

PACKET

OCT 2

2017



NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN
LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

BOARD OF SELECTMEN
Monday, October 2, 2017
6:30 p.m.
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road Wayland

Proposed Agenda

Note: Items may not be discussed in the order listed or at the specific time estimated. Times are approximate. The meeting likely will be broadcast and videotaped for later broadcast by WayCAM.

- 6:30 pm 1.) Open Meeting and Enter into Executive Session Pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(6), to Consider the Purchase, Exchange, Taking, Lease or Value of Real Property in Regard to the Rivers Edge Project at 484-490 Boston Post Road; and Pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(3), to Discuss Whether the Town Should Pursue Legal Proceedings with Respect to the Town's Agreement with Twenty Wayland, LLC, relative to Property and Development located off 400-440 Boston Post Road; and Pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(2), a Discussion of Strategy with Respect to Negotiations with Non-union Personnel, Town Administrator, because a Public Discussion of these Matters may have a Detrimental Effect on the Litigating, Negotiating or Bargaining Position of the Town
- 7:00 pm 2.) Call to Order by Chair
- Review Agenda for the Public; Announcements
- 7:02 pm 3.) Public Comment
- 7:10 pm 4.) Swearing in of Firefighter Nathaniel Bachman
(to be held in the Senior Center)
- 7:30 pm 5.) Meet with the Chairman of the Board of Public Works to Discuss Maintenance and Plowing of Private Roads
- 7:50 pm 6.) Presentation by the Chairman of the Finance Committee
- 8:20 pm 7.) Special Town Meeting Articles: Discuss all Articles; Potential Vote to Insert Articles in Special Town Meeting Warrant and Potential Vote to Take a Position on Special Town Meeting Articles; and Meet with Article Sponsors:
- (1) Board of Public Works
 - (2) Recreation Commission
 - (3) School Committee
- 8:40 pm 8.) Fiscal Year 19 Budget Discussion: Vote to Approve Capital Projects for Departments under the Board of Selectmen
- 9:10 pm 9.) Town Administrator Review: Discuss Final Evaluation and Goal Setting

BOARD OF SELECTMEN

Monday, October 2, 2017

6:30 p.m.

Wayland Town Building

Selectmen's Meeting Room

41 Cochituate Road Wayland

Proposed Agenda Page Two

- 9:20 pm 10.) Minutes: Review and Vote to Approve Minutes of September 18, 2017
- 9:25 pm 11.) Consent Calendar: Review and Vote to Approve (See Separate Sheet)
- 9:30 pm 12.) Review Correspondence (See Separate Index Sheet)
- 9:40 pm 13.) Report of the Town Administrator
1. Correspondence
 2. Wastewater Management District Commission PILOB
 3. Class II Auto Dealer's License
 4. Oxbow Meadows Contract
 5. Executive Session – Motion for Minutes
 6. Town Engineer: Update on River's Edge
- 9:55 pm 14.) Selectmen's Reports and Concerns
- 10:05 pm 15.) Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any
- 10:10 pm 16.) Adjourn

(5) PRIVATE ROADS

PRIVATE ROADS

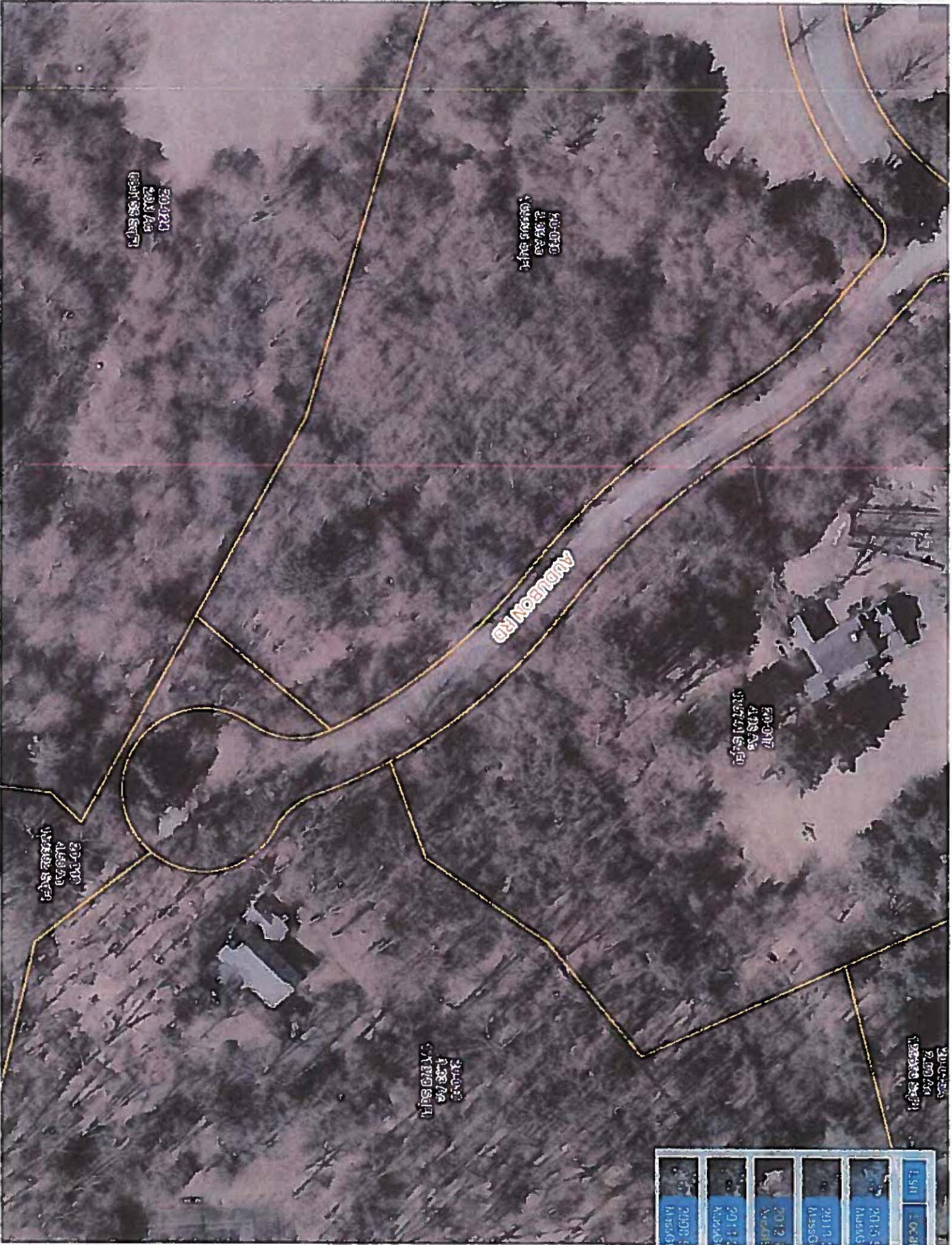
9/26/2017

Road	Dirt	Length	No Plow Date	Access	# of Homes
Adelaide Ave		565		Access Lakeshore & West Plain	6 Homes
Amey Rd				Fuller Rd No Turn Around	11 Homes
Audubon Rd		785		Standish Rd No Turn Around	2 Homes
Bennett Rd				Boston Post Rd. Limited Turn Around	13 Homes
Birch Rd				Sycamore Rd - Hawthorne	2 Homes
139 Boston Post Rd	X		2015	Boston Post Rd	2 Homes
Carroll Ct	X	211		Commonwealth Rd. No Turn Around	1 Home
Cedar Crest Rd	X			Indian Rd. Limited Turn Around	7 Homes
Center St (partial)	X			Center St. Hill St.	1 Home
Chesnut Rd	X	264		Hawthorne Rd - Sycamore Rd	3 Homes
Cormans Ln	X	317		Main St. No Turn Around	2 Homes
Cross St	X	98		Doran Rd No Turn Around	1 Home
Curtiss Rd		122		Main St.	1 Home
Doran Rd	X	792		Main St. - Mathews Dr	9 Homes
Dunster Ave				East Plain. No Turn Around	5 Homes
Elizabeth				Access Rice Rd with Turn around	2 Homes
Erwin Rd	X	450			
Fields Lane				Access Plain Rd No Turn Around	1 Home
Glen Rd				Access Boston Post Rd & Millbrook	11 Homes
Hammond Rd			2015	East Plain No Turn Around	1 Home
Heard Rd				Pelham Island Rd Turn Around Conserv. Area	5 Homes
Hemlock Rd	X	270		Lakeshore Dr No Turn Around	2 Homes
Hereford Rd			2015	Alpine Rd No Turn Around	2 Homes
Herland Way	X			Old Conn Path West - Coch Rd	2 Homes
Hill St	X	528		East Plain, South St. Center St.	2 Homes
25,27,29 High Rock			2015	High Rock No Turn Around	3 Homes
Jennison Rd	X	212		Main St. No Turn Around	2 Homes
Lewis Path				Access Concord Road w/Turn around	3 Homes
Lundy Ln				White Rd - Rich Valley - Sylvan Way	7 Homes
Maple St	X	370		Main St. No Turn Around	1 Home
Mathews Ave	X			Main St. Mathews Dr	5 Homes
Mathews Dr	X			Main St. Pond	7 Homes
Mayflower Path	X			Pineridge Rd Limited Turn Around	9 Homes
Mitchell St (Rear)			2015	Mitchell St. No Turn Around	1 Home
Old Oxbow Rd	X			Oxbow Rd Both Ends	7 Homes
Pesce Dr				Access Oxbow Rd w/Turn around	6 Homes
Pine Rd		160		Dudley Rd No Turn Around	2 Homes
Pond Dr1	X	1056		Main St. Crest Rd	4 Homes
Priscilla Path	X	423		Maiden Lane both	7 Homes
Quincy Rd	X	317		Pemberton Rd. No Turn Around	3 Homes
Ravine Rd				Access off Wallace No Turn Around	2 Homes
Reservoir Rd Ext.		400		Access Reservoir Rd No Turn Around	3 Homes
River Terrace		110		Old Stonebridge No Turn Around	1 Home
Rose Hill Ln				Access off Glezen No Turn Around	2 Homes
Rowan Field Rd				Access Draper Rd	2 Homes
Sequin Path	X	106			
15 Shawmut Ave Ext	X	245	2015		
Shawmut Ave Ext	X			Pemberton Rd. Town Beach Lot (seasonal)	9 Homes
Stanton St				Damon St. - Commonwealth Rd	9 Homes
Sycamore Rd	X			Old Conn. Path - Chesnut,	
Wampum Path		634		Lakeshore Dr No Turn Around	2 Homes
Weir Meadow Path				Access off Oxbow No Turn Around	1 Home
Wildflower Lane				Access of Plain Rd No Turn Around	2 Homes
Willard St				Main St - Winter St	6 Homes
Winthrop Pl		188		Winthrop Ter. No Turn Around	1 Home
201 West Plain		255	2015	West Plain No Turn Around	3 Homes
Yeager Way				Access Cochituate Rd w/Turn around	4 Homes

Public access or multiple homes

No defined public access or proper turn around proposed to discontinue maintenance

No defined public access or proper turn around currently not maintained



50-023
401/24
1001 35 571

50-010
219/23
1001 35 571

50-017
418/26
1001 35 571

50-001
418/26
1001 35 571

50-005
1-28/24
1001 35 571

50-002
219/23
1001 35 571

ANDERSON RD

2009	2011	2012	2013	2014	2015
1001 35 571	1001 35 571	1001 35 571	1001 35 571	1001 35 571	1001 35 571

CARROLL CT

51D-086
0.69 Ac
30000 SqFt

51D-084
1 Ac
43560 SqFt

COMMONWEALTH RD

51D-008
0.13 Ac



CORMAN'S LN

35-020
0.28 Ac
12093 Sq Ft

35-034
50.62 Ac
220507 Sq Ft

5628 Sq Ft

47B-156
0.47 Ac
20670 Sq Ft

47B-057A
0.23 Ac
10000 Sq Ft

47B-057
0.12 Ac
5215 Sq Ft

MAIN ST

JENNISON R

47D-026
0.11 Ac
4772 Sq Ft

47D-025
0.28 Ac
12400 Sq Ft

47D-03
0.26 Ac
15300 Sq Ft

47D-031

47D-034



42D-113
0.16 Ac
6950 Sq Ft

42D-070
0.16 Ac
7812 Sq Ft

42D-088
0.42 Ac
5376 Sq Ft
42D-089
0.12 Ac
5376 Sq Ft

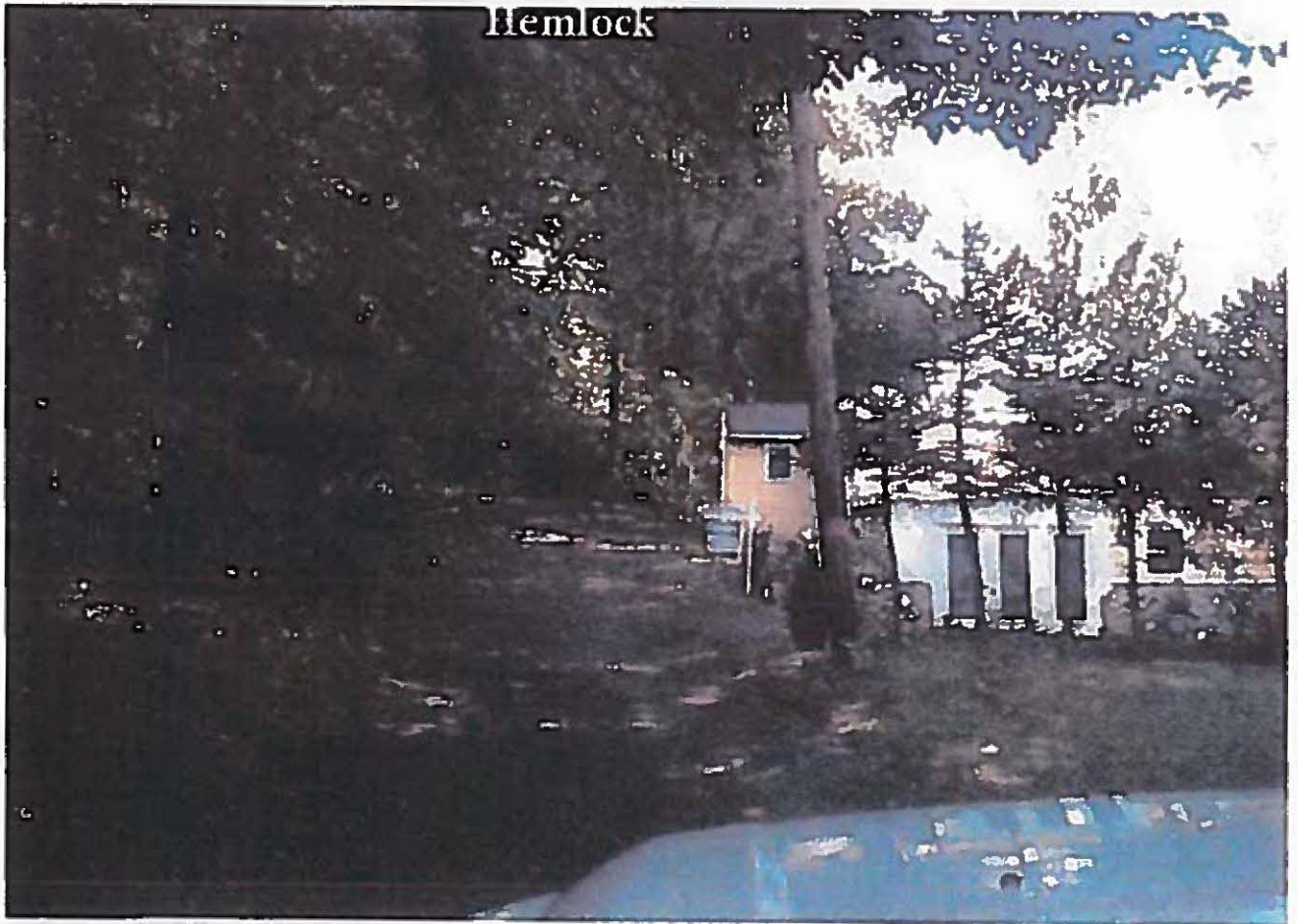
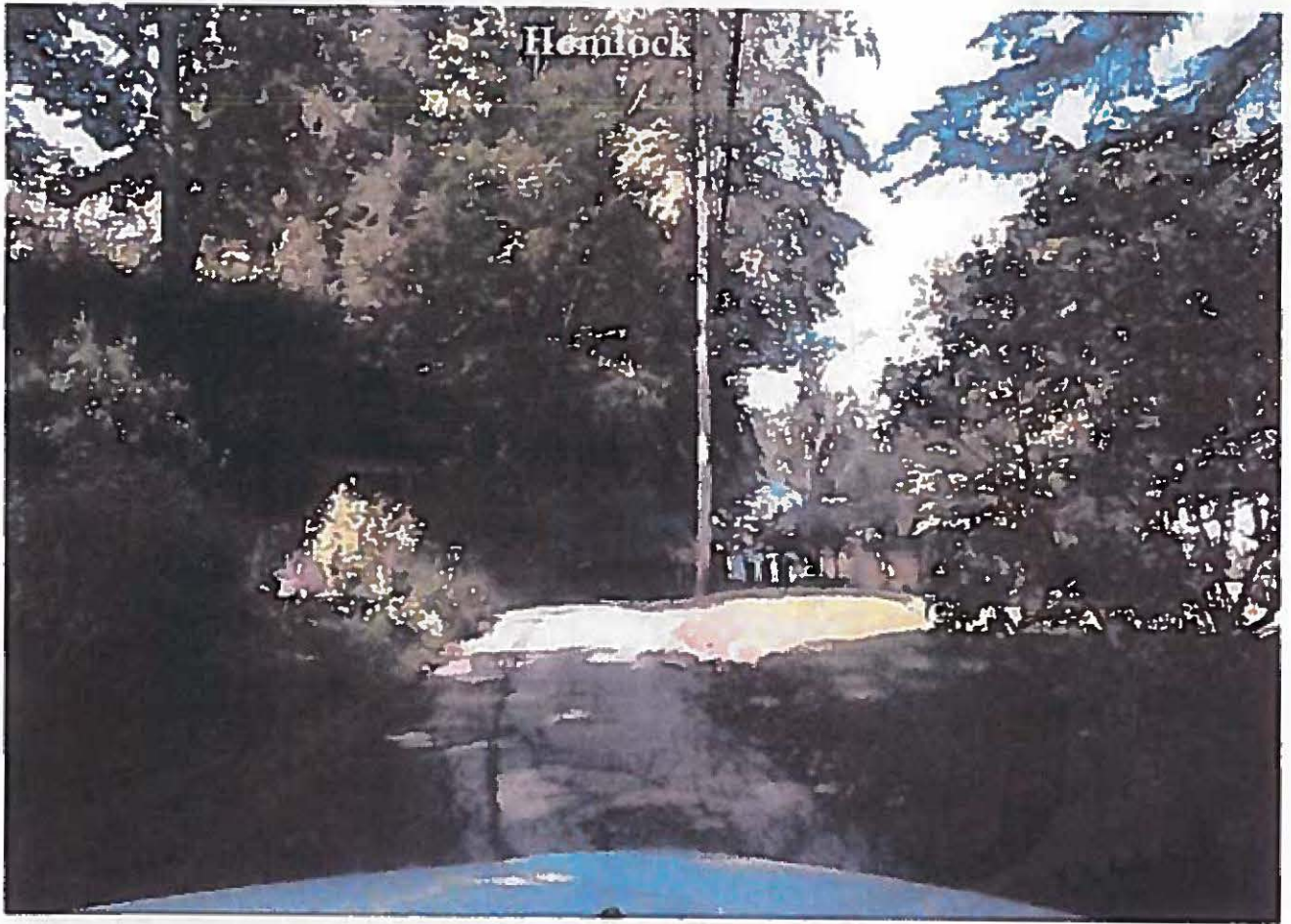
42D-068
0.12 Ac
6200 Sq Ft

