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Town Manager

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TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN MANAGER

Selectboard Special Meeting via Zoom and in person at 334 Main Street Great Barrington MA
Order of Agenda for Monday, April 10, 2023, at 6:00 PM

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84727797185?pwd=NDFRUjFITE12eDN3bE5LaTNBQ0RmZz09>

Webinar ID: 84727797185

Dial-in, audio-only: (929) 205 6099

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and Governor Healey's March 29, 2023 Revised Order extending remote participation by all members in any meeting of a public body, this meeting of the Selectboard will be conducted both in-person and via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on town's website, at www.townofgb.org. For this meeting, members of the public and committee members may attend the meeting in person, or, for those who wish to do so remotely may by following the instructions at the top of this agenda. For those who are not in-person every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means.

1. CALL TO ORDER SELECTBOARD REGULAR MEETING
2. APPROVAL OF MINUTES
 - a. March 6, 2023
 - b. March 13, 2023
3. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS
4. TOWN MANAGER'S REPORT
 - a. Board of Directors of the South Berkshire Veterans Service
 - b. Housatonic Water Works
 - c. Library Construction Grant
 - d. Housatonic School Update
5. LICENSES AND PERMITS
 - a. Frank Sowalsky for Carr Hardware's request for a one day Wine and Malt License for their Contractor Appreciation Day on April 12, 2023 from 4PM to 7:30 PM

6. PUBLIC HEARINGS

- a. Continued from April 3, 2023: Special Permit application from Berkshire Aviation Enterprises, Inc., 70 Egremont Plain Road, Great Barrington, to permit the airport in an R4 zone, in accordance with Sections 3.1.4 E(1), 7.2 and 10.4 of the Zoning Bylaw.
 - i. Selectboard review and discuss draft findings
 - ii. Close Public Hearing
 - iii. Selectboard discussion
 - iv. Vote on findings
 - v. Vote on special permit

7. NEW BUSINESS

- a. SB vote to appoint an Alternate Member to the Agricultural Commission
- b. Finalize Annual Town Meeting Warrant
- c. National Grid Pole Petition request to install a sole ownership pole on South Main Street beginning at a point approximately 165; feet north of the centerline of the intersection of South Reed Street and continuing approximately 50' feet in a north direction. Install 1 utility pole within the right-of-way. New utility pole will provide electric service for proposed electric vehicle charging within Guido's parking lot.
- d. Electrical Aggregation- Authorize Town Manager to sign contract on behalf of SB for term beginning November 1, 2023

8. CITIZEN SPEAK TIME

Citizen Speak Time is an opportunity for the Selectboard to listen to residents. Topics of particular concern or importance may be placed on a future agenda for discussion. This time is reserved for town residents only unless otherwise permitted by the chair, and speakers are limited to 3 minutes each .

9. SELECTBOARD'S TIME

10. MEDIA TIME

11. CONVENE INTO EXECUTIVE SESSION (and will not return to open session)

- a. Executive Session under MGL Ch 30A, sec. 21(a) for the following purpose: **(6)** To consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.
 - i. Motion: Move that the Board meet in executive session pursuant to MGL Ch. 30A sec. 21(a) for the following purpose: **(6)** to consider the purchase, exchange, lease or value of real estate, regarding Housatonic Water Works, because an open discussion may have a detrimental effect on the negotiating position of the public body.
 - ii. Roll Call Vote

- b. Executive Session under MGL ch 30A, sec. 21 (a) for the following purpose: (7) To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.
 - i. Motion: Move that the Board meet in executive session pursuant to MGL Ch. 30A sec. 21 to approve executive session minutes from the following meeting:
 - 1. October 3, 2022
 - ii. Roll Call Vote

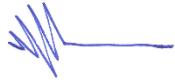
12. ADJOURNMENT

NEXT SELECTBOARD MEETING

Selectboard Regular Meeting April 24, 2023

Town Meeting Monday May 1 @ 6:00PM

Town Meeting Second Night Thursday May 4 @6:00 PM, if needed



Mark Pruhenski, Town Manager

Pursuant to MGL. 7c. 30A sec. 20 (f), after notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium. At the beginning of the meeting, the chair shall inform other attendees of any such recordings. Any member of the public wishing to speak at the meeting must receive permission of the chair. The listings of agenda items are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may be brought up for discussion to the extent permitted by law.

Selectboard Meeting Packet for April 10, 2023
Item 4. a. Board of Directors of the South berkshire Veterans Service

From: [Mark Pruhenski](#)
To: [Amy Pulver](#); [Carmen Morales](#)
Subject: FW: [Great Barrington MA] Southern Berkshire District of Veterans Services (Sent by James P. Bailly, frankiethbull1@gmail.com)
Date: Wednesday, April 5, 2023 3:27:48 PM

From: Mark Pruhenski
Sent: Monday, April 3, 2023 1:49 PM
To: Jennifer Messina <jmessina@Townofgb.org>
Subject: FW: [Great Barrington MA] Southern Berkshire District of Veterans Services (Sent by James P. Bailly, frankiethbull1@gmail.com)

From: Contact form at Great Barrington MA <cmsmailer@civicplus.com>
Sent: Sunday, April 2, 2023 12:55 PM
To: Mark Pruhenski <MPruhenski@Townofgb.org>
Subject: [Great Barrington MA] Southern Berkshire District of Veterans Services (Sent by James P. Bailly, frankiethbull1@gmail.com)

****CAUTION:****
****This is an external email, be vigilant****
*****Do not click links or open attachments unless you recognize the sender (and their email address) and know the content is safe*****

Hello mpruhenski,

James P. Bailly (frankiethbull1@gmail.com) has sent you a message via your contact form (<https://www.townofgb.org/user/1973/contact>) at Great Barrington MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.townofgb.org/user/1973/edit>.

Message:

I would like to be considered for the opening on the Southern Berkshire District of Veteran Services Board. As a Vetreran,a Life Member of Adams Budz VFW Post 8183 since 1994 and a supporter of Veterans I would like to represent Great Barrington/ Housatonic Veterans on the board.

Thank You very much for your consideration.
James P. Bailly 413 717 5478

From: [Mark Pruhenski](#)
To: [Amy Pulver](#); [Carmen Morales](#)
Subject: FW: Letter of resignation
Date: Wednesday, April 5, 2023 3:29:28 PM

2 of 2 emails for the packet.

From: mcd471@earthlink.net <mcd471@earthlink.net>
Sent: Monday, April 3, 2023 12:07 AM
To: Mark Pruhenski <MPruhenski@Townofgb.org>
Subject: RE: Letter of resignation

****CAUTION:****
****This is an external email, be vigilant****
*****Do not click links or open attachments unless you recognize the sender (and their email address) and know the content is safe*****

Hi Mark

I'm sorry to hear of Andy's resignation,as he was an asset to the town of Great Barrington. I have spoken

with a couple persons about the position representing G.B. on the board of directors of the Southern Berkshire

Veterans Service Center. One person that is interested, is Jim Bailey.I know that the Select Board

has to make the appointment.We need a full board of representatives one from each of our 12 towns in our district,

as we are confronted with finding and interviewing a replacement for our currant district manager, Laurie Hils as

she is retiring in June. Please feel free to call 413-528----- or email me; Thankyou for your attention to this.

Tom Gage

Fee: \$25.00 (per day)



APPLICATION FOR ONE DAY LIQUOR LICENSE

TO THE LICENSING AUTHORITY:

The undersigned hereby applies for a License in accordance with the provisions relating thereto:

Applicant's Name: Frank Sowalsky

Organization Name: Carr Hardware Gt Barrington

Applicant's Address: 256 Main St., Gt Barrington, MA 01230

Telephone Number: 413 528 4520

Type of License:
(Circle one)

ONE DAY BEER & WINE

ONE DAY ALL ALCOHOLIC

Event: Contractor Appreciation Day @ Carr Hardware

Date: 4/12/23 Start Time: 4PM End Time: 7:30pm

Event Address: 256 Main St.

Is the Event on Town property? YES

NO

PLEASE ATTACH THE FOLLOWING TO YOUR APPLICATION:

1. TIPS or ServSafe Alcohol certification for anyone serving alcohol.
2. Certificate of Insurance showing proof of Liquor Liability coverage.
(If the event is on Town property, the certificate must name the Town of Great Barrington as additional insured.)
3. If the event is not on applicant's property, a letter of permission from the owner is required.

Liability: The below individual agrees to take responsibility for the above-noted event and further agrees to indemnify, save harmless, and defend the Town of Great Barrington, its officers, employees and agents, from and against any and all liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto, which may occur in connection with this event.

Frank Sowalsky
Signature of Applicant

3/27/23
Date

FOR TOWN USE:

Approved _____

Denied _____

Postponed _____

TOWN OF GREAT BARRINGTON

PUBLIC HEARING

The Great Barrington Selectboard will hold a public hearing on Monday, February 27, 2023 at 6:00 pm, to act on the Special Permit application from Berkshire Aviation Enterprises, Inc., 70 Egremont Plain Road, Great Barrington, to permit the airport in an R4 zone at 70 Egremont Plain Road, in accordance with Sections 3.1.4 E(1), 7.2 and 10.4 of the Zoning Bylaw. The meeting will be held at Town Hall, 334 Main Street, 2nd floor, Great Barrington, MA 01230, and also via Zoom remote video/teleconference. The Zoom link and meeting ID will be listed on the meeting agenda, which is posted to the calendar on the Town website at least 48 hours in advance of the meeting. The application may be viewed in Town Clerk's office or parties may email the Planning Department at crembold@townofgb.org for an electronic copy.

Stephen Bannon, Chair

Please publish January 19 and January 26, 2023

Berkshire Eagle

Continued to March 13

Continued to April 3

Continued to April 10

All Public Comment can be found here:

<https://tinyurl.com/y2zw9hn9>

TOWN OF GREAT BARRINGTON

Application for a Special Permit
to the Selectboard or Planning Board

FORM SP-2
Long Form
REV. 12-2020

TOWN CLERK
GREAT BARRINGTON
JAN 10 2023 PM 3:11

FOR OFFICE USE ONLY

Number Assigned 932-23 Date Received 1/10/23
Special Permit Granting Authority SB
Copy to Recommending Boards 1/12/23
Advertised 1/19 & 1/26
Public Hearing 2/22/22
Fee: \$300.00 Paid: ✓

APPLICATION FOR SPECIAL
PERMIT UNDER TOWN ZONING
BYLAWS FOR TOWN OF
GREAT BARRINGTON,
MASSACHUSETTS

IDENTITY OF PROPERTY: MAP 31 LOT 67 BOOK 280 PAGE 14

Address of property: 70 Egremont Plain Road

Zoning District(s): R4 Two Acre Residential; Water Quality Protection Overlay District
including any
overlay districts

I. GENERAL INFORMATION

- A. Type of Special Permit Requested: Selectboard Special Permit
Under Section(s) 3.1.4.E, 7.2 and 10.4 of the Great Barrington Zoning Bylaws.
- B. Name of applicant: Berkshire Aviation Enterprises, Inc.
- C. Address & telephone no. of applicant: 70 Egremont Plain Road, Great Barrington, MA (413) 528-1010
- D. If applicant is not owner, state interest or status of applicant in land. Attach copy of any option or purchase agreement. N/A
- E. Name of owner exactly as it appears on most recent tax bill: Berkshire Aviation Enterprises, Inc.
- F. Address of owner: 70 Egremont Plain Road, Great Barrington, MA
- G. Telephone number of owner: (413) 528-1010
- H. Is the proposed development served by :
Public Water System () Yes (X) No
Public Sewer System () Yes (X) No
- J. Is an environmental study or document required for this project under state or federal laws?
() Yes (X) No If yes, specify type of study and agency requiring it. _____
- K. Attach a brief description of proposed use of property, including the existing use of the property, and how the project is in harmony with the Great Barrington Master Plan. (Copies of the Master

Plan are available for free download from the Town website. Hard copies can be read at the Clerk's office or the Town libraries.)

- L. Attach a list of abutters, owners of land directly opposite on any public or private street or way and owners of land within 300 feet of the property line, including bordering towns. The list must be prepared and certified by the Great Barrington Board of Assessors office.
- M. Include information as applicable in Sections II, III, IV, V, VI and VII.
- N. One original and fourteen (14) exact copies of all required documentation must be submitted. One electronic version in PDF format must also be submitted.

II. PLAN OF PROPERTY

- A. A site plan for the proposed development, drawn to a scale of 1"=40', each page of which shall be titled, dated, numbered and signed by the preparer. If the preparer is an engineer, architect, surveyor or other professional registered in Massachusetts, *each page shall bear his or her professional seal*. This plan shall clearly show the following:
 - 1. Owner and applicant
 - 2. Engineer or Architect
 - 3. Date
 - 4. Scale and north arrow
 - 5. Zoning district (s)
 - 6. Names of adjacent streets
 - 7. All existing lot lines and dimensions
 - 8. Lot size
 - 9. Locations and dimensions of all existing and proposed structures, including additions thereto
 - 10. Number of dwelling units existing and proposed
 - 11. Location and number of parking spaces, with each space numbered
 - 12. Location of driveways and/or access roads with directional arrows as needed
 - 13. Location of all streams, ponds, wetlands, steep slopes, and other significant topographic features of this property
 - 14. Provisions for drainage, watercourses, easements and systems
 - 15. Existing and proposed uses of structures
 - 16. Screening and/or buffer provisions, as well as all other landscaping proposed
 - 17. Site photos as needed to illustrate the existing and proposed conditions
 - 18. Locus map (locating site within the neighborhood and town)
 - 19. Proposed open space or park area(s) if any
 - 20. Such other data as the Planning Board may require
- B. Other requirements (if and as requested by the Planning Board, Conservation Commission, Selectboard, Board of Health or Building Inspector):
 - 1. General characteristics of land under a separate plan at a scale of 1"=100' showing the general characteristics of all lands within 200 feet of the site including structures, parking areas, driveways, pedestrian ways, natural features and existing land uses. Land uses shall be designated by shading the plan with colored pencil and using standard land use colors.
 - 2. Architectural drawings, prepared by a Registered Architect, at a scale sufficient to show the details of the proposed building (s) and signs but not less than 1/8"=1".
 - 3. A separate plan, prepared by a Registered Engineer or Architect, drawn to a scale of 1"=500' which shall clearly show:
 - a. the project site
 - b. location of public and private wells within ½ mile of any lot lines
 - c. Contour lines at 2-foot intervals

- d. Location of wells on the site or within 400 feet of lot lines
- e. Location of wetland area
- 4. Common ownership land/adjacent lots usage.
 - a. A copy of those portions of the Assessors' map(s) showing all contiguous land held in common ownership with the land affected by the special permit, or all contiguous land held in common ownership by the applicant
 - b. Land use of adjacent lots

III. PUBLIC WATER – WASTE DISPOSAL

- A. Availability of public water
 - 1. Estimate demand.
 - 2. Submit documentation of available water pressure.
- B. Availability of public sewer
 - 1. Estimate daily flow of public sewer.
 - 2. Describe disposal facilities and submit evidence of all necessary state and local approvals.
 - 3. Submit evidence of all required approvals by the Massachusetts Department of Environmental Protection of any proposed wastewater treatment system requiring such approval and of any industrial waste treatment or disposal system

IV. ENVIRONMENTAL REPORTS

- A. Submit copies of any environmental reports or documents prepared for the project required by State or Federal law or regulations.
- B. Submit copies of all environmental reports required by the Conservation Commission, Planning Board, Board of Health or any other local board or official.
- C. Description of open space or park(s) if any
 - 1. Letter to the Town of Great Barrington offering open land to the Town, *or*
 - 2. Document showing terms of permanent covenant of open space.
- D. Hazardous Materials
 - 1. A complete list of all materials, pesticides, fuels and toxic or hazardous materials to be used or stored on the premises. Generic names should be supplied as listed in the Massachusetts Department of Protection's Hazardous Waste Regulations (310 CMR 30.000) and, where applicable, the Industry and EPA Hazardous Waste Number should be supplied. The list should be accompanied by a description of measures proposed to protect from vandalism, corrosion, leakage and for control of spills.
 - 2. A description of possible toxic or hazardous wastes to be generated indicating storage and disposal method.

V. PLANNED PHASING

Planned phasing, if project is to be constructed in more than one phase. For multi-family dwellings, cluster residential development and single family attached dwellings, the design of roadways, access roads, sidewalks, common drives, and utilities shall generally conform to the standards set forth in the Rules and Regulations Governing Subdivision of Land in the Town of Great Barrington; regardless of whether the development is a subdivision within the legal definition.

VI. IMPERVIOUS SURFACES

Description of the extent of impervious surfaces, of provisions for collecting surface runoff and of provisions for on-site recharge and removal of contaminants.

VII. GROUNDWATER


Except for those uses applying for a special permit solely for excavating or drilling, a Groundwater Quality Certification, prepared by a Massachusetts Registered Professional Engineer, experienced in hazardous waste disposal, groundwater evaluation or hydrogeology may be required. Said Groundwater Quality Certification shall state that: "as a result of the project, the groundwater quality at the boundary of the premises, resulting from on-site waste disposal, other on-site operations, natural recharge and background water quality,

- a. will not fall below the standards established by the DEP in "Drinking Water Standards in Massachusetts", or
- b. Where existing groundwater quality is already below those standards, will not be further degraded."

Date: December 27, 2022


Owner Signature

Co-owner Signature


Applicant's Signature

SPECIFICS:

1. All site plans and specifications must be signed and dated by the preparer.
2. **ALL OWNERS** of property must sign the application
3. A copy of the special permit procedures is available upon request.
4. Fee for application is \$300.00 to cover the cost of the public hearing notices and notification to parties in interest.
5. Once all the necessary papers, maps, etc. as indicated above are correlated into fourteen sets, **call the Town Planner's office at 413-528-1619 ext. 7 to arrange an appointment to file your application.** The application will be reviewed for completeness and a date for a public hearing before the Granting Authority will be scheduled. Meetings before the recommending Boards such as the Planning Board, Conservation Commission and Board of Health will also be arranged at this time.

PLEASE READ AND SIGN BELOW

ALL COSTS INCURRED BY THE TOWN FOR THE EMPLOYMENT OF EXPERTS OR CONSULTANTS REQUIRED BY ANY TOWN BOARD FOR THE PURPOSE OF ANALYZING OR EVALUATING ANY PROJECT THAT IS A SUBJECT OF A SPECIAL PERMIT APPLICATION SHALL BE ASSESSED TO THE APPLICANT AND SHALL CONSTITUTE PART OF THE APPLICATION FEE. A COPY OF THIS REGULATION SHALL BE PROVIDED TO EACH APPLICANT WHO SHALL SUBMIT WITH HIS APPLICATION A SIGNED STATEMENT THAT HE HAS READ THIS REGULATION AND AGREES TO BE BOUND BY IT.

I have read the above regulation and agree to be bound by it.

Applicant's Signature 

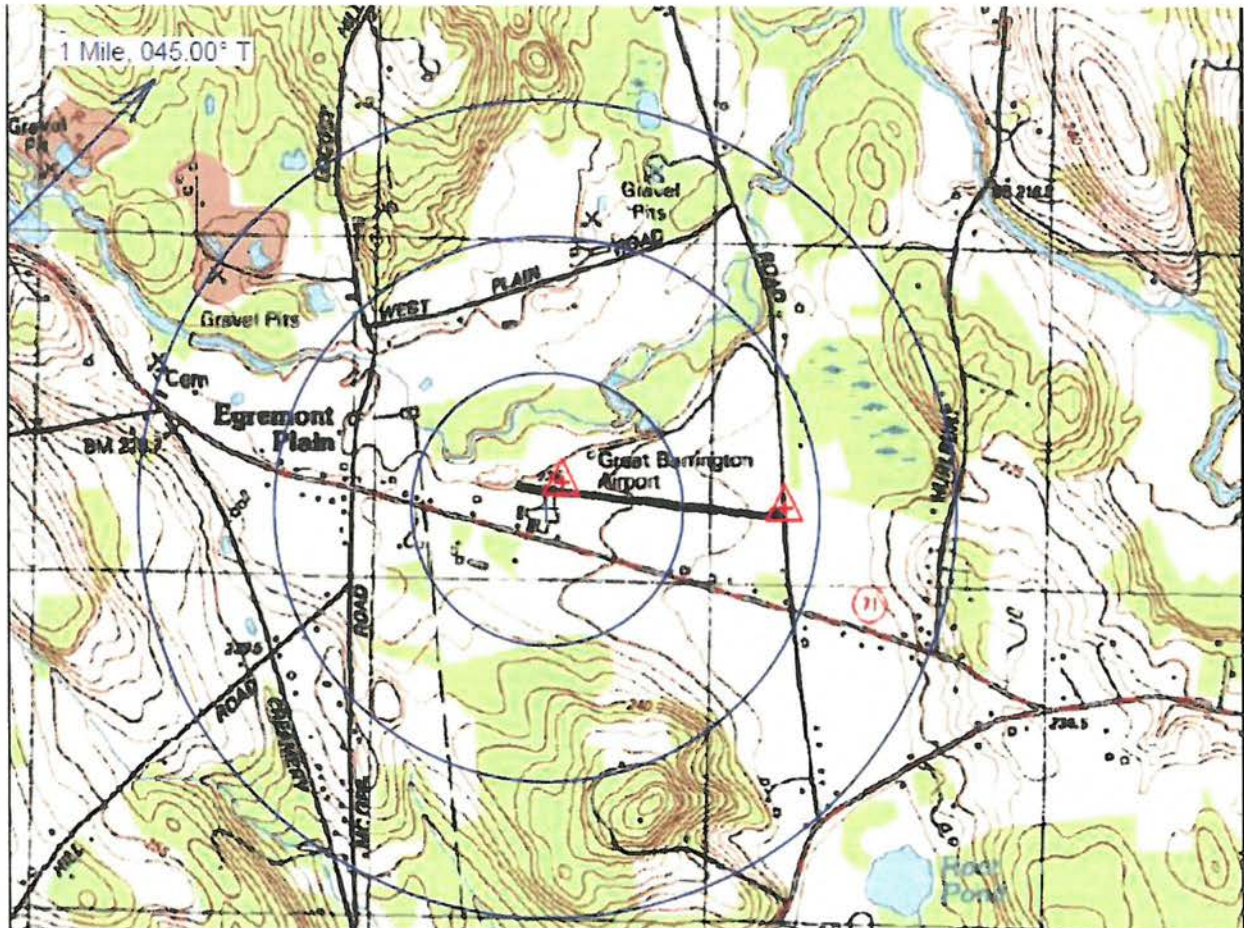
Date December 27, 2022

ADDENDUM TO APPLICATION FOR A SPECIAL PERMIT TO THE SELECTBOARD

Berkshire Aviation Enterprises, Inc., Owner and Applicant
70 Egremont Plain Road, Great Barrington, Massachusetts (Assessors Map 31, Lot 67)

The Applicant is the owner of multiple parcels of land comprising approximately 92.5 acres of land (collectively, the “Property”) known as Walter J. Koladza Airport a/k/a Great Barrington Airport (the “Airport”), which is located in the R4 Two Acre Residential Zoning District within the Water Quality Protection Overlay District.

Figure 1. Locus Map



The Property has approximately 1,140 feet of frontage on Egremont Plain Road and approximately 1,971 feet of frontage on Seekonk Cross Road. There are four structures located on the Property – 1. office, flight school and operations building; 2. hangar; 3. hangar shop; and 4. “old hangar” – as well as a paved taxiway, grass taxiway, aircraft parking area; two aircraft parking “tie down” areas, and a gravel parking lot for automobiles. See the

enclosed site plan prepared by James M. Scalise II, a licensed engineer, titled “Existing Conditions Plan Prepared For: Great Barrington Airport Located at Egremont Plain Road, Great Barrington, Massachusetts” dated January 17, 2020, as revised August 4, 2020, August 18, 2020, and October 13, 2020, by S-K Design Group, Inc., Civil Engineers Surveyors Consultants, 2 Federico Drive, Pittsfield, MA 01201.

Public Utilities: The Property does not utilize public utilities- it is serviced by a private drinking water well and onsite sewage disposal system.

Environmental Reports: The Application does not involve new construction. Therefore, no environmental reports are required.

Planned Phasing: There is no planned phasing in connection with the Application.

Impervious Surface: The Application contemplates no change to the impervious surface located at the Property.

Groundwater Analysis: There is no change contemplated with respect to the Property. Therefore, a groundwater analysis is not required.

