

Agenda

Town of Seekonk, MA Planning Board

6/11/13
7:00 PM
Seekonk Town Hall
BOS Meeting Room

Type of meeting:

Planning Board Regular Meeting, Public Hearing

Agenda topics – More information on each item can be found on our website – www.seekonk-ma.gov under Departments>Planning>Agenda Items

7:00 PM

Public Hearing

Definitive Subdivision Modification or Rescission:
Pine Hill Estates - Plat 24, Lots 73 & 394 - 524
Newman Ave
Applicant: Seekonk Water District

Preliminary Plan: Warren Ave – Plat 1, Lot 271
Applicant: Trebor Properties, LLC

Site Plan Review: 76 Leavitt St.
Applicant: MTTI

ANR Approval: 615 Read St.
Applicant: Turner Family Trust

Discussion: Medical Marijuana Treatment Centers
Zoning Bylaw
Planning Board

Community Priority Area Update
Planning Board

Discussion: Conservation Subdivision Design Bylaw
Planning Board

Correspondence:
Approval of Minutes: 5/14/13
Adjournment



REC'D MAY 31 2013

BRAINSKY LEVINSON, LLC

ATTORNEYS AND COUNSELORS AT LAW

Eric S. Brainsky*
Michael E. Levinson*

*Admitted to Practice in RI & MA
State and Federal District Courts

May 29, 2013

Seekonk Planning Board
100 Peck Street
Seekonk, MA 02771

Re: Pine Hill Estates

Dear Chairman Abelson and Members of the Planning Board:

This correspondence is intended to supplement Our Client's May 16, 2013 correspondence. First and foremost, it was brought to our attention that the copy of the Special Nitrate Loading analysis that was included in our May 16th submission inadvertently did not contain the stamp of Mr. Carlson, the engineer who prepared such document. As such, please find enclosed a stamped copy of the Special Nitrate Loading Analysis.

As to the Water Department's application, we have reviewed the one half page petition by the Water Department, which requests a rescission and/or modification of the approved definitive subdivision plans so as to include three (3) conditions: (1) a geohydrology analysis (2) some sort of indemnification agreement from our client in the case of alleged future "pollution" and (3) an EIS. All of these issues (save the Water Department's request for an indemnification agreement for alleged unsubstantiated threats of future "pollution") were considered by the Board of Health and the Planning Board during the prior proceedings, and rejected by both Boards.

Specifically, during the November 14, 2012 meeting of the Board of Health, the Water Department demanded that the Board of Health require a geohydrology analysis for the project and the Board rejected such demand. Most recently, on March 12, 2013, the Water Department again made such demand to the Planning Board, as well as for the Planning Board to require an EIS due to their "concerns" regarding nitrates. Such requests were considered and rejected by the Planning Board. Pursuant to Section V, Paragraph 5.6 the Planning Board has the **discretion but is not required** to compel a developer to conduct an EIS, which may include a geohydrology analysis and/or a nutrient loading analysis (pursuant to Section 5.6.2.2). Here, because the developer had completed a comprehensive nitrate loading analysis that satisfied the requirements of Title V at 310 CMR Sections 15.214-216, and which had been approved by the Board of

Health, the Planning Board *correctly decided* that there was no need for an EIS as their concerns that would have been addressed by an EIS had been satisfied by such analysis. The project was issued definitive plan approval because it satisfied *all requirements* of the Seekonk Zoning Bylaw and Subdivision Regulations and as has been repeatedly found by the Massachusetts Courts, the Planning Board had no discretion to deny the project. For the same reasons, the Planning Board certainly has no discretion to rescind the Project simply because the Water Department did not like this result. Moreover, if the Water Department was unsatisfied with the approval, it was free to appeal this decision to the Superior Court or Land Court, which it failed to do, and is now seeking to circumvent the appellate process and ask for reconsideration before this Board.

We would again stress that we believe that over the course of the last year, the Water Department has provided absolutely no evidence that would substantiate the bald and erroneous allegations that this subdivision poses a threat to groundwater or GP4. Importantly, the Water Department and its representatives have made wild and baseless allegations concerning this project and their perceived risks it poses to the groundwater while at the same time, themselves, *maintain and use a septic system and cesspool on a daily basis* that is nearly 1000 feet closer to GP4 than this Project but suggest that this Board (and other Boards) should ignore this fact.¹ This fact alone is further evidence that this latest action by the Water Department has little to do with its "concern" for the groundwater and water quality and more to do with the Water Department's continued discontent with the fact that our client purchased this property, which the Water Department had previously tried and failed to acquire.

We look forward to presenting this matter to you at the June 11, 2013 Hearing. Should you have any further questions or require any additional information, please do not hesitate to contact me.

Very truly yours,



Eric S. Brainsky

ESB/lak

¹ The Water Department also ignores the fact that the Town's shared septic system at the Hurley Middle School, the Town septic system at the nearby athletic fields/concession and various surrounding private cesspools and septic systems are all currently far closer to GP4 than the proposed project (and which plan has been submitted to the Board).

cc. Ilana Quirk, Esq. (with enclosures)
Paul Carlson, PE (without enclosures)
Client (without enclosures)



Nitrogen Loading Analysis
"Pine Hill Estates"
Cluster Subdivision
A.P. Map 24 Lots 73 & 394
Newman Avenue, Seekonk MA.

The existing project is located with Seekonk Assessor Map 24 Lots 73 and 394. The existing site is comprised of 10.0± acres of land. The site is located within the Seekonk zoning district "R-2" and the Groundwater Aquifer Protection District. Single family homes are located to the north, east and south of the Newman Avenue site. The Seekonk Water District owns land to the northwest and west and contains the Newman Well field. The site is located southerly of well GP-4 approximately 817' and 887' easterly of well GP-3.

The property is located within the state approved Zone II of the well field. The site is located southerly of "Coles Brook" a perennial stream flowing east to west and is partially located within the 200' riverbank area of the brook. The northern portion of the property is partially within flood hazard zone AE (el 52) based of FEMA "Flood Insurance Study, Bristol County Massachusetts" effective date July 7, 2009. A bordering vegetated wetland system is located along the north side of the site adjacent to the brook. A water body connected to "Central Pond" is located to the southwest of the property.

The development is proposing 10 residential single family dwellings, each dwelling will have individual septic systems and serviced by town water. The homes are sited on individual lots with a minimum area of fifteen thousand (15,000) square feet. The lots will be accessed from Newman Avenue along the proposed roadway (Jacoby Way). The roadway is approximately 600' long in from Newman Avenue. The roadway will have an asphalt width of 24' and a 5' sidewalk along the north side.

The development is currently going through the town approval process for a cluster or conservation subdivision. During the approval process a yield plan was compiled showing the configuration of 10 lots under a conventional subdivision design. The yield lots were subject to the Town of Seekonk zoning bylaw section 9.4.4.1 USES AUTHORIZED Paragraph 1. "Maximum one dwelling unit per 40,000 square feet of land area," The cluster subdivision will contain 10 lots, equal to the conventional yield plan.

The following nitrate loading analysis is based on 310 CMR 15.214, 15.216 and "Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading 310 CMR 15.216"

Total Site: 435,863 s.f. (10.00 ac)
Area of existing wetland system and flood zone = 17,070 s.f. (0.392 ac.)
Proposed roadway impervious area = 25,100 s.f. (0.576 ac.)
Area of Proposed Infiltration Pond = 17,500 s.f. (0.402 ac.)

Remaining allowable credit land = 376,193 s.f. (8.636 ac.)

Allowable nitrate loading - 440 GPD per 40,000 s.f.
Residential dwelling requirements - 110 GPD per bedroom
440 GPD / 110 GPD per bedroom = 4 Bedrooms per 40,000 s.f.
40,000 s.f. / 4 = 10,000 s.f. per bedroom

Allowable credit land = 376,193 s.f. / 10,000 s.f. per bedroom = 37.62 bedrooms allowed
37.62 bedrooms @ 110 GPD = 4,138 GPD allowable site flow

4,138 GPD / 10 single family dwellings = 413 GPD per dwelling

Proposed 7 - 4 bedroom dwellings = 7 x 440 GPD = 3,080 GPD
Proposed 3 - 3 bedroom dwelling = 1 x 330 GPD = 990 GPD

Total proposed site flow 3,080 GPD + 990 GPD = Total flow of 4,070 GPD

Allowable 4,138 GPD > Proposed 4,070 GPD OK



COPY

March 25, 2013

Mr. Robert Bernardo, Superintendent
Seekonk Water District
P.O. Box 97
Seekonk, MA 02771

RE: Pine Hill Estates

Dear Mr. Bernardo:

The potential development of Pine Hill Estates has caused a level of concern by the District due to the proximity of this site to the Newman Avenue public water supply wells. As you are aware, the Newman Avenue wells provide over 80 percent of the District's water supply to the Town of Seekonk.

We are concerned that additional nitrogen loading into the aquifer at this close proximity would result in higher nitrate concentrations at GP4 and the other Newman Wells. However, we cannot confirm or provide a definitive response without the use of a groundwater analytical model. The presence of a potential groundwater divide, Coles Brook, flows westerly to Central Pond separating the approved subdivision from the District's well supplies. Typically, a groundwater divide creates a boundary for groundwater flow and delineates the zone of contribution to pumping wells. However, as you know, the four Newman Avenue Wells pump daily at a rate exceeding 2000 gallons per minute and we cannot determine which direction groundwater will flow from the project location. A groundwater analytical model will determine the extent of the contribution zone to the Newman Avenue wells and provide insight if the additional nitrogen loading at Pine Hill Estates could be problematic.

Until a model is completed, we are unable to state emphatically which way the septic leachate and other components of groundwater flow will travel from this site. Please feel free to contact me at (617) 657-0253 or rjt@envpartners.com with any questions or concerns.

Very Truly Yours,
Environmental Partners Group, Inc.



Ryan J. Trahan, P.E.
Project Manager



Planning Board
100 PECK STREET
SEEKONK, MASSACHUSETTS 02771
1-508-336-2960

To: The Planning Board
From: John P. Hansen Jr., AICP, Town Planner
Date: June 3, 2013

PRELIMINARY PLAN REVIEW
Summer Meadows – Plat 1, Lots (s) 271 (Warren Ave.)

Summary: The applicant has submitted an Application for Approval of Preliminary Plan for a Conservation Subdivision.

Findings of Fact:

Existing Conditions

- Property contains 5.3 acres of land with a farm field in the front and a wooded area to the rear. The property is in an R-3 Zoning District.

Proposal:

- Create 5 new house lots, all >20K sq. ft., on an ±300' public road ending in a cul-de-sac utilizing
- Individual septic systems and wells will service the lots.
- Open space areas will equal approximately 2.6 acres or 48% of the total area (40% min). No wetlands exist on the site and the 25% max disturbance area appears to be met.

Recommendations:

This plan appears to meet the standards of the Subdivision Regulations for a Preliminary Plan. Therefore, an approval of this Preliminary Plan should be granted.