42D-120
0.51 Ac
23132 Sq Ft

42D-067
0.17 Ac
7476 Sq Ft

42D-071
0.14 Ac
6063 Sq Ft

42D-077
0.16 Ac
7030 Sq Ft



47B-059
0.63 Ac
27227 Sqft

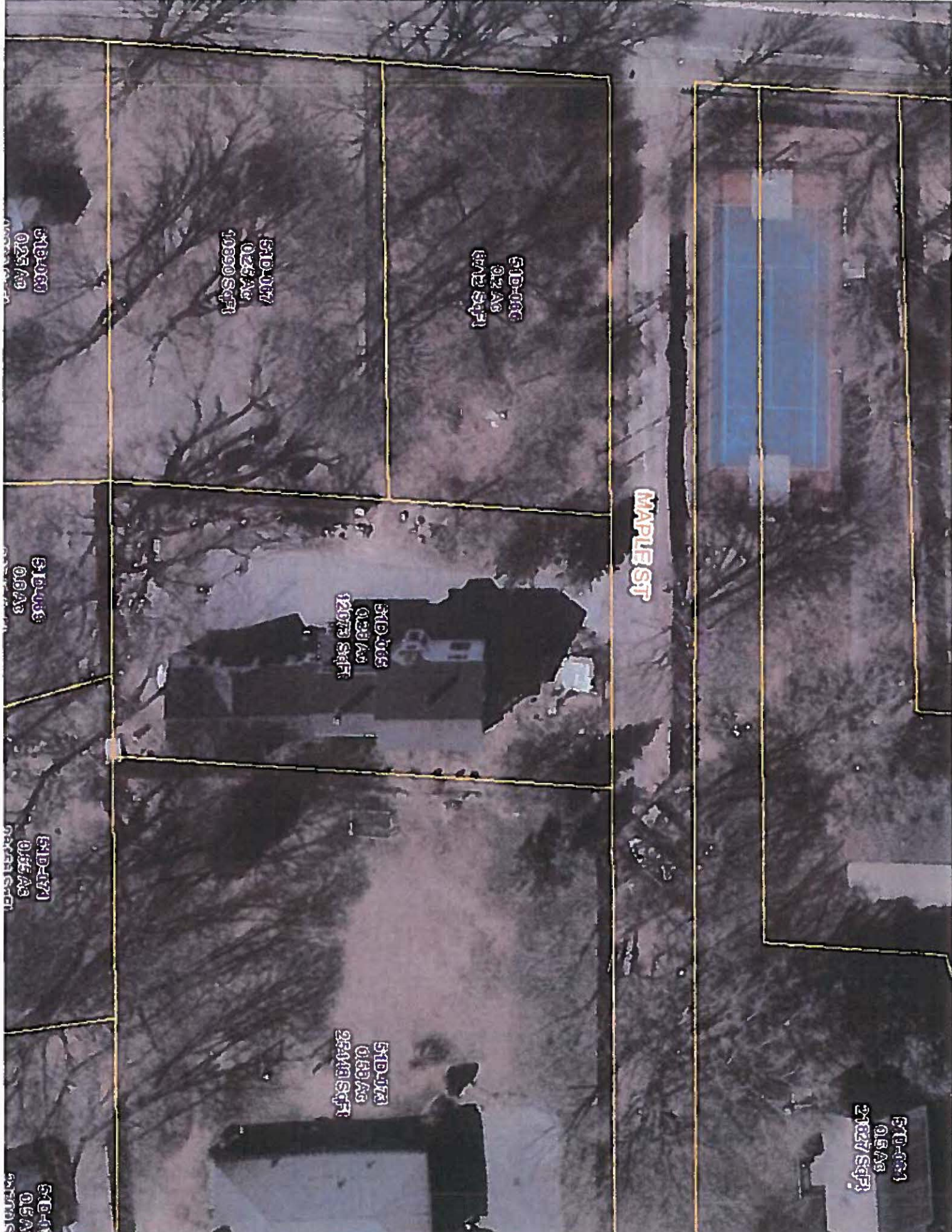
47B-058
0.43 Ac
18761 Sqft

JENNISON RD

47B-030
0.33 Ac
15000 Sqft

47B-029
0.35 Ac
15000 Sqft

47B-031
0.16 Ac



510-001
0.5 Acs
2-1827 Sq Ft

MAPLE ST

510-006
0.2 Acs
1472 Sq Ft

510-005
0.23 Acs
12073 Sq Ft

510-012
0.53 Acs
22418 Sq Ft

510-007
0.25 Acs
10890 Sq Ft

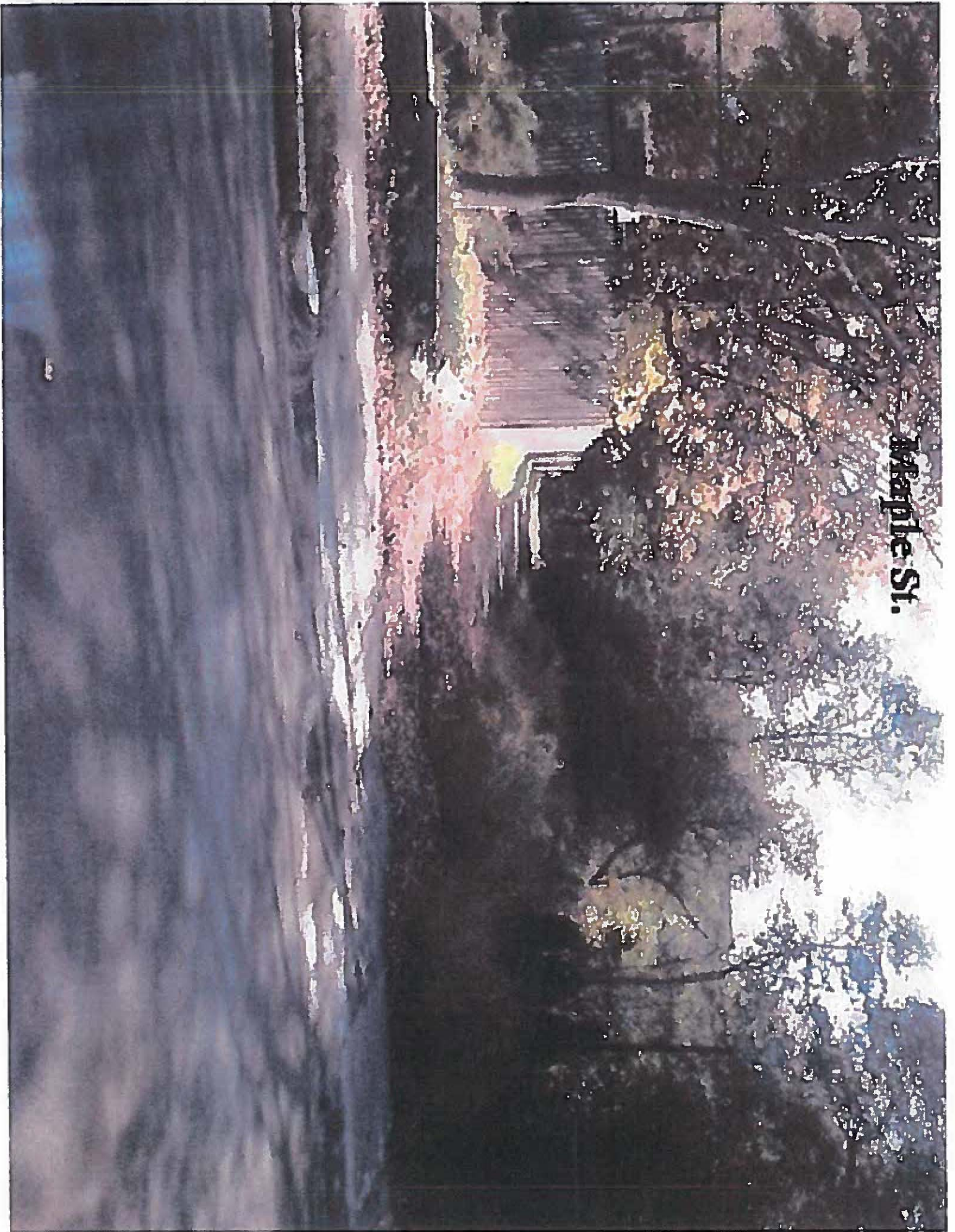
510-000
0.25 Acs

510-008
0.18 Acs

510-009
0.55 Acs

510-017
0.5 Acs

Maple St.