Community Master Plan - Town of Great Barrington: The Airport is in harmony with the Town of Great Barrington Community Master Plan (the “Master Plan”) because it “...combines the best aspects of rural living with amenities and services of an urban community.” (Community Master Plan, Volume 1, Land Use, P. 18) The Airport also promotes the core initiatives of the Master Plan by protecting “the special places and features- our compact village centers, historic treasures, natural resources, farms, and open space – that contribute to Great Barrington’s distinctive character.” and supporting “technology, land use and development practices, public transportation and infrastructure that reduce reliance on fossil fuels, enhance our economic base, and promote connectivity.” (Community Master Plan, Volume 1, Core Initiatives, PP 4-5)

The Property has been used continuously as an airport since at least September, 1931. (See “*Great Barrington Great Town Great History*” by Bernard A. Shaw, 1999, PP 606-608, with a citation to “*Airport dedication in Great Barrington draws 6500 during three days,*” *Berkshire Evening Eagle*, 8 September 1931). Zoning was first enacted in Great Barrington on March 31, 1932. Moreover, in his opinion dated March 23, 2022, in connection with a request for opinion regarding an application for site plan approval submitted by the Applicant on January 21, 2022, Town Counsel, David J. Doneski, Esq., notes that “a 2017 special permit decision of the Zoning Board of Appeals (Decision No 867-16), on an application to build a deck at the rear of the existing office building, stated: ‘The Board unanimously agreed that the Airport was a legal pre-existing nonconforming property.’” (See **Exhibit A**) Therefore, based on the information set forth herein, pursuant to M.G.L. ch. 40A, § 6, ¶ 1, the use of the Property as an Aviation Field is a nonconforming use, which is protected by law.

In order to address the legal status of the Airport and address historical concerns about potential expansion of the Airport, the Applicant requests a special permit pursuant to Section 3.1.4.E(1) of the Town of Great Barrington Zoning Bylaw (the “Zoning Bylaw”) establishing Aviation Field as a legal use at the Property. To be clear, this Application contemplates the continued existence of the Airport as currently constituted – the Applicant does not propose any new construction or other expansion of the current nonconforming use.

To the contrary, in connection with the Application, the Applicant proposes that the following conditions be placed on the Special Permit, none of which are currently required pursuant to the Airport’s current nonconforming status:

1. Hours of Operation:
 - a. During fall, winter and spring, there shall be no continuous takeoffs and landings after 8:00 pm.
 - b. During summer, there shall be no continuous takeoffs and landings after 7:00 pm, unless unusual circumstances, such as a new student solo flight, are present.
 - c. There shall be no unnecessary aircraft “run-ups” before 8:00 am.
 - d. On Sundays, there shall be no continuous student takeoffs and landings before 9:00 am.
2. There shall be no helicopter flight school operated at the Property.
3. With respect to “Blackhawk” helicopters, the Airport shall use its best efforts to work with the United States Army to limited training activity at the Airport (the Airport has no control over current training activity).
4. There shall be no glider aircraft activity, except in extraordinary circumstances.
5. No jet aircraft greater than 6,000 pounds ramp weight shall use the Airport, except in the event of an emergency.
6. Parking shall only be allowed in Airport parking lots.

Special Districts

Flood Plain Overlay District (FPOD): Section 9.1.5 of the Zoning Bylaw consists of the following:

9.1.5 Special Permit Required. Any person desiring to establish any permitted use in a FPOD involving or requiring the erection of new structures and/or alteration or moving of existing structures or dumping, filling, transfer, relocation or excavation of earth materials or storage of materials or equipment, or parking of recreational vehicles, shall submit an application for a special permit to the Special Permit Granting Authority (SPGA) in accordance with the provisions of Section 10.4. The Selectboard shall be the SPGA for floodplain special permits.

The floodplain associated with the Property is located along the Green River as shown in Figure 2. The Application does not involve any of the activities requiring a special permit under Section 9.1.5 of the Zoning Bylaw. Therefore, a FPOD special permit is not required.

Water Quality Protection Overlay District (WQPOD):

Section 9.2.11 (Nonconforming Uses) of the Zoning Bylaw provides, in pertinent part: “Continuation of a legally preexisting nonconforming use shall be allowed, provided that: 1. The nonconformity is not increased or expanded...” **The Application does not involve increasing or expanding the nonconformity. Therefore, the existing nonconforming use is allowed in the WQPOD.**

Section 9.2.12 (Uses and Activities Requiring a Special Permit) consists of the following:

9.2.12 Uses and Activities Requiring a Special Permit. The following uses and activities are permitted only upon the issuance of a special permit by the Selectboard under such conditions as it may require:

1. Enlargement or alteration of existing uses that do not conform to the WQPOD;
2. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning district (except as prohibited hereunder). Such activities shall require a special permit to prevent contamination of groundwater;
3. Any use that will render impervious more than 15% of any lot or parcel or 2,500 square feet, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner. Special permits for nonresidential uses as described in this subsection are not allowed in the Surface Water Source Protection Zones A and B.

The Application does not involve any enlargement or alteration of existing uses that do not conform to the WQPOD. In addition, the handling of handling of toxic or hazardous materials at the Property is exempt from the provisions of Section 9.2.12.2 pursuant to the provisions of Section 9.2.8(4)a. because the Airport is a very small quantity generator pursuant to 310 CMR 30.00. Finally, the Application does not involve any change to the impervious area of the Property.

Special Permit Criteria

Pursuant to the Zoning Bylaw, the criteria for granting of a Special Permit for an Aviation Field are set forth in Sections 7.2 and 10.4 of the Zoning Bylaw.

Section 7.2 of the Zoning Bylaw consists of the following:

7.2 AVIATION FIELDS

7.2.1 General. Any aviation field, public or private, with essential accessories, shall comply with the following special requirements:

1. It shall be so located that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic or other objectionable condition.

2. In accordance with Chapter 90 of the Massachusetts General Laws, as amended by Section 35B, no person shall erect or add to the height of any structure within a rectangular area lying 1,500 feet on either side of the extended center line of a runway or landing strip of an airport approved by the Commission for a distance of two miles from the end of such runway or landing strip so that the height thereof will be more than 150 feet above the level of such runway or landing strip, nor, within that portion of such area which is within a distance of 3,000 feet from the end of such runway or landing strip, so that the height thereof will be greater than a height above the level of such runway or landing strip determined by the ratio of one foot vertically to every 20 feet horizontally measured from the end of such runway or landing strip, unless a permit therefore (sic) has been granted by the Commission (Massachusetts Aeronautics Commission).

7.2.2 Exemption. The provisions of this Subsection shall not apply to structures which will be 30 feet or less in height above ground.

The Airport, as a public use airport, is exempted by Massachusetts General Laws, Chapter 90, Section 39B, ¶ 5 from Section 7.2 of the Zoning Bylaw because Section 7.2 has not been approved by the Aeronautics Division of the Massachusetts Department of Transportation.

G.L, c. 90, § 39B, ¶ 5 provides as follows:

A city or town in which is situated the whole or any portion of an airport or restricted landing area owned by a person may, as to so much thereof as is located within its boundaries, make and enforce rules and regulations relative to the use and operation of aircraft on said airport or restricted landing area. Such rules and regulations, ordinances or by-laws shall be submitted to the commission and shall not take effect until approved by the commission.

G.L. c. 90, § 35 sets forth the following definitions:

The following words and phrases used in sections thirty-five to fifty-two, inclusive, shall have the following meanings, unless a different meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intention of the general court:-- ...

(e) "Airport", any area of land or water other than a restricted landing area, which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(f) "Restricted landing area", any area of land or water other than an airport which is used, or is made available, for the landing and take-off of aircraft; provided, that the use of such an area may be restricted from time to time by the commission.

In the case of *Roma III Ltd vs Board of Appeals of Rockport*, 478 Mass. 580, 592 n. 9 (2018) the Massachusetts Supreme Judicial Court held that while a "noncommercial private restricted landing area" is not exempted from local zoning by G.L. c. 90, § 39B, the Court stated as follows in n. 9 (bold face type added for emphasis) referring to Aeronautics Division of the Massachusetts Department of Transportation:

Nothing in this opinion is intended to disturb either the notice and safety requirements for noncommercial private restricted landing areas mandated under G. L. c. 90, § 39B, fourth par., or **the continuing authority of the division under the aeronautics code over aircraft landing areas that do not fall within the narrow definition of a noncommercial private restricted landing area.**

Further, 702 C.M.R. 2.01(1) sets forth the following definition (bold face typed added for emphasis):

As used in 702 CMR, the following words shall have the meanings set forth in 702 CMR 2.01, unless otherwise required in 702 CMR 2.00. ...

Private Restricted Landing Area. A landing area that is used **solely** for non-commercial, **private use by the owner or lessee of the landing area.**

The fact that Section 7.2 of the Zoning Bylaw predates M.G.L., c. 90 § 39B does not change this analysis.

The case of *Pearson v. Town of Plymouth*, 44 Mass. App. Ct. 741, 741-742 (1998) involved a town by-law that was approved by the Town of Plymouth, Massachusetts Town Meeting in 1977 which provided that no float planes could operate from or upon any pond in Plymouth, except upon an emergency basis. In 1980 a provision was added to G.L. c. 131, § 45 providing that local rules or regulations affecting the use and operation of float planes on great

ponds partially or completely located within the boundaries of such municipality “shall first be approved by the Massachusetts aeronautics commission [the commission].” The Town of Plymouth argued that, despite the new provision added to G.L. c. 131, § 45, the by-law prohibiting float planes continued to be valid because the new provision could not be enforced retroactively.

The Appeals Court in *Pearson* provided, in pertinent part:

“Even if we were to characterize the relief sought as “retroactive” because it attacks the present validity of the previously valid by-law, we would not regard the nullification of the by-law as impermissibly retroactive. The proviso, for the reasons described below, is “remedial in a broad sense,” *Welch v. Mayor of Taunton*, 343 Mass. 485, 488, 179 N.E.2d 890 (1962), and that legislative purpose, coupled with the absence of any adverse effect on the previous exercise of a vested right, permits its retroactive application. *Ibid*. The complaint seeks only a declaration that the town may not henceforth enforce the by-law; the plaintiff does not seek relief from a fine or penalty for the previous exercise of a presumed vested right.

The sole issue in this case as it relates to Section 7.2 of the Zoning Bylaw is whether Section 7.2, which has not been approved by the Aeronautics Division, is enforceable against the Airport. Under the cases cited herein (and several others), the answer is simply “no.”

Therefore, in considering the Application, the Selectboard cannot and should not consider the criteria set forth in Section 7.2 of the Zoning Bylaw.

Section 10.4.2 of the Zoning Bylaw consists of the following:

10.4.2 Criteria. Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;

5. Impacts on the natural environment; and

6. Potential fiscal impact, including impact on town services, tax base, and employment.

1. Social, economic, or community needs which are served by the proposal: The Airport has been operating as an Aviation Field since at least September, 1931. The Airport currently serves Great Barrington and surrounding communities by providing a community general aviation airport in furtherance of the Commonwealth of Massachusetts' goal of advancement of aeronautics in the Commonwealth. The Airport provides a landing area for emergency medical transportation aircraft. The Airport operates a flight school which provides educational opportunities and career advancement to the citizens of Great Barrington, Berkshire County, and beyond. The Airport regularly attracts visitors to Great Barrington, which, in turn, has a positive economic impact on the Town of Great Barrington. In addition, the Airport provides employment to the citizens of Great Barrington and surrounding communities.
2. Traffic flow and safety, including parking and loading: The Airport is a very low traffic generator. The Airport provides adequate off-street parking. There will be no change to traffic flow and safety or parking and loading.
3. Adequacy of utilities and other public services: The Airport does not utilize public utilities. The Property is serviced by a private drinking water well and septic system, both of which are sufficient for the Airport's current needs, as well as its needs for the foreseeable future.
4. Neighborhood character and social structures: As previously stated the Airport has been operating as an Aviation Field since at least September, 1931. Therefore, much of the neighborhood has "grown up" around the Airport. Surrounding uses include residential and agricultural. The conditions proposed by the Applicant set forth herein will improve the neighborhood character and social structure.
5. Impacts on the natural environment: Grant of a special permit will have no additional impacts on the natural environment.
6. Potential fiscal impact, including impact on town services, tax base, and employment: There will be no adverse fiscal impact or other impact on town services if the special permit is granted. To the contrary, granting the special permit will ensure that the current employees of the Airport remain employed and the fiscal benefits currently enjoyed by the Town of Great Barrington, including, without limitation, real estate tax receipts and tourist dollars, as a result of the Airport's operations continue.

By submitting this special permit application and seeking issuance of a special permit, Berkshire Aviation Holdings, Inc. and Berkshire Aviation Enterprises, LLC, are not waiving any of their rights, including, without limitation, their rights under M.G.L. c. 90, § 39B, ¶ 5 and their rights as Defendants-Intervenors and Counterclaim Plaintiffs in the pending Land Court case of Holly Hamer, Marc Fasteau and Anne Fredericks vs. Zoning Board of Appeals of the Town of Great Barrington, No. 22 MISC 000244 (GHP). All such rights are hereby expressly reserved. This application is submitted in the hope of reaching a settlement of outstanding zoning issues concerning the Airport, thereby avoiding the need for Great Barrington taxpayers, the Application, and the three Land Court plaintiffs to spend many thousands of dollars in litigation that may take years to reach a final resolution.

PLANS TO ACCOMPANY PERMIT APPLICATIONS

PREPARED FOR

GREAT BARRINGTON AIRPORT

LOCATED AT

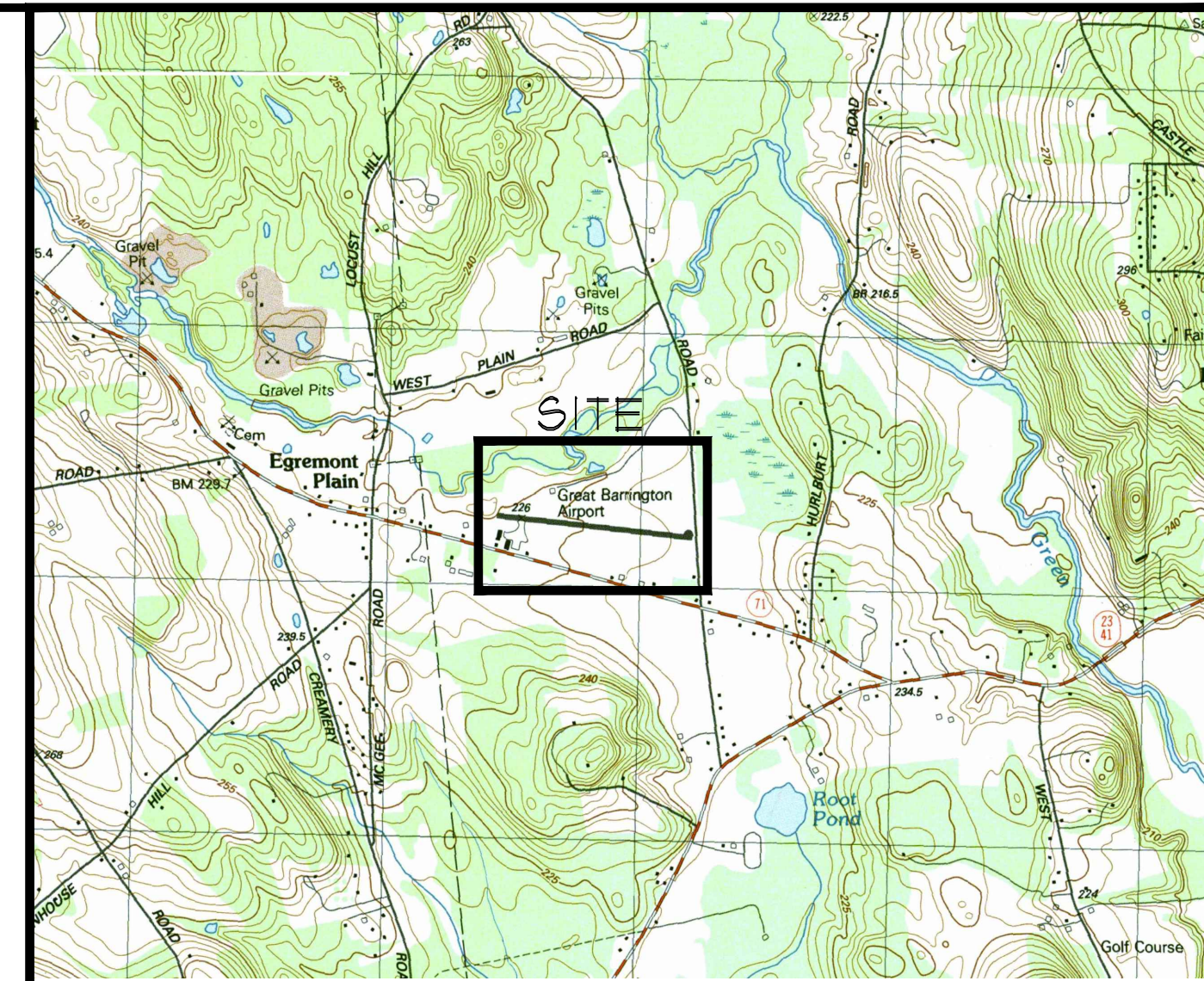
EGREMONT PLAIN ROAD

GREAT BARRINGTON, MASSACHUSETTS

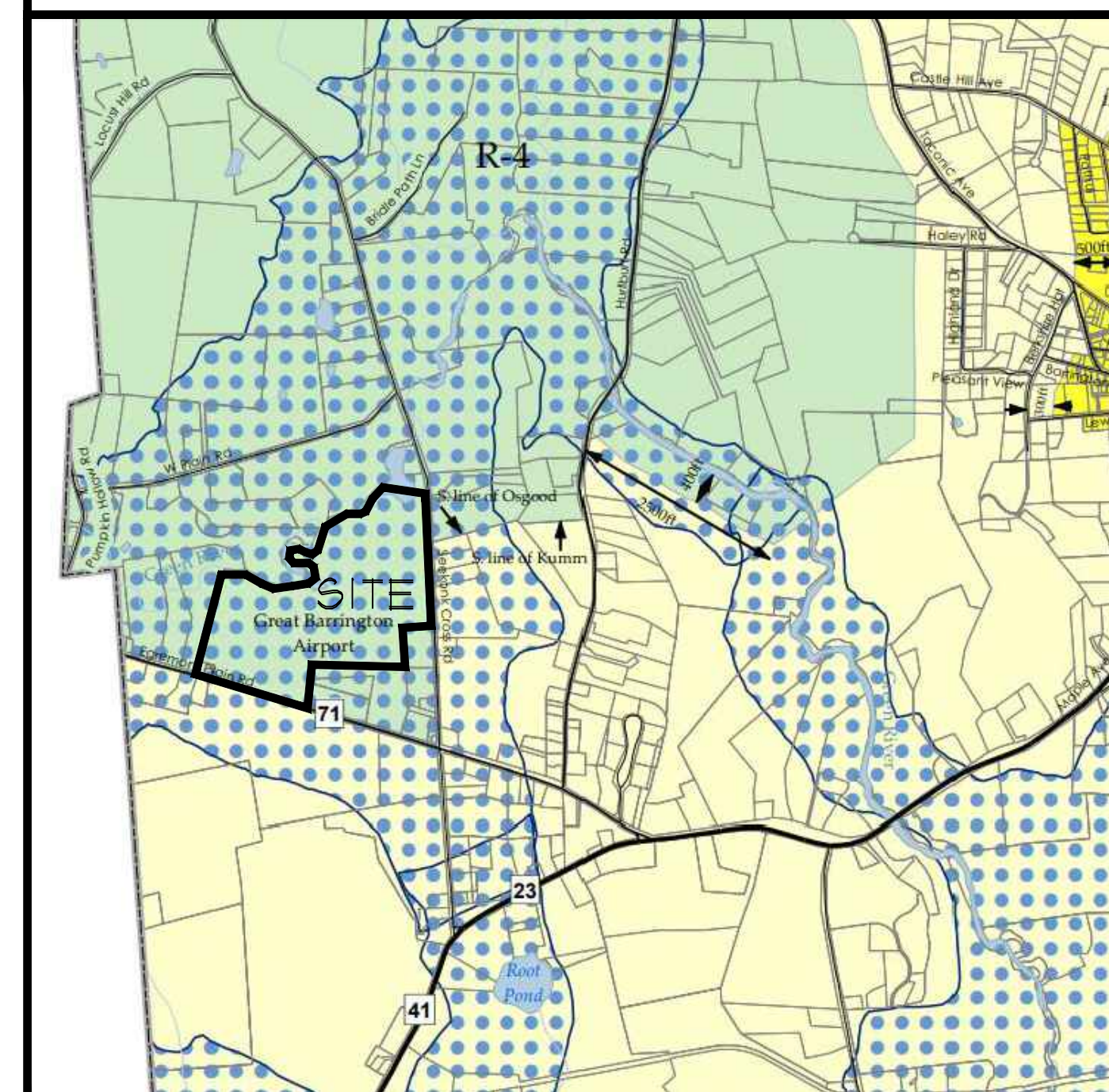


OVERALL SITE PLAN
SCALE: 1"=200'

- LEGEND**
- APPROX. PROPERTY LINE
 - - - 735' EXISTING CONTOUR
 - MEAN ANNUAL HIGH WATER LINE
 - - - 200' RIVERFRONT AREA
 - - - 100' BUFFER ZONE
 - ▨ NHE&P POLYGON
 - ~ EXISTING TREELINE
 - ☆ EXISTING LIGHT POLE



USGS LOCUS
SCALE: NTS



ZONING MAP
SCALE: NTS

NOTES:

1. TOPOGRAPHIC SURVEY INFORMATION COMPLETED BY SK DESIGN GROUP, INC., IN JULY, AUGUST & OCTOBER 2019.
2. BENCHMARK:
MASSDOT POINT ID: 1142
STATION NAME: SHAWN
ELEVATION 138.040 FT.

RECORD OWNER:

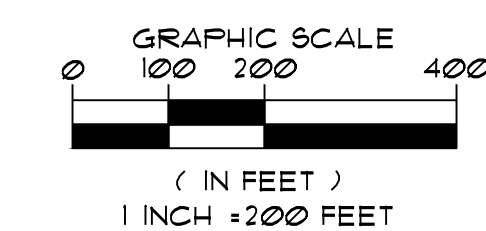
BERKSHIRE AVIATION ENTERPRISES
P.O. BOX 179
GREAT BARRINGTON, MA 01230

ENGINEER:

SK DESIGN GROUP, INC.
2 FEDERICO DRIVE
PITTSFIELD, MA. 01201
413-443-3537


ATTORNEY:

DENNIS EGAN
28 NORTH STREET
PITTSFIELD, MA 01201




**THESE PLANS ARE FOR
PERMITTING PURPOSES ONLY
NOT FOR CONSTRUCTION**

PLANS TO ACCOMPANY PERMIT APPLICATIONS
 PREPARED FOR:
GREAT BARRINGTON AIRPORT
 LOCATED AT:
 10 EGREMONT PLAIN ROAD
 GREAT BARRINGTON, MASSACHUSETTS


Design Group, Inc.
 Civil Engineers * Surveyors * Consultants
 2 FEDERICO DRIVE • PITTSFIELD, MASSACHUSETTS 01201 • (413) 443-3537

PLAN DESCRIPTION:
COVER PAGE

SK DESIGN GROUP PROJECT #:
130030


 COMMONWEALTH OF MASSACHUSETTS
 JAMES M. SCALISE II
 CIVIL
 No. 30963
 PROFESSIONAL ENGINEER

JAMES M. SCALISE II
 SK DESIGN GROUP PRESIDENT
 LICENSE #39863
 PROFESSIONAL OF RECORD
 PHONE: 413-443-3537

REVISION:	
DRAWN BY: AMS	CHECKED BY: JMS II
ORIG. DATE: JANUARY 6, 2023	SHEET NO. 1 OF 2
ISSUED FOR: PERMIT	SCALE: AS NOTED



Figure 2

EXHIBIT A: FINDINGS OF FACT

DRAFT for 4/10/23

Re: Special Permit #932-23
Applicant: Berkshire Aviation Enterprises, Inc.
Site: 70 Egremont Plain Road

A. Introduction

The application was filed on January 10, 2023 by Berkshire Aviation Enterprises, Inc., seeking a special permit from the Town of Great Barrington Selectboard per Zoning Bylaw Sections 3.1.4 E(1), 7.2, and 10.4, to operate an Aviation Field in an R4 zone, at 70 Egremont Plain Road, as described in the application narrative and associated plans. The airport, commonly referred to as the Walter J. Koladza Airport or the Great Barrington Airport, is a privately owned and operated airfield. The site is in an R4 residential zone and a Zone II of the Water Quality Protection Overlay District (WQPOD), but the requirements of the WQPOD are not triggered by this application.

