

Mark Pruhenski
Town Manager

E-mail: mpruhenski@townofgb.org
www.townofgb.org



Town Hall, 334 Main Street
Great Barrington, MA 01230

Telephone: (413) 528-1619 x2
Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN MANAGER

Selectboard Meeting Order of Agenda for Monday November 9, 2020, at 6:00 PM, Via Zoom

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81672562245?pwd=YzlKR0o5bmZOVDFhanJwZmY3ZXJiUT09>

Webinar ID: 816 7256 2245

Passcode: 449955

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 the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Great Barrington Selectboard will be conducted 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 who wish to listen to the meeting may do so by following the instructions at the top of the agenda. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the town's website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

*****ALL VOTES ARE ROLL CALL*****

1. CALL TO ORDER-6:00 PM - OPEN MEETING
2. APPROVAL OF MINUTES
 - a. May 18, 2020
 - b. June 8, 2020
3. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS
4. TOWN MANAGER'S REPORT
 - a. HWW Updates- corrosion control/request for update from DEP
 - b. Traffic Lights-Request for update on off-hour signal flashing
 - c. COVID Sidewalk Stencils-Update
 - d. Virtual Coffee w/TM update- Regular Schedule
5. LICENSES OR PERMITS
 - a. Elise Abrams for a driveway permit for 548 Egremont Road (Discussion/Vote)
6. NEW BUISNESS
 - a. Chapter 61A Right of First Refusal (Discussion/Vote)
To Waive/Transfer/Exercise Right of First Refusal of Abigail Haupt, LLC, property on Hurlburt and Alford Roads, comprising 44 acres, identified as Assessor's Map 31, Parcels 10 and 11, and portions of Tax Assessor's Map 31, Parcels 12 and 13, also identified as Lot 1 on Plat File DF-15.
 - i. Explanation of Project
 - ii. Recommendations from Other Boards
 - iii. Motion to Waive / Transfer / Exercise Right of First Refusal

- b. Agricultural Preservation Restriction (Discussion/Vote):
Acknowledgement of notice from Mass. Department of Agricultural Resources of the Commonwealth's proposed purchase of an Agricultural Preservation Restriction at 180-190 North Plain Road, from North Plain Farm, LLC, and Selectboard vote to reduce the notification period from 120 days to 60 days.

7. OLD BUSINESS

- a. Zoom Meeting Format Cont'd (Discussion/Vote)

8. PUBLIC HEARING

- a. Special Permit application from Berkshire Aviation Enterprises, Inc., for an aviation field in an R4 zone at 70 Egremont Plain Road, Great Barrington, per Sections 3.1.4 E(1) and 10.4 of the Zoning Bylaw. (Continued from August 10, August 24, September 14, September 21, October 5, 2020, and October 26, 2020) (Discussion/Vote)
 - i. Selectboard Deliberation
 - ii. Motion re: Findings
 - iii. Motion re: Approval/Denial/Table
- b. Special Permit application from Coastal Cultivars, LLC, 399 Boylston Street, 6th Floor, Boston, to locate a retail marijuana establishment at 454 Main Street, Great Barrington, closer than 200 feet to the property of a private school. The special permit application is filed per Sections 7.18.34.3 and 10.4 of the Zoning Bylaw
 - i. Open Public Hearing
 - ii. Explanation of Project
 - iii. Speak in Favor/Opposition
 - iv. Motion to Close or Continue Public Hearing
 - v. Motion re: Findings
 - vi. Motion re: Approval/Denial/Table

9. 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.*

10. SELECTBOARD'S TIME

11. MEDIA TIME

12. ADJOURNMENT

NEXT SELECTBOARD MEETING

Regular Meeting November 23, 2020
Special Meeting November 18, 2020

Regular Meeting December 9, 2020
Regular Meeting December 21, 2020

/s/ Mark Pruhenski

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

Fee \$50.00

paid 9/20

Application for Access to a Public Way / Driveway Permit

Number _____

INSTRUCTIONS

RETURN FIVE (5) COPIES OF THIS FORM AND ALL ACCOMPANYING PLANS, ALONG WITH THE \$50.00 FEE to the Department of Public Works office in Town Hall, 2nd Floor, 334 Main Street, Great Barrington, MA 01230. Plans must show the location of the driveway on the property and must also indicate all details needed in order to determine that driveway regulations are met, including paving material, width, grade, drainage, culverts, angle to street, etc. See Chapter 153 of the Town Code for driveway regulations.

Application Date 9/24/2020
Name of Applicant / Property Owner Elise R. Abrams
Mailing address 548 Egremont Rd Gt. Barrington, MA 01230
Phone number (413) 528-2027
Location of proposed driveway / highway entrance 542 Egremont Rd
Contractor who will perform the work JR Wilkinson
Address & phone number of contractor 622 Boardman St. Sheffield, MA 01257
Proposed construction date November 15 2020
Type of driveway (gravel, asphalt, etc.) gravel

Print Form

Submit five (5) copies of completed form and plans.

Applicant hereby agrees to notify the Great Barrington DPW Superintendent of the date and time of driveway construction at least 24 hours before construction is begun. Applicant further agrees to conform to all requirements of the Town of Great Barrington regulations governing access to public ways and to all conditions that may be placed on this permit. See Chapter 153 of the Town Code for regulations and design requirements.

Applicant's Signature: Elise R Abrams

FOR STAFF USE ONLY

RECOMMENDATION OF DPW / HIGHWAY SUPERINTENDENT

After consultation with review staff, and after full consideration of the application and the applicable requirements, I recommend that this application be:
() approved as submitted
() approved with conditions attached
() disapproved for reasons attached
() resubmitted with changes suggested per attached

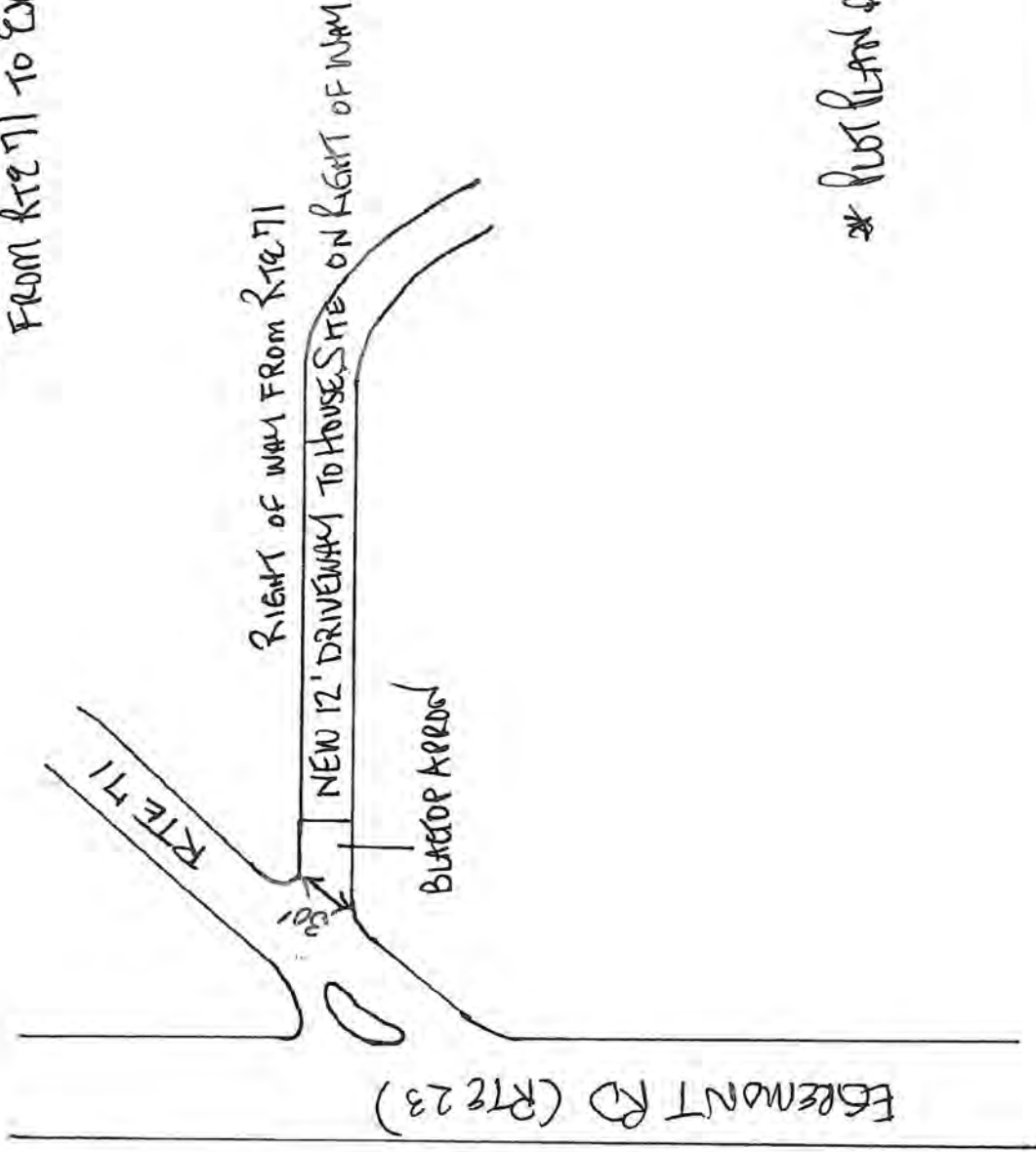
Table with 4 columns: Staff Reviews Received, Received, Conditions Recommended, Other Permits Required. Rows include Conservation, Fire Chief, and Planning.

PERMIT FOR ACCESS TO A PUBLIC WAY / DRIVEWAY

Pursuant to its vote of _____ in favor and _____ opposed, at its meeting on _____, the Great Barrington Selectboard granted permission to construct or alter this access to a public way at the address and in the location indicated in this application, in accordance with the plans accompanying this application, and subject to any conditions attached.

For the Selectboard: _____ its _____
(signature) (title) (date)

NEW CURB CUT - ELISE ABRAMS
FROM RTE 71 TO EXISTING BUILDING
LOT.



* PLAN ATTACHED

JR WILKINSON
CONSTRUCTION, LLC
622 Boardman St.
Sheffield, MA 01257

413-394-0236 joel@jw.com

NOT TO SCALE

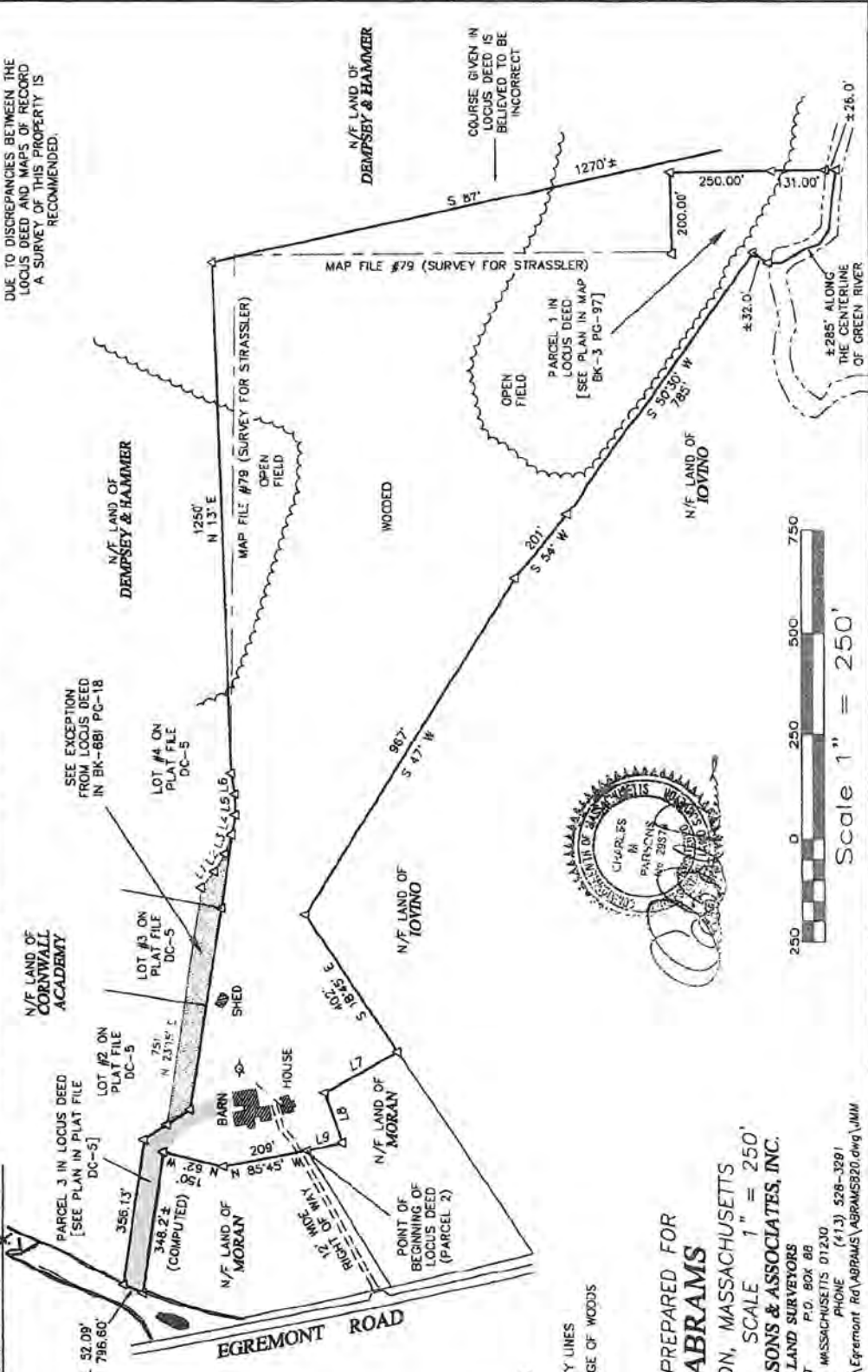


FOR BANK USE ONLY
 THIS PLAN IS NOT TO BE USED FOR ADDITIONS, SPECIAL PERMITS OR VARIANCES.
 SEE UNRECORDED PLAN ENTITLED "MAP OF FORKHURST FARM GT. BARRINGTON, MASS. OWNED BY G. FRED YESSLER FORMERLY SCALE 200 FT. PER INCH ..."

LOCUS DEED: BK - 2530 PG - 342
 PROPERTY ADDRESS: 542 EGREMONT ROAD
 THIS IS NOT A SURVEY AND IS SUBJECT TO ANY STATEMENT OF FACTS A SURVEY MAY REVEAL.
 THIS PARCEL IS SUBJECT TO AND WITH THE BENEFIT OF ALL RIGHTS, RESTRICTIONS, CONDITIONS, EASEMENTS, LEASES, ENCUMBRANCES AND APPURTENANCES OF RECORD.

CERTIFY TO: COMMONWEALTH TITLE INSURANCE CO.
 I HEREBY REPORT THAT THE BUILDING(S) SHOWN ON THIS PLAN ARE APPROXIMATELY LOCATED ON THE GROUND AS SHOWN AS SHOWN ON THE 100 YEAR FLOOD MAP. THIS PLAN IS NOT MADE FROM AN INSTRUMENT SURVEY AND IS NOT TO BE USED FOR FENCES, ETC.

DUE TO DISCREPANCIES BETWEEN THE LOCUS DEED AND MAPS OF RECORD A SURVEY OF THIS PROPERTY IS RECOMMENDED.



LINE TABLE

LINE	BEARING	DISTANCE
1	V 55°45' E	46.1
2	V 46°30' E	50.1
3	V 35° E	50.1
4	V 25°00' E	50.1
5	N 13°30' E	50.1
6	N 05° E	50.1
7	S 75°20' W	203.5'
8	S 04° E	130.1
9	N 87°30' W	87.4'

