

# Agenda

## Town of Seekonk, MA Planning Board

10/14/14

7:00 PM

Seekonk Town Hall  
Planning Board Meeting Room

### Type of meeting:

Planning Board Regular Meeting

**Agenda topics** – More information on each item can be found on our website – [www.seekonk-ma.gov](http://www.seekonk-ma.gov) under Departments>Planning>Agenda Items

### 7:00 PM

Definitive Subdivision Amendment/Surety Establishment: Country Brook Estates	Watermellen, LLC
Definitive Subdivision Amendment: Summer Meadows	Trebor Properties, LLC
Surety Establishment: Farmland Estates Form A: 385 Jacob St. & 9 Philip Ct.	Bernie Mastropietro & Loretta Ferreira Philip & Maria Ippolito
Discussion: Zoning Bylaw Amendment - Non-Conformities Section	Planning Board
Discussion: Zoning Bylaw Amendment: Aquifer Protection District	Planning Board
Discussion: Chicken Bylaw	Planning Board
Discussion: Plastic Bag Ban Policy	Planning Board
Discussion: Bike Paths	Planning Board
Correspondence:	
Approval of Minutes: 9/9/14	
Adjournment	



October 6, 2014

John Hanson, Town Planner  
Town of Seekonk  
100 Peck Street  
Seekonk, MA 02771

Dear John and Members of the Planning Board,

Per the request of our client, Mr. Joseph Swift, Watermelon, LLC, InSite Engineering Services (IES) requests the review and approval of a modification to the approved Country Brook Estates Definitive Subdivision. The subdivision was originally approved by the Planning Board on October 14, 2014.

The amended subdivision proposes changes to only the Open Space. Mr. Swift and an abutter located along Mill Street have agreed to subdivide 1.25 acres of the remaining 28.61 acres of open space. This new lot would be the nineteenth lot within the subdivision. This parcel would be considered a non-buildable lot to be ultimately merged with an adjacent parcel of land.

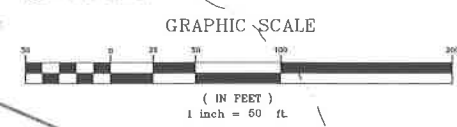
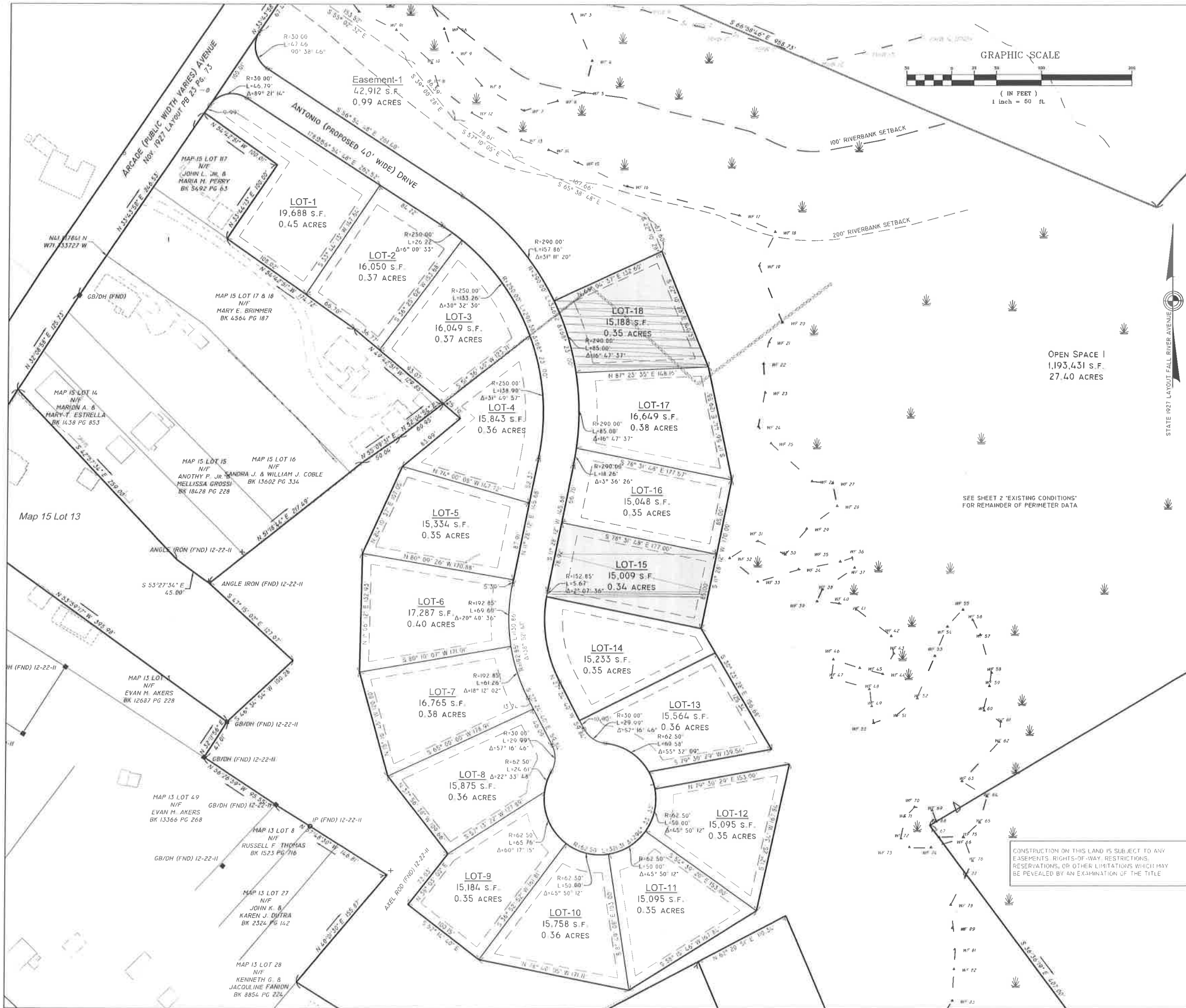
The new Open Space lot will continue to meet all of the requirements required under the Conservation Subdivision bylaws. The proposed Open Space area will contain 1,193,431 (27.4 acre) or 74% of the entire parcel versus the required 40%. Additionally the proposed lot will meet the required upland/wetland area. The proposed lot will contain 353,853 sf versus the required 300,717 sf.

Therefore, we believe that this subdivision meets all the necessary requirements of the Seekonk Planning and Subdivision and Zoning Regulations. If there are any further questions regarding our responses, please do not hesitate to call me at 508-336-4500.

Sincerely,  
InSite Engineering Services, LLC

A handwritten signature in black ink, appearing to read "PDC", written over a faint, illegible background.

Paul D. Carlson, PE  
Project Manager



LOCATION (NOT TO SCALE) MAP

REGISTRY USE ONLY

**NOTES:**

- OWNERS: WATERMELLEN LLC  
25 NELSON AVENUE FAIRHAVEN MA
- ASSESSORS DESIGNATION - MAP 15 LOT 302
- TITLE REFERENCES: DEED BOOK 16660 PAGE 105 AND DEED BOOK 19702 PAGE 268
- SITE SHOWN IS LOCATED IN ZONING DISTRICT "R-3" CONSERVATION SUBDIVISION DESIGN  
MIN. AREA = 15,000 S.F. (TOWN WATER)  
FRONTAGE = 50' MIN  
FRONT YARD = 20'  
REAR YARD = 10'  
SIDE YARD = 10'
- WETLANDS DELINEATION BY ECOSYSTEM SOLUTIONS INC. JANUARY 2012
- SITE SHOWN IS NOT LOCATED IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PLAN 25005C0204F DATED JULY 7, 2009.
- PLAN REFERENCES BRISTOL COUNTY REGISTRY OF DEEDS NORTHERN DISTRICT  
BOOK 24 PAGE 13  
BOOK 26 PAGE 32  
BOOK 25 PAGE 56  
BOOK 65 PAGE 49.
- PLAN REFERENCES TOWN RECORDS  
1927 LAYOUT OF ARCADE AVENUE  
1931 LAYOUT OF MILL ROAD
- PROPOSED BOUNDS SHOWN AS "D"
- ADDITIONAL 4 LOTS PER ZONING BY-LAW 25.10 DENSITY BONUS OPTION AND APPROVED BY PLANNING BOARD ON FEBRUARY 12, 2013
- LOTS 15 AND 18 ARE RESERVED AS AFFORDABLE HOUSING LOTS
- CLUSTER OPEN SPACE CALCULATIONS:  
OPEN SPACE REQUIREMENTS = 40% OF TOTAL PARCEL  
(BASED ON AREA OF REMAINING LAND AFTER A/R LOTS DIVIDED OFF)  
TOTAL PARCEL 1,591,433 S.F. x 40 = 636,573 S.F. MIN. REQUIRED  
PROPOSED OPEN SPACE 1,193,431 S.F. > 636,573 S.F. OK  
1,193,431 S.F. / 1,591,433 S.F. = 74.99% OPEN SPACE
- WETLAND % CALCULATIONS  
TOTAL SITE 1,591,433 - WETLANDS 839,578 = 751,855 S.F. UPLANDS (47.24%)  
REQUIRED OPEN SPACE 636,573 S.F. x 47.24% UPLAND = 300,717 S.F.  
PROPOSED OPEN SPACE 1,193,431 S.F. - WETLANDS 839,578 = 353,853 S.F. OPEN UPLAND  
353,853 S.F. OPEN UPLAND > REQUIRED OPEN UPLAND 300,717 OK

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS. THE CERTIFICATION SHOWN HEREON IS INTENDED TO MEET REGISTRY OF DEEDS REQUIREMENTS AND IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE LAND SHOWN.

PROFESSIONAL LAND SURVEYOR \_\_\_\_\_ DATE \_\_\_\_\_

SUBJECT TO A COVENANT DULY EXECUTED DATED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ RUNNING WITH THE LAND, TO BE DULY RECORDED BY OR FOR THE OWNER OF RECORD. THIS PLAN IS SUBJECT TO ALL CONDITIONS OF THE SEEKONK PLANNING BOARD CERTIFICATE OF ACTION DATED \_\_\_\_\_ FILED WITH THE SEEKONK TOWN CLERK ON \_\_\_\_\_ AND HEREWITH RECORDED AS A PART OF THIS PLAN.