The application materials include the special permit application form, a nine-page narrative addendum and a two-sheet scaled plan set dated January 6, 2023 prepared by James Scalise, PE, of SK Design Group, Inc. (SKDG) showing the airport's existing site conditions.

The application states that the site has been in use as an airport since September 1931, prior to adoption of zoning in Great Barrington, and that the use of the property as an Aviation Field is a protected nonconforming use. The application also states the Applicant seeks the special permit for the purpose of "establishing Aviation Field as a legal use at the Property" and that the application "contemplates the continued existence of the Airport as currently constituted." and the application also proposes six special permit conditions that would limit and control operations at the Airport. At the February 27 hearing session the Applicant's counsel stated that it is the Applicant's position that state and federal law preempt Town regulations regarding the Airport but that the Applicant was voluntarily submitting itself to the Town's bylaws.

The following comments were received from reviewing boards and commissions. The Conservation Commission reviewed the application and stated that they have no jurisdictional issues with the use of the subject property as currently constituted. The Planning Board made a positive recommendation on the special permit for the aviation use, while recommending the Selectboard work with Town Counsel on the applicability of Section 7.2 of the Zoning Bylaw. The Board of Health reviewed the application and issued a letter to the Selectboard dated February 17, 2023 with three recommendations.

Written correspondence from parties in support of and parties in opposition to the application received by the Selectboard before the close of the public hearing is incorporated into the record of proceedings for this special permit. In general, supporters of the application stated that the airport is an important component of the area economy and a use that provides important services such as the flight school and emergency services use. Supporters of the airport delivered a petition in support of the airport with 6,500 signatures, collected online, as well as many letters of support. In general, opponents of the proposal expressed concerns about increasing air traffic and noise; contamination threats to the Town's municipal drinking water source; and safety of vehicles on roads adjacent to the airport runways. Some letters in opposition to the special permit also stated the writers were opposed because the airport was seeking to expand operations, and/or that they have concerns but are in support of the current operation and of so-called small airports. Finally, of the 19 unique abutters (within 300 feet of the property and not counting properties owned by the Applicant), four abutters are on record in support of the application, two are against, one is in support of the current operation but against expansion, and the other 12 did not take a public position during this process. There is Selectboard also received a petition with signatures of abutters and others opposing the special permit.

B. General Findings

The site is situated in an R4 residential zone on Egremont Plain Road and Seekonk Cross Road. It is bordered by these two roads, the Green River, and several residential properties. The site is also in a Zone II of the Water Quality Protection Overlay District. Land uses surrounding the Airport are primarily single unit residential and agricultural, with areas of wetlands and forest along the Green River. There is also a private school in the area, located on West Plain Road. The character of the area is decidedly rural residential/agricultural, and this character is buttressed by the fact that some of the Airport land itself is utilized for agriculture. However, the Airport has existed at this site for 90 years, and over that time it has also become a part of the neighborhood character.

The Airport site consists of two principal parcels totaling approximately 91 acres, as shown on the plan submitted. These parcels are identified as Parcels 76 and 67 on Assessor's Map 31. Parcel 76 is 3.25 acres, and Parcel 67 is 87.7 acres and includes various developed areas such as the runways, taxiways and parking lots, as well as existing buildings including the office or "terminal" and four hangar buildings (labeled on the site plans as existing hangars). The balance of the site is wooded, lawn, or crop land. Other facilities on the site include the gas pumps, including an underground storage tank, and grass areas where planes are tied down.

The length of the main paved runway has been identified as 2,572 linear feet. The Airport does not own any additional land on either end of the runway for purposes of a so-called "runway safety area." However, a September 29, 2020 email from the Director of Aviation Planning at the [Massachusetts Department of Transportation](#) (Mass DOT) Aeronautics Division to the Assistant Town Manager stated that the Airport was not required to own such additional land.

The Applicant does not propose to alter the layout of the site, nor does the application propose to substantially expand the Airport use or operations. The application states that it is for the existing Airport as it is currently constituted. The Applicant does not seek permission to expand buildings, runways, impervious surfaces or other aspects of the land use. The current use of the site for aviation purposes consists of activities normally associated with an aviation field, including aircraft operations (flights), aircraft storage and parking (in hangars and outside), aircraft maintenance and fueling, and the airport office including flight school facilities. From time to time, by license or permit from the Selectboard, the Airport has been used for [private parties and fundraising events to benefit local not-for-profit organizations, although an event venue is not a permitted principal use in the R4 zoning district](#). The Applicant has stated that it does not seek to add any uses that do not currently exist on the site. [At the March 13 hearing session, the Applicant's counsel stated that the Applicant would accept a special permit condition of no expansion of the current Airport use and that any changes would require approval of the Selectboard. Counsel also stated that the Airport will not expand beyond the current footprint.](#)

There is no definitive record of how many flights occur at the Airport. The Applicant reported that it does not systematically track daily flight operations, and could not provide that kind of data to the Selectboard. [However, the Applicant also reported during the hearing that in the past there have been more flight school instructors than there are now, but the Applicant did not know how many students used the school in the past year.](#) The type of aircraft using the Airport is mostly fixed wing single engine aircraft, with some helicopter and two engine craft. The Airport is used as needed by emergency medevac helicopters (e.g., Life Flight) to transport patients out of the area to other hospitals. The Airport is also used by U.S. military helicopters training for night maneuvers. There is a concern expressed by many of those who commented during the hearing process that the flight operations, particularly the continuous nature of student training

flights, causes disruptive noise.

The Selectboard has little control over flight operations per se—that is the domain of the Federal Aviation Administration (FAA) and the ~~Massachusetts Department of Transportation (Mass DOT)~~—but the Applicant has volunteered some operations parameters to mitigate noise impacts. In presenting the application, ~~the Applicant's counsel stated that the Applicant~~ they will abide by all conditions included in ~~of the Special Permit, even conditions regarding subjects beyond the authority of the Special Permit Granting Authority~~ that are usually the domain of the FAA or the Mass DOT. However future owners may have a legal right to ignore conditions beyond the legal authority of the Special Permit Granting Authority.

The Airport employs mechanics and conducts maintenance of aircraft in the existing maintenance hangars. There are potentially hazardous materials associated with this activity and the application states that the Airport is a Very Small Quantity Generator (of hazardous waste) according to the regulations of the Massachusetts Department of Environmental Protection (MassDEP) at 310 CMR 30.00. At the March 13 hearing session, the Applicant's counsel stated that the Airport volume was approximately 270 gallons and that the most recent inventory number was about 170 gallons.

Airplanes refuel at the Airport via on-site, self-serve pumps dispensing unleaded and leaded fuel. Pumps are operational 24 hours a day even if there are no employees on site. The fuel is stored underground in a recently upgraded double-wall tank. The underground fuel tank has leak detection equipment, and there have been no known leaks. While leaded airplane fuel can be a source of air pollution does pollute the air. ~~There~~ there is no evidence that the leaded aviation fuel has polluted or is a threat to the public water supply managed by the Great Barrington Fire District. Nor, based on previous soil tests, is there evidence that the Airport grounds are contaminated.

A 2003 MassDEP Source Water Assessment and Protection (SWAP) Report for the Great Barrington Fire District (which operates as a public water supplier for the Town) lists “airports” as one of eight land uses that are high threats of contamination to the District’s water supply area as does the Town’s Master Plan. Other high threat uses include agricultural uses (manure spreading, fertilizers, and pesticides), and underground storage tanks. Medium threat uses include residential fuel oil storage uses. At the February 27 hearing session, the Applicant's counsel stated that in 2003 the Airport had single walled fuel storage tank and that tank was replaced in 2017 with a 20,000 gallon, double walled fiberglass tank providing storage for 12,000 gallons of low lead aviation fuel and 8,000 gallons of no-lead fuel.

The Airport is served by an existing private well for drinking water and an existing septic system for sewage disposal. The Selectboard is not aware of any public health concerns caused by the on-site drinking water well or the onsite septic system.

Traffic congestion is not a concern, but there are concerns for the safety of vehicles on Seekonk Cross Road near the eastern end of the runway, where low-flying planes (taking off or landing) could have caused at least one plane-car collisions.

A portion of the Airport property is enrolled in the Chapter 61A agricultural land taxation program, providing for a reduced tax payment on those portions of the property in agricultural use. The Town’s Assessors’ records indicate that 52.6 acres are in agricultural use, but there is no map on file that shows or certifies this acreage. Therefore, a special permit should include a condition that ~~Selectboard will require a~~ map of the agricultural land be created and filed with the Town’s Board of Assessors.

In 2020, the Applicant submitted an application for an Aviation Field special permit for the Airport,

including proposed construction of new hangars and paved areas, including driveways and taxiways. The Selectboard denied that application and a written decision was filed with the Town Clerk on December 1, 2020. That decision included general findings and findings related to Sections 7.2 and 10.4 of the Zoning Bylaw. The Selectboard notes that there are findings in this decision that are different from the findings in the 2020 decision. Two members of the current Selectboard were not members at the time of the 2020 decision.

C. Findings related to Section 7.2, Aviation Fields

The Town has the authority to regulate Aviation Fields as a land use under Section 7.2 of the Zoning Bylaw. The Town may not regulate flight and related activities that are under the jurisdiction of the FAA or MassDOT. Section 7.2 states, in part, “Any aviation field, public or private, with essential accessories, shall comply with the following special requirements: 1. It shall be so located that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic or other objectionable condition.”

As the Airport is already in existence, Town Counsel’s has advised ~~ie is that applying~~ the ~~Selectboard can only apply standard in~~ Section 7.2 to the application would require an acknowledgment that the Airport uses are currently in place and a consideration of whether those uses, with such permissible conditions as the Selectboard might impose, would be to the extent any changes to the use might be more “objectionable” than the present use. To do otherwise could amount to a *de facto* prohibition of the aviation use, something the Selectboard understands the Town is preempted from doing by federal and state law. Since the application does not propose to change or expand the current use or its activities, the Selectboard finds there are no objectionable conditions created by this application other than those that might be created by natural changes or evolution in the manner of carrying out Airport operations.

On the other hand, if a special permit is granted and the applicant is willing to abide by certain conditions, then conditions associated with normal airport use, such as airplane noise, could be mitigated more than they could be under the Airport’s present status.

Noise: The Selectboard has heard many written and oral comments that the existing Airport operations are objectionable because of noise. Many of these comments were from Great Barrington residents, many of whom do not live near the Airport. It has also heard some comments that the noise is not objectionable. The Selectboard has not heard from every abutter to the Airport, only some. Presumably, some neighbors do not find the noise objectionable. ~~Based on the comments and evidence presented, the Selectboard does not find that the existing noise is objectionable. Nevertheless,~~ t The Selectboard will consider conditions, similar to those offered by the Applicant, which could mitigate some of the existing noise and prevent noise from certain louder aircraft types.

Traffic: There have been infrequent, but dangerous, plane-vehicle interactions at the end of the runway at Seekonk Cross Road. Unless air traffic is limited, which the Selectboard cannot do, or safety measures are put in place, the traffic safety concerns will remain unchanged.

Other: Many commenters have stated concerns about groundwater quality and the Town’s drinking water supply, and threats of contamination from leaded fuel or other hazardous materials associated with the airport activities. The Selectboard recognizes these legitimate concerns, but, given the long existence of the Airport’s use without any demonstrable harm to the environment, the Selectboard does not find these concerns to be an objectionable condition.

D. Findings related to Section 10.4, Special Permits

Section 10.4.2 of the Zoning Bylaw, criteria for the granting of a special permit, requires a written determination by the Special Permit Granting Authority “that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.” This determination must include consideration of the following six criteria:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and,
6. Potential fiscal impact, including impact on town services, tax base, and employment.

The Selectboard’s considerations in relation to each of these criteria are detailed below. These considerations relate to the existing Airport operations and the statements in the application and from the Applicant during the public hearing process that the special permit is requested for the existing Airport as currently constituted and that no new activities are proposed.

1. Social, economic, or community needs which are served by the proposal.

Finding 1: The Airport serves the Town of Great Barrington and the regional area by providing employment for 12 employees, five of whom are full time, and a convenient and safe place for medical air evacuations and disaster response operations. It provides convenient access to the Town and region for travelers from destinations across the country. ~~Numerous letters~~ in support of the existing Airport and its flight school have been received by the Selectboard. ~~Letters have also been received from Great Barrington residents who believe the a~~Airport and its flight school have recently had a negative impact on the Town.

The Airport is an important component of the local and regional economic, transportation, and emergency network. The Airport conforms with those aspects of the Town’s Master Plan that call for balancing rural living with the amenities of an urban community and which encourage economic flexibility, the retention and attraction of businesses, and the provision and maintenance of a strong transportation network.

2. Traffic flow and safety, including parking and loading.

Finding 2: The Airport is located at the corner of Egremont Plain Road and Seekonk Cross Road, which safely accommodate vehicular traffic to and from the Airport. There have been public comments and letters regarding unsafe conditions on Seekonk Cross Road as a result of planes using the eastern end of the runway. The Selectboard has heard that there have been near misses, and there ~~have has been at least one also been some~~ documented collisions. The Selectboard agrees this is not a safe condition, but it cannot relocate the runway or the roadways.

3. Adequacy of utilities and other public services.

Finding 3: The utilities and services at the Airport are adequate to serve the existing use as currently constituted.

4. Neighborhood character and social structures.

Finding 4: The Airport has been in operation as an airfield since 1931. It is true that some residences in the area predate the Airport; it is equally true that other homes were built after the Airport began operations. The predominant character of the area is rural residential/agricultural, but the Airport is also an established part of the neighborhood, and has been acknowledged as such by supporters and opponents of this application. In terms of zoning, the Airport is in a residential/agricultural zone; the residences and farms are not in an airport zone.

Neighbors to the Airport, as well as Great Barrington residents who do not live near the Airport, or even in Great Barrington, have complained about noise impacts, unsafe flying, low-flying planes, and other elements of the Airport's operations. Neighbors complain of non-adherence to a noise-mitigating flight path. The Airport owners have stated that they have tried to enforce that flight path but that they cannot prevent pilots from ignoring it.

Based on testimony received during the public hearing, the Selectboard finds that growth at the Airport beyond its current level of use and type of operations, including types of aircraft, could detract from the rural residential/agricultural character of the area. However, this application does not propose to expand operations, and the Applicant has expressed willingness to abide by conditions to mitigate noise and hours of operation.

The Town's land use goals, as expressed in the Master Plan, do not envision this Airport location as a commercial or industrial area. The Master Plan specifically states, relative to the Airport, that "any activity, growth, or development here must be regulated to protect the town's water supply, and to ensure uses are compatible with residential and agricultural neighbors" (Volume II, p. 131). Therefore, a special permit for the Airport should-Selectboard will impose conditions to regulate the Aviation Field use.

5. Impacts on the natural environment.

Finding 5: The Airport is within the WQPOD, but the wellhead for the Town's drinking water supply provided by the Great Barrington Fire District is more than a mile away, is separated from the Airport by both Seekonk Cross Road and Hurlburt Road, and no contamination of that water supply relative to the Airport has ever been reported or identified. The past and current use of leaded aviation fuel may contribute to background levels of air or water contamination; however, an acute harm to the local environment has not been demonstrated. On the contrary, soil lead tests at the Airport show otherwise. There have been no fuel or oil spills, and the Airport is regulated as a Very Small Quantity Generator of hazardous waste. From the evidence presented, the existing operations have not had demonstrated negative impacts on the natural environment. Given this history, to ensure against such negative impacts a special permit should include conditions regarding this continues, the Selectboard will condition this permit on the performance does not see a reason to require of soil lead and water testing at the Airport, the use of a fuel tank leak alarm system that alerts appropriate personnel immediately, and the submittal of an emergency response protocol to the Town's emergency management personnel.

6. Potential fiscal impact, including impact on town services, tax base, and employment.

Finding 6: The Airport has a positive economic and fiscal impact in that it provides employment, some real estate taxes, and draws people to the area who support local and regional businesses. This is a

positive for the Town.

There are over 52 acres of Airport land enrolled in the Chapter 61A agricultural land taxation program. This land is not subject to taxes based on a full market value. Its tax value is lower in recognition of its importance to farming, an intangible asset to the open space character of this area, and to the community. This acreage will be subject to a total real estate tax of less than \$200 in FY23, roughly \$4,500 less than it would be if assessed at full value.

Section 10.4 Finding:

In consideration of the above Findings, the Selectboard finds that the benefits of the Airport as it is currently constituted outweigh the potential adverse effects. The Selectboard also finds that the conditions to be imposed will help to ensure that the overall benefits continue to occur and that potential adverse impacts are minimized and eliminated to the extent possible.

Proposed Conditions:

1. Grant of this Special Permit is for the Airfield aviation use as it currently exists, including flight operations, subject to restrictions herein; fuel storage and sales; airplane tie downs in the current tie-down area footprint; airplane storage in the current hangars; airplane maintenance in the current maintenance hangar; and flight school, subject to restrictions herein. The addition of any other airport related activities not conducted at the Airport at the time of the special permit application, ~~including but not limited to restaurants, warehousing, shipping and distribution, are~~ is prohibited under this Special Permit. No new uses, whether including uses otherwise allowed by right under the Zoning Bylaw or those traditionally considered accessory airport uses, are allowed, including but not limited to aircraft sales, warehouses, additional hangars, package distribution, car rental, drone hub, sightseeing tours, restaurant/food service, entertainment, etc. No new structures or changes to the footprint (including height) of current structures are allowed. No new runways, roads or other impervious surfaces are allowed. No additional parking beyond the current area shown on the site plan submitted with the application is allowed. No fences will be added.
2. Within 30 days after the date of this Special Permit, the Applicant shall provide to the Selectboard a list that reports the number of airplanes and any other aircraft based or housed at the Airport.
- ~~2.3.~~ During the summer, i.e., from Memorial Day weekend through Labor Day weekend, there shall be no continuous takeoffs and landings of aircraft, meaning a continuous aircraft traffic pattern of more than four takeoffs and landings in a span of XXX minutes, after 5:00 pm. There shall be no flight school activities on Memorial Day or on Independence Day.
- ~~3.4.~~ During the remainder of the year - fall, winter, spring – there shall be no continuous takeoffs and landings of aircraft after 6:00 pm.
- ~~4.5.~~ Except in the event of an emergency or similar extraordinary circumstance, there shall be no unnecessary aircraft “run-ups,” including engine starting, idling or thrusting, before 9:00 am or after 7:00 pm.
- ~~5.6.~~ On Sundays, there shall be no continuous takeoffs and landings of aircraft before 9:00 am or after 5:00 pm.

~~6.7.~~ There shall be no helicopter flight school or helicopter sightseeing operated at or from the property.

~~7.8.~~ The Applicant shall use its best efforts to limit military helicopter training activity at the Airport.

~~8.9.~~ There shall be no glider activity at or from the Airport.

~~9.10.~~ There shall be no ~~jet or~~ turbo jet ~~engine~~ aircraft operations at the Airport.

~~10.11.~~ There shall be no drone flying operations at or from the Airport, except as required to be permitted by law or for governmental inspections of the Airport.

~~11.12.~~ Customer vehicle parking shall be only in the current Airport parking lots, except for special events permitted by an entertainment license granted by the Selectboard.

~~12.13.~~ No additional outdoor lighting will be added unless required by FAA or MassDOT regulations. Any and all exterior lighting except for that required to be otherwise by the FAA or MassDOT, shall be fully shielded, Dark Sky compliant, and shall not create glare or spillover across property lines. Runway lights must shut off automatically 15 minutes after they are activated.

~~13.14.~~ The Applicant shall provide to the Town all records on waste oil and disposal of hazardous materials at or from the Airport when such records are submitted to any state or federal regulatory agency or authority.

~~14.15.~~ Within six months ~~of the recording~~after the date of this Special Permit, the Applicant shall provide to the Selectboard and the Assessors a map or plan, prepared by a registered professional engineer or land surveyor, and a calculation of the amount of land of the Airport currently enrolled in the Chapter 61A agricultural land tax program, so that the Assessors can determine if there is any land that is subject to conveyance or roll back taxes. In addition, the land identified on the map or plan as Chapter 61A agricultural shall remain as open space and shall not be used for Airport operations or Aviation Field purposes.

~~16.~~ The Applicant shall test the site soil for lead within six months after the date of this Special Permit is recorded, and every five years thereafter, and provide the Town with results of those tests within five days of receipt of those results. Testing shall be at such locations and in accordance with such methods as are directed and approved by the U.S. Environmental Protection Agency and MassDEP.

~~17.~~ The Applicant shall implement the use of a fuel tank leak alarm system that alerts appropriate Town, state and federal emergency personnel immediately when there is a leak, and shall confirm implementation of the system by written notice to the Selectboard within 90 days after the date of this Special Permit.

~~18.~~ The Applicant shall prepare an emergency events response protocol and share it with submit a copy to the Selectboard and the Town's Fire Chief, Police Chief, and Board of Health within 90 days after the date of this Special Permit emergency management personnel.

~~19.~~ Within 30 days after the date of this Special Permit, the Applicant shall provide to the Town Manager a copy of the Airport's policies for pilots with respect to noise, flight patterns, hours of operation, type of aircraft permitted to use the Airport, emergency protocols, and disposal of dumped fuel. Any revisions to those policies shall also be provided, within 10 days after adoption. All such

policies shall be posted on the Applicant's website.

20. Any Airport flight operations reports, including reports regarding takeoffs and landings, submitted to the FAA or the Mass DOT shall also be submitted by copy to the Town Manager-

21. The Applicant shall Report to the Town all safety incidents at the Airport that are reported to the FAA, and shall also Report to the Town all safety incidents either at the Airport, or involving airplanes that took off from the Airport, including but not limited to those that are reportable to local, state, and/or federal authorities under any law or regulation. The reports to the Town shall be submitted to the Town Manager and the Chief of Police.

22. The Airport is prohibited from expanding of the level of machine shop activities requiring the use of toxic or hazardous materials substances regulated by local, state or federal law beyond that being conducted at the time of the special permit application, including the volume of each said toxic or hazardous material substance currently being used at the Airport annually. The Airport must submit to the Selectboard within 30 days of the grant date of this Special Permit a written report detailing the type and volume of such toxic and hazardous materials substances currently being used annually for machine shop activities.

— This special permit is granted on the express basis that every condition is essential to mitigate the impact of the Airport on the surrounding residential agricultural neighborhood. The Selectboard finds that none of these conditions is severable, and that if any of these conditions is found invalid or otherwise unenforceable, the intent of the Selectboard is that the special permit in its entirety be revoked.

23. The Special Permit is granted solely to Berkshire Aviation Holdings, Inc., formerly known as Berkshire Aviation Enterprises, Inc., as presently constituted, for the purposes described herein, and is not transferable. The Special Permit shall not run with the land. Riek Solan, only while solely owned by Riek. Upon Sale or transfer of ownership of the subject property, whether partial or total, terminates the Special Permit shall terminate, and requires any new owner to apply for and obtain a new special permit.

24. In the use of the Airport the Applicant shall comply with all applicable local, state and federal laws and regulations. This condition is not to be construed to relieve the Applicant of compliance with any other condition of this Special Permit, and the recording of this Special Permit with the Registry of Deeds shall constitute the Applicant's acceptance of, and agreement to be bound by, the terms and conditions of the Special Permit.

25. The Applicant shall annually submit to the Selectboard, by February 15, a written report concerning operations at the Airport during the previous calendar year, including a description of how the specific uses authorized by this Special Permit were conducted. The report shall also identify the methods and tools used to measure, quantify or otherwise track or keep a record of aircraft takeoffs and landings; Airport flight path policies and rules, and compliance with those policies and rules; storage and use of toxic and hazardous materials regulated under local, state or federal law; and the impact of Airport operations on the environment, including air and groundwater.

26. The Selectboard reserves the right to require additional or new data in the reports required to be submitted by the Applicant, based on future technological advances, modification of industry standards, accessibility of reportable information, or change in any law or regulation relating to the

reportable information.

27. This Special Permit is granted on the express basis that every condition imposed hereunder is essential to mitigate the impact of the Airport on the surrounding residential/agricultural neighborhood. The Selectboard finds that none of these conditions is severable, and if any of these conditions is found invalid or otherwise unenforceable in any judicial review or by a governmental authority having jurisdiction, the Special Permit shall automatically become null and void.