- LEGEND**
- △ POINT COMPUTED
 - UTILITY POLE
 - OVERHEAD UTILITY LINES
 - ~~~ APPROXIMATE EDGE OF WOODS



PLOT PLAN PREPARED FOR
ELISE ABRAMS
 GREAT BARRINGTON, MASSACHUSETTS
 AUGUST - 2020 SCALE 1" = 250'
KELLY, GRANGER, PARSONS & ASSOCIATES, INC.
 PROFESSIONAL LAND SURVEYORS
 312 MAIN STREET, P.O. BOX 88
 GREAT BARRINGTON, MASSACHUSETTS 01230
 PHONE (413) 528-3281
 FAX (413) 528-1912
 C:\Corison Projects\GREAT BARRINGTON\Egremont Rd\ABRAMS\AGRAMS920.dwg\JMM



John Malumphy
Highway-Facilities Superintendent

E-mail: jmalumphy@townofgb.org
www.townofgb.org



20 East Street
Great Barrington, MA 01230

Telephone: (413) 528-2500
Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON MASSACHUSETTS

Department of Public Works
Highway Division

Conditions on Application for Access to Public Way

Applicant: Elise R Abrams
Location: 548 Egremont rd
From: John Malumphy Highway Superintendent/Sean VanDeusen, Public Works Director
Date: October 29, 2020

1. The applicant shall construct the proposed access to conform to the following applicable criteria listed under **Section 153-14, Design requirements** of the Town of Great Barrington Code:
 - B. Driveway location as shown on the attached plan is acceptable, with regards to alignments with the way, profile, sight distance conditions and not located at the extreme edge of the property.
 - C. No more than two (2) driveways shall normally be allowed for any property, unless there is a clear necessity for more.
 - D. Driveways shall not normally be approved at intersections, because of potential safety hazards.
 - E. Culverts taking the place of roadside ditches shall have a diameter of not less than 15" (*A culvert is not required at this location*)
 - F. Entrance elevation at the point of entry into the public right-of-way shall be no more than the elevation of the shoulder of the road.
 - G. Driveways should be so constructed that water from the driveway shall not drain onto the crown of the road.
 - H. In no instance shall the edge of the driveway entering onto the road conflict with the flow of surface water runoff.

- I. Driveway width. Any curb at the entrance shall be rounded off with a radius of three (3) feet.
 - J. Pitch of driveway shall be downward from the edge of the road to sideline of the town right-of-way or front property line.
 - K. Driveways should be located to the best advantage with respect to the alignment with the way, profile and sight distance conditions. In no instance shall a driveway intersect the way at less than a sixty degree angle. Unless there is no alternative, a driveway should not be located within a required side yard.
 - L. No permit shall be issued for any driveway to a structure or proposed structure on a grade in excess of ten percent (10%) above the road or street level until and unless the applicant submits plans to the Highway Superintendent showing that the driveway will be constructed in a such a way so as not to discharge water, stones or other materials onto any public street, road or highway.
2. Install a paved driveway apron in accordance with the following requirements:
 - A. Apron dimensions: Width = 22-feet maximum along the roadway which includes a 3-foot radius curb on each side. Length = 5-feet minimum from edge of roadway.
 - B. Place 3-inches of bituminous concrete on 12-inches of compacted gravel.
 - C. Place asphalt tack coat along the edge of the road where the apron meets the edge of the existing pavement.

The applicant agrees to notify the Highway Superintendent (528-2500) at least 48 hours prior to the installation of the paved apron.

3. Should there be, after completion of the driveway, discharges of water, stones, or silt onto the public way or onto property of any abutters or neighbors, the property owner shall take whatever steps are necessary to eliminate such discharges.
4. The applicant shall maintain the proposed access to conform to the following applicable condition listed under **Section 153-17, Continuing responsibility of owners**, of the Town of Great Barrington Code:

Abutting property owners shall be responsible for keeping culverts under their driveways cleared and for maintaining driveways in condition conforming to the requirements of the permit.

Note I suggest a hidden driveway sign be installed by the appropriate party and visible approaching from the east.



Looking southeast



Looking northwest.

Jackie Dawson

From: Chris Rembold
Sent: Tuesday, October 27, 2020 9:03 AM
To: Charles Burger; Jackie Dawson; John Malumphy; Great Barrington Conservation Commission
Subject: RE: Driveway Permit Application for 542 Egremont Road

That makes sense, thanks Charlie.



Christopher Rembold, AICP

Assistant Town Manager
Director of Planning and
Community Development
413-528-1619 ext. 108
crembold@townofgb.org

Town of Great Barrington
334 Main Street
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

From: Charles Burger <cburger@Townofgb.org>
Sent: Tuesday, October 27, 2020 9:01 AM
To: Chris Rembold <crembold@Townofgb.org>; Jackie Dawson <jdawson@Townofgb.org>; John Malumphy <JMalumphy@Townofgb.org>; Great Barrington Conservation Commission <conservation@townofgb.org>
Subject: RE: Driveway Permit Application for 542 Egremont Road

I likely have no issues. It is a level area. The full driveway is not shown but unlikely to be a problem. Chris – I believe the curb cut is 30' but reduces down to a 12' driveway. That is helpful for us making the turn.



Charles Burger

Fire Chief
413-528-0788 ex 101
cburger@townofgb.org

Town of Great Barrington
Fire Department
37 State Road
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

From: Chris Rembold <crembold@Townofgb.org>
Sent: Monday, October 26, 2020 7:32 PM

To: Jackie Dawson <jdawson@Townofgb.org>; Charles Burger <cburger@Townofgb.org>; John Malumphy <JMalumphy@Townofgb.org>; Great Barrington Conservation Commission <conservation@townofgb.org>
Subject: RE: Driveway Permit Application for 542 Egremont Road

Just two comments.

(1) The driveway as proposed is far too wide. The bylaw allows for only 16 feet maximum width.

(2) The sight distance seems good, but I suggest a "hidden driveway" warning sign be placed by the appropriate party in an appropriate location, so it is visible as one approaches from the east, driving westbound.

Other than that I see no issues.

Chris



Christopher Rembold, AICP

Assistant Town Manager
Director of Planning and
Community Development
413-528-1619 ext. 108
crembold@townofgb.org

Town of Great Barrington
334 Main Street
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

From: Jackie Dawson <jdawson@Townofgb.org>

Sent: Monday, October 26, 2020 2:33 PM

To: Chris Rembold <crembold@Townofgb.org>; Charles Burger <cburger@Townofgb.org>; John Malumphy <JMalumphy@Townofgb.org>; Great Barrington Conservation Commission <conservation@townofgb.org>

Subject: Driveway Permit Application for 542 Egremont Road

Please see the attached documents for a driveway permit application. Comments are needed by Noon on Wednesday November 4, 2020.

Thank You!

Jackie

Jackie Dawson

From: Great Barrington Conservation Commission
Sent: Monday, October 26, 2020 3:25 PM
To: Jackie Dawson
Subject: RE: Driveway Permit Application for 542 Egremont Road

Jackie,

No Conservation issues.

-Shep



Shepley W. Evans

Conservation Agent
Animal Control Officer
413-528-1619 ex 122
conservation@townofgb.org

Town of Great Barrington
334 Main Street
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

From: Jackie Dawson <jdawson@Townofgb.org>
Sent: Monday, October 26, 2020 2:33 PM
To: Chris Rembold <crembold@Townofgb.org>; Charles Burger <cburger@Townofgb.org>; John Malumphy <JMalumphy@Townofgb.org>; Great Barrington Conservation Commission <conservation@townofgb.org>
Subject: Driveway Permit Application for 542 Egremont Road

Please see the attached documents for a driveway permit application. Comments are needed by Noon on Wednesday November 4, 2020.

Thank You!

Jackie

IRA J. KAPLAN
ATTORNEY AT LAW

THE MAHAIWE BUILDING
314 MAIN STREET, SUITE 9
GREAT BARRINGTON, MA 01230

OFFICE: 413-528-1211
MOBILE: 413-358-3214
IJKLAW@GMAIL.COM

October 8, 2020

Selectboard
Town of Great Barrington
334 Main St.
Great Barrington, MA 01230

**RE: Proposed Transfer of Land Subject to MGL c. 61A
Hurlburt and Alford Roads**

Dear Selectboard:

I represent Abigail Haupt LLC concerning the proposed sale of a portion of its property located adjacent to Hurlburt and Alford Roads in Great Barrington subject to MGL c. 61A. The proposed sale to the John D. Gidwitz Revocable Trust, constitutes essentially all of Tax Assessor's Map 31, Parcels 10 and 11, and portions of Tax Assessor's Map 31, Parcels 12 and 13, containing a total of approximately 44 acres, shown as Lot 1 on a plan recorded at Plat File DF-15 in the South Berkshire Registry of Deeds, a reduced-scale copy of which is attached as "Exhibit A." You may recall that Lot 2 was recently conveyed after the Town waived its Right of First Refusal for Lot 2 on May 13, 2020.

I am informed by Buyer's counsel that Buyer intends a change of tax status to allow residential use on approximately five acres that will be removed from Chapter 61A. Attached as "Exhibit B" is a Purchase and Sale Agreement dated August 24, 2020 with a purchase price of Five Hundred and Forty Thousand Dollars (\$540,000.00.) Attached as "Exhibit C" is a waiver for the Selectboard to execute if, and when, the town waives its right of first refusal.

Please contact me with any questions.

Very truly yours,

Ira J Kaplan

Enc.

cc: Great Barrington Planning Board
Great Barrington Board of Assessors
Great Barrington Conservation Commission
Mass. State Forester Tom Ryan
Lori Robbins, Esq.

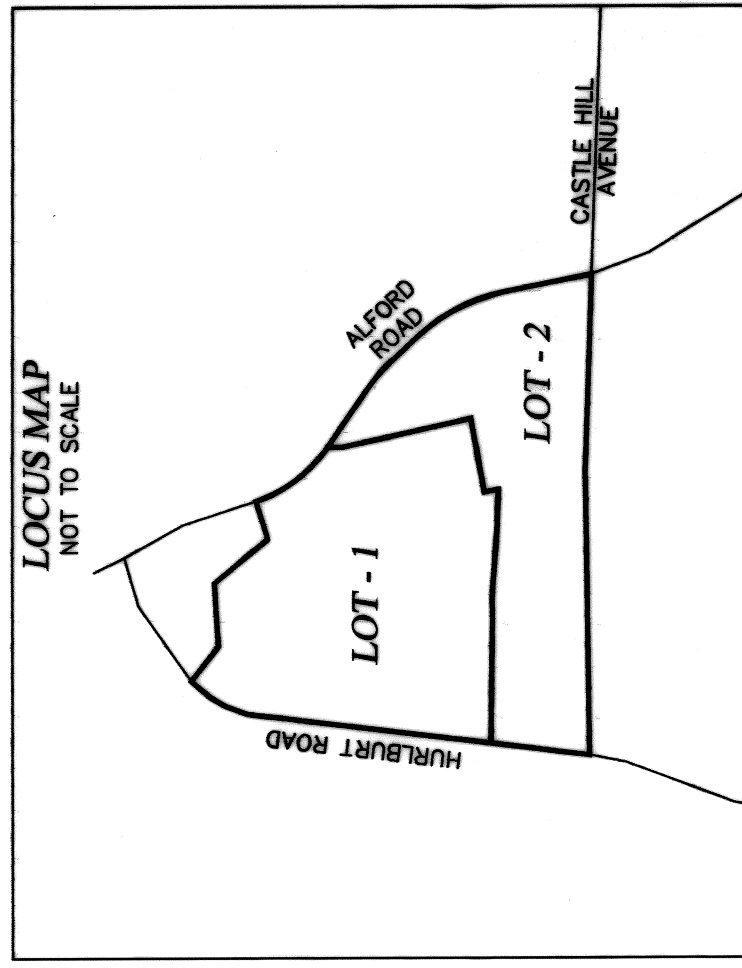
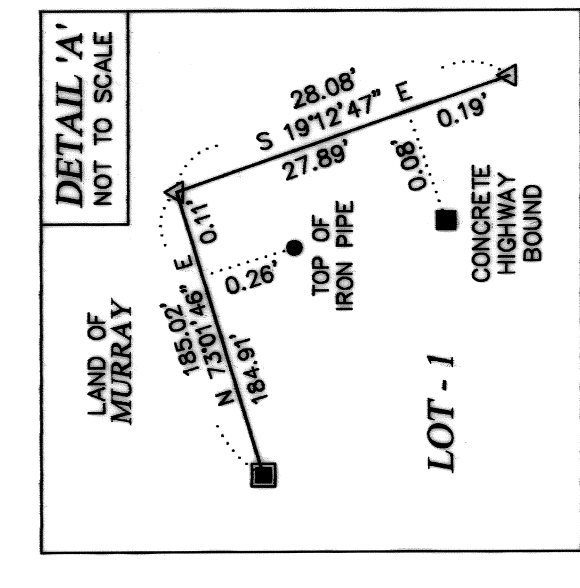
Exhibit A

FOR REGISTRY USE ONLY
 SCALE 1"=200', DATED MAY-1984
 PLAN OF LAND OF THOMAS H. BLODGETT

ZONING REQUIREMENTS
 DISTRICT: R-2
 LOT AREA: 1 ACRE **
 LOT WIDTH: 150 FT. **
 MIN. FRONT YARD: 50 FT.
 MIN. SIDE YARD: 20 FT.
 MIN. REAR YARD: 30 FT.
 MAX. LOT COVERAGE: 20%

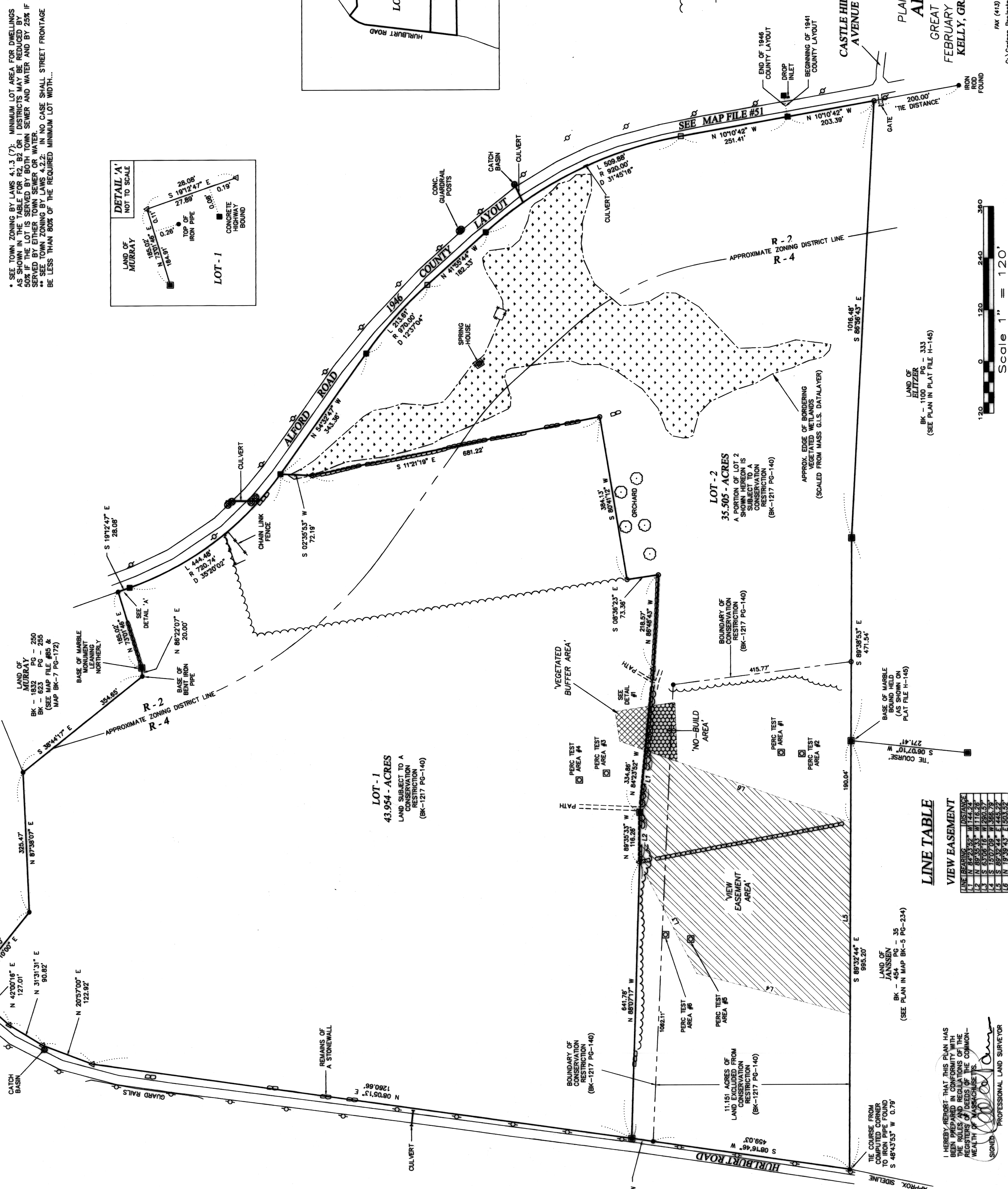
DISTRICT: R-4
 LOT AREA: 87,120 SF (2 ACRES)
 LOT WIDTH: 200 FT. **
 MIN. FRONT YARD: 50 FT.
 MIN. SIDE YARD: 20 FT.
 MIN. REAR YARD: 30 FT.
 MAX. LOT COVERAGE: 10%

* SEE TOWN ZONING BY LAWS 4.1, 3.1 (7). MINIMUM LOT AREA FOR DWELLINGS AS SHOWN IN THE TABLE FOR R-2, R-3 OR R-4 DISTRICTS MAY BE REDUCED BY 50% IF THE LOT IS SERVED BY BOTH TOWN SEWER AND WATER AND BY 25% IF SERVED BY EITHER TOWN SEWER OR WATER.
 ** SEE TOWN ZONING BY LAWS 4.2.2. IN NO CASE SHALL STREET FRONTAGE BE LESS THAN 80% OF THE REQUIRED MINIMUM LOT WIDTH...



- LEGEND**
- POINT COMPUTED
 - IRON PIPE/ROD FOUND
 - IRON ROD TO BE SET
 - CONCRETE HIGHWAY BOUND FOUND
 - MARBLE BOUND FOUND
 - COMPUTED BOUND
 - UTILITY POLE
 - APPROXIMATE EDGE OF WOODS
 - STONE WALL
 - WOODEN GUARD RAIL POST
 - CHAIN LINK FENCE

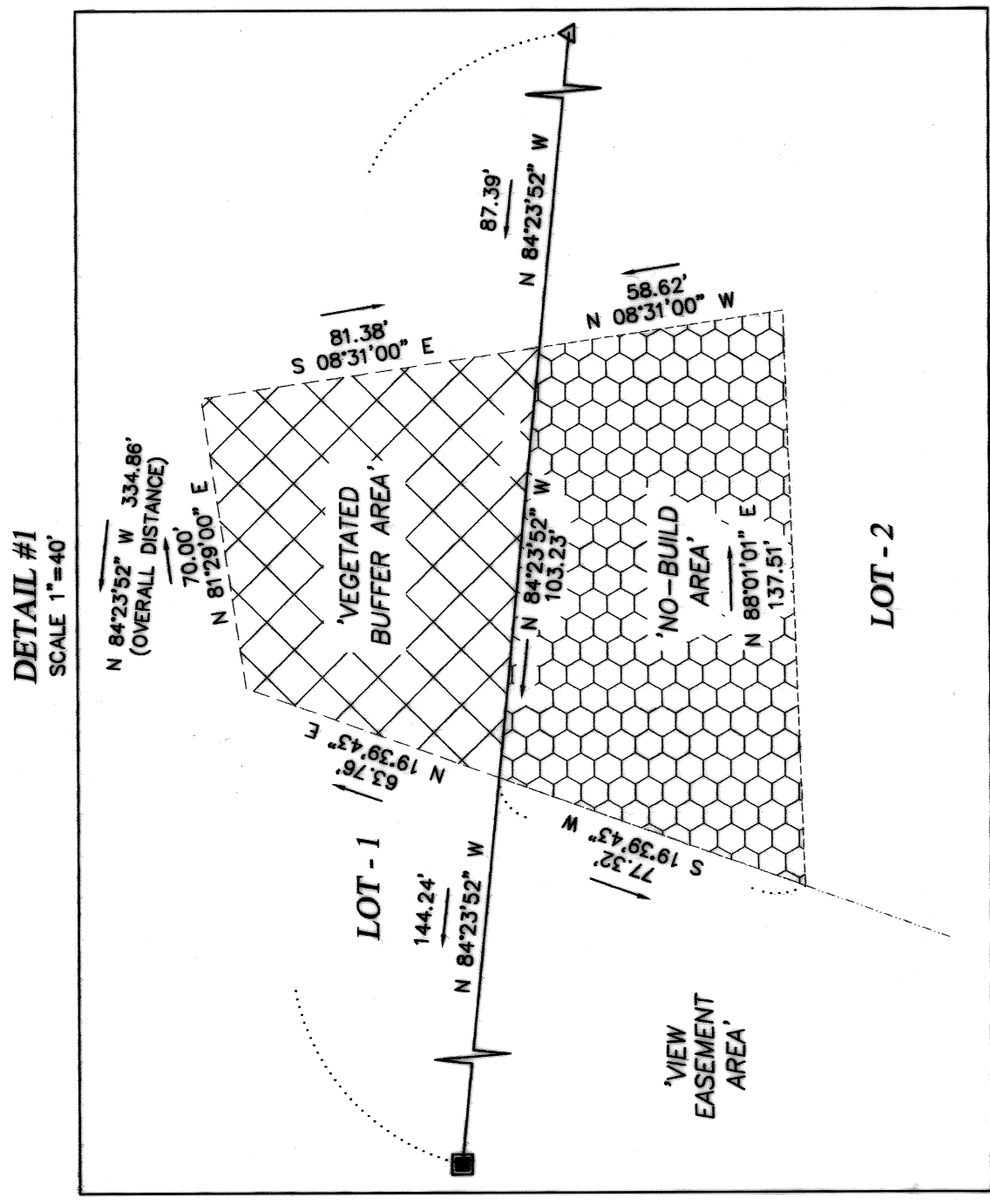
TOTAL LOT AREA: 79,459 - ACRES



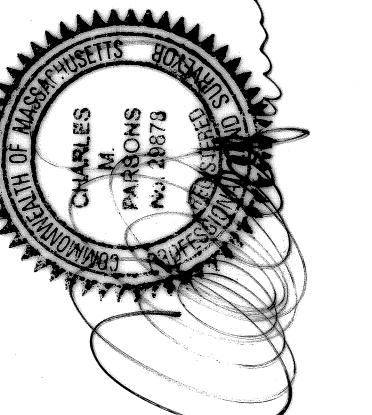
LINE TABLE

VIEW EASEMENT

LINE NUMBER	DESCRIPTION	START POINT	END POINT	BEARING	DISTANCE
1	VIEW EASEMENT	W 111.29'	N 89°32'44"	W 144.24'	105.62'
2	VIEW EASEMENT	N 89°32'44"	W 111.29'	W 144.24'	105.62'
3	VIEW EASEMENT	W 111.29'	N 89°32'44"	W 144.24'	105.62'
4	VIEW EASEMENT	N 89°32'44"	W 111.29'	W 144.24'	105.62'
5	VIEW EASEMENT	W 111.29'	N 89°32'44"	W 144.24'	105.62'
6	VIEW EASEMENT	N 89°32'44"	W 111.29'	W 144.24'	105.62'

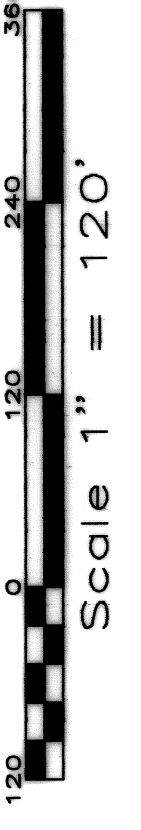


HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.
 CHARLES GRANGER PARSONS
 PROFESSIONAL LAND SURVEYOR



APPROVAL NOT REQUIRED UNDER THE SUBDIVISION CONTROL LAW
 PLANNING BOARD
 GREAT BARRINGTON, MASSACHUSETTS
 W. J. ... CHAIRMAN

PLAN OF LAND SURVEYED FOR
ABIGAIL HAUPT LLC
 GREAT BARRINGTON, MASSACHUSETTS
 FEBRUARY - 2020 SCALE 1" = 120'
 KELLY, GRANGER, PARSONS & ASSOCIATES, INC.
 PROFESSIONAL LAND SURVEYORS
 P.O. BOX 88
 312 MAIN STREET
 GREAT BARRINGTON, MASSACHUSETTS 01230
 PHONE (413) 588-1912 FAX (413) 588-3281
 C:\Carson Projects\GREAT BARRINGTON\ALFORD ROAD\HAUPT\HAUPT19-2.dwg



THESE PARCELS ARE SUBJECT TO AND WITH THE BENEFIT OF ALL RIGHTS, RESTRICTIONS, CONDITIONS, EASEMENTS, LEASES, ENCUMBRANCES AND APPURTENANCES OF RECORD.
 UNLESS OTHERWISE NOTED HEREON, THIS SURVEY PLAN SHALL NOT BE CONSTRUED AS DEPICTING THE PRESENCE, ABSENCE, OR LIMITS OF ANY OR ALL REGULATED WETLANDS OR FLOODPLAINS. ANY SURFACE WATER FEATURES SHOWN, SUCH AS STREAMS OR PONDS, ARE NOT NECESSARILY REPRESENTED AS INDICATING LIMITS OF WETLAND RESOURCE AREAS.
 PLANNING BOARD ENDORSEMENT DOES NOT CONSTITUTE OR IMPLY COMPLIANCE WITH THE MASS. WETLANDS PROTECTION ACT OR APPLICABLE ZONING BYLAWS.
 RECORD OWNER: ABIGAIL HAUPT LLC
 LOCUS DEED: BK - 2091 PG - 315
 SEE PLAN RECORDED IN MAP FILE #60 ENTITLED "PLAN OF LAND OF THOMAS H. BLODGETT" SCALE 1"=200', DATED MAY-1984.
 SEE TAX MAP 31 LOTS 10, 11, 12, 12A & 13
 THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ATTORNEY'S ABSTRACT OF TITLE AND/OR TITLE REPORT AND IS SUBJECT TO ANY STATEMENT OF FACTS OR INSTRUMENTS OF RECORD WHICH MIGHT AFFECT THE SURVEY.
 STATEMENT OF FACTS OR INSTRUMENTS OF RECORD WHICH MIGHT AFFECT THE SURVEY WAS MADE.

13 Feb 2020

Exhibit B

such test be unsatisfactory to BUYER, BUYER may cancel this Agreement by written notice received by the Listing Broker or Seller's Attorney no later than 5:00 p.m. on the Inspection Contingency Date, whereupon all obligations of the parties shall cease and BUYER'S deposits shall be promptly returned in full. BUYER'S failure to give such notice shall be a waiver of BUYER'S right to cancel under this Paragraph. The BUYER and Buyer's consultants shall have the right of access to the Parcel for the purpose of conducting an inspection, at reasonable times, upon twenty-four (24) hours advance notice to the Seller's Agent. In consideration of BUYER'S right to inspect and terminate, Buyer acknowledges that by accepting the deed BUYER accepts the condition of the Parcel and releases the Seller, Seller's Agents and Buyer's Agents (which include the Selling and Listing Brokers), from any and all liability relating to any defects in the Parcel without limitation.

▶ **8. SEWAGE DISPOSAL:** The SELLER represents that the Parcel is currently served by a municipal sewer system on the Parcel may be available in the street not available. Any municipal fees or charges connected to bring sewer system service to the property shall be borne by the buyer, unless otherwise negotiated. If the premise is not served by a municipal sewer system the sale is/ is not subject to obtaining satisfactory results of a percolation test, deep pit soils evaluation, and high ground water determination performed to the satisfaction of the Board of Health for the municipality for which the Parcel is located and suitable for design of a septic system as defined by Title 5 of the State Environmental Code (310 CMR 15.301). Said testing and evaluation will be performed at the SELLER'S / BUYER'S sole cost and in good faith prior to the Sewage / Water Inspection Date, as defined in paragraph 5.6.

▶ **9. WATER:** SELLER represents that the Parcel is currently served by a municipal water system on the Parcel may be available in the street not available. If the Parcel is served by a municipal water system, SELLER represents that the Parcel is served by a well / a private water company / no well on Parcel / as outlined in paragraph 30 'Special Conditions'. If a well is present, SELLER represents that it is / is not located entirely within the boundaries of the Parcel and does / does not contain defects known to SELLER. Any fees or charges connected to bring water service to the property shall be borne by the buyer, unless otherwise negotiated.

▶ **10. POSSESSION:** Full possession shall be delivered at the Closing Date. The Parcel shall be free of encroachments burdening the Parcel and of improvements that encroach on adjoining Parcel, including but not limited to buildings, septic systems, well and driveway, and has sufficient legal access to a public way.

▶ **11. SURVEY:** SELLER represents that new/ no new boundaries are being created by the sale of the Parcel. If boundaries are being created, SELLER shall deliver to BUYER at the Closing a survey of the Parcel, in recordable form. The SELLER shall pay for the preparation and recording of the survey, unless otherwise provided herein.

12. ADJUSTMENTS: Current real estate taxes, water rates, and sewer use charges are to be apportioned as of the Closing Date. If the real estate tax rate is not set as of the Closing Date, the apportionment of real estate taxes shall be made on the basis of the tax assessed for the most recent preceding year, with a readjustment at the request of either party, when the amount of the current year's tax rate is set. If the amount of the tax is reduced by abatement, the rebate, less the reasonable cost of obtaining it, shall be apportioned between the parties. SELLER or SELLER's attorney shall transmit to Buyer's Attorney, at least ten (10) days prior to the closing date, all mortgage and lien payoffs, municipal apportionments, state conveyance tax, and any other expenses required to be disclosed on the Closing Disclosure. Failure to transmit the expenses defined herein shall constitute SELLER's acceptance of Buyer's Attorney's calculations, performed using all reasonable and obtainable information. Such calculation shall be final and binding upon the parties.

▶ **13. BETTERMENT ASSESSMENTS:** SELLER represents that the Parcel is / is not subject to a betterment assessment. If the Parcel is subject to a betterment assessment, SELLER agrees to pay the total outstanding betterment assessment at the closing / BUYER agrees to purchase the Parcel subject to, and assumes the payment of the betterment assessment.

▶ **14. TITLE:** The Parcel shall be conveyed by a good and sufficient quitclaim deed unless otherwise specified herein (accompanied by a Certificate of Title, if registered), conveying a good, clear record, marketable and insurable title, free of all encumbrances and exceptions, except:



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- a) Real Estate Taxes assessed or to be assessed on the Parcel to the extent that such taxes then are not yet due and payable.
- b) Federal, state, and local laws, ordinances, by-laws, and rules regulating the use of land, particularly environmental, building, zoning, and health, if any, applicable as of the date of this Agreement, provided that as of the Closing Date, the Parcel may be used as of right for single family residential use or, the Parcel may be used as of right for _____
