523-0227 (C)

Date Submitted: _____



Town of Lakeville
PLANNING BOARD
346 Bedford Street
Lakeville, MA 02347
508-946-8803

FORM A

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PLAN TITLE:

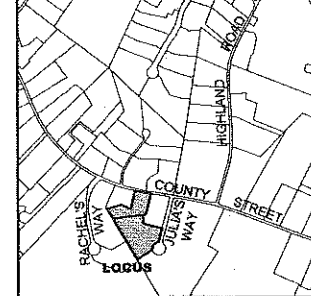
prepared for Stephen P. and Erica Pereira and Christopher M. and Cassandra E. Hudson

SEP. 21, 2020

1. Owner's Signature: [Signature] / Cassandra Hudson Date: 11-8-2020
2. Owner's Name (Please Print): CHRISTOPHER M. HUDSON
CASSANDRA E. HUDSON
Owner's Address: 1 JULIAS WAY, LAKEVILLE, MA 02347
3. Name of Land Surveyor: JAMES R. LARSON, P.L.S.
Surveyor's Address: PRIME ENGINEERING, INC.
350 BEDFORD ST., LAKEVILLE, MA 02347
Surveyor's Telephone: 508-523-0227(C) 508-947-0050(O)
4. Deed of property recorded in PLYMOUTH COUNTY Registry,
Book 48290 Page 104
5. Assessors' Map, Block and Lot (MBL) 14-004-002E
6. Location and Description of Property: 1 JULIAS WAY, LAKEVILLE, MA
7. Plan Contact Name and Telephone Number: 508-947-0050(O)
Contact Name: JAMES R. LARSON, P.L.S. Telephone: 508-523-0227(C)

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTRARS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

DATE: Sep. 21, 2020 PREPARER: [Signature]



VICINITY MAP FOR REGISTRY OF DEEDS USE ONLY

NOTES:

1. THE PURPOSE OF THIS PLAN IS TO SHOW THE CREATION OF PARCEL "A", A PORTION OF LAND OF CHRISTOPHER M. AND CASSANDRA E. HUDSON, BOOK 46290, PAGE 104 AS SHOWN HEREON, AND PARCEL "B", A PORTION OF LAND OF STEPHEN P. AND ERICA L. PEREIRA, BOOK 44840, PAGE 335 AS SHOWN HEREON. PARCEL "A" IS TO BE MERGED WITH REMAINING LAND OF SAID PEREIRA. PARCEL "B" IS TO BE MERGED WITH REMAINING LAND OF SAID HUDSON. PARCELS "A" AND "B" ARE NOT TO BE CONSIDERED BUILDABLE LOTS UNTO THEMSELVES. THERE IS NO NET CHANGE IN LOT AREAS OR FRONTAGES OF THE LOTS SHOWN HEREON.

ASSESSOR'S REFERENCES

MAP 14, LOT 004-002-01 (STEPHEN & ERICA PEREIRA)

MAP 14, LOT 004-002E (CHRISTOPHER & CASSANDRA HUDSON)

CURRENT OWNERS

STEPHEN P. & ERICA L. PEREIRA
138 COUNTY STREET
LAKEVILLE, MA 02347

CHRISTOPHER M. & CASSANDRA E. HUDSON
1 JULIA'S WAY
LAKEVILLE, MA 02347

DEED REFERENCES

BOOK 44840, PAGE 335
BOOK 46290, PAGE 104

PLAN REFERENCES

REFER TO THE FOLLOWING PLANS ON RECORD AT THE PLYMOUTH COUNTY REGISTRY OF DEEDS:

PLAN BOOK 47 PAGE 382
PLAN BOOK 54 PAGE 188
PLAN BOOK 60 PAGE 438

REFER TO THE FOLLOWING PLAN ON FILE AT MASSACHUSETTS DEPARTMENT OF TRANSPORTATION:

STATE HIGHWAY ALTERATION, LAYOUT NUMBER 2176

LAKEVILLE ZONING DISTRICT

PER THE TOWN OF LAKEVILLE ZONING MAP:

MAP 14, LOT 004-002-01 BUSINESS ZONING DISTRICT
MAP 14, LOT 004-002E BUSINESS AND RESIDENTIAL DISTRICT

FEMA FLOODZONE DESIGNATION

ZONE X - AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS SCALED FROM F.I.R.M. PANEL 25023C0436J. EFFECTIVE DATE: JULY 7, 2012.

LAKEVILLE PLANNING BOARD

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

ENDORSED: _____

PLANNING BOARD ENDORSEMENT SHALL NOT BE CONSTRUED AS AN APPROVAL OF OR CONFORMANCE WITH ZONING REQUIREMENTS

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED PLAN OF LAND IN LAKEVILLE, MASSACHUSETTS PREPARED FOR STEPHEN P. AND ERICA L. PEREIRA AND CHRISTOPHER M. AND CASSANDRA E. HUDSON

DATE: SEPTEMBER 21, 2020 SCALE: 1" = 40'



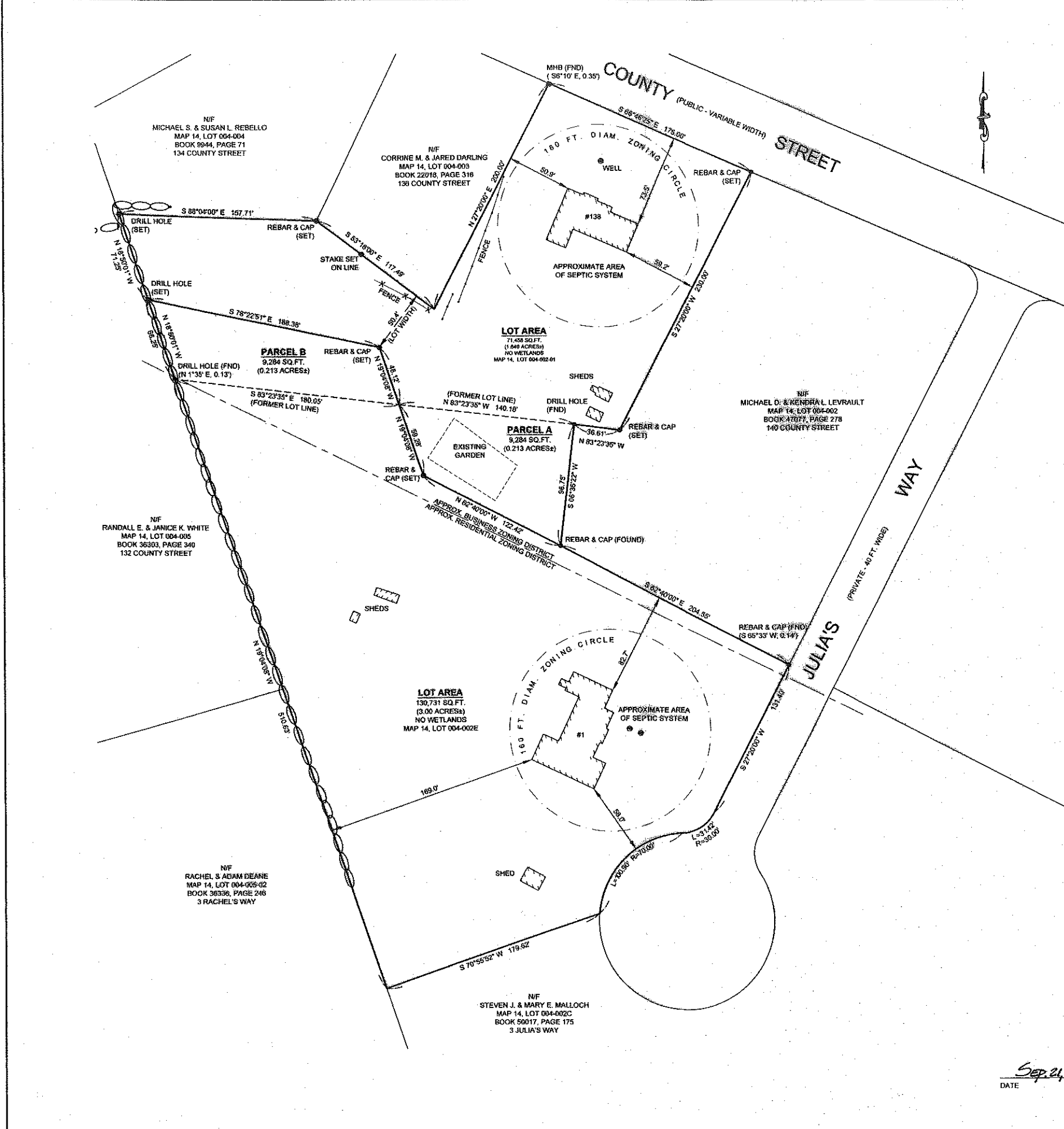
PREPARED BY:



CIVIL ENGINEERING-LAND SURVEYING-ENVIRONMENTAL ASSESSMENT
P.O. BOX 1088, 350 BEDFORD STREET, LAKEVILLE, MA 02347
TEL: 508.947.0050 FAX: 508.947.2004



DATE: Sep. 21, 2020 PREPARER: [Signature]



NIF
MICHAEL S. & SUSAN L. REBELLO
MAP 14, LOT 004-004
BOOK 8944, PAGE 71
134 COUNTY STREET

NIF
CORRINE M. & JARED DARLING
MAP 14, LOT 004-003
BOOK 22018, PAGE 318
138 COUNTY STREET

DRILL HOLE (SET)
S 88°10'00" E 157.71'

DRILL HOLE (SET)
N 14°30'01" W 82.97'

DRILL HOLE (FND)
N 1°35' E, 0.13'

NIF
RANDALL E. & JANICE K. WHITE
MAP 14, LOT 004-006
BOOK 36303, PAGE 340
132 COUNTY STREET

NIF
RACHEL & ADAM DEANE
MAP 14, LOT 004-005-02
BOOK 36336, PAGE 246
3 RACHEL'S WAY

NIF
STEVEN J. & MARY E. MALLOCH
MAP 14, LOT 004-002C
BOOK 50017, PAGE 175
3 JULIA'S WAY

NIF
MICHAEL D. & KENDRA L. LEVRAULT
MAP 14, LOT 004-002
BOOK 42077, PAGE 278
140 COUNTY STREET

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
November 12, 2020
Remote meeting**

On November 12, 2020, the Planning Board held a remote meeting. It was called to order by Chairman Knox at 7:00. LakeCam was recording, and it was streaming on Facebook Live.