RD

47A-016
0.09 AC
4060 SFT

47A-015
0.13 AC
7149 SFT

47A-017
0.05 AC
2130 SFT

47A-008
0.22 AC
9800 SFT

PINE RD

47A-057
0.28 AC
12200 SFT

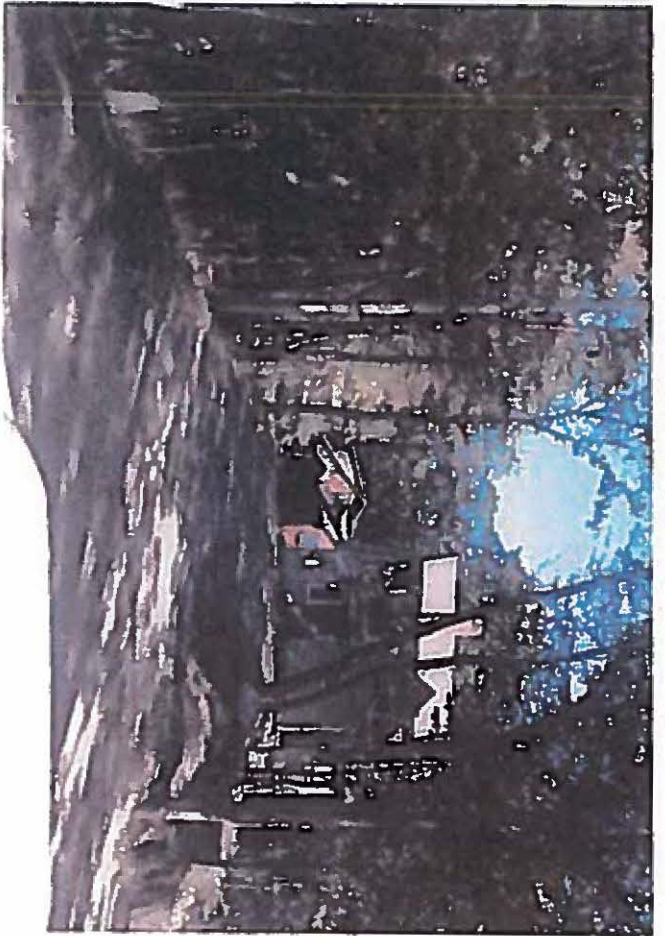
47A-088
0.22 AC
9800 SFT

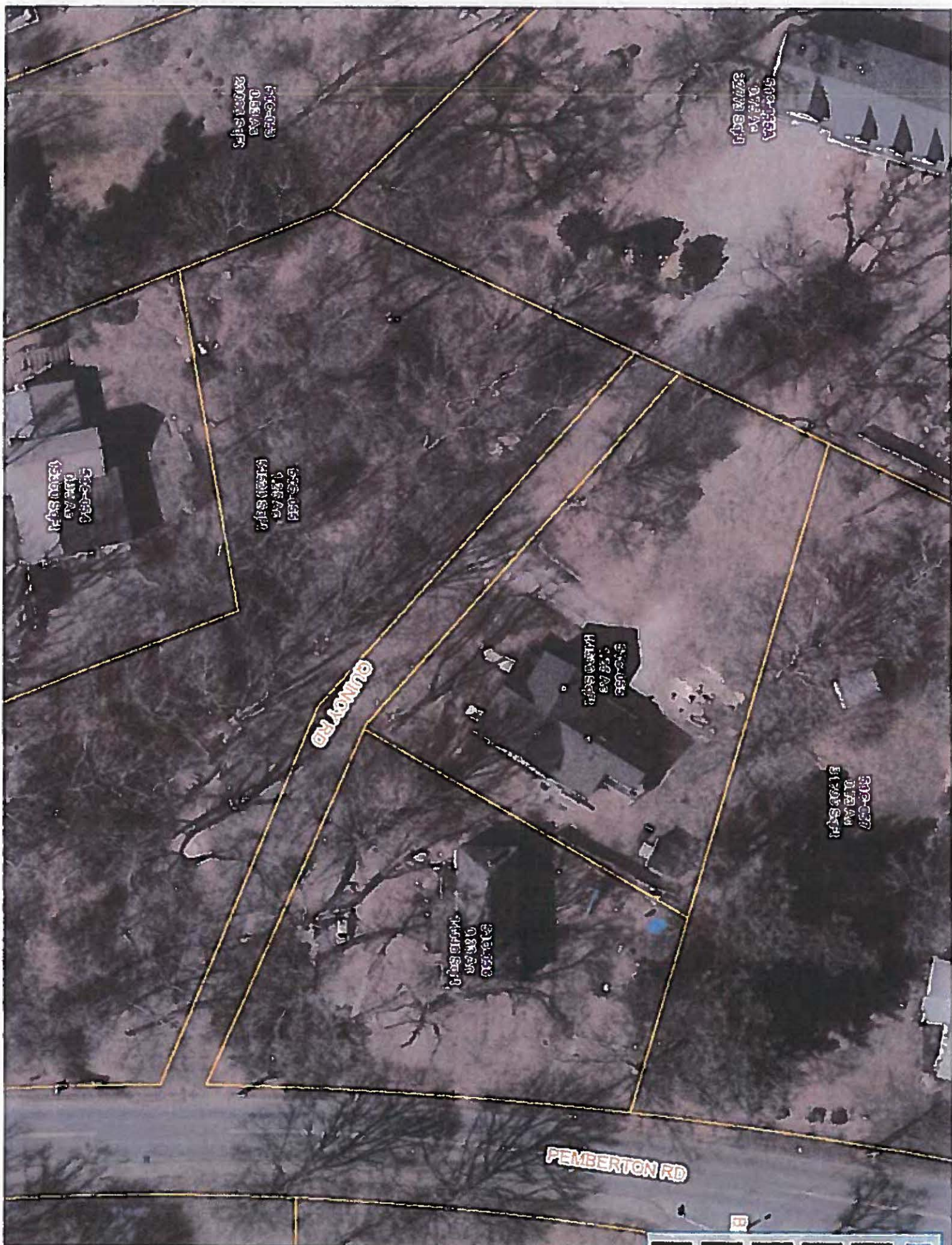
47A-009
0.12 AC
4657 SFT

47A-006
0.41 AC
4920 SFT

47A-081
0.92 AC
2178 SFT

BAYFIELD RD





500-003A
0.72 AC
0.72 AC

500-003B
0.68 AC
0.68 AC

500-003C
0.68 AC
0.68 AC

500-003D
1.38 AC
1.38 AC

500-003E
0.72 AC
0.72 AC

500-003F
1.70 AC
1.70 AC

500-003G
0.68 AC
0.68 AC

QUINCY RD

PEMBERTON RD

31





75-072
1.92 AC
64904 Sqr

75-074
1.64 AC
18943 Sqr

63-020
1.41 AC
19167 Sqr

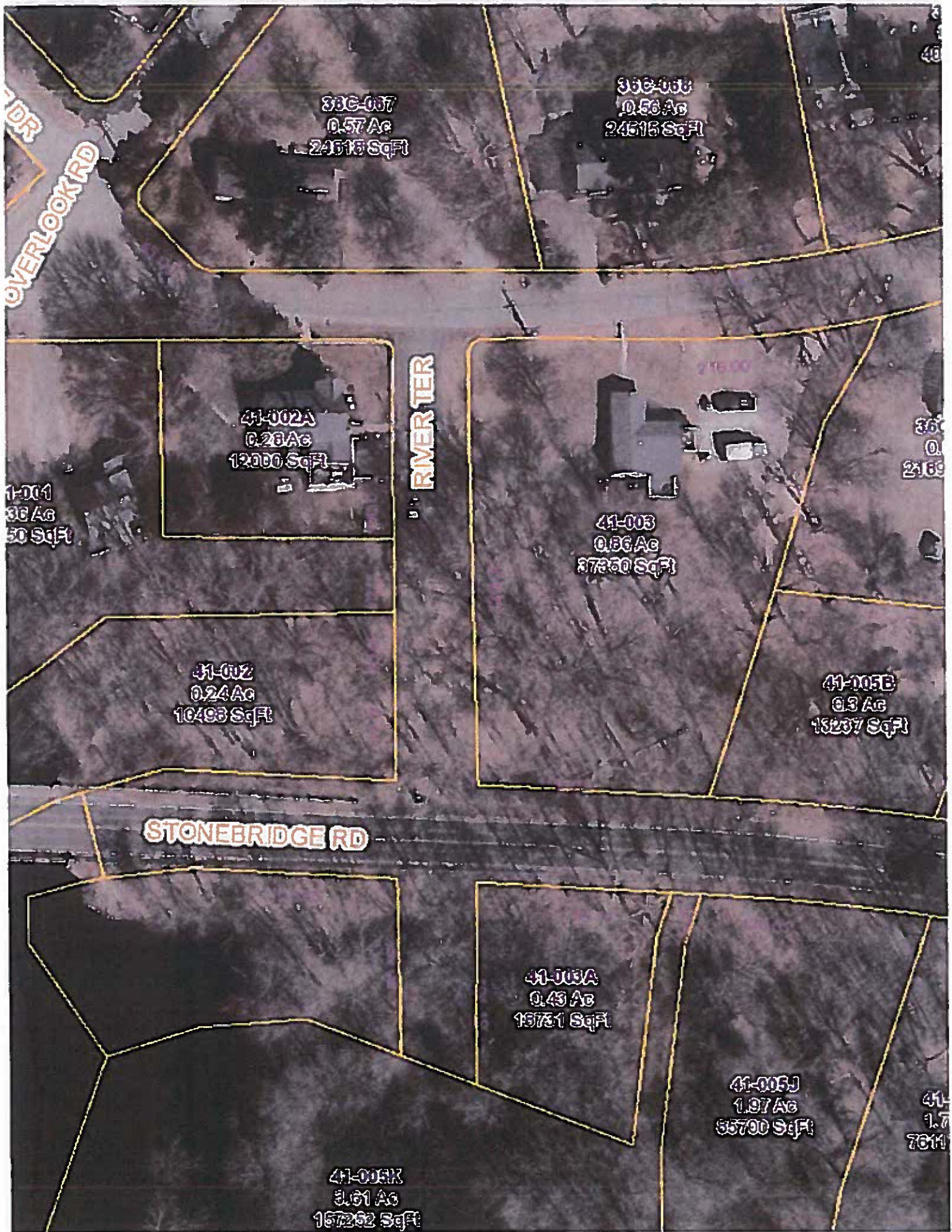
61-410
2.13 AC
92670 Sqr

61-117
1.15 AC
60019 Sqr

61-412
1.98 AC
130106 Sqr

61-410
1.11 AC
6947 Sqr

RESERVOIR RD



33C-007
0.57 Ac
24515 SqFt

33C-008
0.56 Ac
24515 SqFt

41-002A
0.28 Ac
12000 SqFt

41-001
0.36 Ac
15000 SqFt

41-003
0.86 Ac
37350 SqFt

36C-001
0.1
21559

41-002
0.24 Ac
10493 SqFt

41-005B
0.3 Ac
13237 SqFt

STONEBRIDGE RD

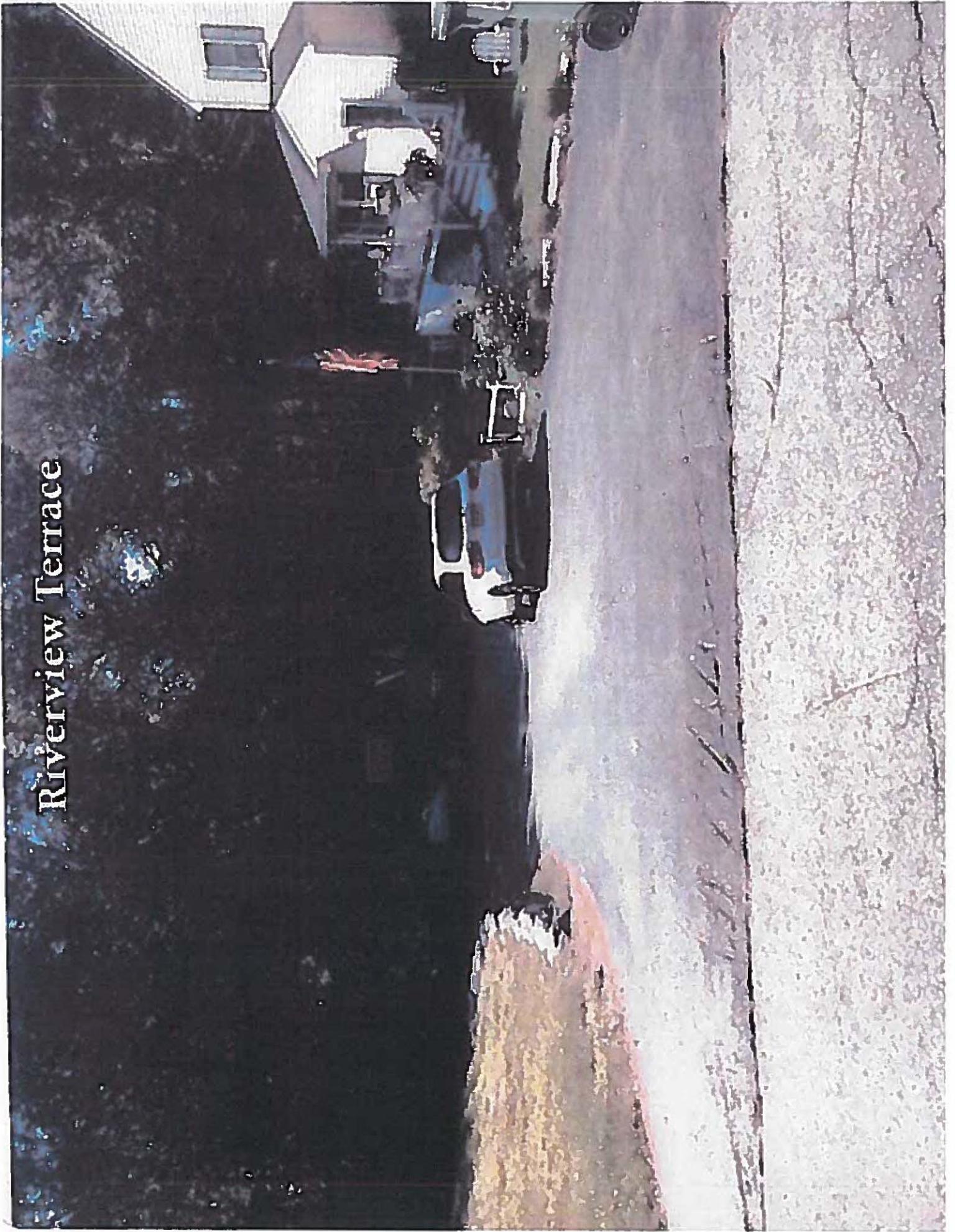
41-003A
0.43 Ac
18731 SqFt

41-005J
1.97 Ac
55700 SqFt

41-005K
1.7
7614

41-005K
3.61 Ac
157262 SqFt

Riverview Terrace



22250 Sq Ft

24-004
1.45 Ac
3249 Sq Ft

WINTHROP PL

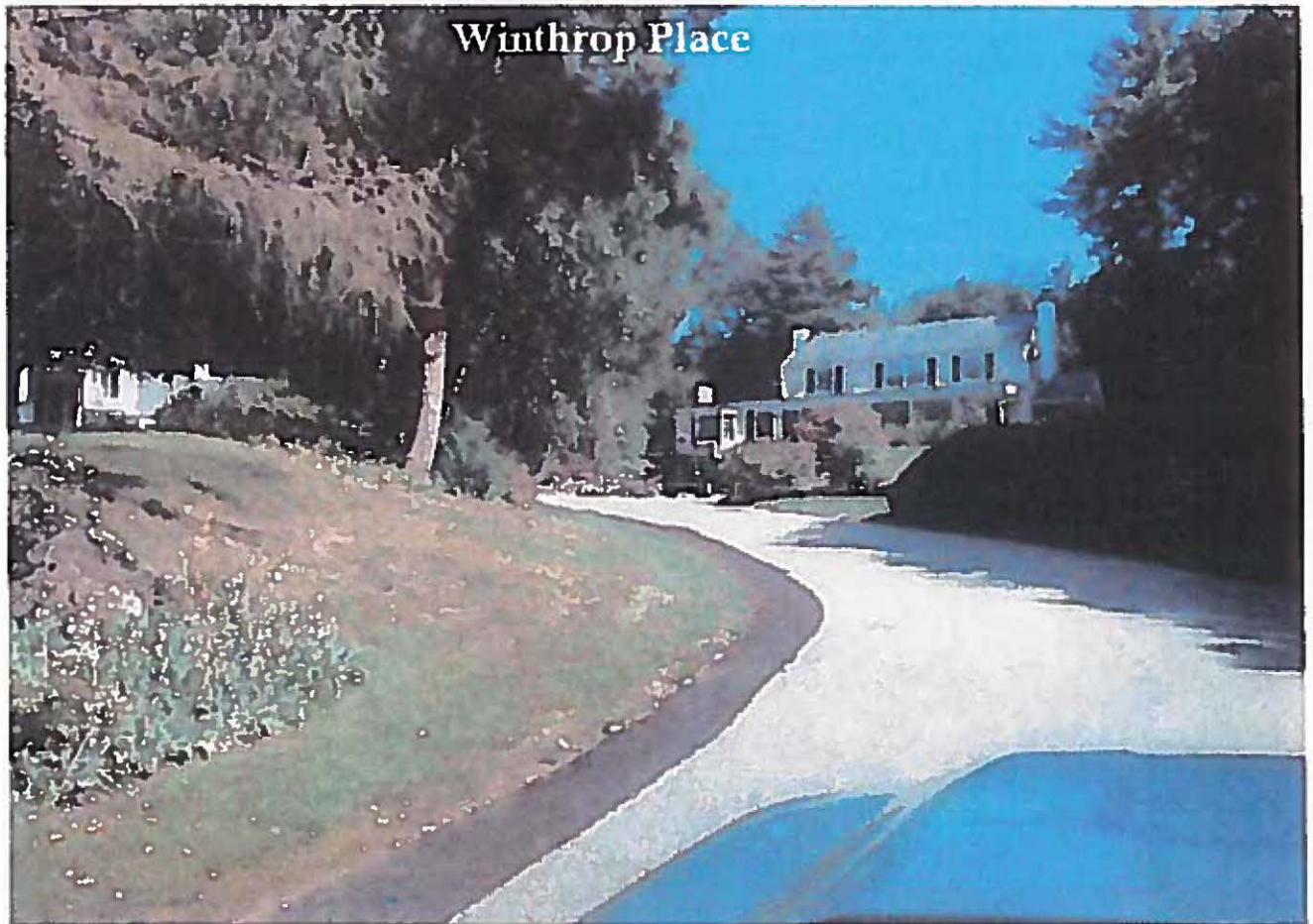
29-059
0.55 Ac
22919 Sq Ft

WINTHROP TER

29-060
0.93 Ac
40892 Sq Ft

29-068
0.9 Ac
35045 Sq Ft





0.23 Ac
10049 Sqft

436-054
0.41 Ac
18000 Sqft

436-084
0.48 Ac
20166 Sqft

436-053
0.41 Ac
17784 Sqft

WAMPUM PRA

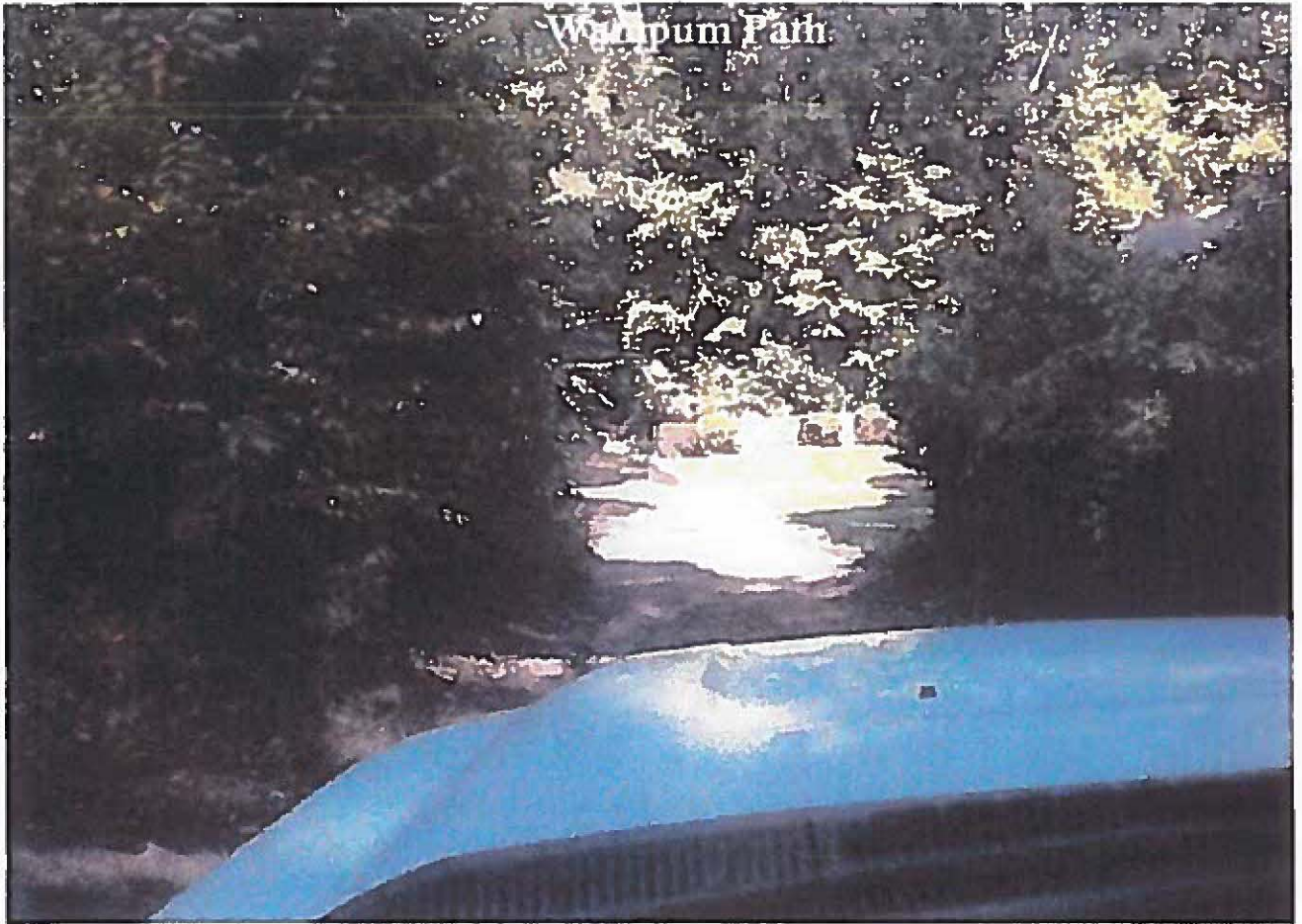
LAKE

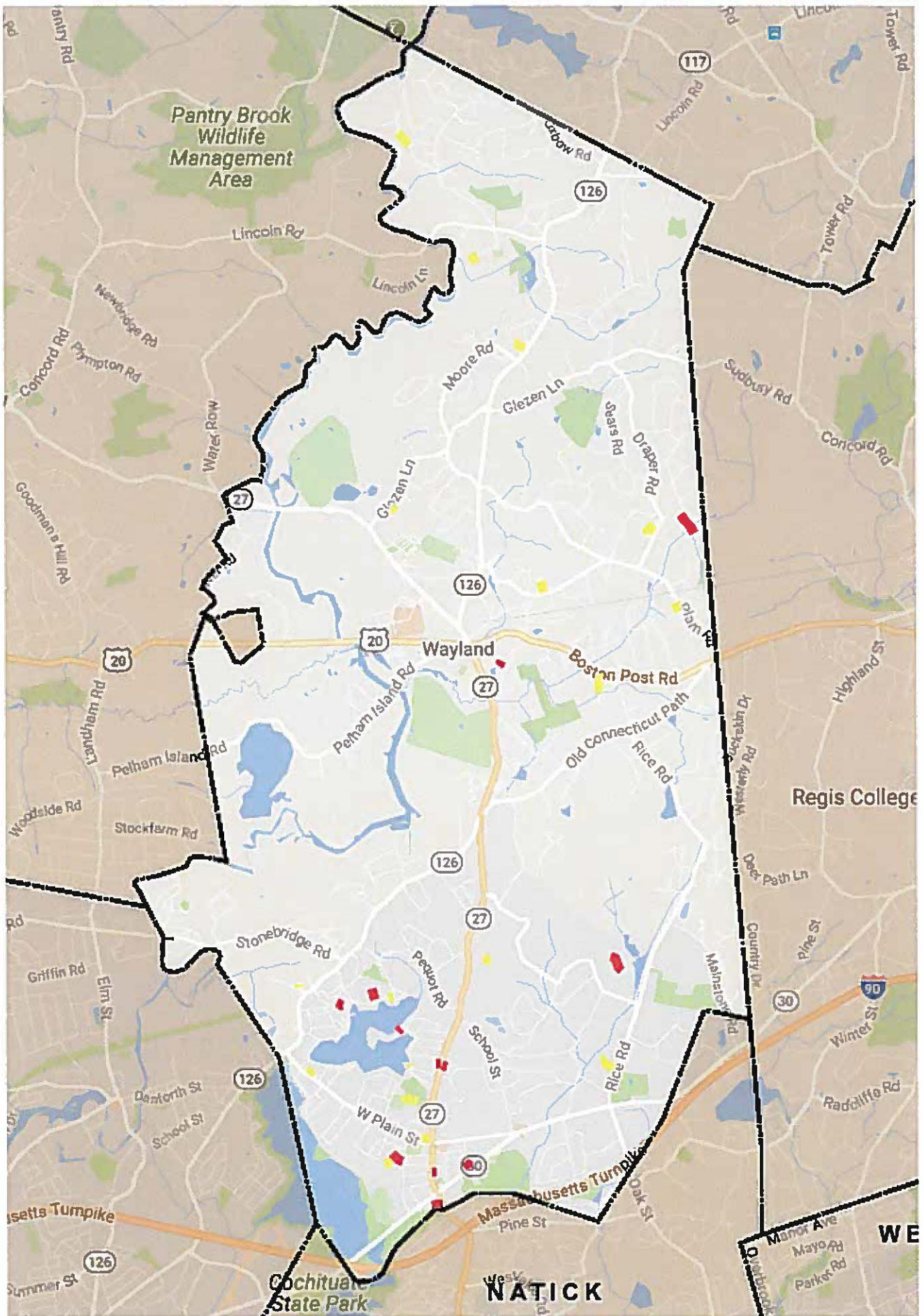
436-084
0.87 Ac
16260 Sqft

436-085
0.56 Ac
90 Sqft



Wappum Path





Department of Public Works—Proposed Road Maintenance/Snow Plow Adjustments

Currently not Maintained/Plowed



Proposed to be Removed from Maintenance/Plow Routes



October 2, 2017

TO: Board of Selectmen

FROM: Nan Balmer, Town Administrator

RE: STM ARTICLES

REQUESTED ACTION:

DISCUSS SPECIAL TOWN MEETING ARTICLES AND MEET WITH ARTICLE SPONSORS, AND

VOTE ANY REVISIONS TO SELECTMEN SPONSORED ARTICLES;

VOTE TO INSERT ARTICLES IN WARRANT AND VOTE TO TAKE A POSITION ON ARTICLES

BACKGROUND:

➤ **DISCUSS ARTICLES; MEETINGS WITH ARTICLE SPONSORS:**

1. C: Accept Gift of Land – Draft Finance Committee comments, pro's and cons attached
2. J: High School Stadium Complex Renovation Design Fees: Jeanne Downs, School Committee
3. K: Synthetic Turf Field at Loker: Asa Foster, Recreation Commission
 - a. See Town Counsel discussion of title in documents attached.
4. L: 107 Old Sudbury Demolition: Woody Baston, BOPW, Tom Holder DPW Director
5. M: Aqueduct Pedestrian Crossings: Tom Holder, DPW Director will discuss DPW role

➤ **VOTE REVISED SELECTMEN ARTICLES**

1. A: Prior Year Bills
2. B: Current Year Transfers

➤ **VOTE TO INSERT ARTICLES AND TAKE POSITIONS (SEE UPDATES BELOW)**

H: School Union Collective Bargaining Agreement: School Committee will vote change to article title and minor change to text.

I: Appropriate Funds to Construct Library: The MA Board of Library Commissioners is expected to make a decision on 10/6/17 regarding deadline for Town Meeting and Election decision to fund project.

K: Synthetic Turf Field at Loker: Please see Town Counsel discussion on title research

N: Marijuana Moratorium: Planning Board will vote Tuesday October 3, 2017 at its hearing to issue its report and recommendation on this article which was revised to reflect changes in state law

➤ DOCUMENTS ATTACHED :

- 1. Article List for November 14, 2017, including sponsors and assignments.**
- 2. Article Text for all articles (Excludes Finance Committee comments which are not yet prepared)**
- 3. A: Previous Year Bills --- Revised Article for vote, above**
- 4. B: Current Year Transfers --- Revised Article, for vote above**
- 5. C: Accept Gifts of Land--- Draft Finance Committee comments**
- 6. K: Synthetic Turf Field at Loker: Town Counsel title research**

ARTICLE LIST FOR NOVEMBER 14, 2017 SPECIAL TOWN MEETING

Article	November 2017 Article Name	Sponsor	Assignee Selectmen	Assignee FinCom	Position Selectmen	Position FinCom
A	Pay Previous Fiscal Year Unpaid Bills	Board of Selectmen	L. Anderson	G. Uveges		
B	Current Year Transfers	Board of Selectmen	C. Karlson	G. Uveges		
C	Accept Gifts of Land at Town Center	Board of Selectmen	C. Karlson	S. Correia		
D	Change Filing Deadline for Circuit Breaker Match Program	Board of Selectmen	C. Karlson	G. Uveges		
E	Compensation for Town Clerk	Board of Selectmen	L. Anderson	S. Correia		
F	Personnel Bylaws and Wage and Classification Plan	Personnel Board	L. Anderson	B. Steinberg		
G	Town Union Collective Bargaining Agreements 2017-2020	Personnel Board	L. Anderson	B. Steinberg		
H	School Union Collective Bargaining Agreements 2017-2020	School Committee	C. Karlson	C. Martin		
I	Appropriate Funds to Construct New Library Building	Board of Library Trustees	D. Levine	J. Gorke		
J	High School Stadium Complex Renovation Design Fees	School Committee and Recreation Commission	L. Jurist	K. Shigley		

(7-1) STM ARTICLE LIST

ARTICLE LIST FOR NOVEMBER 15, 2016 SPECIAL TOWN MEETING

Article	November 2017 Article Name	Sponsor	Assignee Selectmen	Assignee FinCom	Position Selectmen	Position FinCom
K	Synthetic Turf Field at Loker Conservation and Recreation Area	Recreation Commission	L. Jurist	B. Steinberg		
L	107 Old Sudbury Road Demolition	Board of Public Works	D. Levine	C. Martin		
M	Appropriate Funds to Install Weston Aqueduct Pedestrian Crossings	Conservation Commission	M. Antes	S. Correia		
N	Non-Medical/Recreational Marijuana Six Month Moratorium – Zoning Bylaw Amendment	Youth Advisory Committee	L. Jurist	S. Correia		
O	Appropriate Funds to Restore/Preserve Stone Pillars at Castle Gate Road and West Plain Street	Community Preservation Committee	M. Antes	C. Martin		
P	Appropriate Funds for Design of Part 2 of the High School Athletic Preferred Improvement Plan	Community Preservation Committee and School Committee	D. Levine	K. Shigley		

(7-2) PREVIOUS YEAR BILLS
(7-2) ARTICLE TEXT

ARTICLE A: PAY PREVIOUS FISCAL YEAR UNPAID BILLS

Proposed by: Board of Selectmen

Estimated Cost: \$2,302.10

TEXT: To determine whether the Town will vote to:

- (a) pay the bills of the prior fiscal year,
- (b) appropriate a sum of money for the payment of the foregoing bills of the prior fiscal year; and
- (c) provide for such appropriation by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by borrowing, or otherwise.

Fiscal 2016 and 2017 liabilities to be paid using Fiscal 2018 appropriations:

1) Town Office – W.B.Mason	\$269.80	Fiscal 2018 Town Office Budget
2) Town Office - W.B.Mason	\$211.87	Fiscal 2018 Town Office Budget
3) Town Office - W.B.Mason	\$57.98	Fiscal 2018 Town Office Budget
4) DPW – JP Noonan Transportation	\$673.20	Fiscal 2018 DPW Budget
5) School Budget – David Nickerson	\$1,089.25	Fiscal 2018 School Budget

COMMENTS: Occasionally, bills are not paid at the end of a fiscal year for a number of reasons, including late submission. The unpaid bills from Fiscal Year 2016 are summarized in the article.

1) Town Office – W.B.Mason	\$269.80	Chairmat / Labels
2) Town Office - W.B.Mason	\$211.87	Office Supplies
3) Town Office - W.B.Mason	\$57.98	Office Supplies
4) DPW – JP Noonan Transportation	\$673.20	Leachate
5) School Budget – David Nickerson	\$1,089.25	Equipment Rentals

QUANTUM OF VOTE: Nine-tenths – see Massachusetts General Laws Chapter 44, Section 64.

ARTICLE B: CURRENT YEAR TRANSFERS

Proposed by: Board of Selectmen

Estimated Cost: \$130,090

To determine whether the Town will vote to appropriate a sum or sums of money for the operation and expenses of various Town Departments for the current fiscal year; to determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by funds received as grants from the Commonwealth or federal government, or otherwise; and to determine which Town officer, board, or committee of combination of them, shall be authorized to expend the money or monies appropriated therefor.

CURRENT YEAR TRANSFERS FY 2018

PURPOSE:	AMOUNT
1 Septage Fund Expenses FY 04 – FY 15	\$68,614
2 Septage Fund Expenses FY 18	\$25,821
3 Dog Officer Expense	\$655
4 Wastewater Budget	\$35,000

TOTAL CURRENT YEAR TRANSFERS	\$ 130,090
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FUNDING SOURCES:	AMOUNT
1 Unreserved Fund Balance	\$68,614
2 Unreserved Fund Balance	\$25,821
3 Unreserved Fund Balance	\$655
4 Wastewater Retained Earnings	\$35,000

TOTAL FUNDING SOURCES	\$130,090
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COMMENTS: This article authorizes the expenditure of funds for the current fiscal year, which were not foreseen in the current budget. These transfers are required for the following reasons:

Septage Fund Expenses FY 04 – FY 15 (\$68,614) This request is to reimburse Sudbury from the Septage account for FY 04 – FY 15 retiree legacy costs paid by Sudbury which were not charged to the Septage fund. Payments are in accord with the amended 2015 Septage Agreement between the Town Wayland and the Town of Sudbury. The Septage Fund does not have sufficient funds remaining, so this appropriation is from the General Fund Unreserved Fund Balance.

Septage Fund Expense FY 18 (\$25,821) This request is to fund Wayland’s 50% share of FY 18 retiree legacy costs attributable to Septage operations. The other 50% will be funded by Sudbury. The Septage Fund does not have sufficient funds remaining, so this appropriation is from the General Fund Unreserved Fund Balance.

Dog Officer Expense (\$655) This request is to fully fund the contract for the Dog Officer. When the FY 18 budget was prepared, the Dog Officer contract was not yet finalized. The line item does not have sufficient funding, so this appropriation is from the General Fund Unreserved Fund Balance.

Wastewater Budget (\$35,000) Due to aging infrastructure and past unanticipated emergency expenditures, the WWMDC wants to add a line item to the FY2018 budget. The item represents expenditures that are required as part of the operation of the WWMDC wastewater collection system. The funding source is existing retained earnings of the WWMDC. The funds will enable adequate response to a failure or disruption of the existing public collection system,

provide for routine maintenance of the collection system, and allow for conformance with Massachusetts regulatory requirements associated with DigSafe mark-outs.

PROS: These expenses were not reasonably anticipated when forecasting the FY2018 budget and they represent binding obligations of the Town.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B and Chapter 44, Section 53F 1/2. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2, 7 and 8.

ARTICLE C: ACCEPT GIFTS OF LAND AT TOWN CENTER

Proposed by: Board of Selectmen

To determine whether the Town will vote to authorize the Board of Selectmen, with approval by Town Counsel as to form, to acquire by gift, purchase, eminent domain or otherwise, for general municipal purposes, on such terms and conditions as the Board of Selectmen deems appropriate, the fee or any lesser interest in all or any part of the parcels of land and the buildings and other structures thereon identified as Lot 9-1A and Lot 3-1, shown on a plan prepared by the Town Surveyor entitled “Plan of land Wayland, Massachusetts Showing Proposed Municipal Parcels” dated July 21, 2015 and recorded with the Middlesex South Registry of Deeds as Plan 616 of 2015, and Parcel 14, shown on a plan prepared by Hancock Associates entitled “Plan of Land in Wayland, MA” dated January 20, 2012, recorded with the Middlesex South Registry of Deeds as Plan 305 (1 of 2) of 2012 on file with the Town Clerk, and further to authorize the Board of Selectmen to execute any and all documents as may be necessary or convenient in relation thereto, or take any action relative thereto.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 14. For appropriation, two-thirds – see Massachusetts General Laws Chapter 40, Section 14. For eminent domain, two-thirds – see Massachusetts General Laws Chapter 40, Section 14 and Chapter 45, Section 19.

ARTICLE D: CHANGE FILING DEADLINE FOR CIRCUIT BREAKER MATCH PROGRAM

Proposed by: Board of Selectmen

To determine whether the Town will vote to amend the Code of the Town of Wayland by modifying paragraph G in Section 19-8 of the Code of the Town of Wayland by deleting the crossed-out text and inserting the underlined text as follows:

G. Local Circuit Breaker Program. Applications for senior tax relief under the Town Circuit Breaker program must be filed with the office of the Board of Assessors no later than ~~December 31~~ April 1 of the year in which the original tax filing was due to which the tax relates, or within three months after the bill or notice of assessment was sent, whichever is later.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 21 and Chapter 59, Section 59.

ARTICLE E: COMPENSATION FOR TOWN CLERK

Proposed by: Board of Selectmen

Estimated Cost: \$3,996

To determine whether the Town will vote to fix the salary for the Town Clerk, pursuant to Massachusetts General Laws Chapter 41, Section 108, to be effective July 1, 2017, and vote to transfer from FY18 budgeted Reserve for Salary Settlement account a sum of money for the purpose of funding the Town Clerk salary increase. The salary is printed below:

SALARY SCHEDULE – TOWN CLERK

	<u>FY 2017</u>	<u>FY 2018</u>
Town Clerk	\$ 70,504	\$ 74,500

QUANTUM OF VOTE: Two-thirds – see Massachusetts General Laws Chapter 41, Section 108.

ARTICLE F: PERSONNEL BYLAWS AND WAGE AND CLASSIFICATION PLAN

Sponsored by: Personnel Board

Estimated Cost: \$45,500

To determine whether the Town will vote to amend the Code of the Town of Wayland, Chapter 43, PERSONNEL and the Personnel Wage and Salary Classification Plan (Appendix TBD), previously adopted by the Town for non-union Town employees excluding seasonal positions and vote to transfer from FY18 budgeted Reserve for Salary Settlement account a sum of money for the purpose of funding the non-union wage increase, as reflected in the revised Wage and Salary Classification Plan as identified in Appendix X.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 41, Section 108A.