PRELIMINARY SUBDIVISION PLAN of "SUMMER MEADOWS" in Seekonk, Massachusetts

DATE: May 28, 2013

INDEX OF DRAWINGS

SHEET NUMBER	DESCRIPTION
1	Cover & Index Sheet
2	Existing Conditions Plan
3	Preliminary Conventional Layout
4	Preliminary Cluster Layout

NOTES:

- OWNERS/APPLICANT: TREBOR PROPERTIES, LLC
1539 FALL RIVER AVENUE, SEEKONK, MA 0277
- ASSESSORS DESIGNATION - MAP 1 LOT 271
- TITLE REFERENCE: DEED BOOK 20763 PAGE 76
- SITE SHOWN IS NOT LOCATED IN THE "WATER RESOURCE PROTECTION DISTRICT"
- SITE SHOWN IS NOT LOCATED IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 25005C0218F DATED JULY 7, 2009.
- ZONING DISTRICT REQUIREMENT FOR "R-3":

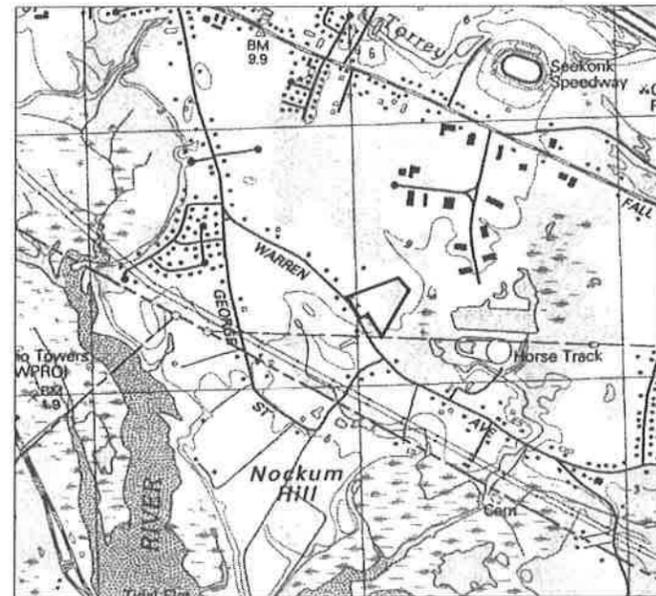
MINIMUM AREA	= 40,000 Sq.Ft.
MINIMUM FRONTAGE	= 150'
MINIMUM FRONTYARD	= 50'
MINIMUM REARYARD	= 70'
MINIMUM SIDEYARD	= 35' + 5'/STORY

- CONSERVATION SUBDIVISION - "CLUSTER" REQUIREMENTS (NO WATER)
- | | |
|-------------------|-----------------|
| MINIMUM AREA | = 20,000 Sq.Ft. |
| MINIMUM FRONTAGE | = 50' |
| MINIMUM FRONTYARD | = 20' |
| MINIMUM REARYARD | = 10' |
| MINIMUM SIDEYARD | = 10' |

7. LOTS TO BE SERVICED BY PRIVATE WELLS.

PLAN REFERENCES:

- "PLAN OF LAND PREPARED FOR JOHN R. CAREY, JR.," BY BRISTOL COUNTY LAND SURVEYS, INC.; DATED MARCH 1988. IN THE BRISTOL COUNTY REGISTRY OF DEEDS PLAN BOOK 272 PAGE 12.
- "PLAN OF LAND IN SEEKONK, (RI) SURVEYED FOR THOMAS & PAULA CLEGG"; BY MARRIER SURVEYING, INC; DATED MAY 1985.
- "PLAN OF LAND IN SEEKONK, BRISTOL COUNTY, MASSACHUSETTS; PREPARED FOR NANTUCKET PAVERS, LLC"; BY B.R. MCGEE & ASSOCIATES; DATED FEBRUARY 1999 AND REVISED MARCH 23, 1999.
- "APPROVAL NOT REQUIRED PLAN - 376 WARREN AVENUE", BY INSITE ENGINEERING SERVICES, LLC, DATED MAY 14, 2012.



LOCATION MAP
1" = 1000'



SITE MAP
SCALE 1" = 100'

REGISTRY USE ONLY

I HEREBY CERTIFY THAT TWENTY DAYS HAVE ELAPSED SINCE THE PLANNING BOARD APPROVAL AND THAT NO APPEAL HAS BEEN FILED IN THIS OFFICE.

SEEKONK TOWN CLERK _____ DATE _____

SUBJECT TO A COVENANT DULY EXECUTED DATED THE _____ DAY OF _____, 2012, RUNNING WITH THE LAND, TO BE DULY RECORDED BY OR FOR THE OWNER OF RECORD.

THIS PLAN IS SUBJECT TO ALL CONDITIONS OF THE SEEKONK PLANNING BOARD CERTIFICATE OF ACTION DATED _____ FILED WITH THE SEEKONK TOWN CLERK ON _____ AND HEREWITH RECORDED AS A PART OF THIS PLAN.

TOWN OF SEEKONK SEEKONK PLANNING BOARD Approved Under Subdivision Control Law _____ TOWN OF SEEKONK PLANNING BOARD DATE APPROVED: _____

REVISION	DATE	COMMENTS

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE MASSACHUSETTS BOARD OF REGISTRATION OF PROFESSIONAL LAND SURVEYORS STANDARDS.

REGISTERED LAND SURVEYOR _____ DATE _____

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

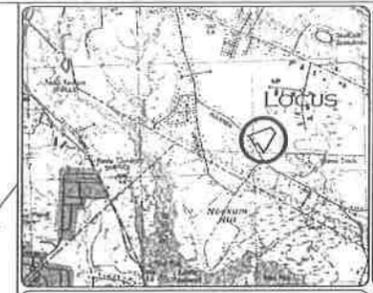
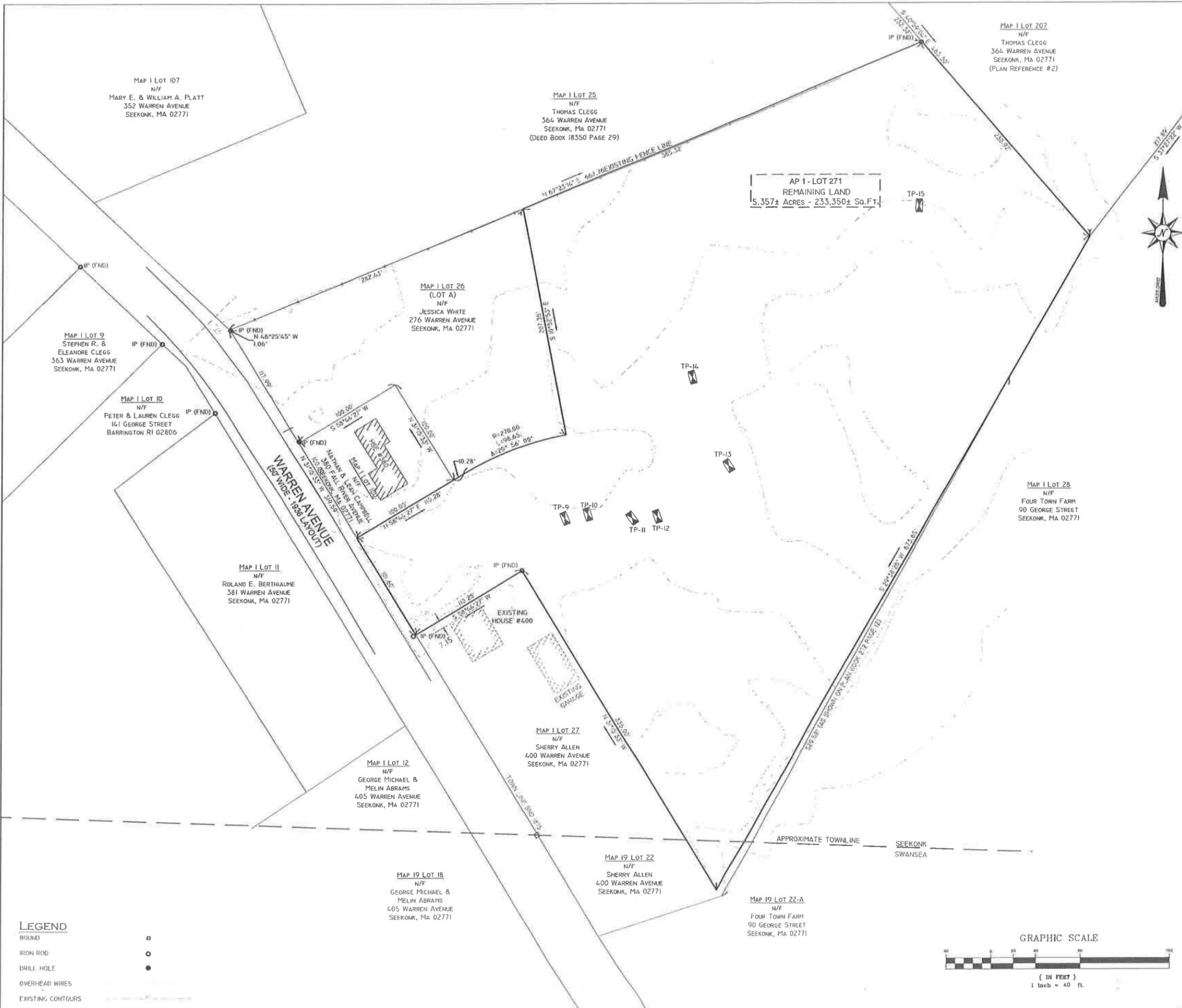
PROFESSIONAL LAND SURVEYOR _____ DATE _____

COVER AND INDEX SHEET

PROFESSIONAL ENGINEER 	PROFESSIONAL LAND SURVEYOR
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PRELIMINARY SUBDIVISION COVER SHEET			
"SUMMER MEADOWS" WARREN AVENUE, SEEKONK, MASSACHUSETTS 02771 ASSESSORS MAP 1 LOT 271			
APPLICANT: TREBOR PROPERTIES, LLC 1539 FALL RIVER AVENUE, SEEKONK, MASSACHUSETTS 02771			
JOB #: 11-003	SCALE: AS SHOWN	DRAWN BY: CEA	DATE: MAY 28, 2013
REVISED:			
		PROFESSIONAL ENGINEERS AND LAND SURVEYORS INSITE INSITE PROFESSIONAL COMPLEX, SUITE 1 1539 FALL RIVER AVENUE SEEKONK, MA 02771 PHONE: (508) 336-4500 FAX: (508) 336-4558	
			SHEET 1 OF 4

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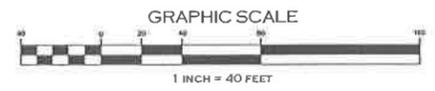
REGISTRY USE ONLY

- NOTES:**
- OWNERS/APPLICANT: TREBOR PROPERTIES, LLC
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 - SITE SHOWN IS NOT LOCATED IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 25005C0218F DATED JULY 7, 2009.
 - ZONING DISTRICT REQUIREMENT FOR "R3":

MINIMUM AREA	= 40,000 Sq.Ft.
MINIMUM FRONTAGE	= 150'
MINIMUM REARYARD	= 50'
MINIMUM SIDEYARD	= 70'
MINIMUM SIDEYARD	= 35' + 5'/STORY
 - CONSERVATION SUBDIVISION - "CLUSTER" REQUIREMENTS (NO WATER)

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 - "APPROVAL NOT REQUIRED PLAN - 376 WARREN AVENUE"; BY INSITE ENGINEERING SERVICES, LLC, DATED MAY 14, 2012.



EXISTING CONDITIONS PLAN

"SUMMER MEADOWS"
WARREN AVENUE, SEEKONK, MASSACHUSETTS 02771
ASSESSORS MAP 1 LOT 271

APPLICANT: **TREBOR PROPERTIES, LLC**
1539 FALL RIVER AVENUE, SEEKONK, MASSACHUSETTS 02771

JOB # 11-003	SCALE: 1"=40'	DRAWN BY: CEA	DATE: MAY 28, 2013
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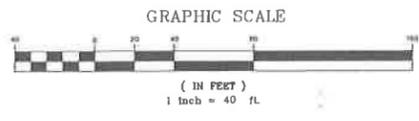
REVISED:

PROFESSIONAL ENGINEERS AND LAND SURVEYORS
INSITE PROFESSIONAL COMPLEX, SUITE 1
1539 FALL RIVER AVENUE
SEEKONK, MA 02771
PHONE: (508) 336-4500
FAX: (508) 336-4558