I HEREBY CERTIFY THAT THERE HAS BEEN NO APPEAL TAKEN TO THIS PLANNING BOARD ACTION DURING THE 20 DAY STATUTORY APPEAL PERIOD.  
DATE \_\_\_\_\_ TOWN CLERK, TOWN OF SEEKONK \_\_\_\_\_

**SEEKONK PLANNING BOARD**  
APPROVED UNDER SUBDIVISION CONTROL LAW

PRELIM. PLAN FILED	_____
DEF. PLAN FILED	_____
PUBLIC HEARING	_____
DEF. PLAN APPROVED	_____
DEF. PLAN ENDORSED	_____

**MODIFIED DEFINITIVE - LOTTING PLAN 1**

"COUNTRY BROOK ESTATES"  
882 ARCADE AVENUE SEEKONK, MASSACHUSETTS 02771  
ASSESSORS MAP 15 LOT 302

PREPARED FOR: WATERMELLEN LLC  
25 NELSON AVENUE FAIRHAVEN MA.

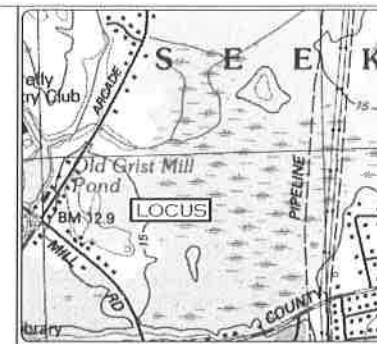
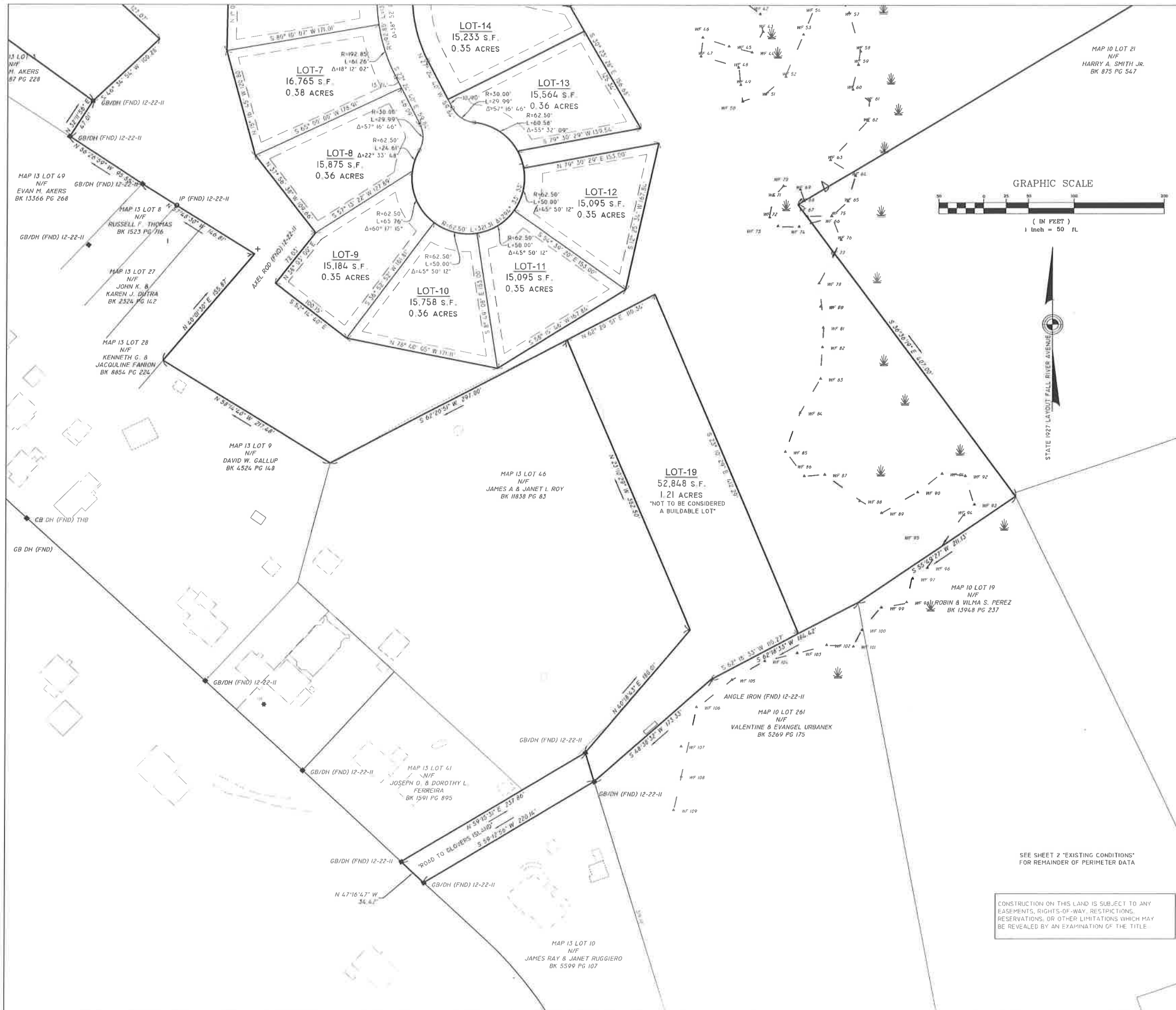
JOB #	SCALE	DRAWN BY	DATE
05-103	1" = 50'	SCA	MAR. 26 2013

REVISED: OCT. 2, 2014. ADD NON-BUILDABLE LOT 19



InSite Professional Complex, Suite 1  
1539 Fall River Avenue Seekonk, MA 02771  
Phone (508) 336-4500 Fax (508) 336-4558  
Web Address: InSiteEngineers.com

CONSTRUCTION ON THIS LAND IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS, RESERVATIONS, OR OTHER LIMITATIONS WHICH MAY BE REVEALED BY AN EXAMINATION OF THE TITLE



LOCATION (NOT TO SCALE) MAP

REGISTRY USE ONLY

- NOTES:**
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(BASED ON AREA OF REMAINING LAND AFTER ANR LOTS DIVIDED OFF)  
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DATE: \_\_\_\_\_ TOWN CLERK, TOWN OF SEEKONK \_\_\_\_\_

**SEEKONK PLANNING BOARD**  
APPROVED UNDER SUBDIVISION CONTROL LAW

PRELIM. PLAN FILED	_____
DEF. PLAN FILED	_____
PUBLIC HEARING	_____
DEF. PLAN APPROVED	_____
DEF. PLAN ENDORSED	_____

MODIFIED DEFINITIVE - LOTTING PLAN 2

"COUNTRY BROOK ESTATES"  
882 ARCADE AVENUE SEEKONK, MASSACHUSETTS 02771  
Assessors MAP 15 Lot 302

PREPARED FOR: WATERMELLEN LLC  
25 NELSON AVENUE FAIRHAVEN MA.

Job # 05-103	SCALE: 1" = 50'	DRAWN BY: SCA	DATE: MAR 26, 2013
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REVISED: OCT. 2, 2014. ADD NON-BUILDABLE LOT 19

SEE SHEET 2 "EXISTING CONDITIONS" FOR REMAINDER OF PERIMETER DATA

CONSTRUCTION ON THIS LAND IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS, RESERVATIONS, OR OTHER LIMITATIONS WHICH MAY BE REVEALED BY AN EXAMINATION OF THE TITLE.



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

**MEMORANDUM**

To: The Planning Board

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

Date: September 17, 2014

Re: Country Brook Estates – Surety Establishment

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The applicant for Country Brook Estates is requesting to establish surety for the proposed subdivision in the form of a covenant. The construction cost estimate of approximately \$714K has been reviewed and approved by the Board's inspecting engineer. The applicant is proposing a covenant on the entire development for surety.

This office recommends establishing surety for Country Brook Estates with a covenant on the entire development, with a time of performance set to expire in 12 mos.







## BRAINSKY LEVINSON, LLC

ATTORNEYS AND COUNSELORS AT LAW

Eric S. Brainsky\*  
Michael E. Levinson\*  
Kailey L. Wildenhain\*\*

Lisa A. Krupa  
Paralegal/Office Manager

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

October 1, 2014

John P. Hansen, Jr., AICP  
Town of Seekonk  
Planning Board  
100 Peck Street  
Seekonk, MA 02771

**Re: Request for Minor Modification to Condition of Decision on Definitive Plan for Summer Meadows Requested by the Applicant, Trebor Properties, LLC**

Dear John:

Please consider this correspondence, a Request for a Modification of Condition #3 of the Decision on Definitive Plan, issued by the Planning Board for the Summer Meadows Project on or about December 16, 2013. Condition #3 of the Decision requires individual sprinkler systems be installed within the individual residences, pursuant to Section 8.3 of the Subdivision Rules and Regulations.

Please be advised that the applicant has consulted Chief Michael Healy of the Seekonk Fire Department, who has indicated that he is in support of providing the \$5,000.00 per lot fee in lieu of the individual sprinkler systems pursuant to Section 8.3.3 of the Subdivision Rules and Regulations, rather than the individual sprinkler systems. It is my understanding that he will provide such recommendation in writing following receipt of this correspondence. As such, the applicant kindly requests that Condition #3 of the Decision be modified so as to require the applicant to pay a \$5,000.00 fee in lieu per lot, rather than the individual sprinkler systems, pursuant to Section 8.3.3 of the Subdivision Rules and Regulations. As this request has no impact on the design of the roadways, lots, drainage or other substantive design components of the project, we believe that this condition may be modified administratively as a minor modification to the project.

Thank you for your kind assistance with regard to this matter. Should you have any further questions or require additional information, please do not hesitate to contact me.



Very truly yours,



Eric S. Brainsky

ESB/jrl  
Enclosures

Cc: Chief Michael Healy, Seekonk Fire Chief  
Paul Carlson, PE  
Client

**John Hansen**

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**From:** Healy, Michael [chief@seekonkfd.com]  
**Sent:** Tuesday, October 07, 2014 8:11 AM  
**To:** John Hansen  
**Subject:** Summer Meadows

John:

I have received the letter from Attorney Brainsky regarding his request for modification to the condition of decision for the Definitive plan for Summer Meadows. I have spoken with Attorney Brainsky about this issue and I did tell that I would support them option of using section 8.3.3 Tanker Truck instead of the previous decision of using section 8.3.2 Sprinklers.

So instead of the previous decision , I would be looking at using the in lieu instead of using Section 8.3.2 Sprinklers and Section 8.3.4 Water Tanks. So that will be the fee of \$5, 000(five thousand) dollars per residential unit to be used according to the Rules and Regulations of the Planning Board.

If you have any other questions please feel free to contact me.