- c) Utility easements in the adjoining ways.

15. USE OF PROCEEDS TO CLEAR TITLE: To enable SELLER to make conveyance as herein provided, the SELLER may at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests. Upon request, SELLER shall promptly provide BUYER's Attorney with written payoff instructions from all of SELLER's mortgagees. Said payoff instruction shall be in accordance with Massachusetts General Laws Chapter 183, Section 1, et seq. At closing, BUYER's Attorney shall transmit all of SELLER's payoffs to said mortgagees, and BUYER's Attorney shall be responsible to promptly secure and record the discharges of said mortgages. BUYER's attorney shall be compensated by the SELLER the customary fee associated with securing the discharge or discharges. SELLER shall pay the cost of discharge(s), and SELLER shall reimburse BUYER's Attorney the cost (if any) of overnight mail charges.

16. EXTENSION: If, after a reasonable and diligent effort, SELLER is unable to deliver possession as defined in paragraph 14 or convey title of the Parcel as required hereunder, upon notice by either party, prior to the Closing Date, this Agreement shall be automatically extended for 30 days (or if Buyer's mortgage commitment sooner expires to a date one business day before the expiration of such commitment). Seller shall remove all mortgages, attachments and other encumbrances incurred or assumed by SELLER which secure the payment of money, provided the total amount thereof does not exceed the Purchase Price, and SELLER shall use reasonable and diligent efforts to remove other defects in title, or to deliver possession as provided herein, or to make the Parcel conform to the provisions hereof. At the end of the extended period, if all such defects have not been removed, or the SELLER is unable to deliver possession, or the Parcel does not conform with the requirements of this Agreement, BUYER may elect to terminate this Agreement and to receive back all deposits, upon receipt of which all obligations of the parties hereto shall cease.

17. STANDARDS: Any title matter or practice arising under or relating to this Agreement which is the subject of a Title Standard or a Practice Standard of The Real Estate Bar Association for Massachusetts shall be governed by said Standard to the extent applicable.

18. NOMINEE: BUYER may require the conveyance to be made to another person, persons, or entity ("Nominee"), upon notification in writing delivered to SELLER at least five days prior to the Date of Closing. The appointment of a Nominee shall not relieve BUYER of any obligation hereunder. Any note or mortgage or other document to be delivered from BUYER to SELLER shall be executed by or unconditionally guaranteed by BUYER, unless otherwise specified herein.

19. CLOSING: Simultaneously with the delivery of the deed, SELLER shall execute and deliver:

- a) A bill of sale for all personal property included as part of the sale, if requested by the BUYER.
- b) An affidavit, satisfying the requirements of Section 1445 of the Internal Revenue Code and regulation issued thereunder, which states, under penalty of perjury, the SELLER's United States taxpayer identification number, that the SELLER is not a foreign person, and the SELLER's address (the "1445 Affidavit");
- c) Internal Revenue Service Form W-8 or Form W-9, as applicable, with SELLER's tax identification number, and an affidavit furnishing the information required for the filing of Form 1099S with the Internal Revenue Service and stating SELLER is not subject to back-up withholding.

20. ACCEPTANCE OF DEED: Acceptance of the deed by BUYER shall be a full performance and shall discharge every agreement and obligation herein except any agreements which by their terms are to be performed after the Closing. THE BUYER FURTHER ACKNOWLEDGES THAT THE BUYER IS PURCHASING THE PARCEL 'AS IS' and BUYER has not relied upon any statements or representations, oral or written, regarding the condition or value, present or future, of the Parcel made either by the SELLER or the Seller's Agents, which are not otherwise contained in this Agreement and that the Seller's Agents are acting exclusively upon behalf of the SELLER. All oral or written representations between the parties are merged herein. BUYER further acknowledges it is the BUYER'S responsibility prior to closing to obtain any and all governmental permits for any intended use of the Parcel including,



SELLER(S) Initials ADH

BUYER(S) Initials: DOMRY

pg 3 of 5

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0 Hurlburt Rd



but not limited to, health or environmental department, planning or zoning board approvals. SELLER and SELLER'S representative(s) make no representations as to the adequacy of the Parcel being conveyed for BUYER'S intended purposes, disclosed or undisclosed.

▶ **21. UNDERGROUND STORAGE TANKS:** The parties acknowledge that the Massachusetts Board of Fire Prevention has issued regulations governing the maintenance, repair, and removal of underground storage tanks to prevent and detect leakage of tank contents into surrounding soil and water supplies. The SELLER hereby discloses that to the best of Seller's knowledge, there are / are not underground oil / propane storage tank(s) at the Parcel. If there are one or more underground tanks at the Parcel, the SELLER further discloses that the tanks have / have not been used within the past six (6) months exclusively for the storage of fuel oil and to the best of the SELLER'S knowledge there has been no release or leakage of oil from such tank(s). If the Parcel is not in compliance with 527 CMR 9.00 et.seq. and BUYER does not cancel this Agreement, pursuant to paragraph 7, BUYER shall be obligated to purchase the Parcel and shall be deemed to have assumed the obligation to bring the Parcel into compliance with 527 CMR 9.00 et. seq.

22. MERGER: The parties agree that this Agreement contains all of the terms and conditions of this transaction. It is mutually agreed that any oral or prior written representation made by either party prior to the execution of this Agreement is null and void. This Agreement shall be construed as a legal contract under seal and is binding upon the parties, and their respective heirs, successors, and assigns.

23. SURVIVAL: Notwithstanding any presumptions to the contrary, all covenants, conditions, and representations contained in this Agreement, which by their nature, implicitly or explicitly, involve performance in any particular manner after the Closing and delivery of the deed, or which cannot be ascertained to have been fully performed until after the Closing and delivery of the deed, shall survive the Closing.

24. TERMINATION: In the event the BUYER terminates this Contract in accordance with the provisions herein relating to "Mortgage / Insurance Contingency," "Inspection Contingency," "Sewage/Water Inspection", default by SELLER, or the failure of any contingency shown under special conditions, the Escrow Agent shall forthwith refund such deposit money together with accrued interest thereon (if applicable) to the BUYER.

▶ **25. BUYER'S DEFAULT:** If the BUYER defaults, BUYER shall be liable to the SELLER in the amount of 5% % of the purchase price, as liquidated damages, which shall be Seller's exclusive remedy in law or in equity. The deposits shall be applied to the payment of said liquidated damages.

26. RELEASE OF DEPOSITS: The deposits (which term shall include all interest earned, if any) made hereunder shall be held in escrow, subject to the terms of this Agreement and shall be duly accounted for at the time for performance of this Agreement. The deposits may not be released from escrow without the assent of both BUYER and SELLER. The recording of the deed to the Parcel shall constitute such assent. In the event of any disagreement, the Escrow Agent shall retain the deposits pending written instructions by both the SELLER and BUYER, or by a court of competent jurisdiction. So long as Escrow Agent served in good faith, BUYER and SELLER each agrees to hold harmless Escrow Agent from damages, losses, or expenses, arising out of this Agreement or any action or failure to act, including reasonable attorney's fees, related thereto. BUYER and SELLER acknowledge that the Escrow Agent may be counsel or fiduciary to one of the parties and agree that Escrow Agent may continue to act as such counsel or fiduciary notwithstanding any dispute or litigation arising with respect to the deposits or Escrow Agent's duties.

27. AGREEMENT TO MEDIATE DISPUTE OR CLAIMS: Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement, or the brokerage services provided in relation to this Agreement shall be submitted to mediation in accordance with the Rules and Procedures of the Homesellers / Homebuyers Dispute Resolution System ("DRS"). Disputes and claims shall specifically include, without limitation, representations made by the SELLER, the BUYER, or the Broker(s) in connection with the sale, purchase, finance, condition, or other aspect of the Parcel to which this Agreement pertains, including without limitation, allegations of concealment, misrepresentation, negligence and / or fraud. The mediation conference shall be held within 30 days from the date on which the mediator receives notice of the dispute. If the parties reach a settlement, they shall both sign a settlement agreement. If the parties cannot reach a mutually agreeable settlement, they may arbitrate or litigate the



SELLER(S) Initials: ADH BUYER(S) Initials: S D M R T pg 4 of 5
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dispute without regard to the mediation receivership, injunction, or other provisional remedies shall not constitute a waiver of the right to mediate under this paragraph, nor shall such filing constitute a breach of the duty to mediate. The provisions of this paragraph shall survive the closing.

28. **GOVERNING LAW:** This Agreement is to be governed by the laws of the Commonwealth of Massachusetts.

29. **LICENSEE-CONSUMER RELATIONSHIP:** BUYER and SELLER acknowledge that they have been provided with a completed copy of the 'Mandatory Licensee-Consumer Relationship' form, as mandated by the Massachusetts Board of Registration of Real Estate Brokers and Salespersons.

▶ 30. **SPECIAL CONDITIONS / ADDENDA:** Land Rider is / is not attached.

THIS OFFER IS SUBJECT TO BUYER'S AND SELLER'S ATTORNEY REVIEW AND REVISION WITHIN 5 BUSINESS DAYS OF SELLERS SIGNATURE.

BUYER HAS THE RIGHT TO ENGAGE AN ENGINEER TO EVALUATE BUILDING PLANS, SITE DEVELOPMENT MATTERS AND ANY OTHER LAND RELATED MATTERS OR POTENTIAL RESTRICTIONS, DEEMED NECESSARY BY BUYER AND THEIR LAND CONSULTANTS.

BUYER ACKNOWLEDGES THAT THEY ARE RESPONSIBLE FOR 50% OF THE COST OF THE SHARED DRIVEWAY COMING IN FROM ALFORD RD. THE 50% SHARE IS ESTIMATED TO BE \$25-30,000.

Property is subject to restrictive covenants from Berkshire Natural Resources Council. BNRC has approved shared driveway access from Alford Rd. This property is subject to a 5 acre building envelope, however, additional land may be cleared with "BNRC" approval. Taxes to be determined.

Property being sold is Lot 1 as referenced on a plan of land recorded with the Southern Berkshire Registry of Deeds in Plat File DF-15.

ADH

▶ 31. **TERMINATION OF OFFER:** This offer is subject to SELLER(s) execution and delivery of this agreement to BUYER by 5 a.m. / p.m. and (date) August 20, 2020, after which time this offer is void and terminated, and deposit paid by BUYER shall be returned.

32. **TIME:** Time is of the essence of all provisions of this agreement, unless otherwise specified elsewhere in this agreement. Any reference to "days" shall mean calendar days and is not intended to mean only business days.

33. **COUNTERPARTS:** This agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission, e-mail delivery of a ".pdf" format data file, or through a secure electronic signature service, such signatures shall create a valid and binding obligation of the party(s) executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or electronic signature page were an original thereof.

34. **THIS IS A LEGALLY BINDING CONTRACT. IF NOT UNDERSTOOD, SEEK LEGAL COUNSEL:** Executed under seal by the Parties hereto as of the latter of all dates set forth below, and incorporating all provisions on pages 1 through 5, together with referenced additions, if any.

▶ Abigail D. Haupt 8-24-20
SELLER: _____ DATE
Abigail D. Haupt

DocuSigned by:
John D. Gidwitz 8/20/2020
BUYER: _____ DATE
JOHN D GIDWITZ REVOCABLE TRUST

SELLER: _____ DATE

BUYER: _____ DATE

SELLER's Attorney's Name

BUYER's Attorney's Name



PURCHASE AND SALE AGREEMENT – LAND RIDER I

Notwithstanding anything to the contrary contained in the Agreement hereinbefore, the following shall apply.

1. **OBLIGATION CONDITIONS.** Buyer's obligation to purchase is subject to the following conditions which contain and X in the box () opposite the paragraph. If any of the following conditions are not met, BUYER may cancel this Agreement by notifying Listing Broker or Seller's Attorney, in writing, prior to the date indicated.

- A. Obtaining prior to 09/21/2020 at **SELLER(S)** / **BUYER(S)** sole cost and in good faith, results of a percolation test, deep pit soils examination and high ground water determination performed to the satisfaction of the Board of Health for the municipality in which the Parcel is located, and suitable for design of a septic system per Title 5.
- B. Obtaining prior to _____ at **SELLER(S)** / **BUYER(S)** sole cost and in good faith, satisfactory results of a water potability test of the well located on the Parcel. Satisfactory results are defined as the acceptable standard for drinking water established by the Board of Health for the municipality in which the Parcel is located.
- C. Drilling prior to _____ at BUYER'S sole cost and in good faith, a well with a flow capacity sufficient to satisfy the need requirements for the intended use of the Parcel, which use is as a _____.
- D. Obtaining prior to 09/21/2020 at BUYER'S sole cost and in good faith, satisfactory evidence from the building inspector for the municipality in which the Parcel is located that the Parcel is a legal building lot for the construction of _____.
- E. Obtaining prior to 09/21/2020 at BUYER'S sole cost and in good faith, variances, special permits, zoning changes or subdivision approval, as specifically set forth on Rider II, attached hereto and incorporated herein by reference.

2. **REPRESENTATIONS AND WARRANTIES.** IF ANY:

3. **THIS IS A LEGALLY BINDING RIDER TO THE AGREEMENT.** IF NOT UNDERSTOOD, SEEK LEGAL COUNSEL. Executed under seal by the Parties hereto as of the latter of all dates set forth below, together with referenced additions, if any.

Abigail D. Haupt 8-24-20
SELLER: _____ **DATE**
 Abigail D. Haupt

DocuSigned by:
John D. Gidwitz 8/20/2020
 BUYER: _____ **DATE**
 JOHN D GIDWITZ REVOCABLE TRUST

SELLER: _____ **DATE**

BUYER: _____ **DATE**



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Exhibit C

WAIVER OF RIGHT OF FIRST REFUSAL

We, being a majority of the members of the Selectboard of the Town of Great Barrington, Massachusetts, having been notified of a purchase agreement for the proposed conveyance of certain land of Abigail Haupt, LLC, presently taxed under MGL c.61A (see lien recorded in Book 1269, Page 206) consisting of Assessors Map 31, Parcels 10 and 11 and portions of Map 31 Parcels 12 and 13 containing approximately 44 acres, as more particularly shown on a plan recorded at Plat File DF-15 in the South Berkshire Registry of Deeds, said land being adjacent to Hurlburt and Alford Roads in Great Barrington, hereby waive any rights which the town may have to purchase said land pursuant to MGL c. 61A, upon the same terms contained in the purchase agreement dated August 24, 2020, and hereby designate either the Chair or the Vice-Chair to execute this Waiver on our behalf.

Stephen C. Bannon, Chair

Edward Abrahams, Vice Chair

Kate Burke

Leigh Davis

William Cooke

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss. _____, 2020

Then personally appeared before me the above-named _____ of the Selectboard and proved to me through satisfactory evidence of identification, which was _____, to be the person(s) whose name(s) is/are signed above and acknowledged to me that he/she/they signed it voluntarily on behalf of the Selectboard for the Town of Great Barrington, for its stated purpose.

Notary Public
My Commission Expires: _____

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIES
Secretary

JOHN LEBEAUX
Commissioner

October 26, 2020

Board of Selectmen
Town of New Marlborough
807 Mill River Southfield Road
Mill River, MA 01244

Re: APR Project Name: North Plain Farm, LLC, Project ID # 20C07

As required by General Laws Chapter 7C, Section 37, enclosed please find:

Clerk

1) A **"NOTICE OF PROPOSED ACQUISITION"**, commonly known as the "120 Day Notice", informing you that the Commonwealth of Massachusetts, acting through its Department of Agricultural Resources ("MDAR"), proposes to purchase an Agricultural Preservation Restriction ("APR") on farmland in your municipality as described in the enclosed Notice. ***The return receipt attached to this packet will confirm that you have received this notice.***

Clerk

2) A **"CONFIRMATION OF NOTICE"** on this project. ***We ask that you (1) post and/or publish this NOTICE, and (2) hold a public announcement at which the NOTICE OF PROPOSED ACQUISITION is read into the record.*** This can be at a regular Select Board or City Council meeting, or at another public meeting for which standard legal notice was given. Please understand that the municipality need not take any action or vote concerning the acquisition - the announcement is for informational purposes only.

Clerk

3) A **"CERTIFICATE OF NOTICE"** that following said adequate notice, the hearing/public announcement mandated by Section 37 has been held within the Municipality not later than 120 days prior to the planned acquisition. Once the meeting has been held, ***please complete and return the enclosed signed "Certificate of Notice"***. The date that you certify for the announcement starts the minimum 120-day (4-month) clock for closing on the APR.

SB *

4) A **"CONSENT TO REDUCTION OF NOTICE PERIOD"** for this project. The law also allows for reduction of the notification period if the local public officials and legislators so agree. Because of MDAR's priority classification of this farmland for protection, ***we ask that your municipality agree to reduce the 120 day notification period to 60 days to expedite the process. The closing for this project is a time-sensitive matter, and your cooperation in this request is very much appreciated by the Department.***