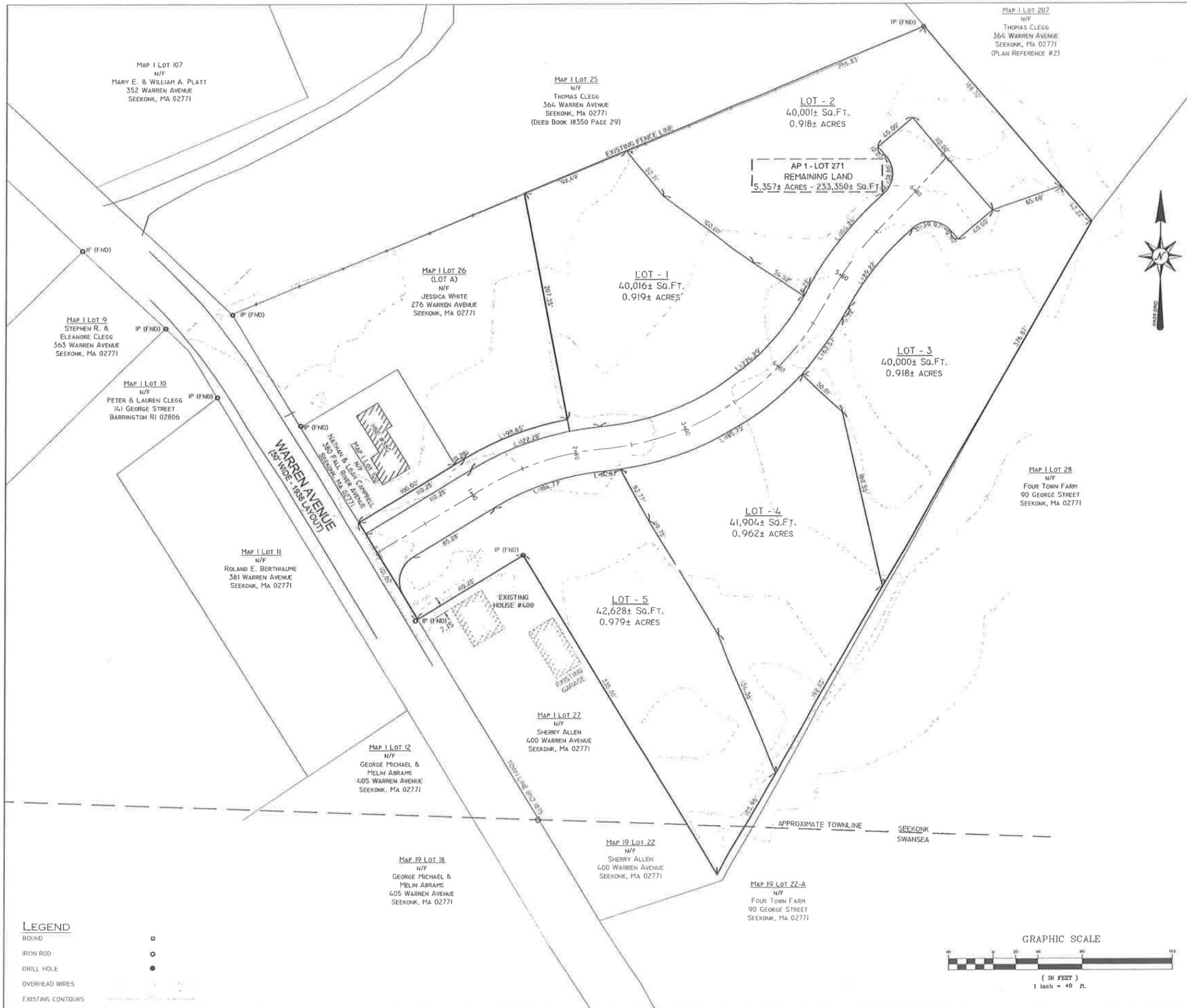
INSITE
Engineering Services, LLC

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OF 4

- LEGEND**
- BOUND
 - IRON ROD
 - DRILL HOLE
 - OVERHEAD WIRES
 - EXISTING CONTOURS



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REGISTRY USE ONLY

LOCATION (NOT TO SCALE) MAP

- NOTES:**
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PRELIMINARY CONVENTIONAL LAYOUT

"SUMMER MEADOWS"
WARREN AVENUE, SEEKONK, MASSACHUSETTS 02771
ASSESSORS MAP 1 LOT 271

APPLICANT: **TREBOR PROPERTIES, LLC**
1539 FALL RIVER AVENUE, SEEKONK, MASSACHUSETTS 02771

JOB #	SCALE	DRAWN BY:	DATE:
11-003	1"= 40'	CEA	MAY 28, 2013

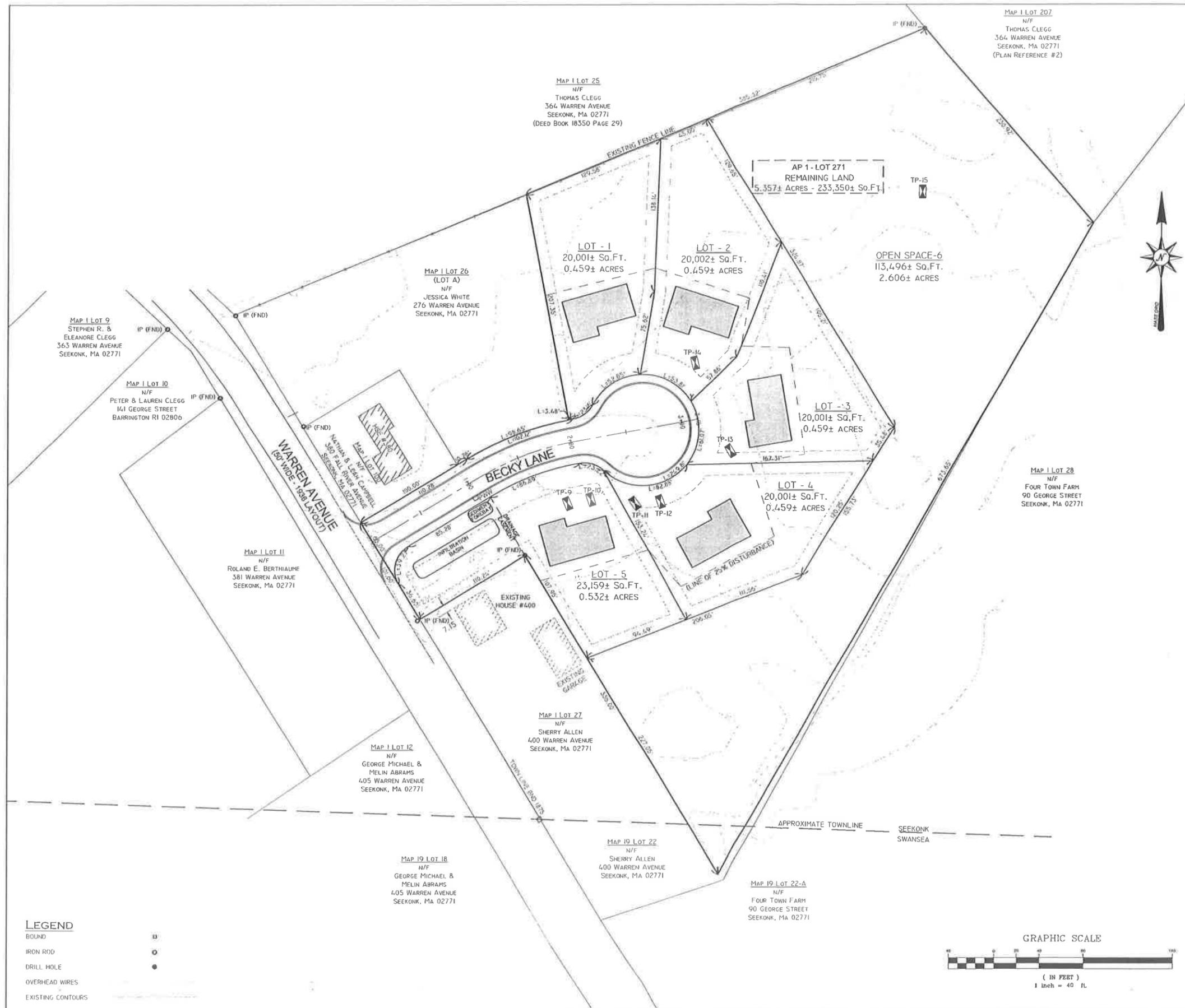
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 PROFESSIONAL SEAL	PROFESSIONAL ENGINEERS AND LAND SURVEYORS INSITE ENGINEERING SERVICES, LLC 1539 FALL RIVER AVENUE SEEKONK, MA 02771 PHONE: (508) 336-4500 FAX: (508) 336-4558	SHEET 3 OF 4

- LEGEND**
- BOUND
 - IRON ROD
 - DRILL HOLE
 - OVERHEAD WIRES
 - EXISTING CONTOURS

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LOCATION (NOT TO SCALE) MAP REGISTRY USE ONLY

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MINIMUM SIDYARD	= 35' + 5'/STORY
- LOTS TO BE SERVICED BY PRIVATE WELLS.

CONSERVATION SUBDIVISION - "CLUSTER" REQUIREMENTS (NO WATER)	
MINIMUM AREA	= 20,000 Sq. Ft.
MINIMUM FRONTAGE	= 50'
MINIMUM FRONTYARD	= 20'
MINIMUM REARYARD	= 10'
MINIMUM SIDYARD	= 10'
- CLUSTER CALCULATIONS:

OPEN SPACE REQUIREMENTS	= 40% OF TOTAL AREA
TOTAL AREA	= 233,350 Sq. Ft. = 5.357 ACRES
OPEN SPACE REQUIRED - 40%	= 93,340 Sq. Ft. = 2.143 ACRES
OPEN SPACE PROVIDED	= 2,606 ACRES (O.K.)
OPEN SPACE PERCENTAGE	= 2,606 / 5,357 = 48.6%
- NO WETLANDS
25% ALLOWABLE DISTURBANCE = 233,350 Sq. Ft. x 0.25 = 58,338 Sq. Ft.
25% PROPOSED DISTURBANCE = 58,338 ± Sq. Ft.

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PRELIMINARY CLUSTER LAYOUT

"SUMMER MEADOWS"
WARREN AVENUE, SEEKONK, MASSACHUSETTS 02771
ASSESSORS MAP 1 LOT 271

APPLICANT: **TREBOR PROPERTIES, LLC**
1539 FALL RIVER AVENUE, SEEKONK, MASSACHUSETTS 02771

JOB # 11-003	SCALE: 1" = 40'	DRAWN BY: CEA	DATE: MAY 28, 2013
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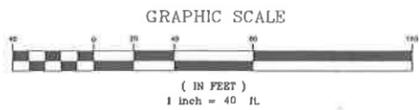
PROFESSIONAL ENGINEERS AND LAND SURVEYORS
INSITE PROFESSIONAL COMPLEX, SUITE 1
1539 FALL RIVER AVENUE
SEEKONK, MA 02771
PHONE: (508) 336-4500
FAX: (508) 336-4558

INSITE
Engineering Services, LLC

SHEET
4
OF 4

LEGEND

- BOUND
- IRON ROD
- DRILL HOLE
- OVERHEAD WIRES
- EXISTING CONTOURS





Planning Board
100 PECK STREET
SEEKONK, MASSACHUSETTS 02771
1-508-336-2960

To: The Planning Board
From: John P. Hansen Jr., AICP, Town Planner
Date: June 3, 2013

SITE PLAN REVIEW
MTTI – 76 Leavitt St..

Summary: The applicant has submitted a request for Site Plan Review.

Findings of Fact:

Existing Conditions

- Technical institute with classrooms/training areas (12,728 sf) and an office (972 sf).

Proposal:

- Construct a 2400 sf addition for training classes and 12 associated parking spaces.
- **Section 10.6.1 - Parking**-76 maximum parking spaces required for a 15,128 sf trade school and 3 maximum parking spaces for 972 sf office area for a total of 79 spaces (67 existing parking spaces + 12 new spaces).