Members present:

Mark Knox, Chair; Barbara Mancovsky, Vice-Chair; Peter Conroy, Michele MacEachern, Jack Lynch

Also present:

Deanna Elliot, applicant, Bob Rego, engineer River Hawk Environmental; Madelyn Maksy, applicant, Nyles Zager, engineer Zenith Consulting Engineers, David Quinn, Bob Messier, Paul Turner

Agenda item #1

Mr. Knox read this item into the record. It was an explanation of the Governor's Order Suspending Certain Provisions of the Open Meeting Law related to the 2020 novel Coronavirus outbreak emergency which was why the Board was meeting remotely. Mr. Knox asked if anyone else was recording the meeting. There was no response.

Site Plan Review – 202 Main Street

The applicant D. Elliot and the engineer, Bob Rego were present. Mr. Knox recused himself from the hearing and turned it over to Ms. Mancovsky. Ms. Elliot advised she was the owner of Elliot Farm on Main Street. Her father had begun selling homegrown produce to the public in 1993. In 2014, she and her brother assumed management of the farm. Since then, they've expanded to 50 acres of vegetable production. Their retail stand is thriving and they run a 200-member CSA program. They also grow about 50,000 pounds of food for neighboring communities that face food insecurity due to Covid-19. This past June, the state announced a Covid-19 related grant program for food producers. They were fortunate to receive funding from that program to support the construction of a new farm stand facility which are the plans they are reviewing tonight. As part of that grant program, there is a stipulation that the project must be completed by June 30, 2021, which makes this an ambitious construction timeline. She asked this time constraint be considered as they review the Plan.

barn, farm stand, and associated cooler. Currently, there is parking for about ten cars. On the easterly portion of the property, there are five greenhouses. The plan is to improve that by demolishing the existing barn, and building a new barn that would serve as the farm stand. The stand would be about 40' x 40' and have two overhangs. There will be one on the northerly side and one on the easterly side. They would take the existing cooler and relocate that onto what would be a proper loading dock. It would be at an elevation that would allow them to back up with their existing truck.

Mr. Rego continued they were looking to improve the parking so instead of 10 spots, they would provide 19 spots including one handicapped van accessible space. They will get that in a similar area to what exists there now, but it will be slightly rearranged and reconfigured to be more efficient. They will also improve the driveway access in and out of the parking area for the farm stand. They are in the same location of the current curb cuts on Main Street, but they would be readjusted to be a little more perpendicular and widened slightly with a wider curb radius on the entrances.

Mr. Rego advised they have maintained the natural grades so the water flows as it does now. They have made the parking lot somewhat flatter as this area of the site slopes off steeply to the east. They have provided for tractor access into the fields along the Main Street side and also for vehicle, customer, and pedestrian access into the field area. He would let Ms. Elliot speak to how the farm stand would be used in a slightly different way. Ms. Elliot explained the farm stand will serve as a retail space but also as a workspace, storage, and food processing area. It's a two-story facility with the ground floor being a work area and storage space for the farm. The first floor will be divided down the middle, with half of the space, 20'x40', as the retail space and the back space will be a work space, cooler space, storage space and also a bathroom and kitchen area. Mr. Rego also displayed the elevations for the proposed barn.

Ms. Mancovsky noted on the plan there is a reference to an entrance location for trucks. Were those trucks specific to farm equipment that's being used and not something larger that's taking goods to and from the farm? Ms. Elliot replied they have a 14-foot box truck that they use. They partner with other local farms for items that they don't grow themselves, but that is the largest truck that they will be using to bring in various other produce and items that aren't grown on site. Ms. Mancovsky thought it important to note this is a residential district but under their bylaw you can have agricultural use and the sale of goods as part of by right for a residential location. They don't see any issue at this time with proceeding with this approval.

Mr. Knox said after consideration because of the time constraints, he was unsure if all the Departments had an opportunity to review the Plan. Ms. Mancovsky agreed that continuing and rescheduling the hearing was a good idea to allow that additional time for review.

Ms. Mancovsky then made a motion, seconded by Mr. Lynch, to continue Site Plan Review of 202 Main Street until November 19, 2020.

Roll Call Vote: Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Conroy-Aye, Ms. Mancovsky-Aye, Mr. Knox-Abstain

Site Plan Review – 149 Bedford Street

Mr. Knox began the hearing by reading the October 28, 2020, letter from Fire Chief O'Brien into the record. He was concerned there was not an approved turnaround for fire apparatus. The October 29, 2020, email from Police Chief Perkins is for the protection of the proposed structure. He noted the proposed design moves the building further away from the roadway and has a retaining wall on the roadway intersection corner. Would that wall be sufficient enough to stop a vehicle from striking the building? Mr. Knox believed that might be a misinterpretation of the plan. He asked the engineer to address these concerns.

Mr. Nyles Zager from Zenith Consulting Engineers was present for the applicant. He said he would address those issues as he went through his presentation. He then shared his screen for the Board. Mr. Zager advised 149 Bedford Street is approximately .77 acres and located at the intersection of Rhode Island Road and Bedford Street. It is located in the Business Zone. There are no wetlands on the property. However, there are some to the west and east off site so there is a 100-foot buffer zone that encroaches on the property. They are not within any other resource areas, but they will have to file with the Conservation Commission for the work that they are proposing.

Mr. Zager continued there is currently an existing two-story residential building on the property which is serviced by town water. In regards to the layout, they are proposing a 26'x 57', approximately 1,482 square foot, office building. It is proposed further away from the layout than the existing closest point of 1.6' to 15.1'. As they meet the setback on the other side, they are not able to further encroach on it. They are proposing six parking spaces, and one of them will be a handicapped van accessible. They are proposing a 24-foot paved aisle with 30-foot radii which meets Mass DOT regulations for access onto the property.

In response to the Fire Chief, they are proposing a 15-foot-wide gravel extension from the 24-foot paved aisle that extends onto Rhode Island Road. This will allow any emergency vehicle to access in and out without having to turn around on the property. There will be a *Do not Enter* sign on Rhode Island Road. Mr. Zager indicated where the dumpster would be located. It will be on a concrete slab and fenced in for privacy purposes. He also noted the location of the septic system. He discussed a sign was also proposed, but they would be going to the Zoning Board of Appeals for a Special Permit because the size of the sign is larger than what is allowed. They also have to go to the Zoning Board because they cannot meet the setbacks even though they are making it more conforming.

Regarding the stormwater, they are proposing to control all the runoff from the site through infiltration basins. They are controlling up to a 100-year storm event for flow rate. Everything that runs down the aisle gets captured into the catch basin which has a first defense unit which takes out at least 80% of the silts and things of that nature. He then explained how the system would work. They will also have to file with Mass DOT for the curb cut but they cannot do that until they receive all local approvals including Board of Health, Conservation, Planning Board, and Zoning Board of Appeals. Mr. Zager also went through the Landscaping Plan and the Erosion Control Plan.

Ms. Mancovsky said with the retention ponds being right on Route 18 was there any suggestion on how to make them more attractive? Mr. Zager replied they are proposing a grass slope with a sand bottom. There is a 3:1 side slope that goes down into the bottom of the basin with loam and seed with the bottom being sand. The reason they like this is because it is easy to mow and maintain the basin. Ms. Mancovsky asked what was proposed for lighting as there were residential homes abutting the property. Mr. Zager replied all he could see on the plan was a light on the ramp at the doorway. There is nothing proposed shining out on Rhode Island Road, Bedford Street, or the abutting properties. Ms. Mancovsky asked about the lighting in the parking area. Mr. Zager said there would need to be something there. This could be conditioned, and they could provide a photometrics plan if it is needed.

Ms. Mancovsky asked if there was anything in the buffer zone that would give those people privacy from this development. Mr. Zager replied there really wasn't much there. Ms. Mancovsky said maybe they could ask for trees there for a little bit of a buffer. She asked if there was any way the building could be moved to meet the setbacks. Mr. Zager said there was really no room to do that. They are making it substantially better than what it is, but that will be a determination the Zoning Board will have to make. She then asked if they would consider something like a gate on the graveled drive. She thought people might want to take that route to bypass the light, and that would be a big concern. Mr. Zager clarified that the access is not from Rhode Island Road, it is to Rhode Island Road. It will be just so the Fire Department has a way to get off the site safely. Nobody will be able to turn on it and there will be signage. They have also provided a rumble strip as well. Mr. Knox added the exit should be limited for emergency exit only, whether it's through a gate or a chain. Ms. Maksy said that would be fine and they will accommodate something. Mr. Knox said it is something that should be closed at all times and a Knox box had also been suggested to him. He felt that would be a reasonable solution.

Mr. Knox asked if lighting was proposed in the parking area. Ms. Maksy said that she had not yet received the lighting plans, but she would have whatever is required by the code. Mr. Knox said that Lakeville does have a strict lighting bylaw, and they would have to condition that the plan meets those requirements. He would recommend she get an electrician to get a lighting plan that will show the lights won't go into the neighboring property or onto the roadway. They would want to see something that shows her patrons are safe and compliance with the bylaw.

Mr. Knox asked if Mr. Zager would like to speak to the Police Chief's comments. Mr. Zager replied they had talked about a retaining wall but there is no wall. The plan might have just been misread. They are not proposing anything at this time. They are pulling the building away from the roadway, and nothing has hit that building in over 40 years. Mr. Knox thought with the building being moved back and it being flat level ground, that would be the safest condition. Mr. Zager agreed.

Mr. Conroy asked if five parking spaces would be adequate. Ms. Maksy replied the business she is proposing is her existing real estate business which doesn't really have a lot of traffic. She thought the proposed amount would be enough. Mr. Knox asked if there was a discussion or comment from the Fire Chief in regards to the 15-foot gravel access. Mr. Zager replied the Chief would like to see that access. He was not sure if he had seen the updated plans. Mr. Knox said that they might then condition it upon Fire approval. He asked if the Board of Health had approved

septic plans. Mr. Zager said they have not yet submitted to the Board of Health but they had done perc tests. He noted it was a very straight forward septic design. Mr. Knox asked if there were any comments from Board members.

Ms. Mancovsky wanted to see a rendering of the building. She was also concerned with the location of the retention ponds. Mr. Knox asked if that is something that when they apply to Mass DOT for the curb cut that would be looked at. Mr. Zager said that was correct. They were actually utilizing some of their drainage currently and they have an easement on their property. He then displayed the easement the State currently had. Ms. Mancovsky asked if this drainage would then be an improvement of Route 18 runoff. Mr. Zager replied they would be capturing and creating less water going out into that area. He then displayed the architectural plan and elevations. It was a two-story building but Ms. Maksy advised the second floor was to be used for storage, as there was no basement.