Thanks,  
Chief Healy



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

**MEMORANDUM**

To: The Planning Board

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

Date: October 2, 2014

Re: Farmland Estates – Surety Establishment

---

The applicant for Farmland Estates is requesting to establish surety for the proposed subdivision in the form of a covenant over the entire subdivision. The construction cost estimate is approximately \$340K.

This office recommends establishing surety for Farmland Estates with a covenant on the entire development, with a time of performance set to expire in 12 mos.

**FORM J  
GUARANTY PRICE ESTIMATE**

SUBDIVISION Farmland Estates DATE 10/6/2010  
 STREET NAME Rose Anne Court  
 STATION 0+00 TO 8+22 CENTERLINE LENGTH 822

DEVELOPER'S ESTIMATOR <u>Landmark Site Design</u>					DO NOT WRITE IN THIS BOX	
CONSTRUCTION ITEM	REMAINING QUANTITY	UNIT	UNIT PRICE	TOTAL ESTIMATED PRICE	INSPECTOR'S REVIEW	DPW DIRECTOR'S REVIEW
<b>SITE PREPARATION</b>						
EROSION CONTROL	1450	LF	X \$ 5.50	= \$ 7,975.00		
<b>ROADWAY CONSTRUCTION</b>						
PRE-GRAVEL SUBGRADE	925	LF	X \$ 26.22	= \$ 24,253.50		
12" GRAVEL FOUNDATION	925	LF	X \$ 12.62	= \$ 11,673.50		
BIT. CONC. BASE COURSE 2"	925	LF	X \$ 10.88	= \$ 10,064.00		
BIT CONC TOP COURSE 1.5"	925	LF	X \$ 6.05	= \$ 5,596.25		
<b>EDGING</b>						
BERM	1850	LF	X \$ 10.50	= \$ 19,425.00		
CURB INLETS	8	EA	X \$ 350.00	= \$ 2,800.00		
HDCP ACCESS RAMPS	4	EA	X \$ 300.00	= \$ 1,200.00		
<b>SIDEWALKS AND DRIVES</b>						
5' SIDEWALK ONE SIDE	950	LF	X \$ 8.36	= \$ 7,942.00		
<b>WATERWORKS SYSTEM</b>						
WATER MAINS	825	LF	X \$ 28.36	= \$ 23,397.00		
HYDRANTS	3	EA	X \$ 3,245.00	= \$ 9,735.00		
GATE VALVES	6	EA	X \$ 610.00	= \$ 3,660.00		
SERVICE CONNECTIONS	11	EA	X \$ 340.50	= \$ 3,745.50		
<b>STORMWATER SYSTEM</b>						
CATCH BASINS	10	EA	X \$ 2,800.00	= \$ 28,000.00		
DRAIN MANHOLES	6	EA	X \$ 2,800.00	= \$ 16,800.00		
DRAIN PIPE (12")	234	LF	X \$ 32.96	= \$ 7,712.64		
DRAIN PIPE (15")	392	LF	X \$ 35.29	= \$ 13,833.68		
DRAIN PIPE (18")	199	LF	X \$ 41.91	= \$ 8,340.09		
DRAIN PIPE (24")	30	LF	X \$ 59.85	= \$ 1,795.50		
HEADWALLS	1	EA	X \$ 2,175.00	= \$ 2,175.00		
PAGE 1 SUBTOTAL				<b>\$ 210,123.66</b>		

Rose Anne Court

PAGE 1 SUB-TOTAL (CARRIED FORWARD) **\$ 210,123.66**

STORMWATER SYSTEM (cont.)					
Forbay	1	LS	X	\$ 2,000.00	= \$ 2,000.00
RIP RAP	20	SY	X	\$ 6.00	= \$ 120.00
Water Quality Swale	1	LS	X	\$ 4,000.00	= \$ 4,000.00
PRE-ACCEPT. CB/MH CLEANING	16	EA	X	\$ 200.00	= \$ 3,200.00
<b>MISC UNDERGROUND UTILITIES</b>					
CABLE TELEVISION	825	LF	X	\$ 4.50	= \$ 3,712.50
TELEPHONE	825	LS	X	\$ 4.50	= \$ 3,712.50
<b>MISCELLANEOUS</b>					
STREET MONUMENTS	15	EA	X	\$ 156.00	= \$ 2,340.00
STREET SIGNS	1	EA	X	\$ 100.00	= \$ 100.00
SHADE TREES	42	EA	X	\$ 330.00	= \$ 13,860.00
GUARD RAIL	25	LF	X	\$ 23.50	= \$ 587.50
POST RAIL FENCE	288	LS	X		= \$ -
<b>COMPLETION ITEMS</b>					
RECORD PLANS	2	LS	X	\$ 1,000.00	= \$ 2,000.00
P.E. CERTIFICATION	1	LS	X	\$ 2,000.00	= \$ 2,000.00
DEED	1	LS	X	\$ 1,000.00	= \$ 1,000.00
T.M. ACCEPTANCE	1	LS	X	\$ 3,000.00	= \$ 3,000.00
<b>INCIDENTAL ITEMS</b>					
INSPECTIONS	1		X	\$ 10,900.00	= \$ 10,900.00
			X		= \$ -
			X		= \$ -
Total Cost of Street Construction					
If X \$120 + \$10,000=					
Minimum Security (15%)=					
SUBTOTALS (a)				<b>\$ 262,656.16</b>	
CONSTRUCTION MANAGEMENT @ 10% OF (a)					
REVIEWED BY (INSPECTOR)		MAINTENANCE @ 2% OF (a)			
date		CONTINGENCY @ 10% OF (a)			
SUBTOTAL (b)				\$ 26,265.62	
SUGGESTED BY (DPW DIRECTOR)		b) PER YEAR COMPOUNDED			
date		/ <b>SUGGESTED BY DPW</b>			
				\$ 5,253.12	
				\$ 26,265.62	
				\$ 320,440.52	
				\$ 19,226.43	
				<b>\$ 339,666.95</b>	



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

To: The Planning Board  
From: John P. Hansen Jr., AICP, Town Planner  
Date: September 17, 2014

**APPROVAL NOT REQUIRED REVIEW (ANR)**  
**Ippolito – Plat 17, Lot(s) 110 & 174 – 385 Jacob St. & 9 Philip Ct.**

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

**Findings of Fact:**

**Existing Conditions**

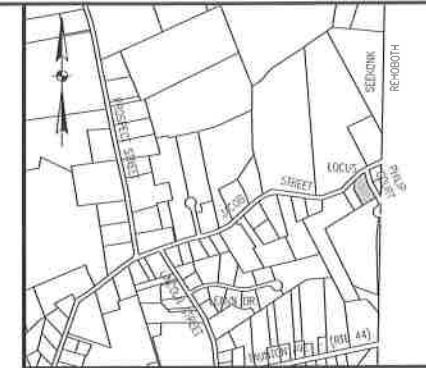
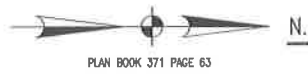
- Single-family dwellings exist on each property, which are zoned R-2.

**Proposed Lot Amendments:**

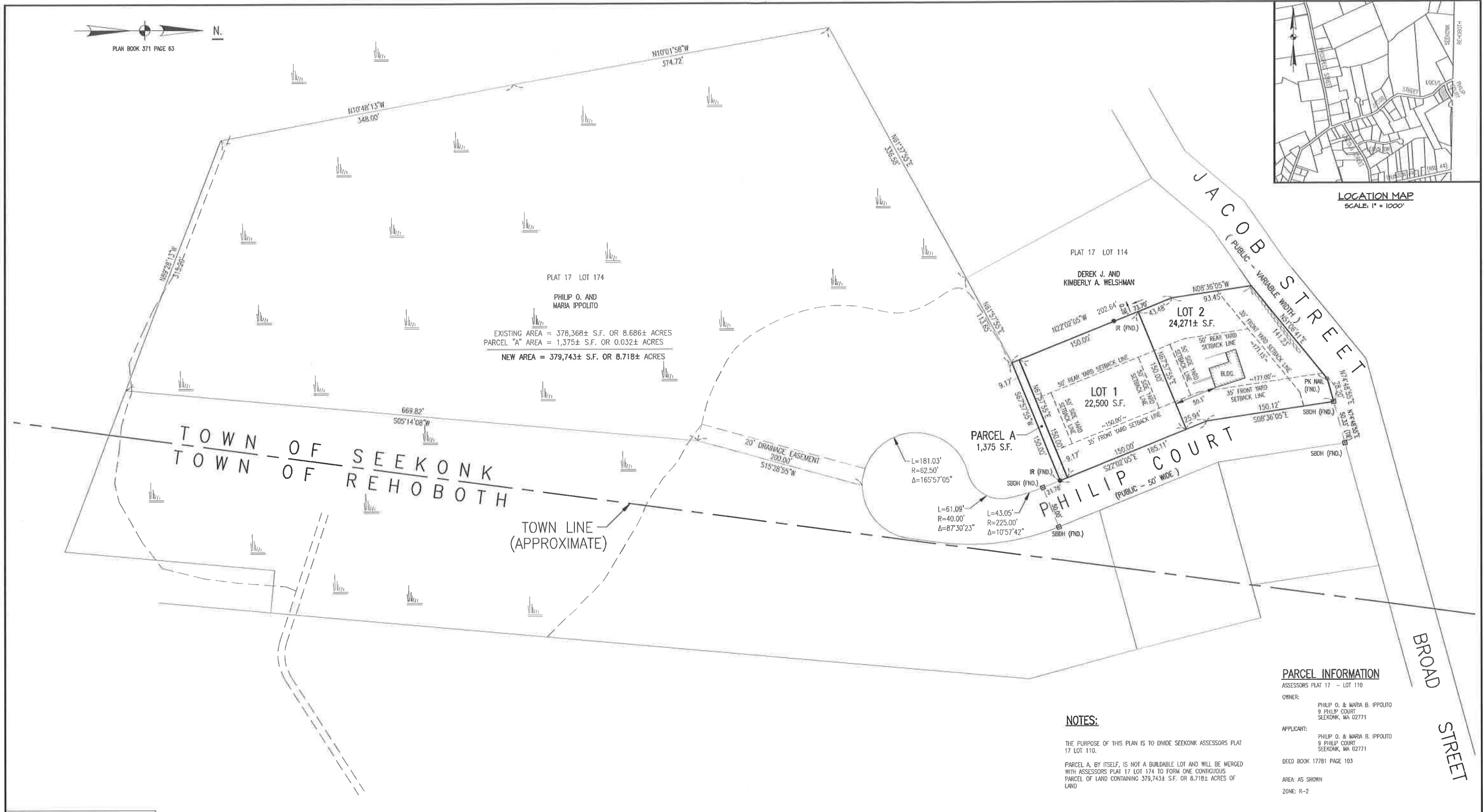
- Divide lot 110 into two lots, each with 150' of frontage (120' minimum) and divide off 1,375 sq. ft. from lot 110 and merge with lot 174. Philip Court is an accepted way and vital access exists to the proposed lot 1.