**ARTICLE G: TOWN UNION COLLECTIVE BARGAINING AGREEMENTS
2017-2020**

Proposed by: Personnel Board

Estimated Cost: \$116,723

To determine whether the Town will vote to transfer from the FY 18 budgeted Reserve for Salary Settlement account \$116,723 for the purpose of funding FY 18, the first year of the collective bargaining agreements for the period of July 1, 2017 through June 30, 2020 reached between the Town of Wayland and a.) AFSCME 690 Wayland - 1; b.) AFSCME 690 Wayland – 2; c.) the Wayland Library Staff Association MFT, AFT, AFL-CIO; and d.) the Wayland Department of Public Works, Teamsters Local 170, as follows, said further, that the Town

Accountant be authorized to distribute such amounts to and among the department personnel and line items affected thereby in such amounts as are proper and required:

a. <u>AFSCME 690 Wayland - 1 (Professional Staff)</u>		
Base Wages and Overtime		\$41,708
b. <u>AFSCME 690 Wayland – 2 (Clerks and Dispatch)</u>		
Base Wages and Overtime	\$23,046	
Shift Differential – Plus 0.5%		\$ 1,171
c. <u>Library Staff Association - MFT, AFT, AFL-CIO</u>		
Base Wages and Overtime		\$12,543
d. <u>Department of Public Works Teamsters Local 170</u>		
Base Wages and Overtime		\$35,755
Sick Leave at Retirement		\$ 2,500
Estimated Total First Year Funding Cost		\$116,723

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B, Chapter 44, Section 53 and Chapter 150E, Section 7.

**ARTICLE H: SCHOOL UNION COLLECTIVE BARGAINING AGREEMENTS
2017-2020**

Proposed by: School Committee *Estimated Cost: \$218,090*

To determine whether the Town will vote to transfer from FY18 budgeted salary reserve account to the School Department budget a sum of money for the purpose of supplementing funds previously appropriated for the School Department for FY18.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B, Chapter 44, Section 53 and Chapter 150E, Section 7.

**ARTICLE I: APPROPRIATE FUNDS TO CONSTRUCT NEW LIBRARY
BUILDING**

Proposed by: Board of Library Trustees *Estimated Cost: \$28,940,710*

To determine whether the Town will vote to:

1) raise and appropriate, transfer from available funds, or borrow the sum of **Twenty-eight Million, nine hundred and forty Thousand, seven hundred and ten dollars (\$28,940,710)** for the construction, equipping, and furnishing of a new **Wayland Free Public Library** to be located at **195 Main Street, Wayland, MA 01778**, and any and all incidental and related costs, including but not limited to, site evaluation, engineering and design services, and project management services for the design, bidding and construction, including but not limited to schematic and final design, construction documents, and bidding and construction oversight, building demolition and site preparation, paving, and landscaping as well as a lease or leases for alternative operational space, storage, furnishings, moving expenses and other professional and legal expenses and fees and related necessary costs for the duration of the project, and to authorize the Board of Selectmen and/or the Board of Library Trustees to expend these funds, without further appropriation, but with the approval of the Permanent Municipal Building Committee;

2) authorize use of the construction management at risk delivery method pursuant to the provisions of G.L. c.149A, §§1-13;

3) authorize the Treasurer with the approval of the Board of Selectmen, to borrow said sum pursuant to G.L. c. 44, §§7 or 8 or any other enabling authority, and issue bonds or notes of the Town therefor;

4) authorize any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, to be applied to the payment of costs approved hereunder in accordance with G.L. c.44, §20, thereby reducing by a like amount the amount authorized to be borrowed to pay such costs; and

5) authorize the Board of Selectmen and other appropriate officials to apply for federal, state, or private grants, enter into any agreements and execute all documents including contracts for a term in excess of three years as may be necessary to effectuate the purposes of this Article, and to accept any gifts or grants provided to the Town for such purposes;

provided, however, that the appropriation made hereunder shall be expressly contingent upon approval by the voters of the Town of a ballot question to exclude from the limitations of Proposition 2 1/2, G.L. c. 59, §21C, the amounts required to pay for any such bonds or notes; and further that no funds appropriated hereunder shall be expended until the Town has been allotted a grant by the Massachusetts Board of Library Commissioners; or take any action related thereto.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B and Chapter 44, Section 53. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 8.

ARTICLE J: HIGH SCHOOL STADIUM COMPLEX RENOVATION DESIGN FEES

Proposed by: School Committee and Recreation Commission

Estimated Cost: \$202,000

To determine whether the Town will vote to:

- 1.) appropriate a sum of money of up to \$202,000 to be expended under the direction of the School Committee for design services for Part 1 of the Wayland High School Facility Strategic Master Plan (High School Athletic Preferred Improvement Plan-Stadium Complex Renovation); and
- 2.) determine whether said appropriation should be provided by taxation, transfer from unappropriated funds, transfer from available funds of funds already appropriated for other purposes or otherwise, provided not more than \$65,000 of the funds of the funds so appropriated shall be transferred from the Recreation Revolving Fund Turf Account for recreational use.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B and Chapter 44, Section 53. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7.

ARTICLE K: SYNTHETIC TURF FIELD AT LOKER CONSERVATION & RECREATION AREA

Proposed by: Recreation Commission

Estimated Cost: \$154,000

To determine whether the Town will vote to:

- 1) appropriate a sum of money of up to \$154,000 to be expended under the direction of the Wayland Recreation Commission for design services for development of a synthetic turf field at the Loker Recreation site per the [Wayland Recreation Commission Field Development Master Plan] (*See Appendix X*); and
- 2) determine whether said appropriation should be provided by taxation, transfer from unappropriated funds, transfer from available funds already appropriated for other purposes, or otherwise, provided that not more than \$154,000 of the funds so appropriated shall be transferred from the Recreation Stabilization Fund for recreational use.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7. For appropriations from the Recreation Stabilization Fund, two-thirds – see Massachusetts General Laws Chapter 40, Section 5B.

ARTICLE L: 107 OLD SUDBURY ROAD DEMOLITION

Proposed by: Board of Public Works

Estimated Cost: \$104,000

To determine whether the Town will vote to:

- i. Appropriate, transfer from the Water Enterprise fund, or borrow a sum of money of up to \$104,000 to be expended by the Board of Public Works for the demolition of the structure and appurtenances at 107 Old Sudbury Road for the purpose of water resource protection and potential upgrade of the Town's Baldwin Pond water treatment plant;
- ii. to meet said appropriation, authorize the Treasurer with the approval of the Board of Selectmen, to borrow said sum pursuant to G.L. c. 44, §§7 or 8 or any other enabling authority, and issue bonds or notes of the Town therefor; and
- iii. authorize any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, to be applied to the payment of costs approved hereunder in accordance with G.L. c.44, §20, thereby reducing by a like amount the amount authorized to be borrowed to pay such cost.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B and Chapter 44, Section 53. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7.

ARTICLE M: APPROPRIATE FUNDS TO INSTALL AQUEDUCT PEDESTRIAN CROSSINGS

Sponsored by: Conservation Commission

Estimated Cost: \$98,500

To determine whether the Town will vote to:

- a. appropriate a sum of money to be expended by the Conservation Commission for the costs of construction to install pedestrian crossings at three locations where the Weston Aqueduct trail crosses roadways:
 1. Old Connecticut Path
 2. Pine Brook Road
 3. Stonebridge Road;
- b. determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by

- borrowing in compliance with Massachusetts General Law Chapter 44, §§7 or 8 or other enabling authority, or otherwise;
- c. authorize the Treasurer with the approval of the Board of Selectmen, to borrow said sum pursuant to G.L. c. 44, §§7 or 8 or any other enabling authority, and issue bonds or notes of the Town therefor; and
 - d. authorize any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, to be applied to the payment of costs approved hereunder in accordance with G.L. c.44, §20, thereby reducing by a like amount the amount authorized to be borrowed to pay such cost.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 40, Section 5 and Chapter 44, Section 33B and Chapter 44, Section 53. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7.

**ARTICLE N: NON-MEDICAL/RECREATIONAL MARIJUANA MORATORIUM
SIX MONTH MORATORIUM ZONING BYLAW AMENDMENT**

Sponsored by: Youth Advisory Committee

To determine whether the Town will vote to amend Chapter 198 of the Town Code, the Town's Zoning Bylaw, by adding a new definition for "Marijuana Establishment" and establishing a temporary moratorium on the use of land, buildings or structures for said Marijuana Establishments in all zoning districts in the Town of Wayland, as follows:

I. Section One

Amend Section 104.2 by adding the following new definition:

Marijuana Establishment – as defined in Section 1 of Chapter 94G of the General Laws, meaning a "marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."

II. Section Two

Amend Section 803.5 by adding the following new subsection:

Section 803.5.8 There shall be a temporary moratorium on Marijuana Establishments until December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, and to consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments, and shall consider adopting new Zoning Bylaws in response to these new issues.

QUANTUM OF VOTE: Two-thirds – see Massachusetts General Laws Chapter 40A, Section 5

**ARTICLE O: APPROPRIATE FUNDS TO RESTORE/PRESERVE STONE
PILLARS AT CASTLE GATE ROAD AND WEST PLAIN STREET**

Sponsored by: Community Preservation Committee

Estimated Cost: \$12,000

To determine whether the Town will vote to:

- a.) appropriate a sum of money up to \$12,000 to be expended by the Board of Public Works to restore/preserve the town-owned stone pillars at Castle Gate Road and West Plain Street;
- b.) determine whether said appropriation shall be provided by taxation, transfer from unappropriated funds, transfer from available funds appropriate for other purposes, by or otherwise, provided not more than \$12,000 of the funds so appropriated shall be transferred from the Community Preservation Fund's Historic Preservation Fund[CMM1].

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 44B, Section 7. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7.

**ARTICLE P: APPROPRIATE FUNDS FOR DESIGN OF PART 2 OF THE HIGH
SCHOOL ATHLETIC PREFERRED IMPROVEMENT PLAN**

Sponsored by: Community Preservation Committee

Estimated Cost: \$126,000

To determine whether the Town will vote to:

- a) appropriate a sum of money up to \$126,000 to be expended by the School Committee to prepare the design for Part 2 of the High School Athletic Preferred Improvement Plan (tennis courts/grass softball swap and reconstruction, outdoor basketball and volleyball courts, and related parking); and
- b) determine whether said appropriation shall be provided by taxation, transfer from unappropriated funds, transfer from available funds appropriate for other purposes, by or otherwise, provided not more than \$126,000 of the funds so appropriated shall be transferred from the Community Preservation Fund's Uncommitted fund for recreational purposes.

QUANTUM OF VOTE: Majority – see Massachusetts General Laws Chapter 44B, Section 7. For borrowing, two-thirds – see Massachusetts General Laws Chapter 44, Sections 2 and 7.

ARTICLE XX: PAY PREVIOUS FISCAL YEAR UNPAID BILLS

Proposed by: Board of Selectmen

Estimated Cost \$2,854.14

To determine whether the Town will vote to:

- (a) pay the bills of the prior fiscal years,
- (b) appropriate a sum of money for the payment of the foregoing bills of prior fiscal years; and
- (c) provide for such appropriation by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by borrowing, or otherwise.

Fiscal 2016 and Fiscal 2017 liabilities to be paid using Fiscal 2018 appropriations;

1) Town Office – W.B.Mason	\$269.80	Fiscal 2018 Town Office Budget
2) Town Office - W.B.Mason	\$211.87	Fiscal 2018 Town Office Budget
3) Town Office - W.B.Mason	\$57.98	Fiscal 2018 Town Office Budget
4) DPW – JP Noonan Transportation	\$673.20	Fiscal 2018 DPW Budget
5) DPW – Amazon.com	\$495.44	Fiscal 2018 DPW Budget
6) School Budget – David Nickerson	\$1,089.25	Fiscal 2018 School Budget
7) Information Technology- Employee	\$56.60	Fiscal 2018 IT Budget

FINANCE COMMITTEE COMMENTS: Occasionally, bills are not paid at the end of a fiscal year for a number of reasons, including late submission. The unpaid bills from Fiscal Year 2017 are summarized in the article and will be paid using funds appropriated for the FY 2018 budget.

1) Town Office – W.B.Mason	\$269.80	Chairmat / Labels
2) Town Office - W.B.Mason	\$211.87	Office Supplies
3) Town Office - W.B.Mason	\$57.98	Office Supplies
4) DPW - JP Noonan Transportation	\$673.20	Leachate
5) DPW – Amazon.com	\$495.44	Camera and Supplies
6) School Budget – David Nickerson	\$1,089.25	Equipment Rentals
7) Information Technology- Employee	\$56.60	Employee Reimbursement.

ARGUMENTS IN FAVOR: This is a standard Article that allows the Town to pay bills for the previous fiscal year.

ARGUMENTS OPPOSED: There are no apparent arguments against this Article.

RECOMMENDATION: The Finance Committee recommends approval. Vote: X-X.

QUANTUM OF VOTE: (Town Counsel to fill in).

For more information about this article, contact Brian Keveny, Finance Director, at (508) 358-3611, or email bkeveny@wayland.ma.us.

(7-4) Current Year Transfers

ARTICLE FOR SPECIAL TOWN MEETING

SPONSOR: Board of Selectmen DATE RECEIVED: _____

CONTACT PERSON: Brian Keveny TELEPHONE/Day: (508) 358-3611

TELEPHONE/Evening: _____

BOARD VOTE: _____ DATE OF VOTE: _____

TITLE: Current Year Transfers - Revised

COST: X NO COST: _____ COST ESTIMATE: \$-9,750 ~~130,090~~

TEXT:

To determine whether the Town will vote to appropriate a sum or sums of money for the operation and expenses of various Town Departments for the current fiscal year; to determine whether such appropriation shall be provided by taxation, by transfer from unappropriated funds, by transfer of funds already appropriated for another purpose, by funds received as grants from the Commonwealth or federal government, by borrowing, or otherwise; and to determine which Town officer, board, or committee of combination of them, shall be authorized to expend the money or monies appropriated therefor.

CURRENT YEAR TRANSFERS FY 2018

PURPOSE:	AMOUNT
1 Septage Fund Expenses FY 04 - FY 15	\$68,614
2 Septage Fund Expenses FY 18	\$25,821
1 Septage Fund Expense FY 18	-\$45,405
2 3 Dog Officer Expense	\$655
3 4 Wastewater Budget	\$35,000
TOTAL CURRENT YEAR TRANSFERS	\$ -9,750 130,090

FUNDING SOURCES:	AMOUNT
1 Unreserved Fund Balance	\$68,614
2 Unreserved Fund Balance	\$25,821
1 Septage Fund Revenue FY 18	-\$45,405
2 3 Unreserved Fund Balance	\$655

3 4 Wastewater Retained Earnings

\$35,000

TOTAL FUNDING SOURCES

\$ -9,750 130,090

COMMENTS: This article authorizes the expenditure of funds for the current fiscal year, which were not foreseen in the current budget. These transfers are required for the following reasons:

Septage Fund Expense FY 18 (-\$47,405)

The Septage budget approved at the April 2017 Annual Town Meeting needs rescinding in accord with guidance from DOR and the Town's Auditor. A revised Septage agreement with the Town of Sudbury is being negotiated and will clarify the payment of retiree legacy costs. At the April 2018 Annual Town Meeting, a revised FY 18 Septage budget will be presented for Town Meeting approval.

~~Septage Fund Expenses FY 04 - FY 15 (\$68,614) — This request is to reimburse Sudbury from the Septage account for FY 04 - FY 15 retiree legacy costs paid by Sudbury which were not charged to the Septage fund. Payments are in accord with the amended 2015 Septage Agreement between the Town Wayland and the Town of Sudbury. The Septage Fund does not have sufficient funds remaining, so this appropriation is from the General Fund Unreserved Fund Balance.~~

~~Septage Fund Expense FY 18 (\$25,821) — This request is to fund Wayland's 50% share of FY 18 retiree legacy costs attributable to Septage operations. The other 50% will be funded by Sudbury. The Septage Fund does not have sufficient funds remaining, so this appropriation is from the General Fund Unreserved Fund Balance.~~

Dog Officer Expense (\$655) This request is to fully fund the contract for the Dog Officer. When the FY 18 budget was prepared, the Dog Officer contract was not yet finalized. The line item does not have sufficient funding, so this appropriation is from the General Fund Unreserved Fund Balance.

Wastewater Budget (\$35,000) Due to aging infrastructure and past unanticipated emergency expenditures, the WWMDC wants to add a line item to the FY2018 budget. The item represents expenditures that are required as part of the operation of the WWMDC wastewater collection system. The funding source is existing retained earnings of the WWMDC. The funds will enable adequate response to a failure or disruption of the existing public collection system, provide for routine maintenance of the collection system, and allow for conformance with Massachusetts regulatory requirements associated with DigSafe mark-outs.

PROS: These expenses were not reasonably anticipated when forecasting the FY2018 budget and they represent binding obligations of the Town.

CONS: The Board of Selectmen is not aware of any.

SIGNATURE OF CHAIR _____ **DATE** _____

(7-5) Accept Gifts of Land

ARTICLE C: Accept Gifts of Land at Town Center

Sponsored by: Board of Selectmen

Estimated Cost: \$0

To determine whether the Town authorizes the Board of Selectmen, with approval by Town Counsel as to form, to acquire by gift, purchase, eminent domain or otherwise, for municipal purposes, on such terms and conditions as the Board of Selectmen deems appropriate, the fee or any lesser interest in all or any part of the parcels of land and the buildings and other structures identified as Lot 9-1A and Lot 3-1, shown on a plan prepared by the Town Surveyor entitled "Plan of land Wayland, Massachusetts Showing Proposed Municipal Parcels" dated July 21, 2015 and recorded with the Middlesex South Registry of Deeds as Plan 616 of 2015, and Parcel 14, shown on a plan prepared by Hancock Associates entitled "Plan of Land in Wayland, MA" dated January 20, 2012, recorded with the Middlesex South Registry of Deeds as Plan 305 (1 of 2) of 2012 on file with the Town Clerk, and further to authorize the Board of Selectmen to execute any and all documents as may be necessary or convenient in relation thereto or take any action relative thereto.

FINANCE COMMITTEE COMMENTS: This article allows the Board of Selectmen, on behalf of the Town, to accept three parcels of land as gifts from Twenty Wayland LLC for municipal purposes. Passage of this article and completion of negotiations will give the Town ownership of land abutting the "Municipal Parcel" and nearby areas. The three parcels being considered are shown on the map in Appendix XX.

"Green Area"	Lot 9-1A (in Map 23, Lot 052M), approximately 0.68 acres. Assessed value of \$33,300 for entire lot.
"Informal Town Green"	Parcel 3-1 (also known as Map 23, Lot 052I), approximately 1.75 acres Assessed value of \$35,500.
"Northern Fields"	Parcel 14 (also known as Map 23, Lot 052O), approximately 6 acres Assessed value of \$47,200; large portion in wetlands.

The Board of Selectmen entered into a Letter of Intent with Twenty Wayland LLC in August 2017, part of which foresees the gifting in fee simple of eight parcels of land: the three land parcels listed above, another two for conservation purposes and four others already authorized at a previous town meeting. The map in Appendix XX shows all of these parcels with shading to define the conservation parcels, those previously authorized for acquisition and the three being considered under this article. (At the November 2015 Special Town Meeting (STM), Twenty Wayland LLC had only offered four parcels. None of these has been gifted or acquired yet.) One of the parcels of land is broken into two lots – one lot previously authorized and one lot authorized under this article. While there eight parcels in total, one is subdivided.

The Settlement Agreement finalizing this gift of eight parcels is anticipated to be signed in early November, prior to discussion of this STM article. If it is not signed by then, the Town vote to accept these parcels will show good intent to continue negotiations to acquire the land.

The two parcels being gifted to Conservation do not require a Town Meeting vote to be accepted. The Conservation Commission on August 24, 2017 voted 5-0 in favor of the following:

The Wayland Conservation Commission accepts the gift of Parcel 15 (Map 23, Lot 52P) and Parcel 16 (Map 23, Lot 52Q) shown on a plan prepared by Hancock Associates entitled "Plan of Land in Wayland, Ma" dated January 20, 2012, recorded with the Middlesex South Registry of Deeds as Plan 305 (1 of 2) of 2012 contingent upon the Grantor assigning any and all environmental indemnification agreements to its benefit relative to any environmental contamination.

The "Green Area" near the Municipal Parcel (Lot 9-1A) is part of a parcel that was broken into two lots. The other part, Lot 9-1B, was authorized for acquisition under STM November 2015 Article 3. At that time, Twenty Wayland LLC did not offer the whole parcel to the Town and so only Lot 9-1B was voted under the 2015 STM article. The parcel being addressed by this article contains a detention basin. The retail owner is responsible for maintenance and operation of the basin; the owner of the land parcel is responsible for regulatory compliance. Acquisition of this parcel adds to the contiguous land surrounding the municipal parcel and could help with land use calculations for future development which now could be controlled by the Town of Wayland.

The "Informal Town Green" is known as the town green and is maintained by the retail owner. This legal arrangement will continue if the parcel is accepted as a gift. Currently, while the retail portion of Town Center is owned by Zurich Asset Management, the town green is still owned by Twenty Wayland LLC. Twenty Wayland LLC has not allowed community events on the town green for the past two summers. However, the Planning Board's Master Special Permit calls for this area to "be open to public use." It is the Board of Selectmen's intent to have this be public space again.

The "Northern Fields" area together with the parcels being gifted to Conservation provide linkage from Town Center to Cow Commons conservation land. While most of the parcel is wetlands, there are some upland areas. The Board of Selectmen has not discussed potential uses for this parcel and further research is required to determine legal restrictions on usage other than as open space.

Each of these three parcels is part of the RTNs (Release Tracking Number) assigned to Raytheon Company and covering the entire ±83 acre property which Raytheon occupied as of 1995. The "Green Area" (Lot 9-1A) and the "Northern Fields" (Parcel 14) currently have existing groundwater monitoring wells as part of an ongoing monitoring program. Raytheon is responsible for these wells, but its primary environmental consultant, ERM, is responsible for maintenance and ultimate decommissioning.

Both the original development Memorandum of Agreement (dated March 28, 2006) and the Amendment No. 1 (dated October 20, 2009) require a conservation restriction of at least 10 acres of land for conservation purposes and a transfer of the municipal parcel of approximately 1.6 acres. This proposed Settlement Agreement brings the town a gift in fee simple of eight parcels totaling almost 25 acres with approximately 12 of that for conservation purposes.

The Board of Selectmen recommends approval. (Vote x-y-z)

ARGUMENTS IN FAVOR: Accepting these gifts of land brings the Town over eight acres of land in the Town Center providing land for both municipal and public use, including the potential for Town facilities and access to existing conservation land. All eight pieces of gifted land total almost 25 acres.

