

**Tuesday July 23, 2019**  
**Medway Planning and Economic Development Board**  
**155 Village Street**  
**Medway, MA 02053**

<b>Members</b>	<b>Andy Rodenhiser</b>	<b>Bob Tucker</b>	<b>Tom Gay</b>	<b>Matt Hayes</b>	<b>Rich Di Iulio</b>
<b>Attendance</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>

**The meeting is being broadcast and recorded by Medway Cable Access.**

**ALSO PRESENT:**

Susy Affleck-Childs, Planning and Economic Development Coordinator  
Gino Carlucci, PGC Associates

Vice Chairman Bob Tucker opened the meeting at 7:00 p.m. and asked if there were any public comments.

**PUBLIC COMMENTS:**

**Resident Lori McCarthy – Forest Road:**

Ms. McCarthy indicated that she was at the meeting back in January and the Board was going to reach out to the builder about street acceptance. Susy Affleck-Childs indicated that a letter was sent out to the developer of this subdivision. She will follow-up to inform the Board and resident about the status.

**ANR – 85 WINTHROP STREET:**

The Board is in receipt of the following: **(See Attached)**

- ANR Application dated June 12, 2019 from Attorney Steven Kenney on behalf of Applicant Joanne Beksha Brown
- ANR plan review memo from Gino Carlucci dated July 18, 2019
- ANR Plan dated May 14, 2019

Attorney Steven Kenney was present representing the applicant. The Board was informed that the ANR Plan was prepared by Colonial Engineering Inc. of Medway and dated May 14, 2019. This application was reviewed by Consultant Carlucci. The plan divides the 87,937 sq. ft. of the existing property into 2 lots; one is 44,000 sq. ft. and the second is 43,937 sq. ft. The parcel was originally large enough for 2 lots; a taking for the street relocation resulted in reducing the lot area by 63 sq. ft. In November 2017, the ZBA granted a variance for the 63 sq. ft. that the second lot is short. The plan meets the requirements for endorsement.

**On a motion made by Andy Rodenhiser and seconded by Rich Di Iulio, the Board voted unanimously to endorse the ANR Plan for 85 Lovering Street, dated May 14, 2019, as presented.**

## **PEDB MEETING MINUTES:**

### **June 11 & 18, 2019:**

**On a motion made by Rich Di Iulio and seconded by Matt Hayes, the Board voted unanimously to approve the minutes from the June 11 & 18, 2019 meetings with revisions from member Gay.**

## **OTHER BUSINESS:**

- There will be a special meeting on Tuesday July 30, 2019 to begin the public hearing on proposed amendments to the Site Plan Rules and Regulations
- The Building Department has hired a new employee to assist with code enforcement.

## **PUBLIC HEARING - WILLIAM WALLACE VILLAGE MULTIFAMILY HOUSING SPECIAL PERMIT AND SITE PLAN (274 – 276 Village Street)**

The Chairman opened the public hearing for the William Wallace Multi-Family Housing Special Permit and Site Plan.

**On a motion made by Rich Di Iulio and seconded by Matt Hayes, the Board voted unanimously to waive the reading of the public hearing notice.**

Consultant Steve Bouley was called to participate remotely in the meeting.

The Board is in receipt of the following: **(See Attached)**

- Public Hearing Notice
- Project Narrative
- Special Permit Application
- Site Plan dated 6-25-19
- Architectural Plans dated 7-01-19
- Dave D'Amico email of DPW markup of plans dated 7-11-19
- Officer Watson email dated 7-12-19 re: sidewalk/crosswalks
- PGC Plan Review Fee Estimate dated 7-08-19
- Tetra Tech Plan Review Estimate dated 7-12-19

Daniel Merrikin, P.E., Legacy Engineering LLC was at the meeting representing the applicant. This Special Permit is to allow multi-family housing pursuant to Section 5.6.3 of the Town of Medway Zoning Bylaw. The application is for a proposal to construct a 14-unit, condominium development at 274 Village Street in the Agricultural/Residential II Zoning district. This is a 3.6-acre site owned by DTRT, LLC. The proposed development will include the construction of seven, 2-unit, 2-story townhouse buildings; all 14 units will have 3-bedrooms. Two affordable dwelling units will be included within the development. The access will be from Village Street. There will be a total of 63 off-street parking spaces. The existing commercial and residential

structures at 274 Village Street will be demolished. There will be a sub-surface stormwater management facility installed on site. There will also be landscaping and lighting. The applicant was made aware that he will need to attend the Design Review Committee to discuss architecture. The site will have water, sewer, gas and electric from Village Street. The floor plan has options regarding the master bedroom, a bonus room or storage. The patios were shown on the plan.

Mr. Merrikin informed the Board that the applicant will be submitting an ANR plan next week where the neighbor at 276 Village Street will provide a back strip of land and applicant would swap a piece on the right side. The proposed site plan is reflective of this change. The abutter at 276 Village Street uses the existing driveway at 274 Village Street to get to their house. The arrangement is to still allow the owner to do this. There will be an easement over the new area. The stormwater basins will be within the landscaped area. There will be a mail kiosk. The sidewalk will circulate up and back for the entire loop around. These will be 1,300 sq. units. The proposed grading plan was reviewed. The stormwater management plan will collect surface water and roof run off to the wetland area; that is under the jurisdiction of the Conservation Commission. The utility plan was reviewed; the applicant proposes to bring in water from the Village Street with fire hydrants along with sewer. The applicant is still working on the landscaping plan but proposes to put in evergreen trees in the noted area along with a fence for screening. There will be a lot of green space. The road will be a private way.

The applicant is aware that this will need peer review. The current proposal is below what is possible in terms of the density on the site. If the site were maxed out, it could have 40 units, but the applicant indicated that he is only proposing 14 units.

The applicant submitted a Notice of Intent with the Conservation Commission on July 10, 2019. All aspects of the Stormwater and Land Disturbance Permit will be handled through the Conservation Commission. The applicant will be on its August 8, 2019 meeting agenda.

### **Comments from the Public:**

#### **Resident, Scott Peterson – 6 Forest Road:**

Mr. Peterson informed the Board that he is concerned about this site since it is extremely wet. His sump pump is running a lot. He does not want more water coming into his property and it was noted that there was also vernal pool. He also asked about the ledge and how his house will be protected.

The applicant indicated that they do not anticipate finding ledge on the property.

Consultant Bouley indicated that he will be conducting inspections throughout the duration of the project to make sure the water goes where it is intended to go. Susy Affleck-Childs informed all that Tetra Tech Consultant Steve Bouley will review both the Conservation and Planning Board filings for this project.

**Resident Mrs. Muratori, 8 Forest Rd:**

Mrs. Muratori was inquiring about lighting spillage onto her property with the Bocci Court.

Mr. Merrikin noted that the owners currently share the driveway with the owners of 276 Village Street, but there is no legal agreement or arrangement. The current owner of 276 Village Street uses the applicant's property to access his home. They want to preserve the easy access for the neighbor. They would grant an easement which would need to be recorded. A secondary access would be at Bedalia Way if this is a recommendation of the Fire Chief. This would be a private driveway and not road. This could never be accepted in a public street. The condo would be fully responsible for its upkeep and maintenance.

The road is a private way. The width is something that the Fire Chief would need to weigh in on. The proposed width is 22ft with Cape Cod berm. The applicant does intend to go to the Design Review Committee. The applicant explained that the lighting will be a series of lantern lights with posts at the end of each driveway. There will be 7 guest parking spaces. The applicant indicated that it could accommodate one handicap spot. The Board would like a detail of the mail kiosk included. The retaining wall needs to be removed from the plan. The applicant will need to discuss the irrigation and if there is a need for a well.

Consultant Carlucci noted that the garages should be set back 5 ft. from façade of house. He also suggested making the guest spaces parallel. Consultant Bouley noted that with the sewer, it would be an easier route to go out to Village and not Bedalia Way. The applicant noted that it can be discussed with the DPW. Another issue which needs to be resolved would be how the trash will be dealt with. The applicant, Larry Rucki, noted that this has not been discussed but he believes it will be a private collection at the end of each driveway. The applicant will provide an explanation of this.

There was a question from an unidentified abutter about who the majority of the shareholders are for the applicant. Mr. Rucki indicated that there are managers which are family members. The person paying for this is the LLC. It was asked if whoever is building this, have they built anywhere else. The applicant did not answer the question.

Wayne Brundage, 272 Village Street asked about the sewer and is concerned about the size of the pipe. The size of the pipe leaving his site is only 4 inches. Is this big enough to accommodate sewage from 14 more dwelling units.

It was suggested that the calculations regarding the size of this pipe be confirmed and the applicant will document and provide this information to the Board. There should be a sewer card for this. The applicant will discuss this with Dave Damico.

There was a question about the adjacent railroad bed. The railroad right of way is 80 ft. The applicant noted that half is owned by applicant and people in the rear. The title work on this would need to be done and the applicant is not claiming this as part of the project. The applicant is not counting any portion of this.

There was another question if the applicant would be amendable for a bike trail if it is determined that this railroad area could be used. The applicant is willing to convey any interest they may have.

**On a motion made by Rich Di Iulio and seconded by Bob Tucker the Board voted unanimously to continue the hearing to Tuesday, August 27, 2019 at 7:15 pm.**

**20 BROAD STREET – MULTIFAMILY DEVELOPMENT – INFORMAL, PRE-APPLICATION DISCUSSION**

The Board is in receipt of the following: **(See Attached)**

- Site Development Plan dated June 26, 2019 prepared by Rob Truax, GLM

Rob Truax from GLM Engineering Consulting LLC was present representing Steve Brody, owner of 20 Broad Street. The plan shows 6 units – two duplexes and the existing three family converted to a two-family. This property is within the Multi-Family Overlay District. The property is also in the groundwater protection zone. The current site is 23,109 square feet. This is a small site. The plan shows one duplex building at the front of the site and another along the southern side with parking in the back. There has been conversations between the applicant and Fire Chief about the roadway. The Fire Chief prefers a 20 ft. wide road. There is also an option for a Tri-Plex.

Member Hayes asked about the current status of the existing house. Mr. Brody indicated that he has discussed boarding up the windows on the existing site. The property has been in disarray for more than 20 years. The applicant wants to make the site better. He is currently working with the Building Department.

The Board provided other comments. The entry is close to the parking. The setback needs to be pulled in on the south end near the Burns side within the building setback area. The entry could go to 20 ft.

For stormwater, the applicant is thinking about rain gardens and recharge in the back area. All six of these would be rental units but townhouse style. The applicant was informed that a photometric plan will need to be shown for lighting. The applicant was informed that the electric service will need to be underground.

**PHYTOTHERAPY, INC. 6 INDUSTRIAL PARK ROAD – Informal Pre-Application Discussion**

The Board is in receipt of the following: **(See Attached)**

- Host Community Agreement with Medway Board of Selectmen dated 6-17-19.
- “Existing Conditions Plan” dated 08-31-18 prepared by Williams Sparages Engineers
- Department of Environmental Protection letter dated December 10, 2018.

The members of the Phyotherapy, Inc. Team included the following:

- Brian Salisbury – Attorney, Doherty, Dugan, Cannon, Raymond & Weil, P.C.
- Alex Athanas – President
- David Sheehan – Partner and business director
- Bryce Nichter – Partner and Director of cultivation
- Chris Sparages – Civil Engineer
- Ken Gill – Security Director

Attorney Salisbury explained that this is an informal pre-application discussion for 6 Industrial Park Road. He explained that the building on the property was built in 1973 so it is unclear what level of stormwater management facilities exist on the site. This will need to be mapped out. This is for a marijuana cultivation and processing facility.

It was noted that there is an existing site contamination issue with the Mass Department of Environmental Protection described in a letter dated December 10, 2018. The Board inquired about how this will be addressed by the applicant.

The applicant noted that the contamination was identified when the current owner purchased the property. The applicant is in phase one of a five phase remediation process. This is currently being handled through the DEP. The application will incorporate what is needed to address this situation.

Project Engineer Chris Sparages provided an overview of the property. The property is almost 4.2 acres and includes an existing industrial building. The property is within the Zone 2 groundwater protection district. There is frontage on Industrial Park and Jayar Roads and two access points. The entrance of the building was shown along with the loading dock and ramp. The site will be serviced with water, sewer and gas.

Engineer Sparages noted that he had met informally with DPS officials in May 2019. All were in agreement that this does not trigger the stormwater bylaw. The applicant will explore evaluating the existing dry well to make sure it is working properly and repair if necessary. The water use will be an estimated 2,000 gallons per day which will be Town water. The Board would like the applicant to consider recycling the water. The applicant met with Chief Lynch about the existing driveway. The recommendation was to move the existing driveway 25 ft. away from the building to the north and create a 10 ft strip for a fire lane. This would allow ladder access to the building. He also will require a bidirectional amplifier for emergency situations. There will also be a test of the existing sprinkler system with a hydro flow test to make sure it is up to date.

The applicant will be requesting the following waivers from the Site Plan Rules and Regulations.

- Traffic Assessment – proposing 30 parking spaces and expects 20-25 employees. This does not warrant a traffic assessment.
- Landscape inventory
- The curbing will be bituminous berm. No curbing along sides since water is infiltrating. They will ask for a waiver to not require granite curbing.

The Board let the applicant know that they will need to explain how to control the sound and odors associated with the planned use of the building for marijuana cultivation and processing.

The applicant is confident that with future designs they can accomplish dealing with the sound and odor issues this since they have worked in other States in addressing these issues.

It was suggested to have a public forum at the Senior Center to inform the neighborhood about the project prior to formally applying to the Board for the marijuana special permit and site plan. This would be a briefing with the abutters. The applicant thought this was a good idea.

The applicant wants to use the full extent of the entire facility. All the square footage is on one floor.

The applicant explained that there will be repaving of certain areas, but it is not changing the amount of hot top. This is not a disturbance from their perspective. There may need to be some disturbance regarding the clean-up of contamination such that it hits the 20,000 sq. ft. disturbance threshold for a land disturbance permit. This will need to be determined. There is some evidence that the well tests have shown a level of contamination from the chemical spill. The concern is that the illicit discharge and possible contaminated stormwater are going out to the street and into the Town's stormwater system.

The Board has no problem with eliminating granite curbing on the perimeter of the parking lot and driveways but there must be granite curbing at the entrance roundings. The project must handle stormwater runoff within the property. Perhaps a trench drain could be used. Think about using a rain garden.

**Appearance of Building:**

The team will make aesthetics changes to the front of the building. The applicant will review the Town's Design Review Guidelines for guidance. It was suggested they visit the new O'Brien and Sons building on Trotter Drive.

**Wetlands:**

There are wetlands on the property which are off to the southeast but are more than 100 ft. away and outside the jurisdiction of the Conservation Commission. A letter will be forthcoming.

**Contamination Next Steps:**

The Phase 2 plan will be submitted to DEP by November 19, 2019. The remediation work included in that plan may need to be incorporated into the project's site plan.

**Lighting Plan:**

The applicant will come up with a lighting plan as part of the application. It was recommended to have the lighting plan address the security plan lighting which is required.

**Security:**

It was suggested that the applicant meet with the Police Chief regarding the security aspects on the site.

## **OTHER BUSINESS**

### **Plan Review Fee for William Wallace Village**

The Board reviewed the revised scope of consultant services for William Wallace Village dated July 23, 2019 from Tetra Tech. The scope had been revised to not include the stormwater review as this will be handled by the Conservation Commission.

**On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to approve the plan review fee estimate for Tetra Tech in the amount of \$3,378.00.**

**On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to approve the PGC Estimate dated July 8, 2019 in the amount of \$850.00.**

### **CTS – 9 TROTTER DRIVE UPDATE:**

The Board is in receipt of the following: (See Attached)

- Email from Steve Fisk dated 07-17-19.
- As-built plan

Engineer Peter Bemis was present at the meeting and presented an updated As-Built plan to the Board. It was explained that he was not aware of the unauthorized field change for overhead electrical work. The new drawing shows the detail and how to do this work with flowable fill and the parking lot will look new again. It was recommended to use concrete and not flowable fill to encase the conduit. The applicant is willing to do concrete. The work will be completed within the next 2-3 wks. The conduit and wire will be done within the next 60 days. There is no control about the schedule for the public utility connection. The Board suggested getting a work order number. Mr. Bemis said he would do so and provide it to the Board. Consultant Bouley will inspect this work on site.

## **CONSTRUCTION REPORTS:**

### **Medway Community Church:**

There was an issue with construction of Basin #2 hitting ledge. The Board will be provided more information at the next meeting. Tetra Tech is recommending monitoring for a year to make sure the system is operating as designed.

## **NEXT MEETING:**

- Special Meeting Tuesday July 30, 2019

## **ADJOURN:**

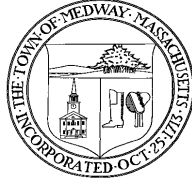
**On a motion made by Rich Di Iulio and seconded by Bob Tucker, the Board voted unanimously to adjourn the meeting at 10:08 pm.**

Respectfully Submitted,

Amy Sutherland  
Recording Secretary

Reviewed and edited by,

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

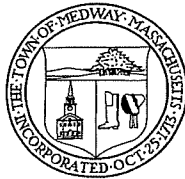


**June 11, 2019**  
**Medway Planning & Economic Development Board**  
**Meeting**

**ANR – 85 Winthrop Street**

- ANR Application dated June 12, 2019 from Attorney Steven Kenney, Kenney and Kenney Law for Applicant Joanne Beksha Brown
- ANR plan review letter from Gino Carlucci dated
- ANR Plan dated May 14, 2019

Note: Steven Kenney will be representing the applicant at the meeting.



**Planning & Economic Development Board - Town of Medway, MA**  
**LAND SUBDIVISION – FORM A**

**Application for Endorsement of Plan  
Believed Not to Require Subdivision Approval (ANR)**

**INSTRUCTIONS TO APPLICANT/OWNER**

This Application is made pursuant to the Medway *Subdivision Rules and Regulations*.  
Please complete this entire Application.

Submit two (2) signed originals of this ANR Application, two copies of the ANR Plan, an electronic version (PDF) of the ANR plan, two Project Explanations, and the appropriate ANR application/filing fee checks to the Medway Planning and Economic Development office, 155 Village ST, Medway, MA 02053.

The Applicant certifies that the information included in this Application is a true, complete and accurate representation of the facts regarding the property under consideration.

In submitting this application, the Applicant and Property Owner authorize the Planning & Economic Development Board and its agents to access the site during the plan review process.

The Town's Planning Consultant will review the Application, Project Explanation and ANR plan and provide a recommendation to the Planning & Economic Development Board.

A copy of that letter will be provided to you. Revisions to the plan may be needed.

**You or your duly authorized agent is expected to attend the Board meeting  
when the ANR Plan will be considered to answer any questions and/or submit such  
additional information as the Board may request.**

Your absence may result in a delay in the Board's review and decision.

June 12 \_\_\_\_\_, 2019

**TO:** The Planning & Economic Development Board of the Town of Medway, MA

The undersigned, wishing to record the accompanying plan of property in the Town of Medway and believing that the plan does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits this Application and ANR Plan to the Medway Planning and Economic Development Board and requests its determination and endorsement that the Board's approval under the Subdivision Control Law is not required.

**PROPERTY INFORMATION**

ANR Location Address(es): Lot 2, Winthrop Street, Medway, MA 02053

The land shown on the plan is shown on Medway Assessor's Map # 14 Parcel(s) # 36

Total Acreage of Land to be Divided: 87,937 S.F.

Subdivision Name (if applicable): N/A

Medway Zoning District Classification: ARI

Frontage Requirement: 180' Area Requirement: 44,000 S.F.

Is the road on which this property has its frontage a designated **Medway Scenic Road**? No

The owner's title to the land that is the subject matter of this application is derived under deed from: Will of Robert Grove, Norfolk County Probate & Family Court, Docket No. \_\_\_\_\_ to \_\_\_\_\_ dated \_\_\_\_\_ and recorded in Norfolk County Registry of Deeds, Book \_\_\_\_\_ Page \_\_\_\_\_ or Land Court Certificate of Title Number \_\_\_\_\_, Land Court Case Number \_\_\_\_\_, registered in the Norfolk County Land Registry District Volume \_\_\_\_\_, Page \_\_\_\_\_.

### **ANR PLAN INFORMATION**

Plan Title: "Plan of Land in Medway, MA "  
Prepared by: Colonial Engineering, Inc. 11 Awl Street, Medway, MA 02053  
P.E. or P.L.S registration #: 30466 Plan Date: May 14, 2019

### **APPLICANT INFORMATION**

Applicant's Name: Joanne Beksha Brown  
Address: 85 Winthrop Street  
Medway, MA 02053  
Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

### **PROPERTY OWNER INFORMATION**

*(If different than the applicant or if the plan shows a land swap between two adjacent properties)*

Property Owner's Name: Joanne Beksha Brown  
Address: 85 Winthrop Street  
Medway, MA 02053  
Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

### **ENGINEER or SURVEYOR INFORMATION**

Name: Colonial Engineering, Inc.  
Address: 11 Awl Street  
Medway, MA 02053  
Telephone: 508-533-1644 Email: \_\_\_\_\_

### **ATTORNEY INFORMATION**

Name: Stephen J. Kenney, Kenney & Kenney  
Address: 181 Village Street  
Medway, MA 02053  
Telephone: 508-533-6711 Email: sjk@kenney-law.com

### OFFICIAL REPRESENTATIVE INFORMATION

Name: Stephen J. Kenney, Kenney & Kenney  
Address: 181 Village Street  
Medway, MA 02053  
Telephone: 508-533-6711 Email: sjk@kenney-law.com

### PROJECT EXPLANATION

Provide a cover letter with a detailed explanation of how you propose to divide the land, what land transaction will occur, and what land reconfiguration will result from the endorsement and recording of this ANR Plan.

### APPROVAL NOT REQUIRED JUSTIFICATION

The Applicant believes that the Board's approval under the Subdivision Control Law is not required for the following reasons: *(Check all that apply.)*

- ☐ 1. The accompanying plan does not show a division of land.
- ☒ 2. Every lot shown on the plan has frontage as required by the Medway Zoning Bylaw. The frontage required by the Zoning Bylaw is located on Winthrop Street & Lovering Street (name of way(s), which is:
- ☒ a. A public way. Date of street acceptance: \_\_\_\_\_
- ☐ b. A way certified by the Town Clerk as being maintained and used as a public way. *(Attach Town Clerk's certification)*
- ☐ c. A way shown on a definitive subdivision plan entitled \_\_\_\_\_  
that was previously endorsed by the Planning and Economic Development Board on \_\_\_\_\_ and recorded at the Norfolk County Registry of Deeds on \_\_\_\_\_  
Provide detailed recording information: \_\_\_\_\_
- ☐ d. A private way in existence on the ground before 1952 when the Subdivision Control Law was adopted in the Town of Medway, which has, in the opinion of the Planning & Economic Development Board, adequate width, suitable grades, and adequate construction to provide vehicular access to the lot(s) for their intended purpose of \_\_\_\_\_  
and to permit the installation of municipal services to serve the lot(s) and any buildings thereon.
- ☒ 3. The division of land shown on the accompanying plan is not a "subdivision" for the following reasons: Access to public way, i.e. Winthrop Street & Lovering Street; Benefit of Variance Granted dated November 1, 2017 recorded with Norfolk County Registry of Deeds Book 36673 Page 365

## SIGNATURES

The undersigned, being the Applicant as defined under Chapter 41, Section 81P for endorsement of an Approval Not Required Plan, herewith submits this application and Approval Not Required Plan to the Medway Planning and Economic Development Board for review and endorsement.

I hereby certify, under the pains and penalties of perjury, that the information contained in this application is a true, complete and accurate representation of the facts regarding the property under consideration.

(If applicable, I hereby authorize Stephen J. Kenney to serve as my Agent/Official Representative to represent my interests before the Medway Planning & Economic Development Board with respect to this Approval Not Required Application.)

In submitting this application, I authorize the Board, its consultants and agents, and Town staff to access the site during the plan review process.

Signature of Property Owner	Date
Signature of Applicant (if other than Property Owner)	Date
Signature of Agent/Official Representative	Date

### **ANR PLAN FILING FEE**

*\$250 plus \$100 per lot or parcel for a plan involving three (3) or more lots/parcels, not to exceed a maximum of \$750.*

*Please prepare two checks: one for \$100 and one for the balance.  
Each check should be made payable to: Town of Medway*

*Fee approved 11-2-06*

### **APPLICATION CHECKLIST – All items must be submitted**

- ☐ 2 signed original ANR applications (FORM A)
- ☐ 2 full size prints of ANR plan
- ☐ Electronic version of ANR plan – A flash drive may be provided or a PDF of the plan may be emailed to: [planningboard@townofmedway.org](mailto:planningboard@townofmedway.org).
- ☐ 2 copies of the Project Explanation
- ☐ Application/Filing Fee (2 checks) – Check with PEDB office for amounts.

\*\*\*\*\*

ANR Application/Filing Fee Paid:

Amount: \_\_\_\_\_ Check # \_\_\_\_\_

Amount: \_\_\_\_\_ Check # \_\_\_\_\_

### Explanation of Division of Land

The approximate two acre parcel shall be divided into approximately two one acre parcels.

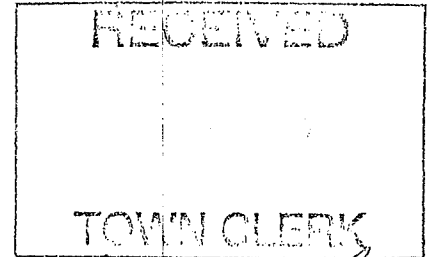
Lot 2 on the plan has the benefit of a Grant of Variance dated November 1, 2017, recorded with Norfolk County Registry of Deeds Book 36673, Page 365. (Attached hereto)



Town of Medway  
**ZONING BOARD OF APPEALS**  
155 Village Street, Medway, MA 02053

Eric Arbeene, Chair  
Brian White, Vice Chair  
Carol Gould, Clerk  
Bridgette Kelly, Member  
Rori Stumpf, Member

**DECISION  
VARIANCE  
85 WINTHROP STREET**



**Date Application Filed:** September 7, 2017

**Applicant(s):** Joanne Beksha Brown (the "Applicant")  
85 Winthrop Street  
Medway, MA 02053

**Location of Property:** The Project is located on a parcel of land in Medway, 85 Winthrop Street (Assessor Parcel No. 14-034).

**Approval Requested:** Variance from Section 6.1 of the Zoning Bylaw to divide one lot into two lots. "Lot 1" shall remain a conforming lot. "Lot 2" shall have 43,937 sq. ft. of area where the required area is 44,000 sq. ft.