*

If you have any question regarding this proposed acquisition, I can be contacted at 413-726-2003. Thank you for your assistance.

Sincerely,

Barbara Hopson
APR Regional Planner

Cc: Dorothy Du, APR Program Administrator

NOTICE OF PROPOSED ACQUISITION
OF AN AGRICULTURAL PRESERVATION RESTRICTION
ON PROPERTY IN THE TOWN OF GREAT BARRINGTON

Date of this Notice: October 26, 2020

Notice of proposed acquisition is hereby given to:

- Chairman of the Board of Selectmen of the Town of **Great Barrington**, or
 Mayor or City Manager of the City of

Separate notice will be given by the Department to the appropriate: County Commissioners, Regional Planning Agency, and the members of the General Court representing the district in which the land is located.

In compliance with G. L. c. 7C, Section 37, the Commonwealth Massachusetts, acting by and through its Department of Agricultural Resources (the "Department"), hereby gives notice that it proposes to acquire an agricultural preservation restriction ("APR") on the real property identified herein for the purpose of protecting in perpetuity its superior and productive agricultural resources by preventing their conversion to other uses.

The application received by MDAR indicates that the property is owned by North Plain Farm, LLC and consists of parcel (s) located at North Plain Road (Route 41) in Great Barrington **as approximately represented on the attached map**. The APR may encompass all or parts of the area shown.

The current use of the property is primarily for hay and rotational grazing.

Following the recording of the APR, the use of the subject property is limited to agricultural use as more particularly set forth in the APR document, the General Laws [Chapter 184, Sections 31], and the Regulations of the Department [330 CMR 22.00 et seq].

Massachusetts Department of Agricultural Resources, by:



Barbara Hopson, APR Regional Planner

Project name: North Plain Farm, LLC
Project ID#: 20C07

CONFIRMATION OF NOTICE
REGARDING PROPOSED ACQUISITION
OF AN AGRICULTURAL PRESERVATION RESTRICTION

In compliance with the G. L. c. 7C, Section 37, notice is hereby given that an announcement at a public meeting was held for the purpose of disclosing the conditions or reasons supporting the Commonwealth's proposed acquisition of an agricultural preservation restriction ("APR") on certain property in the Municipality of **Great Barrington** as more particularly described in the attached NOTICE OF PROPOSED ACQUISITION.

The date, time, and place of the hearing are as follows: Date: _____ Time: _____ Place: _____

CERTIFICATE OF NOTICE

I certify that this Confirmation of Notice Regarding Proposed Acquisition of an Agricultural Preservation Restriction was posted or published in the following manner:

I further certify that an announcement was held at the place, date, and time indicated in this Notice.

x _____
(name and title: _____)

<p><i>Please complete this form and return to:</i></p> <p style="text-align:center">Ronald A. Hall Massachusetts Department of Agricultural Resources 138 Memorial Drive, Suite 42 West Springfield, MA 01089</p>

Project name: North Plain Farm, LLC
Project ID#: 20C07

CONSENT TO REDUCTION OF NOTICE PERIOD

APR Project Name: North Plain Farm, LLC, Project ID# 20C07

As authorized by the Massachusetts General Laws Chapter 7C, Section 37, the undersigned and duly authorized representative(s) of the Town of Great Barrington do hereby consent to a reduction of the 120 day notice period prescribed for the announcement at a public meeting on the Commonwealth's proposed acquisition of an Agricultural Preservation Restriction referenced above to not less than 60 days.

Date: _____

_____	<i>Stephen Bannon</i>	<i>Chair, Selectboard</i>
Signature	Name	Title

_____	_____	_____
Signature	Name	Title

_____	_____	_____
Signature	Name	Title

_____	_____	_____
Signature	Name	Title

_____	_____	_____
Signature	Name	Title

Additional signatures are required for a 60 day Waiver from legislators and Regional Planning Agencies. MDAR will attain those additional approvals.

Please complete this form and return to:

Ronald A. Hall
Massachusetts Department of Agricultural Resources
138 Memorial Drive, Suite 42
West Springfield, MA 01089

Project name: North Plain Farm, LLC
Project ID#: 20C07

1 Proposed Site Plan
Scale: 1" = 100'



Proposed Subdivision Plans
North Plain Farm, LLC
 180 & 190 North Plain Rd.
 Great Barrington, MA

Sheet No: 000000
 Project No: 4-2-18

Sheet Title:
APR Lot
Exclusion
Plan

Revision:	Mark	Date	Notes
1			

Sheet Information:
 Drawn By: M.J.
 Checked By: M.J.
 Scale: AS NOTED
 Print Date: 11/1/18

Sheet ID:
C01

EXECUTIVE SUMMARY

TITLE: Zoom (Virtual) Meeting Platform

BACKGROUND: On March 15th of this year, Governor Baker imposed strict limitations on the number of people that could gather in one place in response to the COVID-19 public health crisis. The Selectboard immediately suspended all in-person public meetings, but began meeting again via teleconference by March 23rd in accordance with the revised Open Meeting Law (OML). The revised OML suspended provisions that prohibited holding public meetings by phone or in virtual formats. By April 13th, the Selectboard transitioned to the video platform known as “Zoom Video Conferencing” by Zoom Video Communications.

The Selectboard chooses to use the Zoom “webinar” format for holding meetings. This is a paid add-on feature to our account that allows for board members and staff to be promoted to “panelist” status, with full access to their microphones. All others attending the meeting are listed as participants, and can be recognized to speak by the chairman at the appropriate times. The chairman can open mics for participants, can elevate participants to panelist status, and also demote panelists and residents once they’ve completed their presentation, finished asking their question, or finished making their comment.

We’ve received feedback from a few residents, noting that they would prefer we use the basic meeting format which would allow for all participants to see one another during meetings. We have also been asked to enable the “chat” feature which would allow all participants to chat directly with another participant, or to send a group message to all participants.

FISCAL IMPACT: None.

RECOMMENDATION: Staff recommends the Selectboard continue to use the webinar format and not enable the chat function for the following reasons:

1. The webinar format allows Selectboard members and staff to easily see and interact with each other with only one screen of “panelists”.
2. The webinar format allows Selectboard members and staff to manage their own mics and share content (such as a slide show or spreadsheet) when needed.
3. The webinar format provides increased security. Recent “Zoom Bombings” have occurred in meetings where the basic format was used. These incidents resulted in audio clips of both racist and sexually explicit material to be shared in a public setting.
4. The chat function could potentially lead to OML violations, could allow for participants to influence board members, and could be generally distracting to all participants.
5. The Chair is prohibited from “requiring” that participants identify themselves under the OML. Participants can only be required to state their name and address if they choose to address the board.

In summary, the webinar format more closely resembles an in-person meeting of a board, with the Chairman managing the meeting, open communication between board members and staff, and ample opportunities for participants to use the “raise your hand” feature to be recognized and to speak. With upwards of 100 participants at times, the webinar format is the most user-friendly option from the host perspective. Furthermore, we have received verification from the Attorney General’s Office that the webinar format is in full compliance with the OML, and our Zoom Representative has confirmed that there is no current option available in the webinar format to allow for all participants to see one another. If and when that does become available, the Selectboard could re-visit this topic.

PREPARED AND APPROVED BY:

DATE:



Mark Pruhenski/Town Manager

11/06/2020

Mark Pruhenski

From: OpenMeeting (AGO) <openmeeting@state.ma.us>
Sent: Wednesday, October 14, 2020 9:12 AM
To: Mark Pruhenski
Cc: Steve Bannon; Ed Abrahams
Subject: RE: Virtual Meeting Question

Good Morning,

Your summary of our conversation is accurate.

Sincerely,

Sarah (Chase) Monahan
Assistant Attorney General
Division of Open Government
Massachusetts Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Phone: 617-963-2540

From: Mark Pruhenski <MPruhenski@Townofgb.org>
Sent: Tuesday, October 13, 2020 4:04 PM
To: OpenMeeting (AGO) <OpenMeeting@MassMail.State.MA.US>
Cc: Steve Bannon <sbannon@Townofgb.org>; Ed Abrahams <eabraahams@Townofgb.org>
Subject: RE: Virtual Meeting Question

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi Sarah,

Thanks for taking the time to talk with me by phone just now, and thank you for providing the below information.

Can you please confirm that the Selectboard is not obligated to identify members of the virtual audience when we meet, and that there is no prohibition on using the webinar format provided by Zoom as long as all participants can hear each other when speaking or addressing the board?

It's also my understanding that the Selectboard cannot require members of the public meeting to identify themselves when simply attending, but may do so if a member of the public wishes to speak.

Thanks in advance for the written confirmation.

Best, Mark



Mark Pruhenski

Town Manager
413-528-1619 ex 2
mpruhenski@townofgb.org

Pronouns: he/him/his

Town of Great Barrington
334 Main Street
Great Barrington MA 01230



The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

From: OpenMeeting (AGO) <openmeeting@state.ma.us>
Sent: Tuesday, October 13, 2020 12:35 PM
To: Mark Pruhenski <MPruhenski@Townofgb.org>
Cc: Steve Bannon <sbannon@Townofgb.org>; Ed Abrahams <eabrahams@Townofgb.org>
Subject: RE: Virtual Meeting Question

Hello Mr. Pruhenski,

The Open Meeting Law does not require that public bodies allow public comment or public participation during meetings - on the contrary, the Open Meeting Law specifies that nobody shall address the public body without permission of the chair. However, the Attorney General encourages public bodies to allow public comment and/or public participation when feasible. Because the Open Meeting Law does not require that public bodies allow for public comment or public participation during meetings at all, the manner that public bodies may choose to accept comment or questions is outside the scope of the Open Meeting Law.

Public hearings, on the other hand, are governed by separate laws that impose additional requirements, and may require opportunity for public comment or testimony. Those requirements are outside the scope of the Open Meeting Law and therefore do not fall within the Division of Open Government's jurisdiction. Public bodies and members of the public should consult with legal counsel for guidance on the requirements for public hearings.

Please let us know if you have any further questions.

Sincerely,

Sarah (Chase) Monahan
Assistant Attorney General
Division of Open Government
Massachusetts Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Phone: 617-963-2540

From: Mark Pruhenski <MPruhenski@Townofgb.org>
Sent: Tuesday, October 13, 2020 11:59 AM
To: OpenMeeting (AGO) <OpenMeeting@MassMail.State.MA.US>
Cc: Steve Bannon <sbannon@Townofgb.org>; Ed Abrahams <eabrahams@Townofgb.org>
Subject: Virtual Meeting Question

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good Morning,

I'm reaching out for some clarification on virtual meetings.

Like many communities in the Commonwealth, we converted to virtual meetings during the early months of the COVID pandemic. We're currently using the Zoom platform. We use the regular meeting format for smaller boards and committees, and the webinar format for Selectboard meetings since we can have 50-100 attendees at times. The webinar format has the 5 Selectboard members on the main screen visible to all participants, as well as the Town Manager, Asst. Town Manager, and anyone promoted to make a presentation.

Attendees are asked to use the "raise your hand" feature (or *9 if they are calling in by phone), and they are recognized by the Chair in a similar fashion to an in-person meeting. In addition, we always include opportunities for residents to speak to the board during "citizen speak time" and the media during "media time" on our agendas.

Can you please tell me if this is an appropriate and legal use for public meetings? We have been questioned by a few residents on whether this is legal or not but no one has been able to provide any decision and/or guidance from your office, hence my email for clarification. If you have any questions, feel free to reach me directly on my cell at: 413-717-8328.

Thanks in advance. -Mark



Mark Pruhenski
Town Manager
413-528-1619 ex 2
mpruhenski@townofgb.org

Pronouns: he/him/his

Town of Great Barrington
334 Main Street
Great Barrington MA 01230



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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Continued on: August 10, August 24, September 14, September 21, and October 26, 2020

Public Hearing was closed on October 26, 2020

TOWN OF GREAT BARRINGTON

NOTICE OF PUBLIC HEARING

The Great Barrington Selectboard will hold a Public Hearing on Monday, August 10, 2020 at 6:30 pm, to act on the Special Permit application from Berkshire Aviation Enterprises, Inc., for an aviation field in an R4 zone at 70 Egremont Plain Road, Great Barrington, per Sections 3.1.4 E(1) and 10.4 of the Zoning Bylaw. A copy of the application is on file with the Town Clerk.

The meeting will be held via remote video/teleconference and in accordance with current emergency health orders, in-person attendance at this hearing will not be permitted. Instructions for participating in the Hearing will be listed on the Selectboard's August 10, 2020 agenda, which will appear on the Town's website, www.townofgb.org, at least 48 hours prior to the meeting, or you may call 413-528-1619, x. 2 to receive instructions.

Stephen Bannon, Chair

Please publish July 16 and July 23, 2020
Berkshire Eagle

Follow the link to see the application and supporting documents:

<https://www.dropbox.com/s/537qbbwmz67ct17/Airport%20SP%20application.pdf?dl=0>

Airport information submitted by applicant for August 24, 2020 meeting:

<https://www.dropbox.com/s/m1lk817u0ne1r79/airport%20supplement%20filed%20August%2018%202020>

Airport letters in support, since last meeting and up to 3:00 PM Thursday 8/20/2020:

<https://www.dropbox.com/s/kfxie3acu2kgvj3/airport%20new%20letters%20in%20support.pdf?>

Airport letters in opposition, since last meeting and up to 3:00 Pm Thursday 8/20/2020:

<https://www.dropbox.com/s/5ol3cr9e70qggav/airport%20new%20letters%20opposed.pdf?dl=0>

New letters in support (since 8/24 meeting):

<https://www.dropbox.com/s/bvo4x45kha6fjzc/airport%20in%20support%20-%20new%20since%208-24%20meeting.pdf?dl=0>

New letters in opposition (since 8/24 meeting):

<https://www.dropbox.com/s/l45jsebw2etni5j/airport%20in%20opposition%20-%20new%20since%208-24%20meeting.pdf?dl=0>

Item 8. b.

TOWN OF GREAT BARRINGTON

NOTICE OF PUBLIC HEARING

The Great Barrington Selectboard will hold a Public Hearing on Monday, November 9, 2020 at 6:00 pm, to act on the Special Permit application from Coastal Cultivars, LLC, 399 Boylston Street, 6th Floor, Boston, MA, 02116, to locate a retail marijuana establishment at 454 Main Street, Great Barrington, closer than 200 feet to the property of a private school. The special permit application is filed per Sections 7.18.4.3 and 10.4 of the Zoning Bylaw. A copy of the application is on file with the Town Clerk.

The meeting will be held via remote video/teleconference, and in accordance with current emergency health orders, in-person attendance will not be permitted. Instructions for participating in the Hearing will be listed on the Selectboard's November 9, 2020 agenda, which will appear on the Town's website, www.townofgb.org, at least 48 hours prior to the meeting, or you may call 413-528-1619, x. 2 to receive instructions.

Stephen Bannon, Chair

Please publish October 14 and October 21, 2020
Berkshire Eagle

SP # 913-20

SB file copy

SB hearing 11/9/20

LAZAN GLOVER & PUCILOSKI LLP
BOSTON • GREAT BARRINGTON

DAVID M. LAZAN*
PETER L. PUCILOSKI
ALEXANDRA H. GLOVER
ADRIENNE L. ARNOLD

785 MAIN STREET
GREAT BARRINGTON, MA 01230
TELEPHONE 413-644-0200
FAX 413-644-0201
www.lazanlaw.com

Peter L. Puciloski
Email
puciloski@lazanlaw.com

OF COUNSEL
SCOTT A. SANES^o
JAMES B. MCLINDON

Delivered in Hand

October 5, 2020

Mr. Stephen Bannon
Chair, Selectboard
Brandee Nelson
Chair, Planning Board
Great Barrington
334 Main St.
Great Barrington, MA 01230

Re: Site Plan Review and Special Permit Application/454 Main St.

Dear Mr. Bannon:

Enclosed herewith is the application of Coastal Cultivars, LLC for a special permit to operate a retail cannabis establishment at the above address. The special permit is requested for a reduction in the setback requirement between a cannabis establishment and a school. §7.18.4.1 requires a 200 foot setback from the establishment to the school; §7.18.4.2 requires that the distance be measured in a straight line from the closest point of one property to the closest point of the other.

1. Basis of Special Permit Application

*Also admitted in Florida

^o Also admitted in Texas

The use is permitted as of right in the district. However, this is a highly unusual situation. The John Dewey Academy is located on a parcel of land that exceeds 62 acres. While a waiver of this requirement is necessary, the actual distance between the applicant property and the John Dewey Academy is 942 feet. In fact, the Academy is closer in distance to Calyx Berkshire Dispensary at 307 Main St. than it is to the applicant location. The proximate portion of the Academy property is not used by the school, and is separated from the applicant location by a four-lane State Highway, a sidewalk and a rather imposing wall of about 8 foot in height..

2. Description of the Project