Allowing the Town to own the "Informal Town Green" area will allow it be used for public events, which has not been allowed by the present owner.

Accepting the gifts of land under this Article will give a path to complete Wayland's relationship with

Twenty Wayland LLC after more than 12 years.

Passage of this article and accepting the land will create a connection between Town Center, the Rail Trail/bike path and Cow Commons, thereby making a usable connection between various recreational properties.

ARGUMENTS OPPOSED: Some would argue that we are removing land from the tax rolls. The total value of these three parcels is \$116,000 (estimated at \$2000 - \$2500 in tax revenue annually.)

Some may be uncomfortable accepting a gift of land when groundwater monitoring is still ongoing.

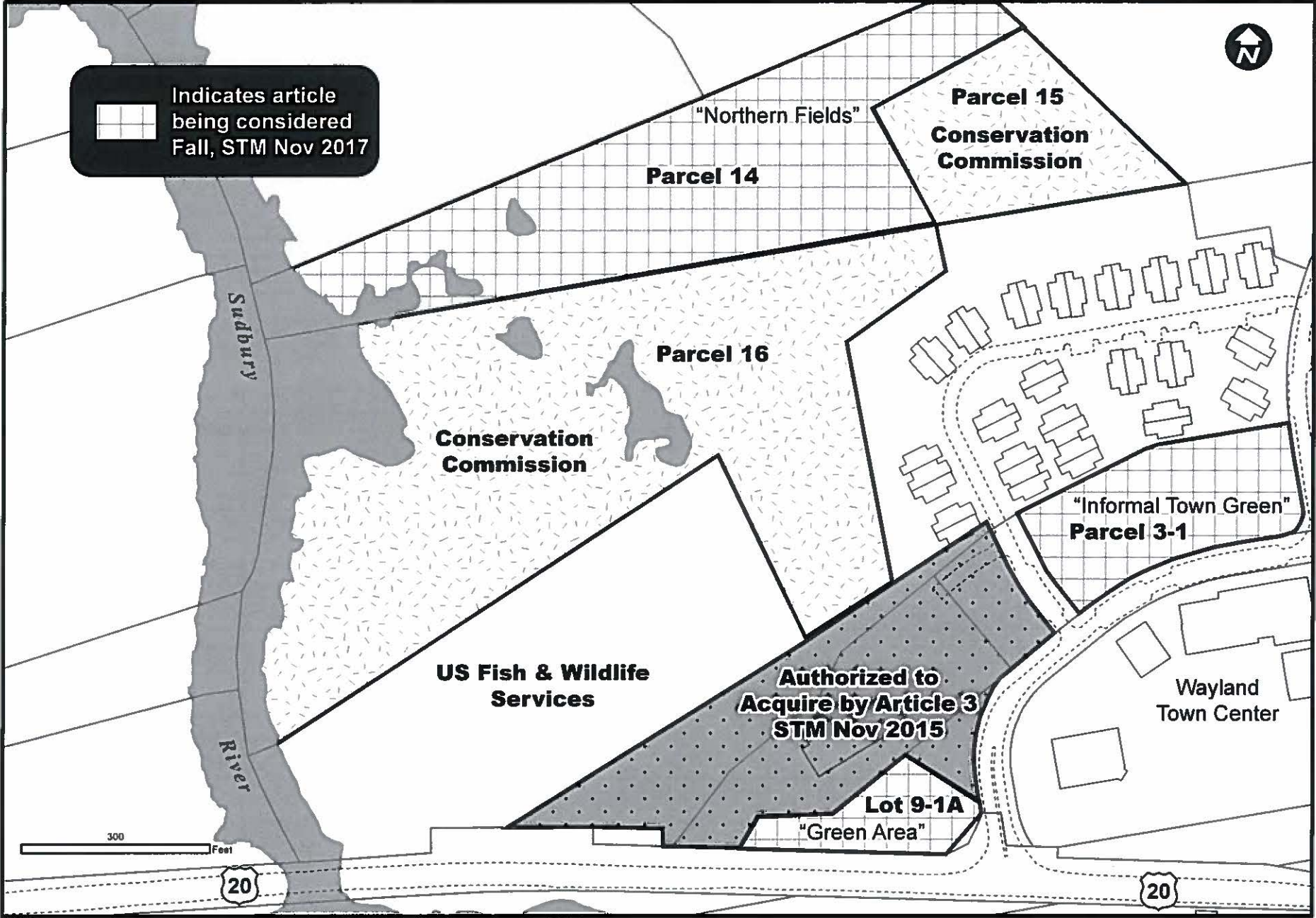
There are usage limitations on some of the parcels.

RECOMMENDATION: The Finance Committee recommends xxxxxx. (Vote x-y-z)

QUANTUM OF VOTE: Majority - see Massachusetts General Laws Chapter 40, Section 14. For appropriation, two-thirds – see Massachusetts General Laws Chapter 40, Section 14. For eminent domain, two-thirds – see Massachusetts General Laws Chapter 40, Section 14 and Chapter 45, Section 19.

CONSISTENCY WITH LAW: It is the opinion of Town Counsel that the foregoing article is consistent with the law.

For more information about this article, contact Nan Balmer, Town Administrator, at (508) 358-3620 or email nbalmer@wayland.ma.us



Indicates article being considered
Fall, STM Nov 2017



"Northern Fields"

Parcel 14

Parcel 15
Conservation
Commission

Parcel 16

Conservation
Commission

Sudbury
River

US Fish & Wildlife
Services

Authorized to
Acquire by Article 3
STM Nov 2015

"Informal Town Green"
Parcel 3-1

Wayland
Town Center

Lot 9-1A

"Green Area"

300 Feet



(7-6) Loker Title Research

Balmer, Nan

From: Carolyn M. Murray <CMurray@k-plaw.com>
Sent: Friday, September 22, 2017 5:58 PM
To: Balmer, Nan
Cc: Lee S. Smith
Subject: Wayland-Loker/Dow Recreational area

Nan,

As a follow-up to our prior opinion on the above-referenced property, we have reviewed all title documents, and our opinion remains that there are no restrictions that would prohibit the construction of a turf field within the recreational area. We do recommend, however, that the Conservation Agent be asked to review the various Orders of Condition to ensure that there are no outstanding issues that could impact the site.

Also, please be advised that the plans show a drainage easement crossing the recreational area; this easement will have to be considered when the precise location of the field within the recreation area is determined.

If you have any further questions, please contact me or my colleague, Lee Smith.

Thank you,

Carolyn M. Murray, Esq.
KP | LAW
[101 Arch Street, 12th Floor](#)
[Boston, MA 02110](#)
O: [\(617\) 654 1726](#)
F: [\(617\) 654 1735](#)
C: [\(617\) 257 9581](#)
cmurray@k-plaw.com
www.k-plaw.com

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Balmer, Nan

From: Carolyn M. Murray <CMurray@k-plaw.com>
Sent: Wednesday, August 30, 2017 2:43 PM
To: Balmer, Nan
Cc: Lee S. Smith
Subject: RE: Wayland - Loker/Dow Conservation Recreation area
Attachments: FW: 2004 ATM, Article 32 map

Nan,

You have asked for our opinion regarding the current care, custody, management and control of the land known as the "Loker Conservation/Recreation Area" and any restrictions on the use of the land. My colleague in our Real Estate group, Lee Smith, copied above, assisted in the review and analysis of this issue.

We have reviewed the materials you have provided including the deed to the property to the Town from The Dow Chemical Company, the subsequent "confirmatory" Order of Taking by the Town, copies of Town Meeting votes taken in 1998 (Article 28), 1999 (Article 30), 2001 (Articles 30 and 31), 2004 (Article 32), and 2013 (Article 14) and the "Plan of Land in Wayland, Massachusetts, Loker Conservation and Recreation Area" prepared by the Town of Wayland Town Surveyor's Office, dated 4/1/2004, Scale 1" = 100' (the "Survey Plan") which is the plan you provided yesterday and is attached for your reference. We have also done an initial review of the title to the property.

In our opinion, the affirmative vote taken on Article 32 of the 2004 Town Meeting transferred the care, custody, management and control of the areas of land shown on the Survey Plan as "Conservation Area" and "50' Wide Conservation Area" from the Board of Selectmen to the Conservation Commission for conservation purposes and transferred the care, custody, management and control of the area of land shown on the Survey Plan as "Recreation Area" from the Board of Selectmen to the Parks and Recreation Commission for recreation purposes.

In our further opinion, any development of the property for an artificial turf field, sports-related buildings and parking would be limited to the area shown on the Survey Plan as Recreation Area.

Development of any of the property for a school bus parking facility (or any other use not consistent with "recreational uses") would require Town Meeting action to transfer the care, custody, management and control of that land to another Town board or officer having oversight of a school bus parking facility (or other proposed use).

The land shown on the Survey Plan as Conservation Area may be subject to the protections of Article 97 of the Amendments to the Massachusetts Constitution ("Art. 97"). If Art. 97 protection applies to this property, a change in that use would require, in addition to a unanimous vote of the Conservation Commission and a 2/3 vote of Town Meeting, passage of a special act by a 2/3 roll call vote of the each house of the Legislature. However, the Massachusetts Appeals Court case of Smith v. Westfield, 90 Mass. App. Ct. 80 (2016), held that a deed, conservation restriction, or other designation recorded in the Registry of Deeds is required in order to invoke the protections of Art. 97. In this instance, although the deed and Order of Taking refer to the land being used only for recreation and conservation purposes, the delineation of land between those uses has only been made on the Survey Plan which, to my knowledge, has not been recorded in the Registry of Deeds. In addition, the Westfield case was subject to further appellate review and oral arguments were heard by the Supreme Judicial Court in April of 2017. A written decision on that case is expected within the next few months. That decision could change the analysis as to whether the Conservation Area property is presently subject to the protections of Art. 97.

Other than the possible Article 97 issues, based upon our preliminary review of the title to the property, the only "restriction" on the use of the property that we have identified is a prohibition against use for residential

purposes. However, there are references in the chain of title to multiple encumbrances on the title to the property that require us to recommend that a complete title examination be performed so that a more comprehensive opinion can be rendered. We estimate that the cost of a title examination could be between \$1,000-\$2,500.

Also, the Order of Taking refers to contractual obligations under "the Purchase and Sale Agreement relative to said parcels of land dated February 8, 1999, as amended" which has not be provided to us and should be reviewed.

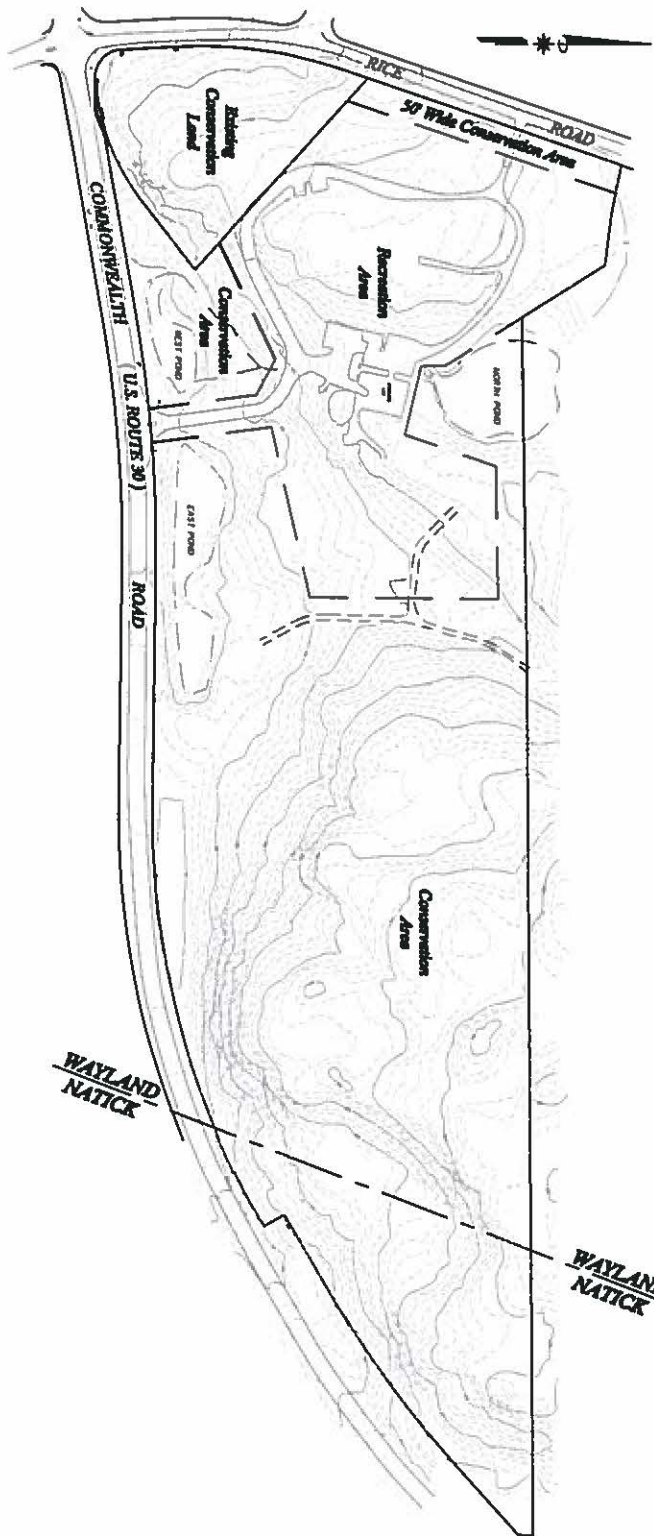
Given the timing of the closing of your Town Meeting Warrant, I recommend keeping a placeholder for this article on the warrant with the assumption that no relevant restrictions will affect the project while the title research is performed, and if the title search reveals facts that make proceeding inadvisable, the article can be passed over or indefinitely postponed. Alternatively, the Town could proceed with the title search, and if no further restrictions or issues arise, an article could be place on the warrant for the April 2018 Town Meeting. We estimate that the title report should be available within 2 weeks, at which point we can supplement this opinion within a day or two thereafter.

Please let me or Lee know how you wish to proceed.

Thank you.

Carolyn M. Murray, Esq.
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1.1. This plan and all contents thereon are the property of the Town of Wayland, Massachusetts and shall remain the property of the Town of Wayland, Massachusetts.

2.1. This plan and all contents thereon shall be a condition precedent of any and all other plans submitted to the Town of Wayland, Massachusetts.

Document Number

NO.	Revised/Issued	Date

Town of Wayland
 Massachusetts
 Town Manager's Office
 100 North Street
 Wayland, MA 01981



Plan of Land
 in
 Wayland, Massachusetts
 Labor Conservation and
 Recreation Area

Issue Description	Date
4/1/2001	

(8) FY19 Capital Projects

DATE: SEPTEMBER 18, 2017
TO: BOARD OF SELECTMEN
FROM: ELIZABETH DOUCETTE, FINANCIAL ADMINISTRATOR
RE: FISCAL YEAR 2019 CAPITAL PROJECT REQUESTS

BOARD ACTION REQUESTED:
REVIEW AND CONSIDERATION OF FISCAL YEAR 2019 CAPITAL PROJECT REQUESTS FOR DEPARTMENTS UNDER THE JURISDICTION OF THE BOARD OF SELECTMEN

CAPITAL PROJECT REQUESTS:

Attached for your review and consideration are the Fiscal Year 2019 capital project requests for departments under the jurisdiction of the Board of Selectmen. The attached detail pages are provided for preliminary review, though not in final format. The proposed date for Board of Selectmen approval, to meet the Finance Committee schedule, is October 2, 2017, at which time Capital Requests will be provided in a final, consistent format.

<u>DEPARTMENT</u>	<u>CAPITAL PROJECT</u>	<u>REQUESTED</u>
<u>Conservation</u>	Small tractor purchase	\$ 45,000
	Weston Aqueduct pedestrian crossings (3)	\$ 96,000
<u>Information Technology</u>	Network replacement, 5-year recurring cost*	\$ 242,000
	Public Safety datacenter replacement	\$ 70,000
	Library telephone system	\$ 40,000
	Munis revenue modules	\$ 230,000
<u>Facilities</u>	Town Bldg. exterior window/ door replacement design	\$ 65,000
	Town Bldg. interior renovations of front lobby, Finance and Land Use offices	\$ 375,000
	Town Bldg. HVAC and associated electrical replacement / improvement	\$ 1,570,000
	New COA facility design	\$ 200,000
	Library rotunda window replacement / upgrade	\$ 85,000
	Library New Building construction	\$28,900,000
	Fire Station #2 renovations	\$ 1,000,000
	Depot repairs and utility connections	\$ 110,000
<u>Fire</u>	Assistant Fire Chief vehicle replacement	\$ 55,000
	TOTAL	\$33,083,000

*Five year lease agreement requires Town Meeting majority vote



NAN BALMER
TOWN ADMINISTRATOR
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TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN
LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

DRAFT

Board of Selectmen
Meeting Minutes
September 18, 2017
6:30 p.m.

Wayland Town Building, Selectmen's Meeting Room
41 Cochituate Road, Wayland

Attendance: Lea T. Anderson, Mary M. Antes, Louis M. Jurist, Cherry C. Karlson, Douglas A. Levine
(6:36pm)

Also Present: Town Administrator Nan Balmer

A1. Open Meeting and Enter into Executive Session Pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(6), the Consideration of the Purchase, Exchange, Taking, Lease or Value of Real Property in Regard to the Rivers Edge Project at 484-490 Boston Post Road, and the Consideration of the Purchase, Exchange, Taking, Lease or Value of Real Property in Regard to Wayland Meadows, LLC, Lot 8, Old Sudbury Road; and Pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(3), to discuss strategy with Respect to Litigation in a Pending Action regarding Bernstein, et al v. Planning Board, et al, and 20 Millbrook Road, and to discuss Whether the Town Should Pursue Legal Proceedings with Respect to the Town's Agreement with Twenty Wayland, LLC, Relative to Property and Development Located off 400-440 Boston Post Road; and to discuss Strategy with Respect to and in Preparation for Collective Bargaining with the Police and Fire; and Pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(2), a Discussion of Strategy with Respect to Negotiations with Non-union Personnel, Town Administrator and Police Chief, because a Public Discussion of these Matters may have a Detrimental Effect on the Litigating, Negotiating or Bargaining Position of the Town and

A2. Call to Order by Chair Chair L. Anderson called the meeting of the Board of Selectmen to order at 6:30 p.m. in the Selectmen's Meeting Room of the Wayland Town Building. At 6:31 p.m., L. Anderson moved, seconded by M. Antes, that the Board of Selectmen enter into executive session pursuant to Massachusetts General Laws Chapter 30A, Section 21(a)(6), to consider the purchase, exchange, taking, lease or value of real property in regard to the Rivers Edge Project at 484-490 Boston Post Road, and to consider the purchase, exchange, taking, lease or value of real property in regard to Wayland Meadows, LLC, Lot 8, Old Sudbury Road; and pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(3), to discuss strategy with respect to litigation in a pending action regarding Bernstein, et al v. Planning Board, et al, and 20 Millbrook Road, and to discuss whether the Town should pursue legal proceedings with respect to the Town's Agreement with Twenty Wayland, LLC, relative to property and development located off 400-440 Boston Post Road; and to discuss strategy with respect to and in preparation for collective bargaining with the Police and Fire; and pursuant to Massachusetts General Laws Chapter 30A, Section 21 (a)(2), to discuss strategy with respect to negotiations with non-union personnel, Town Administrator and Police Chief, because a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town. The Chair declared that a public discussion of these matters may have a detrimental effect on the litigating, negotiating or bargaining position of the Town. Roll call vote: YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: D. Levine. ABSTAIN: none. Adopted 4-0. Chair L. Anderson

invites attendance by Town Administrator Nan Balmer, Assistant Town Administrator/Human Resources Director John Senchyshyn, and Town Counsel Carolyn Murray.

The Board returned to open session at 7:10 p.m.

A2. Call to Order by Chair Chair L. Anderson noted that the meeting will likely be broadcast and videotaped for later broadcast by WayCAM.

M. Antes announced that Wednesday is National School Backpack Awareness Day and on Saturday there will be a Friends of Council on Aging fundraiser.

A3. Public Comment Gil Wolin 201 W. Plain St., read a written statement about the 2015 plowing decision and upcoming agenda item on private roads. G. Wolin said he would email the statement to the Board.

A4. Meet with Town Counsel

1. **Discuss Process for Proposition 2 ½ Debt Exclusion and Scheduling of Special Election for Library Project** Town Counsel Carolyn Murray went over the possible timeline and scenarios for an article at November's Special Town Meeting and a ballot question for funding the Library Project. It was noted the only access to the ballot is through Board of Selectmen. The Board agreed it might be best to wait until after it passes STM in November and to call an election in early January.
2. **Maintaining and Plowing Private Roads – Selectmen Role:** C. Murray stated that the DPW is looking to the Board of Selectmen to designate roads as private and reconsider whether the town should resume plowing private ways. No action required tonight but the DPW would like clarification. N. Balmer said the BoPW will come before the Board in October and give a recommendation.
3. **40 B Legal Costs** C. Murray stated the estimated legal cost going forward is approximately \$13,000 to complete the known 40B projects.
4. **Discuss Special Town Meeting Articles**
 - **F, G, H: Fund Personnel Costs** C. Murray said that typically within 30 days of town unions reaching a collective bargaining agreement to fund a contract, the contracts are to be presented to the appropriate body (town meeting) for funding the first year of the contract. She stated that Schools are different because they can either use funds from the existing appropriation or vote to appropriate additional funds.
 - **M: Marijuana Moratorium** When a zoning article is defeated at Town Meeting, it can be brought forward again at Town meeting after a favorable vote and report from the Planning Board. Since this Article was defeated at the last Annual Town Meeting, the Planning Board is holding a hearing on October 3. C. Murray recommended that if the Town votes a moratorium they should have it expire Dec. 31, 2018, because the State is not approving anything beyond that date at this time.

A7. Discuss and Vote to Approve the FY17 Annual Report of the Board of Selectmen C. Karlson asked for comments, feedback and corrections on the draft report. D. Levine said the substance of the last paragraph should be in the first paragraph. M. Antes also made recommendations.