Waivers Required:

- None

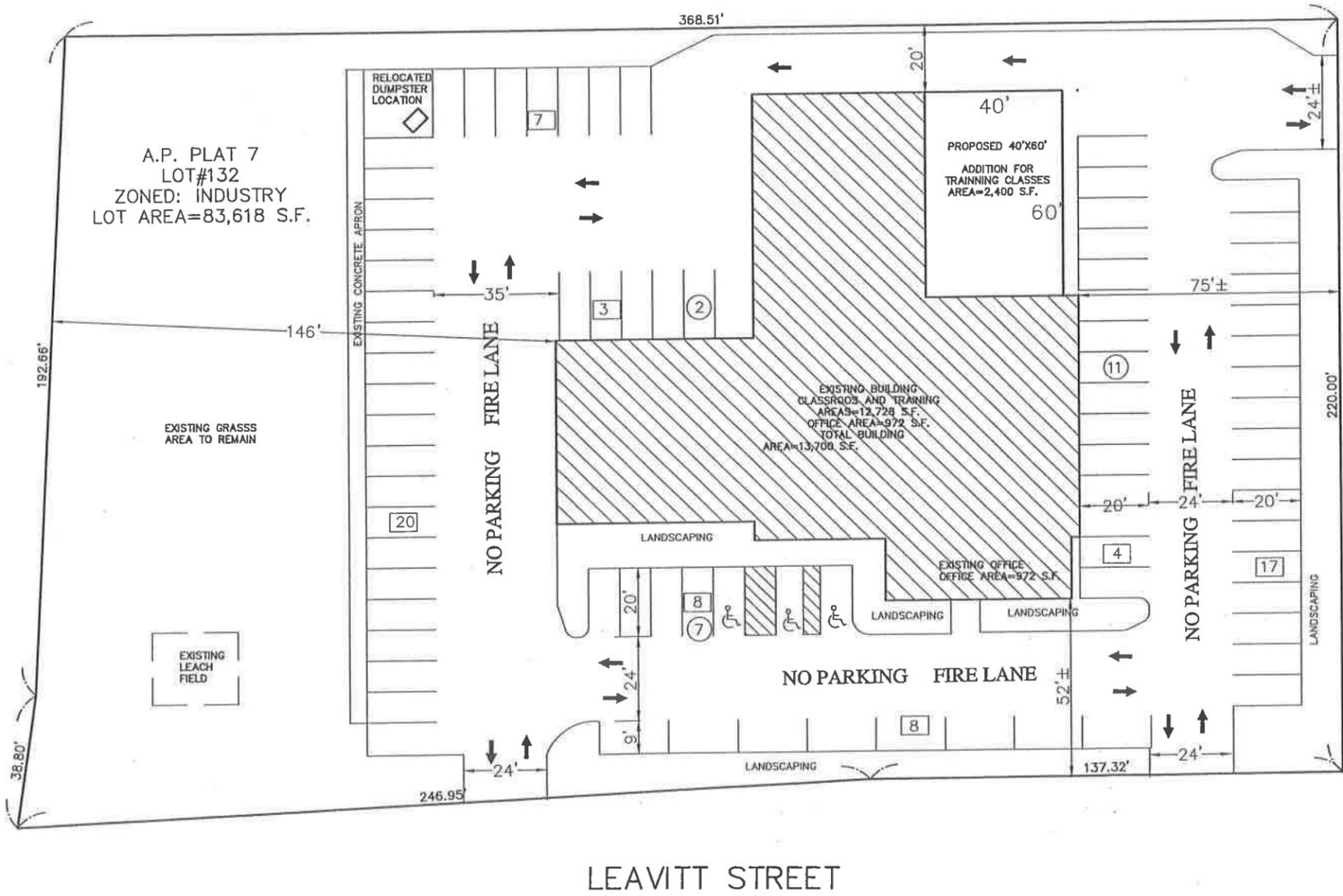
Recommendation:

It is recommended that an approval of the Site Plan for MTTI, dated of 4/14/13, be given.

WARNING
 EXISTING UTILITY LINES INDICATED OR NOTED ON THESE DRAWINGS ARE SHOWN AS OBTAINED FROM EXISTING INFORMATION AND ARE ONLY APPROPRIATE IN LOCATION. THE CONTRACTOR SHALL TAKE CAUTION IN THESE AREAS TO AVOID DAMAGE TO EXISTING UTILITY LINES AND/OR HARM TO PERSONNEL ENGAGED IN WORKING IN THESE AREAS.
 CALL "DIG SAFE" 1-888-DIG-SAFE (1-888-344-7233).
 EXISTING LINES OTHER THAN THOSE INDICATED ON THESE DRAWINGS MAY BE ON THE SITE. THE CONTRACTOR IS WARNED TO PROCEED WITH CAUTION WITH ALL WORK, ESPECIALLY EXCAVATION WORK, AND TO MAKE ALL POSSIBLE INVESTIGATIONS AS TO POSSIBLE UNMARKED UTILITY LINES.

NOTES

- 1) THIS PLAN REFERS TO THE TOWN OF SEEKONK ASSESSOR'S SHEET 7 LOT 132.
- 2) ZONING CLASSIFICATION: INDUSTRY
- 3) SEE DEED BOOK 17816 PAGE 325, RECORDED AT THE NORTH BRISTOL DISTRICT REGISTRY OF DEEDS.
- 4) PLAN PREPARED FOR M.T.I.I.
- 5) EXISTING BUILDING SERVICED BY PUBLIC WATER.
- 6) NO INCREASE IN STUDENTS OR STAFF. PROPOSED ADDITION WILL INCREASE TRAINING AREA FOR CLASSROOM ONLY. NO INCREASE IN SEWAGE TO THE SEPTIC SYSTEM ON THE LOT.
- 7) EXISTING SEPTIC HAS BEEN INSPECTED AND THE EXISTING SEPTIC SYSTEM HAS PASSED TITLE V INSPECTION. INSPECTION HAS BEEN PERFORMED BY PETER LAVOIE.
- 8) THIS SITE PLAN CONFORMS TO ALL RELATIVE ASPECTS OF THE AMERICANS WITH DISABILITIES ACT & MASSACHUSETTS ARCHITECTURAL ACCESS BOARD, AS CURRENTLY AMENDED & IN EFFECT.



ZONE DESCRIPTION: INDUSTRY DISTRICT ZONING TABLE	MIN. REQ'D/ MAX. ALLOWED	EXISTING	PROPOSED
LOT REQUIREMENTS:			
MIN. AREA (S.F.)	20,000	83,618 S.F.	
MIN. WIDTH (FT.)	50'		
MIN. FRONTAGE (FT.)			
YARD REQUIREMENTS:			
MIN. FRONT SETBACK (FT.)	50'	82'(LEAVITT ST.) 75'(MEAD ST.)	82'(LEAVITT ST.) 75'(MEAD ST.)
MIN. SIDE SETBACK (FT.)	20'	146'	146'
MIN. REAR SETBACK (FT.)	20'	20'	20'
OPEN SPACE			
MIN. % OF LOT AREA		33%	33%
BUILDING COVERAGE			
MAX. BUILDING COVERAGE	50%	16%	19%
BUILDING HEIGHT (FT.)			
MAX. BUILDING HEIGHT	40'	EXISTING	EXISTING
PARKING			
MIN. NUMBER OF SPACES	79	67	79
MIN. HANDICAPPED SPACES	3	2	3
PARKING REQUIREMENT:			
EDUCATIONAL INSTITUTION:			
1 SPACE PER EACH 200 S.F. OF GROSS FLOOR AREA IN CLASSROOM AND OTHER TEACHING STATIONS 15,128 S.F./200 S.F.= 75.6 (76 SPACES REQUIRED)			
OFFICE AREA:			
1 SPACE PER EACH 300 S.F. OF GROSS FLOOR AREA IN 972 S.F./300 S.F.= (3 SPACES REQUIRED) TOTAL SPACES REQUIRED=79 (PROVIDED 79)			

70 LEAVITT STREET
 "SITE"
 PLAN OF LAND
 IN
SEEKONK, MA
 OWNER: M.T.I.I.
 MOTORING TECHNICAL TRAINING INSTITUTE
 SCALE: 1" = 20'
 DATE: APRIL 14 2013

Landmark Site Design
 CIVIL ENGINEERING & LAND SURVEYING

1267 GLEBE STREET, TAUNTON MA 02780
 PHONE: (774)-265-0851 FAX: (508)-529-4708





Planning Board
100 PECK STREET
SEEKONK, MASSACHUSETTS 02771
1-508-336-2961

To: The Planning Board
From: John P. Hansen Jr., AICP, Town Planner
Date: June 3, 2013

APPROVAL NOT REQUIRED REVIEW (ANR)
Turner Family Trust – Plat 23, Lot(s) 22 and Plat 26, Lot(s) 9– 615 Read St.

Summary: The applicant has submitted a request for an Endorsement of a Plan Believed Not to Require Approval.

Findings of Fact:

Existing Conditions

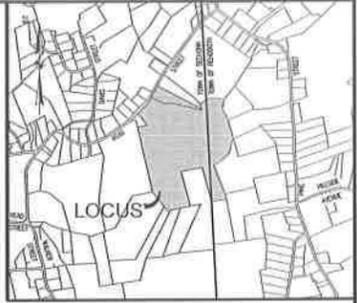
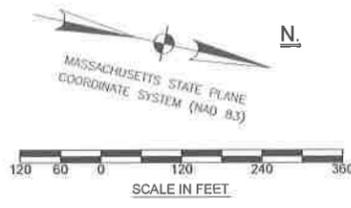
- 85 acre lot with single-family dwelling zoned R-4.

Proposed Lot Amendments:

- Divide off 36 acres, labeled 'Not a Buildable Lot', leaving the single-family dwelling on a lot with 361' of frontage (250' min) and access to the property on an accepted way (Read St.) and a second vacant lot with 375' of frontage (250' min) and access to the property on an accepted way (Read St.)

Recommendation:

Staff recommends approval of this application as it meets the exemption clause within the definition of a subdivision in the Rules and Regulations Governing the Subdivision of Land for changing the size of lots in such a manner so as to not leave any lot affected without the proper frontage.



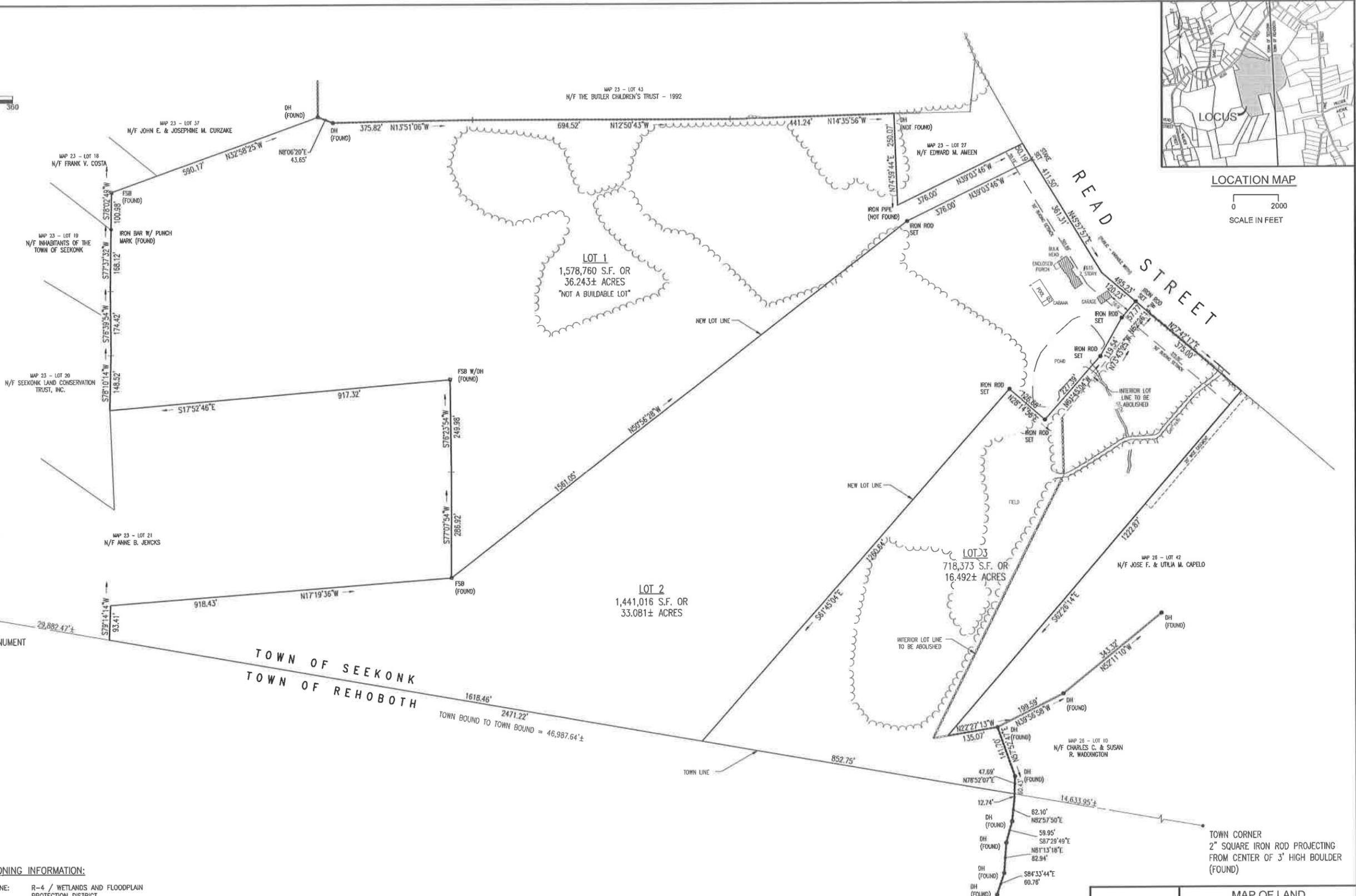
LOCATION MAP
SCALE IN FEET
0 2000

NOTES:

- 1) THIS PLAN IS THE RESULT OF AN ON-THE-GROUND SURVEY PERFORMED BETWEEN, AUGUST 12, 2012 AND NOVEMBER 7, 2012.
- 2) THE MEASUREMENTS TO THE BUILDING CORNERS SHOWN HEREON WERE TAKEN AT THE CORNER BOARDS.
- 3) THE SURVEYOR WAS UNABLE TO OBTAIN LAYOUTS OF READ AND WALKER STREET FROM THE TOWN OF SEEKONK.
- 4) PRIOR DEEDS FOR THE SUBJECT PREMISES INDICATE THAT THE PROPERTY EXTENDS INTO THE TOWN OF REHOBOTH. THIS SURVEY AND PLAN ONLY SHOWS THE PORTION OF THE PROPERTY IN THE TOWN OF SEEKONK.
- 5) THE PROPERTY LINES SHOWN HEREON ARE BASED ON VARIOUS PLANS OF RECORD, RECORDED AT THE NORTHERN BRISTOL COUNTY REGISTRY OF DEEDS IN TAUNTON AND OTHER UNRECORDED PLANS. SEE REFERENCES BELOW.
- 6) THE CERTIFICATIONS SHOWN HEREON ARE INTENDED TO MEET THE REGISTRY OF DEEDS REQUIREMENTS AND ARE NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN.
- 7) THE TERM CERTIFY AS USED IN THIS CERTIFICATION, MEANS TO STATE OR DECLARE A PROFESSIONAL OPINION OF CONDITIONS REGARDING THOSE FACTS OR FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESSED OR IMPLIED.

REFERENCES:

- PLAN BOOK 169 PAGE 28
- PLAN BOOK 434 PAGE 2
- PLAN BOOK 231 PAGE 19
- PLAN BOOK 467 PAGE 50
- MAP OF LAND IN SEEKONK, MASS. BELONGING TO VALDEMAR E.L. ANDERSON, BY WATERMAN ENGINEERING CO. JAN. 1953. (UNRECORDED)
- PLAN OF LAND IN SEEKONK, MASSACHUSETTS SURVEYED FOR THE TOWN OF SEEKONK, BY WATERMAN ENGINEERING COMPANY AUGUST, 1952. (UNRECORDED)
- MAP SHOWING FRONTAGE OF LAND IN SEEKONK, MASS. BELONGING TO RALPH F. & JOHN C. TURNER, BY WATERMAN ENGINEERING CO. MARCH 1953, REVISED MARCH 1963. (UNRECORDED)



PARCEL INFORMATION:

ASSESSORS MAP 23 - LOT 22 and
ASSESSORS MAP 26 - LOT 9

OWNER: FLORENCE K. TURNER, TRUSTEE
TURNER FAMILY TRUST
615 READ STREET
SEEKONK, MA 02771

DEED BOOK 8705 PAGE 38

ZONING INFORMATION:

ZONE: R-4 / WETLANDS AND FLOODPLAIN PROTECTION DISTRICT

LOT WIDTH: 250' (MINIMUM AT THE REAR OF FRONT YARD)
FRONTAGE: 200' (MINIMUM AT THE STREET LINE)
AREA: 62,500 S.F.

SETBACKS:
FRONT YARD: 50'
SIDE YARD: 35' (ADD 5' FOR EACH ADDITIONAL STORY OVER 1)
REAR YARD: 80'

PLANNING BOARD APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED.

SIGNATURES OF THE PLANNING BOARD DO NOT GUARANTEE THAT ALL OR ANY OF THE LOTS SHOWN ARE BUILDABLE LOTS.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE MASSACHUSETTS BOARD OF REGISTRATION OF PROFESSIONAL LAND SURVEYORS STANDARDS.

I CERTIFY THAT THIS PLAN WAS PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

REGISTERED PROFESSIONAL LAND SURVEYOR DATE



MAP OF LAND PREPARED FOR
TURNER FAMILY TRUST
615 READ STREET
SEEKONK, MASSACHUSETTS

CAPUTO AND WICK LTD.
1150 PAWTUCKET AVE.
RUMFORD, R.I. 02916
401-434-8880

DATE: APRIL 1, 2013
SHEET: 1

GOVERNMENT LAW CENTER OF ALBANY LAW SCHOOL
GOVERNMENT LAW ONLINE

Medical Marijuana Meets Zoning: Can
You Grow, Sell, and Smoke That Here?

August 2010



ALBANY LAW SCHOOL

80 New Scotland Avenue
Albany, NY 12208
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Medical Marijuana Meets Zoning: Can You Grow, Sell, and Smoke That Here?

Patricia E. Salkin and Zachary Kansler

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Commentary

Editor's Note: This month's commentary addresses an emerging hot topic in many communities—regulating the land use and community impacts of medicinal marijuana dispensaries. The authors have compiled a list of many of the newly enacted state and local laws on the subject, highlighted on page 4.

Medical Marijuana Meets Zoning: Can You Grow, Sell, and Smoke That Here?

Patricia E. Salkin and Zachary Kansler

INTRODUCTION

Although the federal government does not explicitly allow it,¹ 14 states (Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, New Jersey, New Mexico, Nevada, Oregon, Rhode Island, Vermont, and Washington)² currently permit the medical use of marijuana for qualified patients. State statutes, however, fail to account for the challenges that confront municipal planners and officials whose agenda includes the public health, safety, and welfare of residents, including minor children. The intensity of the problem is perhaps most evident in Los Angeles, where there are approximately 800 dispensaries.³

Varying statutory approaches are provided for individuals to legitimately acquire the drug—they may grow it themselves, they may obtain it from their primary caregiver, or they may obtain it from a licensed dispensary. This raises a number of land use regulatory questions, including: whether state law preempts local zoning when it comes to growing, buying, and using marijuana for medicinal purposes; whether distance requirements, similar to those used in the regulation of adult business uses, can be utilized to regulate the use of medical marijuana; and what types of special use permit considerations may be appropriate for considering activities related to the use of medical marijuana. In addition, questions as to whether growing and selling the drug may constitute a valid home occupation,

and whether marijuana is or should be considered an agricultural crop (and if so, what impact this would have on the relationship between agricultural regulation/policy and zoning), suggest a growing number of unanswered land use law-related questions in this emerging area.

This commentary pulls together information about how municipalities in the 14 states with legalized medical marijuana are beginning to sort through and address the challenging land use issues that confront communities faced with the growth, sale, and use of the drug.

LAND USE LAW AND MEDICAL MARIJUANA

Land Use Moratoria

Whenever new and seemingly controversial land uses arrive on the scene, it is not uncommon for planners and municipal officials to enact moratoria to buy some time to study and develop appropriate regulations. The advent of medical marijuana is no exception, with a number of municipalities using this tool.⁴ Some local governments have enacted temporary bans on the use of land as a medical marijuana dispensing facility with the purpose of developing appropriate regulations.⁵ Fresno, California, for example, has enacted a moratorium while at the same time statutorily defining and setting out guidelines for the permitting of medical marijuana dispensing facilities.⁶ At least one court has upheld the use of moratoria in this regard.⁷

Nuisance Law

Municipal attorneys are beginning to test legal theories in an effort to slow or prevent the growth and sale of the drug in their jurisdictions. For example, the San Jose, California, deputy city attorney has opined that because the cultivation, sale, and use of marijuana is illegal under federal law, medical marijuana dispensing facilities would constitute a nuisance that is not allowed by city code.⁸ San Jose's existing municipal code effectively bans medical marijuana dispensaries, and the attorney has advised that the adoption of a moratorium is unnecessary. One California court recently held that failure to comply with the city's procedural requirements related to medical marijuana dispensaries creates a nuisance *per se*.⁹

Zoning Definitions

Perhaps the most important part of the zoning ordinance is the definition section. Municipalities are inserting various terms related to the regulation of medicinal marijuana into local zoning codes. For example, a "medical marijuana dispensary" has been defined as a location or facility that is used to make available or distribute medical marijuana to primary caregivers, qualified patients, or people with an identification card.¹⁰ A "medical marijuana collective or cooperative" is commonly defined as an association of people whose intent is to educate about medical marijuana and to assist in the lawful distribution of medical marijuana.¹¹

Patricia E. Salkin is the Raymond & Ella Smith Distinguished Professor of Law at Albany Law School and Director of the Government Law Center. Zachary Kansler is a second-year student at Albany Law School and a research assistant at the Government Law Center.

Many municipalities that acknowledge medical marijuana dispensing facilities have included in their zoning ordinances provisions that seek to distance these facilities from residential uses of land.

LOCAL GOVERNMENTS

- Alameda County, California—Medical Marijuana Dispensaries, §§ 6.108.010–6.108.230 (2009), *available at* <http://tiny.cc/sopjq>
- Arcata, California—Municipal Code § 9-42-105; § 9-26-030 (2009), *available at* <http://tiny.cc/udmvp>
- Basalt, Colorado—Town Ordinance No. 12 (2009), *available at* <http://tiny.cc/www0q>
- Berkeley, California—Patients Access to Medical Cannabis Act of 2008, §§12-26-010–140 (2008), *available at* <http://codepublishing.com/ca/berkeley>
- Commerce City, Colorado—Land Development Code § 21-5249 (2009), *available at* <http://tiny.cc/4qbph>
- Denver, Colorado—Medical Marijuana Dispensaries, §§ 24-401–24-410 (2010), *available at* <http://tiny.cc/6gxht>
- Durango, Colorado—Medical Marijuana Dispensaries, Art. III, Div. 16, §§ 13-110–13-120 (2009), *available at* <http://tiny.cc/drzn2>
- Fort Bragg, California—Medical Marijuana Dispensaries, § 9-30-101–9-30-270 (2009), *available at* <http://tiny.cc/egg3p>
- Freemont County, Colorado, Resolution #19—Adoption of Temporary Regulations to Limit the Location of Medical Marijuana Dispensaries and Medical Marijuana Growing Operations Within Unincorporated Fremont County, *available at* <http://tiny.cc/vda96>
- Los Angeles, California—Medical Marijuana Collective, § 45.19.6–14.19.6.10 (2010), *available at* <http://tiny.cc/0v8nm>
- Los Angeles County, California—Medical Marijuana Dispensaries, §§ 7.55.010–7.55.340, 22.56.196(1)(a) (2010), *available at* <http://tiny.cc/0ui3s>
- Louisville, Colorado—Municipal Code § 17.16.040.H (2009), *available at* <http://tiny.cc/k8fp4>
- Mendocino County, California—Municipal Code §§ 9.31.010–9.31.160 (2009), *available at* <http://tiny.cc/zgrhr>
- Monument, Colorado—Municipal Code § 17.36.030 (2009), *available at* <http://tiny.cc/b7v59>
- Oakland, California—Medical Cannabis Dispensary Permits, § 5-80-020 (2009), *available at* <http://tiny.cc/v7w5y>
- San Francisco, California—Medical Cannabis Act, §§ 3301–3321 (2010), *available at* <http://tiny.cc/1904r>
- San Luis Obispo County, California—Land Use Ordinance § 22-30-225 (2009), *available at* <http://tiny.cc/qn1yc>
- San Mateo County, California—Regulation of Collective Cultivation and Distribution of Medical Marijuana §§ 5.148.010–5.148.090 (2009), *available at* <http://tiny.cc/of1mb>
- Santa Cruz, California—Medical Marijuana Provider Association Dispensaries, § 24-12-14 (2010), *available at* <http://tiny.cc/a9zpw> and §24-22-539 (2010)
- Santa Rosa, California—Medical Cannabis Dispensaries §10-40.010–10-40.290 (2009) *available at* <http://tiny.cc/vazcr>
- Sebastopol, California—Municipal Code §§ 17.140.010–17.140.280 (2010), *available at* <http://tiny.cc/6ihoc>
- Sonoma County, California—County Code § 26-88-126 (2009), *available at* <http://tiny.cc/8pl4l>

STATES

- Colorado—COLO. REV. STAT. ANN. § 25-1.5–106 (2010), *available at* <http://tiny.cc/m1com>
- Maine—Maine Medical Marijuana Act, ME. REV. STAT. tit. 22, Chapter 558-C (2010), *available at* <http://tiny.cc/kxtix>
- New Mexico—Medical Use of Marijuana, ADMIN. CODE § 7.34.4.8 (2010), *available at* <http://tiny.cc/07mkh>
- Rhode Island—The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I. GEN. LAWS § 21-28.6 (2009), *available at* <http://tiny.cc/jxr07>

When regulating dispensaries, collectives, and cooperatives, some municipalities allow all forms; others are restrictive. In San Francisco, for example, only cooperatives or collectives are allowed, but the City Code refers to them as dispensaries. Throughout this commentary, when discussing these types of facilities in relation to land use, they will be called marijuana dispensing facilities, unless otherwise noted.