The applicant, Coastal Cultivars LLC, seeks to operate a retail marijuana establishment on the first floor of 454 Main St. The first floor is 2215 ft.². There will be no exterior changes to the building or the grounds.

As the jewelry business consisted of a showroom and back office space and required a high degree of security, use as a cannabis retailer will not require any significant alterations. In fact, the only exterior change will be replacement of the current sign with a sign announcing this retail establishment, at the existing sign location. The locus will otherwise be indistinguishable from its present condition.

The owners of the premises have been attempting to sell the building since the closure of the jewelry business. It is a prime retail location and the owner has received significant offers for the property. However, the offers entail demolition of the existing building and construction of a "big box" retail store. The present proposal may be the only viable way of maintaining the current building.

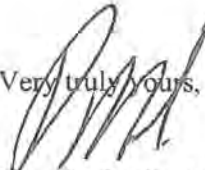
3. Consistency with Master Plan

Coastal's use satisfies many of the objectives of the town's Master Plan.

Preservation and adaptive reuse are express objectives of the Master Plan. In particular, this building qualifies as an "historic treasure of the architectural landscape." This proposal would preserve the historic beauty of one of the principal gateways to the Downtown. It will preserve a highly visible gateway location in accordance with Economic Development Goal 5 and preserve an historical and cultural asset in accordance with Historic and Cultural Goal 1. Further, revenue derived from the Host Community Agreement and the 3% local retail sales tax will provide significant revenue for the town to address its aging infrastructure.

The building at 454 Main Street was restored and preserved without taxpayer funds, and brought back onto the town's tax roll for the first time in 90 years. The best way to preserve this building is to have a viable business utilizing this unique space. The Gothic Revival building was built as a home 170 years ago and is now an architectural treasure. Located at the gateway to Great Barrington, it is a prominent landmark that contributes to the beauty and character that are emblematic of Great Barrington's distinctive brand. The unique nature of the building makes it's reuse very challenging. It is not protected by historic restrictions, and could be razed by right. The ONLY other party interested in this property at a major intersection and southern gateway to the town has been a big box developer. This proposal will bring a viable business to Great Barrington, add significantly to the tax revenue and preserve a landmark historic building from being razed for a big box store.

Very truly yours,


Peter L. Puciloski

Enclosures

SUBMISSION

- 1 Cover letter, including description of the project, relief sought and conformity to Master plan.
2. Application, signed by Owner and Applicant.
3. Site plan review dated December 12, 2013 and minutes of Planning Board meeting of even date.
4. Site plan review dated August 20, 2014 and minutes of Planning Board meeting of June 12, 2014
4. Photo of existing Building
5. Site plan and ortho photo
6. Certified list of abutters.
7. Excerpt from zoning map.
8. Excerpt from USGS topo.
9. Topo from Mass. GIS.
10. Provisional license for operation in Wareham.
11. Letter of support from Director of Planning and Community Development, Town of Wareham
12. Letter of support from David Baum, Head of School, John Dewey Academy.
13. Letter of Intent
14. Description of applicant's operations in other locations.
15. Our firm check in the amount of \$150.

N.B. there are no changes proposed to landscaping, drainage, or exterior security.

OCT 6 2020 PM2:44

TOWN OF GREAT BARRINGTON
Application for a Special Permit
to the Board of Selectmen or Planning Board

FORM SP-1
REV. 11-2013

FOR OFFICE USE ONLY

Number Assigned 913-20 Date Received 10/6/20
Special Permit Granting Authority SB
Copy to Recommending Boards 10/8/20
Advertised 10/14 & 10/21
Public Hearing 11/9/20
Fee: \$150.00 Paid: yes

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

MAP 22 LOT 3.0 BOOK 2203 PAGE 326 ZONING DISTRICT(S) _____

Site Address: 454 Main Street

Date of Application September, 2020

Applicant's name and complete mailing address Coastal Cultivators, LLC
399 Boylston St., 6th Floor, Boston, MA 02116

Applicant's phone number (617) 838-7997 Applicant's email address: jarrad.glennon@gmail.com

Name and Address of Owner of land exactly as it appears on most recent tax bill:

Kerin Kiskadden LLC
454 Main Street, Great Barrington, MA 01230

I (we) request a Special Permit for: Reduction in setback from private
school

Under Section(s) 7.18.4.3 and 10.4 of the Great Barrington Zoning Bylaws.

APPLICANTS MUST READ AND COMPLY WITH THE FOLLOWING:

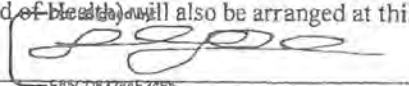
One Signed Original application with each of the items below, as applicable, and fourteen (14) exact copies of the entire application package are to be submitted. Applications must include:

1. Completed application form, including signatures.
2. Brief written description of 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.)
3. Site Plan, drawn to scale, applicable to the site and the proposed use of said site for which this special permit is requested.
4. Any other specifications necessary to further describe the site or proposed use for which a special permit is requested. At least one copy of any maps being submitted shall be no larger than 11" X 17". Plans should show all existing and proposed structures, property lines and dimensions, driveways, walkways and parking areas. All proposed landscaping, parking, loading, and similar improvements must be in compliance with the applicable sections of the Zoning Bylaw.
5. Certified list of abutters within 300' on the Assessors Maps to the subject property, including map and lot number. List must be obtained from the Assessors' Office.

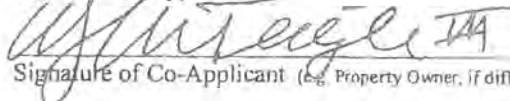
- 6. Zoning Map designating the zoning district(s) and location for the area for which a special permit is requested, plus a USGS map enlarged and showing the site location within the Town.
- 7. Drainage Plan indicating the destination of all runoff from the property. In the event of substantial increase in impervious surfaces, the SPGA may require calculations or expert analysis of the plan.
- 8. Landscaping Plan drawn to scale and showing existing and proposed landscaping.
- 9. If applicant and owner are different, a letter signed by the owner of the property authorizing the applicant to apply for the special permit.

SPECIFICS:

- 1. All site plans and specifications must be signed and dated by the preparer.
- 2. **ALL OWNERS** of property must also sign the application.
- 3. A copy of special permit procedures is available upon request.
- 4. Fee for application is \$150.00 to cover the cost of the public hearing notices in the newspaper and notification to parties in interest. If the cost exceeds \$150.00, the applicant shall pay the balance due upon notification from the Granting Authority.
- 5. Once all the necessary papers, maps, etc. are compiled into the required Original and 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 Board of Selectmen or Planning Board will be scheduled. Meetings of recommending boards (e.g. Planning Board, Conservation Commission and Board of Health) will also be arranged at this time.



Signature of Applicant

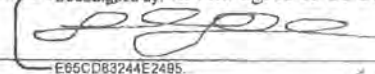



Signature of Co-Applicant (e.g. Property Owner, if different)

PLEASE READ AND SIGN BELOW

ALL COSTS INCURRED BY THE TOWN FOR THE EMPLOYMENT OF EXPERTS OR CONSULTANTS REQUIRED BY ANY TOWN BOARD, AND APPROVED BY THE BOARD OF SELECTMEN, 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 THE APPLICANT IF REQUESTED.

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

Signature 

Signature of Co-Applicant (e.g. Property Owner) 

Date 03 SEP 2020

PLANNING BOARD

DATE: December 12, 2013
TIME: 7:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Jonathan Hankin, Chairman; Suzanne Fowle; Jack Musgrove; Ethan Culleton
Malcolm Fick, Associate Member
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 7:00 PM.

FORM A'S:

Michael Parsons and Jack Magnatti were present from Kelly, Granger, Parsons and Associates with a Form A application for Flag Rock LLC on Grove Street in Housatonic. Mr. Culleton recused himself from the discussion and left the room.

Mr. Parsons said parcels of land are being cut out from the larger piece of land to be conveyed to abutters. None of the parcels is to be considered separate building lots. Parcel A contains .068 acres of land. Parcel B contains .068 acres of land. Parcel C contains .405 acres of land. Parcel D contains .166 acres of land. Parcel E contains .065 acres of land. Parcel F contains .157 acres of land.

Mr. Musgrove made a motion to approve the plan, Ms. Fowle seconded, all in favor.

Mr. Parsons and Mr. Magnatti presented a Form A application on behalf of Marianne and Jerome Comcowich Trust for a parcel of land located on the west side of Route 23 aka South Egremont Road. The property, which has three houses on it, predates zoning. Mr. Parsons said the law allows for the division of land on which two or more structures stood prior to subdivision control law.

Lot 1 contains .515 acres of land. Lot 2 contains .398 acres of land. Lot 3 contains .519 acres of land.

Mr. Musgrove made a motion to approve the plan, Mr. Culleton seconded, all in favor.

Alexander Thorp from Accord Engineering and Surveying, LLC was present with a Form A application on behalf of Susan Godwin and John Lindquist for three parcels of land located on the south site of State Road. Parcel A contains 0.26 acres of land. Parcel B contains 0.15 acres of land. Parcel C contains 3 acres of land. Parcels B and C are not to be considered separate building lots.

Mr. Musgrove made a motion to approve the plan, Ms. Fowle seconded, all in favor.

MINUTES: NOVEMBER 14, 2013

Ms. Fowle made a motion to approve the minutes as amended, Mr. Culleton seconded, all in favor.

SITE PLAN REVIEW: 185 EAST STREET

Naomi Blumenthal was back to discuss the Site Plan Review application for 185 East Street. The Board had conducted a site visit prior to the meeting.

Ms. Blumenthal said she had incorporated most of the Boards suggestions and comments discussed at the last meeting. She said the amount of asphalt had been reduced and airport mix will be used on where applicable. She said asphalt will be used where there is a problem with runoff and airport mix where the grade is less steep. She said gravel will be used in the area where the cars will be parked. The area is 27 feet wide allowing for 3 cars to park side by side. There will be small turn around in front of the house that will be gravel with planting along the edge.

Mr. Rembold asked if the asphalt will be removed.

Ms. Blumenthal said the asphalt will remain and the grading will be to edge of it.

Mr. Hankin said Ms. Nelson was not able to attend the meeting but she did look at the site. She sent an e-mail with today's date. Mr. Hankin read the e-mail.

Ms. Blumenthal said she has addressed the asphalt driveway. She said the driveway is like a luge shoot for water. Anything we do on the site will be an improvement to the drainage. Snow will be pushed beyond the parking area.

Mr. Hankin said the impervious area is going to be increased.

Ms. Blumenthal said if the site is not functional with less impervious area what should we do? She said the blacktop has been reduced from the original plan.

Mr. Hankin said the impervious area is being tripled.

Mr. Musgrove asked where the water from the roof goes.

Ms. Blumenthal said there are goes that go into the ground. The gutters could be directed into the proposed drywell. She said there does not seem to be a drainage issue on the street.

Mr. Rembold said there is an attempt to catch some of the water before it hits the driveway. There is concern over an increase in the impervious surface.

Ms. Fowle asked if the snow could be piled south of the catch basin in the southeast corner.

Mr. Fick said there will be less storm water flow from the property but there will be an increase in the impervious surface. He said it seems as if the issue is balanced.

Mr. Musgrove said there is a decrease in the runoff even though there is an increase in the impervious surface. He said overall the property does not seem different from the rest of the properties in the neighborhood.

Mr. Hankin said he has a problem with parking next to the property line.

Mr. Musgrove said it seems like it is the nature of the neighborhood.

Mr. Hankin said it would be less offensive with tandem parking.

Ms. Blumenthal said she is very frustrated with the discussion. She said she has reduced the asphalt and adapted the parking. It is very difficult to park tandem. She said she feels that there is a lot of time being spent on a little driveway.

Mr. Hankin said there is grading taking place under the neighbor's tree. He said the grading will affect the roots and it is over the property line.

Ms. Blumenthal said the tree is at least 10 feet from the property line. She said she is a gardener and she understands how the plants would be impacted. She said she does not understand how to make any other improvements. She said she does not understand what you want us to do. She said the Board was not being supportive of moving forward with a plan to make this house functional.

Mr. Hankin said the parking area should be narrower and there should be grass between the parking and the house.

Ms. Blumenthal said she doesn't want a difficult parking situation; she wants it to be easily accessible. She said this plan is in keeping with the neighborhood. She said she feels this discussion is very picky.

Mr. Culleton said he is sympathetic to the efforts made by Ms. Blumenthal. He said the Board should move forward. She has returned with a different scenario. It is not ideal but it is a tough site. He said we should move forward.

Ms. Fowle asked Mr. Hankin if is addressing a specific area of the Site Plan Review.

Mr. Hankin said he is addressing zoning.

Ms. Fowle read through Site Plan Review.

Mr. Musgrove said he the storm water runoff is being improved even though there is an increase in the impervious area. He said it is a net net.

Ms. Fowle said if there is no storm water management on East Street then there is nothing to tie into to catch the water before it goes into the street.

Mr. Musgrove said the turnaround mitigates the parking. He said he feels they have done all they can do.

Mr. Musgrove made a motion to approve Site Plan Review, Mr. Culleton seconded. Ms. Fowley, Mr. Hankin nay. The motion passed 3-1.

SITE PLAN REVIEW: 454 MAIN STREET

Joe Lewis, the Construction Manager for Allegrone Construction, was present to discuss the Site Plan Review application on behalf of McTeigue and McClelland for a change of use at 454 Main Street. The applicant has a building permit but the Building Inspector determined that the applicant was required to have Site Plan Review from the Planning Board.

The Board conducted a site visit prior to the meeting.

Mr. Lewis said the parking area is in compliance with zoning. The parking will be decreased. There are no changes only shaping the area for accessibility.

Mr. Rembold asked what material would be used for the parking area.

Mr. Lewis said processed gravel.

Mr. Musgrove asked if there would be any asphalt.

Mr. Lewis said no.

Mr. Rembold asked if the parking or driveway would be regraded.

Mr. Lewis said yes. The area will be regraded for accessibility. The parking will be significantly reduced.

Mr. Fick asked if the parking would be delineated.

Mr. Lewis said currently it is not planned to be delineated.

Mr. Hankin said it appears that the project is going to be phased.

Mr. Lewis said this could be a five year project. Right now it is finance driven. He said the goal is to get into the building, meet the building code requirements and accessibility. He said landscaping and potentially blacktop for the driveway is down the road.

Mr. Musgrove asked if there is any obligation for the second floor.

Mr. Lewis said Stephan Green, the architect and Mr. May, the Building Inspector have reviewed what needs to be done to comply.

Mr. Hankin said he does not want to slow down the process but the site plan presented is not normal. It does not show the grade change.

Mr. Lewis said the reduction in the grade is shown.

Mr. Musgrove asked if there will be any exterior lighting

Mr. Lewis said nothing will be added. Any future light would be downward directed.

Mr. Musgrove asked if a change in the lighting would trigger further review.

Mr. Hankin asked when the applicant planned to be in the building.

Walter (McTeigue?), one of the applicants, was present. He said he planned to move in in the spring.

Mr. Rembold suggested the Board could put conditions on the Site Plan approval.

Mr. Musgrove said if there is a plan to pave or put in lighting we would want the applicant to come back for further site plan review.

Mr. Hankin said Ms. Nelson had visited the site and forwarded her comments. Mr. Hankin read the comments. He said Ms. Nelson has concerns about runoff from the site. Mr. Hankin said he has other concerns such as the lack of contour lines on the site plan. He said usually grading plans show the contours so it can be seen how the grade is reduced. He said he does not have what he needs to understand how the grading will be done.

There was further discussion of a contour plan with point elevations.

Mr. Musgrove said we could condition the approval to require the parking lot to slope onto your land. Bumpers will be installed along the edge of the parking area so a car can not drive over the bank. If there is any paving or added exterior lighting the applicant will return for further review. The lot will be graded so the water runs into the front yard area.

Mr. Hankin said landscaping has not been addressed.

Mr. (McTeigue?) said it has not been planned. We are working as we go.

Mr. Hankin said the driveway is being relocated.

Mr. Rembold said there is not request for a curb cut so it is not being changed.

Mr. (McTeigue) said the driveway is being made narrower but within the existing driveway.

Mr. Hankin pointed to the site plan.

Mr. Lewis said the plan should show the change for the driveway within the existing driveway. The drawing is incorrect.

Mr. Hankin asked if the driveway would direct water into the street.