M. Antes moved, seconded by D. Levine, to approve the Annual Report of the Board of Selectmen, as amended. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A8. Minutes: Review and Vote to Approve Minutes of September 5 and 6, 2017. M. Antes moved, seconded by D. Levine, to approve the minutes of September 5, 2017. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

M. Antes moved, seconded by C. Karlson, to approve the minutes of September 6, 2017. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A5. Review FY19 Capital Projects with Department Heads

- 1. Conservation** Conservation Administrator L. Hansen discussed the installation of three pedestrian crossings for the Weston Aqueduct. N. Balmer said they will confirm if the project qualifies for Community Preservation Act (CPA) funding. L. Hansen then discussed the purchase of a small tractor. Two outstanding projects (dam repairs and shed repair) were also discussed.
- 2. Information Technology** IT Director Jorge Pazos went over the Capital Project requests from the IT Dept. He discussed each issue including the Classroom A/V Hardware, Public Safety Datacenter Replacement, Library Telephone system, and Munis Revenue Modules. Lifespans of smartboards and how long the library phone system can wait for replacement were also discussed. A presentation (handout) was made about the Town's network. He defined the network and went over the network priorities and projects. Total project costs and purchase options were presented and discussed.
- 3. Facilities** Public Buildings Director Ben Keefe discussed the Facilities Dept. 5-year budget plan and associated CIPs. Some of the projects include Town Building Exterior Painting/Sealing, TB Window Replacements, Fire Station #2 renovations, and Depot Repairs. He also briefly discussed the School Facilities plan.
- 4. Fire** Chief Dave Houghton said he would be happy to show Selectmen Fire Station #2 so they can see what renovations need to be made. He discussed the Fire Dept.'s upcoming capital requests, including a new Ambulance, a new Engine 1, and two vehicles. He discussed ambulance receipts as a funding source and said by 2022 the Town will be caught up when it comes to big ticket Fire purchases.

A6. Discuss All Special Town Meeting Articles: Potential Vote to Insert Articles in Special Town Meeting Warrant and Potential Vote to Take a Position on Special Town Meeting Articles. C.

Karlson reminded fellow Board members to follow up with the FinCom assignee on the status of STM article write-ups. L. Jurist stated that ultimately, it's the Board of Selectmen's responsibility to decide whether articles stay in the Warrant and many times there are good reasons why they have been submitted to STM. C. Karlson stated there are three new money articles and the rest are money articles that are transferring between line items, using revolving funds or using CPA funds. C. Karlson said it would be helpful to know if CPA funds are available for Article M, aqueduct crossings. The Finance Committee will make a presentation on Town finances to the Board on Oct. 2.

A9. Consent Calendar: Review and Vote to Approve (See Separate Sheet) M. Antes moved, seconded by L. Jurist, to approve the Consent Calendar. The Board discussed item #2 and agreed to continue to only allow signs on town property for Wayland based activities. No action was taken on the motion. C. Karlson moved, seconded by M. Antes, to approve items 1 and 3-10 on the Consent Calendar. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

A10. Review Correspondence (See Separate Index Sheet) The Board reviewed the week's correspondence. C. Karlson noted that the letter from the Planning Board regarding one of the 40B applications was thorough and well written and she hopes it is helpful to the ZBA. Other correspondence related to 40B projects and correspondence related to consulting assistance were discussed.

A11. Report of the Town Administrator

- 1. Annual Town Meeting Schedule** It will be reviewed again by Town Counsel. M. Antes said Candidates Night can be added. N. Balmer stated that Town Counsel would like to see the discussion on debt exclusion moved back.

2. **Proposed New Positions** N. Balmer said positions will come back to the Board at the Oct. 2 meeting. She discussed increased staffing in the Fire Dept., Conservation, and the COA. Not included is the position of project manager for Facilities. She said they are trying to see how it can best be used, looking at a potential position that would be part-time at facilities and part-time at DPW.
3. **Update on Town Administrator's Staffing Plan and Collins Center Report** N. Balmer said they are continuing to work with the Collins Center and will present a TA's office staffing plan to the Board when the Collins Center presents on financial structure.
4. **Oxbow Meadow Contract** The contract has not been signed because an appeal was filed with the Zoning Board of Appeals (ZBA) and in Land Court. The ZBA will address the appeal at its Oct. 10 meeting and make a decision. There will be a delay in awarding the contract until after the ZBA hears the appeal.
5. **Board of Public Works request regarding private roads** Memo is in packet and discussion will be scheduled.
6. **Wayland Meadows / Wastewater Management District Commission Update** N. Balmer reported that the project is inching forward and will come before the Board again.
7. **Town Administrator's Capital Project Work Group** N. Balmer stated she plans on doing the capital budget differently this year. She said there's a lot of leadership in the Finance Committee and the goal is to bring together the chairs of FinCom, BoS and the Finance Director to talk about Capital Projects and planning.
8. **Paving Route 20** D. Porter said he will provide a weekly press release with updates on the State paving project when it starts. The information will go on the web, Police Dept. Facebook page, news outlets and other places (in hard copy) for residents that do not use the internet.

A12. Selectmen's Reports and Concerns C. Karlson stated that this year's Special Town Meeting schedule never had a petitioner's workshop. She wants to make a note for next year's STM schedule so it's not missed again. In answer to a question, N. Balmer reported that interviews are being conducted to hire a new Recreation Director and she has discussed the hiring process with the Recreation Commission. M. Antes attended the MetroWest Regional Collaborative Meeting and discussed the agenda and many projects happening around the area. L. Anderson and M. Antes will be attending the MMA's Selectmen's Meeting on Friday.

A13. Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting, If Any
The Chair said, "I know of none."

A14. Adjourn There being no further business before the Board, L. Jurist moved, seconded by M. Antes, to adjourn the meeting of the Board of Selectmen at 9:45 p.m. YEA: L. Anderson, M. Antes, L. Jurist, C. Karlson, D. Levine. NAY: none. ABSENT: none. ABSTAIN: none. Adopted 5-0.

Items Distributed for Information and Use by the Board of Selectmen at the Meeting of September 18, 2017

1. Public Comment, History of Wayland Plowing Rights-of-Way and Private Roads
2. Article List for 2017 Special Town Meeting Board of Selectmen and Finance Committee Assignees
3. Information Technology, Network Infrastructure Capital Plan and Capital Budget Request (FY19 - FY23)

Items Included as Part of Agenda Packet for Discussion During the September 18, 2017 Board of Selectmen's Meeting

1. Memorandum of 9/18/17 from Nan Balmer, Town Administrator, to Board of Selectmen, re: Meet with Town Counsel
2. Memorandum of 9/18/17 from Elizabeth Doucette, Financial Administrator, to Board of Selectmen, re: Fiscal Year 2019 Capital Project Requests
3. Capital Appropriation Request (FY19 - FY23) for Conservation Commission

4. Capital Appropriation Request (FY19 – FY23) for IT
5. Capital Appropriation Request (FY19 – FY23) for Facilities
6. Capital Appropriation Request (FY19 – FY23) for Wayland Fire Department
7. Article List for Special Town Meeting with Revised Articles
8. Draft FY17 Report of the Board of Selectmen
9. Draft Minutes of September 5, 2017 and September 6, 2017
10. Report of the Town Administrator for the Week Ending September 15, 2017

**TOWN ADMINISTRATOR'S REPORT
WEEK ENDING SEPTEMBER 29, 2017**

1. CORRESPONDENCE

#6: This letter from Verizon states there is a final Verizon Agreement with Verizon New England. Staff will follow up on the significance of this letter and its bearing on upcoming cable contract negotiations.

2. WASTEWATER MANAGEMENT DISTRICT COMMISSION – WAYLAND MEADOWS LAND AGREEMENT AND PILOB

Land Agreement: After consultation with Town Counsel, the Conservation Administrator and Commission agreed that the title restrictions on Lot 8 are not relevant to the Conservation Commission's intended passive use of the property. If the Selectmen agree with the Commission's assessment that the title restrictions are irrelevant to the proposed use of Lot #8, the Commission agreed that the Wayland Meadows Land Agreement (signed by the Selectmen and Commission in July) could be released to Wayland Meadows for final execution. (See attached memo from the Conservation Administrator.) With the Board's agreement, I will send the land agreement and related documents to Wayland Meadows so that the land and the wastewater capacity can be transferred to the Town.

PILOB: The Payment in Lieu of Benefit agreement between the Selectmen and WWMDC was held pending finalization of the Land Agreement. The PILOB Agreement was signed by the Selectmen on 4/21/17, and was lost in the office. The WWMDC re-signed the agreement. The Selectmen are also asked to re-sign. There is no need for a vote. The terms of the PILOB will be implemented upon receipt of the Land Agreement from Wayland Meadows.

3. CLASS II AUTO DEALER'S LICENSE: 322 COMMONWEALTH

The Board of Selectmen issues an annual Class II Auto Dealer's license to Wayland Automotive, limiting the number of cars for sale to five with a requirement that the licensee placard the five cars for sale. Recently, Town Counsel advised that cars sold over the Internet also count toward the maximum number of cars for sale. To resolve this matter, I will ask the business owners to provide a plan to be reviewed by land use departments in advance of license renewal, demonstrating a reasonable intensity of use of the property for used car sales.

4. OXBOW MEADOWS:

Appeals have been filed to the Oxbow Meadows site plan in both Land Court and to the ZBA. The matter is scheduled for October 10th with the ZBA. I have not signed the contract and have asked the bidder to hold the bid until mid-November after which we will need to decide whether it is in the town's best interest to take the risk to proceed with the project or wait until all appeals are decided.

5. EXECUTIVE SESSION: MOTION TO GO INTO EXECUTIVE SESSION TO APPROVE MINUTES

Town Counsel provided the attached advice allowing the Board to change its practice regarding the details listed in motions when going into Executive Session.

6. TOWN ENGINEER – UPDATE ON RIVER'S EDGE

An update on the project from the Town Engineer is attached.

(~~13~~-2) Wayland Meadows
13



TOWN OF WAYLAND
MASSACHUSETTS
01778

CONSERVATION COMMISSION

TOWN BUILDING
41 COCHITUATE ROAD
TELEPHONE: (508) 358-3669
FAX: (508) 358-3606

DATE: September 25, 2017
TO: Board of Selectman; Nan Balmer
FROM: Linda Hansen, Conservation Administrator
SUBJECT: Wayland Meadows land donation

On July 13, 2017, the Conservation Commission voted to accept the donation of land known as Wayland Meadows (Map 23, Parcel 52T). After the discovery of title issues on this property the Conservation Commission voted a second time on September 7, 2017 to accept the donation of land with full knowledge of the title burdens and use limitations.

The decision to accept the land with title issues was based on:

1. Review of the title burdens from the list compiled by Katharine Klein (KP Law). Many of the title burdens, such as easements and variances date from 1955 through 1975 and are related to matters when Raytheon was still in existence. They are no longer relevant. The Notice of Activity and Use Limitation dated May 8, 2013 is still valid and allows for passive recreational use.
2. Conversation with Ben Gould, LSP. When the Commission took their first vote in July, they asked me to contact Ben Gould regarding possible contamination of the property. He assured me that the parcel had little industrial use and therefore, little potential for contamination. Most of the parcel is wetlands and the upland section was included in the characterization and cleanup of the property.
3. Conversation with Katharine Klein (KP Law). Together we went through the list of title burdens. In an earlier conversation I agreed to review all the title burdens related to Town matters, such as decision, variances, and permits. I only found two outstanding matters—two open Orders of Conditions that date back forty years. The Commission can close out on those and record the Certificate of Compliances if necessary.

(~~13~~-5) Executive Minutes
13 Process

Balmer, Nan

Subject: FW: Wayland: Executive Minutes Motion

From: Carolyn M. Murray [<mailto:CMurray@k-plaw.com>]

Sent: Monday, September 18, 2017 12:13 PM

To: Balmer, Nan

Subject: Wayland: Executive Minutes Motion

Nan,

In my opinion, the Board may approve and review for release prior executive session meeting minutes in executive session and can simply list the dates of the executive session meeting minutes it intends to review. I do not think that all of this text is required regarding the topics discussed at those previous executive sessions, but the text can be included if the board prefers to do so. The Attorney General's Office simply requires that the board periodically review its executive session minutes to determine whether continued non-disclosure is warranted.

If the Board intends to approve and release the executive session meeting minutes, then it can indicate that it will do so for the following dates and note that the purpose of the executive session has expired. If it intends to approve and continue to not release certain executive session meeting minutes, including certain portions, then it should note in its executive session minutes, that the minutes (or certain portions) are still being withheld and note during its review that the purpose of the executive session has not expired and the public disclosure of the minutes "would defeat the lawful purpose of the executive session."

Let me know if you have any further questions.

Thank you,

Carolyn M. Murray, Esq.

KP | LAW

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(~~13~~-6) Rivers Edge
13



DEPARTMENT OF PUBLIC WORKS
TOWN OF WAYLAND

*Entrusted To
Manage The
Public
Infrastructure*

Thomas M. Holder
Director

Joseph Doucette
Superintendent

Don Millette
Superintendent

Paul Brinkman
Town Engineer

To: Board of Selectmen
From: Paul Brinkman, Town Engineer
CC: Nan Balmer, Town Administrator
Date: September 29, 2017
Subject: Rivers Edge Due Diligence Update

At your request, I have prepared this memorandum to provide you with a chronology of recent events involving the Rivers Edge Project and provide a summary of the near-term actions that are anticipated to occur associated with the project.

The Rivers Edge project involves the construction of a 200-unit development on former Wayland land that is currently owned by the Department of Public Works (DPW). The area includes land that is occupied by the closed Sudbury/Wayland Septage Treatment Facility, as well as land that was used as a laydown area for DPW construction projects. Additionally, the land has been used by the School Department to store buses and a shooting range for the Wayland Police Department.

After a comprehensive Request for Proposals process, Wood Partners (Developer) was selected to proceed with the project. The land procurement process involves a series of activities that allows the Developer to complete Due Diligence (DD) before making a final commitment to purchase and develop the land. DD is a process that allows the Developer to conduct research and perform tests on the property to accurately determine costs associated with specific conditions on the property. This process is clearly iterated in the Land Development Agreement (LDA). The LDA provides the Developer with a timeframe to undergo the DD and the rules under which the Town and Developer can make decisions about the sale of the property.

The LDA was executed on July 28, 2017. Immediately the Developer began DD activities with a priority on collecting information related to the soil materials that had been stored on site as a result of DPW construction activities. The soil is not anticipated to be needed to construct the development and is likely to require removal and disposal offsite. The process of assessing the soil involves the leveling of the pile to a fixed thickness so soil sampling could be undertaken. After soil sampling, the costs of managing the soil can be determined.

During the process of leveling the soil, a few small segments of asbestos cement pipe were found. This is not an uncommon occurrence when assessing a soil pile from roadway construction projects that was

HIGHWAY - WATER - PARKS - CEMETARIES - TRANSFER STATION - ENGINEERING

amassed over a few decades. The materials found in the soil can be typically managed during the disposal process. Ultimately another amount of asbestos containing material (floor tiles) was found, which met the reporting threshold required by MassDEP regulations. On August 14th, 2017, I notified the MassDEP as required. Additionally, I informed the Wayland Fire Department and Wayland Board of Health (BoH) as soon as practicable after my report to MassDEP.

On Thursday August 17th, the MassDEP inspected the site to observe the conditions and provide guidance with meeting the requirements of Mass regulations. The MassDEP took several samples and informed the Town and Developer that further work on assessing and characterizing the soil pile would require a Non-Traditional Workplan (NTWP). The NTWP is a plan that is developed by the Town and Developer to inform the MassDEP on the steps that will be taken to protect workers and other persons from any risks that may be associated with the asbestos materials. The NTWP must be approved by the MassDEP before any further work can be undertaken on the DD process.

Currently the Town is working with the Developer, the Developer's engineer - Vertex, and Ben Gould - the Town's Licensed Site Professional to identify the safest and most cost effective way to manage the situation. There are a key reporting dates that the Town and Developer are very aware of and are working to meet all the MassDEP requirements. The findings of reportable quantities of asbestos containing materials has delayed the schedule for the Developer to complete DD. Therefore, an amendment to the LDA will be required to allow the Developer additional time to complete the DD.

Upcoming tasks that will be undertaken is:

- The development and submittal of the NTWP. It is also anticipated that a meeting with the MassDEP will be required to provide additional information.
- The submittal of an Immediate Response Action Plan. This is required to notify the MassDEP of the process by which the asbestos materials will be managed and ultimately disposed.
- Recommencement of the DD by the Developer. Further spreading and sampling of the soil pile, as well as other DD activities to identify costs necessary for the project to advance. The soil work will be done in conformance with the NTWP.
- Offsite disposal of all asbestos containing materials identified during DD.

The discovery of asbestos containing material was not unanticipated. The material can be readily managed without exposing the workers or public to risks associated with asbestos. The discovery of asbestos at this point is not anticipated to significantly impact the Developer's interest in the project. It also should not pose any risk to the future residents of Rivers Edge.

I have kept in communication with the Wayland BoH during this process and they have not expressed any concerns over the procedures currently being undertaken.



NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

LEA T. ANDERSON
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LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

BOARD OF SELECTMEN

Monday, October 2, 2017
Wayland Town Building
Selectmen's Meeting Room
41 Cochituate Road Wayland

REVISED CONSENT CALENDAR

1. Vote the Question of Approving and Signing the Weekly Payroll and Expense Warrants
2. Vote to approve request to the Finance Committee for Reserve Fund transfer to fund costs related to the finding of material containing asbestos at Rivers Edge
3. Vote to approve expenditure of \$6,000 from the Twenty Wayland gift account for a habitat management study
4. Vote the question of approving the appointment of David Porter and Police Chief Patrick Swanick as Records Access Officers
5. Vote the question of authorizing the Town Clerk to place on the ballot for the March 27, 2018 Annual Town Election the position of Board of Library Trustees for a one (1) year term
6. Vote the question of approving the placement of four temporary sandwich board signs from September 28-October 4, 2017, at Route 20 at the Weston Town Line, Route 20 at the Intersection of Route 27, the Intersection of Old Connecticut Path and Routes 126 and 27, and the Cochituate Fire Station at the Corner of East Plain Street advertising the Wayland Children and Parents Association preschool forum
7. Vote the question of approving the placement of four temporary sandwich board signs from October 22-28, 2017, at Route 20 at the Weston Town Line, Route 20 at the Intersection of Route 27, the Intersection of Old Connecticut Path and Routes 126 and 27, and the Cochituate Fire Station at the Corner of East Plain Street advertising the Wayland Children and Parents Association Trunk or Treat event
8. Vote the question of approving the placement of four temporary sandwich board signs from October 11-18, 2017, at Route 20 at the Weston Town Line, Route 20 at the Intersection of Route 27, the Intersection of Old Connecticut Path and Routes 126 and 27, and the Cochituate Fire Station at the Corner of East Plain Street advertising the "Engaging in Difficult Conversations with Kids about Our Shared World," workshop sponsored by the Friends of Wayland Youth and Family Services



TOWN OF WAYLAND
MASSACHUSETTS
01778
CONSERVATION COMMISSION

TOWN BUILDING
41 COCHITUATE ROAD
TELEPHONE: (508) 358-3669
FAX: (508) 358-3606

DATE: September 25, 2017
TO: Board of Selectman; Nan Balmer
FROM: Linda Hansen, Conservation Administrator
SUBJECT: Twenty Wayland Gift Account spending

The Conservation Department is requesting funds from the Twenty Wayland gift account (account number 24171100) for a habitat management study of the Cow Common open space parcel.

Mass Audubon Ecological Extension Services has provided us a quote for \$6,000 to conduct a habitat management plan for Cow Common and it includes:

1. Invasive Plant Management Plan
2. Grassland Management Plan
3. Habitat Enhancements for wildlife
4. Public Use Assessment
5. Trail Assessment

The goal of the habitat management study is to enhance the wildlife habitat with minimal time commitment from town staff. The study will provide recommendations on long term invasive plant removal methods that derive the most benefit. In addition, the study will provide information on the variety of wildlife and which species to focus management efforts on.

The gift account earmarked for this work has a \$35,000 budget. The habitat management study is the first step and will cost \$6,000. The cost for the implementation of the habitat management study will be determined based on the recommendations in the final report.

TO: Board of Selectmen
From: Beth R. Klein, Town Clerk
DATE: September 18, 2017
RE: RESIGNATION OF ELECTED OFFICIAL- Library Trustee

Per MGL c. 41 s. 10 – “No election shall be held for any office pursuant to this section unless the Selectmen file with the Town Clerk notice of an election for such office not less than fifteen days before the last day to submit nomination papers to the registrars of voters for certification.”

In order for the position of Library Trustee for a one (1) year term to be placed on the ballot for the March 27, 2018 Annual Town Election, the Selectmen must submit written notice to the Town Clerk by January 22, 2018. This is fifteen (15) days prior to February 6, 2018, the deadline for submission of nomination papers to the Board of Registers.

We, the Board of Selectmen for the Town of Wayland, hereby notify the Town Clerk this date to place on the ballot for the March 27, 2018 Annual Town Election the position of Board of Library Trustees for a one (1) year term.

Lea T. Anderson, Chair _____

Cherry C. Karlson _____

Mary M. Antes _____

Date: _____

Douglas A. Levine _____

Louis M. Jurist _____



TOWN OF WAYLAND

MASSACHUSETTS

01778

TOWN CLERK
Beth R. Klein, CMC
bklein@wayland.ma.us

ASSISTANT TOWN CLERK
Diane M. Gorham
dgorham@wayland.ma.us

TOWN BUILDING
41 COCHITUATE ROAD
Wayland, MA 01778

TEL: 508-358-3630
508-358-3631
FAX: 508-358-1683
www.wayland.ma.us

Date: June 22, 2017
To: Board of Selectmen
From: Beth R. Klein, Town Clerk
Re: RESIGNATION OF ELECTED OFFICIAL

Please be informed that the attached letter of resignation was received in the Town Clerk's Office on June 22, 2017 effective June 30, 2017

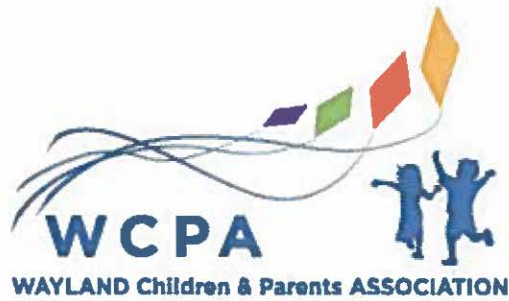
Anne B. Heller Trustee of the Public Library Term Expires: April 2019

Following the posting of the vacancy for one week, the Board of Selectmen together with the Trustees of the Public Library meet and form one committee to interview and then appoint a qualified person to fill the vacancy until the next annual town election.

Pursuant to Chapter 41: Section 109. No resignation of a town or district officer shall be deemed effective unless and until such resignation is filed with the town clerk or district clerk or such later time certain as may be specified in such resignation.