**Members Participating:** Eric Arbeene (Chair), Brian White (Vice Chair), (Clerk), Bridgette Kelly, and Rori Stumpf

**Members Voting:** Eric Arbeene (Chair), Brian White (Vice Chair), (Clerk), Bridgette Kelly, and Rori Stumpf

**Hearing Opened:** October 4, 2017

**Hearing Closed:** November 1, 2017

**Date of Decision:** November 1, 2017

**Decision:** Granted with Conditions

## **I. PROCEDURAL HISTORY**

1. On September 7, 2017, the Applicant filed an application for a variance, pursuant to G.L. c. 40A, as amended, and the Medway Zoning Bylaw, for 85 Winthrop Street, Medway, Massachusetts, seeking a Variance from Section 6.1 of the Zoning Bylaw to divide one lot into two lots. "Lot 1" shall remain a conforming lot. "Lot 2" shall have 43,937 sq. ft. of area where the required area is 44,000 sq. ft.
2. Notice of the public hearing was published in the Milford Daily News on September 20, 2017 and September 27, 2017, and notice sent by mail to all interested parties and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on October 4, 2017, continued without testimony until October 18, 2017. The hearing was also continued to November 1, 2017. The hearing was closed and the Decision was voted on November 1, 2017.
4. The Project is located at 85 Winthrop Street (Assessor Parcel No. 14-034).
5. The Property is located in the Agricultural Residential I (AR-I) District. The required frontage is 180 feet and the required area is 44,000 sq. ft.
6. During the public hearing, the Applicants were also represented by their counsel, Paul Kenney of Kenney & Kenney, 181 Village Street, Medway, MA 02053.
7. The Board notified Town departments, boards and committees of this application. Comments were received by the Board of Health and Conservation Commission.
8. All documents and exhibits received during the public hearing are contained in the Zoning Board of Appeal's files and listed in Section V. of this Decision.

## **II. TESTIMONY**

At the October 4, 2017 meeting, the hearing was opened and continued without testimony to the October 18, 2017 ZBA meeting.

At the October 18, 2017 hearing, the Applicant and her representative provided an overview of the requested variance. Mr. Kenney explained that the applicant was requesting a variance of 63 sq. ft. The shape of the lot was changed due to two takings by the County of Norfolk for the relocation of Winthrop Street and Lovering Street. The property sits at the southeast corner of the intersection of the two streets. The taking changed the shape of the lot and also reduced the total area of the lot. The hardship of enforcing the bylaw is such that dimensional requirements for lot size prevent the Applicant from subdividing the property as would have been permitted by right had the takings not occurred. Grant of relief would not nullify or derogate from the intent of the bylaw, as the requested variance for 63 sq. ft. is de minimis in relation to the area requirements. In addition, many of the lots in the surrounding neighborhood are significantly

to deny the right of the property owner to develop the land in the manner for which would otherwise be allowed by right had both takings not occurred.

3. *Why/how the grant of relief would not nullify or derogate from the intent of the Zoning Bylaw:*
  - a. The requested variance is for "Lot 2" to be created with 43,937 sq. ft. of area where 44,000 sq. ft. is required, the differential being 63 sq. ft. The takings of 1955 and 1962 was such that the area of 85 Winthrop Street was reduced by 10,240 sq. ft. The requested variance for 63 sq. ft. is insignificant in correlation to the reduction of property by 10,240 sq. ft. due to the taking of land in 1955 and 1962.
  - b. Many of the properties in the surrounding neighborhood do not meet the current dimensional requirements of the Zoning Bylaw. A reduction from the required 44,000 sq. ft. to the requested 43,937 sq. ft., where all other zoning requirements are met, is insubstantial and would not nullify from the intent of the zoning bylaw. The property can be split with one conforming lot (Lot 1) and one lot which still provides adequate frontage and a minimal reduction in area for the surrounding neighborhood (Lot 2).

#### IV. DECISION

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board grants the Applicant a Variance from Section 6.1 of the Medway Zoning Bylaw to divide 85 Winthrop Street into two lots. "Lot 1" shall remain a conforming lot. "Lot 2" shall have 43,937 sq. ft. of area where the required area is 44,000 sq. ft., as shown on the Plan of Land of Lot 1 and Lot 2 at the corner of Winthrop Street and Lovering Street, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA, as revised during the hearing, and attached hereto, subject to the conditions and limitations set forth herein.

1. Construction of a new house at 85 Winthrop Street (Lot 2) shall meet all other dimensional or otherwise application regulations as may be required by the Medway Zoning Bylaw.
2. An as-built, prepared by a registered engineer, shall be provided following final inspection by the Building Department.
3. This variance is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the variance that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as a modification.

Any work or use that deviates from the granted Variance or this Decision shall be a violation of the *Medway Zoning Bylaw*.

4. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested, not to exceed 6 months. If no request for extension is filed and approved, the Variance shall lapse one years from the date of Decision, unless exercised or otherwise specified, and may be reestablished only after a new filing, hearing, and decision.

## **V. INDEX OF DOCUMENTS**

**A.** This Variance application includes the following plans and information that were provided to the Board at the time the application was filed:

1. Plan of Land of Lot 1 and Lot 2 at the corner of Winthrop Street and Lovering Street, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA
2. Norfolk County Taking of 1955, book 3382 pages 104 – 112
3. Norfolk County Taking of 1962, book 4037 pages 82 – 90

**B.** During the course of the review, the following materials were submitted to the Board by Town Departments/Boards, Applicant/Representatives, and Residents:

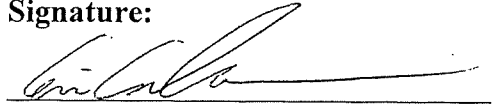
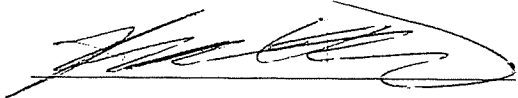
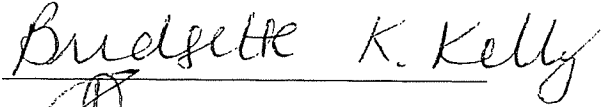
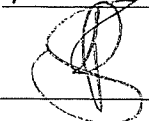
1. Comments: Board of Health, Beth Hallal, received September 27, 2017
2. Comments: Conservation Commission, Bridget Graziano, received October 3, 2017
3. Correspondence: From Mackenzie Leahy, Administrative Assistant, to Sue Shemuga, 83 Winthrop Street
4. Revised Plan of Land of Lot 1 and Lot 2 at the corner of Winthrop Street and Lovering Street, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA

**C.** During the course of the review, the following materials were submitted to the Board by the applicant and their representatives:

1. Copy of assessor's map showing surrounding parcels and lot sizes with property highlighted in yellow, received at the hearing on October 18, 2017

## VI. VOTE OF THE BOARD

By a vote of 4 to 0, on a motion made by Rori Stumpf and seconded by Brian White, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Joanne Beksha Brown, a **VARIANCE FROM SECTION 6.1** of the Zoning Bylaw to divide 85 Winthrop Street into two lots. "Lot 1" shall remain a conforming lot. "Lot 2" shall have 43,937 sq. ft. of area where the required area is 44,000 sq. ft., as shown on the Plan of Land of Lot 1 and Lot 2 at the corner of Winthrop Street and Lovering Street, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA, as revised during the hearing, and attached hereto, subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Eric Arbeene	<u>Yes</u>	
Brian White	<u>Yes</u>	
Carol Gould	-	
Bridgette Kelly	<u>Yes</u>	
Rori Stumpf	<u>Yes</u>	

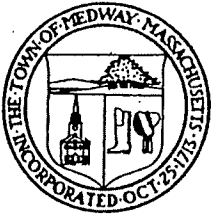
The Board and the Applicant have complied with all statutory requirements for the issuance of this Variance on the terms hereinafter set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty days (20) after the filing of this notice in the Office of the Medway Town Clerk.

In accordance with MGL c. 40A, Section 11, no variance or special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the Office of the Town Clerk and no appeal has been filed within said twenty day period or that any duly filed appeal has been dismissed or denied. The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

A True Copy  
Attest: Bridgette Kelly  
Town Clerk Medway

Vote of the Board  
85 Winthrop Street



## MEDWAY TOWN CLERK

155 VILLAGE STREET  
MEDWAY, MASSACHUSETTS 02053  
(508) 533-3204 • FAX: (508) 533-3287  
mwhite@townofmedway.org

**MARYJANE WHITE, CMMC**

CERTIFIED MASSACHUSETTS MUNICIPAL CLERK

JUSTICE OF THE PEACE

NOTARY PUBLIC

### CERTIFICATE

I, TOWN CLERK OF THE TOWN OF MEDWAY, HEREBY CERTIFY THAT NOTICE OF THE VARIANCE  
DECISION OF THE MEDWAY ZONING BOARD HAS BEEN

RECEIVED IN THE MATTER OF:  
JOANNE BEKSHA BROWN  
85 WINTHROP ST  
MEDWAY, MA

FILED IN THE TOWN CLERK'S OFFICE ON DECEMBER 13, 2018  
AN APPEAL WAS FILED IN LAND COURT AND WAS DISMISSED ON JAN. 23, 2019

AND NO APPEAL WAS RECEIVED DURING THE NEXT TWENTY DAYS AFTER SUCH RECEIPT AND RECORDING OF SAID DECISION.

DATED AT MEDWAY, MA.....MARCH 18, 2019

A TRUE COPY  
ATTEST.....

*Mary Jane White*

(SEAL)

COMMONWEALTH OF MASSACHUSETTS  
LAND COURT  
DEPARTMENT OF THE TRIAL COURT

NORFOLK, ss.

MISCELLANEOUS CASE  
No. 17 MISC 000670 (HPS)

SUSAN P. SHEMUGA AND GARY J.  
SHEMUGA,

*Plaintiffs,*

v.

JOANNE BEKSHA BROWN  
and  
ERIC ARBEENE, BRIAN K. WHITE, CAROL  
GOULD, BIRDGETTE KELLY & RORI  
STUMPF, AS THEY ARE MEMBERS OF THE  
MEDWAY ZONING BOARD OF APPEALS.

*Defendants.*

**JUDGMENT**

This action, filed pursuant to G. L. c. 40A, §17 on November 21, 2017, came on to be heard by the court (Speicher, J.) on the plaintiffs' motion to dismiss pursuant to Mass. R. Civ. P. 12(b)(1). In a decision of even date, the court has made rulings of law and ordered the entry of judgment of dismissal. In accordance with the court's decision, it is

**ORDERED** and **ADJUDGED** that the motion to dismiss of the defendant Joanne Beksha Brown, is **ALLOWED**, and accordingly, the plaintiffs' Complaint is **DISMISSED** in its entirety, and it is further

**ORDERED** that today's decision, and this Judgment issued pursuant thereto, dispose of this entire case; the court has adjudicated or dismissed all claims by all parties in this action and has not reserved decision on any claim or defense, and it is further

**ORDERED** that no costs, fees, damages or other amounts are awarded to any party.

By the Court (Speicher, J.)



Attest:

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Deborah J. Patterson  
Recorder

Dated: January 23, 2019

A TRUE COPY  
ATTEST:

*Deborah J. Patterson*  
RECORDER

(SEAL)

COMMONWEALTH OF MASSACHUSETTS  
LAND COURT  
DEPARTMENT OF THE TRIAL COURT

NORFOLK, ss.

MISCELLANEOUS CASE  
No. 17 MISC 000670 (HPS)

SUSAN P. SHEMUGA AND GARY J.  
SHEMUGA,

*Plaintiffs,*

v.

JOANNE BEKSHA BROWN  
and  
ERIC ARBEENE, BRIAN K. WHITE, CAROL  
GOULD, BIRDGETTE KELLY & RORI  
STUMPF, AS THEY ARE MEMBERS OF THE  
MEDWAY ZONING BOARD OF APPEALS.

*Defendants.*

**DECISION ON DEFENDANT'S MOTION TO DISMISS**

Defendant Joanne Beksha Brown sought a variance of 63 square feet from the minimum lot area requirements of the Town of Medway Zoning Bylaw ("Bylaw") in order to divide her property located at 85 Winthrop Street in Medway into two lots. Lot 1 would be in compliance with the Bylaw requirement of a minimum of 44,000 square feet.<sup>1</sup> Lot 2 would only have 43,937 square feet of area, leaving a deficit of 63 square feet.<sup>2</sup> The Town of Medway Zoning Board of Appeals ("Board") granted Ms. Brown's variance application on November 1, 2017, filed its decision with the Town Clerk on November 8, 2017, and the owners of the abutting property and plaintiffs in this action, Susan and Gary Shemuga ("Shemugas"), filed a timely complaint on November 21, 2017 appealing the Board's decision pursuant to G. L. c. 40A, § 17.

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<sup>1</sup> Decision, ¶ I(1).

<sup>2</sup> *Id.*

On July 20, 2018, Ms. Brown filed a motion to dismiss for lack of subject matter jurisdiction pursuant to Mass. R. Civ. P. 12(b)(1) on the grounds that the plaintiffs lacked standing. On August 20, 2018, the Shemugas filed their opposition. A hearing was held before me on November 1, 2018. The gravamen of Ms. Brown's motion is that the Shemugas lack standing because they have not come forward with any evidence of a cognizable harm sufficient to support a finding that they are aggrieved persons within the meaning of G. L. c. 40A, § 17. For the reasons stated below, I agree that Ms. Brown has successfully rebutted the Shemugas' presumption of standing as abutters to the Brown Property and that the Shemugas have failed to come forward with credible evidence of an injury to a protected interest. Accordingly, Ms. Brown's motion to dismiss is ALLOWED.

### FACTS

The following facts alleged in the complaint are accepted as true for the purposes of the pending motion to dismiss. Matters submitted by the parties that are outside the pleadings and are not in dispute were also considered by the court in ruling on this Rule 12(b)(1) motion. See *Audoire v. Clients' Security Board*, 450 Mass. 388, 390 n.4 (2008) ("A judge...may consider documents and other materials outside the pleadings when ruling on a rule 12(b)(1) motion."). The undisputed facts established in the record and pertinent to the motion, with all reasonable inferences drawn in the light most favorable to the non-moving parties, the Shemugas, are as follows:<sup>3</sup>

1. Ms. Brown is the owner of the property located at 85 Winthrop Street, Medway ("Brown Property").<sup>4</sup> The Brown Property is located in the Agricultural Residential I Zoning

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<sup>3</sup> Other undisputed facts are stated in the Discussion section, below.

<sup>4</sup> Complaint, ¶ 4; Answer, ¶ 4.

District under the Bylaw, in which the required minimum lot frontage is 180 feet and the required minimum lot area for a buildable lot is 44,000 square feet.<sup>5</sup>

2. Norfolk County made two takings on the Brown Property, once in 1955 and again in 1962, in order to relocate two streets. The takings changed the shape of the Brown Property and reduced its size by 10,240 square feet.<sup>6</sup>
3. The Shemugas are the owners of the abutting property located at 83 Winthrop Street, Medway (“Shemuga Property”). They also purchased a separate parcel of land located behind their property.<sup>7</sup> The parties stipulated at the November 1, 2018 hearing that the Shemugas were granted a special permit by the Town to operate a kennel housing up to six (6) dogs on the Shemuga Property. With the benefit of the special permit, the Shemugas operate a “dog rescue” business at their property.
4. The dogs are let out on the exterior portion of the Shemuga Property and generally utilize this area at various times from 4:30 a.m. to 9 p.m., depending on Ms. Shemuga’s work schedule.<sup>8</sup>
5. Ms. Brown filed an application with the Board seeking a 63 square foot variance from Section 6.1 of the Bylaw in order to subdivide the parcel into two lots. Lot 1 would remain conforming while Lot 2 would have 43,937 square feet of area where the Bylaw requires a lot to have a minimum of 44,000 square feet. With the benefit of the variance, Lot 2 would be a buildable lot.
6. Hearings on Ms. Brown’s variance application were held on October 18, 2017 and November 1, 2017. At the close of the November 1, 2017 hearing, the Board approved

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<sup>5</sup> Decision, ¶¶ I(1), I(5).

<sup>6</sup> Decision, ¶¶ III(A)(1)(a), III(A)(3)(a).

<sup>7</sup> Complaint, ¶ 7; Answer, ¶ 7; S. Shemuga Deposition, Tr., p. 33.

<sup>8</sup> S. Shemuga Deposition, Tr., p. 46.

Ms. Brown's application for a variance and filed its written decision with the Town Clerk on November 8, 2017.<sup>9</sup>

7. On November 21, 2017, the plaintiff filed the present action appealing the Board's decision pursuant to G. L. c. 40A, § 17.

### DISCUSSION

In reviewing a motion to dismiss for lack of subject matter jurisdiction pursuant to Mass. R. Civ. P. 12(b)(1), the court accepts as true the factual allegations in the complaint, as well as any favorable inferences reasonably drawn from them. *Ginther v. Comm'r of Ins.*, 427 Mass. 319, 322 (1998). In considering subject matter jurisdiction under this rule, the court may consider matters outside the four corners of the complaint, which are used to support the movant's claim that the court lacks subject matter jurisdiction. *Id.* at n.6.

Here, Ms. Brown argues that the Shemugas are not aggrieved by the Board's decision, and therefore lack standing to challenge it. "Under the Zoning Act, G. L. c. 40A, only a 'person aggrieved' has standing to challenge a decision of a zoning board of appeals." *81 Spooner Rd., LLC v. Zoning Bd. of Appeals of Brookline*, 461 Mass. 692, 700 (2012). "A 'person aggrieved' is one who 'suffers some infringement of his legal rights.'" *Id.*, quoting *Marashlian v. Zoning Bd. of Appeals of Newburyport*, 421 Mass. 719, 722 (1996). Moreover, abutters to the subject property "are entitled to a rebuttable presumption that they are 'aggrieved' persons under the Zoning Act and, therefore, have standing to challenge a decision of a zoning board of appeals." *81 Spooner Rd., LLC v. Zoning Bd. of Appeals of Brookline*, *supra*, 461 Mass. at 700. Although an abutter enjoys a presumption of aggrievement, a plaintiff claiming aggrieved person status "always bears the burden of proving aggrievement necessary to confer standing." *Id.* at 701,

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<sup>9</sup> Decision, ¶ II.

citing *Standerwick v. Zoning Bd. of Appeals of Andover*, 447 Mass. 20, 34-35 (2006). A defendant may rebut this presumption “by showing that, as a matter of law, the claims of aggrievement raised by an abutter, either in the complaint or during discovery, are not interests that the Zoning Act is intended to protect.” *81 Spooner Road, LLC v. Zoning Bd. of Appeals of Brookline*, supra, 461 Mass. at 702; see also *Picard v. Zoning Bd. of Appeals of Westminster*, 474 Mass. 570, 573 (2016). Alternatively, “a defendant can rebut the presumption of standing by coming forward with credible affirmative evidence that refutes the presumption.” *81 Spooner Road, LLC v. Zoning Bd. of Appeals of Brookline*, supra, 461 Mass. at 702. “[T]hat is, evidence that warrant[s] a finding contrary to the presumed fact of aggrievement, or by showing that the plaintiff has no reasonable expectation of proving a cognizable harm.” *Picard v. Zoning Bd. of Appeals of Westminster*, supra, 474 Mass. at 573. Rather than providing its own evidence, the defendant may also rely on the plaintiff’s lack of evidence, obtained through discovery, to rebut a claimed basis for standing. See *Standerwick v. Zoning Bd. of Appeals of Andover*, supra, 447 Mass. at 35. If a defendant fails to offer sufficient evidence to rebut the plaintiff’s presumption of standing, the abutter “is deemed to have standing, and the case proceeds on the merits.” *81 Spooner Road, LLC v. Zoning Bd. of Appeals of Brookline*, supra, 461 Mass. at 701.

Once a defendant has successfully rebutted the presumption, the burden then shifts to the plaintiff, with no benefit from the presumption, “to ‘prove standing by putting forth credible evidence to substantiate the allegations.’” *Murrow v. Emery*, 93 Mass. App. Ct. 1119 (2018), quoting *Picard v. Zoning Bd. of Appeals of Westminster*, supra, 474 Mass. at 573. To do so, the plaintiff must “establish—by direct facts and not by speculative personal opinion—that his injury is special and different from the concerns of the rest of the community.” *Id.*; see also *Standerwick v. Zoning Bd. of Appeals of Andover*, supra, 447 Mass. at 33. Furthermore,

“[a]ggrievement requires a showing of more than a minimal or slightly appreciable harm... The adverse effect on a plaintiff must be substantial enough to constitute actual aggrievement such that there can be no question that the plaintiff should be afforded the opportunity to seek a remedy... Put slightly differently, the analysis is whether the plaintiffs have put forth credible evidence to show that they will be injured or harmed by proposed changes to an abutting property, not whether they simply will be ‘impacted’ by such changes.” *Kenner v. Zoning Bd. of Appeals of Chatham*, 459 Mass. 115, 122-23 (2011). Nonetheless, “a plaintiff is not required to prove by a preponderance of the evidence that his or her claims of particularized or special injury are true. ‘Rather, the plaintiff must put forth credible evidence to substantiate his allegations.’” *Butler v. City of Waltham*, 63 Mass. App. Ct. 435, 441 (2005), quoting *Marashlian v. Zoning Bd. of Appeals of Newburyport*, supra, 421 Mass. at 722. This “credible evidence” standard has both qualitative and quantitative components: “[q]uantitatively, the evidence must provide specific factual support for each of the claims of particularized injury the plaintiff has made. Qualitatively, the evidence must be of a type on which a reasonable person could rely to conclude that the claimed injury likely will flow from the board’s action.” *Butler v. City of Waltham*, supra, 63 Mass. App. Ct. 441 (internal citation omitted). In addition, the facts offered by the plaintiff must be more than merely speculative. *Sweenie v. A.L. Prime Energy Consultants*, 451 Mass. 539, 543 (2008).

#### *Presumption of Standing.*

The threshold step in evaluating the Shemugas’ standing is determining whether they are entitled to the benefit of the presumption of aggrievement afforded by G. L. c. 40A, § 17. There is no dispute that the parties’ properties abut each other. Accordingly, the plaintiffs are presumed to be persons aggrieved by the Board’s decision with standing to challenge it.

*Rebuttal of the Presumption.*

The burden thus shifts to Ms. Brown, as the party challenging the Shemugas' standing, to come forward with evidence rebutting the presumption. The Shemugas allege in their complaint that they purchased their property cognizant that the property next door was too small support a second buildable lot, and that they relied on this fact in purchasing their property. The harm they allege from the construction of a dwelling on the lot next door is that a single-family residence and its normal use will be incompatible with their dog rescue business because the dogs they care for on their property may bark, and next door neighbors in close proximity may complain about the noise.

They claim no injury as a result of any use of or any anticipated activity or condition on the Brown Property, but rather are concerned that a conforming use of the Brown Property will be incompatible with their own use, which required a special permit to operate. Specifically, the Shemugas claim that they knew they "were going to have dogs and sometimes, you know, there is, you know, people who live next door that can be a problem."<sup>10</sup> The Shemugas' complaint articulates that the reason they appealed the Board's decision was because the Shemugas relied on the information provided by their broker at the time they purchased their property that a house could not be built on the Brown Property due to its insufficient square footage and non-compliance with minimum lot requirements in an AR-I Zoning District.<sup>11</sup> The Shemugas claim this information was valuable to them not because they would feel imposed upon by the use of the property next door as a single-family residence, but because they anticipate that occupants of the property next door would feel imposed upon by them because of their kennel and its

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<sup>10</sup> S. Shemuga Deposition, Tr., p. 34.

<sup>11</sup> Complaint, ¶¶ 7-8; Answer, ¶¶ 7-8.

anticipated attendant noise. The Shemugas' argue that their dog rescue kennel business, for which they possess a special permit to operate out of their residential home, would be adversely affected due to potential neighbors possibly complaining about barking dogs.<sup>12</sup> As such, the Shemugas contend that they are "aggrieved persons" and, therefore, have standing to challenge the Board's issuance of a variance.

To rebut the evidence of this claimed injury, Ms. Brown points out that this anticipated interference with the Shemugas in the operation of their dog rescue business is the only concern raised by the Shemugas, and correctly argues that it is a speculative concern at best. Ms. Shemuga testified at her deposition that the reason she is objecting to the granting of the variance is because of the "possible interference with [her] rescue."<sup>13</sup> Ms. Shemuga testified that it is a "possibility" and "an unknown" in regards to whether the dog rescue business would be harmed if a single-family residence was built on the Brown Property.<sup>14</sup> Ms. Shemuga further testified that the Shemugas' operation of their dog rescue business "could be" detrimental to a family with a newborn baby, noting that the rescue dogs sometimes go out at 6:00 a.m. and may bark and wake up a sleeping baby.<sup>15</sup> By coming forward with evidence that this complaint is the only claim of aggrievement adduced by the Shemugas, and that it is speculative, Ms. Brown has successfully rebutted the Shemugas' presumption of standing.

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<sup>12</sup> S. Shemuga Deposition, Tr., p. 36-37.

<sup>13</sup> S. Shemuga Deposition, Tr., p. 43-44.

<sup>14</sup> S. Shemuga Deposition, Tr., p. 45.

<sup>15</sup> S. Shemuga Deposition, Tr., p. 37. A: "Well, I mean, if you have, you know, a baby sleeping and a dog goes out to potty in the morning at 6:00, you know, whatever time, and they happen to bark and wake up that baby, it might be normal barking, it's going to be eventually a problem.

Q: You mean a problem --

A: Could be.

Q: -- for the people that are living there?

A: Could be ...."

Q: Okay, I guess just as conceivably it could be the people love dogs, correct?

A: It could be."

*Evidence of Aggrievement Presented by the Plaintiffs.*

While a plaintiff “is not required to prove by a preponderance of the evidence that his or her claims of particularized or special injury are true,” the evidence provided “must be of a type on which a reasonable person could rely to conclude that the claimed injury likely will flow from the board’s action.” *Butler v. City of Waltham*, 63 Mass. App. Ct. 435, 441 (2005). To meet the standard of “credible evidence,” the evidence offered must provide specific factual support for each of the claimed injury (quantitative), and must be of a type on which a reasonable person could rely (qualitative). *Id.* at 441. “Conjecture, personal opinion, and hypothesis” are insufficient. *Id.*

The Shemugas failed to provide credible evidence to substantiate their allegations of standing. *81 Spooner Road, LLC v. Zoning Bd. of Appeals of Brookline*, supra, 461 Mass. at 700. This is fundamentally for three reasons. First, their claimed injury is purely speculative. Second, the Shemugas claim no injury to a protected use of their property, such as a density-related concern. Third, their claimed injury is not a cognizable injury in that they anticipate no interference with their own use, but anticipate instead that their use will interfere with a future abutter who will complain.

The record demonstrates that any claimed injury by the Shemugas (resulting from the building of a home on the Brown Property) is purely speculative and according to Ms. Shemuga’s own testimony, is “unknown.”<sup>16</sup> When asked whether she had “...any direct facts or evidence that the kennel would be adversely affected by having a home built on the lot[?]” she

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<sup>16</sup> S. Shemuga Deposition, Tr., p. 48.

Q: “Do you have any specific evidence that would show that having a home built on the lot would cause a problem with your kennel; license or your rescue?”

A: “That’s an unknown.”

answered, “[u]nless you know who you’re selling to, how would you determine that?”<sup>17</sup> These speculative concerns, based on unsubstantiated personal opinions of the Shemugas, do not rise to the level necessary to accord standing under § 17. See *Denneny v. Zoning Bd. of Appeals of Seekonk*, 59 Mass. App. Ct. 208 (2003) (“a plaintiff must be able to demonstrate, not merely speculate, that there has been some infringement of his legal rights”); see also *Sweenie v. A.L. Prime Energy Consultants*, supra, 451 Mass. at 543 (fear of damage from leaking underground gasoline tanks speculative, and therefore not cognizable, in absence of any evidence that tanks would leak).