**Recommendation:**

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



LOCATION MAP  
SCALE: 1" = 1000'



PLAT 17 LOT 174  
PHILIP O. AND MARIA IPPOLITO  
EXISTING AREA = 378,368± S.F. OR 8.686± ACRES  
PARCEL "A" AREA = 1,375± S.F. OR 0.032± ACRES  
NEW AREA = 379,743± S.F. OR 8.718± ACRES

PLAT 17 LOT 114  
DEREK J. AND KIMBERLY A. WELSHMAN  
LOT 2  
24,271± S.F.  
LOT 1  
22,500 S.F.  
PARCEL A  
1,375 S.F.  
PHILIP COURT  
(PUBLIC - 50' WIDE)

TOWN OF SEEKONK  
TOWN OF REHOBOTH

TOWN LINE  
(APPROXIMATE)

**NOTES:**

THE PURPOSE OF THIS PLAN IS TO DIVIDE SEEKONK ASSESSORS PLAT 17 LOT 110.  
PARCEL A, BY ITSELF, IS NOT A BUILDABLE LOT AND WILL BE MERGED WITH ASSESSORS PLAT 17 LOT 174 TO FORM ONE CONTIGUOUS PARCEL OF LAND CONTAINING 379,743± S.F. OR 8.718± ACRES OF LAND

**PARCEL INFORMATION**

ASSESSORS PLAT 17 - LOT 110  
OWNER: PHILIP O. & MARIA B. IPPOLITO  
9 PHILIP COURT  
SEEKONK, MA 02771  
APPLICANT: PHILIP O. & MARIA B. IPPOLITO  
9 PHILIP COURT  
SEEKONK, MA 02771  
DEED BOOK 17781 PAGE 103  
AREA: AS SHOWN  
ZONE: R-2

**CERTIFICATION**

TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF:  
I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

ANTHONY A. CAPUTO, PLS DATE



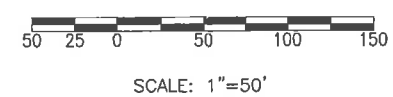
MAP OF LAND  
JACOB STREET AND PHILIP COURT  
SEEKONK, MASSACHUSETTS  
PREPARED FOR  
PHILIP O. AND MARIA B. IPPOLITO

CAPUTO AND WICK LTD.  
Land Surveying, Civil Engineering,  
Environmental Services, Traffic Engineering  
and Construction Engineering  
1150 PARK TUCKET AVE  
BURLINGTON, MA 01803-1897  
Tel: 401-434-8840  
Fax: 401-434-1615  
MAIL@CW.LTD.NET  
WWW.CW.LTD.NET

DATE  
APRIL 8, 2014  
SHEET  
1

PLANNING BOARD  
APPROVAL UNDER SUBDIVISION CONTROL LAW  
NOT REQUIRED

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



***TOWN OF SEEKONK***  
***Planning Board***

**MEMORANDUM**

**To:** The Board of Selectmen

**From:** The Planning Board

**Date:** August 19, 2014

**Re:** Chicken Bylaw

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The Planning Board has decided to refer the drafting of a chicken bylaw back to the BOS as they did not feel it was in their purview. While they thought it was a necessary bylaw, zoning bylaws regulate uses of land, which they did not feel the raising of chickens was. Also, since the enforcement of such a bylaw would seem to fall to the Animal Control Officer, the regulation of chickens would be better suited in the General Bylaws, as opposed to Zoning Bylaws. The Board also suggests that the drafting of this bylaw be jointly undertaken by the Animal Control Officer and the Board of Health.

**cc:** Conservation Commission  
Board of Health



**Shawn E. Cadime**

---

**From:** Ilana Quirk [lQuirk@k-plaw.com]  
**Sent:** Thursday, September 04, 2014 5:21 PM  
**To:** Shawn E. Cadime  
**Cc:** Joseph S. Fair  
**Subject:** Regulating the keeping of poultry  
**Attachments:** chickenbylaw-BOS.DOC; poultry bylaw\_20140904043048.pdf; KP-#379119-v1-WATR\_Keeping\_of\_Animals\_Regulations.DOC

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello,

You asked whether a potential provision, which would regulate the number and type of poultry that may be maintained by property owners on their land for non-commercial purposes (i.e., a limited number of chickens and no roosters), would need to be adopted as a zoning provision or as a general by-law provision; and, if it were required to be adopted as a zoning provision, whether it would be within the purview of the Planning Board to initiate such a by-law. Currently, the Town's Zoning By-law allows the raising of livestock on parcels of 5 acres or more and requires livestock to be physically restrained and requires that no objectionable odors shall be observable at the property line. Zoning By-law §6.1.6.

SUMMARY OPINION:

In my opinion, as discussed in more detail below, the Town could adopt a zoning provision or it could attempt to adopt a general by-law provision to regulate the keeping of poultry in the residential, non-commercial context as explained below; and, if the Town chooses to use the zoning process, the Planning Board is an entity that can initiate a zoning amendment under G.L. c.40A, §5.

Furthermore, in my opinion, the Board of Health also may adopt regulations under G.L. c.111, §31 to regulate sanitary conditions, noise and odor and other nuisances relating to the keeping of animals in the residential context.

DISCUSSION:

First, the Town has the authority to adopt both general by-law provisions under G.L. c.40, §21 and zoning provisions under G.L. c.40A, §5; however, the courts have observed that "the line dividing matters that a town can regulate only through zoning ordinances and those it may regulate through general ordinances is not always clear." Spenlinhauer v. Town of Barnstable, 80 Mass. App. Ct. 134, 138 (2011).

Second, in determining whether a provision must be adopted as a zoning provision, under the strict procedural requirements set forth under G.L. c.40A, the courts have ruled that a provision cannot be adopted as a general by-law if do so would frustrate the intended safeguards and intended purposes of G.L. c.40A; and, furthermore, if a community has historically used zoning to regulate the area in question then that would frustrate those purposes. Spenlinhauer v. Town of Barnstable, 80 Mass. App. Ct. 138-142 (2011).

Third, while the Town currently uses zoning to deal with the commercial raising of livestock on parcels of 5 acres or more (i.e., Zoning By-law §6.16); an effort to regulate smaller parcels of land for noncommercial uses

could be seen as different and, potentially, as an area that could be regulated through a general by-law provision.

Fourth, since a general by-law provision requires only a majority vote of town meeting for approval and adoption of a zoning provision requires a two-thirds vote and observance of other, strict procedural requirements, some communities prefer the general by-law process; however, the risk exists that, in a particular instance, the Attorney General may determine that the provision needed to observe the procedural requirements of G.L. c.40A in order to be validly adopted.

Fifth, there is no question that the keeping of poultry is a use of land that, if desired by the Town, could be regulated using zoning (i.e., G.L. c.40A, §1; See, Goodwin v. Board of Selectmen of Hopkinton, 358 Mass. 164, 169 (1970)); however, a number of communities successfully have adopted general by-laws to regulate the keeping of poultry in the non-commercial context. I have attached above a copy of Amherst's current General By-law provision that regulates the keeping of poultry for purposes as an incidental use by the owner of single-family residential property.

Sixth, if the Town decides to use zoning to regulate the keeping of poultry in the non-commercial context, then, in my opinion, the Planning Board is an entity that has jurisdiction to initiate a zoning amendment. G.L. c.40A, §5, ¶1. In addition, I note, that the Board of Selectmen, an individual owner land to be affected by a proposed provision, ten registered voters under G.L. c.39, §10 and the regional planning agency also may initiate a zoning amendment. G.L.c.40A, §5, ¶1. Under G.L. c.39, §10, the Board of Selectmen controls the town meeting warrant and the only article that the Board of Selectmen is compelled to place on a town meeting warrant is an article that is supported by the signatures of the number of registered voters provided for under G.L.c. 39, §10 (i.e., ten registered voters for an annual town meeting and 100 registered voters or ten percent of the total number of registered voters, whichever is less for a special town meeting).

Finally, the Board of Health may adopt appropriate regulations under G.L. c.111, §31 to regulate sanitary conditions, noise and odor and other nuisances relating to the keeping of animals in the residential context. I attached above a sample of a Board of Health regulation, one that is presently being considered by the Town of Watertown and that addresses the issue of chickens and roosters.

If you have additional questions regarding this matter, please do not hesitate to contact me.

Regards,

Ilana M. Quirk, Esq.  
Kopelman and Paige, P.C.  
101 Arch Street  
12th floor  
Boston, MA 02110  
(617) 556-0007 (Telephone)  
(617) 654-1735 (Facsimile)  
[iquirk@k-plaw.com](mailto:iquirk@k-plaw.com)

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**From:** Shawn E. Cadime [mailto:[scadime@seekonk-ma.gov](mailto:scadime@seekonk-ma.gov)]  
**Sent:** Friday, August 29, 2014 10:44 AM  
**To:** Ilana Quirk  
**Cc:** Joseph S. Fair  
**Subject:** Drafting of a

Ilana,

The BOS had referred a request to draft a Chicken Bylaw that would allow property owners with less than 5 acres to have a set number of chickens with no roosters. The Planning Board has referred it back to the BOS. The board would like your legal opinion on whether draft this bylaw is indeed within the jurisdiction of the Planning Board. Attached is the memo received back from the Planning Board.

Regards,

*Shawn E. Cadime*  
Town Administrator

Town of Seekonk  
100 Peck Street  
Seekonk, MA 02771

Phone: 508-336-2912  
Fax: 508-336-3137  
Email: [scadime@seekonk-ma.gov](mailto:scadime@seekonk-ma.gov)

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**John Hansen**

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**From:** Shawn E. Cadime  
**Sent:** Wednesday, October 01, 2014 6:16 PM  
**To:** John Hansen  
**Subject:** Drafting - Chicken Bylaw  
**Attachments:** Regulating the keeping of poultry

John,

The Board of Selectmen have voted to refer back to Planning Board the request to draft a chicken bylaw. Attached is the legal opinion requested from Kopelman & Paige for the boards review. Based on this legal opinion the Board of Selectmen feel the best option would be to have the Planning Board Draft the bylaw. Please let me know if you have any questions.