Mr. Knox noted the Planning Board was not the Special Permit Granting Authority for the sign but would Ms. Maksy like to speak to it? Ms. Maksy replied in addition to her real estate business, she will have a digital marketing and promotion agency. This will be a partnership with Liam Conway. This marketing company will be called Exposure Marketing Group, LLC. The sign itself is what the business is going to be about. David Quinn and Bob Messier are here tonight. They are from the sign company and could speak more to it if they wanted additional information.

Mr. Zager displayed the sign. Mr. Quinn explained the top portion of the sign would be static with the address illuminated. The bottom portion is the digital display. Ms. Mancovsky then read 6.6.2 which listed the sign prohibitions. She also noted glare could not be cast on any residential premises or any portion of a way so as to create a traffic hazard. Ms. MacEachern added this is in very close proximity to a dangerous intersection. Mr. Quinn responded it is not a flashing sign. It will be static for a certain time frame and then a new advertisement will switch over, similar to the others that are in Town. It is lit up, but it is not flashing. Mr. Knox said that it was good to hear about the sign, but that would be under the jurisdiction of the Zoning Board of Appeals.

Mr. Knox continued that the subject of a privacy buffer between the new structure and the neighboring residential property had been touched upon. Ms. Mancovsky said she would like to see that be a condition of approval. She would like to provide that neighbor with some buffer from the business activity happening next door. Mr. Knox said they don't want to block a line of vision from driveways so they would have to be back 10 or 15 feet from the edge of road, and then staggered evergreens back to a reasonable distance. Mr. Zager estimated that to be about 150 feet. They would be eight feet staggered starting at about five feet off of the layout. Mr. Knox thought even ten feet back would be alright. Ms. Maksy was fine with that.

Mr. Knox advised they have called a meeting for next week for a continued hearing. He would really like to hear back from the Fire Chief regarding the gate and Knox box. With the applicant's approval, he would like to continue this hearing until next Thursday. It was suggested to have this hearing at 6:30 as the applicant would also be attending the ZBA hearing at 7:00.

Mr. Knox made a motion, seconded by Mr. Conroy, to continue the Site Plan Review for 149 Bedford Street until November 19, 2020, at 6:30 p.m.

Roll Call Vote: Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Conroy-Aye, Ms. Mancovsky-Aye, Mr. Knox-Aye

Ledgewood Estates – Discuss the release of the security/peer review

Mr. Turner was present. Mr. Knox advised the Board had gotten feedback from Town Counsel who requested they have a peer review engineer do a final walk through on the conditions of the site. They got a quote from the peer review engineer who has requested the original drainage calculations that the design was done off. Mr. Turner said that he could get that. Mr. Knox continued the cost that he has given as an estimate is \$3,000 with an additional \$200 for travel expenses. Mr. Turner said that he could provide a check for that.

Ms. Mancovsky then made a motion to allow the Chairman to sign the proposal for the Board. It was seconded by Mr. Conroy.

Roll Call Vote: Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Conroy-Aye, Ms. Mancovsky-Aye, Mr. Knox-Aye

43D Committee

Mr. Knox said that all members should have received and seen the plans for the Hospital property. The 43D Committee needs to approve the application and deem it complete. This is the Board's last chance to request any other documentation that is missing that they would require. Ms. Mancovsky asked about the sound study. Mr. Knox said they are doing a sound study but that is not part of the completeness of the application. One of the things that Environmental Partners noticed was there was not a set of working architectural plans so that has been requested. It may not be in by the first public hearing but it would be by the time they are looking at the architectural features for the density bonus.

Ms. Mancovsky then made a motion, seconded by Mr. Lynch, to accept the package and deem it complete.

Roll Call Vote: Ms. Mancovsky-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Conroy-Aye, Mr. Knox-Aye

Mr. Knox advised at the next 43D Committee he would deem the package complete for the Planning Board. Conservation and the Board of Health will then have to do the same. He advised the first hearing would be on December 3, 2020.

Master Plan implementation

Ms. Mancovsky said last week she and Ms. MacEachern worked on a project where they tried to do a comparison by Town of what their fee structures were. They've started a large document that has by category of what their fees are. She will work on making that printable for the next pass of

this. They have provided them with eight different Towns. Some are surrounding and some are a little further away. The median sales price for those areas was included. They also listed the categories of fees that would be utilized and started to compare. She advised that they should have received by email today four documents. The first is a large excel document with three supporting printouts from other Towns for review. She would suggest they review it and it be placed on the agenda for their next meeting.

Development Opportunities District (DOD)

Mr. Knox advised Ms. MacEachern had done some work with a plan and some radiuses around the highway ramps. Ms. Mancovsky had taken a picture of the document from the Master Plan and Ms. MacEachern put them side by side for comparison. Ms. Mancovsky said if they were going to talk about these districts, then they should give some consideration to those priority areas. Mr. Knox said he noted that the three priority development districts were in close proximity to the two highway ramps off Route 495. He asked if it made sense to amend the DOD to just encompass those three parcels. He compared it to what had been done when the Marijuana Overlay District had been created. They could also amend it in the future if they wanted, but at least they would know they were only going to deal with the DOD on the priority development sites. Ms. Mancovsky agreed.

Mr. Knox said the next thing to do would be create that language to describe those three parcels. That would be the hospital property, the area north of Kenneth Welch Drive, the Ocean Spray/Great Pond Expansion area, and Harding Street. Ms. Mancovsky noted the Harding Street area was already spoken for, but it could be a third one. Mr. Knox said the piece off Route 140 called Rocky Woods could be one, but he saw that Open Space had it as a protected area. It is within a certain distance from the highway. There is a ramp right there so that one has potential. Ms. Mancovsky noted there is also a parcel in a circled area near the Star Drive-In. Mr. Knox said that they didn't want to take the Open Space Priority habitat but there is that one parcel closest to the highway. They should ask for feedback about those pieces and maybe notify abutters. Ms. Mancovsky said maybe they should send a memo to Conservation and Economic Development and see if they had any questions. That highway entrance on Route 140 is very important and a prime development location. After looking at it further, Ms. Mancovsky said that there was not really anything there they could work with.

Mr. Knox said the Great Ponds Expansion is an option. He said this is adjacent to existing development, and it is also right on Route 18 and close to a highway ramp. He is not just focusing on a circle, but it is close to one. They could apply the circle but that would encompass a lot of either residential or existing businesses. They would rather have undeveloped properties that are ideal for development which goes to the discussion that they don't want to take something that Conservation has a restriction on, and try to deem it priority development for commercial use. Members then discussed a large industrial parcel that is probably within the half mile radius of the 140 intersection with 79.

Mr. Knox stated they could add that but he thought they were looking for some control over the DOD. They could say for now let's just have the Great Ponds Expansion Site in the Ocean Spray

so that would be the one spot they would have to look for. It is the most ideal for highway ramps, and if that one gets developed, then they could amend the bylaw to create the next one they wanted to be developed. It would give them control as to what parcel would be subject to those parameters of the DOD. Ms. MacEachern asked what the next steps would be. Mr. Knox replied they would need a public hearing, but they would first need to put some language together. They could look at the marijuana use overlay to get a feel for how it was done, and then try to plug in the language for the DOD to create this zone specifically to that parcel. Ms. Murray noted that she had attended a workshop in regards to Drafting Zoning Amendments. She would get access to the PowerPoint and get it out to the Board.

Review the following Zoning Board of Appeals petitions:

1. Pink – 119 Hemlock Street

Mr. Knox made a motion, seconded by Mr. Lynch, to make no comment on the Zoning Board of Appeals petition for Pink – 119 Hemlock Street

Roll Call Vote: Ms. Mancovsky-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Conroy-Aye, Mr. Knox-Aye

2. Maksy – 149 Bedford Street

Mr. Knox discussed the relief that had been requested for the Special Permit. He asked for comments. Mr. Conroy wanted ZBA to take a good look at the requested digital sign in regards to the brightness. Ms. Mancovsky did not think it was consistent with the rural character of the Town but would have to leave the decision up to the ZBA. Ms. MacEachern agreed and noted the sign is larger than what allowed. She then made a motion, seconded by Mr. Knox, that if the Zoning Board grants relief on the size of the proposed sign, the sign should then comply with all other aspects of the bylaw.

Roll Call Vote: Ms. Mancovsky-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Conroy-Aye, Mr. Knox-Aye

3. Chapin – 15 South Avenue

Ms. Mancovsky made a motion, seconded by Mr. Conroy, to make no comment on the Zoning Board of Appeals petition for Chapin – 15 South Avenue

Roll Call Vote: Ms. Mancovsky-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Conroy-Aye, Mr. Knox-Aye

Approve meeting minutes

Mr. Conroy made a motion, seconded by Mr. Lynch, to approve the Minutes from the October 22, 2020, meeting.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

New Business

Approve amended check amount for Plymouth County Registry of Deeds

Ms. Murray advised they had signed a paper with their signatures which then needs to be sent to the Plymouth County Registry of Deeds for recording. The recording fee was increased, and this was to request a new check in the correct amount.

Mr. Knox made a motion, seconded by Ms. Mancovsky to sign the request for a new check for the Plymouth County Registry of Deeds.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Sign Chapter 91 Waterways application

Ms. Murray explained she had spoken to Mr. Bissonnette regarding this. This application goes to multiple departments for signatures including the Planning Board.

Mr. Knox made a motion, seconded by Mr. Lynch, to have the Board authorize him to sign the Chapter 91 Waterways application for 119 Hemlock Shore.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Next meeting

Mr. Knox advised the next meeting is scheduled for November 19, 2020, at 6:30 p.m. Their following meeting will be on December 10, 2020, at 7:00 p.m.

Adjourn

Mr. Lynch made a motion, seconded by Mr. Conroy, to adjourn the meeting.

Roll Call Vote: Ms. Mancovsky-Aye, Mr. Conroy-Aye, Ms. MacEachern-Aye, Mr. Lynch-Aye, Mr. Knox-Aye

Meeting adjourned at 8:45.

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
Thursday, February 27, 2020**

On February 27, 2020, the Planning Board held a meeting at the Lakeville Senior Center. The meeting was called to order by Chairman Hoeg at 7:30. Ms. Murray, recording secretary, was audio recording and LakeCam was making a video recording of the meeting.

Members present:

Brian Hoeg, Chair; Sylvester Zienkiewicz, Vice-Chair; Peter Conroy, Mark Knox, Barbara Mancovsky

Site Plan Review, continued – 57 Long Point Road

The applicant had sent an email on February 24, 2020, requesting to continue as they had not received certain information that had been required.