Mr. Lewis said water does not currently run into the street. It goes into the low spot on the site and will continue to do so.

Mr. Musgrove said he does not want this applicant to come back. He said we need to condition the approval for what we want to see. The site does not currently drain into the street.

Mr. Hankin asked why trees are being cut.

Mr. (McTeigue) said there was a cedar tree that was a problem. There were some Norway Maples that were hanging over the road that were cut but there are some good specimens that we hope to save by thinning out the trees. The grounds are like a park.

Mr. Hankin asked if there is a blacktop apron where the driveway meets the road.

Mr. Lewis said no.

Mr. Rembold said there is no change in the driveway so the State won't review.

Mr. Hankin listed the following conditions:

There will be no runoff down the driveway into the street.

Wheel stops will be installed in the parking area along the abutting property to address safety concerns.

Outside lighting is forbidden. Any addition of exterior lighting, other than egress lighting, will require the applicant to return for site plan review approval. The egress lighting will be downward directed with horizontal cutoffs. There will be no uplighting.

The drainage will drain to the front yard, not into the street. Everything stays on the property.

Mr. Musgrove asked if there will be any runoff into the street.

Mr. Lewis said if there is any runoff it would only be the last 30 feet of the driveway and then only with a very heavy rain. He said nothing from the site will leave.

Mr. Lewis added a condition that there will be a 2% cross pitch away from the west property line. It could be more clearly shown on the plan.

Mr. Musgrove made a motion to approve Site Plan Review with the conditions discussed, Ms. Fowle seconded, all in favor.

VARIANCE: LONG POND ROAD

Mark Volk from Foresight Land Services was present to discuss a variance request on behalf of Stephen Bennett for property on Long Pond Road.

Mr. Hankin disclosed that he had represented the previous owner of the property but had no conflict of interest with this applicant.

Mr. Volk said the proposal is for a garage to be built in the front yard setback. The area was originally zoned with a 25 foot setback then it was changed to 50 feet. The garage will be 25 feet from the property line. There is no other place to locate garage. The variance request is driven by the difficult site constraints.

Mr. Hankin said this seems like a perfectly reasonable request.

Mr. Musgrove made a motion to make a favorable recommendation to the ZBA for the variance for a garage on Long Pond Road, Mr. Culleton seconded, all in favor.

ZONING AMENDMENTS:

The Board discussed potential zoning amendments for the Annual Town Meeting. The first amendment has to do with deviation from parking and landscaping regulations. The intent would be to simplify the bylaw by allowing the permitting granting authority to waive the requirements instead of requiring a separate special permit to waive the requirements. In the event there is not a permitting authority the Planning Board would be the permitting authority.

Mr. Hankin said the Selectmen don't have a good grasp of parking or reading site plans.

Mr. Fick said the Planning Board would still be able to make recommendations.

Mr. Rembold said we owe it to potential applicants to give them a way to go through the process more easily.

Mr. Musgrove said it could be a joint special permit application.

Mr. Rembold said it would require a joint meeting otherwise there would have to be two public hearings and all the expense associated with the process.

Mr. Hankin said he wonders if there is another way to deal with this. He said he would like to discuss it again.

HOTEL/MOTEL LIMITS:

Mr. Rembold said the proposal would not change the cap that is currently in place. This proposal would be specific to redevelopment of historic structures. The Board of Selectmen would be the SPGA. They would be able to deviate from the room limit to make it possible for certain existing structures to have more rooms.

Ms. Fowle asked if we want hotels larger than what is allowed.

Mr. Fick said yes as it would attract new people to the area.

Mr. Hankin said yes, it would attract specific people.

Mr. Musgrove said he liked the proposal.

The Board agreed that this amendment could move on for a public hearing.

ACCESSORY DWELLING UNIT:

Mr. Hankin said ADUs have less of an impact on a neighborhood than a 2-family unit. We are considering making 2-family dwellings by-right. We should make ADUs by-right in all zones.

Everyone agreed they should be by-right in every zone. The process should be less onerous.

TWO-FAMILY RESIDENTIAL:

The proposal would allow two-family dwellings by-right where they are currently allowed by special permit and allow by special permit where they are currently not allowed.

Mr. Hankin said he is sympathetic to need to simplify this process but he suggested it might be advantageous to make this change incrementally. He suggested it might be easier to pass at town meeting if the change is made first in the R-1-B and R-3 zones. It may not pass if R-1-A is included.

Mr. Rembold said there are many two-family structures in the R-1-A zone where there are many large old structures.

Mr. Hankin said he understands the argument but he felt the people will oppose the proposal to keep it out of the R-1-A zone.

The Board decided to discuss this proposal more.

STREAM AND LAKE PROTECTION:

The Board briefly discussed the language presented. The determined there needed to be more work on the language. It will be discussed again.

MEDICAL MARIJUANA TREATMENT/FACILITIES:

Mr. Musgrove said he had one comment that the word "psychological" should not appear in the zoning bylaws. He suggested it be removed from page 7.

The Board had further discussion of the proposal and decided to discuss again.

TOWN PLANNER'S REPORT:

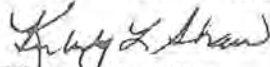
Mr. Rembold said the Building inspector has a building permit application that requires Site Plan Review for a Medical Marijuana Dispensary. The SPR would be for a change of use in the I-2 zone Gas House Lane. He said the SPR application would be on the agenda for the January 9 meeting. He suggested a site visit prior to the meeting at 6:30 P.M.

Mr. Rembold said Barrington Brook has submitted a final version of the Open Space easement. He recommended the Board of Selectmen sign the agreement with the Planning Board as co-signatures. He said the Conservation Commission has written to Dave Ward to encourage him to produce the storm water plans.

Mr. Hankin said he had sent the annual report around. He asked if there were any comment. There were none.

Without objection Mr. Hankin adjourned the meeting at 10:28 P.M.

Respectfully submitted,



Kimberly L. Shaw
Planning Board Secretary

Materials Distributed or Presented for Tonight's Meeting:

Town Planner's memo/email to the Planning Board dated December 9, 2013

Draft Minutes of November 12, 2013

Revised Site Plan for 185 East Street

Site Plan application for 454 Main Street

Variance application for Long Pond Road, Bennett

Draft zoning amendments, v.2, dated 12/12/2013

E-Mail memo from Brandee Nelson dated 12/12/13



Town of Great Barrington
Planning Board
Site Plan Review Decision

PB SPR 2
Rev. March 2011

FOR PLANNING BOARD USE ONLY

INSTRUCTIONS TO PLANNING BOARD

Complete this form to record a Site Plan Review decision of the Planning Board. Make 4 copies of this completed form. File the original with the Town Clerk. File one copy, with attached plans, with the Building Inspector. File remaining copies with the Applicant, the Town Planner, and the Planning Board file.

APPLICATION INFORMATION

Application Number 39-13 Initial Filing Date 11/25/2013

Applicant Name Allegrone Construction Co. Inc. / Joe Lewis

Site Address 454 Main Street, Great Barrington

Application for: Change of use / industrial structure

PLANNING BOARD DECISION

By its vote of 4 in favor and 0 opposed, on 12/12/2013 (date), the Planning Board

- approved
 approved with conditions
 denied

The conditions of approval, if any, are as follows:

1. Substantial conformance with plans submitted, see attached plan, Sheet T1.1, prepared by Clark & Green Inc. Architecture, Great Barrington, and dated 11/7/2013.
2. Drainage shall be into the yard of the property, -- no runoff shall enter the street from the driveway.
3. There shall be a 2% cross pitch away from the west property line, so drainage remains on the property.
4. The parking lot and driveway shall be gravel, not paved.
5. Wheel stops or a guard shall be placed at the end of each parking space, along the western edge of site, in order to prevent vehicles from overtopping the hill into abutting property.
6. There shall be no exterior lighting other than required egress lighting, which shall have full cutoffs and no uplighting.
7. Modifications of these conditions shall require a new site plan review by the Planning Board.

Certificate of Occupancy. A Certificate of Occupancy shall be issued for this project only if the project has been completed per the approved Site Plan and its conditions, if any.

Lapse. The Applicant is hereby notified that, per 10.5.6 of the Zoning Bylaw, Site Plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Board upon the written request of the applicant.

Signed *Kentley L. Shaw* Date 12-17-13
Planning Board Secretary

PLANNING BOARD

DATE: June 12, 2014
TIME: 7:00 P.M.
PLACE: Large Meeting Room Town Hall
FOR: Regular Meeting
PRESENT: Jonathan Hankin, Chairman; Suzanne Fowle; Jack Musgrove; Brandee Nelson;
Malcolm Fick
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 7:00 P.M. Ms. Fowle had not yet arrived.

FORM A'S:

There were no Form A's presented.

MINUTES: MAY 8 & 22, 2014

Ms. Nelson made a motion to approve the minutes of May 8, 2014 as amended, Mr. Musgrove seconded, all in favor.

Mr. Musgrove made a motion to approve the minutes of May 22, 2014 as amended, Mr. Fick seconded, all in favor.

Ms. Fowle arrived.

SITE PLAN REVIEW: 465 MAIN STREET

Architect Stephan Green was present with Walter McTeigue to amend the site plan review for McTeigue and McClelland at 465 Main Street.

Mr. Green said he wanted to review the general ideas behind the site development and what needs to be done for the applicants to move into the space.

Mr. Rembold said the previously approved site plan review had a gravel driveway. They are now proposing to pave the driveway. There will be a sign and some lighting.

Mr. Green said the handicap accessible parking is currently located near the upper entrance on the north side of the building. In Phase II of the project the handicap parking will be in the main parking area with a ramp to access the entrance. The current north parking will become a garden.

Mr. Hankin said there is bollard lighting proposed, six lights.

Mr. Green said they will be LED lights.

Ms. Nelson asked if there is a cut sheet.

Mr. Green said no.

Mr. McTeigue said they are very sensitive to the lighting. They want the property to be as beautiful and tasteful as possible. The parking area will be as discreet as possible with downward directed lighting.

Mr. Musgrove asked if the parking lot could be paved without paving the driveway.

Mr. Green said it is not as neat and clean to do gravel and pavement.

Mr. McTeigue said the driveway width has been substantially reduced.

Mr. Green said the driveway is now 16 feet wide. It is just wide enough for two cars to pass.

Ms. Nelson said she would rather see everything paved instead of broken up.

Mr. Hankin asked if there will be runoff into the street.

Ms. Nelson said it looked like it might run into the street a little bit. She asked if the driveway could be pitched a little.

Mr. McTeigue said the driveway is flatter at the end. The sloped area directs runoff onto the lawn.

The conditions for the Site Plan Review approved on 12/12/2013 were read.

Mr. Green said there is a proposal for two one-watt lights pointing up to illuminate the corner columns of a new entrance canopy.

Mr. Musgrove made a motion to amend the 12/12/2013 site plan review condition #4 to permit paving and condition #6 to allow for bollard lighting, and corner accent lighting. No lighting is to project into the night sky, Ms. Fowle seconded, all in favor.

SITE PLAN REVIEW: 241 NORTH PLAIN ROAD

Mark Fay was present with applicant Annett Grant to discuss converting a one family-dwelling into a two-family in separate structures. A second, free standing dwelling is proposed.

Mr. Rembold said the house is on a 4.5 acre lot. The existing house meets all setback requirements. It is not within 300 feet of the Williams River.

Mr. Fay said the perc test was done today and it passed.

Mr. Musgrove asked if a new septic system will be put in.

Mr. Fay said yes.

Mr. Musgrove read through the site plan review criteria.

Mr. Musgrove made a motion to approve site plan review, Ms. Fowle seconded, all in favor.

BARRINGTON BROOK:

Jim Scalise, engineer from SK Design, was present to review condition #15 of the subdivision approval for Barrington Brook. Dave Ward and Matt Ward, applicants, were also present.

Mr. Scalise said per condition #15 Conservation Commission approval is required for more than 7 units. More than 7 units would require storm water analysis. Mr. Scalise said he looked at the site in the spring. A lot of the infrastructure is already in place. They needed to drill holes in the pipe to meet the discharge specifications. That was accomplished recently by Joe Wilkinson.

Mr. Scalise said it is his opinion that the Conservation Commission does not need to be involved because there is no work required in jurisdictional areas, therefore the condition has already been met without needing additional grading work. He asked the Board to send a letter to the Building Inspector stating that the condition has been met.

Mr. Musgrove asked Mr. Scalise if it was his opinion that the drainage conditions are met because the catch basin is larger than originally thought, , thus avoiding going to the Conservation Commission because condition #15 has been met for Phase I.

Mr. Scalise said yes. The condition remains in place for Phase II and for units 4 & 5 of Phase I.

Ms. Nelson made a motion to send a letter to the Building Inspector that the engineer for Barrington Brook has demonstrated compliance with condition #15 of the subdivision approval therefore the applicant does not need to go to the Conservation Commission for approval. Condition #15 still applies to Phase II of the project and to units 4 & 5, Mr. Musgrove seconded, all in favor.

SPECIAL PERMIT & SITE PLAN REVIEW: 352 MAIN STREET

Nick Anderson of Berkshire Engineering was present to discuss changes to the proposed plan for St. James Place as per the discussion at the May 22 meeting.

Mr. Anderson said changes were made to the parking by eliminating 5 parking spaces at the farthest end of the parking. The parking spaces will terminate after parking spot #19. He said the eliminated spaces are not detrimental to the project.

Three parking spaces will be created on St. James Place. The People's Pantry entry will have an 8 foot walkway widening to 10 feet at the door. The steepness of the grade has been reduced. The slope is 4 to 1 which is quite walkable. Mr. Anderson said the concrete walk would be framed with curbing so there is no need for a wall.

Mr. Anderson said there will be three parking spots along St. James Place created in the public right of way. This will be a loading zone and will accommodate truck deliveries to the Food Pantry. He said the project is fully integrated into the Main Street reconstruction project.

Ms. Nelson said there will be no vehicular traffic up to the People's Pantry door.

Mr. Anderson said correct.

Mr. Hankin asked why area between the parking spaces and the sidewalk is paved.

Mr. Anderson said it will be easier for winter maintenance.

Mr. Hankin said the Design Advisory Committee recommended a low retaining wall along the walkway.

Mr. Anderson said it is not an area that would be appropriate for gatherings. They do not want to attract people to sit on a wall.

Mr. Musgrove agreed it is better not to have the wall.

Ms. Nelson asked if there is a plan for revegetating the slope.

Mr. Anderson said biodegradable fabric with turf. They just want to make it stable.

Mr. Hankin said this proposal is a much better solution.

Mr. Harris, applicant, said he appreciated the cooperation of the Town in assisting with the revisions.

Mr. Hankin asked if they had looked to see if more parking could be added near the garage.

Mr. Anderson said yes but it wouldn't work as it is too tight of a turn radius.

Mr. Musgrove made a motion to approve site plan review, Ms. Nelson seconded, all in favor.

Mr. Musgrove made a motion to send a positive recommendation to the Board of Selectmen on the special permit application of St. James Place for a community center use at 352 Main Street, exterior changes in the Village Center Overlay District and, pursuant to the following Planning Board findings, deviation from parking requirements of Section 9.6.11 #3 and 6.1.9:

1. Sufficient onsite parking is provided for the building's offices;
2. Additional parking spaces are available at off-peak hours pursuant to a shared use agreement with 342 Main Street;
3. Short term parking and loading for the People's Pantry is provided on St. James Place;
4. The proposed plans maintain pedestrian safety and vehicular safety on the site, around the site, and accessing and exiting the site;
5. Future pedestrian or vehicular connections to the Town Hall parking lot may be possible;
6. Off-site parking is regularly available within walking distance;
7. The building has been historically used for assembly with less parking than proposed for this use and will not be more detrimental than the previous use;
8. Historic preservation and preservation of green space are achieved.

Ms. Fowle seconded, all in favor.

HOUSATONIC SOLAR 1: 0 PARK STREET

Kirt Mayland was present to discuss his project for a commercial solar array at 0 Park Street. Michael Marcus from New England Environmental Inc. was present to discuss the proposal.

Mr. Mayland said the site is 65 acres and more than half is in the Industrial Zone. The panels will cover about 13.7 acres, all in the Industrial Zone. He said it is a 3 megawatt DC site. He said he does not think the neighbors can see the project. He said it is a very secluded site.

Mr. Mayland said he is working with Natural Heritage.