Regards,

*Shawn E. Cadime*  
Town Administrator

Town of Seekonk  
100 Peck Street  
Seekonk, MA 02771

Phone: 508-336-2912  
Fax: 508-336-3137  
Email: [scadime@seekonk-ma.gov](mailto:scadime@seekonk-ma.gov)

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- A. It shall be unlawful for the owner/guardian or keeper having care of a dog to permit such dog, either willfully or through failure to exercise due care or control of such animal, to excrete any solid waste upon any sidewalk, public street or public park, schoolyard or school recreational field, or public recreational areas, or upon any real property other than the real property owned or controlled by such owner/guardian or keeper. No violation of this section shall be deemed to have occurred if the owner/guardian or keeper of the offending animal promptly and voluntarily removes the animal waste.
- B. Violation of this section may be subject to a penalty of fifteen dollars (\$15.00) for each offense.
- C. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

#### **7. Cat Regulations**

- A. Cats shall be immunized against rabies and records kept in accordance with M.G.L. Chapter 140, Section 145B.
- B. The Health Director, Town Animal Inspector, Police Officers, and the Animal Welfare Officer shall enforce the provisions of this bylaw.

#### **8. Urban Livestock or Poultry Regulations**

The raising or keeping of livestock or poultry for private purposes as an incidental use by the owner(s) of any single-family residential property or on any parcel under one ownership with no more than three dwellings thereon, shall be permitted and regulated under the provisions of this bylaw and other applicable local and state regulations. The provisions of this bylaw shall not apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3.

- A. Regulations - All livestock or poultry governed by this by-law shall be raised and kept in a safe and humane manner, consistent with best agricultural practices and as required under all applicable state and local regulations. Best practice regulations for the raising and keeping of livestock or poultry in Amherst under this bylaw may be promulgated by the Health Director, following consultation with the Animal Welfare Officer and the Agricultural Commission. Said regulations shall be published and otherwise made available to members of the public and prospective registrants.

Best practice regulations shall include, but are not limited to, the following minimum standards:

- 1) **Enclosure & Shelter.** Domesticated fowl or rabbits shall be confined with fencing or other enclosure sufficient to prevent access to the animals by dogs or other predators, which enclosure shall contain a minimum of ten (10) square feet of open area per adult animal. Within or attached to any such enclosure shall be provided a covered, predator-proof shelter or roosting structure (e.g. coop, dovecote, hutch, or shed, as appropriate) that is thoroughly ventilated, of sufficient size to admit free movement of the animals,

designed to be easily accessed, cleaned and maintained by the owners, and at least 2 square feet per animal in size. As appropriate to the species, animals may be required to be shut into the shelter coop at night, from sunset to sunrise.

- 2) Feed Storage. Feed shall be stored in a secure, rodent- and predator-proof container in a manner that will not attract pests.
- 3) Waste. Accumulated waste shall be stored in a covered container and removed from the property at suitable intervals, or composted on site in a manner that will not attract pests or promote disease. No animal manure may be put into household trash. Applicants must have a compost bin set up at the time of any inspection.
- 4) Odors & Noise. Odors from domesticated fowl and rabbits, their waste, compost, or other related substances shall not be perceptible at the property boundaries. It shall be a violation of these regulations for the owner, custodian, or keeper of any animal governed under these regulations to allow the animal(s) to be a nuisance to any neighbors, including but not limited to: noxious odors from the animals or their enclosure; and noise of a loud and persistent and habitual nature. Complaint shall be to the Health Director.

The Animal Welfare Officer may interpret these standards and apply stricter standards, as authorized under state law.

- B. Registration & Inspections - Prior to acquiring livestock or poultry, the property owner shall register with the Amherst Health Department an application describing fully and accurately their proposal to raise and keep livestock or poultry, and registering the property involved. The Health Director may require that such applications be made on forms provided by the Amherst Health Department. All registration applications shall be reviewed and approved, denied, or approved with conditions by the Health Director after consultation with the Animal Welfare Officer. Any approved registrant shall thereafter abide by the provisions of the best practice regulations established hereunder and any specific conditions imposed under the approval, and shall permit annual inspections and such other inspections of the premises as may be required by the Animal Welfare Officer under the provisions of MGL Ch. 129, Section 7.
- C. Fees - Under the provisions of MGL Ch. 40, Section 22F, the Health Director is authorized to set reasonable fees for registration and such inspections as may be required. There shall be no reimbursement or pro-rating of application or inspection fees.
- D. Notice – Except as provided for under Section F., as part of every application made under these regulations, an applicant shall provide a copy of a certified abutter's list obtained from the Assessor and written notice of their intent to raise or keep livestock or poultry, to be sent by the Health Department by standard mail to parties in interest as required under MGL Ch. 40A, Section 11. The notice shall fully and accurately describe the location and the proposed number and type of animals, as well as all associated structures and facilities. The notice shall also indicate that abutters have the right to file with the Health Director written comments in support of or objecting to the application, and shall indicate the deadline for submission of comments.

- E. Administrative Hearing - Where no special permit will be required under Amherst's zoning for the keeping or raising of animals for which application is also being made under these regulations, the Health Director shall not act on said application until more than fourteen (14) working days have passed since the mailing of notice to abutters. If at the end of that period the Health Director has received written comments whereby the owners of a majority of the abutting properties have expressed objection to the application, the Director shall schedule and hold, within thirty (30) days of the deadline for receiving abutter comment, an administrative hearing for the purpose of taking public testimony regarding the proposal. The Director shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the applicant by certified mail, to abutters and parties in interest by mail, by posting with the Town Clerk, and by publication once in a newspaper of local circulation. Failure to hold an administrative hearing within the specified time period shall be considered to constitute a constructive grant of approval of the application.
- F. Exception - No certified abutters list, nor any notice to abutters, nor an administrative hearing shall be required in those instances where a special permit will also be required under Amherst's Zoning Bylaw for the keeping or raising of animals subject to an application under this bylaw.
- G. Decision – Following the close of an administrative hearing, the Health Director shall within five (5) working days render a decision in writing based upon compliance of the proposal with best practices and such other factors of public health and welfare as the Director may deem appropriate. In approving an application, the Health Director may, following consultation with the Animal Welfare Officer, impose any reasonable conditions, safeguards and limitations including conditions above and beyond those specified in the best practices regulations developed under this section, all as in compliance with existing zoning and other regulations.
- H. Violations – Violation of this section may be subject to a penalty of \$25.00 for each offense, with each day the violation continues constituting a separate offense.
- I. Enforcement – Enforcing persons shall be the Animal Welfare Officer, the Health Director, or the Health Inspector/Sanitarian.

**9. Conduct of Persons in Control of Animals Other than Dogs**

Cattle and other animals in the public way. A person who owns or is in control of any goat, sheep, swine, horse, cow, other neat cattle, or fowl, shall not permit such animal to go at large in any of the streets, commons or parks of this town, and shall not drive or lead such animal along or upon any of the sidewalks, parks or commons of this town, except in the case of sidewalks for the purpose of immediately crossing the same. Horses used by the police department shall be excluded from this prohibition.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each violation.

**City of Pawtucket, Rhode Island  
Chicken Bylaw**

**(1) Standards and requirements.**

(a) Number. No more than one chicken hen shall be kept on a parcel of land for each 800 square feet of parcel or lot area, with a maximum of six on any lot.

(b) Hen houses. All chicken hens must be provided with both a hen house (coop) and a fenced outdoor hen enclosure, subject to the following provisions in addition to the accessory use provisions of Section 410-46.

1. The hen house must be covered, predator resistant, and well-ventilated;
2. The hen house must provide a minimum of two (2) square feet per chicken;
3. The hen house must be kept clean, dry, and sanitary at all times; manure must be composted in enclosed bins;
4. The hen house must be located upon a permeable surface that prevents waste run-off;
5. The hen house must be located at least twenty (20) feet from any dwelling;
6. The fenced outdoor hen enclosure must adequately contain the chicken hens;
7. The fenced outdoor hen enclosure must be kept clean and sanitary at all times; manure must be composted in enclosed bins; and
8. The hen house must provide the chicken hens with adequate protection from the elements and inclement weather and provide for the chicken hens good health and prevent any unnecessary or unjustified suffering.

(c) Prohibitions. No roosters may be kept in any lot within the city.



**Watertown Board of Health**  
**Regulations Governing the Keeping of Animals and Fowls**

**Section 1. Authority**

These regulations are adopted under the authority of MGL chapter 111, section 31, as reasonable health regulations designed to protect and improve the health and quality of life of those who reside within the Town of Watertown. These regulations shall take effect as of the date of their approval as indicated below.

**Section 2. Statement of Purpose**

Whereas minimum standards to promote the responsible care and welfare of animals, protection of the public health, and environmental protection are considered necessary for the health, safety and welfare of the community, the Watertown Board of Health has adopted these regulations.

**Section 3. Definitions**

Abutters: owners of abutting land or property within one hundred (100) feet of the Applicant's property line. A person will only qualify as an abutter for the purpose of this regulation if they possess an ownership interest in the abutting land.

Accessory Structure: a structure subordinate to the principal building on the same lot and serving an animal related use.

Animal: all animals such as, but not limited to, cattle, goats, sheep, swine, equines, llamas, poultry, pigeons, livestock, reptiles or snakes, which are kept or harbored as domesticated animals, excluding Household Pets.

Applicant: one who applies for a permit to keep one or more Animals.

Board of Health or "the Board": the Watertown Board of Health.

Town: means the Town of Watertown and its officers, agents and employees including the health department.

Coop: a structure for the keeping or housing of poultry, pigeons, or other types of fowl.

Corral: any pen, or enclosure for the confining of one more animals.

Dwelling: any building, shelter or structure used or intended for human habitation.

Exotic: refers to an animal not native to this region and/or country, excluding Household Pets.

Facility: the total accommodations to be used for the keeping or housing and care of one or more animals, including but not limited to a barn, stable, pen, coop, loft or corral.

Feral Cat: a cat born in the wild, which is not domesticated or socialized to humans and has been abandoned or allowed to become free roaming.

Fowl: birds for food, show, or hunted as game.

Household Pets: animals that are normally kept inside an owner's residential dwelling or commercial building including but not limited to dogs, cats, ferrets, fish, domesticated or exotic birds, certain reptiles and guinea pigs, hamsters, and mice.

Keeping of Animals Permit or "Permit": refers to a permit issued for the keeping or housing of one or more Animals in accordance with the provisions of this regulation.

Lot: a parcel of land, which is or may be occupied by a building and accessory structure, including open spaces required under this Article. "Lot" includes the words "plot" or "parcel."