Moreover, in the Shemugas’ opposition, they did not submit any additional evidence of a cognizable harm caused by the granting of the variance. Although the variance granted was a dimensional variance allowing a reduction in minimum lot area, the variance was *de minimis* and could not be fairly related to any density concerns, had such concerns even been raised by the Shemugas. See *Kenner v. Zoning Bd. of Appeals of Chatham*, supra, 459 Mass. at 123 (*de minimis* impact on view from abutting property did not cause cognizable injury). But more importantly, the Shemugas, notwithstanding the dimensional variance granted, explicitly declined or failed to raise any such density-related concerns. Compare, *81 Spooner Rd., LLC v. Zoning Bd. of Appeals of Brookline*, supra (appeal of variance for floor area ratio was sufficiently related to crowding and density concerns of plaintiff abutters).

Finally, appropriately categorized, the Shemugas’ allegation of harm is not to themselves or to their property, but rather is a non-cognizable fear that a noxious aspect of their own use, noise from barking dogs, will cause harm to any otherwise conforming and appropriate use next door. Harm caused by one’s own use to another’s use of their property cannot be the basis of an

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<sup>17</sup> *Id.* at 48.

injury forming the basis of aggrievement, quite aside from the fact that it is speculative. Essentially, the Shemugas contend that their use of their own property is noxious enough to cause injury to their anticipated neighbors, and their anticipated neighbors are bound to complain. This is not an injury related to the dimensional variance granted, nor is it related in any cognizable way to any interest protected by the Bylaw.

An abutter, in seeking to establish aggrievement, may not rely on an injury to his or her property interests that is not protected by the Zoning Act or by the local bylaw. There is no aggrievement where “as a matter of law, the claims of aggrievement raised by an abutter, either in the complaint or during discovery, are not interests that the Zoning Act is intended to protect.” *81 Spooner Road, LLC v. Zoning Bd. of Appeals of Brookline*, supra, 461 Mass. at 702, citing *Kenner v. Zoning Bd. of Appeals of Chatham*, supra, 459 Mass. at 120. For example, changes to the aesthetic character or “feeling” of a neighborhood are not legally cognizable grounds for standing. See *Harvard Square Def. Fund, Inc. v. Planning Bd. of Cambridge*, 27 Mass. App. Ct. 491, 493 (1989) (“...diminished enjoyment of the ‘village feeling’ of Harvard Square...essentially involv[es] the expression of aesthetic views and speculative opinions...”); *Barvenik v. Bd. of Aldermen of Newton*, 33 Mass. App. Ct. 129, 132-133 (1992) (“Subjective and unspecific fears about the possible impairment of aesthetics or neighborhood appearance, incompatible architectural styles, the diminishment of close neighborhood feeling, or the loss of open or natural space are all considered insufficient bases for aggrievement under Massachusetts law.”)

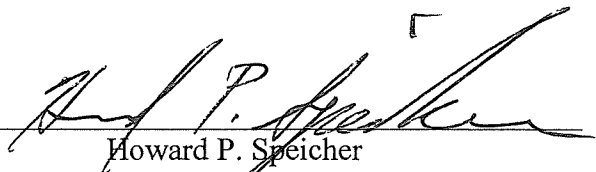
Likewise, the Shemugas have failed to demonstrate that their claim of aggrievement, based on their own generation of excessive noise, is an interest protected by the Bylaw. While the Bylaw may recognize as a protected interest the right to be free of excessive noise, the Bylaw

cannot mean that there is a right to protection from the consequences of excessive noise on one's own property. Accordingly, the Shemugas' claim of injury as a result of the excessive noise of their own dogs cannot be the basis of a cognizable injury.

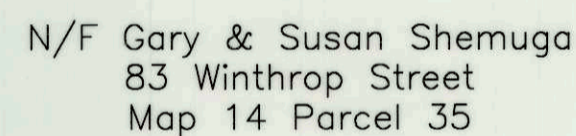
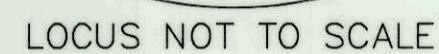
#### CONCLUSION

The location of the Shemugas' property affords them the presumption of standing, and Ms. Brown provided evidence to rebut this presumption. The burden thus fell on the Shemugas to provide credible evidence of a particularized injury to a protected interest. They have failed to do so. The injuries alleged are not supported by credible evidence. For the foregoing reasons, I find and rule that the Shemugas are not aggrieved persons within the meaning of G. L. c. 40A, § 17. Accordingly, Ms. Brown's Motion to Dismiss is ALLOWED.

Judgment to enter accordingly.

  
Howard P. Speicher  
Justice

Dated: January 23, 2019.



LOT 2  
43,937 S.F.  
100% UPLANDS  
L.S.F. = 18.30

LOT 1  
44,000 S.F.  
100% UPLANDS  
L.S.F. = 19.47  
STRUC. COVERAGE 4.22%  
IMPERV. COVERAGE 8.40%

N/F Jason & Sarah Boucher  
116 Lovering Street  
Map 14 Parcel 41

N/F Scott Swanson  
87 Winthrop Street  
Map 14 Parcel 40

# WINTHROP (PUBLIC — SCENIC 1955 COUNTY LAYOUT) STREET

N/F Romas & Niucole Banaitis  
84 Winthrop Street  
Map 14 Parcel 28

N/F Michael & Sonya Murphy  
112 Lovering Street  
Map 14 Parcel 53

ZONING AR-I  
44,000 S.F.  
180' FRONTAGE  
SETBACK 35'  
SIDEYARD 15'  
REARYARD 15'  
LOT COVERAGE STRUCTURES 25%  
LOT COVERAGE IMPERVIUS AREAS 35%

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

Paul J. Hesmon

DATE: MAY 14, 2019

APPROVAL UNDER SUBDIVISION CONTROL  
LAW NOT REQUIRED.  
DATE ENDORSED:

TOWN OF MEDWAY PLANNING BOARD

PLANNING BOARD ENDORSEMENT DOES NOT CONSTITUTE A DETERMINATION OF COMPLIANCE WITH MEDWAY ZONING BY-LAWS.

NOTE: SUBJECT PROPERTY IS NOT  
CLASSIFIED AS CHAPTER 61A OR 61B.

SEE DECISION BY THE Z.B.A.  
DATED NOVEMBER 1, 2017 FOR  
AREA OF LOT 2 FROM 44,000 S.F  
TO 43,937 S.F..  
RECORDED IN NORFOLK COUNTY  
DEEDS BOOK 36673 PAGE 365.

PLAN OF LAND

IN

*MEDWAY, MA.*

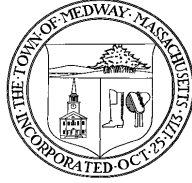
SCALE: 1"=40' MAY 14, 2019

OWNER: Joanne Beksha Brown  
85 Winthrop Street  
Medway, Ma. 02053

COLONIAL ENGINEERING INC.  
11 AWL STREET MEDWAY, MA.  
508-533-1644







**July 23, 2019**

**Medway Planning & Economic Development Board  
Meeting**

**William Wallace Village Multifamily  
Housing Special Permit and Site Plan**

- Public Hearing Notice
- Project Narrative
- Special Permit application
- Site Plan application
- Site Plan dated 06-25-19
- Arch Plans dated 07-01-19
- Dave D'Amico email of DPW Markup of Plans dated 07-11-19
- PGC Review Estimate dated 07-08-19
- Officer Watson email dated 07-12-19 re: sidewalks/crosswalks
- Tetra Tech Review Estimate dated 07-12-19

The application for Site Plan and Multifamily Special Permit was submitted on July 1, 2019. An NOI was filed on July 10, 2019 with the Conservation Commission.



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Thomas A. Gay, Clerk*  
*Matthew J. Hayes, P.E.*  
*Richard Di Iulio*

July 2, 2019

***PUBLIC HEARING NOTICE***

***William Wallace Village – 274 Village Street***

***Application for Multifamily Housing Special Permit and Major Site Plan Approval***

Pursuant to the *Medway Zoning Bylaw*, SECTION 5.6.4 Multifamily Housing and SECTION 3.5 Site Plan Review, and the provisions of Massachusetts General Laws, Chapter 40A, Sections 9 & 11, notice is given that the Medway Planning and Economic Development Board will conduct a Public Hearing on ***Tuesday, July 23, 2019 at 7:15 p.m. in Sanford Hall at Town Hall, 155 Village Street, Medway, MA***, to consider the applications of DTRT, LLC of Medway, MA for approval of a Multifamily Housing Special Permit and a Major Site Plan entitled *William Wallace Village*, dated July 1, 2019 prepared by Legacy Engineering LLC of Millis, MA. The meeting room is accessible via elevator to persons with physical disabilities.

The applicant proposes to construct a 14 unit, condominium development at 274 Village Street (as well as a portion of 276 Village St), in the Agricultural/Residential II zoning district. The 3.6-acre site (*Medway Assessors Map 55, Parcel 55, and a portion of 54*) is presently owned by DTRT, LLC. The proposed development will include construction of seven, 2-unit, 2 story townhouse buildings; all 14 units will have 3-bedrooms. Two affordable dwelling units will be included within the development. Access will be from Village Street. A total of 63 off- street parking spaces will be provided. The existing residential structure at 274 Village Street will be demolished, sub-surface stormwater management facilities will be installed on site as will landscaping, lighting, and a bocce court. Connections will be made to the existing Town sewer and water services on Village Street.

The application and plans for the proposed William Wallace Village development are on file with the Medway Town Clerk and the Community and Economic Development office at Medway Town Hall, 155 Village Street, Medway, MA and may be inspected Monday through Thursday from 7:30 a.m. to 4:30 p.m. and Fridays from 7:30 a.m. to 12:30 p.m. The plans have been posted to the Town's web site at <https://www.townofmedway.org/planning-economic-development-board/pages/current-applications-pedb-0>.

Any person or party who is interested or wishes to be heard on this proposal is invited to review the plan and express their views at the designated date, time and place. Written comments are encouraged and may be forwarded to the Medway Planning & Economic Development Board at 155 Village Street, Medway, MA 02053 or emailed to the Board at: [planningboard@townofmedway.org](mailto:planningboard@townofmedway.org). All comments will be entered into the record during the public hearing.

Any questions regarding this application should be directed to the Medway Planning and Economic Development office at 508-533-3291.

*Andy Rodenhiser*  
Chairman

To be published in the Milford Daily News:

Monday, July 8, 2019

Tuesday, July 16, 2019

cc: *Planning Boards* - Bellingham, Franklin, Holliston, Milford, Millis and Norfolk

*Medway Town Officials/Departments* – Board of Selectmen, Board of Assessors, Board of Health, Building Commissioner/Zoning Enforcement Officer, Conservation Commission, Design Review Committee, Energy Committee, Fire Department, Historical Commission, Police Department, Public Services Department, Town Administrator.



**Planning & Economic Development Board  
Town of Medway, MA**

RECEIVED

JUL 1 2019

TOWN CLERK

**Application for Approval of Special Permit**

**INSTRUCTIONS TO APPLICANT/OWNER**

*This Application is made pursuant to the Medway Zoning Bylaw.*

*The Town's Planning and Engineering Consultants will review the Application and associated submittals and provide review letters to the Planning and Economic Development Board.*

*A copy of those review letters will be provided to you in advance of the meeting.*

*You and/or your duly authorized Agent/Official Representative are expected to attend the Board meeting at which your Application will be considered to answer any questions and/or submit such additional information as the Board may request.*

*Your absence may result in a delay the Board's review of the special permit application.*

July 1, 20 19

**APPLICANT INFORMATION**

Applicant's Name: DTRT LLC

Mailing Address: P.O. Box 95  
Truro, MA 02666

Name of Primary Contact: Larry Rucki

Telephone:  
Office: 781-223-1312  
Cell: 781-223-1312

Email address: lrucki51@gmail.com

☐ Please check here if the Applicant is the equitable owner (purchaser on a purchase and sales agreement.)

**PROPERTY INFORMATION**

Location Address: 274 & Portion of 276 Village Street

The land shown on the plan is shown on Medway Assessor's Map # 59 as Parcel # 55 & portion of 54

Size of Development Parcel(s): 3.5 acres (274 Village Street) and 0.09 acre (276 Village Street)

Development Name: William Wallace Village

General Description of Property: The site is developed with a single family dwelling and a gym. Next to the gym is a pool and volleyball court. Across the site are large concrete pads from past developments. The northeast portion of the site contains wetlands.

Medway Zoning District Classification: Agricultural Residential II

## TYPE OF SPECIAL PERMIT

As provided in the following Section(s) of the Medway Zoning Bylaw:  
To allow multi-family housing pursuant to section 5.6.4 of the bylaw.

## PROPERTY OWNER INFORMATION (if not applicant)

Property Owner's Name: DTRT LLC Keith & Judith Spinney  
Mailing Address: P.O. Box 95 276 Village Street  
Truro, MA 02666 Medway, MA 02053  
Primary Contact: Larry Rucki Keith Spinney  
Telephone: Office: 781-223-1312 Cell: 781-223-1312 978-302-5339  
Email address: lrucki@gmail.com

## OFFICIAL REPRESENTATIVE INFORMATION

Name: Daniel Merrikin, P.E, Legacy Engineering LLC  
Address: 730 Main Street, Suite 2C  
Millis, MA 02054  
Telephone: Office: 508-376-8883 Cell: 508-868-8353  
Email address: dan@legacy-ce.com

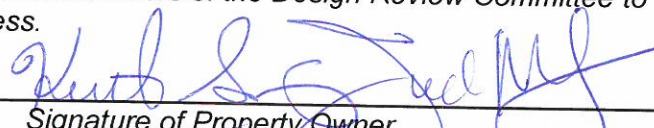
## SIGNATURES

The undersigned, being the Applicant, herewith submits this application for a special permit(s) to the Medway Planning and Economic Development Board for review and action.

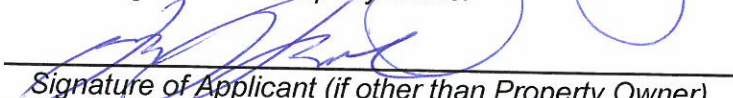
I hereby certify, under the pains and penalties of perjury, that the information contained in this application is a true, complete and accurate representation of the facts regarding the property under consideration.

(If applicable, I hereby authorize Daniel Merrikin to serve as my Agent/Official Representative to represent my interests before the Medway Planning & Economic Development Board with respect to this application.)

In submitting this application, I authorize the Board, its consultants and agents, Town staff, and members of the Design Review Committee to access the site during the plan review process.

  
Signature of Property Owner

7/1/19  
Date

  
Signature of Applicant (if other than Property Owner)

7/1/19  
Date

  
Signature of Agent/Official Representative

2019-07-01  
Date

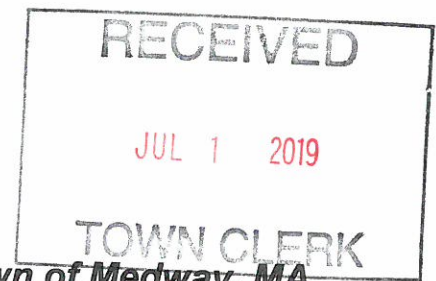
**SPECIAL PERMIT APPLICATION/FILING FEES**

*There is no separate special permit fee when the project also requires site plan review.*

**SPECIAL PERMIT  
APPLICATION CHECKLIST**

*It is understood that the applicant shall also file a corresponding application for Site Plan Review and Approval.*

\_\_\_\_\_ Narrative on how the proposed development project meets the special permit criteria included in the Medway Zoning Bylaw, SECTION 3.4 Special Permit Criteria in the absence of any separate criteria for a specific type of special permit as included in the Zoning Bylaw.



**Planning & Economic Development Board - Town of Medway, MA**  
**SITE PLAN REVIEW**

**Application for Major Site Plan Approval**

**INSTRUCTIONS TO APPLICANT/OWNER**

This Application is made pursuant to the *Medway Zoning Bylaw* and  
The Board's *Rules and Regulations for the Submission and Review of Site Plans*

The Town's Planning and Engineering Consultants will review the Application and the proposed  
Site Plan and provide review letters to the Planning and Economic Development Board.

A copy of those review letters will be provided to you in advance of the meeting.

You and/or your duly authorized Agent/Official Representative are expected to attend the  
Board meetings at which your Application will be considered to answer any questions and/or  
submit such additional information as the Board may request.

Your absence at hearings may result in a delay in the Board's review of the site plan.

July 1, 2019

**APPLICANT INFORMATION**

Applicant's Name: DTRT LLC

Mailing Address: P.O. Box 95  
Truro, MA 02666

Name of Primary Contact: Larry Rucki

Telephone:  
Office: 781-223-1312  
Cell: 781-223-1312

Email address: lrucki@gmail.com

☐ Please check here if the Applicant is the equitable owner (*purchaser on a purchase and sales agreement.*)

**MAJOR SITE PLAN INFORMATION**

Development Name: William Wallace Village

Plan Title: William Wallace Village, 274 Village Street Medway, MA Site Plan

Plan Date: June 25, 2019

Prepared by:  
Name: Daniel Merrikin, P.E.  
Firm: Legacy Engineering LLC  
Phone #: 508-376-8883  
Email: dan@legacy-ce.com

## PROPERTY INFORMATION

Location Address: 274 Village Street & Portion of 276 Village Street

The land shown on the plan is shown on Medway Assessor's Map # 59 as Parcel # 55 & portion of 54

Total Acreage of Land Area: 3.5 Acres (274 Village) and 0.09 acre (portion of 276 Village)

General Description of Property: The site is currently developed with a single family dwelling and a gym with associated driveway parking, utilities and appurtenances. The northeast contains wetlands.

Medway Zoning District Classification: Agricultural Residential II

Current Use of Property: Single family dwelling and gym.

Length of Existing Frontage: 150.00' On what street? Village Street

Setbacks for Existing Structure (if applicable)

Front: 99.0'  
Back: 36.2'  
Side: 15.0'  
Side: 52.7'

### Scenic Road

Does any portion of this property have frontage on a Medway Scenic Road?

☒ Yes ☐ No If yes, please name street: Village Street

### Historic District

Is any portion of this property located within a Medway National Register Historic District?

☐ Yes - Rabbit Hill

☐ Yes - Medway Village

### Wetlands

Is any portion of the property within a Wetland Resource Area? ☒ Yes ☐ No

### Groundwater Protection

Is any portion of the property within a Groundwater Protection District? ☐ Yes ☒ No

### Flood Plain

Is any portion of the property within a Designated Flood Plain? ☐ Yes ☒ No

### Zoning Board of Appeals

Will this project require a variance or special permit?

☐ Yes ☒ No

Explanation: \_\_\_\_\_  
\_\_\_\_\_

## PROPOSED DEVELOPMENT PROJECT INFORMATION

Development Name: William Wallace Village

A Major Site Plan is any commercial, industrial, institutional, multi-family, or municipal project which involves:

- a. New construction; or
- b. Alteration, reconstruction, or renovation work that will result in a change in the outside appearance of an existing building or premises, visible from a public or private street or way; or
- c. A change of use of a building or buildings or premises:

AND which includes one or more the following: (Please check all that apply.)

- ☒ New Construction - 2,500 or more sq. ft. of "gross floor area"
- ☒ New Construction - Construction of a new building or addition requiring 15 or more parking spaces
- ☐ Change in Use requiring the construction of 15 or more parking spaces
- ☐ Change in Parking Area - The construction, expansion, redesign or alteration of an existing parking area involving the addition of 15 or more new parking spaces
- ☐ Other - Any use or structure, or expansion thereof, exempt under MGL, c. 40A, s. 3, but only if one or more of the above criteria is met.

## PROPERTY OWNER INFORMATION (if not applicant)

Property Owner's Name: DTRT LLC Keith & Judith Spinney  
Mailing Address: P.O. Box 95 276 Village Street  
Truro, MA 02666 Medway, MA 02053  
Primary Contact: Larry Rucki Keith Spinney  
Telephone:  
Office: 781-223-1312 Cell: 978-302-5339  
Email address: lrucki51@gmail.com

The owner's title to the land that is the subject matter of this application is derived under deed from: George Dowley / Kieth & Judith Spinney to DTRT LLC / Keith & Judith Spinney dated 6/29/2019 / 06/27/2003 and recorded in Norfolk County Registry of Deeds, Book 36923 / 19198 Page 560 / 100 or Land Court Certificate of Title Number n/a, Land Court Case Number n/a, registered in the Norfolk County Land Registry District Volume n/a, Page n/a.

## CONSULTANT INFORMATION

ENGINEER: Daniel Merrikin - Legacy Engineering LLC  
Mailing Address: 730 Main Street, Suite 2C  
Millis, MA 02054  
Primary Contact: Daniel Merrikin  
Telephone:  
Office: 508-376-8883 Cell: 508-868-8353  
Email address: dan@legacy-ce.com  
Registered P.E. License #: 43309

**SURVEYOR:** Colonial Engineering Inc.

Mailing Address: P.O. Box 95  
Medway, MA 02053

Primary Contact: Paul Desimone

Telephone:  
Office: 508-533-1644 Cell: n/a

Email Address: colonial.eng@verizon.net

Registered P.L.S. License #: 30466

**ARCHITECT:** Charles Basile, CBA Architects

Mailing Address: 200 Swanton Street, Suite 31  
Winchester, MA 01890

Primary Contact: Charles Basile

Telephone:  
Office: 603-318-9251  
Cell: n/a

Email address: charlesbasile47@gmail.com

Registered Architect License #: 8596

**LANDSCAPE ARCHITECT/DESIGNER:** Steven Cosmos

Mailing Address: 5 Longview Street  
Natick, MA 01760

Primary Contact: Steven Cosmos

Telephone:  
Office: 508-628-3595  
Cell: n/a

Email address: cosmosla@rcn.com

Registered Landscape Architect License #: 1017

**ATTORNEY:** n/a

Mailing Address:

Primary Contact:

Telephone:  
Office: Cell:

Email address:

## OFFICIAL REPRESENTATIVE INFORMATION

Name: Daniel Merrikin, P.E., Legacy Engineering LLC

Address: 730 Main Street, Suite 2C

Millis, MA 02054

Telephone:

Office: 508-376-8883

Cell: 508-868-8353

Email address: dan@legacy-ce.com

## SIGNATURES

The undersigned, being the Applicant for approval of a Major Site Plan Project, herewith submits this application and Site Plan to the Medway Planning and Economic Development Board for review and approval. I hereby certify, under the pains and penalties of perjury, that the information contained in this application is a true, complete and accurate representation of the facts regarding the property and proposed development under consideration.

(If applicable, I hereby authorize Daniel Merrikin to serve as my Agent/Official Representative to represent my interests before the Medway Planning & Economic Development Board with respect to this application.)

In submitting this application, I authorize the Board, its consultants and agents, Town staff, and members of the Design Review Committee to access the site during the plan review process.

I understand that pursuant to MGL 53G, the Medway Planning and Economic Development Board may retain outside professional consultants to review this application and that I am responsible for the costs associated with such reviews.

I understand that the Planning and Economic Development Board, its agents, staff, consultants, and other Town staff and committees may request additional information which I am responsible for providing to assist them in reviewing the proposed development.

[Signature]  
Signature of Property Owner

7/1/19  
Date

[Signature]  
Signature of Applicant (if other than Property Owner)

7/1/19  
Date

[Signature]  
Signature of Agent/Official Representative

2019-07-01  
Date

## MAJOR SITE PLAN FEES

### Filing Fee

- For projects up to 4,999 sq. ft./gross floor area = \$ 750 plus \$ .25/sq. ft.
- For projects of 5,000 – 9,999 sq. ft./gross floor area = \$1,000 plus \$ .25/sq. ft.
- For projects of 10,000 – 14,999 sq. ft./gross floor area = \$1,500 plus \$ .25/sq. ft.
- For projects of 15,000 sq. ft. or more/gross floor area = \$1,500 plus \$ .25/sq. ft.