Beth R. Klein, Town Clerk

cc: Nan Balmer, Town Administrator
Dana Mastroianni, Library Director
Aida A. Gennis, Chair Bd. of Library Trustees
Anne B. Heller



September 18, 2017

Via Email (mdinapoli@wayland.ma.us)

Ms. MaryAnn DiNapoli
Town of Wayland
41 Cochituate Road
Wayland, MA 01778

Re: Signboard Request

Dear Ms. DiNapoli:

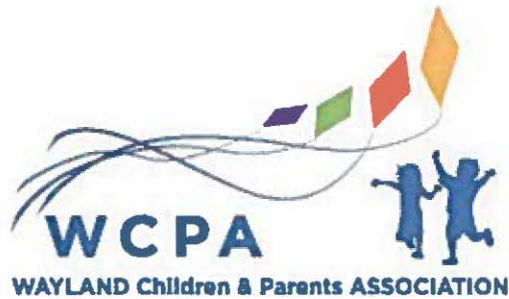
The Wayland Children and Parents Association is hosting preschool forum on October 4th at the Claypit Hill School gymnasium.

We are requesting permission to post our sandwich boards to promote this event starting September 28th, 2017 at the following locations:

- "Five Corners" of Rt. 126 and Route 27
- Cochituate Fire Station
- Corner of Route 20 and Route 27
- Coach Grill

Thank you for your consideration and we look forward to hearing from the Selectmen regarding our request.

Sincerely,
Tiffany Barchard
WCPA Community Marketing



September 19, 2017

Via Email (mdinapoli@wayland.ma.us)

Ms. MaryAnn DiNapoli
Town of Wayland
41 Cochituate Road
Wayland, MA 01778

Re: Signboard Request

Dear Ms. DiNapoli:

The Wayland Children and Parents Association is hosting our annual Trunk or Treat event on October 28th at the Claypit Hill Elementary School.

We are requesting permission to post our sandwich boards to promote this event starting October 22th, 2017 at the following locations:

- "Five Corners" of Rt. 126 and Route 27
- Cochituate Fire Station
- Corner of Route 20 and Route 27
- Coach Grill

Thank you for your consideration and we look forward to hearing from the Selectmen regarding our request.

Sincerely,
Tiffany Barchard
WCPA Community Marketing

DiNapoli, MaryAnn

From: Dowd, Lynn
Sent: Tuesday, September 12, 2017 9:31 PM
To: DiNapoli, MaryAnn
Subject: request for permission to put up signs

Hi MaryAnn,

The Friends of Wayland Youth & Family Services will be cosponsoring a workshop with Wayland Community for Social Justice, entitled "Engaging in Difficult Conversations with Kids about Our Shared World." The event is planned for the evening of October 18th at Wayland High School, so we would like to ask the Board of Selectmen for permission to place sandwich board signs at Five Paths, Rts. 20/27/126, Main Street at the Fire Station, and at the Town Line on Rt. 20 from 10/11 until the morning after the event.

Please get in touch if you have any questions, and thanks for helping us with publicity for this event.

Lynn Dowd
On behalf of Friends of Wayland Youth & Family Services
508-358-4293



NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

**REVISED PUBLIC DOCUMENTS PROVIDED TO THE
BOARD OF SELECTMEN FROM SEPTEMBER 15, 2017,
THROUGH AND INCLUDING SEPTEMBER 28, 2017,
OTHERWISE NOT LISTED AND INCLUDED IN THE
CORRESPONDENCE PACKET FOR OCTOBER 2, 2017**

Items Distributed To the Board of Selectmen – September 15-28, 2017

1. None

**Items Distributed for Information and Use by the Board of Selectmen at the
Meeting of September 18, 2017, and September 27, 2017**

1. Memorandum from Elizabeth Doucette re Fiscal Year 2019 Capital Project Requests
2. Article List for November 14, 2017 Special Town Meeting
3. PowerPoint Presentation on Department of Information Technology Capital Budget Request
4. PowerPoint Presentation on Department of Information Technology Network Infrastructure Capital Plan
5. History of Wayland Plowing Rights-of-Way and Private Roads

**Items Included as Part of Agenda Packet for Discussion During the October 2, 2017
Board of Selectmen's Meeting**

1. List of private roads in Wayland
2. Aerial and terrestrial photographs of select private roads in Wayland
3. Map of Wayland with proposed road maintenance and snow plow adjustments
4. Memorandum from Nan Balmer to the Board of Selectmen, re: STM Articles
5. Article List for November 14, 2017 Special Town Meeting, including sponsors and assignments
6. Article Text for all articles, excluding Finance Committee comments which are not yet prepared
7. Revised STM article, re: Previous Years Bills
8. Revised STM article, re: Current Year Transfers
9. Draft Finance Committee comments for STM Article C
10. Title research by Town Counsel, re: synthetic turf field at Loker
11. Memorandum from Elizabeth Doucette re Fiscal Year 2019 Capital Project Requests
12. Draft Minutes of September 18, 2017
13. Report of the Town Administrator for the Week Ending September 29, 2017
14. Memorandum from L. Hansen, Conservation Administrator, to the Board of Selectmen, re: Wayland Meadows land donation
15. Email dated from C. Murray, Town Counsel, to N. Balmer, re: Executive Minutes Motion
16. Memorandum from P. Brinkman, Town Engineer, to N. Balmer, re: Rivers Edge Due Diligence Update



NAN BALMER
TOWN ADMINISTRATOR
TEL. (508) 358-7755
www.wayland.ma.us

TOWN OF WAYLAND

41 COCHITUATE ROAD
WAYLAND, MASSACHUSETTS 01778

BOARD OF SELECTMEN

LEA T. ANDERSON
MARY M. ANTES
LOUIS M. JURIST
CHERRY C. KARLSON
DOUGLAS A. LEVINE

BOARD OF SELECTMEN
Monday, October 2, 2017
Wayland Town Building
Selectmen's Meeting Room

CORRESPONDENCE

Selectmen

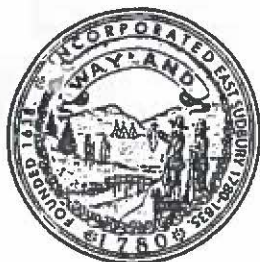
1. Letter of 09/12/17 from the Historical Commission to the Zoning Board of Appeals, re Mahoney's Garden Center Development 115 Boston Post Road
2. Cover letter and two Summonses of 9/14/17 from A. Kwesell of K.P. Law to Clerk of the Land Court re: Docket No. 17MISC000488 (20 Millbrook Road)
3. Email with attachment of 09/18/17 from Gail Shapiro to Board of Selectmen, re plowing of private roads
4. Cover letter and enclosures of 09/22/17 from C. Murray of K.P. Law to Margaret J. Hurley, Director of the Municipal Law Unit, Office of the Attorney General, re: Wayland Annual Town Meeting of April 2, 2017 Warrant Article 14 – Case #8302
5. Email of 9/22/17 from C. Murray of K.P. Law to N. Balmer, re Wayland-Loker/Dow Recreational area
6. Letter of 09/27/17 from Pamela Goldstein of Verizon to the Board of Selectmen, re: Cable Television Final License Granted to Verizon New England Inc.
7. Monthly Report from Fire Department, September 2017

Minutes

8. Cultural Council, June 1, 2017
9. Economic Development Committee, August 2, 2017
10. Planning Board, February 7, 2017
11. Surface Water Quality Committee, August 29, 2017

State and Regional

12. Letter of 9/20/17 from Office of the Governor to N. Balmer, re: Recycling Dividends Program grant
13. Letter of 9/20/17 from Massachusetts Municipal Association re Fall 2017 MunEnergy Breakfast Series



(1)

TOWN OF WAYLAND
MASSACHUSETTS
01778
WAYLAND HISTORICAL COMMISSION

TOWN BUILDING
41 COCHITUATE ROAD
TELEPHONE: (508) 358-7701

September 12, 2017

Jonathan Sachs, Chair
Zoning Board of Appeals
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778

RECEIVED

SEP 21 2017

**Board of Selectmen
Town of Wayland**

RE: Mahoney's Garden Center Development 115 Boston Post Road

Dear Mr. Sachs:

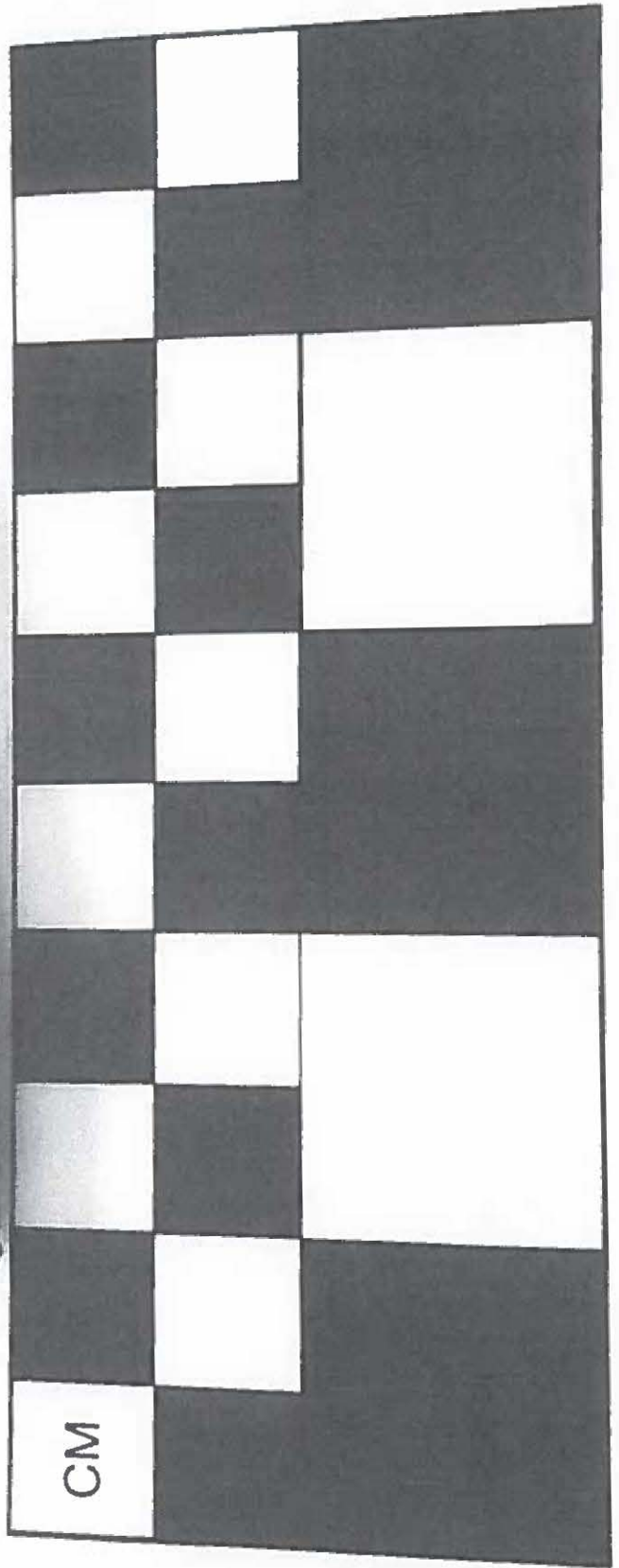
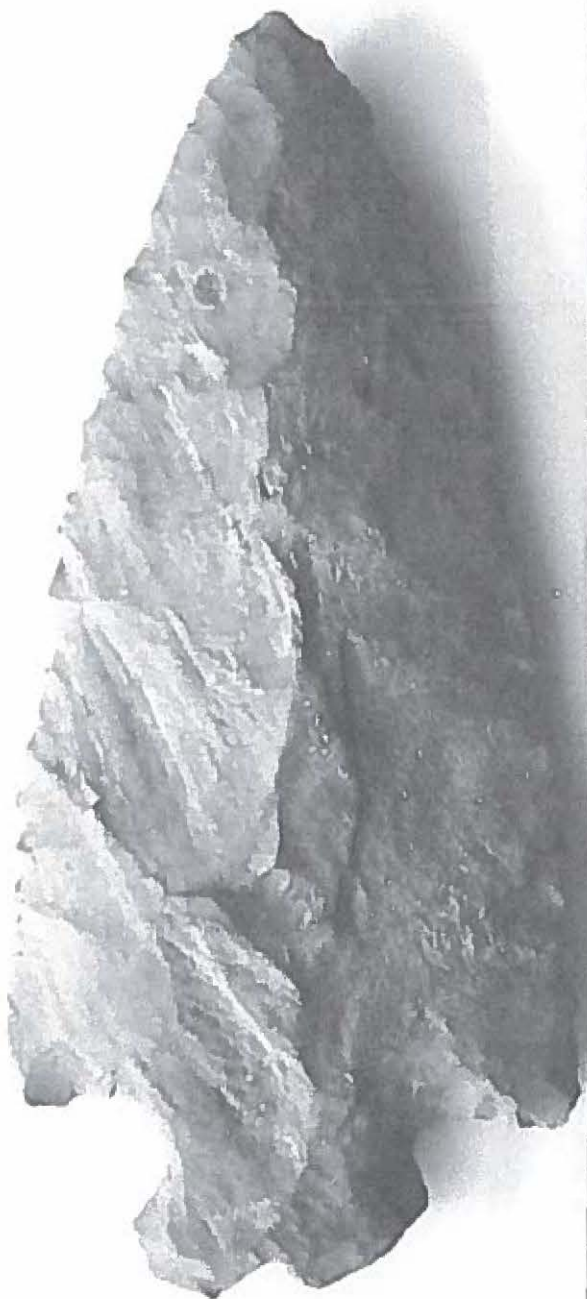
The proposed site for a development at 115 Boston Post Road requires an archaeological survey because of its proximity to Pine Brook, an archaeologically sensitive site registered with the Massachusetts Historical Commission (site #19-MD-696) where one of the oldest pre-colonial artifacts ever found in Wayland was discovered near Pine Brook. A photograph of this arrowhead is attached. Interestingly, prior to Mahoney's Garden Center, the site was named Arrowhead Gardens suggesting that numerous pre-colonial artifacts were found on the property.

In its approval letter, MassHousing also concludes that this site requires an archaeological survey before the land is developed. A copy of the September 2016 letter from the Wayland Historical Commission upon which MassHousing bases its recommendation is attached. The Wayland Historical Commission is concerned that failure to conduct such a survey would likely preclude the opportunity to learn more about the earliest inhabitants of this area. For these reasons, the land at 115 Boston Post Road should not be disturbed until after an archaeological survey has been conducted.

Sincerely,

Elisa Scola, Chair
Wayland Historical Commission

Cc: Cherry Carlson, Chair, Board of Selectman ✓
Sherre Greenbaun, Chair, Conservation Commission *wtm*
Nan Balmer, Town Administrator
Sarkis Sarkisian, Town Planner
Timothy Sullivan, Executive Director of MassHousing
Brona Simon, State Archaeologist



KP | LAW

The Leader in Public Sector Law

101 Arch Street, Boston, MA 02110
Tel: 617.556.0007 | Fax: 617.654.1735
www.k-plaw.com

2

September 14, 2017

RECEIVED

SEP 18 2017

Board of Selectmen
Town of Wayland

Amy E. Kwesell
akwesell@k-plaw.com

Clerk
Land Court
Three Pemberton Square
Boston, MA 02108

Re: Town of Wayland by and through its Building Commissioner v. John H. Archambault, et al.
Land Court, Misc. No. 17 MISC 000488

Dear Sir/Madam:

Enclosed for filing in connection with the above-captioned action, please find two Summons with original Returns of Service.

Thank you for giving this matter your attention.

Very truly yours,



Amy E. Kwesell

AEK/eon

Enc.

cc: Board of Selectmen
Building Commissioner
Mr. John H. Archambault
Ms. Christine Moynihan

592142/WAYL/0066

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

CIVIL ACTION

NO. 17 MISC 000488

Town of Wayland, by and through its Building Commissioner
_____ Plaintiff(s)

v.

John H. Archambault and
Christine Moynihan _____ Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Amy E. Kwesell

Plaintiff's attorney, whose address is KP Law, P.C., 101 Arch St., 12th Fl., Boston, MA 02110, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Recorder of this court at Three Pemberton Square, Room 507, Boston, MA 02108 either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Judith C. Cutler, Chief Justice, at Boston, _____

Deborah T. Pattison

Recorder

NOTES

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED
(1) EQUITY — (2) OTHER

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on _____, 20____, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):



Middlesex Sheriff's Office • Civil Division, P.O. Box 827, Framingham, MA 01701 • (508) 872-3110

Middlesex, ss.

September 11, 2017

I hereby certify and return that on 9/7/2017 at 1:00 PM I served a true and attested copy of the SUMMONS, COMPLAINT, CIVIL ACTION COVER SHEET, EXHIBITS in this action in the following manner: To wit, by leaving at the last and usual place of abode of JOHN H. ARCHAMBAULT, 20 MILLBROOK Road Wayland, MA 01778 . Fees: Attest (\$5.00) Basic Service Fee (\$20.00) Postage and Handling (\$1.00) Travel (\$7.68) Conveyance (\$3.00) Total: \$36.68

[Faint handwritten notes]

Paul J. Culleton

Deputy Sheriff

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

_____, ss.

CIVIL ACTION

No. _____

_____, Pltiff(s)

v.

_____, Deft(s)

SUMMONS
(Mass. R. Civ. P.4)

091619140

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

CIVIL ACTION

NO. 17 MISC 000488

Town of Wayland, by and through its
Building Commissioner

Plaintiff(s)

v.

John H. Archambault and
Christine Moynihan

Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Amy E. Kwesell

Plaintiff's attorney, whose address is KP Law, P.C., 101 Arch St., 12th Fl., Boston, MA 02110, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Recorder of this court at Three Pemberton Square, Room 507, Boston, MA 02108 either before service upon plaintiff's attorney or within a reasonable time thereafter.

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Deborah T. Pattison

Recorder

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PROOF OF SERVICE OF PROCESS

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Middlesex Sheriff's Office - Civil Division, P.O. Box 827, Framingham, MA 01701 • (508) 872-3110

Middlesex, ss.

September 11, 2017

I hereby certify and return that on 9/7/2017 at 1:00 PM I served a true and attested copy of the SUMMONS, COMPLAINT, CIVIL ACTION COVER SHEET, EXHIBITS in this action in the following manner: To wit, by leaving at the last and usual place of abode of CHRISTINE MOYNIHAN, 20 MILLBROOK Road Wayland, MA 01778 . Fees: Attest (\$5.00) Basic Service Fee (\$20.00) Postage and Handling (\$1.00) Travel (\$7.68) Conveyance (\$3.00) Total: \$36.68

Paul J. Culleton

Deputy Sheriff

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

_____, ss.

CIVIL ACTION
No. _____

_____, Pltff(s).

v.

_____, Deft(s).

SUMMONS
(Mass. R. Civ. P.4)

17019141

DiNapoli, MaryAnn

From: Gail Shapiro <gailshapiro@comcast.net>
Sent: Monday, September 18, 2017 9:02 PM
To: Anderson, Lea; Karlson, Cherry; Antes, Mary; Jurist, Louis; Levine, Doug
Cc: Balmer, Nan; DiNapoli, MaryAnn
Subject: Thank you for reviewing plowing
Attachments: Plowing History.docx

Dear Selectmen:

We are grateful that you are taking the first steps tonight to review the unfortunate 2015 decision to stop snow plowing of our right-of-way, as well as the other 26 households affected.

Based on my several hours of research of town records, and interviews with current and former town officials, attached is a time line of the 1982 Board of Selectmen plowing decision – and prompt reversal of that decision – as well as subsequent information on the matter for your consideration.

I will not reiterate here in full the logistical and economic hardships this decision has caused our – and other – households, except to remind you that many of the affected residents are seniors, and some are disabled, and depend on immediate access to emergency services.

This past year – not a very snowy winter – our cost for plowing was \$1550, at the same time our taxes went up by nearly 15%.

As a Wayland taxpayer for 40 years, my husband Gil Wolin and I urge you to promptly reinstate our snow plowing.

Thank you,

Gail Shapiro

201 West Plain Street

History of Wayland Plowing Rights-of-Way and Private Roads

- 1900-** In addition to public roads, the Town has been plowing more than 50 private roads and rights-of-way for at least 80 years, according to town records and residents' oral histories.
- 1982**
- August 16** The Board of Road Commissioners vote unanimously to cease plowing any private roads or Rights-of-Way within the Town limits. They request that Town Counsel confirm this decision before they vote.
- Nov 4** Town Counsel confirms that the Road Commissioners' decision to stop plowing is OK. Letters are sent to all affected 30 homes.
- Late Nov.** Residents attend next Road Commission meeting; express outrage. Commissioner gives reason: "clarifying its policy." *Wayland Town Crier* article of December 2 reports that "the commission is now waiting for Town Counsel's written verification that the Town cannot be held liable if it doesn't maintain these private ways. Chairman [Diane] White said that the commissioners have received verbal verification, but 'want it in writing'. Under the **Massachusetts General Laws, plowing of private ways is a 'proper use' of municipal funds**, but the Commissioners decide that a new policy should be established to clarify that only officially accepted Town roads and streets would be plowed."
- Dec. 20?** At the meeting immediately preceding December 23 (when it was reported in the *Town Crier*, so most likely December 20), after huge outcry, Road Commissioners vote to rescind August 16 "no plow" decision. The Commission also decides to establish for use after July 1, 1983 a firm policy to designate roads that the Town will not be responsible for plowing.
- 1983**
- April** In order to comply with MGL Chapter 40 Section 6C, (which passed at Wayland's 1968 ATM), Selectmen vote to designate common driveways temporarily as "private ways open to public use" in order to legitimize the Road Commissioners' decision to rescind, and continue plowing all affected homes, so that funds could be allocated at ATM for snow removal. (Reported in the *Town Crier*).
- April 27** At ATM, Town votes to allocate these funds.
- Aug 15** Board of Selectmen meet, agree to request that the Road Commissioners direct the Highway Department to continue plowing all of the more than 50 private roads traditionally plowed by the Town. According to the *Town Crier* (August 18): "*Members acknowledged that removing snow from the private ways the Town has plowed in the past may be illegal. Board had previously been advised by Town Counsel that private ways cannot legally be plowed with public monies unless they are truly open to public use. Town Counsel is now reviewing a betterment recommendation.*"

Selectmen decided in April to give the roads temporary public status with intentions of seeking a betterment policy put in place before a final decision not to plow private ways is made. The betterment policy would be a procedure available to residents of private roads who want to upgrade their road so it can be accepted by the Town as a public way, and receive Town plowing service."

2015

Oct. 20 BPW votes to stop plowing "common driveways."

Nov 5 Residents are informed **AFTER** the vote, by certified mail (which did not reach some residents in a timely fashion).

Nov 16 Public is invited to this meeting to air their concerns, and are informed in advance that the Board's vote will not be reversed; the meeting is to "clarify any confusion." The minutes read as follows: "Brown notes that the Town had been plowing areas that it had no legal right to be on, which is confirmed by the Town Surveyor and Town Counsel.