Manure Management Plan ("MMP"): is a plan for the handling of manure. The MMP shall address cleaning, composting, storage, utilization and removal of manure.

Nuisance: shall mean any condition including, but not limited to, noise, offensive odor, attraction or breeding of insects, an environment supporting growth of vermin, presence of rodents, or any other condition having public health or environmental significance. This definition shall be mindful of MGL c. 111 § 125A.

Owner: every person who alone or jointly with one or more other persons has legal title to any lot, building, structure, dwelling or dwelling unit.

Pen: a structure for the keeping or housing of one or more animals.

Pest Management Plan ("PMP"): is a plan, which adequately defines the measures that shall be taken by the owner to minimize the presence of rodents, insects, and the creation of odors and other nuisances.

Pigeons: member of the Columbidea family of birds that include 'racing', 'fancy', and 'sporting' pigeons.

Poultry: refers to domesticated or semi-domesticated birds including chickens, ordinarily kept for food or eggs.

Responsible Party: each person who has care, charge or control of any building, structure dwelling unit or as agent, executrix, administrator, administratrix, trustee, leasee or guardian of the estate of the holder of legal title.

Runoff: water from natural or unnatural sources that flows over the surface of the ground.

Stable: means an accessory building or structure used for the shelter and/or the feeding of one or more animals.

Stall: a compartment in a stable used for the keeping of one or more animals.

Unsanitary Conditions: the Facility's state of being or condition which, in the judgment of the Board of Health, are conducive to or results in, breeding of flies, creation of offensive odors, rodent infestation, liquid effluent, runoff, and/or noise, in such concentrations

and/or such duration as to causes a nuisance, be injurious, maybe considered potentially injurious to human health, or unreasonably interfere with the health and safe enjoyment of life and property.

Usable Area: land area suitable for the raising of animals such as pastures, fields, wooded uplands. This area does not include wetlands, dwellings, or any other area(s) as may be restricted by town, state or federal regulations.

Vermin: various types of insects, bugs, and/or rodents.

Wild Animal: any animal not normally found or kept as a domesticated animal, including but not limited to poisonous reptiles, alligators, monkeys, lions, and tigers.

#### **Section 4. General Requirements**

- A. The Useable Area for calculating the number of Animals allowed on a Lot shall consist of upland area only. Lot dimensions may be considered by the Board of Health when determining the total number of Animals allowed on a parcel of land, provided that the general provisions of these regulations have been met, and that the granting of a Permit will not adversely affect the public health, safety and welfare.
- B. The Facility shall be located no less than:
  - 1. 100 feet from a Wetland as defined by M.G.L. c. 131, §40.
  - 2. 30 feet from a sideline, rearline or public way.
  - 3. 100 feet from any abutting dwelling.
  - 4. 100 feet from any well, public or private, used as a drinking water supply.
- C. The Facility must comply with all applicable zoning requirements.

#### **Section 5. Permit and Application Requirements**

A Permit is required for anyone keeping one or more Animals as defined in this regulation. At time of application, the Applicant shall provide the Board of Health with the following documents:

- A. Application(s) for a Keeping of Animals Permit shall be submitted on a form supplied by the Board of Health for each lot on which animals are to be kept in the Town. Such application shall be accompanied by the following information:
  - (1) Full name, address, and telephone number of the Applicant
  - (2) Location - street address of the lot to be used
  - (3) Number and species of animals to be kept. No animals in excess of the specified number indicated on initial application shall be kept. The addition of

any new Animal(s) requires an Applicant to make application for a modification of any existing Permit with the Board of Health.

- (4) Copies of all required animal immunizations.
  - (5) A plot plan, acceptable to the Board, showing the Lot borders with dimensions of area where the Animals will be kept and used by Animals, location of accessory structure(s), principal structure(s), abutting structure(s), confining fences and barriers, location of any septic system on the Lot, location of any private wells within the perimeter of the area where the one or more animals will be kept or within one hundred (100) feet of the perimeter, showing location of manure containers, and drainage details. Also the plan shall show the locations of all Lots with the houses shown thereon within 500 feet of the proposed area for keeping of the Animals.
  - (6) A written Manure Management Plan for the management and disposal of animal waste, storage of feed, and a Pest Management Plan used to control of flies and vermin.
  - (7) A written Emergency Disaster Plan for fire prevention, emergency evacuation, and emergency disaster plan.
  - (8) Name of the principal veterinarian for each Animal.
- B. The Applicant shall be responsible for compliance with the Town's Zoing Ordinance and shall be responsible for obtaining any necessary zoning relief.
- C. The Applicant shall be responsible for compliance with the Town's Wetlands Ordinance and shall be responsible for obtaining any necessary relief therefrom.
- D. For the initial application for a Permit after the effective date of this regulation, the Applicant shall notify Abutters by certified mail that an application has been filed at the Board of Health for a Permit (see Appendix A). A copy of the notification sent to Abutters and proof of notification (the green card) shall be provided to the Board of Health.
- E. The Board shall hold a hearing on the initial Permit application within thirty days of the filing of a completed application, including all required documents. Within forty-five (45) days after the close of the hearing, the Board shall issue a decision on the application.
- F. Fees for Permits shall be determined by the Board of Health and shall be subject to annual review.
- G. Permits shall expire on December 31st of each year, unless sooner revoked by the Board of Health upon violation of any of the provisions of these regulations. Every Permit holder must apply for a renewal of the Permit at least forty-five (45)

days prior to the expiration of said Permit. Any changes from the previous Permit shall be indicated on a renewal application.

- H. Existing Keeping of Animal Permit holders or anyone who requires a Keeping of Animals Permit shall submit all required information and documentation in writing and comply with these regulations within 30 days of effective date of these regulations.
- I. Exotic animal(s), Wild animal(s), and Feral Cats shall not be kept within the Town of Watertown limits without expressed written approval of the Board of Health or its authorized agent and shall be in accordance with Massachusetts General Laws.
- J. No person shall propose or erect, remodel, occupy or use a Stable, or Accessory Structure intended for the housing of animals unless and until he/she has submitted an initial or revised plan to the Board of Health for review and the same has been approved.
- K. Permits are not transferable and shall be posted in a conspicuous area.
- L. An Applicant must comply with all federal, state and local regulations and ordinances.

**Section 6. Facility Standards**

- A. The floor and/or grounds of the Facility for the keeping of one or more Animals shall not to be designed, constructed, and/or maintained in a manner that would likely endanger the animals or promote Unsanitary Conditions.
- B. Each Facility shall have a supply of potable water available to the structure for drinking and cleaning purposes.
- C. The Facility shall be adequately ventilated, provide protection from weather elements, and adequate food and water shall be provided.
- D. All Facilities for the keeping of one or more Animals shall be securely fenced to prevent the escape of animals there from. Animals at no time shall be allowed to roam unattended from the designated area as noted in the application.
- E. Where appropriate an adequate structurally sound dry shelter for the one or more Animals shall be maintained within the Facility.
- F. The Facility in which the one or more Animals are kept shall be maintained in such a manner as to prevent the spread of infectious or contagious diseases.

- G. The Owner and/or Permit holder of the Facility for the keeping of one or more Animals shall keep the Facility in a clean, sanitary, and presentable condition, free from decaying food, filth, feces, vermin infestation and stagnant water.
- H. Food shall be stored in sealed, moisture-proof and vermin-proof containers, when appropriate.
- I. Dead Animals shall be disposed of or incinerated, at an appropriate Facility, within a reasonable time but in no event more than forty-eight hours (48) hours after death. Storage of any deceased Animal shall be in such a way to prevent odors and attraction of Vermin.

**Section 7. Manure Management**

The following are requirements for the keeping and maintenance of manure and fecal matter within the Facility. The Permit holder is responsible to implement a Manure Management Plan for the Facility. This plan requires approval by the Board of Health or its authorized agent at the time the Permit is granted.

- A. Drainage or liquid effluent containing urine, fecal matter and manure from any one or more Animals kept at said Facility is not to be discharged in Runoff, or to flow over the surface of the ground onto a neighboring property, public way, river or wetlands. Water, including drainage, shall not become stagnant or collect or create a ponding affect upon said Facility.
- B. The Owner and/or Permit holder of Facility for the keeping of one or more Animals shall provide for the sanitary storage and disposal of all waste, fecal matter and manure related to the keeping of the one or more Animals.
- C. Management and disposal of manure and soiled bedding shall be such as to minimize odors, breeding of flies, and the attraction of Vermin. Manure shall be collected and kept in a suitable pit or receptacle at a single location. This location shall also be carefully chosen to maximize the distance from abutting properties, with due consideration of the prevailing winds.
- D. The following requirements shall apply to the use, accumulation and/or disposal of manure:
  - 1. The accumulation, stockpiling, and storage of manure outside of a pit or receptacle is prohibited.
  - 2. No manure storage area shall be closer than the distances shown to the components listed in the following table. The distances shown are minimum distances and may be increased where required by the Board based upon conditions particular to the location or by zoning requirements.

Wetland	100'
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Surface/subsurface drains	100'
Abutting Dwellings	200'
Side & Rear lot lines	30'
Public or private roadway	30'
Tributary to a public water supply	100'
Private water supply	100'
Public water supply	100'

3. The dimensions and/or drainage conditions of a Lot may, at the determination of the Board of Health or its authorized agent, require off-property disposal of manure. In such cases, the manure shall not be put out for general Town trash collection. It shall be the responsibility of the Owner and/or Permit holder to dispose of manure in a safe and sanitary manner so as not to accumulate on the Lot or the interior of an Accessory Structure.
4. The Board of Health or its authorized agent may allow the composting of manure generated at the Facility for the keeping of one or more Animals pursuant to specific written Board of Health approval.

**Section 8. Pest Management**

The Owner and/or Permit holder is responsible for implementing a Pest Management Plan for the Facility. This plan requires approval by the Board of Health or its authorized agent and will be performed by a licensed pest control operator whenever required by law. Extermination shall be performed as deemed necessary by the Board of Health or its authorized agent or a licensed pest control operator.

**Section 9. Keeping of Poultry**

- A. No rooster(s) shall be allowed unless a permit is specifically issued. An application shall be furnished by the Board of Health. It shall be adequate cause for refusing or revoking a permit to keep a rooster if one or more abutters complain of its presence by reason of noise.
- B. There shall be at least three (3) square foot of floor space for each mature Poultry kept within the coop. Coops shall be cleaned regularly to maintain sanitary conditions and thoroughly disinfected at least three times a year.
- C. Coops or an enclosed area providing shelter for Poultry shall be at least thirty (30) feet from any dwelling or adjacent property line, unless the zoning district requires a greater setback from the property line, in which case the coop must comply with the required setback.
- D. No person shall keep any fowl in a building connected to the dwelling.
- E. The maximum number of poultry in a coop or otherwise enclosed in a residential area shall be no more than ten (10). The Animal Inspector has the discretion to

limit the number of poultry to be kept in a coop if the size and conditions can not accommodate the amount of Poultry noted in this section.