### Advance on Plan Review Fee

- For projects up to 4,999 sq. ft./gross floor area = \$1,000 deposit.
- For projects of 5,000 – 9,999 sq. ft./gross floor area = \$1,500 deposit
- For projects of 10,000 – 14,999 sq. ft./gross floor area = \$2,000 deposit
- For projects of 15,000 sq. ft. or more/gross floor area = \$2,500 deposit

**Submit 2 separate checks each made payable to: Town of Medway**

## **MAJOR SITE PLAN** **APPLICATION CHECKLIST**

- \_\_\_\_\_ Major Site Plan Application (2 signed originals – one for Town Clerk and one for Planning and Economic Development Board)
- \_\_\_\_\_ Ten (10) full size copies of the Site Plan prepared in accordance with Sections 204-4 and 204-5 of the *Medway Site Plan Rules and Regulations*
- \_\_\_\_\_ One (1) ledger size (11" x 17") copy of the Site Plan
- \_\_\_\_\_ Electronic Version of the Site Plan and all associated application documents. Provide disk or flash drive or email.
- \_\_\_\_\_ Certified Abutters List from the Medway Assessor's office – for 300 feet around the subject property – Form E
- \_\_\_\_\_ One (1) copy of a *Project Description* as described in Section 204 - 3, 6) of the *Medway Site Plan Rules and Regulations*. This description should also include narrative on how the proposed project meets the requirements of the Medway Zoning Bylaw for parking (V. H) and exterior lighting (V. B. 6)
- \_\_\_\_\_ One (1) copy of a *Development Impact Statement* as described in Section 204 - 3, 7) of the *Medway Site Plan Rules and Regulations*
- \_\_\_\_\_ Request for Waivers from the *Medway Site Plan Rules and Regulations* - Form Q.
- \_\_\_\_\_ Two (2) copies of the *Stormwater Drainage Calculations/Report* prepared in conformance with Section 204 – 3, 3) of the *Site Plan Rules and Regulations*
- \_\_\_\_\_ Two (2) copies of a traffic study, depending on the size and scope of the proposed development project.
- \_\_\_\_\_ One (1) copy of all relevant approvals received to date from other Town boards/committees/departments
- \_\_\_\_\_ Proof of present or pending ownership of all land within the proposed development.
- \_\_\_\_\_ Major Site Plan Filing Fee – Payable to Town of Medway
- \_\_\_\_\_ Advance of Plan Review Fee – Payable to Town of Medway

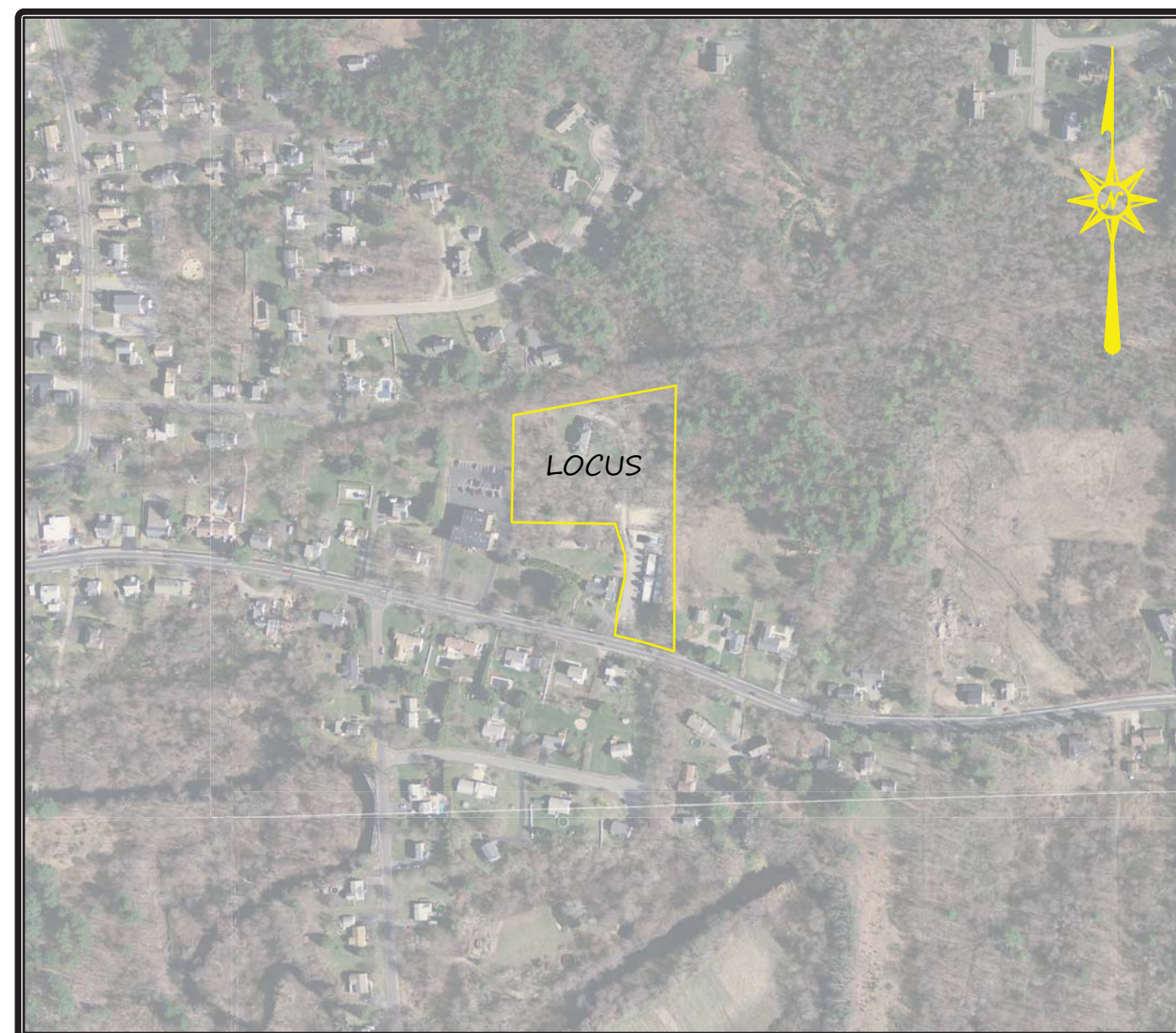
# MEDWAY, MA

## SITE PLAN

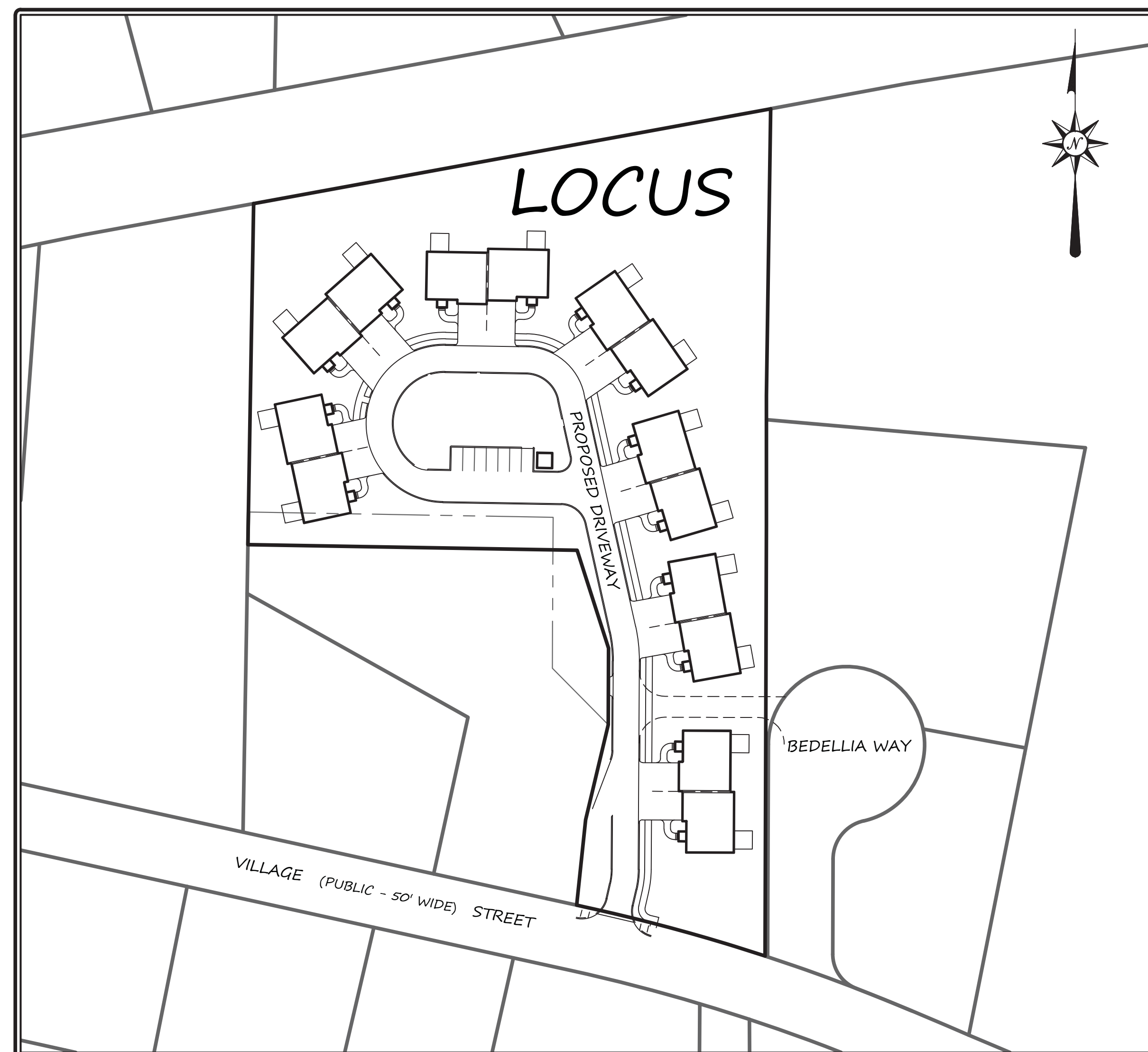
PREPARED BY:  
LEGACY ENGINEERING LLC  
730 MAIN STREET, SUITE 2C  
MILLIS, MA 02054

JUNE 25, 2019

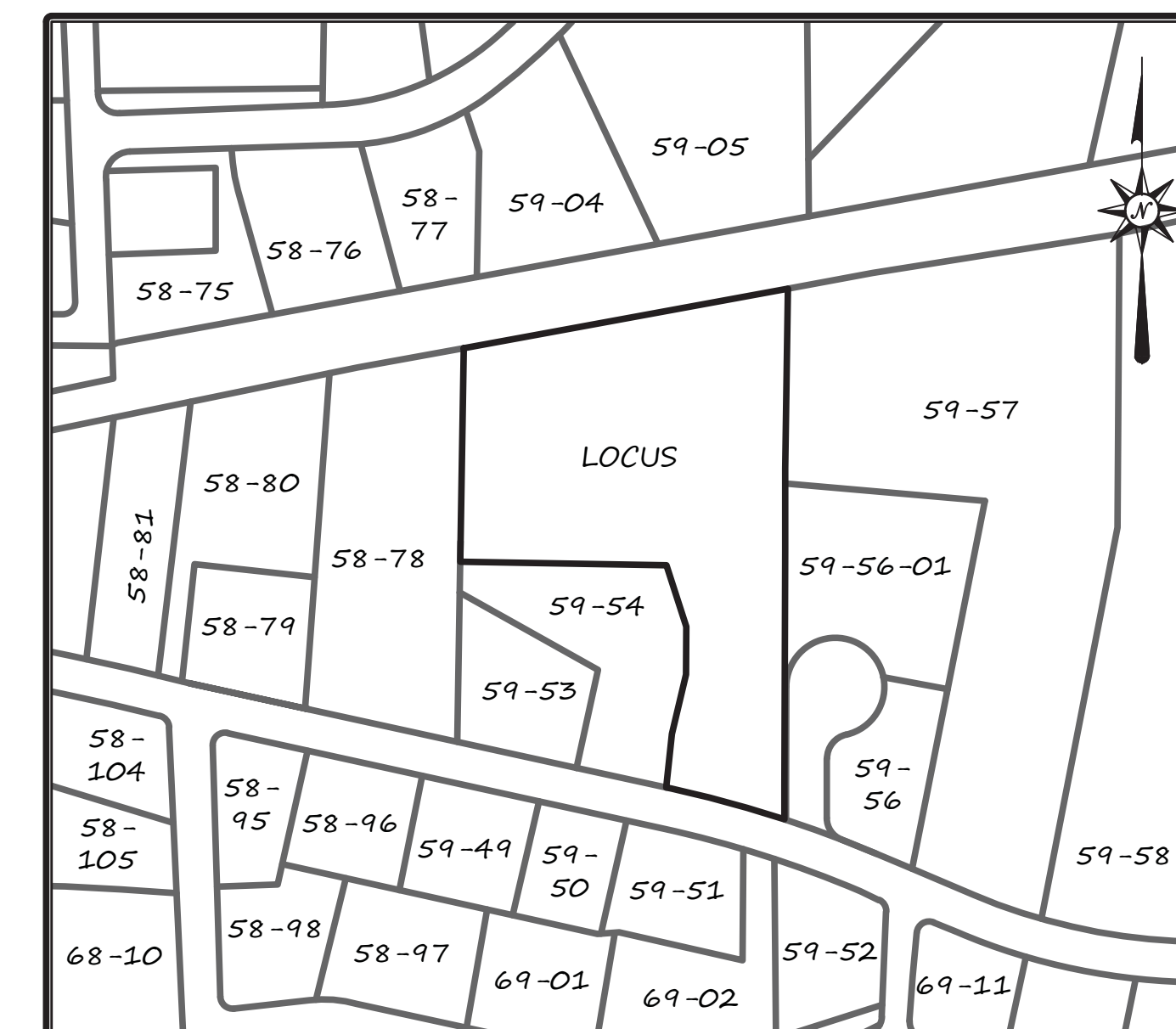
PREPARED FOR:  
PAPAYA PROPERTIES, LLC  
9 LORING DRIVE  
ASHLAND, MA 02721



2013 MASSGIS AERIAL LOCUS  
SCALE: 1" = 500'



LOCUS  
SCALE: 1" = 70'



MEDWAY ASSESSORS LOCUS  
SCALE: 1" = 200'

OWNER  
#274  
DDRT LLC  
P.O. BOX 95  
TRURO, MA 02666

PORTION OF #276  
KEITH & JUDITH SPINNEY  
276 VILLAGE STREET  
MEDWAY, MA 02053

APPLICANT  
DDRT LLC  
P.O. BOX 95  
TRURO, MA 02666

ZONING DISTRICT  
AGRICULTURAL RESIDENTIAL II

ASSESSORS PARCEL  
59-55

PLAN & DEED REFERENCE  
DEED BOOK 6563 PAGE 42  
DEED BOOK 19198 PAGE 100  
PLAN BOOK 315 NO. 1166 OF  
1984

### SHEET LEGEND

- C-0: COVER SHEET
- C-1: EXISTING CONDITIONS PLAN
- C-2: EROSION CONTROLS PLAN
- C-3: LAYOUT PLAN
- C-4: GRADING PLAN
- C-5: UTILITIES PLAN
- C-6: SNOW PLAN
- C-7: LANDSCAPE PLAN
- C-8: DETAILS
- C-9: DETAILS
- C-10: DETAILS

730 MAIN STREET  
SUITE 2C  
MILLIS, MA 02054  
508-376-8883(o)

C-0



**LEGACY**  
ENGINEERING

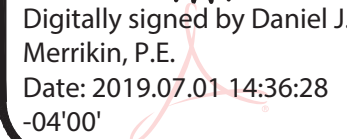
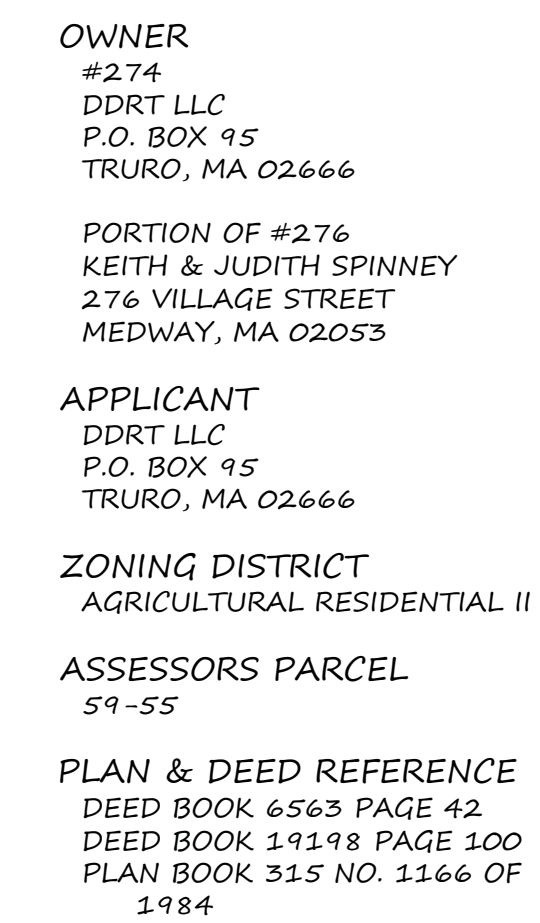


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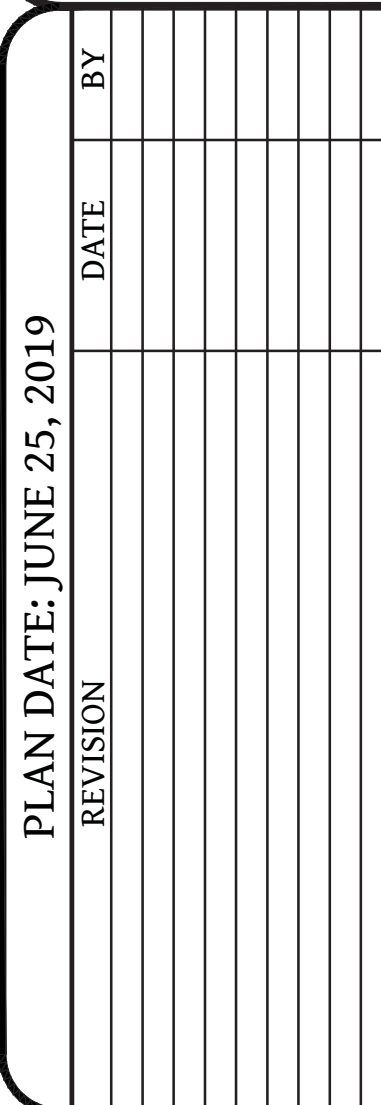
PLAN SCALE: AS NOTED

[illegible]

WILLIAM WALLACE VILLAGE  
COVER SHEET  
PLAN OF LAND  
IN  
MEDWAY, MA



1. PARCEL A & B WILL BE SWAPPED PRIOR TO CONSTRUCTION AND THE EXISTING SHED WILL BE DEMOLISHED. THE DEVELOPMENT WILL THEREFORE CONSIST OF LOT C-2 AND PARCEL A. THE REST OF THE PLAN SHEETS DEPICT THESE PARCELS AS THE PROJECT BOUNDARIES.
2. THE LOCATION OF EXISTING UTILITIES IS BASED ON AVAILABLE INFORMATION SUCH AS SURFACE FEATURES AND RECORD PLANS. THE SHOWN UTILITY LOCATIONS ARE APPROXIMATE, ARE NOT WARRANTED TO BE CORRECT, AND SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
3. CONTRACTOR SHALL CONTACT DIGSAFE PRIOR TO CONDUCTING ANY EXCAVATION ON THE SITE.
4. OFFSITE FEATURES SUCH AS BUILDING, PAVING LIMITS, UTILITIES, ETC... ARE APPROXIMATE ONLY AND BASED ON MASSGIS AERIAL PHOTOGRAPHS.
5. ELEVATIONS ARE ON THE NAVD88 DATUM.

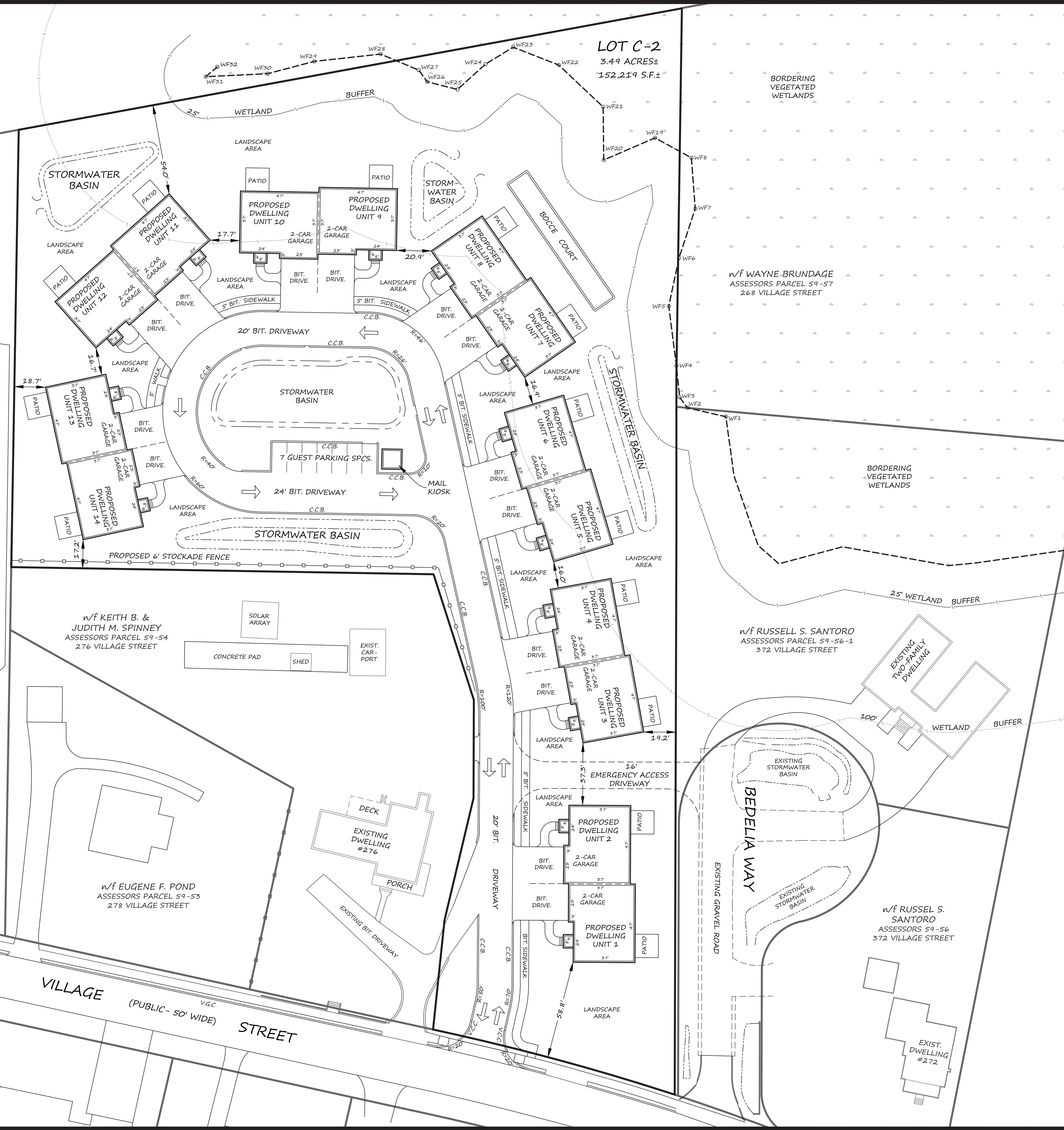


C8: SINGLE-GRATE CATCH BASIN  
 C9: DOUBLE-GRATE CATCH BASIN  
 OPTU KUC: PROPRIETARY STORMWATER UNIT  
 ENH: ENHANCED MANHOLE  
 TR. DR: DRENCH DRAIN  
 INFIL. TR: INFILTRATION TRENCH  
 X" P: \_\_\_\_\_ DRAIN PIPELINE  
 RCP: REINFORCED CONCRETE PIPE  
 PVC: POLYVINYL CHLORIDE PIPE  
 OSMH: SEWER MANHOLE  
 X" G: \_\_\_\_\_ SEWER PIPELINE  
 O.C.D.: SEWER SERVICE CLEANOUT  
 X" W: \_\_\_\_\_ WATER MAIN  
 HYD: HYDRANT  
 G.V. W: WATER GATE VALVE  
 O.S.: WATER SERVICE CURB STOP  
 M.B.: WATER SERVICE METER BOX  
 X" G: \_\_\_\_\_ GAS PIPELINE  
 E: \_\_\_\_\_ ELECTRIC CONDUIT  
 ☆ L.P.: LIGHT POLE  
 ☆ U.P.: UTILITY POLE  
 ☆ G.W.: GUY WIRE  
 ☆ S.P.: TRAFFIC SIGNAL POLE  
 ☆ 252: \_\_\_\_\_ EXISTING CONTOUR  
 ☆ \_\_\_\_\_ PROPOSED CONTOUR  
 E.O.P.: \_\_\_\_\_ EDGE OF PAVEMENT  
 C.B.: \_\_\_\_\_ INTEGRAL SLOPED BIT. BERM  
 V.C.M.: \_\_\_\_\_ VERTICAL CURBMENT BERM  
 S.G.C.: \_\_\_\_\_ SLOPED GRANITE CURB  
 V.G.C.: \_\_\_\_\_ VERTICAL GRANITE CURB  
 V.C.C.: \_\_\_\_\_ VERTICAL CONCRETE CURB  
 C.C.S.: \_\_\_\_\_ CONCRETE SLAB  
 G.V.: \_\_\_\_\_ GATE VALVE  
 C.L.F.: \_\_\_\_\_ CHAIN LINK FENCE  
 S.D. STOCKPILE  
 P.P.F.: \_\_\_\_\_ PICKET FENCE  
 G.R.: \_\_\_\_\_ GUARD RAIL  
 C.C.: \_\_\_\_\_ HANDICAP CURB CUT

**LEGACY**  
ENGINEERING

**WILLIAM WALLACE VILLAGE  
EXISTING CONDITIONS  
PLAN OF LAND  
IN  
MEDWAY, MA**





PLAN & DEED REFERENCE  
DEED BOOK 6563 PAGE 42  
DEED BOOK 19198 PAGE 100  
PLAN BOOK 315 NO. 1166 OF  
1984



Digitally signed by Daniel  
J. Merrikin, P.E.  
Date: 2019.07.01 14:35:16  
-04'00'

PLAN SCALE: 1" = 30'

[illegible]

## ZONING REQUIREMENTS

1. PROPOSED PARKING SPACES ARE 9' WIDE BY 18' DEEP.
2. 12% OF THE UNITS ARE REQUIRED TO BE AFFORDABLE, WHICH EQUALS 1.68 UNITS (ROUNDED UP TO TWO UNITS).
3. UNITS 1 & 14 WILL BE THE AFFORDABLE UNITS.