Mr. Conroy made a motion, seconded by Ms. Mancovsky, to continue the Site Plan Review for 57 Long Point Road until March 12, 2020, at 7:30 p.m. The **vote** was **unanimous for**.

ANR Plan, continued – Hickory Lane

The applicant had sent an email on February 24, 2020, requesting to continue.

Mr. Conroy made a motion, seconded by Ms. Mancovsky, to continue the ANR Plan for Hickory Lane until March 12, 2020. The **vote** was **unanimous for**.

Informal hearing – 26 Crooked Lane

Mr. Knox then recused himself from the Board so he could make his presentation. He stated his name for the record and advised he lived at 87 Pierce Avenue. He was representing himself for a property located at 26 Crooked Lane. He is currently doing some renovations to the property to make a new tenant space and displayed an existing Site Plan of the property. It showed the existing parking and buildings with the dumpster pad.

Mr. Knox advised the proposed plan shows no major change to the building except a small new entry way on the northeast side of the building. At the back entrance, he is proposing a number of parking spaces with van accessible parking area and a handicap ramp to that entrance. Currently, this is a single lane with parking along one side but this will become two-way traffic. There is also an existing sign indicating left turn only, and that will stay in place. He did not feel the current

lighting on the building is dark sky compliant, so they were going to change all of it and encompass within the new parking area one light pole in that area. On that side of the building next to the entrance, there is currently a wall pack light. They will move that over so that it lines up on the edge of the parking to light that area as well. He next displayed a plan of the tenant office space with one elevation of the building. A door has been added and one window has been removed. He then displayed what the building looked like today with the new entry way. He is proposing a walkway out to the parking area, and he indicated where the proposed light pole would be located. He would also like to put a small sign that would meet the sign regulations in the Zoning By-law.

Mr. Knox said those were the changes he was making, and he had wanted to share them with the Board. He also wanted to use this as an example, as they had been reviewing the tenant bylaw for the disturbance or change of 1,500 square feet of aggregate. It is unclear if it is inside or outside of the building. He noted that one of the things he wanted to do was talk to the Board about this project to make sure that everyone was okay with it, and if he needed to do anything else or make any changes. If not, then he wanted to use this as an example of one of the things the Board may review or not review in the future. The Board had talked about the following triggers that might require a Site Plan Review: the impervious coverage, maybe a square footage of additional paving for parking, addition of a sign, outside lighting, or adding additional space.

Mr. Knox asked if they wanted to have a Site Plan Review because somebody made more floor space inside their building. Mr. Hoeg said this wasn't a problem as far as Mr. Knox's plan and him coming to the Board to get approval. However, if there is a change of use, there really should be a Site Plan Review particularly if you have a subdivision of a building inside the building. His fear was someone getting a building permit for modifications to a building and then leading to possibly more people or having something that is not allowed. The Planning Board is more sensitive to those types of issues than someone just giving a building a once quick look over.

Mr. Knox then stated that an email had been circulated that was on the agenda at their last meeting. It had a specific section of the bylaw highlighted, and did they want to just change the wording. Mr. Conroy asked if the wording could be changed to something along the lines of any two of these items should trigger a Site Plan Review. He thinks it's a good tool that adds a layer of protection to the Town. Mr. Knox said that was also his point. Should it be added impervious, added signage, and lighting and if you trigger two, it triggers the Site Plan Review? This would be rather than the 1,500 square foot of interior remodeling that may not really affect the Board. Members then discussed various scenarios that could occur.

Mr. Knox said he believed that was why they had been given that section of the bylaw. They could eliminate 1,500 square feet and say a tenant space outfit triggers Site Plan Review when one of the following items occurs: additional lighting, additional signage, or additional square footage of impervious. Mr. Zienkiewicz noted after looking at the bylaw that a lot is required for their Site Plan Review. They receive a different range from applicants in regards to quality and completeness.

Mr. Hoeg felt that change of use should be part of it. Mr. Knox noted an insurance company to a lawyer's office would not be considered a change of use by definition, but would office to retail? Maybe they would need specific terminology to that.

Mr. Conroy thought this topic should be covered over multiple meetings. Mr. Zienkiewicz agreed and said that there should be other ways for Site Plan Review to be triggered. Mr. Knox mentioned having a curb cut be a mechanism to trigger a review. Mr. Zienkiewicz noted the Board no longer does curb cuts, that is done by the Selectmen. After discussion, Mr. Zienkiewicz noted that they should expand that 1,500 to a longer list of triggers. Mr. Knox stated to prepare a Site Plan, have the engineering done, and go through all the Boards is an expensive process. He would not want someone with an existing building to have to spend a large amount and go through that for 2,000 square feet of additional parking.

After further discussion, Ms. Murray asked if they wanted to place this on their next agenda. Mr. Conroy replied they should keep this going but then at a certain point, they should come up with a change that will possibly sit for a few months. They can then put it on an October agenda for a fall Town Meeting. Mr. Knox agreed and said that they shouldn't stop until its completed. Mr. Conroy clarified they need to figure out what they're going to do, which may take four weeks or four meetings. Then they schedule a couple of hearings, and then they get ready for the fall. Ms. Mancovsky then made a motion, seconded by Mr. Conroy, to place this on their next agenda. The **vote was unanimous for.**

Schedule public hearing for Pauline's Path, a definitive plan for a subdivision off Howland Road

Mr. Hoeg asked if they were asking for a particular date, or if the Board was just giving them a date. Ms. Murray said she was just asking for a clarification of their policy. After consulting the calendar to allow the required advertising, Mr. Zienkiewicz made a motion to schedule the hearing for March 26, 2020. It was seconded by Mr. Knox. The **vote was unanimous for.**

Approve meeting minutes

Mr. Knox made a motion, seconded by Mr. Conroy, to approve the Minutes from the November 14, 2019, meeting. The **vote was unanimous for.**

Old Business – Discuss bylaw creation for design standards for business zoned new construction

Mr. Knox said they were going to look at the Master Plan and see if they could change their regulations to add architectural standards to their code regulations rather than to write a bylaw. This was based on what SRPEDD had put in the new Master Plan. He would like that on the next meeting as well. Mr. Hoeg thought this would have to be a bylaw. Ms. Mancovsky thought the three issues they have been talking about; the bylaw change, the tenant space change, and the potential overlay district for architectural standards in the business zone could work together. They could make them so they have stronger controls. These are the three things on their list that they need to keep rolling forward. Mr. Zienkiewicz added that the rules governing the subdivision of land are only for the subdivision of land. It is pretty hard to add much else in there, like Site Plan Review or anything like that. The good thing about it is they can change regulations on their own

just by telling people they are voting on them. The reason they can do that is because it only affects what is in that subdivision. There is a law that permits them to do that but only within that subdivision. Ms. Mancovsky said that in her mind this conversation is only about commercial properties. They are not going to get into design standards for someone's home. Mr. Zienkiewicz said they haven't been doing any commercial subdivisions but they can. That is part of their purview but people just haven't been building that way.

Ms. Mancovsky then made a motion, seconded by Mr. Knox, to place the three items on their next agenda. The **vote** was **unanimous for**.

New Business

Mr. Mike Nashawaty was present in regard to the ANR plan for Hickory Lane. He discussed the drainage issues his neighborhood continues to have and said additional development would only exacerbate this situation. Members discussed a possible site visit. Mr. Nashawaty was advised the ANR plan for Hickory Lane was on the March 12th agenda.

It was noted the Citizen Planner Training Collaborative conference schedule was out. The Town will pay for members to attend if they would like to go.

Ms. Mancovsky advised there was a SRPEDD meeting last night. A World Caucus Advisory Board has been formed. This is a committee of people to come together to advise at the State level. The State has a committee that has been formed to start taking information from rural communities, and Lakeville qualifies as one of them. She is on that caucus and will circulate what it is about, and what they are going to do. It is a great resource for them to start getting information up to the State level.

Ms. Mancovsky noted that next month the Cannabis Commission would be coming in to give a talk. There are quite a few of these businesses that are not going to be opening, and the profit margins are changing. Several of the very large companies have decided to move out. Other communities have said that Towns need to take a look at who you have signed contracts with as you might not be getting the tax revenue that is anticipated. She stated this speaks to the need to have a date and performance guarantee in the Community Host Agreement.

Ms. Mancovsky said they also talked about some cameras that they had. It is a picture that you can watch move back and forth, like a virtual tour. It also lays down buildings in different perspectives. This is something that could be very beneficial for the Town and public safety. They also have drones, which for a fairly low cost, could be used for different projects. She suggested using it to inspect culverts to see if they are draining properly. Members then discussed a procedure for maintenance of these drainage systems in Town.

Ms. Mancovsky advised the last item discussed at SRPEDD was the re-numbering of the highways. The exit numbers are going to be changed, and this project will start soon.

It was then noted that their meeting on March 12th would begin at 7:00 rather than 7:30.

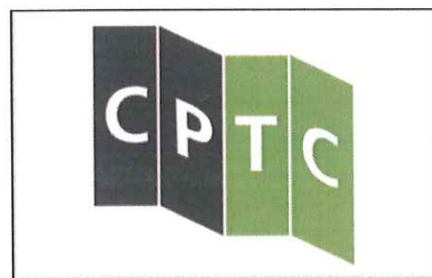
Adjourn

Mr. Conroy made a motion, seconded by Ms. Mancovsky to adjourn the meeting. The **vote** was **unanimous for**.

Meeting adjourned at 8:45.

#9a

CPTC Guidebook
DRAFTING ZONING AMENDMENTS
Module 14



Citizen Planner Training Collaborative
A collaboration of citizens, nonprofits and government agencies dedicated to providing
essential and advanced training to citizens involved in municipal planning and land use.

Citizen Planner Training Collaborative
Planning and Land Use Training Modules

Module 1. Roles and Responsibilities of Planning and Zoning Boards

Module 2. Introduction to the Zoning Act

Module 3. Special Permits and Variances

Module 4. Introduction to Subdivision Control and ANR

Module 5. Reading a Subdivision Plan

Module 6. Site Plan Review

Module 7. Vested Rights and Nonconforming Uses and Structures

Module 8. Zoning Exemptions

Module 9. Fair, Defensible Land Use Decisions

Module 10. Creating Master Plans

Module 11. Planning with Community Support

Module 12. Adopting and Revising Rules and Regulations

Module 13. Design Review

Module 14. Drafting Zoning Amendments

Module 15. Fair Housing Laws

Module 16. Zoning with Overlay Districts

Curriculum content last revised June 30, 2019 by the Citizen Planner Training Collaborative, the team of Barrett Planning Group LLC, Ilana Quirk, Esq. of Freeman Law Group LLC, and Horsley Witten Group, and Adam Costa, Esq., of Mead, Talerman, and Costa, LLC. The following people contributed to Module 14: Adam Costa, Esq.