- F. Owners and/or Permit holders for the keeping of Poultry are required to have all vaccinations and testing up to date on each animal at all times.

**Section 10. Keeping of Pigeons**

- A. All Pigeons shall be confined to their coop except for limited periods necessary for exercise, training, and competition. At no time shall Pigeons be allowed to perch or linger on buildings or the property of others. Flight activities shall not adversely affect adjacent properties.
- B. There shall be at least one (1) square foot of floor space for each mature Pigeon kept within the coop. Coops shall be cleaned regularly to maintain sanitary conditions and thoroughly disinfected at least three times a year.
- C. Training, exercising, and the release of Pigeons from the Facility shall not be undertaken during the hours of 10:00 AM to 4:00 PM from June to September as not to disturb yard use and the enjoyment of abutting neighbors.
- D. Additional Pigeons over a total of one hundred (100) shall not be permitted unless the lot contains a minimum of twenty-five hundred (2,500) square feet per each additional twenty-five Pigeons, provided that lot dimensions are acceptable to the Board, the general provisions of these regulations have been met, and that the granting of such Permit and any necessary variance, will not adversely affect the public health, safety and welfare.

**Section 11. Household Pets**

- A. Household Pets shall be excluded from these regulations with the exception that the Board may require a Permit in situations where animals are kept in such numbers or conditions that result in an order of public Nuisance or are recognized as a hazard to the health and welfare of the community.
- B. In accordance with Watertown Animal Control Ordinance, Section 3.5, Dog/Cat Licensing – Number of Licensed Pets: Not more than three dogs or five cats over four months of age shall be kept in a household. Any variance to this number of licensed animals must first be approved by the Board of Health.

**Section 12. Animal Health and Safety**

- A. All Animals must be provided with clean potable water at all times.
- B. All Animals shall be cared for in a humane manner. It shall be illegal to abuse, either physically or by neglect, any Animal. The Watertown Board of Health or its



agent may at any time require the removal of an Animal from the custody of any person when it is determined that the health, safety, or welfare of an Animal is jeopardized. The Board will assist the Massachusetts Society for the Prevention of Cruelty of Animals (MSPCA) and/or the Animal Rescue League of Boston (ARL) in this process.

- C. All Animals shall be immunized against Rabies, when appropriate for that species, with proof supplied annually prior to the issuance or renewal of a Permit. No Permit will be issued without proof of immunization. All Animals shall additionally meet any State-mandated immunization requirement(s).
- D. When there is a USDA approved vaccine available for use to combat certain disease(s), it shall be required that those Animals approved to receive it be vaccinated unless the Animal's veterinarian recommends otherwise.

**Section 13. Prohibited Acts**

- A. No garbage shall be fed to Animals unless it is put into a proper feeding container, which shall be kept, clean, and processed to prevent disease.
- B. No Animal shall be permitted to enter the kitchen or dining area of any licensed food establishment except as hereinafter provided. Nothing in this Regulation shall be construed as to prohibit physically challenged persons from using dogs as aides in entering and leaving public dining area in licensed food establishments.
- C. No Owner and/or Permit holder of an animal which requires a Permit shall allow such Animals to run at large in any area within the Town of Watertown other than his/her private property. Such Owner or keeper is responsible for the removal and legal disposal of any feces left by the animal on any location within town.
- D. It shall be unlawful to offer as prizes in any contest or game, any live animal, bird, fish, or reptile except shellfish.
- E. No Animal shall disturb the peace between the hours of 7:00 pm and 7:00 am.

**Section 14. Temporary Permits**

No person, corporation, establishment, group, or agency shall keep, conduct or operate within the Town of Watertown any pony ring, or pony ride, circus, rodeo, pet show, dog show, cat show, animal acts or exhibitions, wild animal or reptile show or exhibitions without first obtaining a temporary Permit to house and maintain animals from the Board of Health unless already permitted by the Board of Health.

**Section 15. Enforcement**

- A. Enforcement of this regulation shall be by the Board of Health of Watertown or its designated agent(s). The Board of Health, or its authorized agent, may reasonably conduct unannounced inspections of a Facility for the keeping of the one or more Animals to ensure compliance with these regulations.
- B. The Board of Health may deny, suspend, revoke, or refuse to renew a Keeping of Animals Permit for failure to comply with any provision of these regulations.
- C. The person(s) who have had a Permit denied or revoked shall be ordered to remove all animals from the property within 30 days of said denial or revocation or within a time frame determined by the Board of Health.
- D. The continuance of any violation of these regulations beyond a date specified by the Board of Health, when the Owner and/or Permit holder of the Facility has been ordered by an agent of the Board of Health to abate any such violations in a safe and sanitary manner, shall be cause for revocation of Permit and/or initiation of legal proceedings to eliminate said conditions.

**Section 16. Revocation**

The owner and/or Permit holder of the Facility shall be given written notice of the Board's intent to hold a hearing for the purpose of suspension, revocation, or refusal to renew a Permit. This written notice shall be served through a certified letter sent return receipt requested, or by a constable. The notice shall include the date, time, and location of the hearing and the right of the owner and/or Permit holder of the Facility to be heard. The Board shall hold the hearing no later than twenty-one (21) days from the date the written notice was received.

**Section 17. Right to a Hearing**

Any person or persons aggrieved by a Board of Health order that has been served pursuant to any section of these regulations may request a hearing before the Board of Health by filing a written petition to the health department within seven days of receipt of said order.

**Section 18. Variance**

The Board of Health may grant a variance to any of provisions of these regulations when, in its opinion, the strict enforcement would do manifest injustice and does not jeopardize public health or the environment.

**Section 19. Penalty**

- A. Non-Criminal Disposition

Whoever violates any provision of these rules and regulations may, at the sole discretion of the Board of Health, be penalized by a non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40 § 21D, in which the violator may receive:

- (a) First violation: a fine of twenty-five dollars (\$25.00).
- (b) Second violation within 24 months of the date of the first violation: a fine of fifty dollars (\$50.00).
- (c) Three or more violations within 24 months of the current violation, including the current violation: a fine of one hundred dollars (\$100.00).

**B. Criminal complaint**

Whoever violates any of these rules and regulations may be penalized by indictment or on complaint brought in the District Court. The violator may be subject to penalties as follows:

- (a) First violation: a fine of one hundred dollars (\$100.00).
- (b) Second violation within 24 months of the date of the first violation: a fine of two hundred dollars (\$200.00).
- (c) Three or more violations within 24 months of the current violation, including the current violation: a fine of three hundred dollars (\$300.00).

**Section 20. Severability**

Each provision of these regulations shall be considered as separate to the extent that if any section, item, sentence, clause, or phrase is determined to be invalid for any reason, the remainder of these regulations shall continue in full force and effect.

**Section 21. Adoption and Effect**

These rules and regulations were adopted by a unanimous vote of the Board of Health, Town of Watertown, Watertown, Massachusetts, on \_\_\_\_\_ and are to be in full force and effect on and after \_\_\_\_\_. A summary explanation of these regulations shall be published in a newspaper of this town and a copy thereof shall be deposited in the Office of the Town Clerk.

John H. Straus, M.D., Chair  
Barbara Beck, Ph.D., Clerk  
Cynthia Brooks, Member

**Appendix A.**

As an adjacent abutter to the property that you own, I, \_\_\_\_\_,  
am sending you notification that I have filed an application with the Watertown Board of  
Health for a permit to keep animal(s).

I am proposing to keep the following:

- (a) \_\_\_\_\_ Number of animal(s) to be kept
- (b) \_\_\_\_\_ Species of animal(s) to be kept
- (c) \_\_\_\_\_ Location of premise to be used

You will be notified by the Watertown Board of Health of the public hearing on this initial  
application.

If you have any questions regarding the application or the public hearing you may contact  
the Watertown Health Department's at (617) 972-6446.

Signature \_\_\_\_\_

Date \_\_\_\_\_

379119



## California Becomes First State to Ban Plastic Bags

California becomes first state to ban single-use plastic bags at grocery, convenience stores

By FENIT NIRAPPIL

*The Associated Press*

**SACRAMENTO, Calif.**

Gov. Jerry Brown on Tuesday signed the nation's first statewide ban on single-use plastic bags at grocery and convenience stores, driven to action by pollution in streets and waterways.

A national coalition of plastic bag manufacturers immediately said it would seek a voter referendum to repeal the law, which is scheduled to take effect in July 2015.

Under SB270, plastic bags will be phased out of checkout counters at large grocery stores and supermarkets such as Wal-Mart and Target starting next summer, and convenience stores and pharmacies in 2016. The law does not apply to bags used for fruits, vegetables or meats, or to shopping bags used at other retailers. It allows grocers to charge a fee of at least 10 cents for using paper bags.

State Sen. Alex Padilla, D-Los Angeles, credits the momentum for statewide legislation to the more than 100 cities and counties, including Los Angeles and San Francisco, that already have such bans.

The law marks a major milestone for environmental activists who have successfully pushed plastic bag bans in cities across the U.S., including Chicago, Austin and Seattle. Hawaii is also on track to have a de-facto statewide ban, with all counties approving prohibitions.

"This bill is a step in the right direction ??? it reduces the torrent of plastic polluting our beaches, parks and even the vast ocean itself," Brown said in a signing statement. "We're the first to ban these bags, and we won't be the last."

Plastic bag manufacturers have aggressively pushed back through their trade group, the American Progressive Bag Alliance, which aired commercials in California blasting the ban as a cash-giveaway to grocers that would lead to a loss of thousands of manufacturing jobs.

"If this law were allowed to go into effect, it would jeopardize thousands of California manufacturing jobs, hurt the environment and fleece consumers for billions so grocery store shareholders and their union partners can line their pockets," Lee Califf, executive director of the manufacturer trade group, said in a statement.

Padilla, the bill's author, said Californians would reject a referendum effort and quickly adapt their behavior to help the environment.

"For those folks concerned about the 10 cent fee that may be charged for paper, the simple elegant

solution is to bring a reusable bag to the store," Padilla said.