Mr. Marcus said he is creating conservation restrictions for area 1 & 2. He said he can't finalize the documents until the study is done. He said construction is planned for when the turtles are in the river and not on the property, in the fall. He said the plan is for the work to be done before the turtles return in the spring.

Mr. Marcus said about 26 acres of the site is an old dump site and labeled a brownfield site. It was determined by Mass DEP that a solar use would be an acceptable reuse of the property. He said a small area is in the flood plain. A compensation plan will be provided.

Mr. Marcus said Natural Heritage gave guidelines for dealing with the turtles. The fence will be raised to allow them to move under it. A mowing plan will be established to avoid mowing when the turtles are in the area.

Mr. Marcus said there will be access to the site along Park Street or possibly Division Street. He said there will be a trail to Park Street. An existing car parking area off Division Street may be expanded.

Mr. Mayland said access through Hazen Paper will be perfect but they are prepared to provide an alternate access if necessary. He said there will be public access to the property. He would like to encourage the two school districts and the town to be served by the panels to be able to see where their power is coming from. He said there will be 3,000 linear feet of public access to the river.

Mr. Hankin asked if compensatory storage would be created on site.

Mr. Mayland said yes.

Mr. Hankin asked if vegetation would be planted under the panels.

Mr. Marcus said a low grass would be planted. The grass would be mowed once a year.

Mr. Mayland said there will be some tree clearing in the conservation restriction area and in buffer zones. A cutting plan still needs to be filed with DEP and the Conservation Commission.

Mr. Marcus said there may be no trees in some of the area right now but young trees will grow. They will stay out of the wetlands. There will be selective cutting closer to the project.

Mr. Mayland said the lights near the access road would remain off. Any noise from inverters will be irrelevant and any traffic will be minimal.

Ms. Nelson read site plan review.

It was agreed that if the applicant is unable to get construction access through Hazen Paper he will need to get appropriate permits from the Town.

Ms. Nelson made a motion to approve the site plan review subject to the following conditions: The applicant will obtain suitable driveway access from the Town, if Hazen Paper does not allow access.

The maximum numbers of panels will be as shown on the plan dated June 12, 2014.

A bond or other financial surety acceptable to the Town will be obtained for decommissioning, and is to be provided to the Town prior to beginning installation of the solar arrays.

Mr. Musgrove seconded, all in favor.

Mr. Musgrove made a motion to send a positive recommendation to the Board of Selectmen for work in the flood plain, Ms. Fowle seconded, all in favor.

TOWN PLANNER'S REPORT:

Mr. Rembold said the Fetherolf v. Doyle lawsuit from 2007 was dismissed for lack of action. The applicant could come back in and start building.

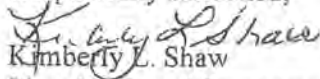
Mr. Rembold said discussion at the Mass Planner's conference included the Marion solar issue that has not gone anywhere and there is a movement to rewrite Chapter 40A.

Mr. Rembold said he would miss the July 24th meeting. He suggested scheduling the July 10th meeting in Housatonic.

Mr. Hankin asked for Mr. Rembold to see if someone from BRPC could attend the July 10th meeting to discuss / present findings about Housatonic.

Having concluded their business, Mr. Hankin adjourned the meeting without objection at 9:40 P.M.

Respectfully submitted,


Kimberly L. Shaw
Planning Board Secretary

Materials Presented or Distributed for June 12, 2014

Town Planner's emails dated June 10

Site Plan application McTeigue and McClelland for 454 Main Street

Site Plan application 241 North Plain Road

Letter from SK Design dated June 10, 2014 regarding Barrington Brook condition #15

Special Permit application for 352 Main St, St. James Place, including revised plans dated June 2, 2014

Site Plan and Special Permit application for 0 Park Street, Housatonic Solar 1, including revised plans dated June 12, 2014



Town of Great Barrington
Planning Board
Site Plan Review Decision

PB SPR 2
Rev. March 2014

*Approval to
pave
driveway*

FOR PLANNING BOARD USE ONLY

INSTRUCTIONS TO PLANNING BOARD

Complete this form to record a Site Plan Review decision of the Planning Board. Sign the form, and make 3 copies of the completed form. File the original with the Town Clerk. File one copy, with attached plans, with the Building Inspector. Send one copy to the Applicant and retain one copy for the Town Planner / Planning Board file.

APPLICATION INFORMATION

Application Number 48-14 Initial Filing Date 6/11/2014

Applicant Name McTeigue & McClelland / Walter McTeigue

Site Address 454 Main Street

Application for Modify Conditions #4 and #6 of site Plan decision of 12-12-2013 in order to pave driveway and add bollard lights as shown on attached plan

PLANNING BOARD DECISION

By its vote of 5 in favor and 0 opposed, on 6/12/2014 (date), the Planning Board

- approved
- approved with conditions
- denied

The conditions of approval, if any, are as follows:

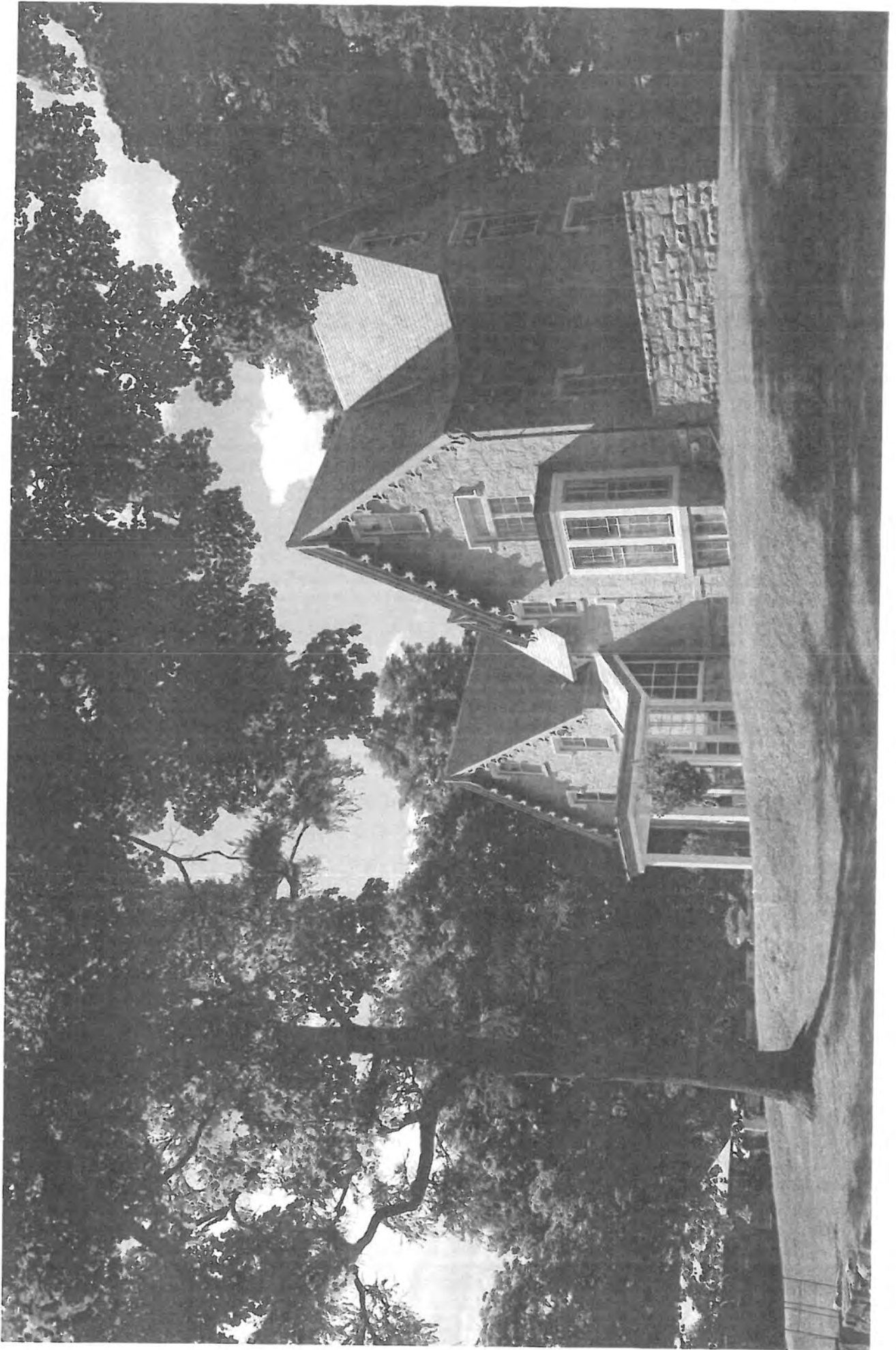
1. There shall be a 2% cross pitch on the driveway so drainage remains on the property
2. Bollard lighting and lighting in the porch area is permitted so long as no light shines into the night sky or spills off of the site.

Certificate of Occupancy. A Certificate of Occupancy shall be issued for this project only if the project has been completed per the approved Site Plan and its conditions, if any.

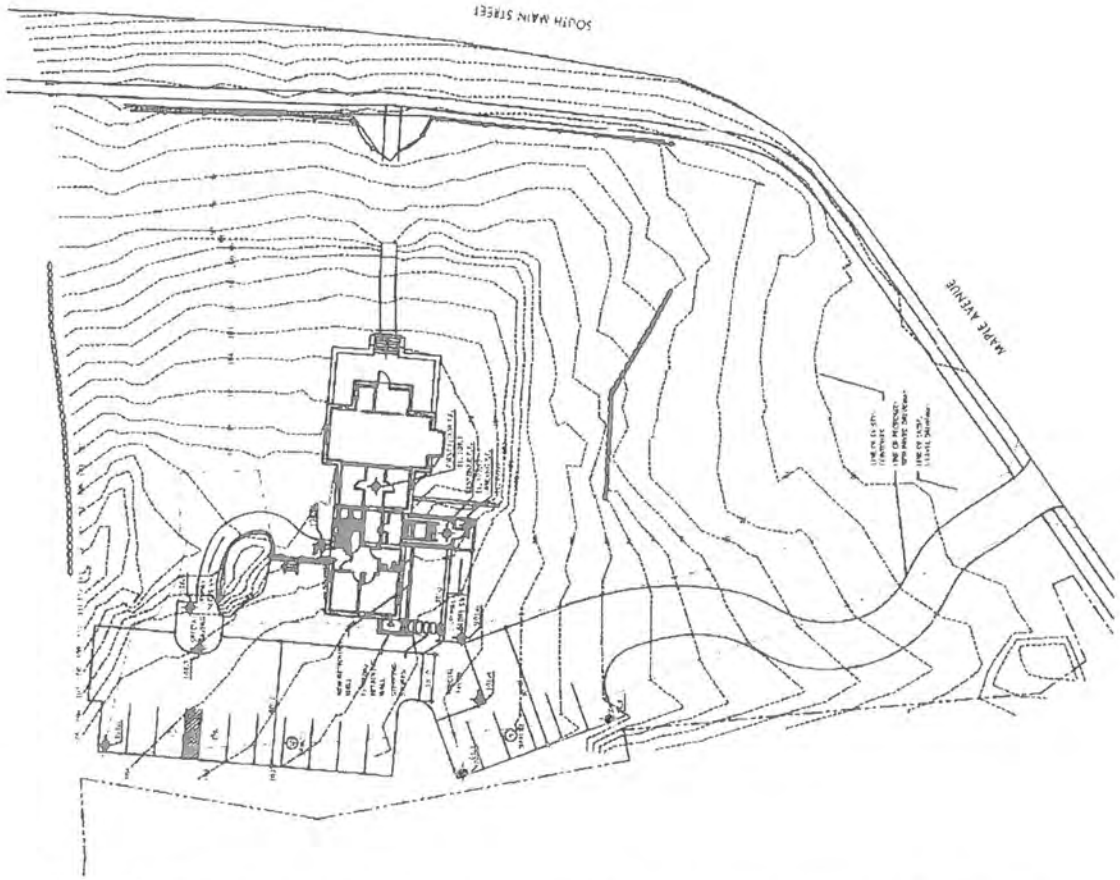
Lapse. The Applicant is hereby notified that, per 10.5.6 of the Zoning Bylaw, Site Plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Board upon the written request of the applicant.

Signed *Walter McTeigue* Date 8/20/2014

Title: Town Planner



454 MAIN ST. SITE PLAN



Bruce Firger, Assessor
John Katz, Assessor

Shaun McHugh, Principal Assessor
E-mail: smchugh@townofgb.org

Carol Strommer
Administrative Assessor
E-mail: cstrommer@townofgb.org



Town Hall, 334 Main Street
Great Barrington, MA 01230

Telephone: (413) 528-2220 x 5
Fax: (413) 528-1026

**TOWN OF GREAT BARRINGTON
MASSACHUSETTS
BOARD OF ASSESSORS**


October 2, 2020

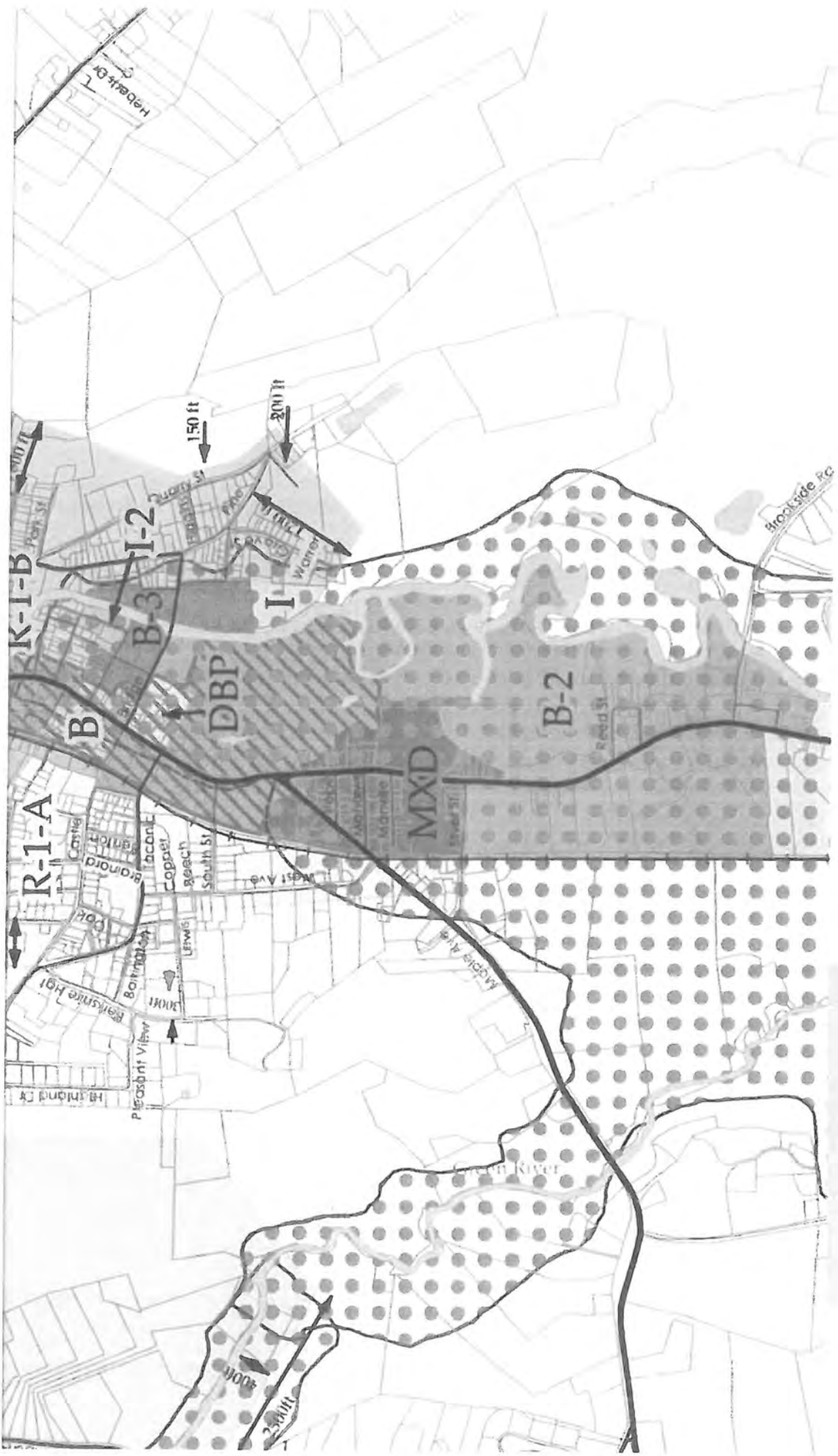
ABUTTERS TO PROPERTY OF: KERIN KISKADDEN LLC
454 Main Street, Map 22 Lot 3, Book 2203 Page 326

<u>MAP</u>	<u>LOT</u>	<u>ABUTTER</u>
22	1	Kevin (estate) & Laura Jane Finnerty, 5 South St., Gt. Barrington, MA 01230-1807
22	3A	10 Maple Ave LLC, PO Box 627, Gt. Barrington, MA 01230-0627
22	2,1B	Nancy A. Mead & Thomas H. Mead, Trustees, 20 Maple Ave., Gt. Barrington, MA 01230-1904
22	5	Millerton Co-Op Inc., PO Box 491, Millerton, NY 12546-0491
22	14	7 & 23 Inc., 490 Main St. #2, Gt. Barrington, MA 01230-2169
22	13,9	Cafua Realty Trust V LLC, 280 Merrimack St Ste A, Methuen, MA 01844-6435
22	12	500 Main Street LLC, 500 Main St., Gt. Barrington, MA 01230-2004
22	10	Mou Guo, c/o lee Bank, PO Box 627, Lee MA 01238-0627
22	8	Robert & Patricia A. Vollmer, 14 Pope St., Gt. Barrington, MA 01230-1908
22	7	Jose M. & Maria Quizhpi, 24 Pope St., Gt. Barrington, MA 01230-1908
22	18	Palmer Properties LLC, 127 West Ave., Gt. Barrington, MA 01230-1811
22	17	Maniraj LLC, 485 Main St., Gt. Barrington, MA 01230-1822
22	16	Toivo R. Tossavainen Jr., Trustee, PO Box 314, Housatonic, MA 01236-0314
19	152,152A	Educational Consultants, 389 Main St., Gt. Barrington, MA 01230-1813
22	15	Town of Great Barrington, 334 Main St. Rm 208, Gt. Barrington, MA 01230-1832

The above list of abutters to the subject property is correct according to the latest records of this office.

Sincerely,


Shaun McHugh
Principal Assessor



454 Main St. great Barrington



Available Data Layers

Search data layers

- USGS Topographic Maps
- USGS Quads Last Revised
- USGS Topographic Maps
- USGS Topographic Maps Download Lin
- USGS Historical Coastal Topographic M
- Wind Speed
- Index (grids/tiling schemes for certain layers)

Active Data Layers

- Check all | Uncheck all
- USGS Topographic Maps
 - USGS Quads Last Revised
 - 2019 Color Orthos (USGS)
 - 2015 WorldView Orthoimagery
 - Tax Parcels for Query
 - Detailed Features

Legend

Tax Parcels for Query

0 m

ER: MassGIS's Online Mapping Tool Please take our user survey.

454 main Street Great Barrin



Available Data Layers

Search data layers

- Tiled Layers
- State Facilities
- Census 1990
- Census 2000
- Census 2010
- Coastal and Marine Featur
- Conservation / Recreation

Active Data Layers

Check all / Uncheck all

- Detailed Features
- Tax Parcels
- Structures

Legend

Contours 3m Labels Feet

Basemaps ▾

COASTAL CULTIVARS, LLC
MCN282052

BACKGROUND & APPLICATION OF INTENT REVIEW

1. Name and address of the proposed Marijuana Establishment:

Coastal Cultivars, LLC
0 Patterson Brook Road, Wareham, MA 02576

2. Type of license sought (if cultivation, its tier level and outside/inside operation) and information regarding the application submission:

Cultivation - Tier 11/Outdoor (90,001 to 100,000 sq. ft)

The application was reopened twice (2) for additional information.

3. The applicant is a licensee or applicant for other Marijuana Establishment and/or Medical Marijuana Treatment Center license(s):

Type	Status	Location
Product Manufacturing	Application Submitted	Wareham

4. List of all required individuals and their business roles in the Marijuana Establishment:

Individual	Role
Ben Smith	Owner / Partner
Jose Breton	Owner / Partner
Jarrad Glennon	Owner / Partner

5. List of all required entities and their roles in the Marijuana Establishment:

Entity	Role
Samoel Ventures, LLC	Entity with Direct/Indirect Authority
Greenfin LLC	Entity with Direct/Indirect Authority

6. Applicant's priority status:



Expedited Applicant (License Type)

7. The applicant and municipality executed a Host Community Agreement on March 21, 2019.
8. The applicant conducted a community outreach meeting on December 19, 2018 and provided documentation demonstrating compliance with Commission regulations.
9. The Commission received a municipal response from the municipality on April 1, 2020 stating the applicant was in compliance with all local ordinances or bylaws.
10. The applicant proposed the following goals for its Positive Impact Plan:

#	Goal
1	Employ at least 25% of its employees from geographic areas of disproportionate impact, specifically Wareham, MA, or individuals who personally have, or have spouses that have, drug convictions.
2	Host bi-annual industry-specific educational programs to assist individuals who have been negatively impacted by cannabis prohibition.

SUITABILITY REVIEW

11. There were disclosures of any past civil or criminal actions, occupational license issues, or marijuana-related business interests in other jurisdictions. None of the disclosures raised suitability issues.
12. There were no concerns arising from background checks on the individuals or entities associated with the application.

MANAGEMENT AND OPERATIONS REVIEW

13. The applicant states that it can be operational within six (6) months of receiving the provisional license(s).
14. The applicant's proposed hours of operation are the following:

Monday – Sunday: 8:00 a.m. – 8:00 p.m.
15. The applicant submitted all applicable and required summaries of plans, policies, and procedures for the operation of the proposed establishment. The summaries were determined to be substantially compliant with the Commission's regulations.
16. The applicant proposed the following goals for its Diversity Plan:

#	Goal
---	------



1	Employ at least 25% of individuals that are female, minority, veteran, disabled, and/or individuals' part of the LGBTQ community.
2	Have a management team comprised of 25% of female, minority, veteran, disabled, and/or individuals' part of the LGBTQ community.
3	Provide charitable donations to the Disabled American Veterans of Massachusetts.

17. Summary of cultivation plan (if applicable):

The applicant submitted a cultivation plan that demonstrates the ability to comply with the Commission's regulations.

18. Summary of products to be produced and/or sold (if applicable):

Not applicable

19. Plan for obtaining marijuana or marijuana products (if applicable):

Not applicable

RECOMMENDATION

Commission staff recommend provisional licensure with the following conditions:

1. Final license is subject to inspection to ascertain compliance with Commission regulations;
2. Final license is subject to inspection to ascertain compliance with applicable state laws and local codes, ordinances, and bylaws;
3. The applicant shall cooperate with and provide information to Commission staff;
4. Provisional licensure is subject to the payment of the appropriate license fee; and
5. Final licensure is subject to the applicant providing Commission staff, upon inspection, with an updated Positive Impact Plan that provides detailed information on workshops and/or seminars and specific information on how it positively impacts people disproportionately harmed.

The applicant has demonstrated compliance with the laws and regulations of the Commonwealth and suitability for licensure. Therefore, the applicant is recommended for provisional licensure.





**Town of Wareham
Planning and Community Development**

54 Marion Road
Wareham, MA 02571-1428

Phone: (508) 291-3100 x6501
Fax: (508) 291-3116
Email: kbuckland@wareham.ma.us

**Kenneth Buckland, Director of Planning and
Community Development**
Sonia Raposo, Department Assistant

August 13, 2020

To Whom It May Concern

RE: Coastal Cultivars

Coastal Cultivars has been in Wareham for over two years. They have complied with all regulations and bylaws of the town. They have always been available for questions and to respond to questions quickly. They have actually gone beyond any requirements and have offered and provided assistance to the town in other economic development initiatives.

I recommend the company and its representatives as great corporate citizens.

Sincerely

A handwritten signature in black ink, appearing to read "KBuckland", is written over a horizontal line.

Kenneth Buckland
Director

Dear Members of the Great Barrington Select Board,

I'm writing this letter in support of the proposed special permit application regarding 454 Main Street, the former home of McTeigue & McClelland.

We have no objections to granting of a special permit for a proposed marijuana retail location due to the distance being far in excess of 500 feet from our school, separated by a busy state highway and located directly across from the police station.

In addition, this property at the entrance to our town is a fine example of the historical and architectural character that makes Great Barrington so special. A thriving business in this location allows a landmark building like this to be utilized - and preserved.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. E. B.', with a long horizontal flourish extending to the right.

David Baum, Head of School

John Dewey Academy

Gower & Company
203 Main Street
Providence, RI 02903
Petereschmitz99@gmail.com
781-571-1319

**LETTER OF INTENT
LEASE OF RETAIL SPACE**

August 14, 2020

Dear Jarrad,

The following Letter of Intent (hereinafter the "LOI") serves to summarize Landlord's offer to Tenant to lease space at 454 Main Street, Great Barrington, MA. This LOI shows a good faith effort to enter into a lease for the above listed location. Should the parties be unable to come to a rental agreement, neither party shall have any further obligations to one another.

Landlord: KERIN KISKADDEN LLC

Tenant: COASTAL CULTIVARS, LLC

Premises: 454 Main Street
Great Barrington, MA 01230 (Land & Building)
Currently occupied by McTeigue & McClelland Fine Jewelers

Building Square Footage (Appx.): 2,215 First Floor
2,215 Second Floor
1,800 Basement

Letter of Intent Execution: LOI to be executed by 8/14/2020. With the execution of the LOI, Tenant will make a \$[REDACTED] deposit that shall be applied towards the Special Permit process including filing, copying and attorney fees. Should Tenant receive special permit approval and Host Community Agreement (HCA), the balance shall be held in escrow until a lease between the parties is executed. If the special permit is denied with a good faith effort by Tenant to get approval, Landlord shall return the balance of the deposit.

Lease Execution: If the lease is not executed within 60 days of special permit HCA approval by the Town of Great Barrington, provided the Landlord has negotiated in good faith, Landlord may terminate the LOI and the remainder of the \$[REDACTED] deposit will be forfeited.

Initial Term: Ten (10) years commencing on the Rent Commencement Date.

Delivery Date: The latter of the expiration of Special Permit appeal period and Lease Execution subject to the sublease agreement for the second floor.

Pre-Permit and License Rent Commencement Date: January 1, 2021

No rent will be due until January 1, 2021. The rent shall be \$[REDACTED]/month beginning January 1, 2021

Upon Tenant's receipt of all necessary permits and licenses to operate a Retail Adult Use Cannabis Dispensary, rent shall be increased to \$ [REDACTED] month ([REDACTED] year), plus all other Additional Rents as defined below shall be assumed and the term shall begin.

Landlord may retain the right to use the second floor of the premises until Tenant begins paying the full rent of \$ [REDACTED] per year. A separate sublease agreement shall be executed between the parties for use of the premises by the Landlord that will terminate upon 30 days notice to Landlord from Tenant. There shall be no rent charged for the sublease during the Pre-Permit and License Rental period.

If Tenant is unable to attain the necessary permits and licenses to open a Retail Adult Use Cannabis Dispensary within 360 days of Lease execution after diligently pursuing same, Landlord or Tenant may give 90 days notice to terminate the lease.

- Annual Rent:** [REDACTED] month (\$ [REDACTED] ar) with 3% increases every year throughout the term.
- Options To Extend:** Tenant shall be granted two (2) Five (5) Year Options to Extend the lease, exercisable upon not less than six (6) months prior written notice.
- Option Rent:** Option Base Rent for each Option term to increase by five percent (5%) from final year of the prior Lease term with 3% increases annually thereafter.
- Percentage Rent:** None.