ZONING REQUIREMENTS:

ZONE: AGRICULTURAL RESIDENTIAL II  
MIN. LOT AREA:  
REQUIRED: 30,000 S.F. (FOR TWO  
FAMILY DWELLINGS)  
PROVIDED: 158,269 S.F.  
MIN. FRONTAGE:  
REQUIRED: 50' (FOR MULTIFAMILY)  
PROVIDED: 150.01'  
MIN. FRONT SETBACK:  
REQUIRED: 35'  
PROVIDED: 58.8'  
MIN. SIDE SETBACK:  
REQUIRED: 15'  
PROVIDED: 18.7'  
MIN. REAR SETBACK:  
REQUIRED: 15'  
PROVIDED: 54.0'  
MAX. HEIGHT:  
REQUIRED: 40' (FOR MULTIFAMILY)  
PROVIDED: <40'  
MAX. BUILDING COVERAGE:  
REQUIRED: 30%  
PROVIDED: 18% ( 28,602 S.F.)  
MAX. LOT COVERAGE:  
REQUIRED: 40%  
PROVIDED: 37% (58,088 S.F.)  
OPEN SPACE:  
REQUIRED: 15% (FOR MULTIFAMILY)  
PROVIDED: 58.3%  
PARKING SPACES:  
REQUIRED: 1.5/UNIT + 1 VISITOR/2 UNITS  
= 28 PARKING SPACES  
PROVIDED: 4/UNIT + 7 VISITOR = 63  
SPACES

WILLIAM WALLACE VILLAGE  
LAYOUT  
PLAN OF LAND  
IN  
MEDWAY, MA

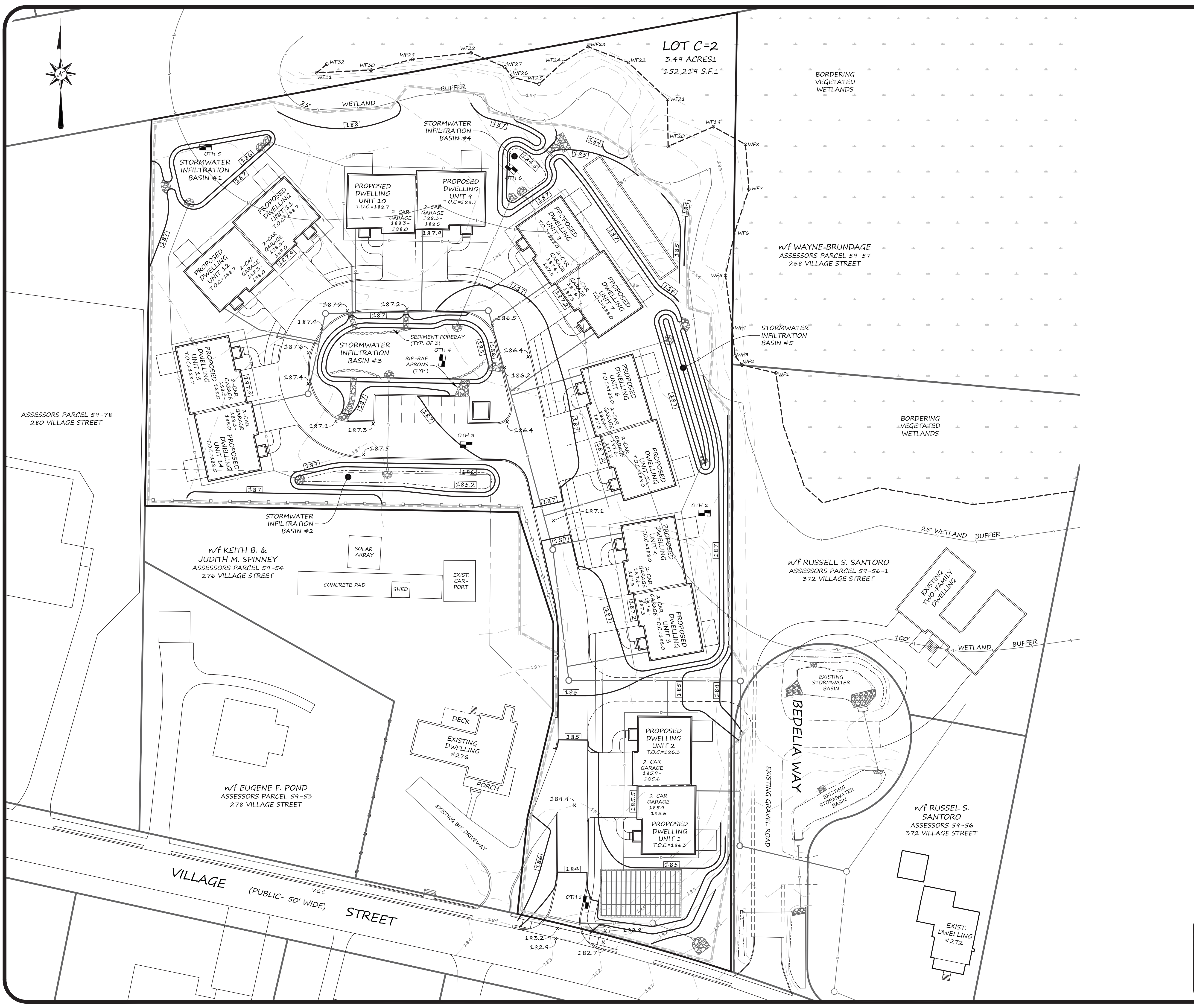
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SUITE 2C  
MILLIS, MA 02054  
508-376-8883(o)

C-3



**LEGACY**  
ENGINEERING

D158-01



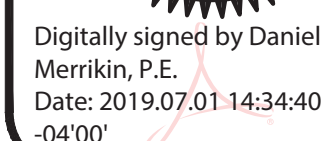
PORTION OF #276  
KEITH & JUDITH SPINNEY  
276 VILLAGE STREET  
MEDWAY, MA 02053

APPLICANT  
DDRT LLC  
P.O. BOX 95  
TRURO, MA 02666

ZONING DISTRICT  
AGRICULTURAL RESIDENTIAL II

ASSESSORS PARCEL  
59-55

PLAN & DEED REFERENCE  
DEED BOOK 6563 PAGE 42  
DEED BOOK 19198 PAGE 100  
PLAN BOOK 315 NO. 1166 OF  
1984



PLAN SCALE: 1" = 30'

[illegible]

**WILLIAM WALLACE VILLAGE  
GRADING & UTILITIES  
PLAN OF LAND  
IN  
MEDWAY, MA**

730 MAIN STREET  
SUITE 2C  
MILLIS, MA 02054  
508-376-8883(o)

C-4



**LEGACY**  
ENGINEERING

D158-01





PORTION OF #276  
KEITH & JUDITH SPINNEY  
276 VILLAGE STREET  
MEDWAY, MA 02053

APPLICANT  
DDRT LLC  
P.O. BOX 95  
TRURO, MA 02666

ZONING DISTRICT  
AGRICULTURAL RESIDENTIAL II

ASSESSORS PARCEL  
59-55

PLAN & DEED REFERENCE  
DEED BOOK 6563 PAGE 42  
DEED BOOK 19198 PAGE 100  
PLAN BOOK 315 NO. 1166 OF  
1984



Digitally signed by Daniel J Merrikin, P.E.  
Date: 2019.07.01 14:33:11 -04'00'

## LANDSCAPE NOTES:

1. PROVIDE SHRUB BED PLANTINGS IN FRONT OF BUILDING FOUNDATIONS.
2. ALL PLANTINGS WITHIN THE 100' BUFFER ZONE TO BE NATIVE WITH NO CULTIVARS OR HYBRIDS ALLOWED.
3. PROPOSED EVERGREEN TREES SHALL BE MIN. 6' TALL AT INSTALLATION AND SHALL CONSIST OF A MIX. OF THUJA PLICATA AND NORWAY SPRUCE..
4. PROPOSED DECIDUOUS TREES SHALL HAVE AN INSTALLATION CALIPER OF AT LEAST 2".

PLAN SCALE: 1" = 30'

[illegible]

WILLIAM WALLACE VILLAGE  
LANDSCAPE  
PLAN OF LAND  
IN  
MEDWAY, MA

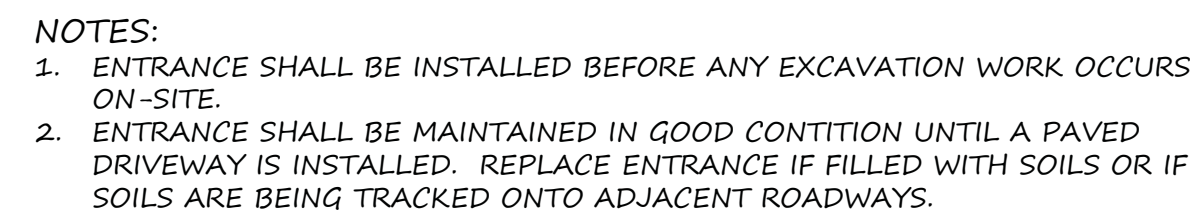
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SUITE 2C  
MILLIS, MA 02054  
508-376-8883(o)

C-7

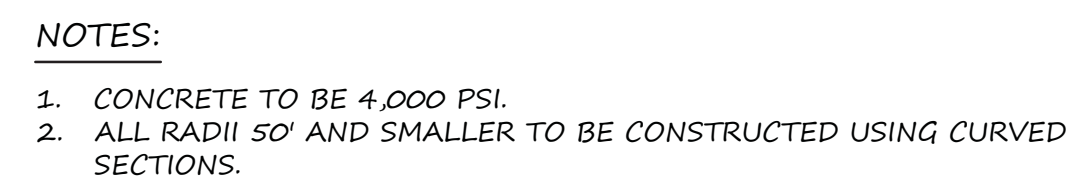


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ENGINEERING

D158-01



NOT TO SCALE

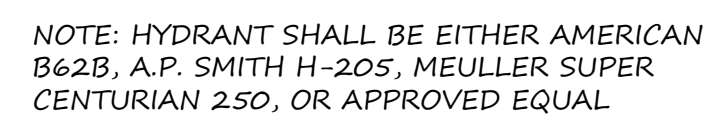


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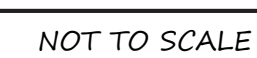
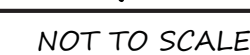


1. COPPER TUBING SHALL MEET AWWA SPEC. 76-CR TYPE K OR FEDERAL SPEC. WWT-799 TYPE K.
2. 1 1/2-INCH AND LARGER SERVICES SHALL BE INSTALLED WITH A SADDLE.

NOT TO SCALE

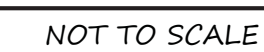


NOT TO SCALE



NOTE: NON-BIODEGRADABLE SOCK SHELL FILLED WITH COMPOST MEDIA. JOINTS SHALL BE OVERLAPPED BY AT LEAST TWO FEET.

NOT TO SCALE



- NOTES:
1. SMALL BLOCK UNITS SHALL BE THE SQUARE FOOT PRODUCT BY VERSA-LOK OR APPROVED EQUAL. WALL HEIGHT WITHOUT REINFORCEMENT SHALL BE LIMITED TO 3.5' EXPOSED FACE.
  2. INSTALLATION SHALL BE IN ACCORDANCE WITH MANUFACTURER RECOMMENDATIONS.

NOT TO SCALE

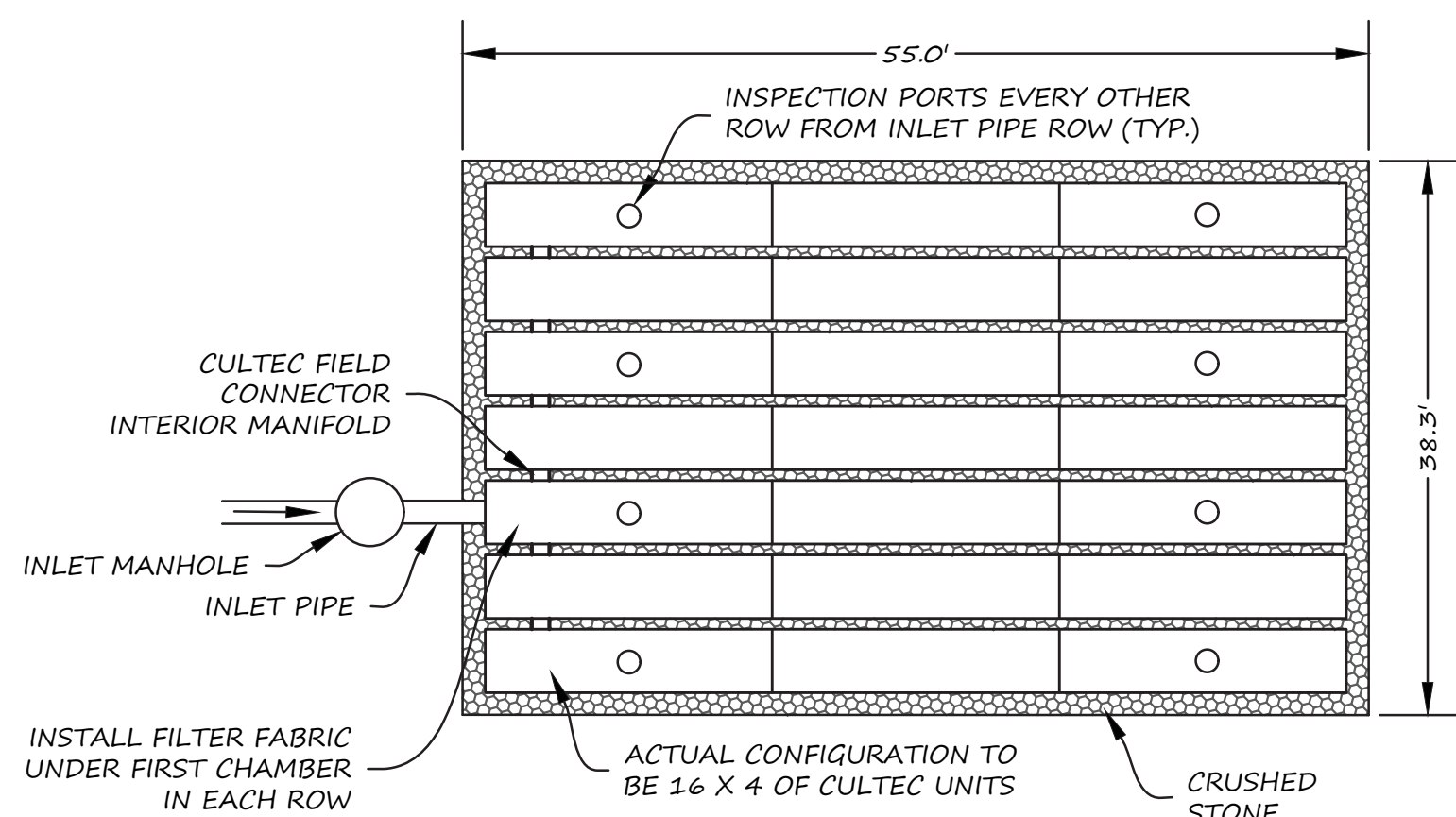


PLAN SCALE: NOT TO SCALE

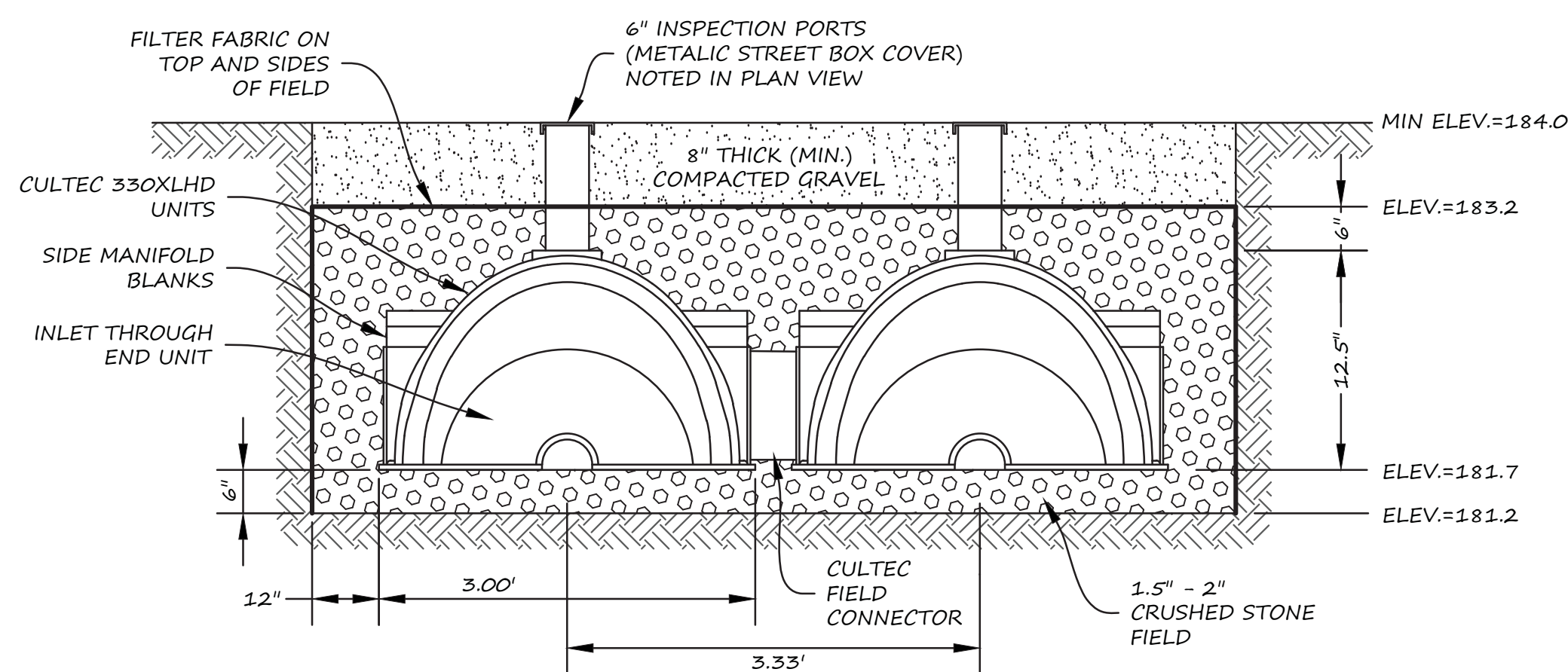
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WILLIAM WALLACE VILLAGE  
DETAIL  
PLAN OF LAND  
IN  
MEDWAY, MA

**LEGACY**  
ENGINEERING



FIELD PLAN VIEW



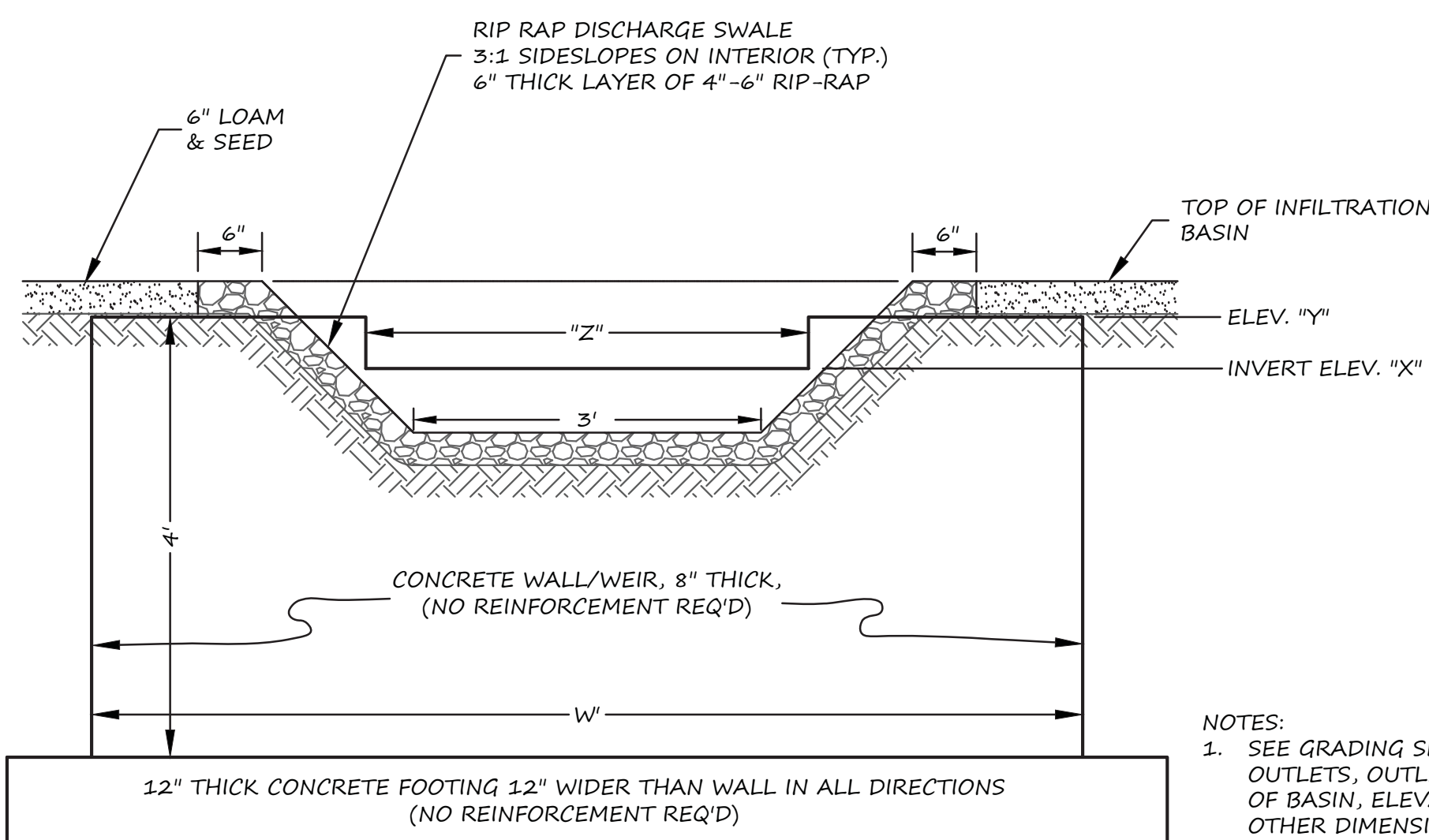
SECTION THROUGH TYPICAL LEACHING FIELD

NOTES:

1. INFILTRATION TRENCH UNITS TO BE RECHARGER 100XLHD AS MANUFACTURED BY CULTEC, INC., 878 FEDERAL ROAD, BROOKFIELD, CT 06804, OR APPROVED EQUAL. APPROVED EQUALS MUST CONTAIN AT LEAST THE SAME TOTAL SYSTEM STORAGE VOLUME AND BOTTOM AREA.
2. INSTALLATION SHALL BE IN ACCORDANCE WITH MANUFACTURER RECOMMENDATIONS.
3. TWO-TRENCH SYSTEM CROSS-SECTION SHOWN. MULTIPLE TRENCHES WOULD USE THE SAME EXTERIOR STONE THICKNESS AND INTERIOR CHAMBER SEPARATION VALUES.
4. INFILTRATION TRENCH UNITS SHALL BE ABLE TO WITHSTAND H-20 LOADINGS.
5. REMOVE ALL TOPSOIL AND SUBSOIL BELOW SYSTEM AND REPLACE WITH GRAVEL MEETING ENGINEER'S APPROVAL AS NEEDED.

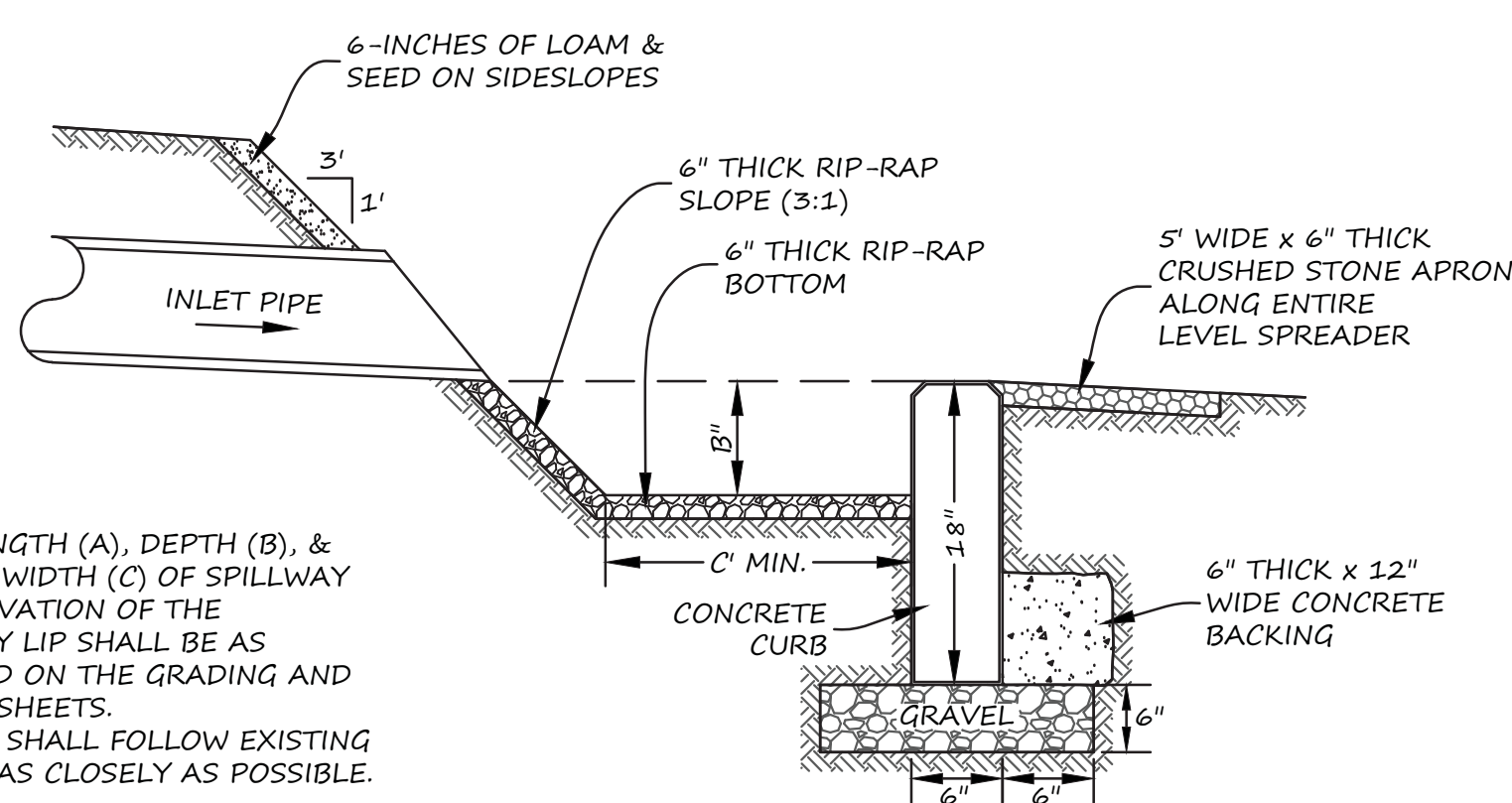
INFILTRATION FIELD DETAIL

NOT TO SCALE

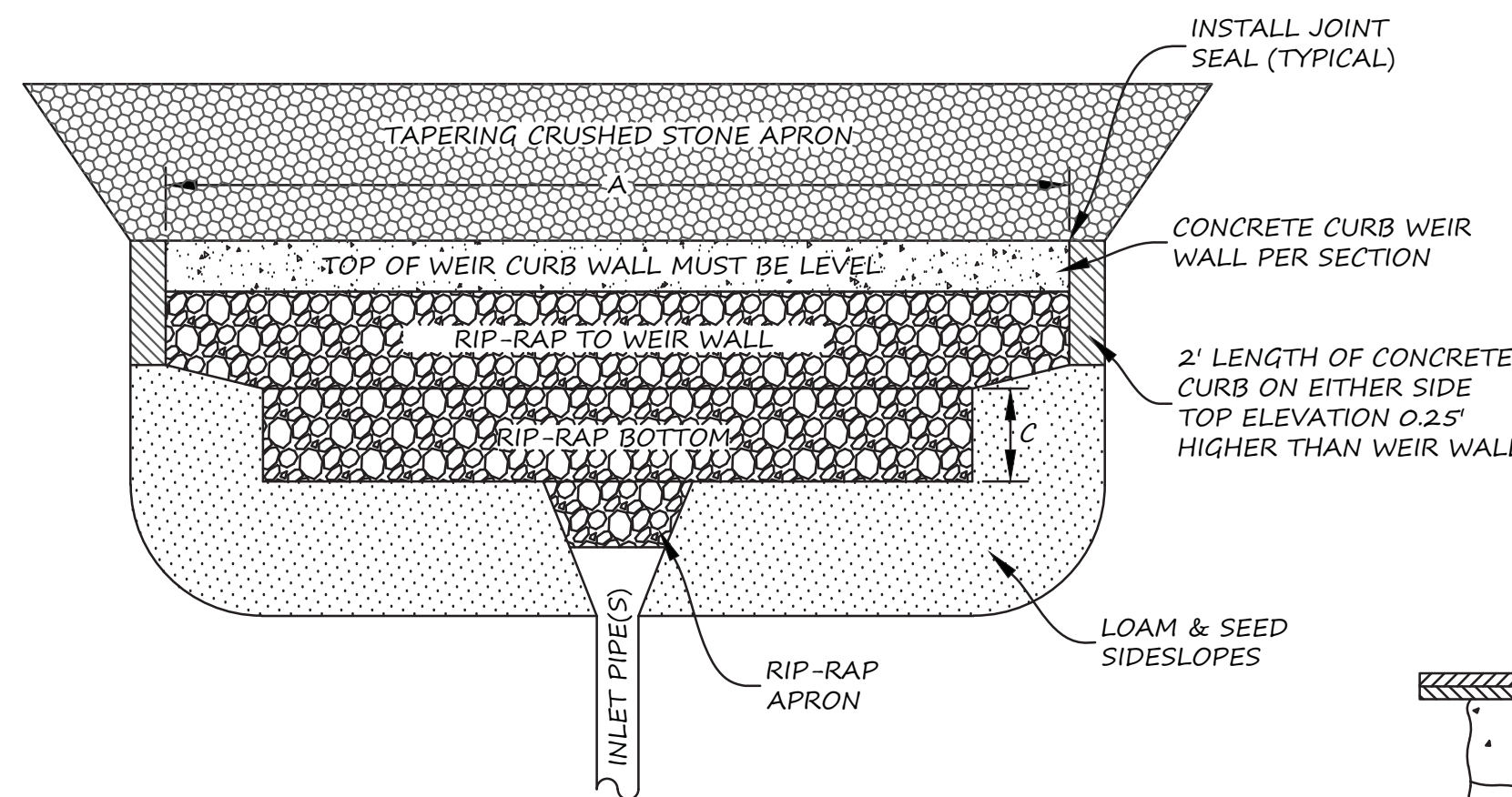


BASIN OUTLET WEIR AND RIP-RAP SWALE DETAIL

- NOTES:
1. WEIR LENGTH (A), DEPTH (B), & BOTTOM WIDTH (C) OF SPILLWAY AND ELEVATION OF THE SPILLWAY LIP SHALL BE AS SPECIFIED ON THE GRADING AND PROFILE SHEETS.
  2. WEIR LIP SHALL FOLLOW EXISTING GRADES AS CLOSELY AS POSSIBLE.