EXHIBIT A

David J. Doneski Opinion

Dated: March 23, 2022



The Leader in Public Sector Law

T: 617.556.0007 F: 617.654.1735

101 Arch Street, 12th Floor, Boston, MA 02110

By Electronic Mail

To: Planning Board
cc: Town Manager

From: David J. Doneski

Re: Application of Berkshire Aviation Enterprises, Inc.
for Site Plan Approval, 70 Egremont Plain Road

Date: March 23, 2022

You have requested an opinion regarding the site plan approval application of Berkshire Aviation Enterprises, Inc. (BAE), submitted on January 21, 2022. The application describes BAE's proposed demolition of the existing office building at its airport property at 70 Egremont Plain Road and construction of a new building in its place, on the same footprint. You have asked whether nonconforming use issues, as presented in the February 23, 2022 letter to the Planning Board from Attorney Thaddeus Heuer on behalf of certain Seekonk Cross Road residents, make the site plan ineligible for approval. In my opinion, for the reasons stated below, the Planning Board may act on the application and approve the site plan if it finds that the plan complies with the standards for approval in Section 10.5 of the Zoning Bylaw.

Section 10.5 of the Zoning Bylaw sets forth the requirements and procedures for "Site Plan Review." Subsection 10.5.1, Applicability, states as follows:

The following types of activities and uses require site plan review by the Planning Board:

1. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or multi-family structure;
2. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose involving more than 6 spaces; . . .

BAE's application acknowledges that the proposed demolition and reconstruction will involve each of these two activities.

Memorandum to Planning Board, March 23, 2022

Subsection 10.5.5, Approval, states:

Site Plan approval shall be granted upon determination by the Board that the plan meets the following objectives. (emphasis supplied) The Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations.

Subsection 10.5.5 continues: "New building construction or other site alterations shall be designed with consideration of the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, in order to:" It then lists six sets of development impacts that are to be "minimize[d]," including cutting and filling, obstruction of scenic views, visual intrusion, and contamination of groundwater; together with a set of design elements that should be "maximize[d]," accessibility, and pedestrian and vehicular safety. A final standard to be met is stated as "8. Ensure compliance with the provisions of this Zoning Bylaw, including parking and landscaping."

In my view, the eight criteria in subsection 10.5.5 relate, by their terms, to physical and development standards that construction or site alterations must meet. The criteria are applicable to "design" of building construction and site alterations.

On the issue of nonconforming use raised in the letter of opposition, there are numerous cases addressing rights and restrictions applicable to non-conforming uses under both the state Zoning Act, G.L. c. 40A, and local zoning bylaws and ordinances. In my view, it is not necessary to include here an extensive discussion on the applicable principles from those cases. Instead, I would direct your attention to three points from the case law:

- 1) The Rockport bylaw that was challenged in the Berliner v. Feldman case cited in the letter provided that "[a]ny lawful building or structure or use of a building, structure, or premises existing at the time this by-law is adopted, even if not in conformity with its provisions, may be continued [and may be] rebuilt if damaged or destroyed," subject to certain conditions, including board of appeals approval for enlargement. The Supreme Judicial Court found that the bylaw was valid, and included the following statement in its decision: "there is no statutory prohibition against a zoning provision which grants special rights to the owner of a preexisting nonconforming use to rebuild a structure which has been destroyed by catastrophe." 363 Mass. at 770.
- 2) In the case of Welch-Filippino v. Zoning Board of Appeals of Newburyport, 86 Mass. App. Ct. 258 (2014), a decision dealing with an appeal of a special permit (under the zoning ordinance) for replacement of a dimensionally conforming structure for a nonconforming nursing home use with a new facility, the Appeals Court stated the following:

Memorandum to Planning Board, March 23, 2022

Berliner did not involve the grandfathering protection afforded to a preexisting nonconforming use under G.L. c. 40A, § 6. Rather, it involved interpretation of the provisions of a *local zoning by-law* regarding whether a preexisting nonconforming structure (an inn) that was damaged or destroyed by fire might be rebuilt. Because *Berliner* concerned the reconstruction of a preexisting nonconforming structure devoted to a nonconforming use (conducting an inn in a residence district), to the extent that the statutory predecessor of G.L. c. 40A, § 6, was implicated at all, the applicable provision was that allowing for local regulation when there is a “reconstruction, extension or structural change” of a nonconforming structure. See *id.*, at 771, 773, 774. See also Healy, Massachusetts Zoning Manual § 6.7.2 (4th ed. 2007) (building in *Berliner* appeared to be dimensionally nonconforming). Accordingly, the court’s statement to the effect that the statute “does not confer the right to erect a new building in place of an existing building used for a nonconforming purpose,” *Berliner v. Feldman, supra*, at 770, must be read in that limited context. 86 Mass. App. Ct. at 264-265.

- 3) “General Laws c. 40A, §6, however, creates a statutory requirement that “sets the floor” throughout the Commonwealth for the appropriate protections from local zoning bylaws to be afforded properties and structures protected under that statute. . . . A municipality’s bylaws may not afford fewer protections to preexisting nonconforming structures or uses than does the governing statute. Bellalta v. Zoning Board of Appeals of Brookline, 481 Mass. 372, 386 (2019). In other words, a municipality may afford greater protections.

The Great Barrington Zoning Bylaw does afford greater protections, directly addressing replacement of nonconforming structures in section 5. 7, entitled ‘Reconstruction After Catastrophe or Voluntary Demolition.’ Section 5.7 provides as follows: “A nonconforming structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions. For the purposes of this subsection, the term “reconstruction” shall mean the rebuilding after catastrophe or the rebuilding after demolition of the building.”

In this instance, BAE is proposing to demolish the existing office, flight school and operations building and construct a new building within the same footprint and having the same height and area as the existing building. Section 5.7 does not specify that demolition and reconstruction of a non-conforming structure is available only in connection with a conforming use. Although the use of a property for which site plan approval is requested is, in my opinion, a valid consideration in reviewing the site plan application, the question of the extent of the applicability of section 5.7 to BAE’s proposal is not, in my view, a determination that the Planning Board is required to make in connection with the site plan application. That issue will

Memorandum to Planning Board, March 23, 2022

be part of the demolition and building permit application process if site plan approval is granted. For reference, though, it should be noted that a 2017 special permit decision of the Zoning Board of Appeals (Decision No. 867-16), on an application to build a deck at the rear of the existing office building, stated: “The Board unanimously agreed that the Airport was a legal pre-existing nonconforming property.”

805707/GRBA/0001



300 foot Abutters List Report

Great Barrington, MA
December 27, 2022

Subject Property:

Parcel Number: 31-67-0
CAMA Number: 31-67-0
Property Address: 70 EGREMONT PLAIN RD

Mailing Address: BERKSHIRE AVIATION ENTERPRISES
P O BOX 179
GT BARRINGTON, MA 01230-0179

Abutters:

Parcel Number: 30-1-0
CAMA Number: 30-1-0
Property Address: 75 EGREMONT PLAIN RD

Mailing Address: TOLLNER RICHARD & CONNIE
75 SALISBURY AVE
GARDEN CITY, NY 11530-3940

Parcel Number: 30-2-A
CAMA Number: 30-2-A
Property Address: 81 EGREMONT PLAIN RD

Mailing Address: SHAPIRO HILDA BANKS
81 EGREMONT PLAIN RD
GT BARRINGTON, MA 01230-1732

Parcel Number: 30-2-C
CAMA Number: 30-2-C
Property Address: 77 EGREMONT PLAIN RD

Mailing Address: SHAPIRO JONATHAN
P O BOX 283
GT BARRINGTON, MA 01230-0283

Parcel Number: 30-4-0
CAMA Number: 30-4-0
Property Address: EGREMONT PLAIN RD

Mailing Address: WHEELBARROW HILL FARM LLC
99 PARK AVE SUITE 2200
NEW YORK, NY 10016-1601

Parcel Number: 31-40-0
CAMA Number: 31-40-0
Property Address: 20 WEST PLAIN RD

Mailing Address: COONS VICKI J & ROBERT COONS
WEST PLAIN RD FARM NOMINEE TRU
20 WEST PLAIN RD
GT BARRINGTON, MA 01230-1573

Parcel Number: 31-47-A
CAMA Number: 31-47-A
Property Address: 35 WEST PLAIN RD

Mailing Address: GREAT BARRINGTON RUDOLF STEINE
SCHOOL INC
35 WEST PLAIN RD
GT BARRINGTON, MA 01230-1573

Parcel Number: 31-47-F
CAMA Number: 31-47-F
Property Address: 43 WEST PLAIN RD

Mailing Address: HANKIN JONATHAN B ZHEUTLIN
BARBARA
43 WEST PLAIN RD
GT BARRINGTON, MA 01230-1573

Parcel Number: 31-49-0
CAMA Number: 31-49-0
Property Address: SEEKONK CROSS RD

Mailing Address: BERKSHIRE AVIATION ENTERPRISES
P O BOX 179
GT BARRINGTON, MA 01230-0179

Parcel Number: 31-50-0
CAMA Number: 31-50-0
Property Address: SEEKONK CROSS RD

Mailing Address: COONS ROBERT A
20 WEST PLAIN RD
GT BARRINGTON, MA 01230-1573

Parcel Number: 31-51-0
CAMA Number: 31-51-0
Property Address: 95 SEEKONK CROSS RD

Mailing Address: SHERON JOANNE L
95 SEEKONK CROSS RD
GT BARRINGTON, MA 01230-1565



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300 foot Abutters List Report

Great Barrington, MA
December 27, 2022

Parcel Number: 31-51-A
CAMA Number: 31-51-A
Property Address: 91 SEEKONK CROSS RD

Mailing Address: SILBER MARCI (IND) SHAPIRO ALAN
TRUSTEE
40 ANNANDALE DR
CHAPPAQUA, NY 10515-1812

Parcel Number: 31-51-B
CAMA Number: 31-51-B
Property Address: SEEKONK CROSS RD

Mailing Address: SILBERT MARCI (IND) SHAPIRO ALAN
TRUSTEE
40 ANNANDALE DR
CHAPPAQUA, NY 10514-1812

Parcel Number: 31-51-C
CAMA Number: 31-51-C
Property Address: SEEKONK CROSS RD

Mailing Address: SILBERT MARCI (IND) SHAPIRO ALAN
TRUSTEE
40 ANNANDALE DR
CHAPPAQUA, NY 10514-1812

Parcel Number: 31-51-D
CAMA Number: 31-51-D
Property Address: SEEKONK CROSS RD

Mailing Address: SILBERT MARCI (IND) SHAPIRO ALAN
TRUSTEE
40 ANNANDALE DR
CHAPPAQUA, NY 10514-1812

Parcel Number: 31-63-0
CAMA Number: 31-63-0
Property Address: 99 SEEKONK CROSS RD

Mailing Address: HAMER HOLLY
99 SEEKONK CROSS RD
GT BARRINGTON, MA 01230-1565

Parcel Number: 31-64-0
CAMA Number: 31-64-0
Property Address: 101 SEEKONK CROSS RD

Mailing Address: SHAW BRIAN A
384 LIME KILN RD
GT BARRINGTON, MA 01230-9111

Parcel Number: 31-65-0
CAMA Number: 31-65-0
Property Address: 103 SEEKONK CROSS RD

Mailing Address: WESTERLING KARA TRUSTEE
SEEKONK CROSS NOMINEE TR
900 HIGH ST
DEDHAM, MA 02026-4114

Parcel Number: 31-66-0
CAMA Number: 31-66-0
Property Address: 109 SEEKONK CROSS RD

Mailing Address: MUSAYEV ALEXANDER BOLAND RANA
JOY
109 SEEKONK CROSS RD
GT BARRINGTON, MA 01230-1572

Parcel Number: 31-68-0
CAMA Number: 31-68-0
Property Address: 80 EGREMONT PLAIN RD

Mailing Address: SILVER STANLEY M GLASSMAN
MELISSA S
80 EGREMONT PLAIN RD
GT BARRINGTON, MA 01230-1551

Parcel Number: 31-68-A
CAMA Number: 31-68-A
Property Address: 78 EGREMONT PLAIN RD

Mailing Address: SHAPIRO CLAUDIA J
PO BOX 112
SOUTH EGREMONT, MA 01258-0112

Parcel Number: 31-72-0
CAMA Number: 31-72-0
Property Address: 76 EGREMONT PLAIN RD

Mailing Address: KASS STEPHEN R & LUCIE M
425 EAST 79TH ST #3N
NEW YORK, NY 10075-1005

Parcel Number: 31-73-0
CAMA Number: 31-73-0
Property Address: 54 EGREMONT PLAIN RD

Mailing Address: ISRAEL LANA TRUSTEE LANA ISRAEL
REVOCABLE TRUST-20
54 EGREMONT PLAIN RD
GT BARRINGTON, MA 01230-1691



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12/27/2022

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300 foot Abutters List Report

Great Barrington, MA
December 27, 2022

Parcel Number: 31-75-0
CAMA Number: 31-75-0
Property Address: 48 EGREMONT PLAIN RD

Mailing Address: PARRISH ROBERT E
PO BOX 742
GT BARRINGTON, MA 01230-0742

Parcel Number: 31-76-0
CAMA Number: 31-76-0
Property Address: SEEKONK CROSS RD

Mailing Address: BERKSHIRE AVIATION ENTERPRISES
P O BOX 179
GT BARRINGTON, MA 01230-0179

Parcel Number: 31-77-0
CAMA Number: 31-77-0
Property Address: SEEKONK CROSS RD

Mailing Address: BERKSHIRE AVIATION ENTERPRISES
P O BOX 179
GT BARRINGTON, MA 01230-0179

Parcel Number: 31-78-0
CAMA Number: 31-78-0
Property Address: SEEKONK CROSS RD

Mailing Address: BERKSHIRE AVIATION HOLDINGS IN
PO BOX 179
GT BARRINGTON, MA 01230-0179



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COHEN | KINNE | VALICENTI | COOK

Dennis G. Egan Jr.
Admitted in MA, NY and CT

degan@cohenkinne.com
Direct phone 413 553 0411
Cell phone 413 446 1126
Direct fax 413 553 0334

March 31, 2023

Mr. Stephen Bannon, Chair
Town of Great Barrington Select Board
334 Main Street
Great Barrington, MA 01230

Re: Response to Question Raised at March 13, 2023 Great Barrington Select Board Hearing
Application for Special Permit – Berkshire Aviation Enterprises, Inc. –
70 Egremont Plain Road

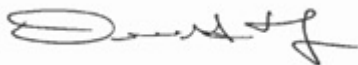
Dear Mr. Bannon:

I am submitting the attached Massachusetts Statewide Airport Economic Impact Study Update – Executive Summary 2019, on behalf of our client, Berkshire Aviation Enterprises, as a follow up to a question raised at the Great Barrington Select Board hearing that took place on March 13, 2023, with respect to the application for special permit filed by Berkshire Aviation Enterprises, Inc. in connection with the property located at 70 Egremont Plain Road.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,

COHEN KINNE VALICENTI & COOK LLP



Dennis G. Egan, Jr.

DGE/
Encl.

303274

COHEN | KINNE | VALICENTI | COOK LLP *Attorneys*

tel 413-443-9399 | fax 413-442-9399 | cohenkinne.com

244 Main Street
Great Barrington, MA

RESPOND TO MAIN OFFICE:
28 North Street, 3rd Floor
Pittsfield, MA 01201

57 Spring Street, 2nd Floor
Williamstown, MA

Massachusetts Statewide Airport Economic Impact Study Update

EXECUTIVE SUMMARY

JANUARY 2019



MASSACHUSETTS



MASSACHUSETTS AIRPORTS: A Catalyst for Business Growth and Development

In a world where communications are instantaneous, and time means money, businesses rely on aviation for the rapid delivery of goods and services to distant locations, often inaccessible or difficult to reach. Massachusetts' system of 39 airports provides the Commonwealth with a vital link to the regional, national, and international markets that drive our emerging economy.

Airports in Massachusetts connect us to worldwide markets and destinations, sustaining the Bay State's rapidly expanding business community and its world-renowned tourist destinations.

One of the most important factors in today's global economy is having access to a transportation system that promotes the safe, efficient, and rapid movement of people and goods. Massachusetts' system of public-use airports is a key component of the overall transportation system and plays important roles both as a catalyst for local and regional economies, which generate billions of dollars in economic development, and as a vital transportation link for Massachusetts businesses, residents, and visitors, supporting thousands of jobs.

Airports stimulate economic growth and development in many communities because aviation is essential for the attraction and retention of businesses. Aviation improves overall efficiency by enabling businesses to expedite customer service and the delivery of their products to market. In effect, Massachusetts' airports connect the Commonwealth to the national air transportation system and the global economy.

Airports also serve as gateways to premier tourist destinations such as the Berkshires and the Cape and Islands region, as well as the many cultural and historical attractions found throughout the Commonwealth. Visitors arriving at Massachusetts' commercial service and general aviation airports spend money for food, lodging, retail purchases, recreation, and ground transportation, all of which drive growth in local and regional economies. Conversely, Massachusetts residents also use aviation for their own leisure travel outside of the Commonwealth, connecting them to family and friends and vacation destinations throughout the world.

To better understand the economic benefits of Massachusetts' public-use airports, the Massachusetts Department of Transportation Aeronautics Division completed Airport Economic Impact Study updates in 2011 and 2014. This study is a continuation of that overall planning effort that began in 2009 with the Massachusetts Statewide Airport System Plan (MSASP), which examined the structure and long-term development of the Statewide Airport System as a whole. The 2019 Economic Impact Study will serve as a specific update to the previous economic studies to show how aviation propels the economic growth of the Commonwealth, as well as documenting some of the many other benefits that air transportation brings to its host communities.

The Aeronautics Division has taken a new approach to this study, to share in layman's terms some of the many unique stories that each of Massachusetts' diverse airports bring to their host communities.



Promote aviation throughout the Commonwealth, while establishing an efficient, integrated airport system that will enhance airport safety, customer service, economic development, and environmental stewardship.

— MassDOT Aeronautics Division Mission Statement

Study Overview

This report details how Massachusetts' 39 public-use airports are economically valuable to the Commonwealth by quantifying employment, payroll, and economic output. The economic impact analysis considers the annual impacts associated with on-airport, aviation-related businesses and government organizations, capital improvement projects, military aviation, the spending of visitors who arrive via scheduled commercial service airlines, and the spending of visitors who arrive on privately-owned general aviation aircraft. Economic impacts are presented for each individual airport and the Commonwealth as a whole. It is important to note that an economic impact study provides a "snapshot in time" with respect to airport operations and economic conditions. The data collection process, economic modeling, and state of the economy for this study update are all specifically related to 2017.

The Massachusetts Public-Use Airport System

Massachusetts' system of public-use airports is comprised of nine commercial service and 30 general aviation airports, 11 of which are privately owned and operated.

The MassDOT Aeronautics Division supports the operation and development of 36 of these airports through:

- Grant funding
- Airport inspections
- Technical guidance
- Statewide planning initiative
- Aviation education outreach
- Communication with local, state, and federal officials

The **Massachusetts Port Authority (Massport)** owns and operates the three remaining airports, including Boston Logan International Airport (BOS), Laurence G. Hanscom Field (BED), and Worcester Regional Airport (ORH).



Multiple factors account for the growth in economic impacts generated by Massachusetts' public-use airports since the completion of the 2014 Economic Impact Study. The primary driver is the overall increase in airline passenger traffic (both domestic and international) at Boston Logan. Other factors include increased spending per person by visitors arriving in Massachusetts on passenger airlines and general aviation aircraft, growth in business/air charter operations and the addition of new on-airport businesses. Similarly, strategic investments from the state had an excellent return on investment, and public private partnerships such as that with Gulfstream also had a very positive impact on the economy of the surrounding communities during this time.

	Total Employment	Total Payroll	Total Output
2014 Study	162,256	\$6,094,002,000	\$16,555,117,000
2019 Study	199,237	\$7,243,169,000	\$24,692,585,000
PERCENT GROWTH	23%	19%	49%

Behind the Numbers

This study collected information from airport sponsors, on-airport businesses and government agencies, visiting pilots and passengers, and other sources, all of which served as the input for an economic impact model. This model estimated each airport's impact generated by aviation activities occurring directly on the airports, such as operations by aircraft maintenance businesses, flight schools, and concessionaires, as well as capital improvement projects.

The benefits of an airport go beyond what is seen on the airfield. As the diagram shows, there is a great deal of economic activity that takes place beyond the airport fence. Expenditures by the airport and businesses/government agencies on the airport trickle through the economy, influencing people and businesses nearby. For example, when an aircraft mechanic working on the airport purchases local goods and services, such as gas or groceries, that spending circulates through the local economy by supporting the jobs and payroll of other businesses and thereby generates additional economic activity that is referred to as multiplier impacts. Additionally, visitors flying to the area typically spend money in the local community. The total impacts reflect all of the economic activity, not just what can be witnessed on the airport. The methodology used in this report, which follows FAA guidelines, has successfully quantified the benefits of airports and airport systems throughout the U.S.

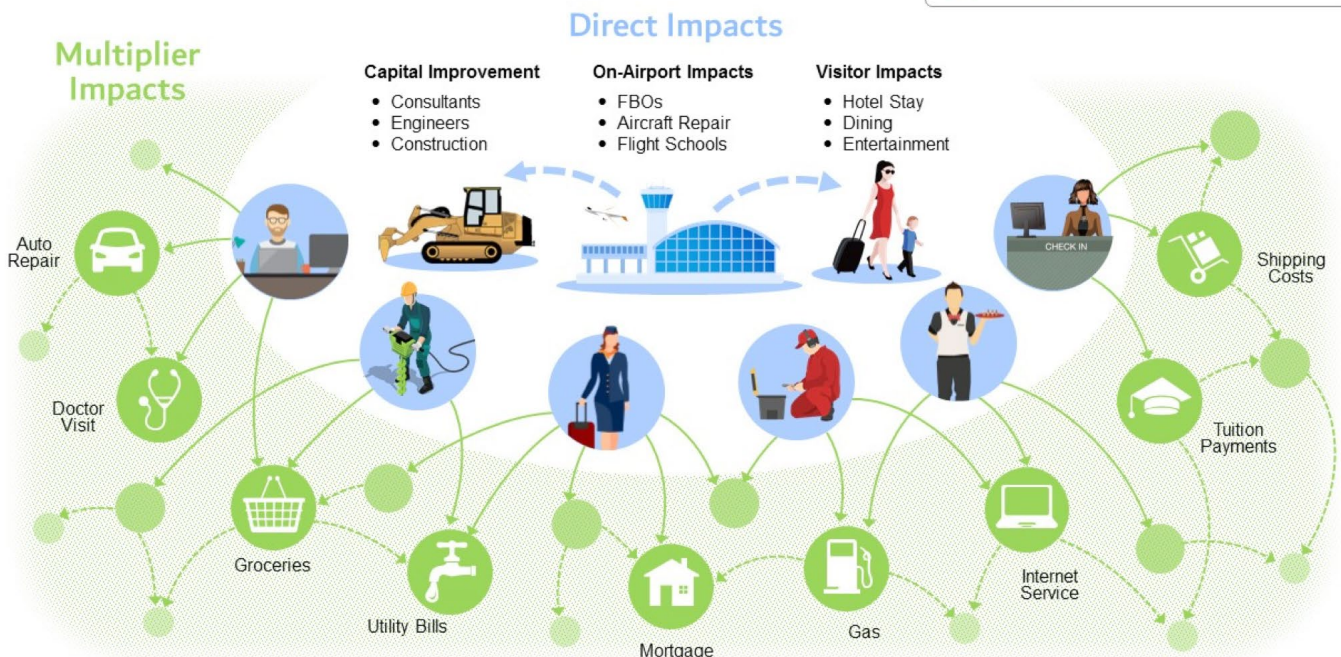


BARNSTABLE MUNICIPAL AIRPORT- BOARDMAN/POLANDO FIELD

Strategic Investments Position HYA for Economic Growth

Over the last 10 years, the FAA, MassDOT, and Barnstable Municipal Airport (HYA) have made significant strategic investments into airport infrastructure, which has helped to position the airport for future economic growth while enhancing airfield safety. With its new airport terminal building, HYA has been able to attract JetBlue to provide seasonal service from New York to Cape Cod.

ECONOMIC IMPACT MODEL



How Aviation's Benefits Are Quantified

MEASURES OF ECONOMIC IMPACT

Employment – Employment is the measure of full-time equivalent jobs, where two part-time positions are the equivalent of a single full-time position. Seasonal jobs are treated proportionally as appropriate.

Payroll – Payroll represents the costs associated with the annual salary, wages, and benefits earned by all the full-time equivalents measured under employment.