Shoppers leaving a Ralphs supermarket Tuesday in downtown San Diego were divided as they weighed the legislation's environmental benefits against its costs. San Diego does not ban plastic bags.

"With the amount of waste that we produce, we can try to help out by slightly inconveniencing ourselves," said Megan Schenfeld, 29, whose arms were full of groceries in plastic bags after leaving reusable bags at home.

Robert Troxell, a 69-year-old former newspaper editor, said the fees are more than an inconvenience for retirees living on fixed incomes like him. He shops daily because he has only a small refrigerator in his hotel for low-income seniors.

"It becomes a flat tax on senior citizens," said Troxell, who lives off social security and other government assistance. "I have not disagreed with Jerry Brown on anything ??? until this."

The American Forest and Paper Association, a trade group representing paper bag makers, says the bill unfairly penalizes consumers who use their commonly recycled products, while holding reusable plastic bags to a lower standard for recyclable content.

Responding to the concerns about job losses, the bill includes \$2 million in loans for plastic bag manufacturers to shift their operations to make reusable bags. That provision won the support of Los Angeles Democratic Sens. Kevin De Leon and Ricardo Lara, who had blocked earlier versions of the legislation.

Lawmakers of both parties who opposed SB270 said it would penalize lower-income residents by charging them for bags they once received for free. The bill was amended to waive fees for customers who are on public assistance and limit how grocers can spend the proceeds from the fees.

Massachusetts, New Jersey, Rhode Island and Puerto Rico also have pending legislation that would ban single-use bags, according to the National Conference of State Legislatures.

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Associated Press writer Elliot Spagat in San Diego contributed to the report.

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Follow Fenit Nirappil at [www.twitter.com/FenitN](http://www.twitter.com/FenitN) .

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REC'D SEP 23 2014

(A)

Board of Selectmen  
Board of Assessors  
Planning Board  
Conservation Commission  
Town of Seekonk  
100 Peck Street  
Seekonk, MA 02771

September 23, 2014

To Town Boards,

I am the owner of a parcel of land at 1977 Fall River Avenue in Seekonk that is currently classified as chapter land by the Board of Assessors. I have received an offer to sell the property and desire the removal of the chapter land status. The first step in that process is to notify you that the Town of Seekonk has the right to match the bona fide offer of \$ 7,000,000.00 (seven million) and purchase the property for the Town.

If you desire to match the offer, I would be happy to begin a sale agreement with the Town of Seekonk.

If you do not desire to match the offer, could you please notify me and Ms. Gabriel in the assessors office of your decision at your earliest convenience so that I may proceed in transferring the property to new owners.

Your attention to this matter is greatly appreciated.



Joseph Cuddigan  
Cuddigan Realty, Inc.  
100 School Street  
Seekonk, MA 02771  
401-438-2150



**SEEKONK PLANNING BOARD**  
**Public Hearing, Regular Meeting**  
**September 9, 2014**

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Present: Ch. Abelson, M. Bourque, R. Bennett, S. Foulkes, D. Sullivan, D. Viera,  
J. Hansen, Town Planner  
Absent: L. Dunn (with cause)  
7:00PM Ch. Abelson opened the meeting

**Public Hearing- Zoning Bylaw Amendments:**

Ch. Abelson opened the Public Hearing and read the order of business.

**A motion was made and unanimously voted to waive the reading of the legal notice.**

Introduction of Town Planner and Board Members

J. Hansen summarized that it was the public hearing for the re-organization of the Zoning Bylaws.

S. Foulkes had several questions that J. Hansen answered.

D. Viera expressed concern that there were more issues that needed attention in the Zoning Bylaws and wondered if they should consider holding off until the Spring Town Meeting in order to work on those issues.

J. Hansen said that would be up to the PB to decide. He went on to note that there weren't any substantive changes and that the reorganization was to make it a more user friendly document. The only changes were to the dimensional table, the use table, and the addition of defined words that were not previously defined.

**A motion was made and voted unanimously to close the Public Hearing.**

R. Bennett said he was comfortable accepting it as is because the PB had been looking at this since May of 2013 and he thought it was in the best interest of the PB and the Town to move forward.

D. Viera said there were other items he would like to incorporate into the bylaws.

J. Hansen noted that the RFP that was sent out and ultimately given to Horsley Whitten Group was to reorganize the sections and make them more user friendly, as well as updates to three items; the dimensional table, the use table, and additional definition of words. He said he thought that product had been completed and if the PB wanted to update certain sections after Fall Town

Meeting that would be fine. He suggested to adopt what had been done to date and then focus on the sections they wanted to look at and update.

D. Sullivan agreed with D. Viera that the PB should look at updating certain sections but did not want to hold up the amendments that were already made for the Fall Town Meeting.

D. Viera said he was just trying to avoid having to always go back to Town Meeting.

Ch. Abelson noted that the PB was driven by other boards to get the Zoning Bylaws updated and the ZBA had indicated they wanted this update as soon as possible.

**A motion was made and voted unanimously to recommend the Zoning Bylaw Amendments to go to Fall Town Meeting.**

**A motion was made and voted unanimously to have the Town Planner write a letter to Horsley Witten Group outlining the concerns the PB had about their quality of work pertaining to proof reading.**

### **Subdivision Rules and Regulations**

Ch. Abelson opened the Public Hearing and read the order of business.

**A motion was made and unanimously voted to waive the reading of the legal notice.**

Introduction of Town Planner and Board Members

J. Hansen summarized the changes within the subdivision rules and regulations to the PB.

Sec. 6.1- PB policy about not accepting a covenant on individual lots and not accepting letters of credit as surety.

Sec. 8.1.6 - Indicating the preconstruction checklist which indicates no clearing or cutting before being submitted.

Violations - Violation within a Conservation Subdivision Definitive plan shall be subject to penalties under the Zoning Bylaws.

**A motion was made and voted unanimously to close the Public Hearing.**

**A motion was made and voted unanimously to approve the Subdivision Rules and Regulations amendments as presented.**

### **Charter Amendments**

Ch. Abelson summarized what was discussed at the joint meeting with BOS. He said members from the Tax Assessor Board, Planning Board, Conservation Commission and Health Board met

to discuss the proposed changes to the charter that had to do with the appointment process of the department heads of these various boards. He said many different scenarios were discussed but it was ultimately decided that Town Counsel would write up something that would represent what was said that night.

M. Bourque asked Ch. Abelson if what Town Counsel wrote for the possible charter amendment language (concerning appointing authority issues) reflected what was discussed that night and was what the majority of the people wanted.

Ch. Abelson answered no; he did not feel the language reflected what was discussed that night.

D. Viera agreed with Ch. Abelson.

Town Administrator Shawn Cadime noted that the document submitted by Town Counsel had two options. He said option one makes changes in Section 6 and option two makes changes in Article 4 Section 2. He noted in his opinion, the PB should go with option two because it makes the changes directly in Article 4 Section 2 making it a cleaner version. He went on to say as far as it not representing the majority he was not sure what was missing but he wanted to reiterate this was a draft by Lauren Goldberg of Kopelman & Paige based on her interpretation and it was not changed by the BOS.

Ch. Abelson said the way he interpreted the draft, it seemed unclear how the appointment and reappointment would be handled. He continued saying the PB could select a person but the TA could possibly never recommend them. Also, the PB only had two chances for it to go through and if the TA continued to not recommend then the TA could make a temporary appointment not to exceed three months. He went on to say if no one was found acceptable to the PB in that time period it could become a long term position. He said this was not at all what the PB intended. He said he did not mind having the TA involved in the selection process and being part of the interviews but ultimately the appointment should be made by the PB. He said the members had a better feel for the requirements needed for the position.

D. Sullivan said he came away that night after the joint meeting with the sense that option two would be more of collaboration between the TA and PB. He said the proposed amendment language did not say that.

S. Cadime said the intent would be to get everyone involved right from the start so everyone is on the same page.

S. Foulkes asked about the day to day interactions.

S. Cadime said right now the day to day interactions go through the TA but thought what was lacking was middle ground as it needed to be clarified between the technical aspect and the day to day operational aspect.

Ch. Abelson noted it said in the draft amendment the PB shall appoint as a board, he asked if the PB did the reappointment.

S. Cadime said yes.

D. Sullivan wondered if the department heads were in a collective bargaining unit how could they be reappointed.

Ch. Abelson said in the steelworkers' union contract it doesn't say it directly but it says they have to abide by the Town's regulations.

S. Cadime said there is a conflict in that the only board that can go into a collective bargaining agreement is the BOS, but the charter says appointments shall be made by the PB, Assessors, BOH and Conservation Commission.

D. Sullivan wondered if that changed the terms of their working conditions.

S. Cadime said it would not change their working conditions as it only adds language to include the process.

D. Sullivan suggested that the PB design and sign a policy to address the last paragraph of the amendment.

S. Cadime said a policy could change with different members of the PB at any given time. He thought it should go to town meeting to let the residents vote on what they wanted. He also said this was not the final document. On September 17, 2014 the Boards would meet to discuss their concerns and ideas.

M. Bourque said he understood the TA wanting to be part of the process but the draft did not say there would be collaboration between the PB and the TA in making the recommendation.

S. Cadime noted it said that the individual shall be appointed by a recommendation of the TA but the appointment authority falls with the PB. He noted it would be incumbent on the PB to develop further language to ensure the TA is part of the interview process.

M. Bourque said it does not say in the language as it is written now that the PB can have a say in the recommendation. He said right now it is says either you take the recommendation or not. He recommended keeping it very simple, having an interview committee made up of two PB members and the TA; they interview the people then bring those candidates back to the PB.

Ch. Abelson said he did not see the urgency in this and would like all the departments to take time to look at it and discuss it so everyone is happy with the language. He said if this went to town meeting as is, he would not support it. He said he was worried about the appointment and reappointment processes.

S. Cadime said he wanted to say for the record that this did not come about because of any particular department head. This was just a policy and charter change to streamline things.

Bill Barker spoke about the proposed amendment changes, writing policy changes and dual management practices.

Ch. Abelson ended the discussion by noting the appointment and reappointment process would be discussed at the joint meeting on September 17, 2014.

**Discussion: Non-Conformities Section Zoning Bylaws Amendment**

**A motion was made and voted unanimously to continue the discussion on Non-Conformities section of the Zoning Bylaws**

**Approval of Minutes: 8/12/14**

**A motion was made and voted to approve the Planning Board Minutes of 8/12/14.  
M. Bourque abstained; he was not present at the 8/12/14 meeting.**

**Adjournment**

**A motion was made and voted unanimously to adjourn at 9:20PM.**

Respectfully Submitted by,

Florice Craig