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Introduction

Drafting Zoning Amendments

Mission Statement

The Citizen Planner Training Collaborative's mission is to:

- Empower local land use officials, particularly planning and zoning board members, to make effective and judicious decisions;
- Provide educational opportunities to such officials;
- Provide access to information, tools and resources to assist them in doing their work; and
- Encourage cooperation and collaboration among land use boards.

The CPTC provides training workshops around the state in the fall; an annual spring conference in Worcester; internet access to training modules, best practices, sample bylaws and regulations; and links to a variety of planning resources.

CTPC is itself a collaboration, combining the resources and expertise of the University of Massachusetts Extension, the Massachusetts Department of Housing & Community Development, the Massachusetts Chapter of the American Planning Association, the Massachusetts Association of Planning Directors, the Massachusetts Association of Regional Planning Agencies, and Mass Audubon.

www.masscptc.org

Course Objective

By the end of this course, you will be able to:

- Determine whether your amendment is within the municipality's zoning authority.
- Appreciate the relationship between planning, zoning and subdivision control.
- Understand the statutory framework within which an amendment is proposed, advanced and voted upon.
- Learn the recommended process for amending a zoning ordinance or bylaw.
- Identify the forms of zoning amendments.
- Recognize drafting do's and don'ts.

Overview

Experience has demonstrated that even the best zoning ordinances do become out of date. Periodic revision is essential if the ordinance is to establish and maintain a rational land use pattern.¹

Amending a zoning ordinance or bylaw² from time-to-time is an essential function of municipal government; but that is not to say that the process is undertaken with ease. To draft an ordinance, one must familiarize him- or herself with the definition of zoning and what it is meant to achieve; must appreciate the interdependency between zoning and planning; must study the art of legislative drafting and all its challenges; and must respect the legal process by which zoning amendments are presented, analyzed and voted upon. Furthermore, “[d]rafting and adopting a bylaw are two different things, as any active citizen can attest. To get a bylaw successfully through the local legislative process requires an educated public and supportive interest groups and stakeholders. Zoning bylaws are notoriously complex. Bringing a complex proposal to the floor of Town Meeting [or before a city or town council] without first ‘doing your homework’ is a recipe for failure.”³

WHAT IS ZONING?

“Zoning is a legislative process through which the local governing body... divides the municipality into districts or zones, and adopts regulations concerning the use of land and the placement, spacing and size of buildings. The primary goal of zoning is to avoid or minimize disruptive land use patterns involving incompatible land uses.”⁴ Massachusetts defines zoning quite expansively, as regulation of “the use of land, buildings or structures to the full extent of the independent constitutional powers of cities and towns to protect the health, safety and general welfare of their present and future inhabitants.” G.L. c. 40A, § 1A. The source of municipal authority is the Home Rule Amendment, Mass. Const. amend. art. LXXXIX, which states:

Any city or town may, by the adoption, amendment, or repeal of local ordinances or by-laws, exercise any power or function which the general court has the power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court in conformity with powers reserved to the general court... and which is not denied, either expressly or by clear implication, to the city or town by its charter.

Unlike its predecessor statute, the Zoning Act, G.L. c. 40A, is “a procedural statute establishing

Drafting Zoning Amendments

standardized procedures for the promulgation and administration of municipal zoning laws rather than... enabling legislation.”⁵ Thus “[t]he zoning power in Massachusetts... encompasses not only regulations historically perceived as zoning, i.e. land use restrictions establishing differing requirements on property in one district from that in another, but also all other police power regulations that a municipality may elect to characterize as zoning and adopt under the Zoning Act.”⁶

DOES YOUR AMENDMENT QUALIFY AS ZONING?

“The scope of legitimate zoning purposes has steadily expanded.”⁷ Nevertheless, “[t]he purposes for which zoning can be used by a municipality are not boundless.”⁸ A zoning amendment with no reasonable prospect of furthering the health, safety and general welfare of the public is not a valid exercise of the police power; and will not stand. Massachusetts courts have been reluctant to recognize the lawfulness of zoning for aesthetics *alone*, see, e.g., 122 Main Street Corp. v. City of Brockton, 323 Mass. 646 (1949) (“[i]t is not within the scope of the act to enact zoning regulations for the purpose of assisting a municipality to retain or assume a general appearance deemed to be ideal”), but they have affirmed aesthetic controls where protective of the economy or otherwise advantageous to the public welfare, see, e.g., Opinion of the Justices, 333 Mass. 773 (1955) (citing to “the benefits resulting to the economy of Nantucket in developing and maintaining its vacation-travel industry” in part through preservation of aesthetics). Likewise, zoning is “not designed for the preservation of the economic value of [individual or private] property, except in so far as that end is served by making the community a safe and healthy place in which to live.” Tranfaglia v. Bldg. Comm’r of Winchester, 306 Mass. 495, 504 (1940). Also, “[s]trictly local interests of the town must yield if it appears that they are plainly in conflict with the general interests of the public at large, and in such instances the interest of the municipality would not be allowed to stand in the way.” Simon v. Town of Needham, 311 Mass. 560, 566 (1942) (citation omitted).

Maybe the best guide as to permissible zoning purposes is 1975 Mass. Acts 808, § 2A, the source of the 1975 overhaul of the now-Zoning Act. It states, in relevant part:

This act is designed to provide standardized procedures for the administration and promulgation of municipal zoning laws. This section is designed to suggest objectives for which zoning might be established which include, but are not limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the

Drafting Zoning Amendments

conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the city or town, including consideration of the recommendations of the master plan, if any, adopted by the planning board and the comprehensive plan, if any, of the regional planning agency; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

WHAT IS THE ROLE OF THE MASTER OR COMPREHENSIVE PLAN?

“Zoning depends on planning and planning depends on zoning. Neither can exist without the other.”⁹ It was said in *National Amusements, Inc. v. City of Boston*, 29 Mass. App. Ct. 305, 311 (1990): “[Z]one changes which have no roots in planning objectives... are considered arbitrary and unreasonable.” Such a statement by the Appeals Court “suggests that any rezoning unaccompanied by a modicum of planning is open to challenge.”¹⁰

The above notwithstanding, unlike other jurisdictions, Massachusetts has adopted no explicit requirement, not in the Zoning Act or elsewhere, that zoning be in accordance with a master or comprehensive plan.

WHAT ABOUT SUBDIVISION CONTROL?

The Subdivision Control Law, G.L. c. 41, §§ 81K-81GG, was enacted “for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is... put into effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein... and ensuring sanitary conditions in subdivisions... parks and open areas.” G.L. c. 41, § 81M. On the one hand, subdivision control is separate and distinct from zoning; the former seeks to fulfill the above-quoted purpose by regulating layout and roadway construction, whereas the latter “establishes the buildability of the tract.”¹¹ However, “[w]hen used in conjunction with the zoning ordinance and the comprehensive plan... subdivision [laws] assure... that the land development process is accomplished in an appropriate and consistent manner.”¹² The effect(s) of a potential zoning amendment on subdivision control, or vice versa, are thus appropriate and worthwhile considerations for the drafter.

Drafting Zoning Amendments

Statutory Framework

Drafting Zoning Amendments

Drafting Zoning Amendments

The adoption or amendment of zoning ordinances and bylaws is governed almost exclusively by G.L. c. 40A, § 5, i.e. except with regard to initiation by citizens' petition as explained below. Strict compliance with the statutory standards is expected. "It is important that local officials understand the procedural requirements so as to prevent unnecessary litigation and avoid having the Attorney General disapprove a bylaw due to a procedural defect."¹³

(RE)ZONING PETITION

A zoning ordinance or bylaw, or amendment thereto, may be initiated by its submission to the city council or board of selectmen, as the case may be, by any of the following:

- A city council itself
- A board of selectmen itself
- A board of appeals
- An individual owning land to be affected by the proposal
- Ten registered voters in a city
- A planning board
- A regional planning agency
- Other method(s) specified by municipal charter (if any)

See G.L. c. 40A, § 5, ¶ 1. In addition, under G.L. c. 39, § 10, in a town, a proposal may be initiated by ten or more registered voters for an annual town meeting or by 100 or more registered voters or ten percent of the total number of registered voters in said town, whichever is less, for a special town meeting.

ROLE OF THE PLANNING BOARD

G.L. c. 40A, § 5, ¶ 1, thereafter states: "The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review." The 14-day deadline is directory, not mandatory, see *Vokes v. Avery W. Lovell, Inc.*, 18 Mass App. Ct. 471 (1984), although referral to the planning board, unless none exists, is a prerequisite to further action by the legislative body.

Within 65 days after a proposal is submitted to the planning board or, if none exists, to the city council or board of selectmen, a public hearing must be held on such proposal, at which "interested persons shall be given an opportunity to be heard." The public hearing is before the planning board in a town; or each of the planning board and the city council (or a committee designated by it) in a city, either together or separately. Again, if no planning board exists, the public hearing is before the city council or board of selectmen itself, as applicable. See G.L. c. 40A, § 5, ¶ 2.

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“Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of said hearing.” Notice must also be sent by mail, postage prepaid, to the Department of Housing and Community Development, any regional planning agency and the planning board of each abutting city and town. Other notice requirements apply in unique circumstances; municipalities and their officials are advised to consult the statute. See G.L. c. 40A, § 5, ¶ 2.

At the conclusion of the public hearing referenced above, the planning board must submit a report with recommendations to the city council or town meeting. No vote on the proposal may be taken absent receipt of such a report, or the passage of 21 days from the date of the public hearing without submission of the report. “Although it must make a definite recommendation on the proposed zoning amendment, the planning board’s report is advisory in nature and not binding on the city council or town meeting.”¹⁴ See Caires v. Building Comm’r of Hingham, 323 Mass. 589, 595 (1949). Note that if a city council fails to vote to adopt a proposed ordinance within 90 days after the city council hearing or if a town meeting fails to vote to adopt any proposed bylaw within six months after the planning board hearing, no action shall be taken on the proposal until after a subsequent public hearing is held with notice and a report as provided above. See G.L. c. 40A, § 5, ¶ 4.

CITY/TOWN COUNCIL OR TOWN MEETING VOTE REQUIRED

Adoption of zoning in towns requires a two-thirds vote of a town meeting or, where applicable, a two-thirds vote of all members of a town council. Adoption of zoning in cities requires a two-thirds vote of all the members of the city council or, where there is a two-branch form of government, a two-thirds vote of all members of each branch. See G.L. c. 40A, § 5, ¶ 5. A procedure does exist whereby written protest may be filed by certain landowners with a “city or town... council of fewer than twenty-five members,” whereupon a $\frac{3}{4}$ vote of all members thereof is subsequently required for adoption. For more information about such a protest, see G.L. c. 40A, § 5, ¶ 5.