Output – Output is the quantity of goods and services generated annually by an airport and its associated activities and businesses, expressed in dollars. Output is estimated using an organization's annual sales, or its annual operating costs, which assumes that its output is approximately equivalent to what it expends.

TYPES OF ECONOMIC IMPACT

Direct Impacts – Direct impacts account for the initial point where the money from aviation-related activity enters the economy. On-airport direct impacts can be found at the airport while visitor-related direct impacts take place off-airport.

Multiplier Impacts – Multiplier impacts result from the re-circulation and re-spending of direct impacts within the economy. This re-spending of money can occur multiple times. For example, as airport employees spend their salary on clothing at a local retailer, those expenditures circulate through the economy, resulting in increased spending, payroll, and employment throughout Massachusetts.

Total Economic Impacts – Total impacts are the sum of all direct and multiplier economic impacts attributable to an airport or the system of airports.

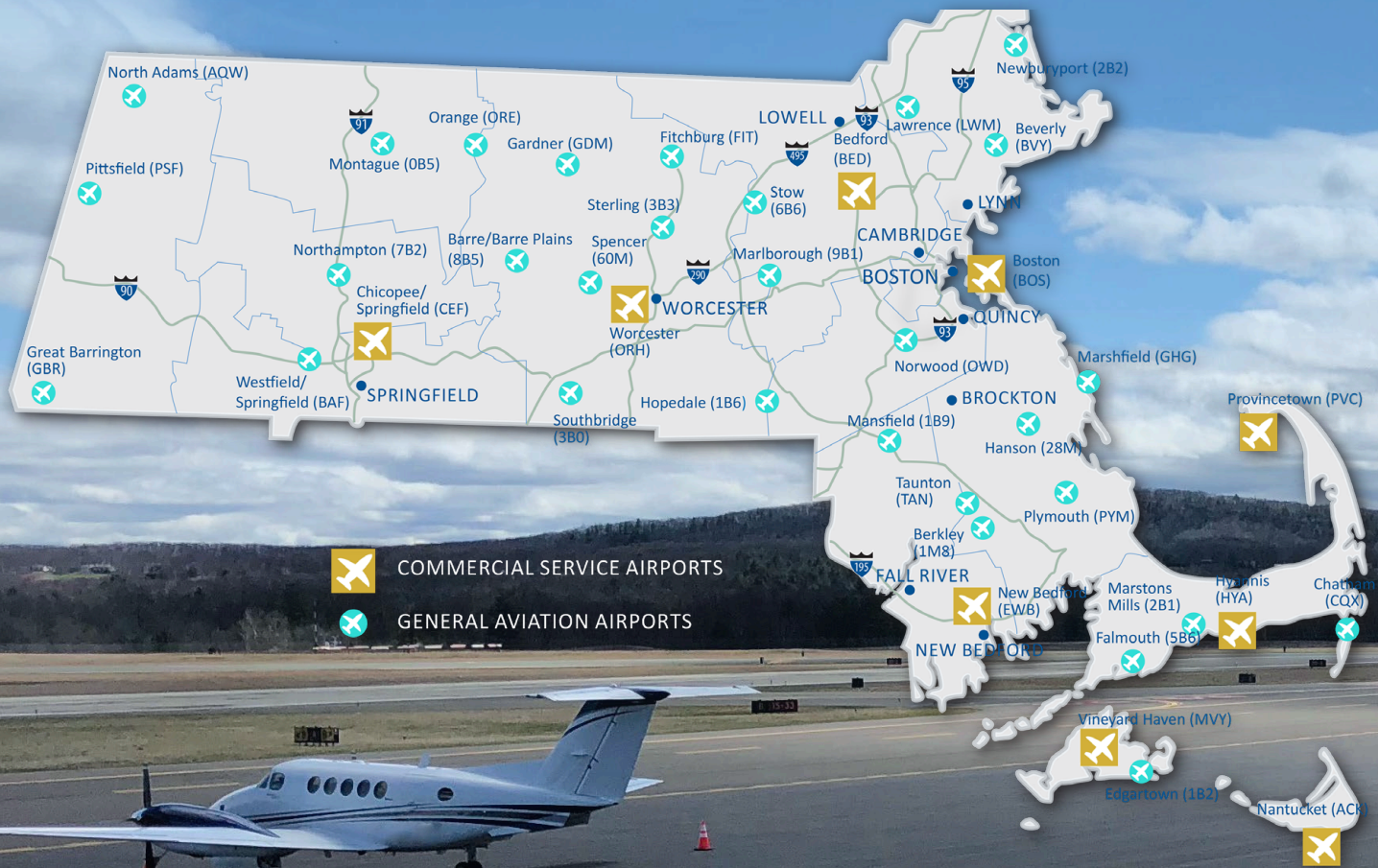


Total Economic Impacts Of Massachusetts' Airports

COMMERCIAL SERVICE AIRPORTS				
Associated City	Airport Name	Total Employment ²	Total Payroll ²	Total Output ²
Bedford	Laurence G. Hanscom Field ¹	19,587	\$527,823,000	\$6,709,016,000
Boston	Boston Logan International Airport	162,266	\$5,974,587,000	\$16,325,472,000
Chicopee/Springfield	Westover Air Reserve Base/Metropolitan Airport ¹	4,571	\$172,687,000	\$245,257,000
Hyannis	Barnstable Municipal Airport-Boardman/Polando Field	1,724	\$73,761,000	\$157,240,000
Nantucket	Nantucket Memorial Airport	3,268	\$118,249,000	\$323,044,000
New Bedford	New Bedford Regional Airport	277	\$11,025,000	\$29,598,000
Provincetown	Provincetown Municipal Airport	390	\$13,958,000	\$34,856,000
Vineyard Haven	Martha's Vineyard Airport	1,401	\$50,939,000	\$140,551,000
Worcester	Worcester Regional Airport	587	\$29,617,000	\$96,746,000
COMMERCIAL SERVICE AIRPORTS TOTAL		194,071	\$6,972,646,000	\$24,061,780,000

¹ Includes economic impacts associated with military operations located on the airport. See page 8 for specific military totals.

² Total impacts include all on-airport business and government agency, capital improvement project, visitor, and multiplier impacts.



Total Economic Impacts Of Massachusetts' Airports

GENERAL AVIATION AIRPORTS				
Associated City	Airport Name	Total Employment ²	Total Payroll ²	Total Output ²
Barre/Barre Plains	Tanner-Hiller Airport	18	\$294,000	\$702,000
Berkley	Myricks Airport	0	\$0	\$58,000
Beverly	Beverly Regional Airport	269	\$11,638,000	\$34,302,000
Chatham	Chatham Municipal Airport	156	\$4,777,000	\$13,919,000
Edgartown	Katama Airpark	19	\$636,000	\$2,087,000
Falmouth	Falmouth Airpark	7	\$294,000	\$641,000
Fitchburg	Fitchburg Municipal Airport	162	\$6,573,000	\$17,619,000
Gardner	Gardner Municipal Airport	8	\$279,000	\$1,028,000
Great Barrington	Walter J. Koladza Airport	56	\$1,827,000	\$5,213,000
Hanson	Cranland Airport	11	\$351,000	\$990,000
Hopedale	Hopedale Industrial Park Airport	13	\$719,000	\$1,010,000
Lawrence	Lawrence Municipal Airport	403	\$18,363,000	\$49,885,000
Mansfield	Mansfield Municipal Airport	112	\$4,490,000	\$12,455,000
Marlborough	Marlboro Airport	1	\$34,000	\$189,000
Marshfield	Marshfield Municipal Airport - George Harlow Field	82	\$5,177,000	\$15,897,000
Marstons Mills	Cape Cod Airport	8	\$303,000	\$937,000
Montague	Turners Falls Airport	30	\$1,420,000	\$3,924,000
Newburyport	Plum Island Airport	6	\$167,000	\$295,000
North Adams	Harriman-and-West Airport	122	\$5,427,000	\$18,398,000
Northampton	Northampton Airport	32	\$806,000	\$3,202,000
Norwood	Norwood Memorial Airport	467	\$19,854,000	\$59,266,000
Orange	Orange Municipal Airport	110	\$4,297,000	\$11,067,000
Pittsfield	Pittsfield Municipal Airport	219	\$13,421,000	\$40,262,000
Plymouth	Plymouth Municipal Airport	368	\$19,273,000	\$62,910,000
Southbridge	Southbridge Municipal Airport	57	\$2,280,000	\$6,185,000
Spencer	Spencer Airport	3	\$100,000	\$356,000
Sterling	Sterling Airport	18	\$601,000	\$1,871,000
Stow	Minute Man Air Field	210	\$7,576,000	\$25,844,000
Taunton	Taunton Municipal Airport - King Field	25	\$1,060,000	\$3,543,000
Westfield/Springfield	Westfield-Barnes Regional Airport ¹	2,174	\$138,486,000	\$236,750,000
GENERAL AVIATION AIRPORTS TOTAL		5,166	\$270,523,000	\$630,805,000

¹ Includes economic impacts associated with military operations located on the airport. See page 8 for specific military totals.

² Total impacts include all on-airport business and government agency, capital improvement project, visitor, and multiplier impacts.

TOTAL ECONOMIC IMPACTS FOR ALL AIRPORTS COMBINED



199,237

TOTAL EMPLOYMENT



\$7,243,169,000

TOTAL PAYROLL



\$24,692,585,000

TOTAL OUTPUT

Massport Airports

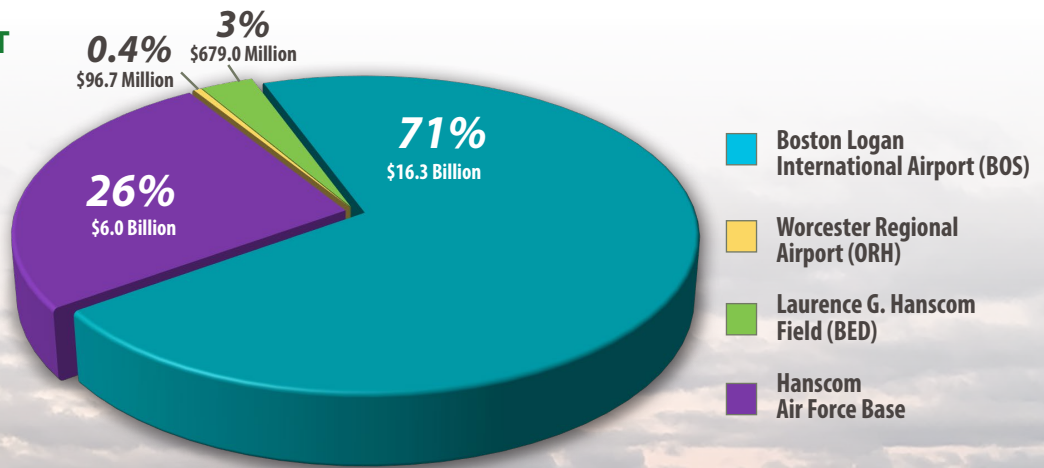


The Massachusetts Port Authority (Massport) is committed to connecting Massachusetts and New England to the world. Massport prioritizes safety, security, efficiency, and cost-effectiveness in its mission to help people and goods travel through diverse facilities found across the Commonwealth. In achieving its mission, Massport aims to serve the surrounding community who live and work around those facilities in a manner that is inclusive and economically prosperous yet mindful of the impacts on residents and the environment.

Massport owns and operates three airports - Boston Logan International Airport (BOS), Laurence G. Hanscom Field (BED), and Worcester Regional Airport (ORH) - each

playing a significant and unique role as a transportation and economic hub. Serving as the primary gateway for airline passengers in New England, BOS links the region to over 130 domestic and international destinations via more than 40 different airlines. BOS accommodated more than 38 million passengers and over 400,000 aircraft operations in 2017, ranking as the 16th busiest airport in the U.S. ORH offers commercial service provided by four different air carriers and supports general aviation and cargo services, with convenient access for a large population in central Massachusetts. BED offers general aviation access and features an ideal location off Interstate 95 just outside of Boston, with facilities for business, research, and military groups.

TOTAL ECONOMIC IMPACT
\$23.1 Billion



The data collection process, economic modeling, and state of the economy for this study update are all specifically related to 2017.



Additional Economic Benefits of Aviation in Massachusetts

MILITARY AVIATION

Dating back to colonial times, Massachusetts has had a long and distinguished military history supporting multiple branches of the service. Home to four active military installations – Hanscom AFB, Barnes ANGB, Westover ARB, and Joint Base Cape Cod – Massachusetts benefits from military aviation activities and the economic impacts attributed to each of those facilities.

Military Air Facility	Total Employment	Total Payroll	Total Output
Hanscom AFB	17,344	\$393,836,000	\$6,030,000,000
Westover ARB	4,384	\$161,257,000	\$212,534,000
Barnes ANGB	1,519	\$85,742,000	\$104,359,000
Joint Base Cape Cod	299	\$10,800,000	\$28,969,000
Total	23,546	\$651,635,000	\$6,375,862,000

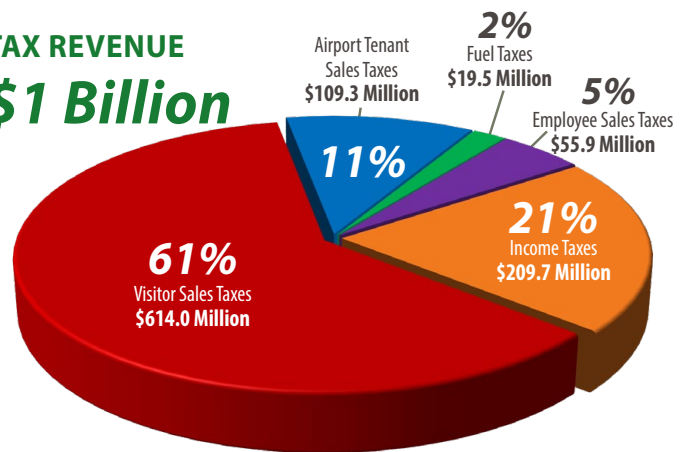


AIRPORT-RELATED TAXES

Massachusetts' airports support the businesses and associated jobs that generate substantial taxes for the Commonwealth. A tax analysis for this study examined the revenue generated by the state sales tax; local sales tax; and lodging, restaurant, rental car, state income, and aviation fuel taxes. These taxes are paid by on-airport businesses, visitors arriving by both commercial airlines and general aviation aircraft, and employees supported by airport-related activity. For example, an airport employee who refuels aircraft pays income tax. The owners of those aircraft pay aviation fuel tax, and if visiting from outside the area, they also pay hotel, restaurant, and rental car taxes. The hotel receptionist and restaurant waitress pay income taxes and sales tax on purchases in Massachusetts. Added all together, this airport-related activity generates an estimated \$1.0 billion in tax revenue for Massachusetts.

TAX REVENUE

\$1 Billion



LAURENCE G. HANSCOM FIELD

A Vital Business, Community, and Military Hub

Owned and operated by Massport, BED is strategically located 15 miles outside of Boston and adjacent to Interstate 95/128. It is the busiest general aviation airport in New England, supporting business aviation and the military. BED is a gateway for numerous sports team charters for all major professional and college sporting events in the Boston area. The tenants of BED support various non-profit charities such as Angel Flight Northeast and Pilots N Paws. Boston MedFlight has their air ambulance headquarters based at the airport.

Unique Aviation Activities In Massachusetts

Unmanned Aircraft Systems

Unmanned aircraft systems (UAS) have seen a dramatic rise in use across the country, a trend that is expected to continue. In Massachusetts alone, it is expected that the UAS industry will grow from approximately \$63 million to over \$285 million by 2026.

This growth is due to both technological advancements and the FAA's ratification of Part 107 regulations for small drone use. Part 107 stipulates that small UAS (between 0.55 lbs. and 55 lbs.) must be registered with the FAA, flown during the day within line-of-sight of the operator, kept within Class G airspace, and operated by pilots that have passed an aeronautical knowledge test, among other provisions. UAS pilots who wish to run drone operations not strictly adhering to Part 107 rules – such as night flying or operating a drone over 55 lbs. – may apply for a waiver. The FAA Reauthorization Act of 2018 repealed the Special Rule for Model Aircraft and now requires that recreational users also pass the aeronautical knowledge test.

Drones come in both fixed-wing and rotary-wing models and can be equipped with sensors such as HD cameras and thermal sensors. Some of the limitless applications for UAS include:

- precision agriculture
- construction
- infrastructure inspections
- aerial photography
- site mapping
- crowd control and security
- disaster management and response
- HAZMAT detection
- news reporting



Drones offer a long list of safety, time, quality, and cost benefits. UAS remove humans from potential hazardous situations, aid greatly in disaster response, save time and ensure quality by providing repeatable data and removing human error, and are extremely adaptable. Nearly every

benefit is tied to saving money, from the inexpensive training and greatly reduced time, to avoiding high insurance costs or those related to human injury and litigation.

Massachusetts is at the forefront of UAS use in industry and government. MassDOT's comprehensive Drone Pilot Program facilitates the adoption of drones in a manner that is safe, cost-effective, and secure and incentivizes applied research to solve realistic MassDOT drone challenges. Under the program, MassDOT uses UAS for infrastructure inspection, to oversee construction, and for emergency response. At airports specifically, MassDOT Aeronautics touts utilizing drones for runway, fence, and building inspections; obstruction surveys; wildlife surveys; and accident investigation.

MassDOT is also a participant in the Commonwealth UAS Integration Program (CUIP), a collaboration focused on creating a world-class drone ecosystem across government, industry, and academia in which innovative technologies were developed to facilitate practical integration of UAS into the Massachusetts economy. Work under CUIP includes delivery of medication to Martha's Vineyard with drone flights that go beyond visual line of sight and testing of drones at the MA UAC Test Center at Joint Base Cape Cod.

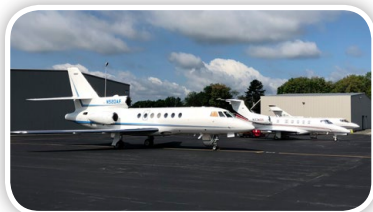
Multiple Massachusetts higher education institutions conduct drone training and research programs:

- UMassAir conducts UAS-based research projects related to operational safety and security, agriculture, infrastructure management, and public policy, while offering drone coursework.
- MIT's Lincoln Laboratory at Hanscom AFB is a participant in CUIP and home to the university's Autonomous Systems Development Facility (ASDF), a 17,000-square-foot test center equipped with motion capture sensors for accurate test results.
- Northeastern University has constructed the George J. Kostas Research Institute for Homeland Security. The facility includes a 150-foot by 200-foot, five-story-tall netted drone testing facility and will soon include an anechoic chamber for testing drones against counter-UAS interference.



Business – Airport Synergies Throughout the Commonwealth

Airports have long provided a fertile environment for business development, and businesses situated on-site have provided a consistent revenue stream to support airport operations and the surrounding community. Airports and businesses located both on- and off-site have developed unique synergies with each other to take advantage of the dynamic environment of aviation. Activities at five of the Commonwealth’s airports showcase these opportunities:

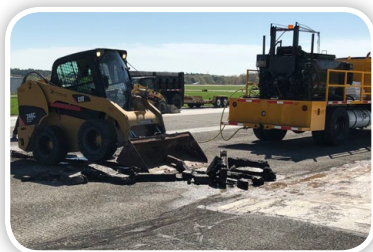


SOUTHBRIDGE – A KEY TO HYDE TOOLS SUCCESS

Established over a century ago, Hyde is a leading provider of hand tools and an active

supporter of Southbridge Municipal Airport. Hyde Tools’ CEO sits on the Southbridge Airport Commission, and his family has facilitated the airport for many years by purchasing airfield equipment and volunteering their time for regular clean-up and maintenance activities at the airport.

in the country offering the AMT curriculum. AMT students who pass their FAA exams can begin their careers (upon graduation) as highly skilled, well-paid aircraft mechanics or apply those skills to their continuing education. The first class of 14 students is scheduled to graduate in June 2019.



BEVERLY – NAA DRIVES BUSINESS AVIATION

As a lone fixed-base operator (FBO), North Atlantic Air has invested over \$1.3 million in the past 18 months

on airside and landside infrastructure improvements at Beverly Regional Airport. The boutique style FBO has greatly enhanced the customer experience, resulting in an increase of over 30 percent in business jet aircraft and a nearly 40 percent increase in the flowage of jet fuel.



MINUTE MAN AIR FIELD – STATE INVESTMENTS PROMPT TENANTS/PRIVATE DEVELOPERS TO FUND NEW AIRPORT INFRASTRUCTURE

State investments for infrastructure have

prompted tenants and private sector developers to invest monies that have brought in more tenants and funded new and renovated hangar facilities. The airport’s tenants include the National Aviation Academy – offering FAA-approved AMT training to over 100 students and Nancy’s Airfield Café, which offers acclaimed “farm-to table” dining.



WESTFIELD-BARNES – PUBLIC PRIVATE PARTNERSHIPS STIMULATE WORKFORCE DEVELOPMENT

Recognizing significant workforce development

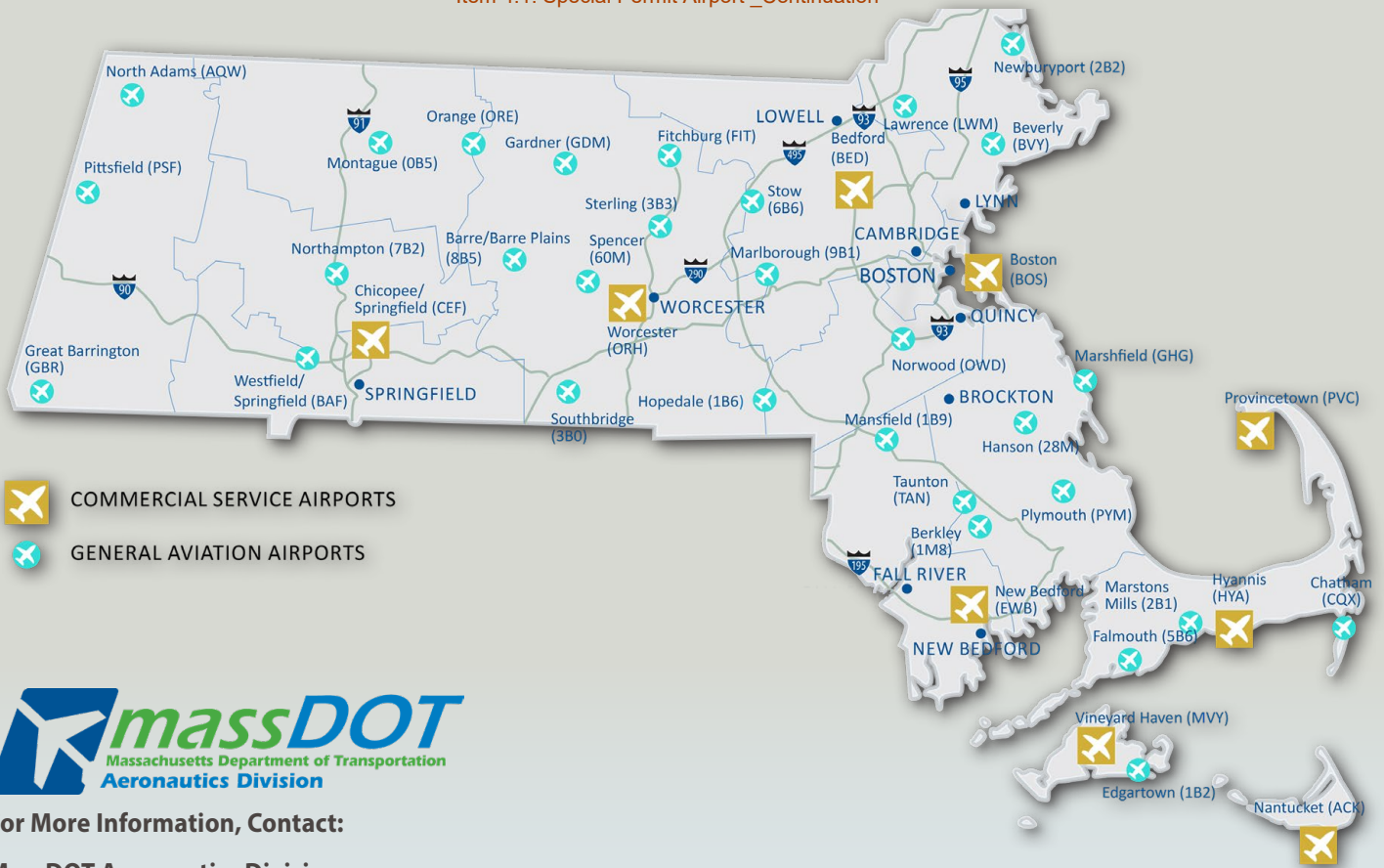
challenges in the aviation industry, the City of Westfield and Westfield Technical Academy (WTA) set out to establish an FAA-approved Part 147 Aircraft Maintenance Technician (AMT) program for high school students. WTA achieved this rigorous certification with the aid of Gulfstream and Bombardier and now stands as one of only three high schools



MARSHFIELD – COLLABORATIVE PARTNERSHIP WITH FIRST RESPONDERS BENEFITS LOCAL COMMUNITY

Marshfield Municipal

Airport-George Harlow Field is an essential public safety transportation asset for the region. The airport holds an annual “Safety Day,” highlighting the strong partnerships between local, state, and federal first responders and how these agencies are working collaboratively in response to man-made disasters. An example of this partnership occurred when the airport’s FBO, Shoreline Aviation, provided aerial support (aircraft & pilot) to the Marshfield Police Department when the State Police Air Wing’s helicopter was unavailable for a search-and-rescue effort. This search effort resulted in a timely arrest of a wanted suspect on the run within the community.