Distance Restrictions

State statutes and regulations. A number of states have recognized the land use dilemma. New Mexico provides, among other things, that personal grow sites and nonprofit dispensing entities may not be located within 300 feet of any school, church, or day care center. In addition, the applicant must demonstrate that the marijuana is not visible from streets or public areas and that the location is secure, and illustrate what security devices are to be utilized. Maine and Rhode Island similarly require that the dispensaries not be located within 500 feet of the property line of any existing public or private school, that there be a security plan, and the cultivation of medical marijuana must take place in an enclosed, locked facility.

A new law in Colorado provides that state or local licenses may not be issued to dispensing facilities if the facilities are within 1,000 feet of where a permit for a similar license was denied due to of the nature of the use or of the effect of the use on the surrounding area.¹² Also, a license for the sale of medical marijuana may not be issued if the location is within 1,000 feet of any school; alcohol or drug abuse treatment facility; principal campus of a seminary, college, or university; or a child care facility.

Local land use regulations. Many municipalities that acknowledge medical marijuana dispensing facilities have included in their zoning ordinances provisions that seek to distance these facilities from residential uses of land. Some municipalities require a 1,000-foot distance between the property lines of a medical marijuana dispensing facility and any residential districts.

Of the jurisdictions that allow medical marijuana dispensing facilities, many limit the number of dispensaries by express limits or through the imposition of use permits that have additional obligations.

Other municipalities require a distance of 500 feet.

Some municipalities allow less of a distance between the property lines of a dispensing facility and residential district, such as Arcata, California, where a dispensing facility may operate 300 feet from a residential zone district, and in Santa Cruz, California, where a dispensing facility may be within 50 feet of a residential unit if it can be proven that it will not have an adverse affect on the residential unit. Los Angeles is somewhat more lenient, allowing dispensing facilities to come into close contact with residential uses while requiring that the dispensing facility not abut, be across the street or alley from, or share a corner with a lot which is zoned for residential use or has been improved with a residential use. Another municipal regulation contains no distance requirement, but allows for the subjective assessment that there must be a sufficient distance between the dispensing facility and residential zone districts so as not to adversely affect the residential use.

In addition to distance from residential uses, local governments may wish to keep medical marijuana dispensing facilities a sufficient distance from locations that are frequented by children, including schools, parks, playgrounds, day care centers, and youth facilities. For example, to further insulate children from medical marijuana dispensing facilities, Mendocino County, California, requires that dispensing facilities not be operated within 1,000 feet of any school bus stop. In Alameda County, California, if a dispensary is within 1,000 feet of any school, it must cease operations for an hour and a half after school lets out.

Local governments have also sought to distance dispensing facilities from other types of locations and uses, such as churches, drug and alcohol rehabilitation facilities, group homes, halfway houses, recreational property, and in some instances, any publicly owned or maintained property. Furthermore, in some cases, dispensing facilities are required to be a certain distance from smoke shops, marijuana paraphernalia shops, and other dispensing facilities.

Is Growing Marijuana a Legitimate Home Occupation?

One method used for keeping medical marijuana dispensing facilities out of residential districts is to prohibit the dispensing of medical marijuana as a home occupation. Furthermore, some municipalities disallow the cultivation and sale of medical marijuana as an accessory use to another home occupation. In an attempt to ensure that personal residential cultivation conducted by a qualified patient does not convert to a large-scale cultivation and dispensing operation, qualified patients are compelled in some jurisdictions to retain the functional aspects or structures of a residential dwelling, such as bathrooms, bedrooms, a kitchen, and a living room. In Grand Rapids, Michigan, an ordinance requires medicinal marijuana caregivers to register with the city as a home occupation.¹³ The ordinance also requires that the primary caregiver obtain a business license.

Medicinal Marijuana Permitted As-of-Right

If one goal in regulating the growing and sale of medical marijuana is to keep it as far away as possible from residential areas, municipalities may opt to allow these activities only in certain districts or areas. Some municipalities provide that the dispensing facility may not be located within a residential zone district. Marijuana dispensaries are typically allowed to operate in business, commercial, and industrial districts.

Some local zoning ordinances allow medical marijuana dispensing facilities to be located outside of specific zone districts if they are located in medical-related buildings, such as medical offices, medical centers, hospital buildings, or hospice facilities. San Mateo and Alameda counties in California allow medical marijuana dispensing facilities to be located only in the unincorporated areas of the counties. Perhaps in an attempt to keep dispensaries from operating near residential districts and to keep their location static, Fremont, Colorado prohibits dispensing facilities from being located in mobile facilities.

Limiting the Number of Dispensing Facilities

Of the jurisdictions that allow medical marijuana dispensing facilities, many limit the number of dispensaries by express limits or through the imposition of use permits that have additional obligations. The number of dispensaries allowed by statute varies greatly. Los Angeles, addressing the rampant expansion of dispensaries in the city, allows a maximum of 70 dispensaries. However, due to the number of dispensaries already present, if a dispensing facility began its operation prior to the city's initial ordinance in 2007, it may be allowed to continue its operation if it follows a prescribed procedure. Other municipalities have allowed far fewer dispensaries. For example, Oakland, California, allows four and Berkeley, California, allows three. Santa Rosa, California, allows two permits for dispensing facilities to be issued during the initial six-month period; after that, additional permits may be considered.

Some jurisdictions also limit the number of dispensaries that can be located within a certain area. The Los Angeles plan, for example, allows for the 70 dispensaries to be distributed proportionally throughout the city based on individualized areas and their population in relation to the entire city's population. To illustrate, Arleta-Pacoima has 2.63 percent of the city's population and is allotted two dispensary permits, whereas Bel Air-Beverly Crest has 0.54 percent of the population and will be granted no dispensary permits. Alameda allows three dispensaries within its jurisdiction, one in each of three distinct districts.

Medical Marijuana Licenses and Permits

A number of municipalities require a special permit or license for the operation of a dispensing facility and require facilities to satisfy certain land use regulations and restrictions in the form of operational requirements if they are to be issued a license or permit.

Fort Bragg, California, requires dispensing facilities to obtain a medical marijuana dispensing permit from the chief of police. The chief of police

Many local governments restrict the publicity that a dispensing facility is allowed through the limitation on signage.

receives an application, then conducts a background check on the applicants and their employees and also executes an investigation into the application. This application is filed under penalty of perjury, and it is the duty of the chief of police to determine if the application should be granted under the terms of the chapter, taking into account factors such as the security plan and location of the property in relation to other land uses. The ordinance also discusses several reasons for the application to be denied, such as if the use does not comply with the Land Use and Development Code, or if the applicant or their employees have been convicted of a felony, or if applicable fees have not been paid.

Oakland also requires that a permit be obtained before a dispensing facility may begin operation. The Oakland ordinance does not apply a specific standard created precisely for medical marijuana dispensaries, but rather uses the standard for business permits with a few additional criteria. For example, the permit application is subject to a public hearing and the permit can be denied if the investigating officer feels that the applicant is not a fit and proper person (financially or morally) able to run a business. During this process, the clerk is also to determine whether the location is in the proper zone for the business. In addition to the business permit criteria, the investigating officer is to determine whether the use passes specific dispensing facility requirements, such as distance requirements and additional zoning requirements. Further, the investigating officer can use discretion in giving consideration to what is necessary to protect the order, peace, and welfare of the public, such as the complaint history of the applicant.

Colorado requires a Medical Marijuana Center License, an Optional Premises Cultivation License, or a Medical Marijuana Infused Products Manufacturing License to be issued by a local licensing authority before operation may commence. Such licenses are not issued unless the municipal governing body has adopted an ordinance or

resolution including detailed standards for the issuance. During the local licensing process, a public hearing on the matter must be held and, if passed, the application is then forwarded to the state licensing authority. Before the local authority may issue the license, they must do an inspection of the proposed location to determine if the use conforms to the law and the plans submitted in the application. Once the application reaches the state licensing authority, the authority may grant or reject the application. The state licensing authority is to promulgate rules and regulations concerning, among other topics, the licensing procedure, including the initial license granting, and the broad operation of the authority.

Other Licensing Restrictions

Many local governments have enacted restrictions limiting what the dispensing facility can do; for example, the facility may do no more than dispense medical marijuana, or restrictions may be placed on what can be sold or produced other than the medical marijuana. Some jurisdictions do not allow for the cultivation of the medical marijuana on site. Other jurisdictions do not allow for the sale of marijuana smoking devices or paraphernalia. Some dispensing facilities may also be prohibited from producing or distributing any food on-site. If sale or production is allowed to occur on-site, the jurisdiction must know about it. Some regulations also require that no other goods or services be provided on the dispensing facility's site.

In some municipalities, dispensing facilities are not allowed to hold liquor licenses nor is alcohol permitted to be consumed on the premises. Similarly, many municipalities do not allow for medical marijuana consumption—whether through smoking or by consumption of edibles—on the dispensary premises. The prohibition on the consumption of marijuana, in some instances, also applies to the exterior of the building, with some distance requirements. While San Francisco does allow on-site smoking of medical marijuana, it imposes some restrictions,

including that the smoking of the medical marijuana takes place in a facility with air purification and that water, seating, and restrooms be available for the patients.

On-site consumption of medical marijuana is typically addressed at the municipal level, but the new law in Colorado states that it is illegal for medical marijuana to be consumed on the premises of a distribution facility and that it is illegal for the facility to allow consumption of medical marijuana on the premises.

The security of medical marijuana dispensing facilities is also a common concern. Some municipalities require that the dispensing facility be in a highly visible location that provides good views of the facility and its points of access. A few jurisdictions require that dispensing facility doors remain locked at all times and that access be granted with the use of strict controls. Another common requirement placed on these facilities is that they must employ a security system that includes lights and alarms. Some localities require the security system of the dispensing facilities to include security cameras with video play of the preceding days. Los Angeles also requires that a dispensary provide a security patrol of the surrounding two-block radius.

Signage

Many local governments restrict the publicity that a dispensing facility is allowed through the limitation on signage. Ordinances often contain restrictions on signs posted on the exterior of the dispensing facility. One such restriction is on the size of exterior signs. These restrictions vary from a maximum area of four square feet to 20 square feet. Other regulations prohibit illuminated business identification signs. Some jurisdictions do not allow the signs to block the windows or the door.

Raising First Amendment issues, some municipalities have enacted regulations focusing on content, specifically prohibiting medical marijuana dispensing facilities from advertising the availability of cannabis, including

The cultivation of agricultural crops sometimes results in certain state agricultural preferences that may have a preemptive effect on municipal regulations seeking to limit or prohibit agricultural-related uses.

exterior signs and also interior signs that are visible from the outside. Content restrictions also ban promotional material that depicts medical marijuana use in any way, whether by on-premise signs that are visible to the right-of-way or off-site promotions. In Colorado, the new state law not only requires signs to satisfy local ordinances, but also disallows advertisements that are misleading, deceptive, false, or constructed to entice minors.¹⁴

Miscellaneous Restrictions

Zoning ordinances have also imposed a duty on dispensing facilities to ensure the cleanliness of the neighborhood. Some localities require dispensing facilities to frequently retrieve litter from around the building and the surrounding sidewalks. Others ordinances require that graffiti on dispensary facility walls be removed promptly.