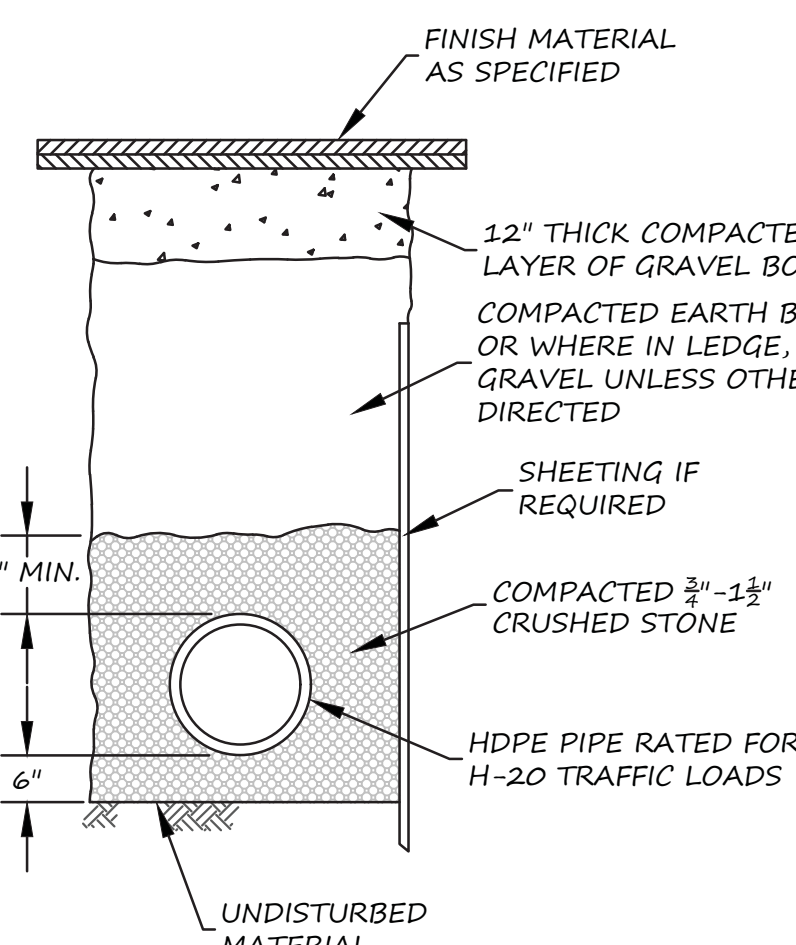
TYPICAL SECTIONAL VIEW



PLAN VIEW

LEVEL SPREADER DETAIL

NOT TO SCALE



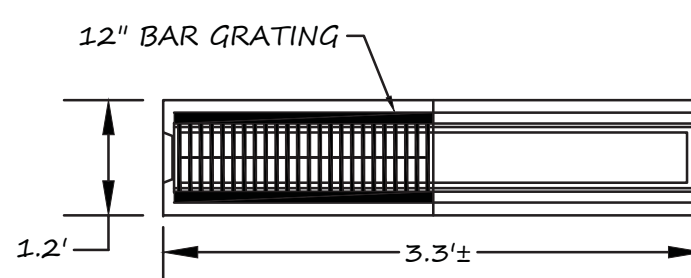
TYPICAL DRAIN TRENCH

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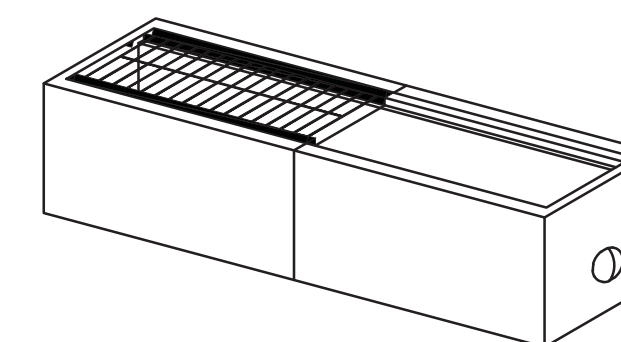
- NOTES:
1. MANHOLE DIAMETER SHALL BE INCREASED IF NUMBER, SIZE, AND CONFIGURATION OF INLET/OUTLET PIPING NECESSITATES A LARGER MANHOLE DIAMETER.
  2. SUBSTITUTE FRAME AND COVERS SHALL BE MADE IN USA AND SHALL BE APPROVED BY THE ENGINEERING DEPARTMENT OR PLANNING BOARD PRIOR TO CONSTRUCTION.

PRECAST CONCRETE DRAIN MANHOLE

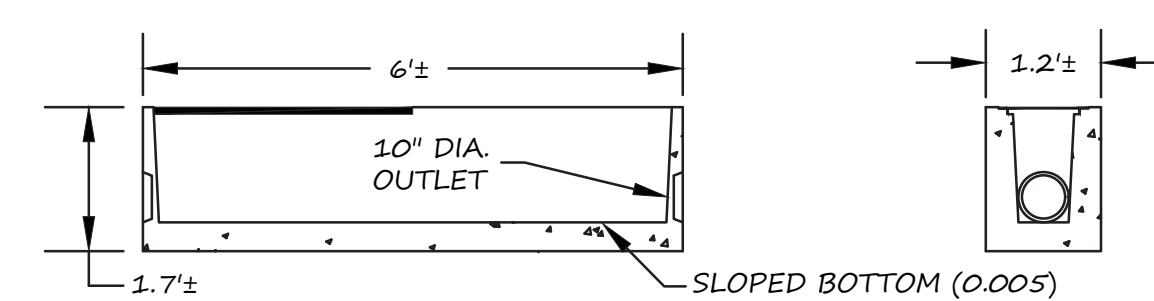
NOT TO SCALE



PLAN VIEW



ISOMETRIC VIEW



SIDE-SECTION VIEW

END SECTION VIEW

- NOTES:
1. CONCRETE SHALL BE 4,000 PSI AFTER 28 DAYS.
  2. SHALL CONFORM TO H-20 LOADINGS.
  3. SHALL BE POWER DRAIN 5300K BY ACO DRAIN OR EQUAL.

TRENCH DRAIN DETAIL

NOT TO SCALE

SCHEDULE OF DIMENSIONS AND ELEVATIONS

	BASIN #1	BASIN #2	BASIN #3	BASIN #4	BASIN #5
BOTTOM OF BASIN ELEVATION "A"	186.0	185.2	185.0	184.5	186.0
TOP OF BERM ELEVATION "B"	187.0	187.0	186.0	187.0	187.0
RIP RAP SWALE OUTLET ELEV.	186.6	N/A	N/A	N/A	186.7

TYPICAL INFILTRATION BASIN CROSS-SECTION

NOT TO SCALE

OWNER  
#274  
DDRT LLC  
P.O. BOX 45  
TRURO, MA 02666

PORTION OF #276  
KEITH & JUDITH SPINNEY  
276 VILLAGE STREET  
MEDWAY, MA 02053

APPLICANT  
DDRT LLC  
P.O. BOX 45  
TRURO, MA 02666

ZONING DISTRICT  
AGRICULTURAL RESIDENTIAL II

ASSESSORS PARCEL  
59-55

PLAN & DEED REFERENCE  
DEED BOOK 6563 PAGE 42  
DEED BOOK 19198 PAGE 100  
PLAN BOOK 315 NO. 1166 OF  
1984



Digitally signed by Daniel J. Merrikin, P.E.  
Date: 2019.07.01 14:32:15 -0400

PLAN SCALE: NOT TO SCALE

PLAN DATE: JUNE 25, 2019

REVISION	DATE	BY

WILLIAM WALLACE VILLAGE  
DETAIL  
PLAN OF LAND  
IN  
MEDWAY, MA

730 MAIN STREET  
SUITE 2C  
MILLIS, MA 02054  
508-376-8883(o)

C-9

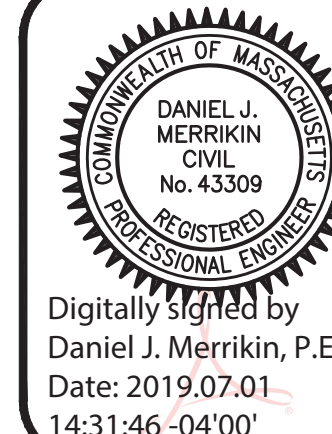
D158-01



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ENGINEERING



PLAN & DEED REFERENCE  
DEED BOOK 6563 PAGE 42  
DEED BOOK 19198 PAGE 100  
PLAN BOOK 315 NO. 1166 OF  
1984



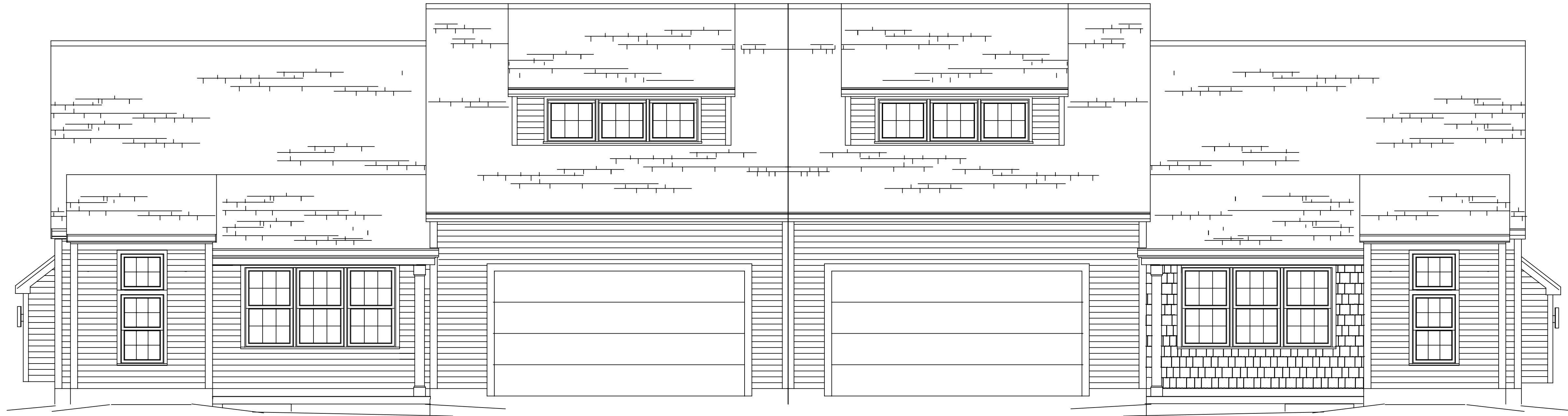
PLAN SCALE: NOT TO SCALE

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WILLIAM WALLACE VILLAGE  
DETAIL  
PLAN OF LAND  
IN  
MEDWAY, MA



**LEGACY**  
ENGINEERING



Front

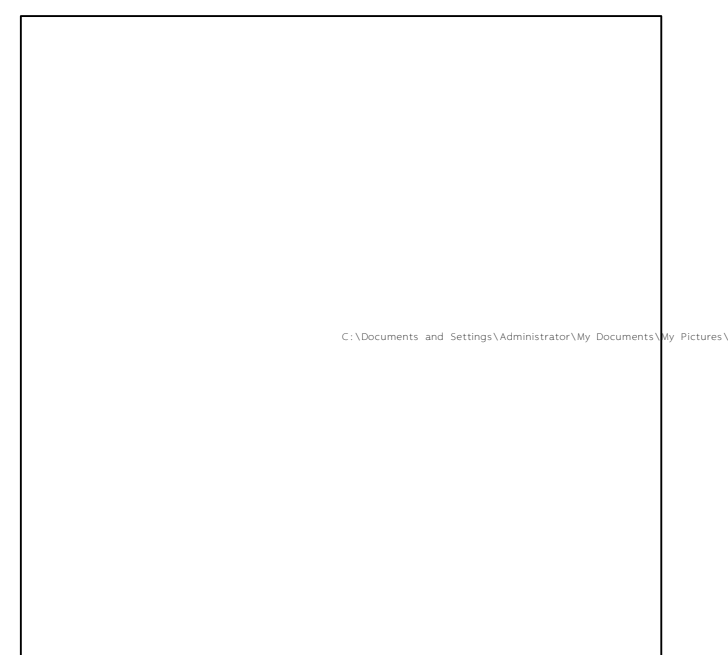


Back

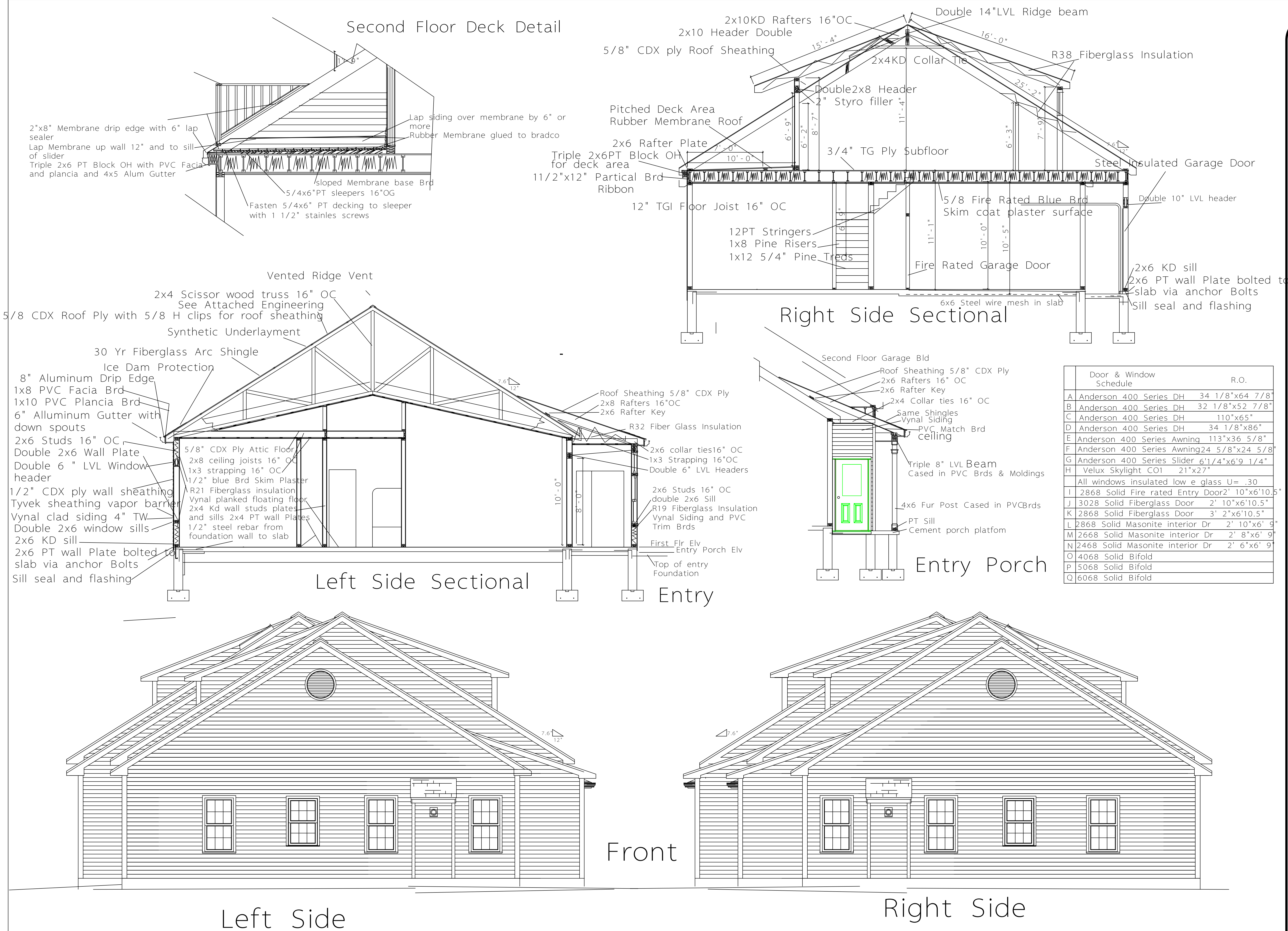
William Wallace Estates  
274 Village Street  
Medway Ma 02053

Page 1  
Customer  
Address

No.	Revision/Issue	Date



Project PROJECTNAME	Sheet
Date DATE	
Scale 1/4 : 1'	



Page 1

Customer

Address

William Wallace Estates

274 Village Street

Medway Ma 02053

No.	Revision/Issue	Date

Project

PROJECTNAME

Date

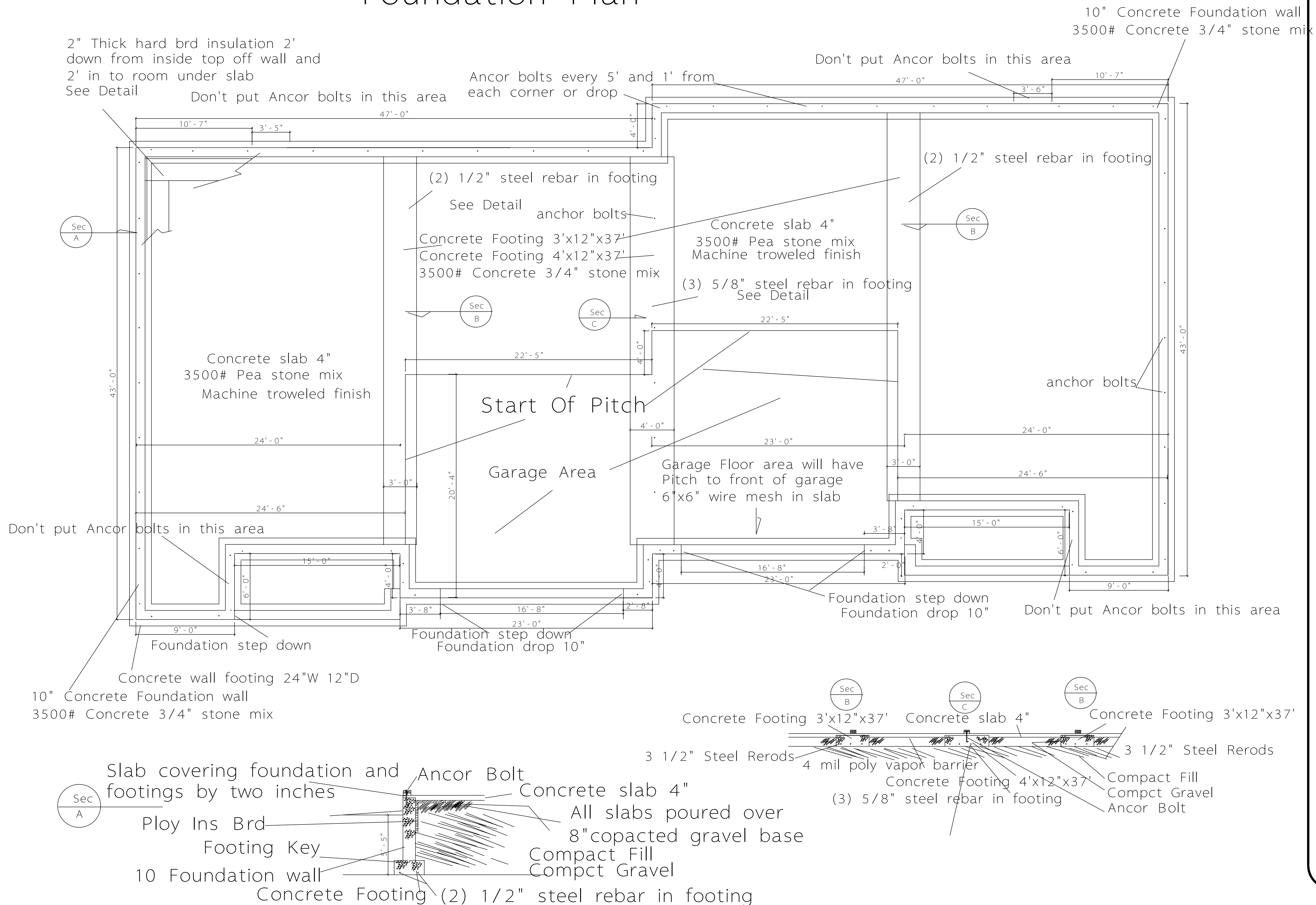
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1/4 : 1'

Sheet

# Foundation Plan

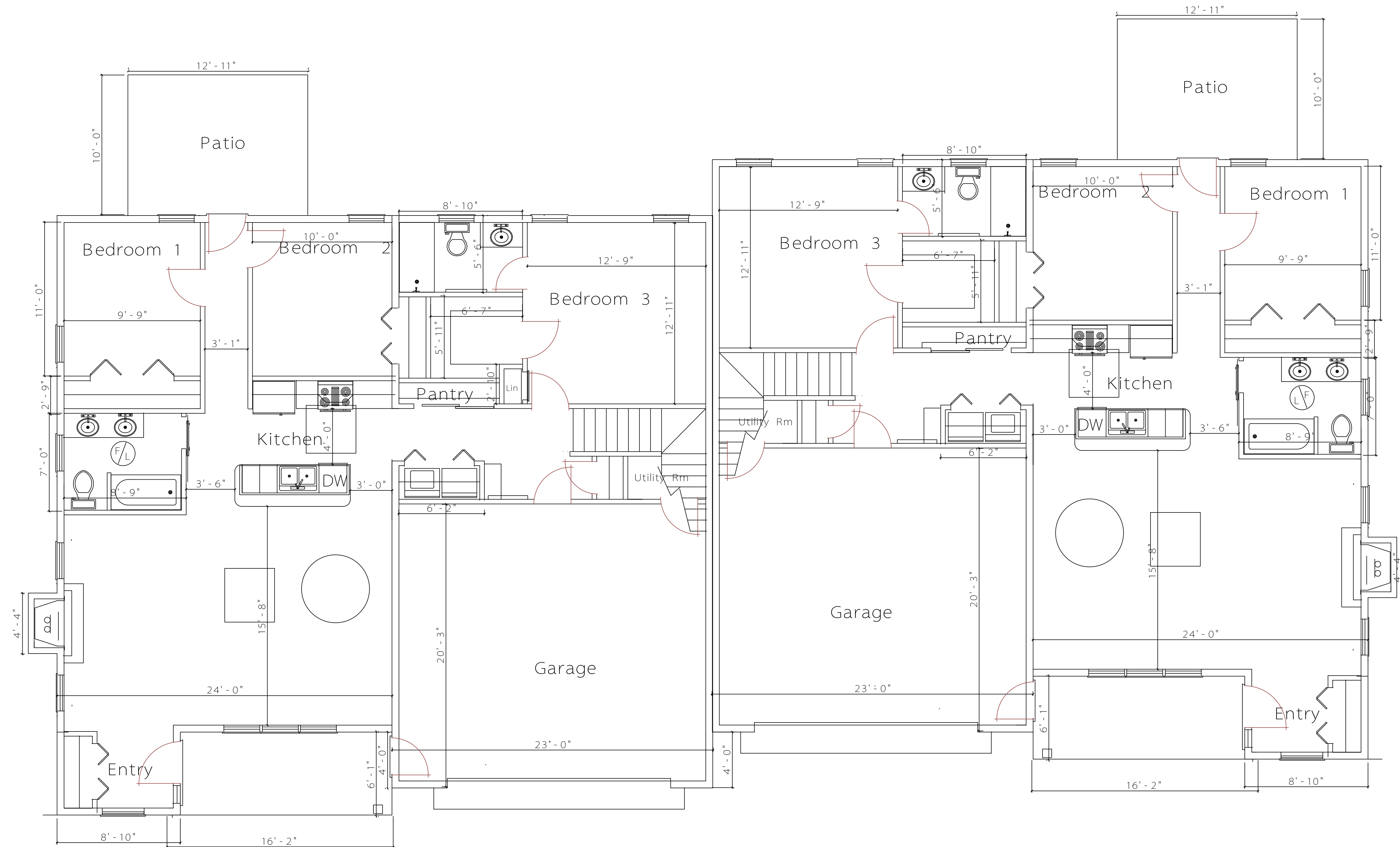


Page 1  
Customer Larry Rucki  
Address 25x37

No.	Revision/Issue	Date



Project	PROJECTNAME	Sheet
Date	DATE	
Scale	1/4 : 1'	