For More Information, Contact:

MassDOT Aeronautics Division

Logan Office Center
One Harborside Drive, Suite 205N
East Boston, MA 02128-2909
617-412-3680
www.mass.gov/orgs/aeronautics-division

Project Management Team:

MassDOT Aeronautics Division
Aircraft Owners and Pilots Association (AOPA)
Massachusetts Port Authority (Massport)
National Business Aviation Association (NBAA)

Photo Credits:

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Massachusetts Department of Transportation
Massachusetts Port Authority (Massport)
Town of Barnstable
439th Airlift Wing Public Affairs
WWLP-22 News
WineDineWith.us
Marshfield Police Department

Report Prepared by:



CDM Smith
with Airport Solutions Group, LLC,
City Point Partners, LLC & ThinkArgus

*Massachusetts' 39
public-use airports offer a
competitive business advantage.
Overall, for every \$100 spent
by aviation related businesses, an
additional \$56 is created as a multiplier
impact that boosts spending, payroll,
and employment benefits improving
the quality of life in Massachusetts
for all its residents.*

From: [Vivian Orłowski](#)
To: [Amy Pulver](#)
Cc: [Ambrose Clausen](#); [Mark Pruhenski](#)
Subject: Re: Ag Commission Application Letter Update
Date: Monday, April 3, 2023 1:49:38 PM

****CAUTION:****
****This is an external email, be vigilant****
*****Do not click links or open attachments unless you recognize the sender (and their email address) and know the content is safe*****

Hi Amy,

The Agricultural Commission has a current vacancy for Alternate Member and I've received a copy of Ambrose Clausen's updated application for the term ending June 30, 2023.

Ambrose is highly qualified to serve on the Ag Commission. He has an impressive track record in local agriculture and community service.

At our February 17 meeting, Ambrose met with the Agricultural Commission and we enthusiastically recommended him for appointment by the Selectboard.

Thank you,
Vivian

Vivian Orłowski, Chair
Agricultural Commission
Town of Great Barrington
334 Main Street
Great Barrington, MA 01230
EcoMotiva@gmail.com

Ambrose Clausen (he/they)
2 Samantha Lane, Housatonic MA
413-429-1254 clausenaj@gmail.com

To the Great Barrington Selectboard:

I am writing to apply for a position on the Agricultural Commission as an Alternate Member for the term ending June 30, 2023. My experience farming over the last 12 years has given me opportunity to learn not only about growth, but also about how farms impact their community and vice-versa. I am a grower, educator, community builder and passionate about creating systems of support and resource equity.

My first experience working for Farm Girl Farm in Egremont and then in Sheffield, alongside Equinox Farm, hooked me into the wonder that is food production. Soil conservation as land management wasn't introduced to me until 2014 when I joined the team at Astarte Farm in Hadley, MA. At the same time, I completed the Holistic Management International course for Farm and Ranch Planning which primed me for creating new wholesale relationships in a larger market.

Astarte Farm set out to transition to no-till completely by the end of by first year. I pursued private funding as well as state funding through USDA and NRCS programs to support some of the experimentation. The prior owner and I worked side-by-side to develop techniques and modify equipment that made the transition possible. We devised new methods to transplant and manage cover crops quickly as we saw results in crop health, environmental resilience and insect diversity boom. Through a USDA grant we set aside one tenth of an acre dedicated to pollinator habitat and worked directly with the Xerces Society to develop perennial food and fodder sources for pollinators and predators year-round.

This year I will be working at Taft Farms in Great Barrington as well as the Berkshire Conservation District building their Healthy Soils Initiative and No-Till Program Coordinator. I am excited to be a part of shaping town and county efforts towards a deeper understanding and respect for the environment we rely on as a species.

Sincerely,

Ambrose Clausen

TOWN OF GREAT BARRINGTON

2023 ANNUAL TOWN MEETING, MAY 1, 2023

INDEX OF WARRANT ARTICLES

1. Authorize Revolving Fund Limits
2. Elected Officials' Salaries
3. FY24 Operating Budget
4. Capital Spending Authorization for General Fund
5. Authorize funding of Community Programs
6. FY24 Wastewater Operating Budget
7. Capital Authorization for Wastewater Enterprise Fund
8. Authorize Re-Purpose of Wastewater Enterprise Fund Borrowing Authorization
9. FY24 Regional School Assessment
10. FY24 Out of District Vocational Tuition and Transportation
11. Authorize use of Free Cash to Reduce the Tax Levy
12. Authorization to pay Prior Fiscal Years' Invoices
13. Authorize funding to the Stabilization Account
14. Authorize funding to the Capital Stabilization Account
15. Authorize Establishment of OPEB Trust Fund
16. Authorize Re-Purpose of Pension Reserve Trust Fund
17. Authorize Transfer of Funds from Town's Sale of Cemetery Lots
18. Authorize Funding to Southern Berkshire Ambulance
19. Authorize Funding for Temporary Housatonic Water Works Relief
20. Authorize Funding to the Unemployment Trust Fund
21. Authorize Funding to the Affordable Housing Trust Fund
22. Authorize Funding for Town Website Upgrade
23. Authorize Funding for Legal Fees Associated with Host Community Agreement Renewals
24. Rescinding of Old Borrowing Authorizations
25. Accept Massachusetts General Law Chapter 41 Section 110A
26. Community Preservation Fund Reserves/Appropriations
27. Community Preservation Projects
28. Open Space Land Acquisition
29. Acquisition of Land and/or Easements on Lake Mansfield Road
30. Driveway Regulations
31. Zoning – Definitions
32. Zoning – Performance Standards
33. Zoning – Table of Use Regulations
34. Zoning – Residential Regulations
35. Zoning – Route 7 Tree Requirements
36. Zoning – B-2 Zone Affordable Housing
37. Zoning – Amend the Zoning Map on Silver Street
38. Convey Interest in Land Along Old Rout 7 Path
39. Zoning – by Citizen Petition
40. Citizen Petition
41. Citizen Petition
42. Citizen Petition
43. Citizen Petition

WARRANT
ANNUAL TOWN MEETING
2023
COMMONWEALTH OF MASSACHUSETTS BERKSHIRE, SS

To Paul E. Storti, Chief of Police of the Town of Great Barrington, in said Berkshire County,

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the Inhabitants of said town, qualified to vote in town affairs, to meet at the Monument Mountain High School Auditorium in Great Barrington on Monday, May 1st, 2023 and if needed Thursday May 4th, 2023 at 6:00 P.M., then and there to act on the following:

ARTICLE 1: AUTHORIZE REVOLVING FUND LIMITS

To see if the Town will vote to fix the maximum amount that may be spent during fiscal year 2024 beginning on July 1, 2023 for the revolving funds as established in the Town's by-laws for certain departments, boards, committees, commissions, agencies or officers in accordance with M.G.L. Chapter 44, Section 53E ½; or take any other action relative thereto.

Revolving Fund	Department, Board, Committee, Agency or Officer	FY2024 Spending Limit
Plumbing Inspections	Building Department	\$20,000
Wiring Inspections	Building Department	\$60,000
Gas Inspections	Building Department	\$15,000
Cemetery	Public Works Department	\$ 5,000
COA Transportation	Council on Aging	\$40,000

Recommended by the Finance Committee and Selectboard

ARTICLE 2: ELECTED OFFICIALS' SALARIES

To see if the Town will vote to fix the salaries of all elected officials for the period of July 1, 2023 to June 30, 2024 as indicated below:

Elected Officials' Salaries:

Selectboard: \$24,500 (\$4,900 per Selectboard member)

Recommended by the Finance Committee and Selectboard

ARTICLE 3: ARTICLE 4: FY24 OPERATING BUDGET

To see if the Town will vote to raise and appropriate or transfer from available funds such sums of money necessary for the operation of the several departments in the Town for the ensuing year for the purposes outlined below; or to take any other action relative thereto.

<u>General Government</u>	
Town Manager/Selectboard	\$475,433
Finance Committee/Reserve Fund	100,300
Financial Coordinator/Town Accountant	191,778

Technology	310,760
Assessors' Office	200,623
Treasurer/Collector	274,577
Human Resources	42,543
Town Clerk/Elections	149,612
Conservation Commission	49,981
Planning Board	5,450
Zoning Board of Appeals	1,250
Office of Planning/Community Development	167,260

Public Safety

Police Department	\$1,986,174
Fire Department	838,688
Communications/Emergency Management	24,461
Building Inspector	190,636
Animal Control	11,850

Department of Public Works

Buildings and Grounds	\$897,136
Highway	1,963,254

Cultural/Recreation/Human Services

Health Department	\$140,229
Human Services	25,000
Council on Aging	177,997
Veterans' Affairs	137,875
Libraries	625,666
Parks & Recreation	132,500
Various Boards/Commissions	20,000

Miscellaneous

Insurance	\$1,767,153
Debt Service	2,495,750
Retirement	1,157,483
Celebrations & Events	16,500

Total General Fund \$14,577,919

Recommended by the Finance Committee and Selectboard

ARTICLE 4: CAPITAL SPENDING AUTHORIZATION

To see if the Town will vote to appropriate \$8,159,100 or any other sum of money, in the following approximate amounts and for the following purposes, and for the payment of all other costs incidental and related thereto, and to determine whether this appropriation shall be raised by taxation, transferred from available funds, and/or borrowing or otherwise; or to take any other action relative thereto.

Capital Items

Police Tasers	\$78,000
Police Firearms Replacement	29,000
Police Cruiser	65,000
Fire UTV with Enclosed Trailer	44,000
DPW Ride-on Leaf Blower	18,000
DPW Landscaping Equipment	20,000
DPW Trucks (3)	240,000
DPW Loader with Attachments	293,200
DPW Excavator	91,200
Buildings and Grounds Improvements	1,325,000
Street and Bridge Improvements	5,235,700
Parks Improvements	370,000
Technology Broadband Project	350,000
Total	\$8,159,100

Recommended by the Finance Committee and Selectboard

ARTICLE 5: AUTHORIZE FUNDING OF COMMUNITY PROGRAMS

To see if the Town will vote to appropriate from Free Cash a sum of money representing amounts received under host community agreements with marijuana establishments to fund various community programs, under an application and approval process to be administered by the Town Manager; or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 6: FY24 WASTEWATER TREATMENT PLANT BUDGET

To see if the Town will vote to appropriate from the receipts of the Wastewater Treatment Plant such sums of money necessary for the operation of the Sewer Division for the ensuing year for the purposes outlined below; or to take any other action relative thereto.

Wastewater Treatment Plant

Salaries	\$534,384
Expenses	877,640
Insurance/Benefits	336,141
Miscellaneous/Transfers	283,677
Debt Service	792,869
Total Wastewater Treatment Plant	\$2,824,711

Recommended by the Finance Committee and Selectboard

ARTICLE 7: CAPITAL AUTHORIZATION FOR WASTEWATER ENTERPRISE FUND

To see if the Town will vote to appropriate \$614,400, or any other sum of money, for Wastewater capital improvements, in the following approximate amounts and for the following purposes, and for the payment of all other costs incidental and related thereto, and to determine whether this appropriation shall be raised by taxation, transferred from available funds, and/or borrowing or otherwise; or to take any other action relative thereto.

Wastewater Capital Items

Mower	\$14,400
Engineering Services	200,000
Collection System Improvements	400,000
Total	\$614,400

Recommended by the Finance Committee and Selectboard

ARTICLE 8: AUTHORIZE RE-PURPOSING OF WASTEWATER ENTERPRISE FUND BORROWING APPROPRIATION

To see if the Town will vote to appropriate the sum of \$300,000, the unexpended portion of the \$400,000 authorized to be borrowed under Article 8 of the warrant for the June 22, 2020 Annual Town Meeting for sewer line replacements at Main and Maple Streets and for which no further liability remains, to pay the cost of Wastewater departmental equipment and wastewater system improvement and repair projects, including any planning, engineering, and other costs incidental and related thereto; or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 9: FY24 REGIONAL SCHOOL ASSESSMENT

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Nineteen Million, Eight Hundred Eighty-nine Thousand, Eight Hundred and Seventy-Four Dollars (\$19,889,874) for the operating assessment, and Four Hundred Forty-Three Thousand, Eight Hundred and Fifty-Nine Dollars (\$443,859) for the capital assessment, for a total assessment of Twenty Million, Three Hundred Thirty-Three Thousand, Seven Hundred and Thirty-Three Dollars (\$20,333,733) of the Berkshire Hills Regional School District; or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 10: FY24 OUT OF DISTRICT VOCATIONAL TUITION AND TRANSPORTATION

To see if the Town will vote to raise and appropriate \$140,000 to fund the Fiscal Year 2024 tuition and transportation for out of district vocational education, in accordance with Chapter 74 of the Massachusetts General Laws; or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 11: AUTHORIZE USE OF FREE CASH TO REDUCE THE TAX LEVY

To see if the Town will vote to authorize the use of Free Cash to reduce the tax levy for Fiscal Year 2024; or to take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 12: AUTHORIZATION TO PAY PRIOR FISCAL YEARS' INVOICES

To see if the Town will vote to authorize the payment of prior fiscal year invoices from the FY23 insurance budget in the amounts set forth below; or take any other action relative thereto.

Insurance:	\$87.55 to Berkshire Medical Center	Account Number:	01945-57500
	\$195.00 to Custom Drug Testing, Inc.	Account Number:	01945-57500

Recommended by the Finance Committee and Selectboard

ARTICLE 13: AUTHORIZE FUNDING TO THE STABILIZATION ACCOUNT

To see if the Town will vote to appropriate from Free Cash a sum of money to the Stabilization Fund, or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 14: AUTHORIZE FUNDING TO THE CAPITAL STABILIZATION ACCOUNT

To see if the Town will vote to appropriate from Free Cash a sum of money to the Capital Stabilization Fund, or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 15: AUTHORIZE ESTABLISHMENT OF OTHER POST-EMPLOYMENT BENEFITS (OPEB) TRUST FUND

To see if the Town will vote to accept to accept section 20 of General Laws Chapter 32B to provide for the establishment of an “Other Post-Employment Benefits Liability Trust Fund;” and establish an Other Post-Employment Benefits Liability Trust Fund (OPEB Fund) to account for appropriations made to cover current and future liabilities of the Town for group health insurance benefits for retirees and their dependents; or take any other action relative thereto.

ARTICLE 16: AUTHORIZE RE-PURPOSE OF PENSION RESERVE TRUST FUND

To see if the Town will vote to transfer the balance of the monies in the Pension Reserve Trust Fund established pursuant to the vote under Article 32 of the warrant for the 1986 Annual Town Meeting into the OPEB Fund; or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 17: AUTHORIZE TRANSFER FUNDS FROM TOWN’S SALE OF CEMETERY LOTS FUND

To see if the Town will vote to appropriate and transfer the sum of \$30,000 from the Sale of Cemetery Lots Fund to pay for a comprehensive cemetery study and for general maintenance expenses for the Town’s cemeteries; or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 18: AUTHORIZE FUNDING TO SOUTHERN BERKSHIRE AMBULANCE

To see if the Town will vote to appropriate \$151,294 from Free Cash to support the operation of the Southern Berkshire Ambulance service (Southern Berkshire Volunteer Ambulance Squad, Inc.); or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 19: AUTHORIZE FUNDING FOR TEMPORARY HOUSATONIC WATER WORKS RELIEF

To see if the Town will vote to appropriate \$150,000 from Free Cash to provide temporary relief to residents serviced by Housatonic Water Works.

Recommended by the Finance Committee and Selectboard

ARTICLE 20: AUTHORIZE FUNDING TO THE UNEMPLOYMENT TRUST FUND

To see if the Town will vote to appropriate \$20,000 from Free Cash to the Unemployment Trust Fund, or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 21: AUTHORIZE FUNDING TO THE AFFORDABLE HOUSING TRUST FUND

To see if the Town will vote to appropriate \$175,000 from Free Cash to the Affordable Housing Trust Fund, or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 22: AUTHORIZE FUNDING FOR TOWN WEBSITE UPGRADE

To see if the Town will vote to appropriate \$30,600 from Free Cash for upgrades to the Town's website, including improvements to streamline online services, or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 23: AUTHORIZE FUNDING FOR LEGAL FEES ASSOCIATED WITH HOST COMMUNITY AGREEMENT RENEWALS

To see if the Town will vote to appropriate \$15,000 from Free Cash to pay legal fees associated with upcoming renewals of Host Community Agreements in accordance with Cannabis Control Commission guidelines, or take any other action relative thereto.

Recommended by the Finance Committee and Selectboard

ARTICLE 24: RESCINDING OF OLD BORROWING AUTHORIZATIONS

To see if the Town will vote to rescind the following amounts that have been authorized to be borrowed by vote of Town Meeting, but which are no longer needed for the purposes for which they were initially approved, or to take any other action relative thereto:

<u>Unused Amount</u>	<u>Date of Approval</u>	<u>Warrant Article</u>	<u>Original Purpose</u>
\$45,000	05/09/2016	4	Fire Department Equipment (Air Packs)
11,300	05/09/2016	4	Police Computer (Hardware)
24,000	05/09/2016	4	Police Phone System
45,600	05/09/2016	4	Police Cruisers
45,000	05/09/2016	4	Pickup Truck
2,500	05/09/2016	4	Voting Machines
9,000	06/22/2020	6	(2) Police Cruisers
2,100	06/22/2020	6	Jaws of Life
1,000	06/22/2020	6	4600 Dump Truck w/Plow and Sander
900	06/22/2020	6	Roadside Mower
3,700	06/22/2020	6	(2) Mowers
250	06/22/2020	6	1-Ton Roller
13,400	06/22/2020	8	Sewer Department Service Vehicle

ARTICLE 25: AUTHORIZE CLOSING OF TOWN OFFICES ON SATURDAY, PER MASSACHUSETTS GENERAL LAWS CHAPTER 41 SECTION 110A

To see if the Town will vote, pursuant to Chapter 41, Section 110A of the Massachusetts General Laws, to authorize the closing of any public office in the Town on any or all Saturdays as may be determined from time to time; or to act in any other manner in relation thereto.

ARTICLE 26: COMMUNITY PRESERVATION FUND RESERVES & APPROPRIATIONS

To see if the Town will vote to appropriate, or reserve for future appropriation, from the Community Preservation Fund, the following amounts recommended by the Community Preservation Committee for FY24, with each item considered a separate appropriation; or to take any other action relative thereto.

Reserves:

From FY24 revenues for Historic resources reserve	\$55,000
From FY24 revenues for community housing reserve	\$55,000
From FY24 revenues for open space/recreation reserve	\$0

Appropriations:

From FY24 revenues for debt service on Memorial Field project, and costs related thereto	\$62,000
From FY24 revenues for administrative expenses	\$15,000
Balance of FY24 revenues for FY24 budgeted reserve	\$363,000

Recommended by the Community Preservation Committee

ARTICLE 27: COMMUNITY PRESERVATION PROJECTS

To see if the Town will vote to appropriate from the Community Preservation Fund for FY24 the following amounts recommended by the Community Preservation Committee with each item to be considered a separate appropriation; or to take any other action relative thereto.

Project	Total Appropriation	Source of Appropriation	
		FY24 Revenues	Fund Balance

<i>Affordable Housing</i>			
1	Town: Affordable Housing Trust Fund	\$265,000	\$210,000
2	Construct, Inc.: Housing feasibility	<u>\$150,000</u>	\$150,000
	Subtotal, Affordable Housing	\$415,000	
<i>HISTORIC RESOURCES</i>			
3	Town, Brown mausoleum preservation	\$20,000	\$20,000
4	First Congregational Church, restoration of Manse exterior	\$225,000	\$225,000
5	Alander Group, for historic preservation of 322 Main Street	\$150,000	\$150,000
6	BAB Capital 77 LLC, for preservation of The Cove, phase 1	<u>\$50,000</u>	\$50,000
	Subtotal, Historic Resources	\$445,000	
<i>OPEN SPACE & RECREATION</i>			
7	Conservation Commission for the McAllister Wildlife Refuge preservation project	\$20,000	\$20,000
8	Berkshire Natural Resources Council, for Three Mile Hill Trail improvements	<u>\$40,000</u>	\$40,000
	Subtotal, Open Space & Recreation	\$60,000	
	TOTAL	\$920,000	

Recommended by the Community Preservation Committee

ARTICLE 28: OPEN SPACE LAND ACQUISITION

To see if the Town will vote to acquire, by donation, purchase, eminent domain, or other legal means a parcel of land containing approximately 36,000 square feet on and easterly of Bentley Avenue, Great Barrington and owned by the Community Development Corporation of South Berkshire, Inc., for open space purposes, under the jurisdiction of the Parks Commissioners pursuant to M.G.L. Chapter 45, section 3 or otherwise under the jurisdiction of the Town; said land being shown as "Parcel A" on Plat P-198 recorded at the Southern Berkshire Registry of Deeds on December 22, 2011, and a copy of which is on file with the Town Clerk; to determine whether to appropriate a sum of money for such acquisition; and to authorize the Parks Commissioners and the Selectboard to take all actions and execute all documents necessary in connection therewith; or to take any other action relative thereto.

ARTICLE 29: ACQUISITION OF LAND AND/OR EASEMENTS ON LAKE MANSFIELD ROAD

To see if the Town will vote to authorize the Selectboard to acquire certain parcels of land and certain permanent easements and/or temporary construction easements through all legal means including donation, purchase, or eminent domain, in order to implement improvements along Lake Mansfield Road, said land areas being shown on a set of six draft plans which are on file with the Town Clerk; to appropriate a sum of money for such acquisition; and to authorize the Selectboard to take all actions and execute all documents necessary in connection therewith; or to take any other action relative thereto.

ARTICLE 30: AMEND TOWN BYLAW FOR DRIVEWAYS

To see if the Town will vote to amend Chapter 153 of the Town Code, section 153-14.C, as set forth in this article, or to take any action relative thereto.

Proposed deletions of existing text are ~~struck through~~. Proposed insertions are underlined.

No more than two driveways shall normally be allowed for any property unless there is a clear necessity for more. Leasing of a portion of the property does not affect this requirement. If a number of establishments will be constructed on one parcel, a service road may be required, to connect with allowable exit and entrance.

A third driveway may be permitted if it will result in a clear benefit to the Town. Such benefit shall be identified as part of a written finding in granting the permit and may include, but not be limited to, additional housing, increased public safety or amenity, reduced public road maintenance, and/or job creation.

ARTICLE 31: ZONING - DEFINITIONS

To see if the Town will vote to amend Section 11.0 of the Zoning Bylaw, as set forth in this article, and to make related scrivener's corresponding changes of terminology in those portions of the Zoning Bylaw where the defined terms being amended are used, or to take any other action relative thereto.

Purpose of the amendments: Because the term "family" means a group of related people, the term can exclude the wide variety of household living arrangements that exist among people not related by blood, marriage or adoption. These amendments substitute the word "unit" in place of the term "family" in zoning definitions such as "dwelling, single family." Using the term unit instead of family will ensure our zoning does not exclude non-nuclear families, unmarried couples, group homes, and people who choose to live together in group housekeeping arrangements.

Proposed deletions of existing text are ~~struck through~~. Proposed insertions are underlined.

ACCESSORY DWELLING UNIT: a subordinate dwelling unit on the same lot as a primary single ~~residential family unit dwelling~~ or two-family unit dwelling residential use, whether in an accessory building or within the same building as the primary dwelling, with provisions for independent cooking, living, sanitation and sleeping. A Movable Tiny House (MTH) connected to electricity, water, and sewer or septic that has its chassis, wheels, and hitch concealed shall be considered an accessory dwelling unit.