- Additional Rent (Charges):** Subject to Landlord obligations below, Tenant shall maintain the premises both interior and exterior in similar Class A condition throughout the term of the lease at their cost, normal wear and tear excepted.
- Non Profit Charitable Contribution:** Tenant shall arrange to have the John Dewey Academy Health & Wellness Program as the designated recipient of the Town required annual charitable donation. The JDAH&W to be the recipient as long as the program meets the town's criteria for the local charity/non-profit recipient.
- Taxes:** Tenant shall pay the Real Estate Taxes during the term of this lease directly to the municipality. Tenant shall also be responsible for any additional taxes due associated with their use of the space. 2019 Real Estate Taxes were \$10,765.
- Security Deposit:** Two months rent to be paid at Lease Execution and returned within 30 days of lease Termination unless terminated early and for cause and/or damage beyond reasonable wear and tear has occurred prior to turnover to Landlord.
- Use:** A Retail Adult Use Cannabis Dispensary approved by the State of Massachusetts and the Town of Great Barrington primarily selling cannabis flower, pre-rolls, extracts and infusions, along with the sale of incidental related accessories, and for no other purpose without Landlord's consent which shall not be unreasonably withheld or delayed.
- Landlord Work:** Space to be delivered in as-is condition with merchandise and furniture removed and in broom clean condition.

Landlord will actively participate and lobby on behalf of the Tenant in support of Tenant's application for a Special Permit.
- Tenant's Work:** Tenant, at its sole cost and expense, shall perform all work it deems necessary to open a typical Retail Adult Use Cannabis Dispensary, including, but not limited to any tenant-

specific lighting, flooring and wall finishes, and any and all FF&E. Landlord will provide working plans of the existing space.

- Alterations:** Tenant will not make any structural or exterior changes to the Premises without obtaining the prior written consent of Landlord. Tenant may make such non-structural, interior alterations, changes, additions, and/or improvements including signage, in or to the Premises, as Tenant may desire for its business purposes, provided they have been reviewed and approved by Landlord. Landlord shall not unreasonably withhold approval.
- Landlord's Repair Obligations:** Landlord shall repair and maintain all exterior and/or structural elements of the Premises, the roof, floor slab and any utilities serving the building up and to the meters or the building premises if not metered, unless caused by Tenant negligence. Landlord shall be responsible for any repairs to the HVAC system during the first and second lease years.
- Tenants Maintenance:** Tenant shall repair and maintain the Premises, including but not limited to windows, doors, signs, HVAC (HVAC repairs after first and second lease years) and its replacement, utilities servicing the premises including (i) plumbing, (ii) sprinklers, and all non-structural portions of the interior of the Leased Premises. To be further defined in the lease.
- Utilities and Rubbish Removal:** Upon Term Commencement, Tenant shall be responsible for securing and maintaining an account with the local utility provider(s). Tenant shall be solely responsible for and shall promptly pay all charges for water, gas, electricity, sewer, septic, cable, telephone, and any other utilities used upon or furnished to the Premises. Tenant shall secure and pay for trash removal in accordance with laws of the State of Massachusetts if controlled substances need to be handled per state and/or federal regulations.
- Assignment & Subletting:** Tenant shall reserve the right to assign their entire premises with prior Landlord approval, which consent may not be unreasonably withheld. It shall not be considered unreasonable for Landlord to reject consent to a replacement Tenant that does not have equal or greater net worth than Tenant. Tenant shall not be relieved of its obligations under the Lease in the event of an Assignment or Sublease unless release is expressly approved by Landlord.
- Go Dark:** Tenant shall have the right to close its store and or cease operations at any time and from time to time, provided Tenant continue to fulfill all other lease obligations, including the payment of rent and additional charges in accordance with the lease. If, after the Rent Commencement Date, pursuant to Tenant's election to do so, the Premises remain closed for a period in excess of ninety (90) consecutive days (except in connection with a casualty, taking, force majeure, renovation or assignment), Landlord, at Landlord's option, shall have the right, while the Premises remains closed, by thirty days written notice (provided the Tenant does not open the Premises for business during said notice period), to terminate the Lease and recapture the space.
- Signage:** Tenant, at its sole cost and expense, shall install its standard storefront signage provided the same has received (i) Landlord's prior approval which shall not to be unreasonably withheld and (ii) is in compliance with governmental codes and regulations. Tenant will also have use of any pylon or additional signage permitted by the town of Great Barrington.
- Contingencies:** Should Tenant not receive approval by the Cannabis Control Commission or local municipality for the operation of a Retail Adult Use Cannabis Dispensary, the lease shall terminate within six (6) months from the date of final rejection of a license to operate at a date mutually agreed upon between Tenant and Landlord. Tenant shall use all reasonable efforts to secure a license to operate from the state and local municipality. Landlord shall have the right to seek a license to operate in the event the Tenant has deemed their efforts to have been exhausted.

Brokers: Tenant acknowledges that they have dealt with no other real estate agent. Landlord shall be responsible for paying any fee due by separate agreement.

Lease Form: Initial Lease draft on Landlord's lease form, to be consistent with the terms and provisions of this LOI, with the final form on terms agreeable to both parties acting in good faith.

Please indicate your acceptance to this proposal by signing below where indicated and returning a copy to my attention. It is understood that (i) other substantial terms of the lease must be negotiated between the parties, and no liabilities or obligations of any kind whatsoever are intended to be created hereby, (ii) this letter is not intended to constitute a legally binding agreement to consummate the transaction referred to above nor an agreement to enter into a legally binding lease, and (iii) neither party may claim legal rights against the other by reason of the execution of this letter or by taking any action in reliance thereon.

Sincerely,

Peter Schmitz
Executive Director
Grower & Company

ACKNOWLEDGED AND AGREED TO BY:

Acknowledged and Accepted by Tenant

this 14th day of August, 2020

by [Signature]
Jarrad M. Glennon, Manager

Acknowledged and Accepted by Landlord

this 14th day of AUGUST, 2020

by [Signature]
Walter McTeigue

by [Signature]
Tim McClelland

cc: Walter McTeigue
Tim McClelland
Pepe Breton
Ben Smith



A new way to look at cannabis

Eufloa is a vertically-integrated cannabis company with operations spanning cultivation, extractions and manufacturing, retail locations and a portfolio of consumer brands.

Called the "Apple Store" of dispensaries by CBS, Eufloa provides its customer a unique boutique cannabis shopping experience.



Headquartered in Colorado, Eufloa is rapidly expanding across the U.S., with new operations in Massachusetts, Florida, California and Oklahoma coming soon!



euflo^{ra}



RETAIL

Superbly designed retail locations with a technology driven shopping experience.

10

COLORADO LICENSES

4

STATE EXPANSION PLAN
(MA, FL, CA, OK)

CULTIVATION

8+ years of licensed marijuana cultivation with over 300 proven strains.



2MM

CUSTOMERS SERVED

\$100MM

PRODUCTS SOLD



EXTRACTIONS

Expert manufacturing capabilities producing high-quality extract products.

31%

EBITDA MARGIN

150+

EMPLOYEES

BRANDS

15 SKUs and growing, all with strong brand recognition and customer loyalty.



300+

STRAINS OF FLOWER

0

VIOLATIONS
(Average of 3 per operator in CO)

LAZAN GLOVER & PUCILOSKI LLP
BOSTON • GREAT BARRINGTON

DAVID M. LAZAN*
PETER L. PUCILOSKI
ALEXANDRA H. GLOVER
ADRIENNE L. ARNOLD

OF COUNSEL
SCOTT A. SANES^o
JAMES B. MCLINDON

Delivered in Hand

November 5, 2020

Mr. Stephen Bannon
Chair, Selectboard
Brandee Nelson
Chair, Planning Board
Great Barrington
334 Main St.
Great Barrington, MA 01230

785 MAIN STREET
GREAT BARRINGTON, MA 01230
TELEPHONE 413-644-0200
FAX 413-644-0201
www.lazanlaw.com

Peter L. Puciloski
Email
puciloski@lazanlaw.com

Re: Site Plan Review and Special Permit Application/454 Main St.

Dear Mr. Bannon and Ms. Nelson:

Please consider this as a supplemental filing for the pending application for site plan review and a special permit.

1. Parking

To clarify the anticipated employee count discussed at the Planning Board meeting, the applicant anticipates a total workforce of 10-15, working in shifts throughout the retail week. The Applicant anticipates no more than five employees on

site at any one time. There are 21 parking spaces on the property, only two of which are not paved.

The parking requirements of §9.5.2 would require one space for each 200 ft.² of usable floor area, or 11 spaces. In addition, the property is in the Village Center Overlay District; §9.6.11.2 requires only the maintenance of existing parking spaces when the structure is not being built or expanded in the property is in that overlay District. In order to insure adequate parking, the applicant has identified an area to be converted to 10 additional parking spaces, if necessary. If the necessity became apparent while the asphalt plants were open, it would be paved immediately. If it became necessary to use the area or in the winter months, it would be graveled and then paved in the spring.

2. Traffic

Attached to this submission is the Institute of Traffic Engineers traffic generation average peak data for marijuana dispensaries. Application of the average rate of 10.44 to the gross floor area of 2215 ft.² results in a peak traffic projection of 49 trips per hour. A trip is unidirectional, so that we are projecting roughly 25 vehicles in and 25 vehicles out during the peak hour.

Mr. Rembold was kind enough to provide the relevant of the Functional Design Report of Nitsch Engineering for intersection improvements at Main Street and Maple Street. Traffic was measured in April, 2018. (Page 12) The report provides a background traffic growth rate at the intersection of Main and Maple of less of 1% per annum, so the study is valid 2 $\frac{1}{2}$ years later. (Page 17) the level of service summary reflects an LOS of between A and C for the morning peak hour, which is not relevant to this proposed use. For the weekday evening peak hour, it reflects an LOS of A for Main

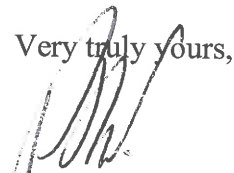
St. traffic southbound and turning onto Maple, LOS of A for Main St. traffic northbound and turning onto Maple, and LOS of A for Maple Ave. traffic eastbound and turning south on Main. The LOS is B for Main St. southbound, continuing southbound and an LOS of C only for Maple Avenue eastbound and turning north on Main Street. (Page 28) The seasonally adjusted traffic counts for the peak evening hour were 1440 vehicles (nearly equally split between northbound and southbound) on Main Street, and 509 vehicles (with a slightly greater distribution eastbound than westbound) on Maple Street. (Page 12) the addition of 25 vehicles during the peak hour entering this property from Maple Street, and 25 vehicles exiting the property onto Maple Street is not anticipated to degrade the level of service.

The above, however, may well become irrelevant with the construction of the intersection improvements. Either of the alternatives will result in a level of service of B on both streets in both directions.

2. Landscaping

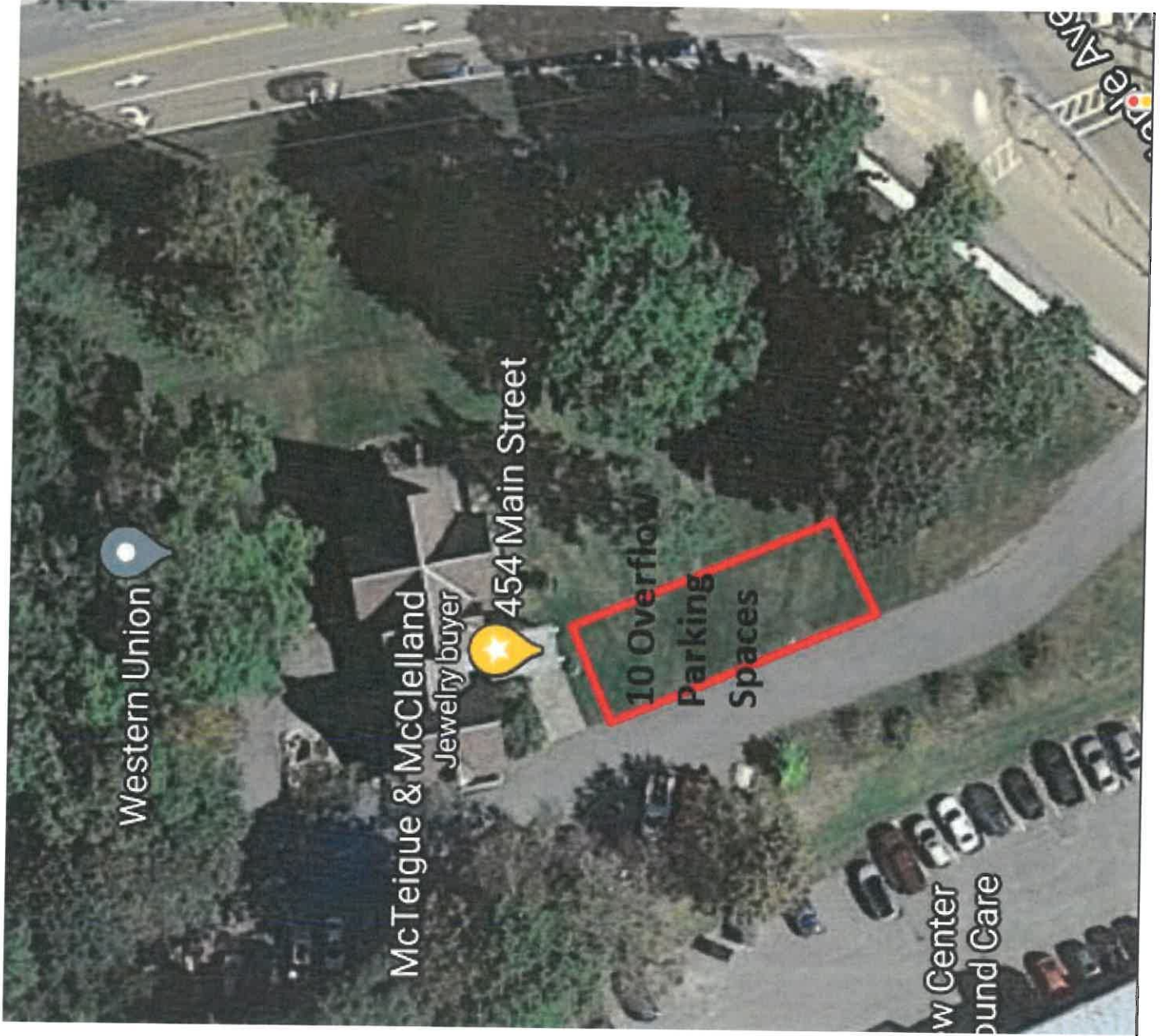
The applicant believes that current landscaping complies with the requirements of §6.2 of the Bylaw, and that the property is quite attractive. Nevertheless, we would be glad to update the landscaping to what the Board feels is appropriate

Very truly yours,



Peter L. Puciloski

Enclosures



Western Union

McTeigue & McClelland
Jewelry buyer



454 Main Street

10 Overflow
Parking
Spaces

w Center
Pound Care

...e Ave

EXHIBIT A

FINDINGS OF FACT AND BASIS FOR DECISION

**Re: Special Permit #913-20
454 Main Street**

A. Introduction

This Special Permit application was filed on October 6, 2020 by Coastal Cultivars, LLC, 399 Boylston Street, 6th Floor, Boston, MA, 02116 (“Applicant”), represented by Peter Puciloski of Lazan Glover & Puciloski LLP, to locate a retail marijuana establishment at 454 Main Street, Great Barrington, closer than 200 feet to the property of a private school. The application is made per Sections 7.18.4.3 and 10.4 of the Zoning Bylaw.

As described in the narrative, the site is improved with an historic building in which, until recently, a jewelry store was located. There are no exterior changes proposed to the structure but the freestanding sign would be replaced.

B. General Findings

The site is in the B-2 zoning district, where a marijuana retail establishment is permitted by right per the Table of Use Regulations, Section 3.1.4, C(13). However proposals must also meet the requirements of Section 7.18.4, item 1, since the subject site of 454 Main Street is within 200 feet of the property boundary of an existing school. The school in question, known as the John Dewey Academy (the “Academy”), is across the street at 389 Main Street. The two properties are within approximately 90 feet of each other, when measured in a straight line from the nearest point of the property lines.

While the properties are within 90 feet, the occupied buildings on the properties are approximately 800 feet apart when measured by a straight line. The properties have a significant physical barrier between them, however, as they are separated by a 4-lane highway (Main Street) and the Academy property has a high concrete and stone wall around it. There is a steep slope as well. The shortest pedestrian route from the subject site to the Academy main entrance, when using sidewalks and crosswalks, is approximately 1,100 feet. The Police Station is also located in the immediate vicinity.

The site consists of a paved driveway and parking area, which accommodates 19 paved and 2 unpaved parking spaces. The proposed retail establishment will be on the first floor of the building, a total of 2,215 square feet. At the rate of one space per 200 square feet per Section 6.1 of the Zoning Bylaw, the parking requirement is therefore 11 spaces; the site meets the parking requirement.

The proposed business will have 5 employees on site at any one time, leaving 16 spaces available for customers. The applicant estimates up to 25 vehicle trips into and 25 vehicle trips out of the site per hour. The applicant has identified an area for 10 additional on-site spaces. Creation of those 10 spaces will require Site Plan Approval by the Planning Board.

The Conservation Commission reviewed the proposal and has determined it has no jurisdictional interest.

The Board of Health will review the proposal on November 5.

The Planning Board reviewed the special permit application and made a positive recommendation to

the Selectboard.

C. Distance Requirement Finding

Section 7.18.4, item 3 authorizes the Selectboard to grant a special permit authorizing a deviation from this distance requirement if it finds the Marijuana Establishment or Medical Marijuana Treatment Center will not be detrimental to a protected use.

The Selectboard finds that the 200 foot distance requirement may be reduced in this case because there are physical barriers—namely Main Street, the wall, and the topography—that adequately separate the sites. The proposed marijuana establishment at this location will not be detrimental to the school.

D. Special Permit Criteria and Findings

Section 10.4.2 of the Zoning Bylaw, 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 shall include consideration of the following 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 Board’s considerations in relation to each of the six special permit criteria are set forth below.

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

The Board finds that the marijuana does not serve a need. It is consistent with several goals of the master plan: the business will contribute to employment and the tax base, as other businesses would, and unlike some businesses, it does not need to make alterations to the exterior of the historic building, thus helping preserve the historic structure.

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

The proposed use meets the parking requirements, with 16 spaces left over available for customers. Assuming the projected 25 vehicles per hour are spaced out during the peak hour, the 16 existing surplus spaces will suffice to meet parking demand. If not the applicant will improve 10 additional spaces upon approval by the Planning Board. The Board finds there will be no detrimental impact to traffic flow and safety including parking and loading.

Criterion 3. *Adequacy of utilities and other public services.*

The site is already served by drinking water and sewer systems. Other marijuana retailers have had no discernable impact to public health, fire, or police services. The Board finds utilities and services are adequate to serve this use.

Criterion 4. *Neighborhood character and social structures.*

No further development of the site will occur, therefore the Board finds that the proposal will not alter the neighborhood character.

Criterion 5. *Impacts on the natural environment.*

No further development of the site will occur, therefore the Board finds that the proposal will have no negative impacts on the environment.

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

The Board finds that the facility will not negatively impact town services, and it will increase employment and maintain the existing taxable value of the property.

Finding:

In consideration of the above Findings, the Board finds that possible benefits of the proposal outweigh possible detrimental impacts of the proposal.

DRAFT