AMENDMENT(S)

Whether at or as a consequence of the planning board’s public hearing, or on the floor of a town meeting, or before a city (or town) council, zoning proposals do get amended.

Because “the purpose of [the] public hearing is to obtain public sentiment so that proper revision can be made,” Doliner v. Town Clerk of Millis, 343 Mass. 10, 13 (1961) (citation omitted),

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not every change made by a planning board requires re-advertisement and commencement of a new public hearing. “There is nothing in the statute requiring another hearing whenever, after one hearing, the board decides to amend what had previously been proposed.” Town of Burlington v. Dunn, 318 Mass. 216, 218 (1945). Where an amendment does “not change the substantial character of the bylaw,” Doliner, 343 Mass. at 13, nor “change the identity of the proposal before the board,” Town of Burlington, 318 Mass. at 219, the public hearing need not start afresh.

Amendments at a town meeting, or by a city (or town) council, are likewise expected; and they need only be within “the scope of the [warrant] article” or petition that was noticed to the public. Johnson v. Framingham, 354 Mass. 750, 752 (1968). “[T]he subjects to be acted upon must be sufficiently stated in the warrant to apprise voters of the nature of the matters with which the meeting is authorized to deal... [T]he warrant [need not] contain an accurate forecast of the precise action which the meeting will take upon those subjects.” Town of Burlington, 318 Mass. at 219.

In sum, municipalities should heed the advice of Donald J. Schmidt, former Principal Planner with the Department of Housing and Community Development (DHCD), as stated in a 1987 edition of Land Use Manager:

Town Meeting does have the flexibility to make amendments to a zoning proposal. Obviously, if the identity of the zoning proposal is utterly changed by a recommendation of the Planning Board or by an amendment by Town Meeting, then the Planning Board must hold a new public hearing. As has been noted by the court, a new notice, hearing and opportunity to report by the Planning Board will be required if the amendment to the zoning proposal:

1. changes the identity or substantial character of the original zoning proposal;
2. fundamentally departs from the original proposal; or
3. radically differs from the original proposal.

Perhaps a good rule of thumb to remember is whether a reasonable man [or woman] could have foreseen the final action from reading the initial notice.¹⁵

Such advice applies equally to amendments brought before a city (or town) council.

RECONSIDERATION

No proposal for a zoning ordinance or bylaw, or amendment thereto, which has been unfavorably acted upon by a city council or town meeting shall be again considered by it within two years unless the adoption “is recommended in the final report of the planning board.” See G.L. c. 40A, § 5, ¶ 6.

ATTORNEY GENERAL APPROVAL

G.L. c. 40, § 32, requires that any bylaw adopted by a town, but not ordinances adopted by cities, be submitted to the Attorney General no later than 30 days after final adjournment of the town meeting at which adoption occurred. The submittal must include a certified copy of the bylaw with a request for its approval; a statement explaining it, including maps and plans as necessary; and adequate proof that all of the procedural requirements for its adoption were satisfied.

EFFECTIVE DATE

The effective date of the adoption or amendment of a zoning ordinance or bylaw is the date of the city (or town) council or town meeting vote to approve it. A prerequisite thereto, in towns only, is that the ordinance or bylaw be published and posted, or delivered, in accordance with G.L. c. 40, § 32. See G.L. c. 40A, § 5, ¶ 8. In a city, publication is required if the provisions of G.L. c. 40, § 32A, have been adopted.

DEFECT(S) IN PROCEDURE

Should any person wish to challenge a zoning ordinance or bylaw, or amendment thereto, for failure to comply with the above procedure(s), he or she must do so within 90 days after the aforementioned posting or publication. See G.L. c. 40, § 32; G.L. c. 40, § 32A.

Amending the Ordinance or Bylaw

Drafting Zoning Amendments

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“[M]ost amendments are not comprehensive ordinance revisions proposed... after reconsideration of the city’s plan... [F]ar too many are, in fact, adopted without sufficient awareness or consideration of planning principles. Evaluation of proposed changes is often dominated by politics and personalities.”¹⁶ The following guidelines are in no way exhaustive; different approaches exist to researching, drafting and advancing a zoning proposal, none necessarily better or worse than the next and each depending on the attendant circumstances. But what follows are suggestions that may better the odds of successful adoption; and provide for an improved product in the end.

RESEARCH

There is no substitute for conducting the necessary research on the issue you seek to address with a zoning amendment. To start, it is recommended that you confirm that the authority exists to legislate on the topic. “[A] zoning regulation will not be enforced if it unduly interferes with the exercise of fundamental rights protected under the U.S. or Massachusetts Constitutions. Accordingly, zoning regulations have been invalidated in situations where the courts have found a violation of the Equal Protection Clause, the Due Process Clause, or the Takings Clause of the U.S. Constitution. Enforcement of zoning regulations has also been refused where the courts have perceived a conflict with the constitutional guarantees of free speech or with the developing ‘substantive due process’ rights of privacy, family relations, and the like.”¹⁷ State or federal law may preempt the adoption of municipal zoning controls. The Zoning Act also expressly exempts certain uses from zoning regulation. See G.L. c. 40A, §§ 3, 9, 9C. Such protections are beyond the scope of these materials; but a recommended practice is to consult with municipal counsel before drafting gets underway.

Writing a zoning amendment does not necessarily require you to “recreate the wheel,” as they say. “Chances are high that some other jurisdiction has faced the same issue. Examine how other [jurisdictions] have drafted similar legislation... [R]esearching how other[s]... have worked their legislation can serve to lend general ideas that you may not have previously considered.”¹⁸ “Be cautious, however, particularly if you are adopting a small section of [another community’s] ordinance. Does the ordinance language you are borrowing include terms not defined in your own ordinance?”¹⁹ Any language adapted from a neighboring or nearby municipality must also be vetted for consistency with your community’s zoning ordinance or bylaw as a whole.

Lastly, “[y]ou should be able to explain the need for the ordinance. That understanding will... lead to clearer interpretation and enforcement, and help ensure that your ordinance is legally defensible.”²⁰

TEAMWORK

“Perhaps the solution to the problems of amendments lies not in building administrative barriers around the legislative body but in bring[ing] the proponent and legislators together at the beginning of the administrative process.”²¹ Where the legislative body in a town, unlike a city, is its town meeting, doing so may be impractical or impossible. But communication between the drafter and municipal staff, volunteers, stakeholders and the public is invaluable. Interview those who are most familiar with the zoning ordinance or bylaw, such as the city or town planner or land use director, planning board, zoning board of appeals and building inspector or commissioner (or other zoning enforcement official). Carolyn Braun, AICP, writes in *Drafting Clear Ordinances: Do’s and Don’ts*, the following:

It’s good practice to discuss draft ordinance provisions in a work session... Planning board members can also be asked to play devil’s advocate and thoroughly explore various possible interpretations of the draft. This extra time and work often pays off...

If you know of any interested individuals or groups, ask them to participate. Consider how application of the ordinance will affect them. Are there any unintended consequences that may result from adoption of the ordinance?

Get input from your town [or] city... attorney’s office as early as possible. At a minimum they need to review the draft before it is scheduled for public hearing.²²

THE ART OF DRAFTING

“[L]egislative drafting is more an art than a precise science.”²³ Nevertheless, “in the realm of drafting, you must be deliberate, intentional, and clear with your word usage. Although poets are fond of synonyms, in drafting, consistency is key. Think about how your verbiage may be construed... [S]tate exactly what needs to be said in the most straightforward manner possible. Do not worry about dazzling the reader with your erudite diction and impressive caliber of jargon... In the context of legislative drafting, brilliance is conveyed by articulating... intent in the clearest and most concise manner possible...”²⁴

Resources do exist for the novice drafter. See, e.g., Massachusetts General Court, *Legislative Research and Drafting Manual* (5th ed.) (2010). But simplicity is best. “To improve readability, emphasis should be placed upon drafting a well-organized ordinance that uses plain, well-defined language. Such an ordinance will be easier to administer and amend.”²⁵

KNOW YOUR AUDIENCE

“There are two things wrong with most legal writing,” the saying goes. “One is style. The other is content.”²⁶ To draft a zoning amendment effectively, one must remember the reader. “Organize to meet your reader’s needs. Know your audience. Communicate clearly what the person reading the regulations is supposed to do.”²⁷ A writer’s audience while drafting is underway, i.e. municipal staff, volunteers, stakeholders, is different than his or her audience after adoption, i.e. the public. “[T]he people legislation affects... may range over a wide area... At the one extreme there may be specialists... At the other extreme there may be laymen... The result of all this is that, in the case of any given [legislation], there will be an element of compromise and balance.”²⁸ Technical or legal terms and explanations, intelligible to persons who may themselves be, or who are represented by, experts and attorneys, may need to yield to less sophisticated terminology that is comprehensible to other residents who may just as frequently, if not more so, rely on ordinance provisions.

EDUCATION

The importance of educating the public on a forthcoming zoning proposal cannot be understated. It is vital to its success. That is especially so in towns, where town meeting attendees – some of whom will inevitably be unfamiliar with the zoning bylaw then-in-existence, much less the potential complexities of a proposal seeking to amend it – will be loath to support any change to the status quo.

To achieve strong public support, the Metropolitan Area Planning Council suggests certain strategies. The recommendations include “[a]ddress[ing] public concerns”; “[f]ears about density, property values, and changes in community character are common.” Interest groups should be encouraged to “speak out publicly and... take an active road in outreach.” The use of visuals is suggested: “PowerPoint presentations are an excellent way to tell the story. They can be shown at Town Meeting as well as to local groups such as... Chamber[s] of Commerce.” Finally, timing is everything. Start early. Building an understanding of and support for a proposal does not necessarily happen quickly.²⁹

Beyond educating the public, so too must you familiarize municipal staff, departments, boards and commissions with a zoning proposal. An amendment that impacts the way staff or department(s) operate ought to be presented and explained to them early in the process. Similarly, in many municipalities, finance, bylaw review or advisory committees are tasked with reviewing all rezonings and other zoning amendments; and with making verbal or written comments or recommendations thereon. Such comments or recommendations can and often do carry considerable weight with the legislative body. Educating these committees about a proposal may be critical to its reception by the city or town council or at town meeting.