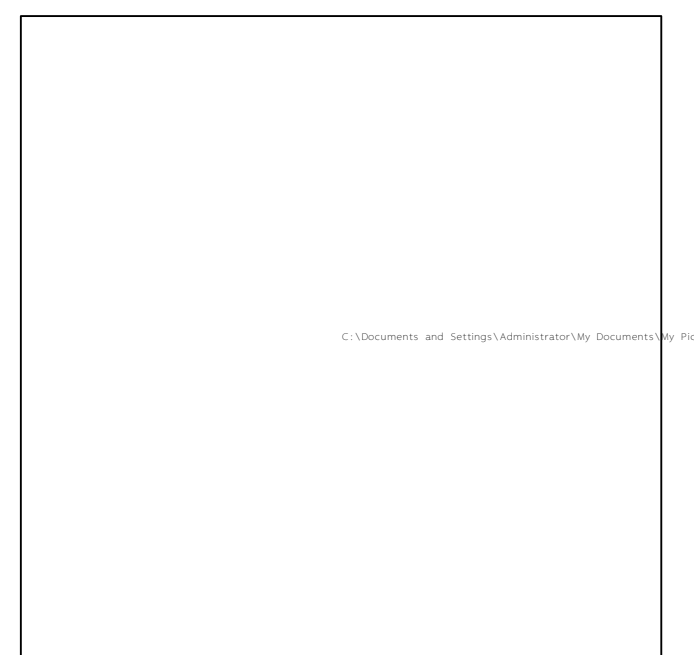
First Floor Plan  
Duplex

Page 1

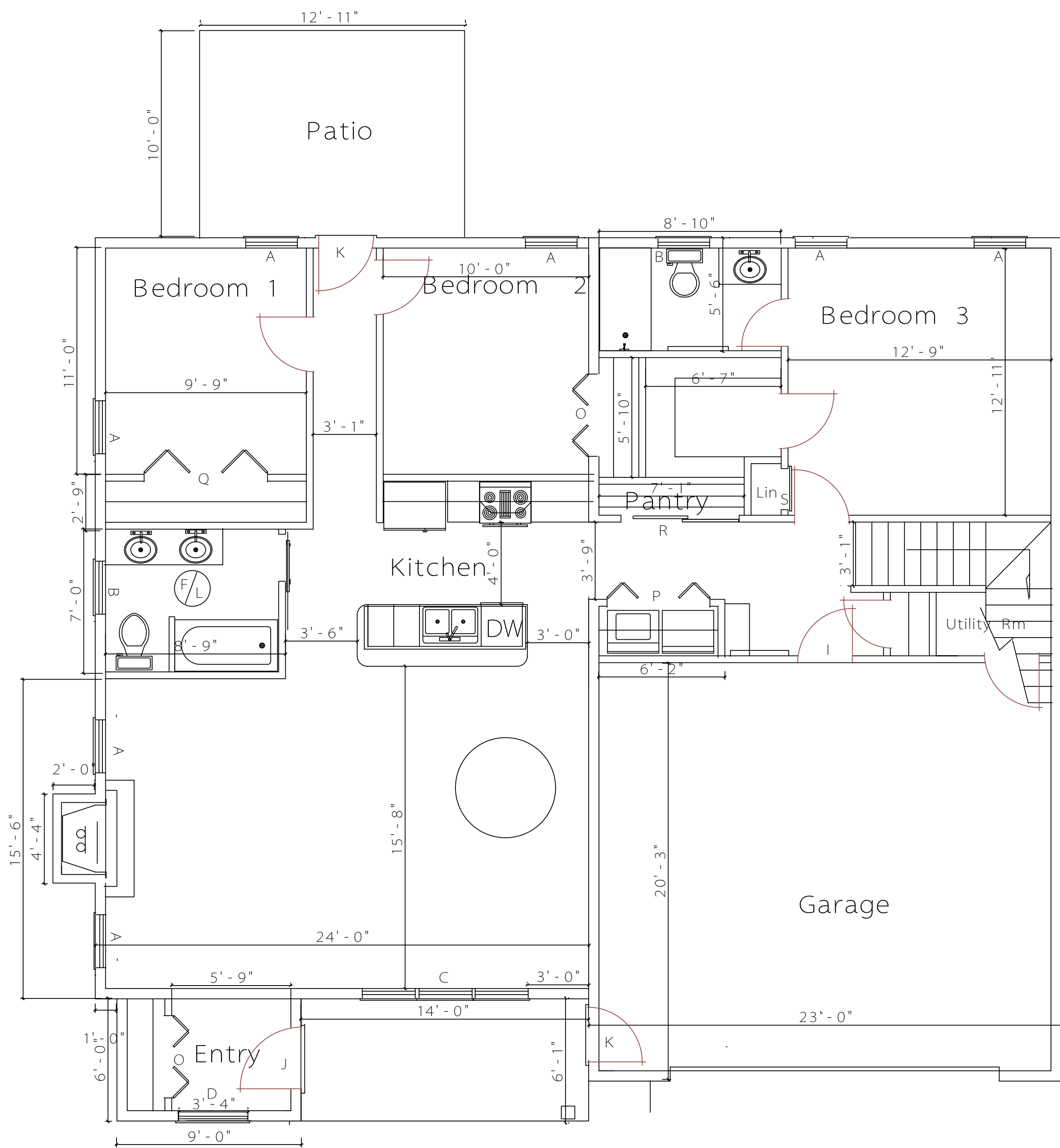
Customer Larry Rucki

Address 25x37

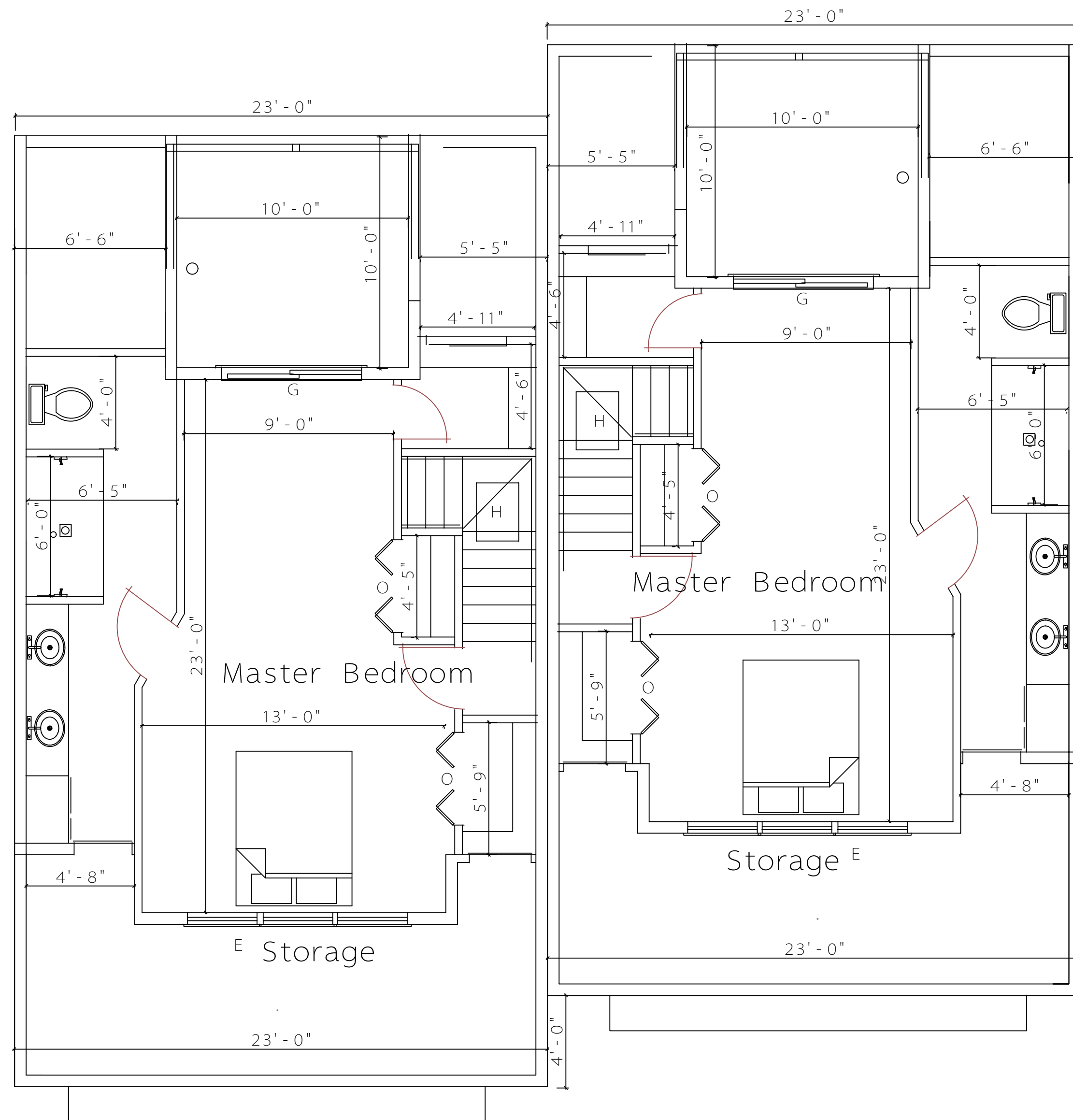
No.	Revision/Issue	Date



Project PROJECTNAME	Sheet
Date DATE	
Scale 1/4 : 1'	



First Floor Plan

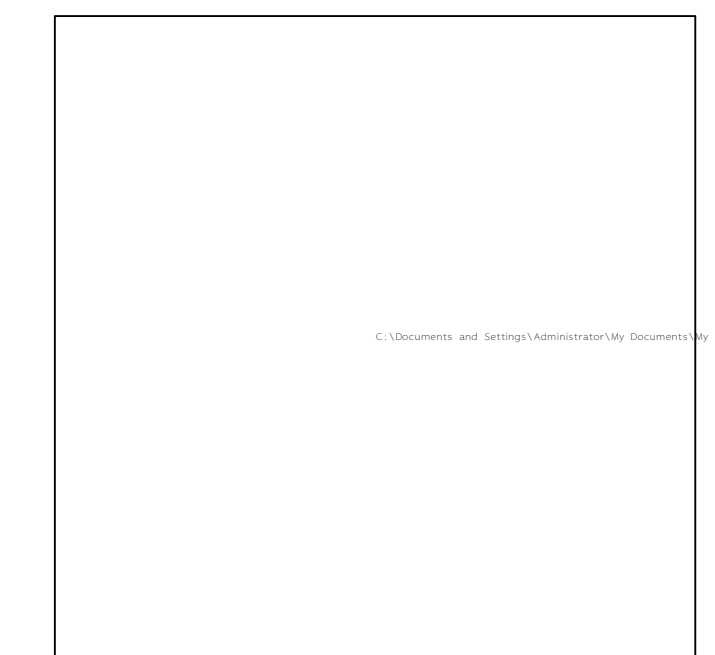


Second Floor

	Door & Window Schedule	R.O.
A	Anderson 400 Series DH	34 1/8"x64 7/8"
B	Anderson 400 Series Awning	36 5/8"x24 5/8"
C	Anderson 400 Series DH	110"x65"
D	Anderson 400 Series DH	34 1/8"x86"
E	Anderson 400 Series Awning	113"x36 5/8"
F		
G	Anderson 400 Series Slider	6'1/4"x6'9 1/4"
H	Velux Skylight CO1	21"x27"
	All windows insulated low e glass U= .30	
I	2868 Solid Fire rated Entry Door	2' 10"x6'10.5"
J	3028 Solid Fiberglass Door	2' 10"x6'10.5"
K	2868 Solid Fiberglass Door	3' 2"x6'10.5"
L	2868 Solid Masonite interior Dr	2' 10"x6' 9"
M	2668 Solid Masonite interior Dr	2' 8"x6' 9"
N	2468 Solid Masonite interior Dr	2' 6"x6' 9"
O	4068 Solid Bifold	
P	5068 Solid Bifold	
Q	6068 Solid Bifold	
R	6068 Solid Sliding Dr	
S	2068 Solid Masonite Dr	

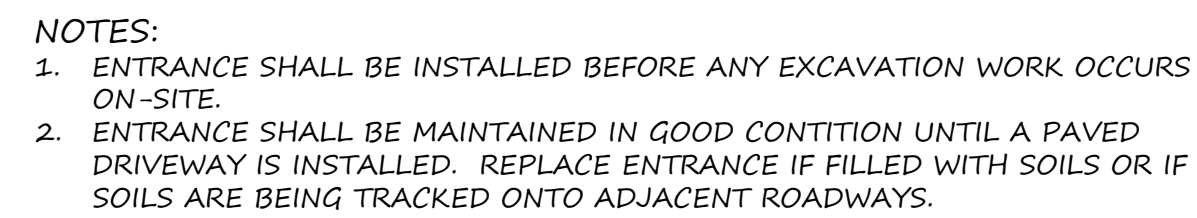
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Customer William Wallace Estates  
Address 274 Village Street  
Medway Ma 02053

No.	Revision/Issue	Date

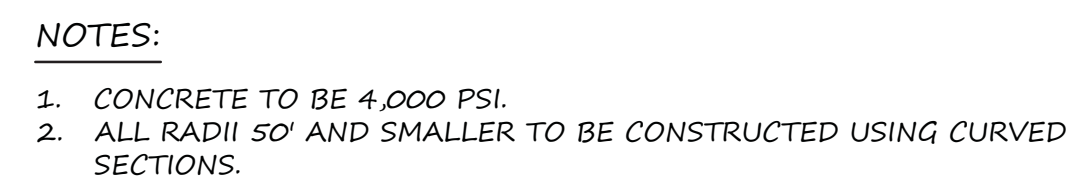


Project	PROJECTNAME	Sheet
Date	DATE	
Scale	1/4 : 1'	

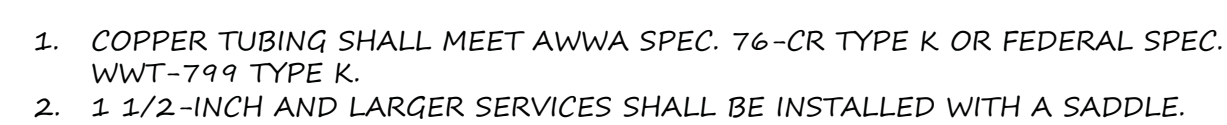




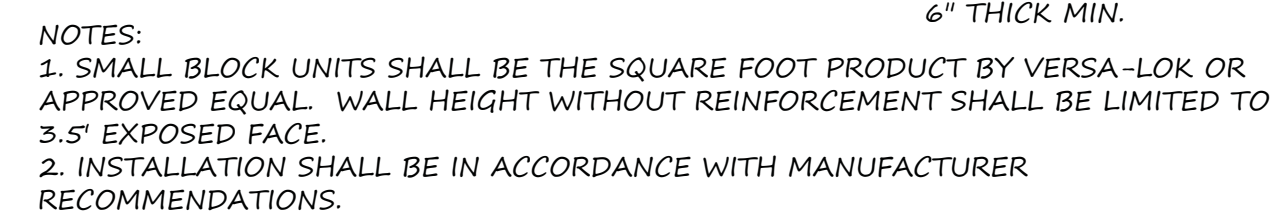
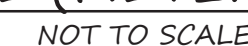
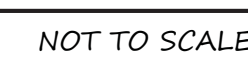
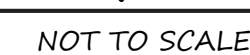
NOT TO SCALE



(NO SCALE)



NOT TO SCALE



NOT TO SCALE



D158-01

PLAN & DEED REFERENCE  
DEED BOOK 6563 PAGE 42  
DEED BOOK 19198 PAGE 100  
PLAN BOOK 315 NO. 1166 OF  
1984



PLAN SCALE: NOT TO SCALE

[illegible]

WILLIAM WALLACE VILLAGE  
DETAIL  
PLAN OF LAND  
IN  
MEDWAY, MA

**LEGACY**  
ENGINEERING



- NOTES:

1. INFILTRATION TRENCH UNITS TO BE RECHARGER 100XLHD AS MANUFACTURED BY CULTEC, INC., 878 FEDERAL ROAD, BROOKFIELD, CT 06804, OR APPROVED EQUAL. APPROVED EQUALS MUST CONTAIN AT LEAST THE SAME TOTAL SYSTEM STORAGE VOLUME AND BOTTOM AREA.
2. INSTALLATION SHALL BE IN ACCORDANCE WITH MANUFACTURER RECOMMENDATIONS.
3. TWO-TRENCH SYSTEM CROSS-SECTION SHOWN. MULTIPLE TRENCHES WOULD USE THE SAME EXTERIOR STONE THICKNESS AND INTERIOR CHAMBER SEPARATION VALUES.
4. INFILTRATION TRENCH SHALL BE ABLE TO WITHSTAND H-20 LOADINGS.
5. REMOVE ALL TOPSOIL AND SUBSOIL BELOW SYSTEM AND REPLACE WITH GRAVEL MEETING ENGINEER'S APPROVAL AS NEEDED.

NOT TO SCALE

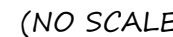


- NOTES:

1. WEIR LENGTH (A), DEPTH (B), & BOTTOM WIDTH (C) OF SPILLWAY AND ELEVATION OF THE SPILLWAY LIP SHALL BE AS SPECIFIED ON THE GRADING AND PROFILE SHEETS.
2. WEIR LIP SHALL FOLLOW EXISTING GRADES AS CLOSELY AS POSSIBLE.



NOT TO SCALE



- NOTES

1. CONCRETE SHALL BE 4,000 PSI AFTER 28 DAYS.
2. SHALL CONFORM TO H-20 LOADINGS.
3. SHALL BE POWER DRAIN S300K BY ACO DRAIN OR EQUAL.

NOT TO SCALE



SCHEDULE OF DIMENSIONS AND ELEVATIONS

	BASIN #1	BASIN #2	BASIN #3	BASIN #4	BASIN #5
BOTTOM OF BASIN ELEVATION "A"	186.0	185.2	185.0	184.5	186.0
TOP OF BERM ELEVATION "B"	187.0	187.0	186.0	187.0	187.0
RIP RAP SWALE OUTLET ELEV.	186.6	N/A	N/A	N/A	186.7

NOT TO SCALE

OWNER  
#274  
DDRT LLC  
P.O. BOX 95  
TRURO, MA 02666

PORTION OF #276  
KEITH & JUDITH SPINNEY  
276 VILLAGE STREET  
MEDWAY, MA 02053

APPLICANT  
DDRT LLC  
P.O. BOX 95  
TRURO, MA 02666

ZONING DISTRICT  
AGRICULTURAL RESIDENTIAL II

ASSESSORS PARCEL  
59-55

PLAN & DEED REFERENCE  
DEED BOOK 6563 PAGE 42  
DEED BOOK 19198 PAGE 100  
PLAN BOOK 315 NO. 1166 OF  
1984



Digitally signed by Daniel J. Merrikin, P.E.  
Date: 2019.07.01 14:32:15  
-04'00'

PLAN SCALE: NOT TO SCALE

PLAN DATE: JUNE 25, 2019

WILLIAM WALLACE VILLAGE  
DETAIL  
PLAN OF LAND  
IN  
MEDWAY, MA

730 MAIN STREET  
SUITE 2C  
MILLIS, MA 02054  
508-376-8883(o)

C-9

D158-01



**LEGACY**  
ENGINEERING





Allen M. Tingley  
Chief of Police

# Medway Police Department

315 Village Street  
Medway, MA 02053

Phone: 508-533-3212  
Fax: 508-533-3216  
Emergency: 911

July 11, 2019

To: Susan Affleck-Childs  
Planning & Economic Development  
Coordinator

From: Jeffrey W. Watson  
Sergeant/Safety Officer  
Medway Police Department

Ref: William Wallace Village

I have looked at the site plan for the William Wallace Village located at 274 Village Street dated June 25, 2019. I am concerned that there are no sidewalks connecting to the guest parking or to the mail Kiosk.

I would recommend that the town request stop signs and line painting to be located near the mail kiosk as well as the exit onto Village Street. The site plan alludes to a one way direction of travel. If this is the case one way signs will need to be erected as well as a "Do Not Enter" sign near the mail kiosk.



July 12, 2019

Ms. Susan E. Affleck-Childs  
Medway Planning and Economic Development Coordinator  
155 Village Street  
Medway, MA 02053

**Re: William Wallace Village  
Site Plan Review – Multifamily Special Permit  
274-276 Village Street  
Medway, Massachusetts**

Dear Ms. Affleck-Childs:

We are pleased to submit this Proposal to the Town of Medway Planning and Economic Development Board (PEDB) (the Client) for professional engineering services associated with the William Wallace Village Multifamily Special Permit Site Plan Review in Medway, Massachusetts (the Project). The objective of our services is to review the site plan package and provide comments as they relate to latest Town of Medway Rules and Regulations Chapter 200 – Submission and Review of Site Plans (Site Plan Regulations), Town of Medway Article 26 – Stormwater Management and Land Disturbance Bylaw (Stormwater Bylaw), Massachusetts Department of Environmental Protection Stormwater Management Standards (MA DEP Stormwater Standards) and associated Stormwater Handbook and sound engineering practice. We have excluded from our scope, the review of the application package as it relates to the Town of Medway Zoning By-Laws which will be conducted by a separate consultant.

## **Scope of Services**

The following specifically describes the Scope of Services to be completed:

### **Task 1 – Site Visit**

- A. Perform one (1) site visits to review the site and its surroundings.
  - Budget Assumption: 1 Visit  
2 hours @ \$143/hr = \$286  
Total = \$286

### **Task 2 – Design Review**

- A. Review the permit Application, and supporting documentation, and incorporate comments into review letter in item E below.
  - Budget Assumption: 1 hour @ \$143/hr = \$143  
1 hour @ \$95/hr = \$97  
Total = \$240
- B. Review the proposed Plans against the Town of Medway PEDB Site Plan Regulations and incorporate comments into review letter in item E below.
  - Budget Assumption: 2 hours @ \$143/hr = \$286  
6 hours @ \$97/hr = \$582  
Total = \$868

- C. Review the Stormwater Report for compliance with the latest Massachusetts Department of Environmental Protection Stormwater Management Standards, applicable town stormwater standards and good engineering practice and incorporate comments into review letter in item E below.
- Budget Assumption: 6 hours @ \$143/hr = \$858  
4 hours @ \$97/hr = \$388  
Total = \$1,246
- D. Review the Site Plans for compliance with the Town of Medway Stormwater Bylaw and incorporate comments into review letter in item E below.
- Budget Assumption: 2 hours @ \$143/hr = \$286  
4 hours @ \$97/hr = \$388  
Total = \$674
- E. Prepare a letter summarizing findings for presentation to the Town of Medway PEDB.
- Budget Assumption: 2 hours @ \$143/hr = \$286  
4 hours @ \$97/hr = \$388  
Total = \$674
- F. Coordinate with applicant to address items in initial review letter and issue one (1) revised letter upon receipt of modifications. This task is limited to minor changes in the site plans which directly address comments from our initial review letter. Major changes to the Plans and/or Stormwater Report will require additional funds.
- Budget Assumption: 4 hours @ \$143/hr = \$572  
4 hours @ \$97/hr = \$388  
Total = \$960

### Task 3 – Meeting Attendance

- A. Participate in three (3) hearings/meetings with the Town of Medway PEDB.
- Budget Assumption: 3 Meetings @ 3 hours per meeting = 9 Hours  
9 hours @ \$143/hr = \$1,287  
Total = \$1,287

### Cost

Our cost for the above Scope of Services will be on a time and expenses basis in accordance with Tetra Tech's and existing Town of Medway contract rates. Direct expenses will be billed at a fixed fee of five (5) percent of labor costs. We suggest that you establish a budget identified below for these services, which will not be exceeded without your approval. Please be advised that this estimate is based on our current understanding of the Project needs and is for budget purposes only. The total cost of our services will depend greatly on the completeness and adequacy of the information provided.

The breakdown of this fee by task is as follows:

Task	Task Description	Fee
Task 1	Site Visit	\$286
Task 2	Design Review	\$4,662
Task 3	Meeting Attendance	\$1,287
<b>Labor Subtotal</b>		<b>\$6,235</b>
Expenses (5%)		\$312
<b>Total</b>		<b>\$6,547</b>

### Schedule

We are prepared to begin work immediately upon receipt of this executed Proposal. We recognize that timely performance of these services is an important element of this Proposal and will put forth our best effort, consistent with accepted professional practice, to comply with the project's needs. We are not responsible for delays in performance caused by circumstances beyond our control or which could not have reasonably been anticipated or prevented.

## General Terms and Conditions

This Proposal is subject to the existing Terms and Conditions signed by Tetra Tech and the Town of Medway. Should this proposal meet with your approval, please sign and return a copy to us for our files. Your signature provides full authorization for us to proceed. We look forward to working with you on this Project. Please contact us with any questions, or if you require additional information.

Very truly yours,



Steven M. Bouley, P.E.  
Senior Project Engineer



Sean P. Reardon, P.E.  
Vice President

Date Approved by Town of Medway PEDB \_\_\_\_\_

Certified by:

\_\_\_\_\_  
Susan E. Affleck-Childs  
Medway PEDB Coordinator

\_\_\_\_\_  
Date

M:\SITE\BOULEY\MEDWAY\_PEDB\_WILLIAM WALLACE REVIEW\_2019-07-12.DOCX

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**PGC ASSOCIATES, LLC**

1 Toni Lane  
Franklin, MA 02038-2648  
508.533.8106  
[gino@pgcassociates.com](mailto:gino@pgcassociates.com)

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July 8, 2019

Mr. Andy Rodenhiser, Chairman  
Medway Planning Board  
155 Village Street  
Medway, MA 02053

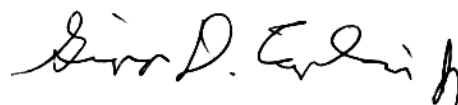
Dear Mr. Rodenhiser:

PGC Associates is pleased to present the following cost estimate to review and comment on the proposed multifamily special permit plan submitted by DTRT, LLC of Truro. The owners are DTRT, LLC, and Keith and Judith Spinney of Medway. The proposal is to construct 14 townhouse units in seven duplex buildings on 3.6 acres with an existing house and other buildings (to be razed) including associated parking, drainage, landscaping, etc. The plan was prepared by Legacy Engineering of Millis. The plan is dated is dated June 25, 2019.

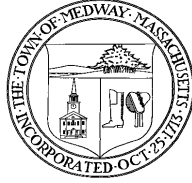
<b><u>Task</u></b>	<b><u>Hours</u></b>
Technical review and comment on initial submittal for compliance with zoning, site plan regulations, multifamily zoning and affordable housing requirements	4.0
Attendance at Planning Board meetings/hearings	2.5
Review and comment on revised plans	1.0
Review and comment on draft Certificate of Action	2.0
Total	8.5
<b>Cost Estimate (@100)</b>	<b>\$850.00</b>

If there are any questions about this estimate, please call me.

Sincerely,



Gino D. Carlucci, Jr.



**July 23, 2019**

**Medway Planning & Economic Development Board  
Meeting**

**20 Broad Street – Informal Discussion**

- Site Development Plan dated June 26, 2019 prepared by GLM Engineering Consulting, LLC

1. THE EXISTING CONDITIONS AND PROPERTY LINE SURVEY WAS CONDUCTED BY A.S. ELLIOTT ASSOCIATES, P.O. BOX 85, HOPEDALE, MASSACHUSETTS.
2. SUBJECT TO ANY STATEMENT OF FACT AN UP-TO-DATE ABSTRACT OF TITLE WOULD DISCLOSE.
3. SUBJECT TO ALL RIGHTS, EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD.
4. UNDERGROUND UTILITIES, STRUCTURES AND FACILITIES, IF ANY, HAVE BEEN SHOWN FROM SURFACE LOCATIONS AND MEASUREMENTS OBTAINED FROM A FIELD SURVEY AND RECORD LOCATIONS. THEREFORE THEIR LOCATIONS MUST BE CONSIDERED APPROXIMATE ONLY. THERE MAY BE OTHER UTILITIES WHICH THE EXISTANCE OF ARE NOT KNOWN, SIZE, TYPE AND LOCATION OF ALL UTILITIES MUST BE VERIFIED BY PROPER AUTHORITIES PRIOR TO ANY AND ALL CONSTRUCTION. CALL, TO FREE DIG SAFE AT 1-888-DIG-SAFE, SEVENTY-TWO HOURS PRIOR TO EXCAVATION.
5. ELEVATIONS ON THIS PLAN ARE APPROXIMATE AND REFERENCE THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD 1929).
6. BENCHMARK #1 INFORMATION:  
IN THE CENTER OF MEDWAY ON THE SOUTH SIDE OF VILLAGE STREET, 29.5 FEET SOUTH OF THE CENTERLINE IN FRONT OF A CATHOLIC CHURCH, 51.5 FEET FROM THE NORTHWEST CORNER, A GRANITE POST A THE EAST SIDE OF WEST WALK TO CHURCH, AT THE STREET LINE (NO MARK) MASS DOT POINT ID: 14258; STATION NAME: CR 34.
7. APPROXIMATE LOCATION OF ZONE/ADAPTIVE USE OVERLAY DISTRICT BOUNDARY LINE IS TAKEN FROM THE TOWN OF MEDWAY GIS MAP, AND SHOWN GRAPHICALLY.