DWELLING, ~~MULTIFAMILY~~MULTI-UNIT: A residential building containing three or more dwelling units designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE FAMILY UNIT: An individual detached residential dwelling unit, other than a mobile home, ~~designed for and occupied by one family only.~~

DWELLING, TWO-FAMILY UNIT: A detached residential building containing two dwelling units, ~~designed for occupancy by not more than two families.~~

DWELLING UNIT: ~~One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one family. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.~~

FAMILY: ~~One or more individuals related by blood, marriage or adoption, or not more than five individuals who are not so related, living together as a single housekeeping unit.~~

LIVE/WORK UNITS: Space used by artists, craftspeople or persons engaged in creative services for the following two purposes: making items and/or performing services and residing on the premises. Such residency shall be limited to one ~~family~~ household per unit.

MOBILE HOME: A detached ~~single-family~~ dwelling unit with substantially all of the following characteristics:

- Mobile homes must meet American Standard Association Code Provision A-119-1.
- Mobile homes must contain at least 500 square feet of living area.
- All occupied mobile homes must be installed in conformance with the Massachusetts Building Code and any special requirements as prescribed in an issued special permit.
- Designed for long-term occupancy by a single household and containing sleeping accommodations, flush toilet, a tub or shower, bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
- Designed to be transported after fabrication on its own wheels or on flat bed or other trailers or detachable wheels.
- Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connections to utilities and the like.

PLANNED UNIT RESIDENTIAL DEVELOPMENT: Any ~~multifamily~~ multi-unit development consisting of 10 or more dwelling units on a single lot or on separate lots within the same development, whether for rental or for sale, either as condominiums or under cooperative ownership.

ARTICLE 32: ZONING – PERFORMANCE STANDARDS

To see if the Town will vote to amend Section 6.4, Performance Standards, of the Zoning Bylaw, as set forth in this article, or to take any other action relative thereto.

Purpose of the amendments: This proposal is to amend Section 6.4, Performance Standards, in order to codify certain criteria by which all land uses must abide, rather than leaving these criteria to the discretion of a permit granting authority. An example is exterior lighting, which is frequently a concern of neighbors and of permitting boards, but for which currently there are only generalized regulations.

Proposed deletions of existing text are ~~struck through~~. Proposed insertions are underlined.

6.4.1 General. Hereafter, no land, building or structure in any district shall be used in a manner that creates any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare or any other dangerous or objectionable substance, condition or element in any amount that adversely affects the surrounding area or premises. The determination of the existence of any dangerous or objectionable elements shall be made at or beyond the property lines of the use creating such elements, wherever the effect is greatest. Any use already established on the effective date of this Bylaw shall not be altered or modified to conflict with, or further conflict with, these performance standards.

6.4.2 Deposited Materials. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces. Erosion control measures such as covering, planting, paving or other means to eliminate wind and water erosion shall be utilized to stabilize bare earth and/or stockpiled materials at all times.

6.4.3 Fire Hazard; Pests. All materials or wastes which constitute a fire hazard or which may be edible by or attractive to rodents or insects shall be stored outdoors only in closed containers.

6.4.4 Discharges. No discharge at any point into any public sewer, private sewage disposal system or stream, lake or pond or into the ground of any material of such nature or temperature as may contaminate any water supply or cause the emission of dangerous or offensive elements shall be permitted, except in accordance with standards approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Great Barrington.

6.4.5 Site Design. All site development shall meet the following objectives and shall be reviewed at staff level for compliance. Any deviation from these criteria shall require approval by the Planning Board through the Site Plan Review process

1. Existing grade should be changed by no more than six feet, and resulting in a balance on site between cut and fill, except for basement and cellar excavations.
2. Site circulation. Site circulation should have clarity from the driver's perspective, shall be designed to minimize glare from headlights, and shall be designed to promote safe pedestrian access.
3. Pedestrian access. Pedestrian access should be provided among all facilities on the site, including parking, between them and the street and between them and adjacent premises developed for uses open to the public to ensure accessibility and pedestrian and vehicular safety, both on the site and accessing and exiting the site.
4. There shall be no contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances in quantities greater than those normally associated with household use.
5. Drainage controls shall be specifically designed for the site based on the project's and site's characteristics, and such controls shall be detailed on application documents.
6. Parking, storage, or other outdoor service areas viewed from public ways and abutting properties residentially used or zoned shall be screened.
7. All lighting shall comply with Subsection 6.4.6 of this Bylaw.
8. All projects shall comply with Sections 6.2 and 6.3 of this Bylaw. The removal of trees of 6" caliper or larger is discouraged.

6.4.6 Lighting. It is the intent of this Section to establish lighting standards that result in exterior lighting systems that are designed, constructed, and installed to control glare and light trespass, to minimize obtrusive light, to conserve energy and resources while maintaining safety, visibility, security of individuals and property, and curtailing the degradation of the nighttime visual environment.

The following standards shall apply to all exterior light fixtures, whether new or replacement, except for temporary lights.

1. All lights shall have full horizontal shielding so that light shines only downward.
2. Any LED lights shall have a color temperature of 3,000 Kelvin or less.
3. No light shall remain permanently illuminated between the overnight hours of 11:00 PM to 5:00 AM unless the light can be dimmed to 50 percent or less luminance, except for lights at emergency facilities. Motion sensors and photo cells may be utilized to turn on lights or to increase lighting to full luminance.
4. The bottom of the light source on a pole light shall be no higher than 15 feet above finish grade unless specified otherwise in this bylaw.
5. Light fixtures shall be located and/or shielded so that illumination onto any adjacent property is no greater than 0.1 footcandles.

6.4.7 Special Permit. The Planning Board may, by special permit pursuant to Section 10.4, authorize a deviation from any requirement set forth in this Section 6.4. In instances where an application is pending before a different Special Permit Granting Authority, that body may, in accordance with a finding by the Planning Board, authorize the deviation from the requirements of Section 6.4.

ARTICLE 33: ZONING – TABLE OF USE REGULATIONS

To see if the Town will vote to amend Section 3.1.4, Table of Use Regulations, of the Zoning Bylaw, as set forth in this article, or to take any other action relative thereto.

Purpose of the amendments: This proposed amendment is intended to regulate three-unit residential uses in the same manner as two-unit residential uses; in other words, three-unit structures would be allowed by right in all zones, rather than by special permit in residential zones and by right in business zones. It would thus classify as multi-unit residential uses those uses with four or more units, and those would be allowed as per A (3) of the Table of Use Regulations.

Proposed deletions of existing text are ~~struck through~~. Proposed insertions are underlined.

Permitted Use		ZONING DISTRICT ¹														ADDITIONAL APPLICABLE REGULATIONS	
		R1A	R1B	R2	R3	R4	B	HVC	B1	B2	B2A	B2X	B3	MXD	I		I2
A. Residential uses																	
(1)	Dwelling, <u>Single family unit</u>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	SB	SB
(2)	Dwelling, <u>Two-family and three-unit</u>	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²	Y ²
(3)	Dwelling, <u>multi-unit family</u>																
	<u>3 4 to 8 units</u>	SB	SB	SB	SB	N	Y	SB	SB	Y	SB	Y	Y	Y	N	SB	
	<u>9 units or more</u>	N	N	N	SB	N	SB	SB	N	SB	SB	SB	Y	SB	N	SB	

²~~NOTE: Dimensional and lot size requirements and other conditions as set forth in 8.1.1 and 8.1.4 shall apply even where the use is permitted by right.~~

ARTICLE 34: ZONING – RESIDENTIAL REGULATIONS

To see if the Town will vote to amend Sections 8.1, 8.2, and 8.3 of the Zoning Bylaw, as set forth in this article, or to take any other action relative thereto.

Purpose of the amendments: This proposal is intended to amend Sections 8.1 and 8.3 of the Bylaw to reflect that two-unit and three-unit residential uses are now regulated similarly. This will also remove the site plan review requirement for accessory dwelling units, and for two- and three-unit residential uses. Instead the design, performance, and neighborhood impact of these uses will be required to comply with clear criteria set forth in the Bylaw at Section 6.4.

Proposed deletions of existing text are ~~struck through~~. Proposed insertions are underlined.

8.1 TWO- AND THREE-UNIT FAMILY RESIDENTIAL USES OF A SINGLE LOT

8.1.1 General. The two- and three-unit family residential use of a single lot is permitted as set forth in Section 3.1.4, Table of Use Regulations. For the purposes of this section, any set of two or three dwelling units on a single lot, whether in the same building or in separate buildings, shall be considered two- or three-unit family residential use. ~~except where Section 8.2 applies.~~

~~**8.1.2 Site Plan Approval Required.** Two-family residential use of a single lot shall require site plan approval from the Planning Board. Every application for a site plan approval shall be accompanied by site plans, floor plans and elevations meeting all applicable requirements of this Bylaw.~~

8.1.32 Requirements. All two-family and three-unit residential uses shall comply with the following requirements:

- ~~1. All repairs, renovations or construction specified by the applicant in his application shall be made to the satisfaction of the Inspector of Buildings before an occupancy permit is issued.~~

~~2. There shall be separate toilet, bath and kitchen facilities for each dwelling unit.~~

~~3.~~ 1. Fire escapes and outside stairways leading to a second or higher story, where practicable, shall: not be located on any building wall facing a street; be located on the rear or side of the building; and comply with Section 4.2.3, Permitted Projections into Yards.

~~4.~~ 2. One and one-half (1.5) off-street parking spaces shall be provided for each dwelling unit, located in such a manner that permeable surfaces, including lawns and/or garden areas but exclusive of all structures, driveways, walkways and parking spaces, shall be no less than 15% of the total area of the property. Deviation from this requirement may be permitted in accordance with Section 6.1.9.

~~5.~~ 3. Drainage controls shall be specifically designed and detailed on drawings. ~~Drainage improvements may be required as a condition of the site plan review approval.~~

~~6. Any other conditions specified by the Planning Board.~~

8.1.4 Notice. ~~The Planning Board shall notify the Inspector of Buildings of its site plan review approval and any conditions prior to the issuance of a building permit.~~

8.2 ACCESSORY DWELLING UNIT (ADU)

8.2.1 General. An accessory dwelling unit (ADU) is permitted in any district, except where an ADU is proposed in a legally pre-existing nonconforming structure, in which case the ADU shall require a special permit issued by the Zoning Board of Appeals in accordance with Sections 5.0, 8.2, and 10.4.

~~**8.2.2 Site Plan Approval.** Any new ADU shall be subject to site plan review and approval based upon the criteria set forth herein and in Section 10.5. The Planning Board will conduct the site plan review in accordance with Section 10.5 and all criteria specified in Section 8.2. An approved site plan for an ADU is required prior to the issuance of the building permit by the Building Inspector. The Board of Health shall give its approval prior to the issuance of a building permit.~~

8.2.3 2 Requirements.

1. Only one ADU may be established per lot.

2. An ADU may not in any case be larger than 900 square feet of net usable floor area. If a dwelling unit greater than 900 square feet of net usable floor area is created within a single ~~family unit~~ home, the residence will be considered a two ~~family unit~~ dwelling and will be subject to the requirements of Section 8.1 of this Bylaw.

3. The structure in which the ADU is to be located must meet the zoning requirements for residences, except when it is a legally pre-existing nonconforming structure and the Zoning Board of Appeals authorizes the use by special permit.

4. One parking space shall be provided in addition to that required by the present building. All required parking spaces, including the parking space for the ADU, must be provided no closer to the street than the building setback line, ~~unless other specified provisions are made and agreed to by the permit granting authority. The Planning Board, or SPGA, in accord with a finding by the Planning Board, may, by special permit pursuant to Section 10.4, authorize a deviation from this requirement.~~ Deviation from these requirements may be permitted in accordance with Subsection 6.1.9.

5. An ADU may be created within a new or a previously existing single ~~family unit~~ or two ~~unit family~~ residential structure.

6. A home occupation may be allowed within any dwelling unit and/or accessory structure. Any such home occupation shall meet the provisions of Section 3.3.

7. Fire escapes and outside stairways leading to a second or higher story shall comply with Section 4.2.3.

8. Farm Dwellings: More than one ADU shall be allowed on lands used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture, or viticulture as defined in MGL Ch. 128, Sec 1A, provided such ADUs are solely used for the farm's ~~full-time~~ employees.

9. The Board of Health or its agent shall give its approval prior to the issuance of a building permit.

8.3 ~~MULTI-UNIT~~FAMILY DWELLINGS

8.3.1 General. Multi-unit residential family uses may be permitted by-right or by special permit as set forth in the Table of Use Regulations, and All multi-family uses shall require site plan approval in accordance with Section 10.5.

8.3.2 Definition. For the purposes of this section, the placing of more than ~~two~~three dwelling units on a single lot, under any circumstances, shall be considered a multi-unit family use residential use. Example: a lot with a three-unit residential use and an accessory dwelling unit would be classified as a multi-unit residential use.

8.3.3 Requirements. Multi-unit family dwellings shall comply with all the following special requirements ~~and procedures, as applicable, which shall be made conditions of the special permit.~~ The Special Permit Granting Authority (SPGA) may waive any or all of these requirements for multi-unit family dwellings in existence as of May 9, 2016, after making a specific finding of why the requirement should not apply, and shall note any waivers in the Special Permit decision.

~~1. In a multifamily development, more than one principal building may be permitted on a lot, provided that there shall be at least 2,500 square feet of lot area for each dwelling unit. The SPGA may, by special permit, allow the lot area per unit to be less than 2,500 square feet per unit.~~

~~2.1~~ Permeable open space on the lot, including lawn and/or garden area but exclusive of structures, driveways, walkways and parking spaces, shall be no less than 50% of the total area of the property.

~~3.2~~ One and one-half (1.5) off-street parking spaces shall be provided for each dwelling unit. No space shall be considered available for parking if such space reduces the effective width of a driveway providing access to more than one dwelling unit to less than 12 feet. In the event that the required parking spaces cannot be provided on the property, deviation from this requirement may be permitted in accordance with Section 6.1.9.

8.3.4 Procedures. ~~When filing a special permit application, if required, the applicant shall submit to the SPGA at least six copies of a site plan showing, in addition to all characteristics specified in Section 10.5, the general plan and elevations of the buildings, as well as provisions for proposed parking spaces, interior roadways, walkways, drainage and recreational facilities.~~

~~1. Such site plan, subject to such amendment thereof as may be required by the Planning Board under the provisions of this Bylaw shall be made a part of the building permit.~~

~~2. The SPGA shall notify the Inspector of Buildings of its approval of a special permit.~~

8.3.5 Occupancy Permit. ~~All repairs, renovations or construction specified by the applicant in his application shall be completed to the satisfaction of the Inspector of Buildings before an occupancy permit is issued.~~

8.3.6 8.3.4 Exemptions in Downtown B District, B2X, HVC, MXD District, and General Business B2 District. The requirements of Section 8.3.3 shall not apply to any multifamily dwelling in a single existing building within the Downtown Business B District, B2X, B2, HVC, or MXD District.

ARTICLE 35: ZONING – ROUTE 7 TREE REQUIREMENTS

To see if the Town will vote to amend Section 6.2.7, of the Zoning Bylaw, as set forth in this article, or to take any other action relative thereto.

Purpose of the amendments: This proposal is to amend Route 7 landscaping requirements because the existing requirement for a new tree for every 25 feet of frontage can be impractical.

Proposed deletions of existing text are ~~struck through~~. Proposed insertions are underlined.

6.2.7 Required Trees. At least one deciduous tree shall be planted within the lot's front setback for every 25 feet of frontage on a lot on which a new building is erected or when any activity or use requires Site Plan Review as set forth in Section 10.5.1. The tree or trees shall be planted between the roadway and the building line that is closest to the roadway, provided that this does not interfere with utilities. The Planning Board, as part of its Site Plan review and approval for a project, may waive or modify the requirements of this subsection if it finds that strict adherence to this requirement would be impractical given the particular characteristics of the site.

ARTICLE 36: ZONING – B-2 ZONE AFFORDABLE HOUSING

To see if the Town will vote to amend the B-2 column of Section 3.1.4, Table of Use Regulations, of the Zoning Bylaw, by adding a footnote as set forth in this article, and to authorize the Town Clerk to assign the applicable number, or to take any other action relative thereto.

Purpose of the amendments: These amendments would add a footnote to two uses in the B-2 zone column of Section 3.1.4, Table of Use Regulations. Specifically, the use permissions for Multi-Unit Residential Development of more than 9 dwelling units and for Mixed Use development, both of which currently require a Special Permit from the Selectboard, would be amended so that if the development includes affordable housing, the development shall be permitted by right.

Proposed deletions of existing text are ~~struck through~~. Proposed insertions are underlined.

Permitted Use		ZONING DISTRICT ¹	ADDITIONAL APPLICABLE REGULATIONS
		B2	
A. Residential uses			
(1)	Dwelling, Single family	Y	
(2)	Dwelling, Two-family	Y	See also 8.1 , 8.7 .
(3)	Dwelling, multifamily 3 to 8 units	Y	See also 8.3
	9 units or more	SB ^x	See also 8.3 . <u>Affordable housing per footnote x</u>
(4)	Assisted living residence	PB	See also 8.8
(5)	Live/work units	Y	See also 9.4 , 9.6 .

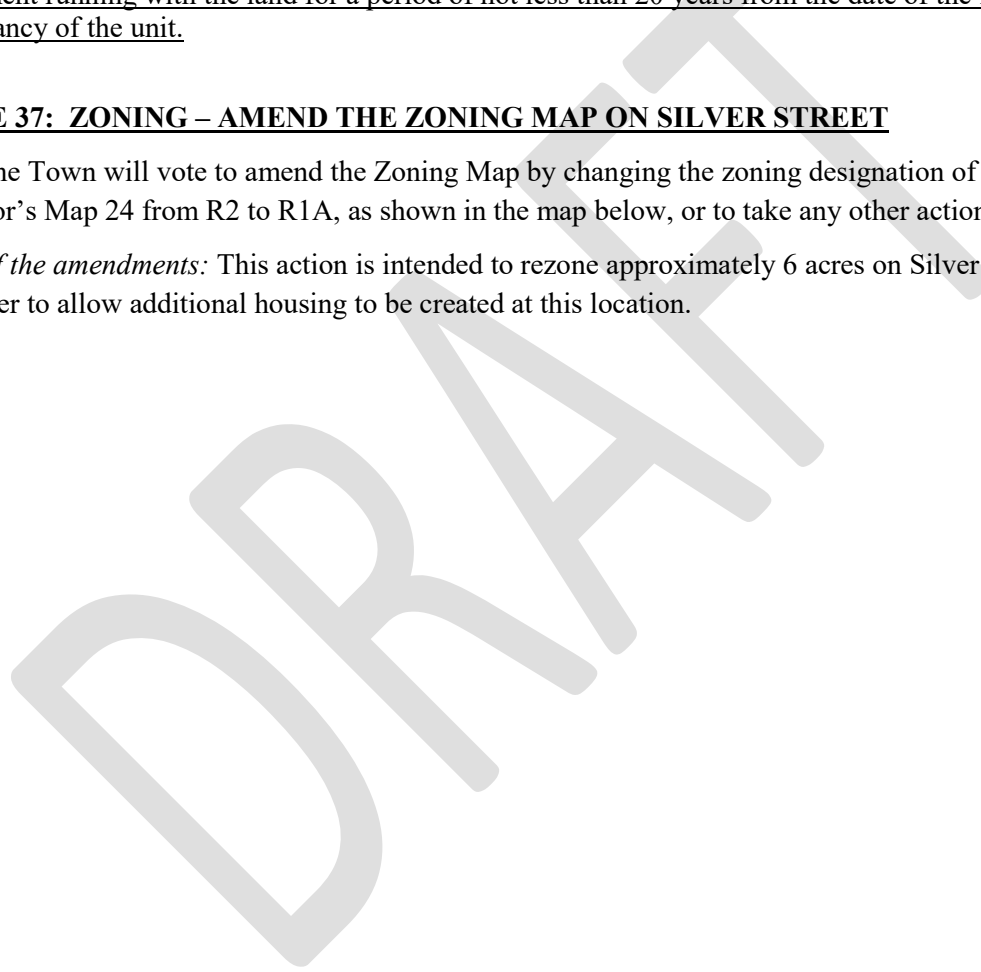
Permitted Use		ZONING DISTRICT ¹	ADDITIONAL APPLICABLE REGULATIONS
		B2	
(6)	Lodging house or tourist home for transient guests	SB	See also 7.16
(7)	Mixed use	SB ^x	See also 8.4 , 9.6 . <u>Affordable housing per footnote^x</u>

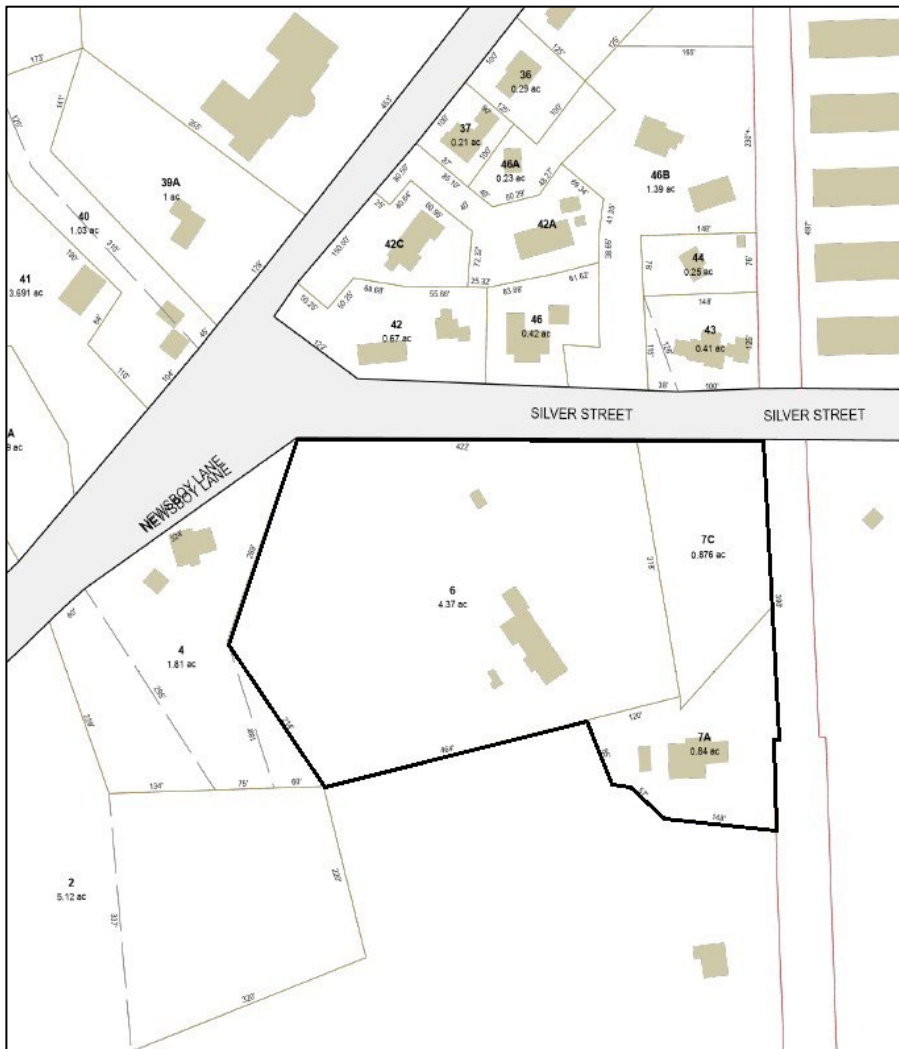
^x In any development containing 9 or more residential units, if at least ten percent of those units are dedicated as a unit affordable to a household earning not more than 100 percent of the area median income, that development shall be permitted by right. Any fractional unit number shall be rounded to the next whole number. The affordable status of the unit(s) shall be set forth in a covenant, deed restriction or similar legal document running with the land for a period of not less than 20 years from the date of the first certificate of occupancy of the unit.

ARTICLE 37: ZONING – AMEND THE ZONING MAP ON SILVER STREET

To see if the Town will vote to amend the Zoning Map by changing the zoning designation of parcels 6, 7A, and 7C on Assessor’s Map 24 from R2 to R1A, as shown in the map below, or to take any other action relative thereto.

Purpose of the amendments: This action is intended to rezone approximately 6 acres on Silver Street from R-2 to R-1-A in order to allow additional housing to be created at this location.