Drafting Zoning Amendments

Forms of Zoning Amendment

Drafting Zoning Amendments

Drafting Zoning Amendments

All zoning amendments are different. Some are minor or even trivial modifications to an ordinance meant to fix an oversight, clarify terminology or even remedy a Scrivener's error. Others are more substantive, changing the text of one or more chapters, articles or sections of a bylaw. Still others are new additions to the bylaw or ordinance, or wholesale replacements of existing components.

Revisions, Additions or Replacements

Certain amendments modify the existing text of a bylaw by adding or substituting preferred words or phrases, updating references to outdated or superseded laws, inserting into the bylaw new subsections, clauses or provisions addressing changed conditions in a community, etc. These amendments are usually presented to the legislative body in one of two forms:

To see if the Town will vote to amend the Town of _____ Zoning Bylaw, Section ____, entitled "_____" which presently reads:

[Insert text of existing Zoning Bylaw provision(s).]

by substituting the following therefor:

[Insert text of amended Zoning Bylaw provision(s).]

or take any other action relative thereto.

or:

To see if the Town will vote to amend the Town of _____ Zoning Bylaw, Section ____, entitled "_____" as follows, with additions to said Section underlined and deletions from said Section ~~stricken through~~:

[Insert text of amended Zoning Bylaw provision(s) with additions underlined and deletions stricken-through.]

or take any other action relative thereto.

Amendments submitted to a city council might be structured substantially the same ways as above.

New Zoning Provisions

Comparatively, some amendments are complete substitutions for a section or subsection of a bylaw that has become unnecessary, obsolete or unpopular; or, alternatively, additions addressing new topics, e.g. renewable energy facilities, solar photovoltaic installations, marijuana establishments. The former may be submitted in a form similar to those in Section D.1, above; the latter might be in the following, simpler form (or its equivalent if submitted to a city council):

To see if the Town will vote to amend the Town of _____ Zoning Bylaw, by adding thereto a new Section ____, entitled “ _____,” as follows:

[Insert text of new Zoning Bylaw provision(s).]

or take any other action relative thereto.

Map Amendments

G.L. c. 40A, § 4, provides: “Districts shall be shown on a zoning map in a manner that is sufficient for identification. Such maps shall be part of the zoning ordinances or by-laws.”

Since the ordinance or bylaw incorporates the map, a map amendment is no different than a text amendment; except maybe as to form. An amendment to a town’s zoning map could state either:

To see if the Town will vote to amend the Town of _____ official zoning map by rezoning a parcel of land known as and numbered _____, as further identified in the Assessor’s records as Map ____, Lot ____, from the _____ zoning district to the _____ zoning district; or take any other action relative thereto.

or:

To see if the Town will vote to amend the Town of _____ official zoning map by adding thereto the “ _____ Overlay District,” so-called, said District to be located as shown on a plan of land entitled “ _____,” prepared by _____ and dated _____, _____; or take any other action relative thereto.

Once again, a similar form would be utilized for submittal to a city council.

Drafting Do's and Don'ts

Drafting Zoning Amendments

“Zoning ordinances and bylaws are generally written by laypersons. As an unfortunate result, ordinances and bylaws are rife with undefined terms, inconsistencies, and ambiguities.”³⁰ Because zoning amendments are so often made piecemeal, one must proceed with care to verify that the terminology used is either capable of interpretation “in accordance with common usage,” *Needham Pastoral Counseling Center, Inc. v. Board of Appeals of Needham*, 29 Mass. App. Ct. 31, 33 (1990), or defined within. Careful organization of a zoning change, the incorporation of lists, tables and/or charts and reliance on graphics like diagrams, cross-sections and 3-D illustrations are helpful to the reader. Also, of utmost importance to the sustainability and enforceability of a proposal is its consistency: with state, federal and local law; with other provisions of the ordinance or bylaw of which it is a part; and internally.

Organization

There is no substitute for a well-organized ordinance or bylaw, or amendment thereto; the reader will appreciate the clarity it lends, as will the person(s) responsible for its administration and enforcement. “I believe that the structural elements of a good law are as applicable to general and special acts of our state Legislature as they are to local ordinances and by-laws, rules and regulations of governmental entities,” says Robert W. Ritchie, author of *Tips on Drafting Bylaws*.³¹ He recommends bylaw amendments that include the following sections or subsections: definitions; applicability; exclusions and exemptions; administration; sanctions and remedies; severability; and effective date.³² Definitions are further described below. Applicability identifies “for whom the proposed amendment creates rights and privileges, or imposes duties and responsibilities.”³³ Exclusions and exemptions specify any persons, objects, properties or circumstances to which the amendment does and will not apply. Administration gives authority to one or more municipal official(s) to enforce the bylaw; and describes the mechanism(s) available for him or her to do so. Sanctions and remedies outline the penalties for violations, which might include criminal proceedings or non-criminal disposition. Severability states that “if... one nor more provisions of the by-law [are deemed] illegal or unconstitutional, the remaining provisions w[ill] continue in full force and effect.”³⁴ The effective date will, per Section B.7, above, be the date of the vote to adopt it, unless otherwise specified.

Terminology

It was said over a half-century ago:

[W]hat is needed is a closer adherence to accepted usage, and where accepted usage does not give an unequivocal answer, the adoption of conventions within the limits of what accepted usage allows. Although the individual

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draftsman can do little about leading the governmental drafting procession as a whole, he can do his part by selecting from among the varying usages those which seem closest to general usage and good sense.

Suitable standards and conventions not only save the draftsman's time, but the time of private citizens, administrative officials and the courts... More important, they improve the quality of the end product as a vehicle for carrying out the legislative will...³⁵

Notwithstanding the passage of time, the need for clarity, simplicity and consistency in word choice, definition, meaning and usage exists even today. Geoffrey Bowman's 2005 lecture, The Art of Legislative Drafting, remarked: "There has been much discussion in recent years concerning plain language... language that is as precise, clear and simple as the subject matter will allow."³⁶

DEFINITIONS

"For zoning ordinances in particular, the best way to avoid the time and expense of a lawsuit is to make sure that all important terms are defined and every definition is clear and unambiguous."³⁷ Once a word or phrase is defined, it should be used consistently and throughout. Variation in word choice should be avoided. A term already defined in an ordinance, e.g. in the "Definitions" chapter, article or section thereof, should be used in accordance with the existing definition; or else it is best to choose a different term for the amendment or unambiguously state that the term, if differently defined, is to be attributed that definition only for the purpose(s) of the amendment and none other.

CANONS OF STATUTORY CONSTRUCTION

"[T]he meaning of a word or phrase used in a local zoning enactment... is to be determined by the ordinary principles of statutory construction." Framingham Clinic, Inc. v. Zoning Board of Appeals of Framingham, 382 Mass. 283, 290 (1981). The canons of statutory construction are voluminous; some have been codified, others have been applied by Massachusetts courts through the years and still others are of such general applicability that they are believed to be valid in Massachusetts. Among them are the following:

"Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning." G.L. c. 4, § 6.

"Words importing the singular number may extend and be applied to several

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persons or things, words importing the plural number may include the singular, and words of one gender may be construed to include the other gender and the neuter.” G.L. c. 4, § 6.

“A fundamental tenet of statutory interpretation is that statutory language should be given effect consistent with its plain meaning...” Sullivan v. Town of Brookline, 435 Mass. 353, 360 (2001); see also Massachusetts Comm’n Against Discrimination v. Liberty Mutual Ins. Co., 371 Mass. 186, 190 (1976) (requiring that a statute be “give[n]... a reasonable construction”).

“It is well established that where the language of a statute is clear and unambiguous, we do not look beyond that language to interpret it.” O’Connor v. Civil Service Commission, 38 Mass. App. Ct. 979 (1995).

“In interpreting a statute, [w]e begin with the language of the statute. We give effect to each word and phrase in a statute, and seek to avoid an interpretation that treats some words as meaningless... [T]he maxim of negative implication – that the express inclusion of one thing implies the exclusion of another – requires great caution in its application.” Halebian v. Berv, 457 Mass. 620 (2010) (citations omitted).

“A statute should not read in a manner that defeats its intended utility.” Chelmsford Trailer Park, Inc. v. Town of Chelmsford, 393 Mass. 186, 196 (1984) (citation omitted).

“[T]he court cannot read into a statute an intent that is not there expressed in plain words or by necessary implication...” Tilton v. City of Haverhill, 311 Mass. 572, 578 (1942).

“[T]o the extent that... two provisions conflict, under the principles of statutory construction the general language... must yield to the more precise language.” Morey v. Martha’s Vineyard Comm’n, 409 Mass. 813, 819 (1991).

“[T]he enactment of a statute which seems to have been intended to cover the whole subject to which it relates impliedly repeals all existing statutes touching the subject.” Golden v. Board of Selectmen of Falmouth, 358 Mass. 519, 524 (1970) (citation omitted).

For a compilation and in-depth analysis of the canons of statutory construction, see Jacob Scott, Codified Canons and the Common Law of Interpretation, 98 Geo. L.J. 341 (2009-10).

“SHALL” VERSUS “MAY”

“Simple rules of statutory construction lead to the obvious conclusion that, where statutes state ‘may’ rather than ‘shall,’ the application of the statutory requirements is permissive rather than mandatory. Campbell v. City Council of Lynn, 32 Mass. App. Ct. 152 (1992). “The distinction in statutes between ‘shall,’ a word of command, and ‘may,’ a word of permission, is not one which courts pass over lightly unless context or other provisions require it.” Salem Hospital v. Rate Setting Commission, 26 Mass. App. Ct. 323, 325 (1988). “The word ‘may’ in a statute commonly imports discretion.” Turnpike Amusement Park, Inc. v. Licensing Commission of Cambridge, 343 Mass. 435, 437 (1962). See also 1A Norman J. Singer & J.D. Shambie Singer, Statutes and Statutory Construction § 21:8 (6th ed.) (2002) (“[w]hen action is mandatory ‘shall’ should always be employed... [w]hen the action is permissive ‘may’ should be used”); Minor v. Mechanics’ Bank, 26 U.S. 46, 60-63 (1828) (“it is not a fair construction... to interpret the terms ‘may consist’ into ‘must consist’”).