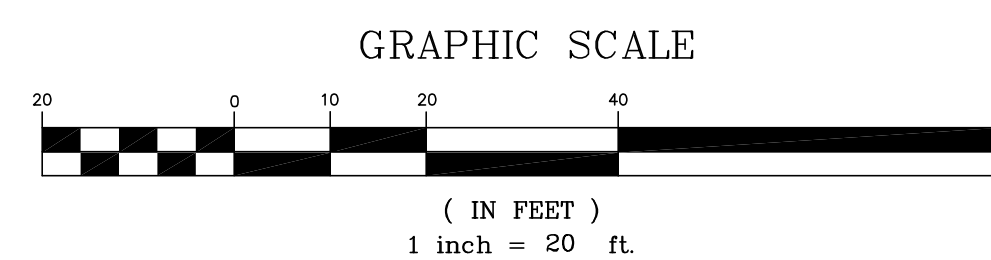
NORFOLK COUNTY REGISTRY OF DEEDS  
BOOK 35831, PAGE 346

NORFOLK COUNTY REGISTRY OF DEEDS  
1. PAN No. 71 OF 2008, PL. BK. 588  
2. PLAN No. 737 OF 1987, PL. BK. 355  
3. PLAN BK. 2272, PAGE 496  
4. PLAN BK. D209, PAGE 900

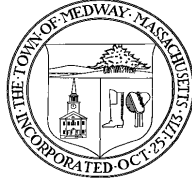
MAP 60, LOT 232

(VC) – VILLAGE COMMERCIAL  
(MHOD) – MULTIFAMILY HOUSING OVERLAY DISTRICT  
(AUOD) – ADAPTIVE USE OVERLAY DISTRICT  
GROUNDWATER PROTECTION DISTRICT

	<u>REQUIRED</u>
MIN LOT AREA:	10,000 S.F.
LOT FRONTAGE:	NA
MIN FRONT SETBACK:	20 FT.
SIDE YARD SETBACK:	10 FT.
REAR YARD SETBACK:	10 FT.
MAX BUILDING HEIGHT:	40 FT.
MAX LOT COVERAGE:	80%



<p><b>SITE DEVELOPMENT PLAN</b>  <b>"20 BROAD STREET"</b>  <b>MEDWAY, MASSACHUSETTS</b></p> <p>PREPARED FOR:  <b>VILLAGE DISTRICT DEVELOPMENT, LLC.</b>  <b>9A NORTH STREET</b>  <b>MEDWAY, MASSACHUSETTS</b></p>		REVISIONS	
		No.	DESCRIPTION
<p><b>GLM</b> Engineering Consultants, Inc.  19 EXCHANGE STREET  HOLLISTON, MA 01746  P: 508-429-1100  F: 508-429-7160  <a href="http://www.GLMengineering.com">www.GLMengineering.com</a></p>		DATE	
JOB No.		16,529	
DATE:		JUNE 26, 2019	
SCALE:		1"=20'	
SHEET:		1 of 1	
PLAN #:			



**July 23, 2019**

**Medway Planning & Economic Development Board  
Meeting**

**Phytotherapy, Inc. 6 Industrial Park  
Road – Informal Discussion**

- Host Community Agreement with Medway Board of Selectmen dated 06-17-19
- “Existing Conditions Plan” dated 08-31-18 prepared by Williams Sparages Engineers

Note: Attorney Brian Salisbury will be at the meeting for the discussion

## Stefany Ohannesian

---

**From:** Edward V. Cannon <EVC@DCDCLAW.com>  
**Sent:** Tuesday, July 16, 2019 10:32 AM  
**To:** Stefany Ohannesian  
**Cc:** Alex Athanas; Brian T. Salisbury  
**Subject:** 6 Industrial Park Road  
**Attachments:** TPindustrialparkroad#6.pdf; HCA Amendment 6.17.19 BOS Executed.pdf

Hi Stefany,

Here is a preliminary plan and a copy of the amended HCA Amendment.

Phytotherapy is in the process of having Noise & Odor Mitigation Plans completed. We will be asking the Board if they will have any objection to waiving a traffic study as the traffic impacts will be negligible.

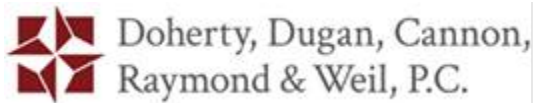
We have some feedback from the fire chief that we'll share with the Board that evening so the Board knows we'll be meeting the chief's expectations.

If there is any additional material that becomes available prior to our meeting, I'll send that in.

Thanks.

Ted

Edward V. Cannon, Jr., Esq.



124 Grove Street, Suite 220  
Franklin, MA 02038

WEB: [www.dcdclaw.com](http://www.dcdclaw.com)  
TEL: 508-541-3000 x218  
FAX: 508-541-3008  
MOB: 508-735-8852  
[EVC@dcdclaw.com](mailto:EVC@dcdclaw.com)

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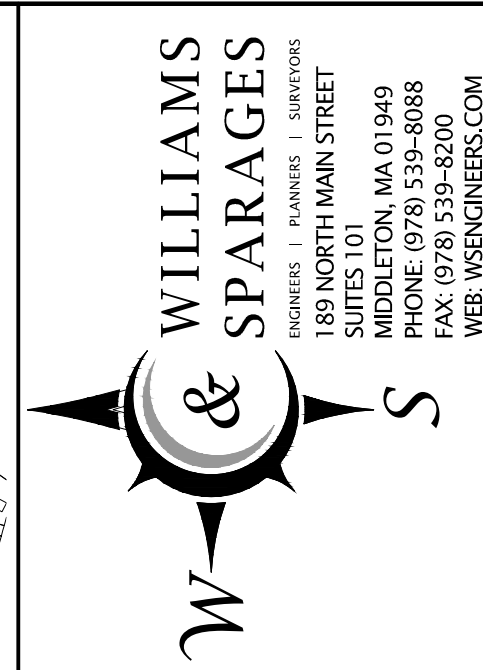
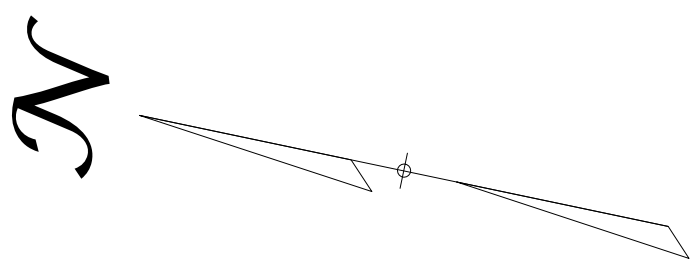
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EXISTING 2-FOOT CONTOUR	_____ 146 _____
EXISTING 10-FOOT CONTOUR	_____ 150 _____
PAINTED GAS LINE	_____ o _____ o _____
CHAIN LINK FENCE	_____
EDGE OF PAVEMENT	_____ EP _____
BITUMINOUS BERM	_____ BBIT _____
SEWER MANHOLE	_____ (S) _____

WATER GATE WG  
○

DRAIN MANHOLE (D)

FIRST FLOOR	F.F.
REINFORCED CONCRETE PIPE	RCP
INVERT	INV



Designed By: Others	<input checked="" type="checkbox"/> Drawing Issued for Review Only
Drawn By: MRP	<input type="checkbox"/> Drawing Issued for Permit
Reviewed By: CPS	<input type="checkbox"/> Drawing Issued for Construction
Project Manager: CPS	
Job File Number: MEDW-0017	
Drawing File Folder: MEDW17	

# EXISTING CONDITIONS PLAN

6 INDUSTRIAL PARK ROAD, MEDWAY, MA

15' 30' 60'

SCALE: 1"=30'

AUGUST 13, 2018

SHEET 1 OF 1

**PhytoTherapy, Inc.**

**Amended and Restated Host Community Agreement**

**Marijuana Cultivation & Processing Facility**

**Medway, Massachusetts**

This Host Community Benefit Agreement, originally entered into on the \_\_7th\_\_ day of \_\_May\_\_, 2018 (the “**Agreement**”) by and between PhytoTherapy, Inc., with a principal office address of 25 Newbury Street, Peabody, MA 01960 and/or its assignee or designee (“**OPERATOR**”) and the Town of Medway, a Massachusetts municipal corporation with a principal address of 155 Village Street, Medway, Massachusetts 02053 (“**TOWN**”), is hereby amended and restated as changed by the parties as of June \_\_\_\_\_, 2019 as follows below.

WHEREAS, OPERATOR intends to locate (a) a Registered Marijuana Dispensary cultivation and processing facility, which shall be construed to include a Medical Marijuana Treatment Center operated by the Operator at the PROPERTY and the terms of the Agreement shall remain applicable thereto regardless of how such facility may be characterized under applicable law, including but not limited to G.L. c.94G, G.L. c.94C, App. 1-17, and An Act for the Humanitarian Use of Marijuana, Chapter 269 of the Acts of 2012, subject to the registration and/or licensing process required by the Department of Public Health (“DPH”) or CCC or any other state entity (“**RMD**”), and (b) a Marijuana Cultivator and Marijuana Product Manufacturer, as those terms are defined in G.L. c.94G, §1 and 935 CMR 500.00 (together, the Marijuana Cultivator and Marijuana Product Manufacturer are referred to herein as the “**MARIJUANA ESTABLISHMENT**”), at 6 Industrial Park Road, Medway (the “**PROPERTY**”); and

WHEREAS, the obligations of OPERATOR and the TOWN recited herein are specifically contingent upon OPERATOR obtaining: (a) either (i) a Final Certificate of Registration for operation of a RMD in the TOWN from the Department of Public Health (“DPH”), or (ii) a license to operate a MARIJUANA ESTABLISHMENT in the Town from the Cannabis Control Commission (“CCC”); and (b) zoning and building department approvals for construction and operation of a RMD and/or a MARIJUANA ESTABLISHMENT from the TOWN; and

WHEREAS, OPERATOR has obtained a letter of non-opposition from the TOWN for the siting and operation of a RMD in the TOWN; and

WHEREAS, the TOWN does not oppose the siting and operation of the facility at 6 Industrial Park Road for cultivation of recreational (non-medical) marijuana to be distributed to retail sales facilities outside and beyond the Town of Medway, and TOWN and OPERATOR both agree and stipulate that this Agreement shall also apply to the operation of a MARIJUANA ESTABLISHMENT (but not a marijuana retailer as defined in G.L. c.94G, §1); and

WHEREAS, OPERATOR intends to provide certain benefits to the TOWN in the event that OPERATOR obtains a Final Certificate of Registration or equivalent license to operate a RMD or a Final Certificate of Registration or equivalent license for the operation of a MARIJUANA ESTABLISHMENT from the CCC in the TOWN and has received all state and local approvals, and begins providing marijuana for medical use to patients, their caregivers, the public, or other RMDs; and

WHEREAS, OPERATOR and the TOWN agree that benefits provided by the OPERATOR to the Town herein represent a full commitment to the Community and shall not necessitate an additional agreement in the event that marijuana cultivation and production operations commence for non-medical purposes as

contemplated, allowed and limited hereunder and further agree that this Agreement is executed pursuant to M.G.L. c. 94G, §3(d).

NOW, THEREFORE, in consideration of the above, OPERATOR offers the TOWN and the TOWN accepts this Host Community Agreement in accordance with G.L. c.44, §53A and G.L. c.94G, §3(d):

1. In the event that OPERATOR obtains a Final Certificate of Registration from DPH for the operation of a RMD cultivation and processing facility in the TOWN and/or a Final Certificate of Registration for the operation of a MARIJUANA ESTABLISHMENT in the Town and receives any and all necessary and required permits and licenses issuable by the TOWN, which said permits and/or licenses allow OPERATOR to locate, occupy and operate the RMD cultivation and processing facility and/or a MARIJUANA ESTABLISHMENT in the TOWN or in any other manner commences growing operations on the PROPERTY, then OPERATOR agrees to provide the TOWN with the following:
  - a. The OPERATOR shall pay to the Town of Medway an annual amount of three percent (3%) of the net sales generated by the OPERATOR for cannabis and cannabis products that is cultivated, grown, produced, processed, and/or manufactured at the RMD and MARIJUANA ESTABLISHMENT and then sold pursuant to a wholesale agreement to any retail dispensing location (the "Fee"), provided that in no case shall this amount be less than an annual sum of two hundred and seventy thousand dollars (\$270,000), paid annually on each June 15 commencing on June 15, 2020, however the fifth-year payment shall be due on June 15, 2025. For purposes of this agreement, "net sales" shall mean the gross revenue generated by the sale of the cannabis or cannabis products minus all applicable expenses and costs of goods sold incurred by the OPERATOR with respect to such cannabis and/or cannabis products.
  - b. Said payments are anticipated by the TOWN to be allocated for the purpose of reimbursing the Town for the costs and expenses generally implicated as a result of the location in the Town of a RMD or MARIJUANA ESTABLISHMENT, or both.
2. To satisfy the conditions of this paragraph relative to the calculation of the Fee, annually on or before April 15<sup>th</sup>, the OPERATOR shall provide the Town with certified financial statements detailing receipts for the prior calendar year. Notwithstanding the provisions of Paragraph 1, at all times during the term of this Agreement, real property, owned or operated by OPERATOR shall be treated as taxable, and all applicable real estate and personal property and excise taxes for that property shall be paid either directly by OPERATOR or by its landlord. OPERATOR shall not challenge the taxability of such property and shall not submit an application for any statutory exemption from such taxes, except to ensure that the property is assessed at the fair cash value of such property as described in G.L. c.59 §38.
3. Notwithstanding Paragraph 2 above: (a) if real and/or personal property owned or operated by OPERATOR is determined to be exempt for taxation or partially exempt, or (b) if the value of such property is abated with the effect of reducing or eliminating the tax which would otherwise be paid if assessed at the fair cash value of such property as described in G.L. c.59 §38, then OPERATOR shall pay to the TOWN an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no

abatement or exemption. The payment described in this Paragraph 3 shall be in addition to the payments made by OPERATOR under Paragraphs 1 and 2 of this Agreement.

4. In the event that OPERATOR becomes eligible for status as a charitable organization and a related decrease or elimination of real property taxes, and tax revenue from OPERATOR's RMD or MARIJUANA ESTABLISHMENT located in the TOWN is reduced or eliminated, OPERATOR will continue to make a payment to the Town equivalent to the value of the assessed, fair cash value tax payment that would otherwise be due if the PROPERTY were taxable.
5. OPERATOR shall endeavor to hire local, qualified employees to the extent permissible by law and with the demands of OPERATOR's business, but this does not prevent Operator from hiring the most qualified candidates. OPERATOR shall also endeavor in a good faith, legal and non-discriminatory manner to use local vendors and suppliers where possible.
6. OPERATOR shall coordinate with the Medway Police Department in the development and implementation of required security measures pursuant to 105 CMR 725.110 and 935 CMR 500.110, or any other applicable law or regulation, including in determining the placement of exterior security cameras. OPERATOR shall maintain a cooperative relationship with the Medway Police Department, including but not limited to periodic meetings to review operational concerns and communication to Medway Police Department of any suspicious activities on the site.
7. It shall be the responsibility of the OPERATOR, as a condition in the special permit process and herein, to provide the TOWN with an annual sum of twenty-thousand dollars (\$20,000), payable annually on June 15 commencing June 15, 2020, with the fifth-year payment due June 15, 2025, to be used by the TOWN for repairs and maintenance to streets and sidewalks in Medway in lieu of OPERATOR making improvements to Industrial Park Road, provided however that any repairs needed on Industrial Park Road as identified by the TOWN as caused by the OPERATOR or any contracted vendor of the OPERATOR during or after initial construction shall be the sole responsibility, including financial responsibility, of the OPERATOR; provided, however, that if the OPERATOR fails to undertake work deemed necessary by the TOWN, and the TOWN makes such improvements, OPERATOR shall reimburse TOWN for all costs thereof, including incidental and related expenses, including any legal expenses associated with seeking reimbursement for the same.
8. The purpose of this Agreement is to assist the TOWN in addressing any public health, safety and other effects or impacts the RMD cultivation and processing facility and Marijuana Establishment may have on the TOWN. The TOWN shall use the above-referenced payments in its sole discretion consistent with the purpose of this Agreement, which may include allocating a portion of said payments for community wellness programs, educational programs, parks and recreation, public safety, and other efforts and initiatives for the support of the health of the citizens of the TOWN. As such, the payments required hereunder shall be in lieu of any Impact Fees allowed pursuant to G.L. c.94G, §3(d), and the TOWN specifically disclaims any right to seek additional Impact Fees. However, the TOWN is under no obligation to use the foregoing payments in any particular manner.

9. The obligations of OPERATOR and the TOWN recited herein are contingent upon the issuance of a RMD Final Certificate of Registration and/or a Marijuana Establishment License, however characterized, as one or both may be required the DPH and/or CCC, to operate such facility in the TOWN, and OPERATOR conducting operations in TOWN.
10. This Agreement shall terminate at the time that any of the following occurs: (a) the TOWN notifies OPERATOR of the TOWN's termination of this Agreement; (b) the TOWN notifies OPERATOR of the TOWN's termination of this Agreement for cause (as defined below); (c) OPERATOR ceases to operate a RMD and MARIJUANA ESTABLISHMENT in the TOWN. The term "cause" for purposes of this agreement shall include, but not be limited to: failure to make the payments required by paragraphs 1-4 and 7, failure to work cooperatively with the TOWN to address public safety issues, failure to meet any requirements of the special permit, or OPERATOR violation of any laws of the Commonwealth with respect to the operation of a RMD and/or MARIJUANA ESTABLISHMENT, with any such violation remaining uncured for sixty (60) days after receipt of written notice of such violation.
11. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. OPERATOR shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, which consent shall not be unreasonably withheld; provided however such consent shall not be required in the event such transfer or assignment is between the OPERATOR and another entity which is authorized by the DPH, CCC or other authorizing entity to operate the RMD or MARIJUANA ESTABLISHMENT for the cultivation and production of marijuana, or if such assignment or transfer is the result of a merger or consolidation with or a sale or transfer of a majority of the equity ownership by the OPERATOR and such sale or transfer is subsequently approved by the CCC.
12. OPERATOR shall comply with all laws, rules, regulations and orders applicable to the work on the RMD and the MARIJUANA ESTABLISHMENT pursuant to this Agreement, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary state and local licenses, permits, and approvals required for the performance of such work.
13. Should TOWN enter into an agreement with any other RMD or MARIJUANA ESTABLISHMENT after the date of this Host Community Agreement for siting in TOWN at material terms more favorable to that RMD or MARIJUANA ESTABLISHMENT than the terms of this Agreement are to OPERATOR, specifically requiring cash payments or gifts that are less on an annual basis than those in Paragraph 1 of this Agreement, and not considering other terms of this Agreement, the OPERATOR shall have the opportunity to request that this Agreement be reopened to discuss the specific term or terms in question for the purpose of providing a level playing field.
14. Any and all notices, or other communications required or permitted under this Agreement shall be in writing and delivered postage prepaid mail, return receipt requested; by hand; by registered or certified mail; or by other reputable delivery services, to the Parties at the addresses set forth on the first page of this Agreement or furnished from time to time in writing hereafter by one party to the other party. Any such notices or correspondence shall be deemed

given when so delivered by hand, if so mailed, when deposited with the USPS or, if sent by private overnight or other delivery service, when deposited with such delivery service.


15. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable, then the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both of the Parties would be substantially or materially prejudiced.
16. This Agreement, including all documents incorporated therein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiation and representations, either written or oral and it shall not be modified or amended except by a written document executed by the Parties hereto.
17. This Agreement shall be for a period of five (5) years and shall automatically be reopened for good faith negotiations on January 1, 2024 to discuss a successor agreement. The Parties agree that, unless otherwise prohibited by applicable law, regulation or statute, if they are unable to reach an agreement on a successor Host Community Agreement, the terms of this Agreement shall be incorporated into an interim successor agreement with a term of two (2) years and that the parties shall during that two year term negotiate a successor agreement for a term of five (5) years.
18. In the event that the OPERATOR shall increase the RMD or MARIJUANA ESTABLISHMENT, including building footprint, at any time following the date of this Agreement, then the OPERATOR agrees to provide to the TOWN an annual sum of money equal to one-dollar (\$1) per square foot of increased space, with said amount to be available for use by the TOWN for municipal purposes related to impacts created by the RMD or MARIJUANA ESTABLISHMENT, with said amount due on February 1 in the year following issuance of a building permit for said space increase. This amount shall be in addition to any other amounts stipulated herein, including other payments or taxes owed, and shall be paid annually on February 1<sup>st</sup> following the initial payment.
19. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the parties submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

Agreed to by PhytoTherapy, Inc. and the Town of Medway, Massachusetts as of the 17<sup>th</sup> day of JUNE, 2019.

**FOR THE TOWN OF MEDWAY,  
ITS BOARD OF SELECTMEN:**

  
John A. Foresto, Chair

**FOR OPERATOR PhytoTherapy, Inc.**  
**ITS PRESIDENT:**

 6/13/19  
\_\_\_\_\_  
Alexander Athanas,  
President, PhytoTherapy, Inc.



July 23, 2019

Ms. Susan E. Affleck-Childs  
Medway Planning and Economic Development Coordinator  
155 Village Street  
Medway, MA 02053

**Re: William Wallace Village  
Site Plan Review – Multifamily Special Permit  
274-276 Village Street  
Medway, Massachusetts**

Dear Ms. Affleck-Childs:

We are pleased to submit this Proposal to the Town of Medway Planning and Economic Development Board (PEDB) (the Client) for professional engineering services associated with the William Wallace Village Multifamily Special Permit Site Plan Review in Medway, Massachusetts (the Project). The objective of our services is to review the site plan package and provide comments as they relate to latest Town of Medway Rules and Regulations Chapter 200 – Submission and Review of Site Plans (Site Plan Regulations) and sound engineering practice. We have excluded from our scope, the review of the application package as it relates to the Town of Medway Zoning By-Laws which will be conducted by a separate consultant.

## Scope of Services

The following specifically describes the Scope of Services to be completed:

### Task 1 – Site Visit

- A. Perform one (1) site visits to review the site and its surroundings.
- Budget Assumption: 1 Visit  
2 hours @ \$143/hr = \$286  
Total = \$286

### Task 2 – Design Review

- A. Review the permit Application, and supporting documentation, and incorporate comments into review letter in Item C below.
- Budget Assumption: 1 hour @ \$143/hr = \$143  
1 hour @ \$95/hr = \$97  
Total = \$240
- B. Review the proposed Plans against the Town of Medway PEDB Site Plan Regulations and incorporate comments into review letter in Item C below.
- Budget Assumption: 2 hours @ \$143/hr = \$286  
6 hours @ \$97/hr = \$582  
Total = \$868
- C. Prepare a letter summarizing findings for presentation to the Town of Medway PEDB.
- Budget Assumption: 1 hour @ \$143/hr = \$143  
3 hours @ \$97/hr = \$291  
Total = \$434

- D. Coordinate with applicant to address items in initial review letter and issue one (1) revised letter upon receipt of modifications. This task is limited to minor changes in the site plans which directly address comments from our initial review letter. Major changes to the Plans will require additional funds.

- Budget Assumption: 1 hour @ \$143/hr = \$143  
4 hours @ \$97/hr = \$388  
Total = \$531

### Task 3 – Meeting Attendance

- A. Participate in three (3) hearings/meetings with the Town of Medway PEDB.

- Budget Assumption: 2 Meetings @ 3 hours per meeting = 6 Hours  
6 hours @ \$143/hr = \$858  
Total = \$858

### Cost

Our cost for the above Scope of Services will be on a time and expenses basis in accordance with Tetra Tech's and existing Town of Medway contract rates. Direct expenses will be billed at a fixed fee of five (5) percent of labor costs. We suggest that you establish a budget identified below for these services, which will not be exceeded without your approval. Please be advised that this estimate is based on our current understanding of the Project needs and is for budget purposes only. The total cost of our services will depend greatly on the completeness and adequacy of the information provided.

The breakdown of this fee by task is as follows:

Task	Task Description	Fee
Task 1	Site Visit	\$286
Task 2	Design Review	\$2,073
Task 3	Meeting Attendance	\$858
Labor Subtotal		\$3,217
Expenses (5%)		\$161
Total		\$3,378

### Schedule

We are prepared to begin work immediately upon receipt of this executed Proposal. We recognize that timely performance of these services is an important element of this Proposal and will put forth our best effort, consistent with accepted professional practice, to comply with the project's needs. We are not responsible for delays in performance caused by circumstances beyond our control or which could not have reasonably been anticipated or prevented.

### General Terms and Conditions

This Proposal is subject to the existing Terms and Conditions signed by Tetra Tech and the Town of Medway. Should this proposal meet with your approval, please sign and return a copy to us for our files. Your signature provides full authorization for us to proceed. We look forward to working with you on this Project. Please contact us with any questions, or if you require additional information.

Very truly yours,



Steven M. Bouley, P.E.  
Senior Project Engineer



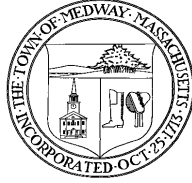
Sean P. Reardon, P.E.  
Vice President

Date Approved by Town of Medway PEDB \_\_\_\_\_

Certified by:

\_\_\_\_\_  
Susan E. Affleck-Childs  
Medway PEDB Coordinator

\_\_\_\_\_  
Date



**July 23, 2019**

**Medway Planning & Economic Development Board  
Meeting**

**CTS – 9 Trotter Drive Update**

- Email from Steve Fisk dated 07-17-19

Note: Steve Fisk will be at the meeting with Engineer Peter Bemis with an updated plan

## **Stefany Ohannesian**

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**From:** Steve Fisk <sfisk@convertingtechservices.com>  
**Sent:** Wednesday, July 17, 2019 9:45 AM  
**To:** Stefany Ohannesian  
**Subject:** RE: Planning Board Meeting - July 23, 2019

I am waiting on my engineer to produce a new site plan that shows the new location of the underground utility lines. If he has that ready in time for the meeting I'd like to get that approved before I start cutting pavement. I'm also still waiting to hear back from Eversource as to what they are going to require to move the lines.

Steve

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**From:** Stefany Ohannesian <sohannesian@townofmedway.org>  
**Sent:** Wednesday, July 17, 2019 9:34 AM  
**To:** sfisk@convertingtechservices.com  
**Subject:** Planning Board Meeting - July 23, 2019

Hi Steve,

I wanted to let you know that you are on the agenda for Tuesday's Planning Board meeting for an update on CTS. Do you have anything to provide for that meeting and are you able to attend? Thank you.

**Stefany Ohannesian**  
**Administrative Assistant**  
**Community and Economic Development**  
**Town of Medway**  
**155 Village Street**  
**Medway, MA 02053**  
**(508) 321 - 4915**