Some municipalities require that the marijuana inside the facility not be visible from the exterior of the building or the public right-of-way, and it is common to require that produced medical marijuana be kept in a secured, locked location. Furthermore, a majority of the jurisdictions impose restrictions on when the dispensing facilities may open, and when they must close. For example, dispensaries may not open before times ranging from 7:00 a.m. to 10:00 a.m. and must close within the range of 5:00 p.m. and 9:00 p.m. The Colorado statute allows dispensaries to operate between the hours of 8:00 a.m. and 7:00 p.m.¹⁵ San Francisco allows two dispensing facilities to remain open for 24 hours a day.¹⁶ Due to the importance of these two unique facilities, the city exercises further control over these sites so the population can use the facilities to their fullest extent. Specifically, these facilities are to be located where it is determined that the population most needs such a facility. The facilities must be accessible to late-night transportation routes; they cannot be within a mile of one another, and cannot be located in certain zone districts.

Restrictions on the use of the land for dispensing medical marijuana are

also evident in the size or attributes of the building itself. Some municipalities require that there be a lobby in the facility and a separate area within the facility for dispensing the medical marijuana. Regarding the building size, jurisdictions have taken two approaches—to limit the physical size of the dispensing facility and to limit the number of patients. Sonoma County, California, ties both of these types of dispensing facility limitations together and adds another restriction limiting the size of the dispensing facility by stating how many total patients it may accommodate, the square footage of the building, and the maximum number of patients served on a daily basis.¹⁷ In some jurisdictions, the size limitations are not absolute, and if the dispensing facility wishes to increase the size of the facility, the owners must obtain prior approval.

Growing Marijuana for Medical Purposes

The cultivation of agricultural crops sometimes results in certain state agricultural preferences that may have a preemptive effect on municipal regulations seeking to limit or prohibit agricultural-related uses. It remains to be seen whether medical marijuana will be treated as an agricultural crop for purposes of special protections and for tax exemptions (e.g., whether land being used primarily for the growing of medical marijuana is eligible for inclusion in agricultural districts).

The use of zoning districts is another common tool to restrict the location of medical marijuana growing operations. In some jurisdictions, medical marijuana cultivation, when not for personal use, is considered an agricultural resource or industrial use and is allowed in those districts. Aspen, Colorado has found that since the cultivation of medical marijuana is an agricultural use, it is not permitted in Service/Commercial/Industrial zone districts and should be permitted only in agricultural use zone districts.¹⁸

Medical marijuana may also be cultivated by qualified patients for personal use and by dispensing facilities for their members. Various land use regulations have been placed upon cultivation for

both personal use and for distribution.

Limitations on size of cultivation.

Some municipalities impose a limit on how much medical marijuana can be cultivated on site, ranging from the number of plants to the amount of space occupied by the plants. For example, Mendocino County, California, allows 25 plants to be planted, whether indoors or outdoors, before the cultivation becomes a nuisance and is no longer permitted.¹⁹ The marijuana plants must also have a zip tie issued by the sheriff's office for a fee attached to each individual plant.

In Arcata, California, cultivation area for medical marijuana cannot exceed 50 square feet and 10 feet in height.²⁰ An additional 50 square feet of cultivation for personal use is permitted where the zoning administrator determines it is warranted. Additionally, the patient must install a one-hour green board firewall assembly, and must show that the cultivation area is part of a detached single-family residence or is an accessory building that is enclosed, secured, and locked.

In dealing with the cultivation of medical marijuana by a cooperative or a collective, Arcata permits substantially more cultivation than what is permitted for personal use. Subject to the use permit, limited on-site cultivation of medical marijuana may reach up to 25 percent of the floor space, so long as the cultivation does not exceed 1,500 square feet and ten feet in height. Arcata does not limit the amount of off-site cultivation, only requiring that the cultivation comply with local zoning ordinances. Also addressing this concern, San Francisco allows cultivation of 99 plants in up to 100 square feet of canopy space.²¹

Fort Bragg, California, also allows medical marijuana and it has instituted limitations on the amount that may be cultivated.²² The city authorizes cultivation that is not to exceed 50 square feet and 250 cubic feet. Fort Bragg allows additional medical marijuana to be cultivated, up to 100 square feet and 500 cubic feet, provided that a minor use permit is acquired and a minimum one-hour green board firewall assembly is installed.

State and local legislative bodies and the courts will undoubtedly be sorting through many of the land use related issues in the years to come.

Distance requirements for the cultivation of medical marijuana. Limitations on the cultivation of medical marijuana also apply to the distance that the cultivation site can be from certain sensitive locations. These regulations are similar to the distance requirements that localities have imposed on medical marijuana dispensaries, collectives, and cooperatives. If cultivation is authorized to take place on the dispensing facility site, the distance requirements placed on the dispensing location would logically flow to the cultivation aspect of the operation. Mendocino and Fort Bragg have such distance requirements. Mendocino measures this distance from the exterior line of the cultivation site to the exterior line of the sensitive property, including youth-oriented facilities, schools, school bus stops, parks, and churches.²³

Use restrictions on cultivation. Municipalities that permit the cultivation of medical marijuana, whether for personal use or for the use of a dispensing facility, may require that certain restrictions be applied. Colorado specifically allows municipalities to entirely prohibit or enact reasonable regulations on cultivation.²⁴ When addressing the cultivation of medical marijuana, one common concern is the sensory presence of the drug, whether through scent or vision. If the medical marijuana is authorized to be grown outside, many jurisdictions require it to be fenced in or out of the view of the public.

Some jurisdictions do not allow cultivation to take place outdoors, considering it a nuisance. Due to the issues that nearby residents or businesses may observe, some jurisdictions have restricted the use to that which would not constitute a nuisance, embodied in excess odor, heat, glare, noxious gases, traffic, crime, and other impacts. Nuisance from the cultivation of medical marijuana has been broadly defined in one jurisdiction to encompass disturbing odors, repeat responses (more than three a year) by law enforcement personnel to the site, excessive noise, or any distributive impact created by the cultivation.

As to personal use medical marijuana cultivation, some jurisdictions place

restrictions on how the marijuana is cultivated, requiring that the lighting not exceed 1200 watts, prohibiting the use of certain gases, and requiring that cultivation not create humidity or mold problems. Also, some jurisdictions require residential dwellings to remain as such with bathrooms, bedrooms, and a kitchen, and not be expanded to a commercial or agricultural use. Some jurisdictions apply extra requirements to those who do not own the property they intend to cultivate, specifically requiring the user must have permission from the owner. In some instances, requirements exist for firewall assemblies, venting, and the satisfaction of building and fire codes.

CONCLUSION

With a growing number of states enacting statutes authorizing the use of medical marijuana, land use and community development issues are certain to increase. Planners and land use lawyers in these states are challenged to update local zoning and land use regulations to ensure that this use meets public health, safety, and welfare concerns of host communities. State and local legislative bodies and the courts will undoubtedly be sorting through many of the land use related issues in the years to come.

ENDNOTES

1. Deputy U.S. Attorney General David W. Ogden's memorandum regarding the medical use of marijuana provides that those who follow state law to use, acquire, and supply medical marijuana will not be prosecuted by the federal government. See Memorandum from David W. Ogden, Deputy Attorney General, U.S. Department of Justice, Authorizing the Medicinal Use of Marijuana (Oct. 19, 2009).
2. Alaska: Medical Uses of Marijuana for Persons Suffering from Debilitating Medical Conditions Act, ALASKA STAT. §§ 17-37-010—17-37-080 (2009); California: Compassionate Use Act of 1996, CAL. HEALTH & SAFETY CODE §11362.5 (2009); Colorado: COLO. CONST. ART. XVIII §14 (2009); Hawaii: HAW. REV. STAT. ANN. §§ 329-121—329-128 (2010); Maine: ME. REV. STAT. ANN. tit. 22, §§ 2421—2429 (2010); Michigan: Michigan Medical Marijuana Act, MICH. COMP. LAWS ANN. §§333.26421—333.26430 (2009); Montana: Medicinal Marijuana Act, MONT. CODE ANN. §§ 50-46-101—50-46-210 (2009); Nevada: NEV. REV. STAT. ANN. §§ 453A.101—435A.810 (2009); New Jersey: New Jersey Compassionate Use Medicinal Marijuana Act, N.J. REV. STAT. §§ 24:61-1—24:61-16 (2010); New Mexico: Lynn and Erin Compassionate Use Act, N.M. STAT. ANN. §§ 26-2B-1—26-2B-7 (2009); Oregon: Oregon Medical Marijuana Act, OR. REV. STAT. ANN. §§ 475.300-475.346 (2009); Rhode Island: The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I. GEN. LAWS §§ 21-28.6-1—21-28.6-12 (2009); Vermont: VT. STAT. ANN. tit. 18, §§ 4472—4474d (2009); Washington: Washington State Medical Use of Marijuana Act, WASH. REV. CODE ANN. §§

69.51A.005—69.51A.902 (2010).

3. John Hoefel, *Judge Grants Injunction Against City's Medical Marijuana Dispensary Ban*, L.A. TIMES, Oct. 19, 2009, Available at <http://tiny.cc/u39jg>.

4. See, e.g., New Castle (Colo.) ORDINANCE 2009-13 (Nov. 17, 2009) available at <http://tiny.cc/xqin4>.

5. Tehama County (Cal.) MUNICIPAL CODE § 17-08-070 (2009); Aurora (Colo.) ORD. 2009-57 (Nov.16, 2009); Florence (Colo.) ORD. 16-2009 (Oct. 19, 2009); Louisville (Colo.) ORD. 1561 (Oct. 20, 2009); Manitou Springs (Colo.) ORD. 2109 (Dec. 15, 2009); New Castle (Colo.) ORD. 2009-13 (Nov. 17, 2009).

6. Fresno (Cal.) MUNICIPAL CODE § 12-306-N-56 (2010). Currently all dispensaries are enjoined from operating in Fresno, pending litigation, on the theory that federal law does not allow for the sale of medical marijuana. See, *People of the State of Cal. v. Marej Props., LLC*, No. 09 CECG 02906 AMS Dept. 97 C, (Super. Ct. of Cal., County of Fresno, Central Div, 2009).

7. *City of Claremont v. Kruse*, 100 Cal.Rptr.3d 1 (Cal. App. 2009).

8. Doyle, City Attorney, *Workload Assessment—Medical Marijuana* (Jan. 21, 2010). Available at <http://tiny.cc/jpek1>.

9. *City of Corona v. Naulis*, 83 Cal.Rptr.3d 1 (Cal. App. 2008).

10. Fort Bragg (Cal.), MUNICIPAL CODE § 9-30-020 (2009); Tehama County (Cal.) MUNICIPAL CODE § 17-08-070(B)(1) (2009); Denver (Colo.) CODE OF ORDINANCES § 24-402-3 (2010).

11. Arcata (Cal.) MUNICIPAL CODE § 9-100.020 (2009).

12. COLO. REV. STAT. ANN. § 12-43.3-308(1)(a) (2010).

13. Kyla King, *Grand Rapids Requires Medical Marijuana Caregivers to Register with City*, THE GRAND RAPIDS PRESS, Mar. 9, 2010, available at <http://tiny.cc/24r8ss>.

14. COLO. REV. STAT. ANN. §§ 12-43.3-901(4)(b), 12-43.3-901(4)(a)(2010).

15. COLO. REV. STAT. ANN. § 12-43.3-901(4)(i) (2010).

16. San Francisco (Cal.) HEALTH CODE § 3308 (e) (2010).

17. Sonoma County (Cal.) MUNICIPAL CODE § 26-02-140 (2009). Size requirements allow the county to apply additional regulations due to higher patient traffic to the facility.

18. Res. 6, Aspen (Colo.) City Council (2010). Available at <http://tiny.cc/rm4927> and <http://tiny.cc/vh2xg>.

19. Mendocino County (Cal.) MUNICIPAL CODE § 9-32-060 (2009).

20. Arcata (Cal.) MUNICIPAL CODE § 9-42-105(D)(1) and §9-42-105(D)(2) (2009).

21. San Francisco (Cal.) HEALTH CODE § 3308 (e) (2010).

22. Fort Bragg (Cal.) MUNICIPAL CODE § 9-32-010 (2009).

23. Mendocino County (Cal.) MUNICIPAL CODE § 9-31-090 (B) (2009).

24. COLO. REV. STAT. ANN. § 12-43.3-310(1) (2010).

TOWN OF SEEKONK
Planning Board

MEMORANDUM

To: The Planning Board

From: John P. Hansen Jr., AICP, Town Planner

Date: June 3, 2013

Re: May monthly report

BYLAWS

Zoning Bylaw rewrite

- First draft of zoning bylaw reorganization being completed

PLANS

Master Plan

- Implementation on-going

MISC

Solar Overlay Amendment

- Recommended; TM to be held in June

Medical Marijuana Treatment Centers Temporary Moratorium

- Recommended; TM to be held in June

SWAC

- Mapping project of all catchment areas to Town drainage outfalls for NPDES permit continues.