But it is not that simple, as explained in the aforementioned Tips on Drafting Bylaws:

You should not use ‘shall’ to indicate the future tense, to impose a duty not to act, to impose a limitation, or to declare a legal result rather than to give a command. Correspondingly, the word ‘may’ should be used exclusively to grant discretion or authority to a particular actor. Where you wish to prohibit an action, the words ‘shall not’ are misleading and the appropriate term is ‘may not.’ Technically, the words ‘[s]hall not’ mean that a person does not have a duty to engage in the described action, while the words ‘[m]ay not’ serve to deny the actor power or authority to engage in the action...³⁸

“AND” VERSUS “OR”

The use of “and/or” is commonplace; but in the context of a bylaw or ordinance, or other legislative drafting, unnecessary. Per the Massachusetts General Court’s Legislative Research and Drafting Manual, referenced above: “‘And’ means all of a list of items. ‘Or’ means any one or more of a list of items. Do not use ‘and/or’; use ‘or’ instead.”³⁹

PUNCTUATION

“The use of [a] comma where not needed, or the absence of a comma where needed, will totally alter the meaning of the text.”⁴⁰ For an interesting read on use, or not, of the Oxford comma, see O’Connor v. Oakhurst Dairy, 851 F.3d 69 (2017); compare Legislative Research and Drafting Manual, *supra* (“[o]rdinarily, do not use a comma before “and” or “or” to separate the last of a conjunctive series of three or more words, phrases or clauses in a sentence).

Visual Aids

LISTS, TABLES AND CHARTS

There is a tendency now more than ever to incorporate into ordinances lists, e.g. of standards or criteria, substantive or procedural, for the issuance of permits or approvals; tables, e.g. of use regulations or dimensional standards, in lieu of incorporating these requirements into a hierarchy; and charts, e.g. to aid the reader with understanding what is allowable and what process is required before proceeding. These additions or transformations may be beneficial, if done correctly. Lists “should be clear and use parallel structure”⁴¹; and, if not all-inclusive, should incorporate language such as “at least one of” or “including but not limited to.” Tables should incorporate explanatory footnotes or endnotes to address additional requirements or exceptions. Charts, if provided for informational purpose(s) only, should include a disclaimer to that effect.

GRAPHICS

“Simple illustrations can clarify terms or concepts... and are found in a growing number of ordinances.”⁴² Graphics are increasingly common in the “Definitions” chapter, article or section of a bylaw, to illustrate concepts, explain a manner of calculation, etc. A map or plan is especially important if the amendment is a change or alteration of a zoning district’s boundaries or a proposal to superimpose an overlay district thereon.

Clarity, Consistency and Simplicity

Be consistent. Be direct. Use the active voice; and the present tense. Choose positive over negative statements. Opt for shorter, not longer, sentences, except where unavoidable. Organize paragraphs by topic; they too should be short, not long. Employ simpler terms where available. Avoid redundancy. Avoid unnecessary or, worse, ambiguous wording. Avoid pronouns; misplaced adjectives; unnecessary modifiers; initials; and acronyms. Avoid the plural where the singular will do. These are among the recurring recommendations of linguists, legislators, lawyers, planners and others experienced at drafting legislation, including ordinances and bylaws.

Drafting Zoning Amendments

Further Thoughts and Additional Resources

Drafting Zoning Amendments

Conclusion

“A by-law that is written with great precision and legal accuracy, but that cannot be easily read and understood by those it is intended to apply to, will result in confusion, unintentional violations and unfairness.”⁴³ The foregoing information is meant to inform and educate you as to the source of zoning power in the Commonwealth, as well as the process for and statutory pre-requisites to amending an ordinance or bylaw. But it also describes the work associated with amending an ordinance, from research to drafting to educating the public; the form of these amendments; and considerations with regard to writing amendments that will aid in future administration and enforcement. Guided by the information above, you are better prepared to draft and gain support for a zoning amendment that will function as intended and that will withstand any future challenge.

The above Workshop Supplement is provided for informational purposes only; is general in nature; and is not intended to, nor does it, constitute legal advice. Neither the provision of the foregoing information nor its receipt establishes an attorney-client relationship between the presenter(s) and recipient(s). Should you have specific questions about the substance hereof, and/or before undertaking any action in reliance hereon, you are advised to consult with legal counsel of your choosing.

Support

American Planning Association: www.planning.org

American Planning Association-Massachusetts Chapter: www.APA-MA.org

Citizen Planner Training Collaborative: www.masscptc.org

Department of Housing and Community Development: www.mass.gov/hed/economic/eohed/dhcd/

International Association for Public Participation: <https://www.iap2.org/>

Massachusetts Association of Planning Directors: www.massplanning.org

Massachusetts Housing Partnership: www.mhp.net

Mass Planners List Serve: <http://mailman.cs.umb.edu/mailman/listinfo/massplanners>

Planetizen: www.planetizen.com

Massachusetts Regional Planning Agencies:

Berkshire Regional Planning Commission: www.berkshireplanning.org

Boston Region Metropolitan Planning Organization: www.bostonmpo.org

Cape Cod Commission: www.capecodcommission.org

Central Massachusetts Regional Planning Commission: www.cmrpc.org

Franklin Regional Council of Governments: www.frcog.org

Martha's Vineyard Commission: www.mvcommission.org

Merrimack Valley Planning Commission: www.mvpc.org

Metropolitan Area Planning Council: www.mapc.org

Montachusett Regional Planning Commission: www.mrpc.org

Nantucket Planning and Economic Development Commission:

www.nantucket-ma.gov/departments/npedc/npedc.html

Northern Middlesex Council of Governments: www.nmcog.org

Pioneer Valley Planning Commission: www.pvpc.org

Old Colony Planning Council: www.ocpcrpa.org

Southeastern Regional Planning and Economic Development District: www.srpedd.org

Endnotes

- ¹ American Society of Planning Officials (APSO) Planning Advisory Service, Amending the Zoning Ordinance (Information Report No. 115) (October 1958).
- ² The terms “ordinance” and “bylaw” shall hereinafter be used interchangeably.
- ³ Metropolitan Area Planning Council (MAPC), What Should You Consider in Drafting a Bylaw?, available at <https://www.mapc.org/resource-library/what-should-you-consider-in-drafting-a-bylaw/> (as of July 30, 2019).
- ⁴ Michael Chandler and Gregory Dale, Zoning Basics, Planning Commissioners Journal (Spring 2001).
- ⁵ Martin R. Healy and Michael K. Murray, Zoning Power and its Limitations, Massachusetts Zoning Manual, § 2.1 (Massachusetts Continuing Legal Education (MCLE)) (6th ed.) (2017).
- ⁶ Id.
- ⁷ Id., § 2.2.5.
- ⁸ Mark Bobrowski, Handbook of Massachusetts Land Use and Planning Law, § 2.02 (4th ed.) (2018).
- ⁹ Chandler, et al., supra.
- ¹⁰ Bobrowski, supra, § 12.14.
- ¹¹ Bobrowski, supra, § 14.02 (citing Arrigo v. Planning Bd. of Franklin, 12 Mass. App. Ct. 802, 808 (1981)).
- ¹² Chandler, et al., supra.
- ¹³ The Process of Adopting a Zoning Proposal, Massachusetts Land Use Manager (Donald J. Schmidt, ed.) (Vol. 4, Ed. 2) (Feb. 1987).
- ¹⁴ Michael K. Murray and Alexander A. Randall, Ordinance or Bylaw, Massachusetts Zoning Manual, § 3.5.4 (Massachusetts Continuing Legal Education (MCLE)) (6th ed.) (2017).
- ¹⁵ Amending a Zoning Proposal, Massachusetts Land Use Manager (Donald J. Schmidt, ed.) (Vol. 4, Ed. 3) (May 1987).
- ¹⁶ APSO Planning Advisory Service, supra.
- ¹⁷ Healy, et al., supra.
- ¹⁸ Deborah Beth Medows, A Beginner’s Guide to Legislative Drafting, 55 Harv. J. on Legis. 1 (2016).
- ¹⁹ Carolyn Braun, Drafting Clear Ordinances: Do’s and Don’ts, Planning Commissioners Journal (Spring 2010).
- ²⁰ Id.
- ²¹ APSO Planning Advisory Service, supra.
- ²² Braun, supra.
- ²³ Geoffrey Bowman, The Art of Legislative Drafting, 64 Amicus Curiae 2 (2006).
- ²⁴ Medows, supra.
- ²⁵ Braun, supra.
- ²⁶ Fred Rodell, Goodbye to Law Reviews, Va. L. Rev. (1936).
- ²⁷ American Planning Association (APA), How to Write a Zoning Ordinance, Presentation at the APA National Conference (2011).
- ²⁸ Bowman, supra.
- ²⁹ MAPC, supra.
- ³⁰ Bobrowski, supra, § 3.04[A].
- ³¹ Robert W. Ritchie, Tips on Drafting Bylaws, Massachusetts Citizen Planner Training Collaborative (CPTC), available at <https://masscptc.org/docs/core-docs/bylaw-writing.html> (as of July 30, 2019).
- ³² Id.
- ³³ Id.
- ³⁴ Id.
- ³⁵ Reed Dickerson, Legislative Drafting: A Challenge to the Legal Profession, Articles by Maurer Faculty (Indiana University) (Paper 1494) (1954).

Drafting Zoning Amendments

³⁶ Bowman, supra.

³⁷ Braun, supra.

³⁸ Ritchie, supra.

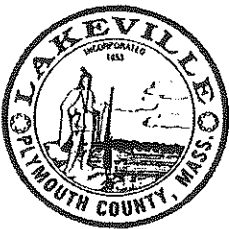
³⁹ Massachusetts General Court, Legislative Research and Drafting Manual (5th ed.) (2010).

⁴⁰ Ritchie, supra.

⁴¹ Braun, supra.

⁴² Id.

⁴³ Ritchie, supra.



Town of Lakeville

PLANNING BOARD
346 Bedford Street
Lakeville, MA 02347
508-946-3473

Mark Knox, Chairman
Barbara Mancovsky, Vice-Chair
Peter Conroy
John Lynch
Michele T. Maccachern

Planning Board Meeting Schedule 2021

Meetings of the Planning Board will be conducted on the following dates. Currently, all meetings are held remotely at 7:00 p.m.

Meeting Date	Deadline for submittals
1/14/21	1/4/21
1/28/21	1/18/21
2/11/21	2/1/21
2/25/21	2/16/21
3/11/21	3/1/21
3/25/21	3/15/21
4/8/21	3/29/21
4/22/21	4/12/21
5/13/21	5/3/21
5/27/21	5/17/21
6/10/21	5/31/21
6/24/21	6/14/21
7/8/21	6/28/21
7/22/21	7/12/21
8/12/21	8/2/21
9/9/21	8/30/21
9/23/21	9/13/21
10/14/21	10/4/21
10/28/21	10/18/21
* 11/11/21	
12/9/21	11/29/21
* 12/23/21	12/13/21

Meeting dates may be added or changed at the discretion of the Planning Board.