ARTICLE 38: CONVEY INTEREST IN LAND ALONG OLD ROUTE 7 PATH

To see if the Town will vote to transfer to the Selectboard the care, custody and control of the following described land located adjacent to the Old Route 7 Path for the purpose of sale to the owner of the abutting property known as 434B Stockbridge Road for the sum of \$10,000, said land being that area located within the deed description for said 434B Stockbridge Road and lying outside the asphalt trail portion of the path as shown on a plan entitled “As-Built Survey Plan of Multi-Use Path And Tax Parcel #26-27-A prepared for Town of Great Barrington” by Foresight Land Services, dated July 14, 2022; and to authorize the Selectboard, on behalf of the Town, to execute a deed conveying the Town’s interest in such land and to take all actions necessary to accomplish such conveyance; or take any other action relative thereto.

ARTICLE 39: Citizen’s Petition

We the undersigned residents of the Town of Great Barrington do hereby request a warrant to be on the agenda for the May 1st 2023 Annual Town Meeting to present the following motion for the following addition to the General Bylaws:

(Citizen’s Petition) To see if the Town will vote to add under the General Legislation / Zoning Section 9.3.16.5 Wireless Telecommunications Overlay District; to adopt a Wireless Telecommunications Facilities (WTFs) application requirement for completeness:

WTF applications, will be considered incomplete until the FCC completes the DC Circuit Court-mandated Environmental Review of the entire 800,000 to 1 million WTF roll out to the conditions as stated in the NEPA policy Act 1691 1 including studies from scientists independent from industry, who have fully investigated millimeter wave 5G small cell technology safety; and that the FCC regulations have been updated to include measures that comply with the results of this review; and, that the Town of Great Barrington shall consider reasonable alternatives such as fiber optic.

1 The FCC is required by the National Environmental Policy Act of 1969, among other things, to evaluate the effect of emissions from FCC-regulated transmitters on the quality of the human environment. On August 9, 2019, the D.C. Circuit Court of Appeals, in its Ruling in Case 18-1129, vacated FCC Order 18-30's deregulation of small-cell Wireless Transmission Facilities(s) [sWTFs} and remanded this to the FCC. In Case 18-1129, the judges stated that "the FCC failed to justify its determination that it is not in the public interest to require review of [sWTF] deployments" and ruled that "the Order's deregulation of [sWTFs] is arbitrary and capricious." The FCC was mandated to do this review in two court rulings which are submitted into the record: one in 2019 in Case 18-1129, Keetoowah et al. v FCC; and another in 2021 in Case 20-1025, EHT/CHD v. FCC. To date the FCC has not complied.

<https://scientists4wiredtech.com/2019/08/federal-court-overturns-fcc-overturns-fcc-order-bypassingenvironmental-r>

<https://www.fcc.gov/document/dc-circuit-decision-environmental-helath-trust-v-fcc>

Definition: Wireless Telecommunications Facilities means the plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, electronics, and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireless telecommunications service. October 1, 2019, the D.C. Circuit Court of Appeals in Case No, 18-1051, Mozilla et al. v. FCC, confirmed internet "Services" to be reclassified by the FCC as Title I, unregulated "Information Services". At present, only wireline and wireless telephone and text transmissions are classified as Title II, regulated "Telecommunications Services". Title I and Title II applications, therefor, need to be regulated differentially by local planning boards and commissions. Every new [wireless telecommunications facility ("WTF")] must undergo NEPA review, and that WTF applications cannot be batched for such purpose.

ARTICLE 40: Citizen's Petition

A Citizen's petition to amend the Short-Term Rental Bylaw as adopted under Article 25 at the June 6, 2022 Annual Town Meeting as follows:

Delete: strike through

Add: text in Red

An owner shall not register or offer an rental unit subject to a long term lease as a Short-Term Rental, ~~nor shall a tenant offer his/her/their rental unit as a Short term Rental.~~ A long term tenant, for whom it is a primary residence, may , if allowed by the property owner, do short-Term Rental subject to the same rules and regulations as a resident owner.

ARTICLE 41: Citizen's Petition

A citizen's petition to amend the Short-Term Rental Bylaw—adopted under Article 25 at the June 6, 2022, Annual Town Meeting—by adding a new section following the section of the bylaw titled "Inspection", as follows:

Monitoring Short-Term Rentals

The Town of Great Barrington may not hire, contract with, or otherwise engage the services of a private company, firm, individual or other entity to monitor the use of homes/dwellings that may be being used as short-term rentals in

order to ascertain compliance with the short-term rental bylaw; this includes, but is not limited to, entities that provide a system that encourages and directs neighbors to report on each other regarding the use of their homes/dwellings, and that gathers data on the use of homes/dwellings to provide to the Town of Great Barrington

ARTICLE 42: Citizen's Petition

A citizen's petition to amend the Short-Term Rental Bylaw—as adopted under Article 25 at the June 6, 2022, Annual Town Meeting—by deleting the second and third paragraphs under the section “Regulations”, as indicated by a strike-through:

Regulations:

No dwelling unit or part thereof may be offered as a Short-Term Rental within the Town of Great Barrington unless it is registered annually with the Town through an application process approved by the Selectboard and in accordance with this Chapter, and registered with the Commonwealth of Massachusetts Department of Revenue in accordance with applicable laws.

~~An Owner may register to operate only one dwelling unit as a Short Term Rental. If a person owns two properties, or owns one and is listed as a manager or agent for a second that is owned by an LLC, for example, that person must choose one or the other to be registered as a Short term Rental. No person shall have more than one legal or equitable title or beneficial interest in any dwelling unit used for a Short Term Rental except as provided for above. An Owner may hire a property management company to list and manage Short Term Rentals, but the registration must be in the Owner's name.~~

~~Up to Two bedrooms in a dwelling unit or an entire secondary unit on the same parcel may be registered and rented as a Short Term Rental by right. The registered Short Term Rental may be rented for an unlimited number of days per year, provided that the Owner is residing in one of the dwelling units on premises at the time of the rental. In cases where the Owner is not residing on premises at the time of the rental, no unit or portion thereof may be rented more than 150 days per year.~~

Short-Term Rentals are prohibited in dwelling units owned by a corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC or Trust only when every shareholder, partner or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.

Short-Term rentals are prohibited in dwellings units designated as affordable or otherwise income-restricted, which are subject to affordability covenants or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.

An Owner shall not register or offer a rental unit subject to a long term lease as a Short-Term Rental, nor shall a tenant offer his/her/their rental unit as a Short-Term Rental.

ARTICLE 43: Citizen's Petition

The citizens of Housatonic and Great Barrington petition the town of Great Barrington to purchase own and operate the Housatonic Water company.

Questions contact – Steven Hayward 413-528-7018

PETITION FOR POLE AND WIRE LOCATIONS

North Andover, Massachusetts

To the Board of Selectmen
Of Great Barrington, Massachusetts

Massachusetts Electric Company d/b/a National Grid requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

South Main St - National Grid to install 1 SO Pole on South Main St beginning at a point approximately 165' feet north of the centerline of the intersection of South Reed St and continuing approximately 50' feet in a north direction. Install 1 utility pole within the right-of-way. New utility pole will provide electric service for proposed electric vehicle charging within Guido's parking lot.

Location approximately as shown on plan attached

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – South Main St – Great Barrington – Massachusetts.

No.# 30731411 April 4, 2023

Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a

NATIONAL GRID *Jim Kehrer*

BY _____

Engineering Department



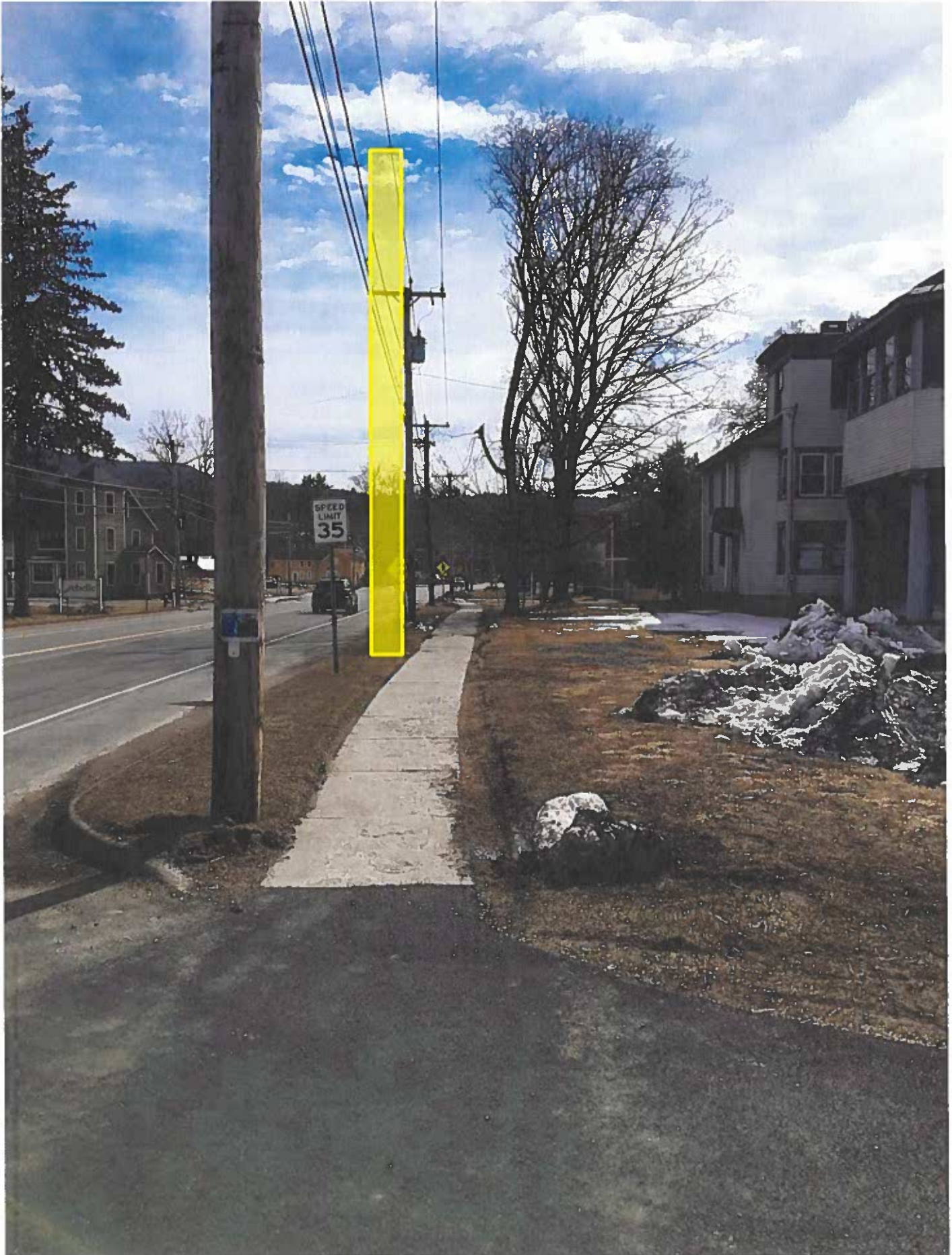
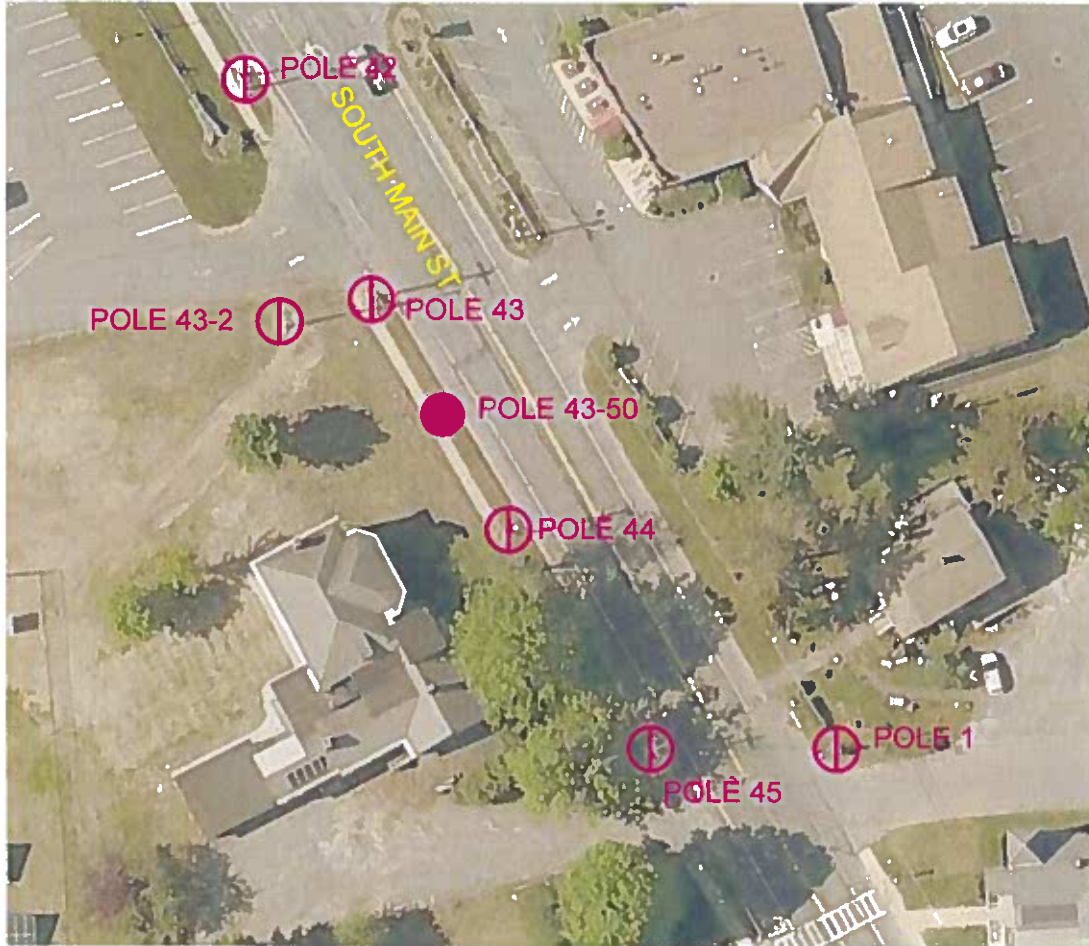




Exhibit A – Not to Scale

The exact location of said Facilities to be established by and upon the installation and erection of the Facilities thereof.



POLE PETITION

nationalgrid

LEGEND:

	Proposed NGRID Pole Locations
	Existing NGRID Pole Locations
	Proposed J.O. Pole Locations
	Existing J.O. Pole Locations
	Existing J.O. Pole to be Replaced
	Existing NGRID Pole to be Made J.O.
	Existing Pole Locations to be Removed

Date: 28 Mar 2023

Plan Number: 30731411

To Accompany Petition
 Dated:

To The **TOWN** of **GREAT BARRINGTON**

For Proposed: **SO** Pole: **43-50** Location: **SIDE OF ROAD**

Drawn By: **Steven Hayward**

Date of Original Grant:

DRAWING NOT TO SCALE. DISTANCES ARE APPROXIMATE.

BERKSHIRE COMMUNITIES [NGRID]

ALL-REQUIREMENTS RETAIL POWER SUPPLY PRICING MATRIX
 COMBINED RATE COMPARISON

			<u>FIXED PRICE</u>		PROJECTED
START TERM	END TERM	TERM LENGTH	SUPPLIER #1	SUPPLIER #2	<u>BASIC SERVICE</u>
					11/1/23-4/30/24 NGRID/WCMA
STANDARD RETAIL ELECTRIC SUPPLY - Meets MA Requirement [59% for 2023; steps up each year]					0.19000
11/1/2023	4/30/2024	6	0.17973	0.18708	
11/1/2023	4/30/2024	6	0.17973	0.18708	
5/1/2024	10/31/2024	6	0.11393	0.11504	
11/1/2023	10/31/2024	12	0.14554	0.15383	
11/1/2023	4/30/2025	18	0.15454	0.16063	
11/1/2023	10/31/2025	24	0.14097	0.14829	
11/1/2023	4/30/2026	30	No Bid	0.15183	
11/1/2023	10/31/2026	36	No Bid	0.14554	
RETAIL SUPPLY THROUGH PURCHASE OF NATIONAL WIND RECS - MA Requirement + 41% [59% + 41% VREC = 100% for 2023]					
11/1/2023	4/30/2024	6	0.18188	0.18849	
11/1/2023	4/30/2024	6	0.18188	0.18849	
5/1/2024	10/31/2024	6	0.11622	0.11659	
11/1/2023	10/31/2024	12	0.14776	0.15530	
11/1/2023	4/30/2025	18	0.15681	0.16219	
11/1/2023	10/31/2025	24	0.14142	0.14990	
11/1/2023	4/30/2026	30	No Bid	0.15348	
11/1/2023	10/31/2026	36	No Bid	0.14722	
RETAIL SUPPLY THROUGH PURCHASE OF MA CLASS I RECS - MA Requirement + 5% [22% + 5% VREC = 27% for 2023]					
11/1/2023	4/30/2024	6	0.18190	0.18902	
11/1/2023	4/30/2024	6	0.18190	0.18902	
5/1/2024	10/31/2024	6	0.11610	0.11697	
11/1/2023	10/31/2024	12	0.14771	0.15577	
11/1/2023	4/30/2025	18	0.15668	0.16255	
11/1/2023	10/31/2025	24	0.14309	0.15020	
11/1/2023	4/30/2026	30	No Bid	0.15371	
11/1/2023	10/31/2026	36	No Bid	0.14740	
RETAIL SUPPLY THROUGH PURCHASE OF MA CLASS I RECS - MA Requirement + 10% [22% + 10% VREC = 32% for 2023]					
11/1/2023	4/30/2024	6	0.18399	0.19096	
11/1/2023	4/30/2024	6	0.18399	0.19096	
5/1/2024	10/31/2024	6	0.11819	0.11890	
11/1/2023	10/31/2024	12	0.14980	0.15770	
11/1/2023	4/30/2025	18	0.15874	0.16447	
11/1/2023	10/31/2025	24	0.14514	0.15211	
11/1/2023	4/30/2026	30	No Bid	0.15559	
11/1/2023	10/31/2026	36	No Bid	0.14926	

BERKSHIRE COMMUNITIES [NGRID]

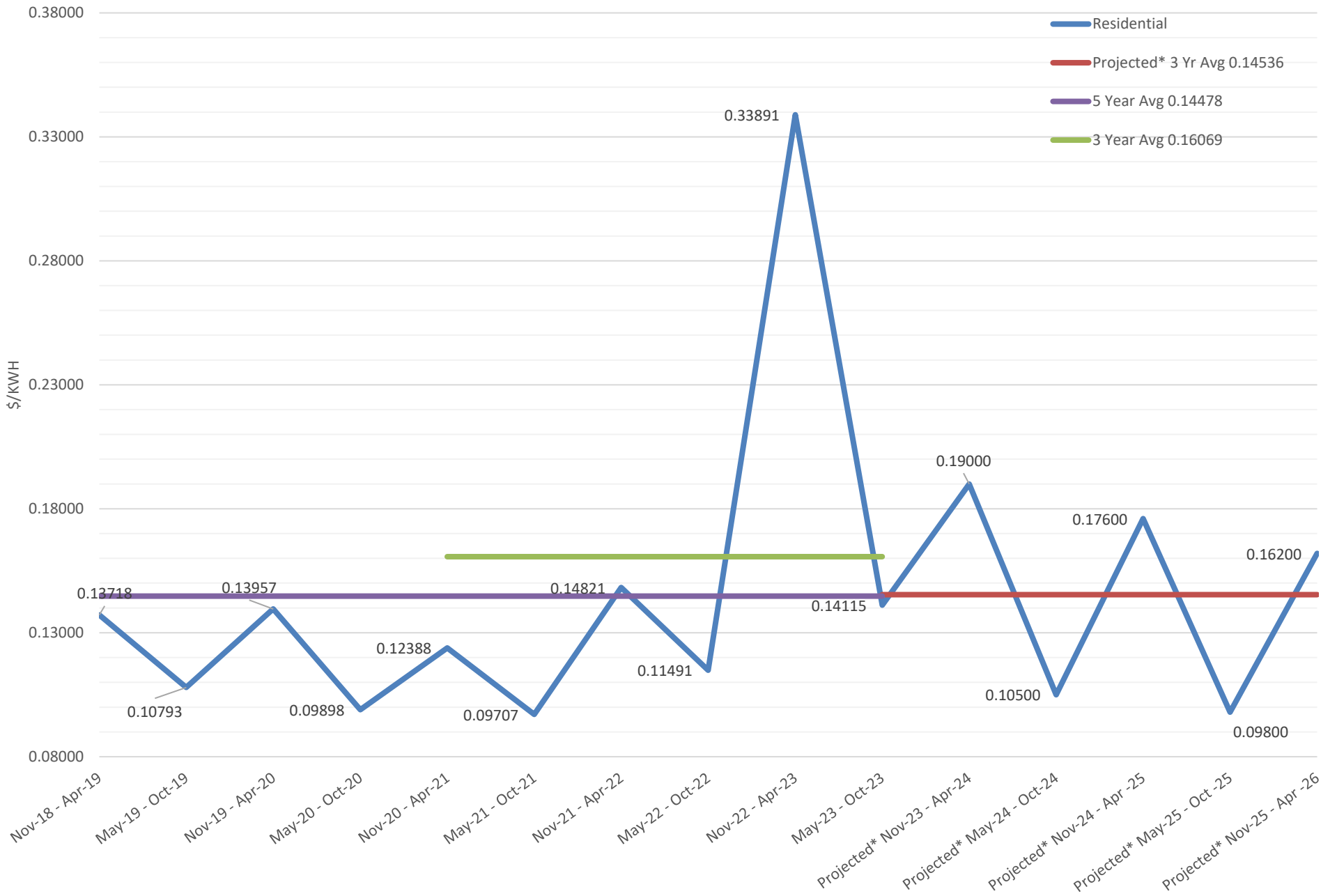
ALL-REQUIREMENTS RETAIL POWER SUPPLY PRICING MATRIX
 COMBINED RATE COMPARISON

			<u>FIXED PRICE</u>		PROJECTED
					<u>BASIC SERVICE</u>
START TERM	END TERM	TERM LENGTH	SUPPLIER #1	SUPPLIER #2	11/1/23-4/30/24 NGRID/WCMA
RETAIL SUPPLY THROUGH PURCHASE OF MA CLASS I RECS - MA Requirement + 25% [22% + 25% VREC = 47% for 2023]					
11/1/2023	4/30/2024	6	0.19026	0.19679	
11/1/2023	4/30/2024	6	0.19026	0.19679	
5/1/2024	10/31/2024	6	0.12446	0.12468	
11/1/2023	10/31/2024	12	0.15607	0.16351	
11/1/2023	4/30/2025	18	0.16493	0.17023	
11/1/2023	10/31/2025	24	0.15127	0.15784	
11/1/2023	4/30/2026	30	No Bid	0.16124	
11/1/2023	10/31/2026	36	No Bid	0.15483	
RETAIL SUPPLY THROUGH PURCHASE OF MA CLASS I RECS - MA Requirement + 50% [22% + 50% VREC = 72% for 2023]					
11/1/2023	4/30/2024	6	0.20072	0.20650	
11/1/2023	4/30/2024	6	0.20072	0.20650	
5/1/2024	10/31/2024	6	0.13492	0.13432	
11/1/2023	10/31/2024	12	0.16653	0.17319	
11/1/2023	4/30/2025	18	0.17525	0.17983	
11/1/2023	10/31/2025	24	0.16150	0.16740	
11/1/2023	4/30/2026	30	No Bid	0.17064	
11/1/2023	10/31/2026	36	No Bid	0.16412	
RETAIL SUPPLY THROUGH PURCHASE OF 100% MA CLASS I RECS [RPS MA Class I Minimum Standard] + [MA Class I VRECs] = 100%					
11/1/2023	4/30/2024	6	0.21180	0.21682	
11/1/2023	4/30/2024	6	0.21180	0.21682	
5/1/2024	10/31/2024	6	0.14578	0.14435	
11/1/2023	10/31/2024	12	0.17751	0.18337	
11/1/2023	4/30/2025	18	0.18573	0.18963	
11/1/2023	10/31/2025	24	0.17170	0.17692	
11/1/2023	4/30/2026	30	No Bid	0.17973	
11/1/2023	10/31/2026	36	No Bid	0.17281	

These prices are for information purposes only and reflects recent market pricing. These prices are not executable, the group will back out to bid next week.

National Grid Residential Basic Service

as of 3/16/2023



*Per Colonial Power Group