GIS

- Completing town-wide wetlands GIS file based ConCom approved plans.

SUBDIVISIONS

Orchard Estates

- Construction has begun; Drainage installed.

Tall Pines

- Construction on-going; Drainage, bridge, and binder installed

Madison Estates

- Construction to commence.

Caleb Estates

- Construction ongoing; Binder installed.

Ricard St. Extension

- Sub-base installed.

Pine Hill Estates

- Surety established

Jacob Hill Estates

- Preliminary Plan approved.

Country Brook Estates

- Preliminary Plan approved; Definitive Plan submitted

SEEKONK PLANNING BOARD
Public Hearing & Regular Meeting Minutes
May 14, 2013

Present: Ch. Abelson, M. Bourque, R. Bennett, L. Dunn, D. Viera, R. Horsman, S. Foulkes
J. Hansen, Town Planner

7:02 pm Ch. Abelson called the meeting to order.

**Public Hearing - Zoning Bylaw Amendment: Section 9.8-Solar
Photovoltaic Overlay District – Applicant Fisk Family Realty Trust**

Ch. Abelson read the order of business.

A motion was made by D. Viera seconded by R. Horsman and it was unanimously

VOTED: To waive the reading of the legal notice.

Introduction of Town Planner and Board Members

Otis Dyer Engineer for applicant introduced himself.

Ch. Abelson summarized that the decision of the ZBA was to grant a by-right use in the industrial zone for the solar photovoltaic facility. He went on to say by the ZBA making that decision it was thought that anybody in an industrial zone could by- right do the same thing but in fact anyone in the industrial zone would have to go to the ZBA and obtain approval because it is site specific. He also said that the Planning Board would rather go forward with the petition to do the overlay on all industrial zones and not change the surety portion of the amendment because of how it was advertised.

O. Dyer commented on the surety aspect and said surety could kill a site and it is not like a subdivision where the town has direct interest with building permits, septic, it is private property.

Ch. Abelson said if the property was abandoned then the solar panels could possibly not be reused.

O. Dyer said the panels are very valuable structures.

R. Bennett said in his opinion that any materials left on the site would have enough value to salvage and recover the expense and/or surety.

J. Hansen said the board could not address surety at this meeting and cautioned that the moderator at town meeting could shoot down making an amendment on the floor of town meeting.

D. Viera asked if the structures do become abandoned and the town has to step in, could the town put a lien against the property? He said surety wouldn't be an issue if they could put a lien on the property.

Ch. Abelson polled audience for proponents and opponents, none.

L. Dunn commented that it makes sense to make it non-site specific.

A motion was made by R. Horsman and seconded by R. Bennett and it was unanimously

VOTED: To adjourn the Public Hearing

A motion was made by R. Bennett and seconded by D. Viera and it was unanimously

VOTED: to recommend the Solar Photovoltaic Overlay District amendment at Town Meeting to include all industrial lands within it.

**Public Hearing – Zoning Map Amendment: Portion of Plat 35, Lot 26
Zoned R-4 to be rezoned Industrial – Applicant Fisk Family Realty Trust**

Ch. Abelson read the order of business.

A motion was made by D. Viera seconded by R. Horsman and it was unanimously

VOTED: To waive the reading of the legal notice.

Introduction of Town Planner and Board Members

Otis Dyer introduced himself and summarized that the blue area on the map he had was a total of 29 acres in an industrial zone. He said that it did not make sense to leave an appendage of residential land of 7.75 acres next to an industrial zone. He said this would be an important part of this project and it is an area that does not have power lines and pipe lines. He noted the total area would be 35 acres.

Ch. Abelson polled audience for proponents and opponents, none.

L. Dunn commented that it makes sense to do this energy here locally.

J. Hansen noted that the ZBA gave their approval for the use and the abutters were notified through the ZBA.

O. Dyer noted that at one time there was a trolley line that came through and there was a paper road that the town took in tax title a long time ago. It was a low value taking.

A motion was made by D. Viera and seconded by R. Horsman and it was unanimously

VOTED: To adjourn public hearing

A motion was made by D. Viera and seconded by L. Dunn and it was unanimously

VOTED: To recommend Zoning Map Amendment: Portion of Plat 35, Lot 26 Zoned R-4 to be rezoned Industrial at Town Meeting

Public Hearing – Zoning Bylaw Amendment: Temporary Moratorium on Medical Marijuana Treatment Centers

Ch. Abelson read the order of business.

A motion was made by D. Viera seconded by R. Horsman and it was unanimously

VOTED: To waive the reading of the legal notice.

Introduction of Town Planner and Board Members

J. Hansen summarized that anyone who wants to open a Medical Marijuana Treatment Center will be allowed to as Department of Public Health regulations are now in effect. People can now apply and get licenses with the state and towns. He noted a reaction by many towns was to regulate them with a temporary moratorium to buy time to come up with a place to put them. The Planning Department asked the Police Chief along with the BOH for their input.

Ch. Abelson asked proponents to speak.

Seekonk Police Chief Craig Mace introduced himself and said that he is a proponent of the temporary moratorium. He said it will give the town and the police department time to figure out where such a facility should go in Seekonk.

Ch. Abelson asked opponents to speak. None.

Discussion

L. Dunn wondered if the main opposition was that it seemed dangerous and scary.

R. Horsman commented that was why the town was working with the police and BOH and wanting to take a year to see what was involved.

C. Mace said by doing this and seeing what other towns have done Seekonk would not have to

re-invent the wheel. He noted the state would be involved as well as the Health Department. He said there might be security issues involved as well as impact on neighborhoods. He said it might be helpful to try and find a certain zone for this type of facility. He also noted it will be an advantage to have a year to see how other towns are making out with the centers in their towns.

A motion was made by D. Viera and seconded by R. Horsman and it was

VOTED: to adjourn the public hearing

A motion was made by R. Horsman and seconded by D. Viera and it was

VOTED: to recommend at Town Meeting the Zoning Bylaw Amendment: Temporary Moratorium on Medical Marijuana Treatment Centers

Partial Covenant Release: Tall Pines - Applicant: Stonegate Builders

J. Hansen noted that the fence had been put up and he recommended a covenant release of lots 8,9 &10.

D. Viera said that the town has been burned before by releasing surety too soon. He wanted to make sure all requirements had been met.

J. Hansen said all requirements had been met by the Board's inspector GPI and noted he has all their reports.

A motion was made by D. Viera and seconded by R. Horsman and it was unanimously

VOTED: To release covenant on lots 8, 9 & 10.

Surety Establishment: Pine Hill Estates – Applicant: Najas Realty

Paul Carlson from Insite Engineering introduced himself and said the applicant for Pine Hill Estates is looking to establish surety. He said a construction cost estimate of \$375K had been reviewed by the Board's inspector, GPI, and they found it to be an appropriate estimate of the proposed construction. He noted that the covenant would cover three lots, 1, 2, & 3 expiring on 5/14/14, and the average purchase price is 125K per lot.

L. Dunn asked how long the road was.

P. Carlson said 750'.

D. Viera wondered in lieu of property what other form of surety could the Board ask for?

J. Hansen said the law states that it is up to the developer.

D Viera said he did not believe the town should be in real estate business.

Ch. Abelson said that the Planning Board could not tell them how to establish surety.

A motion was made by R. Horsman and seconded by L. Dunn and it was

VOTED: To approve surety establishment for Pine Hill Estates with a covenant on lots 1, 2, & 3, expiring on May 14, 2014.

Aye – Ch. Abelson, S. Foulkes, M. Bourque, R. Horsman, R. Bennett

Nay - D. Viera & Lee Dunn

Motion passes 5-aye 2- Nay

Form A: Plat 9, lot 208: 9-17 County Street

J. Hansen summarized that it is a 1.88 acre lot with two single family dwellings zoned R-1 and the proposed lot amendment would be to split into two lots, each with 100' lot frontage minimum and access from County St. He told the Board that the only thing on an ANR they can look at is if it has the correct frontage.

Bob Costa, the applicant, said there are separate septic systems.

A motion was made by M. Bourque and seconded by R. Bennett and it was unanimously

VOTED: To endorse Form A: Plat 9, lot(s) 208: 9-17 County Street

The Board took a brief recess

Public Hearing – Community Priority Area Update -SRPEDD

Sandy Conaty from SRPEDD introduced herself to the Board and summarized that in 2008-2009 SRPEDD worked with 27 communities to look at their growth, and to determine what areas in each community would be designated as Priority Development Areas and Priority Preservation Areas. She said the biggest change was the availability of GIS data use. She noted that Katie Goodrum from SRPEDD is very adept with GIS.

Katie Goodrum from SRPEDD introduced herself to the Board. She said the Planner's update process revolves around refining boundaries and designations identified by city officials and they were here tonight to work with the Board to make Priority Area Adjustments that SRPEDD would use for the purpose of aiding regional planning decisions and the Community Area Update will be complete in June, 2013.

Sandy Conaty said Grant King, Planner for SRPEDD, introduced the Community Priority Area Designations to the BOS in 2013. Priority Areas (PAs) in town were identified by John Hansen, Town Planner and Grant King to determine if those areas should be designated Priority Development Areas, (PDAs) or Priority Protection Areas, (PPAs). Sandy Conaty and Katie Goodrum presented to the Planning Board a map showing the specific priority areas in Town that had been discussed five years earlier. Ms. Conaty asked the Board if they wanted to maintain the designations or if they wanted to update the original Priority Areas.

The Board began by discussing the Bakers Corner area that had been originally identified as a Priority Development Area, and determined that it should clearly remain a development area.

Much discussion ensued surrounding the Maple Avenue Mill Complex that had been destroyed by a fire and as a result, contains contaminants that would be costly to clean up. That area had been identified as a combined Priority Development Area and Priority Protection Area. Some members recommended that the area be cleaned up and designated a Priority Protection Area, others suggested it be a Development Protection Area to emphasize redevelopment potential. After lengthy discussion it was determined that it should remain a combined area.

The Board asked that John Hansen forward a memo to the BOS and request that the area be cleaned up and made safe for future redevelopment.

It became apparent that there were too many areas to discuss in one night and the Board suggested meeting again in a work session this month to complete the Priority Area Adjustments. It was determined that no meeting date could be agreed upon prior to SRPEDD's deadline by the end of May.

D. Viera made a motion to postpone any decision on this matter for one or two weeks, no second was made.

Sandy Conaty reassured the Board that although SRPEDD will utilize the existing information to be put on a map in June, it is not critical to make any changes tonight. This is a tool for the Town and the Board could meet at any time in the future to determine any adjustments to the Priority Areas as this is for their own use.

After further discussion, the Board concluded that they were comfortable with the present designations of most areas and the only area that was in question had been the Maple Avenue Mill area, which they had just resolved.

A motion was made by R. Horsman and seconded by D. Viera and it was unanimously

VOTED: To let SRPEDD move forward with the map utilizing the changes made tonight and continue this discussion in June to work on specific areas for our own use.

Correspondence

J. Hansen updated the Board that the Community Preservation Committee was successful in working with Mr. Cuddigan and the State to preserve Mr. Cuddigan's 68 acres of farmland on School Street. J. Hansen said it will remain an agricultural use forever. He noted it is private property and is not available for people to access.

Approval of Minutes: 4/9/13

A motion was made by D. Viera seconded by R. Bennett and it was

VOTED: to approve 4/9/13 Planning Board minutes

Aye – Ch. Abelson, L. Dunn, M. Bourque, D. Viera, R. Bennett

Abstain - S. Foulkes & R. Horsman (absent w/cause)

Motion passes 5-aye 0- nay 2-abstain

Adjourn

A motion was made by D. Viera and seconded by R. Horsman and it was unanimously

VOTED: to adjourn at 8:55 PM

Respectfully Submitted by,

Florice Craig & Chris Testa