Lowery notes that there is a difference between private ways, where the public has a right of access versus private driveways, where the public has no right of access."

Mr. Brown requests that Mr. Lanza provide a legal description of the terms: "public road," "private road," and "private drive." Mr. Lanza offers a lengthy description of the process by which public ways come into existence in Wayland.

Mr. Lanza notes that the general rule is: "that no private ways can be plowed using public funds, unless the Town accepts the law that private ways open to the public could be plowed."

2015/16 Residents hire private plows. This presents economic and/or logistical hardships to several of the affected residents, many of whom are seniors; some of whom are disabled.

2016

January Some affected residents apply for tax abatement; they are refused because year in question was 2015, not 2014. They try again next year, again are refused because rising tax rates are not based on services received.

January 13 Email from Ms. Balmer states that the reason for the cessation of plowing was that in 2013, the Town plow hit a fence, the insurance company paid. Then in 2015, the plow hit the same fence, and the DPW asked the homeowner if Town crew could repair instead (we assume so as to not raise our insurance rate from too many claims).

August 29 To try to help us understand why the Road Commission reversed its 1982 decision to stop plowing, Brian Bell submits a Public Records Request for the minutes of the pertinent meetings. The BPW responds that the records have been lost.

Sept 1 Correspondence on the matter is sent from Mr. Lanza to Mr. Brown, and is sent to Malcom Astley and Cynthia Lavenson, two affected residents.

Questions arising from Mr. Lanza's correspondence (and some affected residents' comments [in blue] regarding same) are as follows:

"Since the terms common driveway and private way are not defined in the Towns' bylaws or in state law,"

*"This statement is not entirely true. Section 301-5 of Wayland By-Laws, appropriately titled "Definitions" **does clearly define** "private ways," "streets," and "public ways" (but not "common driveways"). We are still not sure why that took the better part of a year to figure out."*

"The attached document compares the typical common driveway to the typical private way. Such ways could have specific variations depending on the documents that created them."

"The 'attached document' is entirely inadequate, and is unusable as a legal document, as it bears NO author, NO date, and NO citation of sources for the information. I am quite displeased that my tax dollars were used to produce this inadequate document."

"It's #9 that's relevant and critical, yet he [Mr. Lanza] provides no legal basis for it – AND THAT'S WHAT WE REQUESTED (not his summary of differences)"

2017

Sept. 12 The Agenda for the Board of Public Works meeting contains this item:
"Review of Town Counsel's Legal Opinion Concerning the Status of Private Ways"

Some residents feel this language was insufficiently specific; state they would have attended the meeting to express their concerns had they been informed that plowing was once again up for review.

"What was the impetus for bringing this up again now?"

"What can we do to ensure that the Town will resume plowing our roads? For many of us, this is a health and safety issue."

September 22, 2017

Carolyn M. Murray
cmurray@k-plaw.com

BY ELECTRONIC MAIL (margaret.hurley@state.ma.us)
AND FIRST CLASS MAIL

Margaret J. Hurley, Esq.
Chief, Central Massachusetts Division
Director, Municipal Law Unit
Attorney General's Office
10 Mechanic Street, Suite 301
Worcester, MA 01608

RECEIVED

SEP 25 2017

Board of Selectmen
Town of Wayland

Re: Wayland Annual Town Meeting of April 2, 2017 Warrant Article 14 – Case #8302

Dear Ms. Hurley:

This office is Town Counsel to the Town of Wayland (the "Town"). We are in receipt of correspondence from an attorney representing the Jewish Cemeteries Association of Massachusetts ("JCAM") objecting to the zoning amendment adopted under Article 14 of the Town's 2017 Annual Town Meeting ("Article 14"), which has been submitted to your office for review. Thank you for the opportunity to respond to that correspondence. For the reasons discussed below, the Town respectfully disagrees with the JCAM letter and requests that you approve Article 14.

Article 14 seeks to amend the Town's Zoning Bylaw to provide for limited Site Plan Review of non-profit educational, religious and child care uses, which are afforded protection from some zoning regulation pursuant to G.L. c. 40A, §3, under the so-called "Dover Amendment." Notwithstanding the protection afforded to these protected uses pursuant to G.L. c. 40A, §3, municipalities are allowed to impose reasonable regulations on educational, religious, or child care uses in eight (8) areas, including: bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements. Article 14 limits the scope of the Planning Board's review to the aforementioned permissible criteria. Prior to the adoption of Article 14, the Town's Zoning Bylaw provided that the Building Inspector perform limited site plan review of plans for Dover Amendment uses without any public input. Specifically, Chapter 198, Section 603.3 of the Town Code currently provides:

The Building Commissioner shall administer the SPA whenever the principal use of the land or structure is an exempt day-care, educational, nursery school or religious use under MGL c. 40A, § 3.

This zoning provision, adopted by the Wayland Town Meeting on April 7, 2011, was approved by your office. This procedural history is also described in the Planning Board's report to Town Meeting attached at Exhibit A.

Margaret J. Hurley, Esq.
Chief, Central Massachusetts Division
Director, Municipal Law Unit
September 22, 2017
Page 2

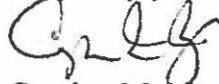
In addition to Wayland's existing Zoning Bylaw providing for site plan review of such protected uses, other municipalities have adopted similar zoning amendments which have likewise been approved by the Attorney General as being consistent with G.L. c. 40A, §3. See September 19, 2016, Letter to Concord Town Clerk from Attorney General approving zoning bylaw amendment allowing for limited site plan review of religious, educational, and child care uses attached hereto as Exhibit B; see also The Bible Speaks v. Bd. of Appeals of Lenox, 8 Mass. App. Ct. 19, 33 (1979); see also February 1, 2017, Letter to Easton Town Clerk from Attorney General approving zoning bylaw amendment allowing for limited site plan review of religious educational and child care uses attached hereto as Exhibit C.

JCAM's fear that the Planning Board will apply arbitrary criteria and expand the use of Site Plan Review of these protected uses into impermissible areas is unfounded. Article 14 limits the scope of the Planning Board's review only to those eight (8) permissible criteria discussed above. Section 603.3.1 of Article 14 contains a list of issues which the Planning Board will consider during its limited Site Plan Review, each of which are related to the eight (8) permissible criteria discussed above. As the Attorney General cautioned in her approval of a similar zoning bylaw amendment for the Town of Concord, the Town has proposed the specific factors in Section 603.3.1 because they each relate to bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements. The Planning Board will work with Town Counsel to ensure that projects reviewed under this section are reviewed consistent with the limitations of G.L. c. 40A, §3. Further, the meeting minutes of the Planning Board hearing discussing Article 14 reflect the Planning Board's desire not to stringently regulate Dover Protected Uses, but rather to establish a better process for larger and more complicated projects. See Planning Board's February 7, 2017, meeting minutes attached hereto as Exhibit D.

In summary, Article 14 is a permissible exercise of the Town's zoning power, as limited by G.L. c. 40A, §3. Accordingly, the Town respectfully requests that you approve Article 14 as presented.

Thank you for your consideration. Please do not hesitate to contact me with any questions.

Very truly yours,



Carolyn M. Murray

CMM/man

Enc.

cc: Town Administrator
Planning Board

592026/WAYL/0275

EXHIBIT A

QUANTUM OF VOTE: Majority vote if approved under Subdivision Control Law; two-thirds vote if not approved under Subdivision Control Law per Massachusetts General Laws Chapter 41, Section 81Y.

For more information about this article, contact Sarkis Sarkisian, Town Planner, at 508-358-3778 or ssarkisian@wayland.ma.us.

ARTICLE 14: LIMITED SITE PLAN REVIEW – EXEMPT USES

Sponsored by: Planning Board

To determine whether the Town will vote to amend Chapter 198 of the code of the Town of Wayland, the Town's Zoning Bylaw, by making the following revisions:

I. SECTION ONE

Strike Section 603.3 and replace it with the following:

603.3

Notwithstanding Section 601.2, *supra*, any proposed nonprofit educational, religious, or child care uses land protected under G.L. c. 40A, §3 ("Section 3 Uses") shall be subject to site plan review under Article 6, which shall be limited consistent with those statutory provisions. The purpose of this Section is to ensure that all such uses and facilities are reasonably regulated in regards to bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage.

603.3.1

In reviewing the site plan submittal for a Section 3 Use, the following issues shall be considered:

- (a) relationship of the bulk, height of structures, and adequacy of open spaces to the natural landscape, existing buildings and other community assets in the area, and compliance with other requirements of this Bylaw, which includes but is not limited to lot coverage, yard sizes, lot areas and setbacks.
- (b) physical layout of the structures, driveways, utilities and other infrastructure as it relates to the convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets, and when necessary, compliance with other requirements for the disabled, minors or the elderly;
- (c) adequacy of the arrangement of parking and loading areas in relation to the proposed use of the site; and
- (d) physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts on neighboring properties and excessive light pollution.

603.3.2

Site plan review of a Section 3 Use shall be by the Planning Board ("Board"). In considering a site plan for a Section 3 Use, the Board shall consider whether any proposed or potential incidental uses are in harmony with the uses permitted in the underlying zoning district. Subject to the limitations of G.L. c. 40A, §3, the Board shall impose any such conditions, limitations, and safeguards as it deems appropriate to protect the interests of, and consistent with, the planning objectives for the underlying zoning district. The Board shall file its written decision with the Town Clerk within sixty (60) days of receipt of an application, unless such time is extended by agreement of the applicant.

II. SECTION TWO

In Section 802, Table of Permitted Uses, amend footnote "1" to read as follows: "Site plan review shall be limited as set forth under Section 198-603.3 of this Zoning Bylaw."

III. SECTION THREE

In Section 606.3, first sentence, replace the term "Building Inspector" with "Planning Board."

PLANNING BOARD REPORT: Approval of this Article would establish a site plan review process, managed by the Planning Board, for new or substantially modified day care, non-profit educational, and religious uses of land in Wayland. These specific land uses have unique protection under Section 3 of the state Zoning Act, a provision sometimes referred to as the "Dover Amendment." Under that state law, municipalities have limited authority to regulate these uses, although they are not automatically exempt from local zoning bylaws and ordinances. The law permits "reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements..."

The recent acquisition of approximately 11 acres at 39-45 Waltham Road by the Carroll School, a non-profit education organization, and the School's plans to redevelop the property into its Wayland campus for classrooms, meeting space, offices, and athletic fields, exposed a gap in our current zoning regulatory framework. As a protected use under the Dover Amendment, the School's use of its 11-acre campus is permissible in the underlying residential zoning district, and can only be subjected to "reasonable regulations." Under our current Zoning Bylaw, Dover Amendment uses are exempt from the ordinary site plan review process conducted by the Planning Board in an open hearing with public participation. Under the current bylaw, such uses must only obtain an informal site plan approval by the Building Commissioner, an unelected town official. The proposed zoning amendment would create a formal review framework for major land use developments associated with educational, religious, and day care uses.

While the Carroll School voluntarily submitted to a site plan review hearing and a list of conditions regulating its activities, and agreed to limit its activities and structures in a manner that will be mostly benign and respectful of its residential neighbors, future applicants may not be so obliging. Existing uses that are not planning any major expansions or changes in use are unaffected. The amendment would not unduly burden educational, religious and day care uses, because the Planning Board's review and authority to impose restrictions are limited by state statute (the Dover Amendment). The amendment does not affect agricultural uses, which are also protected by the Dover Amendment; such uses are not currently subject to site plan review by the Building Commissioner, and will not be subject to site plan review by the Planning Board. The proposed Bylaw is narrowly tailored to address the need to regulate and put reasonable limits on the size and scope of major educational, religious and

day care development projects, which will still be exempt from complying with the full extent of our zoning restrictions that apply to every other commercial and residential property in Wayland.

Pursuant to Massachusetts General Laws Chapter 40A, Section 5, the Planning Board held a public hearing to discuss the proposed amendments to the Town's Zoning Bylaws on February 7, 2017 and closed the public hearing the same night.

The Planning Board voted 4-0 to support this article.

FINANCE COMMITTEE COMMENTS: This article would amend the zoning bylaws of the Town of Wayland to give the Planning Board authority to hold public hearings and review site plans for uses that fall under the protection of M.G.L. c. 40A, § 3, specifically nonprofit educational, religious, or child care uses (known as "Dover Amendment Uses" or "Section 3 Uses"). Under the current bylaw, amended in 2011, only the Building Commissioner is charged with the authority to review and approve such plans and there is no real opportunity for public input.

According to state law, no zoning bylaw can prohibit or unreasonably regulate or restrict the use of land or structures for nonprofit educational, religious, or child care uses. However, localities can impose reasonable regulations on such uses with regard to bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

The proposed amendment would establish a more detailed, more robust and more prescriptive site plan review process consistent with the limitations and the protections of the Dover Amendment. The review would be conducted by the elected Planning Board and the public would have the ability to participate and offer suggestions on such things as the relationship of the proposed structure to the area's natural landscape and existing buildings, convenience and safety of vehicular and pedestrian traffic, adequacy of parking in relation to the proposed use and the impact of exterior lighting on neighboring properties. The Planning Board could then impose reasonable conditions and restrictions to protect the broad planning goals and objectives embodied this new Section 603.3.

The Planning Board recommends approval. Vote 4-0.

The Board of Selectmen voted 4-0 to support this article.

ARGUMENTS IN FAVOR: This proposed zoning amendment fills a regulatory gap in our existing Zoning Bylaw by requiring nonprofit educational, religious and child care projects to undergo a site plan review process managed by the Planning Board, whose members are Wayland residents and who are elected rather than appointed.

The article seeks to ensure that certain Section 3 Uses are reasonably regulated in regards to bulk and height of structures, yard sizes, lot areas, setbacks, open space and parking and building coverage. The amended bylaw would add greater clarity and more specificity to the site plan review process as it relates to facilities that are used for religious, nonprofit educational and child care purposes. The extra specificity may help in avoiding and resolving potential disputes.

The interest of abutters will be taken into account as it relates to the location of driveway openings in relation to adjacent streets, the impact of exterior lighting on neighboring properties and protection from damaging rainwater runoff by provision for surface water drainage.

Without this amendment, Section 3 Uses could be expanded, without appropriate scrutiny or oversight, to include ancillary or incidental components that may create undesirable impacts on the town or the immediate residential neighborhood, such as illuminated athletic fields and musical entertainment facilities, commercial or retail buildings, or large parking lots.

ARGUMENTS OPPOSED: To the extent that the process for site plan reviews is deeper and more prescriptive it may be more likely to cause construction delays.

MGL c. 40A, § 3 also applies to agricultural structures. This article fails to apply the enhanced site plan review process to agricultural uses.

Some would argue the enhanced site plan review process, as defined in this article, is not prescriptive enough and should be even more specific about permissible restrictions.

Others would argue that this level of review is unnecessary.

RECOMMENDATION: The Finance Committee recommends approval. (Vote 5-0-1)

QUANTUM OF VOTE: Two-thirds vote per Massachusetts General Laws Chapter 40A, Section 5.

CONSISTENCY WITH LAW: The proposed bylaw amendment is not repugnant to federal or Massachusetts law.

For more information about this article, contact Sarkis Sarkisian, Town Planner, at 508-358-3778 or ssarkisian@wayland.ma.us.

ARTICLE 15: PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS THROUGH DEMOLITION DELAY

Sponsored by: Historical Commission

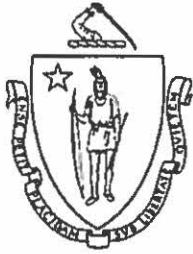
To determine whether the Town will vote to amend the General Bylaws of the Town of Wayland to include:

PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS THROUGH DEMOLITION DELAY

SECTION 1 INTENT AND PURPOSE

This bylaw is enacted for the purpose of preserving and protecting significant buildings within the Town which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this bylaw, residents of the town are alerted to impending demolitions of significant buildings and owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Commissioner with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this bylaw. This bylaw applies only to the exteriors of buildings and structures.

EXHIBIT B



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

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www.mass.gov/ago

September 19, 2016

Anita S. Tekle, Town Clerk
Town of Concord
P.O. Box 535
Concord, MA 01742

Re: Concord Annual Town Meeting of April 4, 2016 – Case # 7947
Warrant Articles # 34, 35, 36, 37, 38, 39, 40, 41, and 42 (Zoning)
Warrant Articles # 32, 43, and 45 (General)
Warrant Article # 33 (Historic)

Dear Ms. Tekle:

Articles 34, 35, 36, 37, 38, 39, 40, 41, and 42 - We approve Articles 34, 35, 36, 37, 38, 39, 40, 41, and 42,¹ and the map pertaining to Article 38, from the Concord April 4, 2016, Annual Town Meeting. We will return the approved map to you by regular mail. Our comments on Articles 37 are provided below.²

Articles 37 - Article 37 amends Section 11.8.7.1, "Site Plan Review for religious uses, educational uses and child care facilities" by adding new Subsections (e), (f), and (g). As amended, Section 11.8.7.2, provides in pertinent part as follows:

In reviewing the site plan submittal for religious uses, educational uses and child care facilities, the following issues shall be considered:

* * *

(e) Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage.

¹ On July 25, 2016, the Attorney General elected to proceed under the defect waiver provisions of Chapter 299 of the Acts of 2000. In a certification dated August 29, 2016, the Town Clerk affirmed that the notice was posted and published in accordance with the provisions of Chapter 299, and that no claims were filed with the Office of the Town Clerk within 21 days of publication. For this reason, the Attorney General is authorized by Chapter 299 to waive (and does so waive) the defect.

² In a decision dated July 25, 2016, we approved Articles 32, 33, 43, and 45.

(f) Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site.

(g) Adequacy of fire protection measures.

We approve the new Subsections 11.8.7.1 (e), (f), and (g). However, the Town must apply Section 11.8.7.2, including the new and existing text, consistent with the protections given to religious uses, educational uses and child care facilities under state law, including G.L. c. 40A, § 3.³

General Laws Chapter 40A, Section 3, protects various uses from a town's zoning power, including the "educational use[s], religious use[s], or child care center[s]" to which Section 11.8.7.1 applies. The statute protects educational and religious uses in a similar manner:

No zoning ordinance or by-law shall...prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes...; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

The protections for child care uses are detailed in slightly different language:

No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

Together these provisions establish that a Town by-law may not prohibit, or require a special permit for, educational, religious, or child care uses, but may impose reasonable regulations in eight areas: the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements. *See The Bible Speaks v. Bd. of Appeals of Lenox*, 8 Mass. App. Ct. 19, 33 (1979) ("The Legislature did not intend to impose special permit requirements, designed under [G.L. c. 40A, § 9], to accommodate uses not permitted as of right in a particular zoning district, on legitimate educational uses which have been expressly authorized to exist as of right in any zone.")

The Supreme Judicial Court has ruled that local zoning requirements serving "legitimate municipal purposes" may be applied to Dover Amendment uses. Trustees of

³ The existing text of Section 11.8.7.1 provides that the purpose of site plan review for religious and educational uses and child care facilities is to "ensure that [they] are reasonably regulated in regards to bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements."

Tufts Coll. v. City of Medford, 415 Mass. 753, 757-758 (1993) (citing MacNeil v. Town of Avon, 386 Mass. 339, 341 (1982)). In addition, the Appeals Court recently upheld a site plan review requirement for Dover Amendment uses, limited to the application of reasonable regulations as set forth in G.L. c. 40A, § 3, as “consistent with a reasonable reading of the Dover Amendment, G.L. c. 40A, § 3, and The Bible Speaks v. Board of Appeals of Lenox, 8 Mass. App. Ct. 19, 31 91978).” Jewish Cemetery Assoc. of Mass., Inc. v. Bd. of Appeals of Wayland, 85 Mass. App. Ct. 1105, *2 (2014).

As in Jewish Cemetery Assoc., it appears reasonable for the Town to use a limited site plan review as the process by which it regulates the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements for such statutorily protected uses. However, Subsections 11.8.7.1 (e), (f), and (g) require information on surface water drainage, waste disposal, and fire protection measures, which are subject matters not expressly listed in G.L. c. 40A, § 3. The information required under Subsections 11.8.7.1 (e), (f), and (g) may be found to be an unreasonable regulation of a protected use if such information does not relate to those eight factors allowed under G.L. c. 40A, § 3. We urge the Town to consult with Town Counsel regarding a future amendment to the by-law to clarify the filing requirements for protected uses.

We also urge the Town to consult closely with Town Counsel during the site plan review process for religious, educational and child care use to ensure compliance with the protections afforded to disabled persons under G.L. c. 40A, § 3, ¶4:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination.

Uses that qualify as educational, religious or child care pursuant to G.L. c. 40A, § 3 (and thus governed by Section 10.7) may also qualify for the protections accorded to disabled persons under G.L. c. 40A, § 3, ¶4. For example, persons recovering from or receiving treatment for addiction to alcohol or drugs are disabled individuals for the purposes of the Americans with Disabilities Act, 42 U.S. C. §§ 12102 (2) (B) (C), and a substance abuse treatment center is likely to be protected under G.L. c. 40A, § 3, ¶4. *See e.g., Granada House, Inc. v. City of Boston*, 1997 WL 106688 (Mass. Super. Ct.) (the Zoning Act bars the City’s discriminatory treatment of a group home for recovering drug and alcohol users.). We urge the Town to consult closely with Town Counsel during the application of the site plan review requirement to such uses.

In addition, certain religious or educational uses protected under G.L. c. 40A, § 3 (and thus subject to Section 10.7) may also be protected by the Fair Housing Act (FHA), the Americans with Disabilities Act (ADA), and/or the Rehabilitation Act (RA). *See, e.g., South Middlesex Opportunity Council, Inc. v. Town of Framingham*, 752 F.Supp.2d 85, 95 (D. Mass.

2010) (Residential substance treatment centers are covered by the FHA because federal regulations define “handicap” to include drug addiction or alcoholism); Safe Haven Sober Houses, LLC v. Good, 82 Mass. App. Ct. 1112, *3 (2012) (*citing* South Middlesex Opportunity Council, 752 F.Supp. 2d at 95 (“Response to community pressure may support a finding that discriminatory animus motivated a defendant in enforcement or regulation efforts.”); Innovative Health Systems v. City of White Plains, 931 F.Supp. 222 (S.D.N.Y. 1996) (the ADA and Section 504 of the Rehabilitation Act apply to zoning enforcement activities; and zoning board decision reversing issuance of building permit to outpatient alcohol and drug dependence program violated those statutes.) We urge the Town to consult closely with Town Counsel during the application of the site plan review requirement to such uses protected by the FHA, the ADA, and/or the RA.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

by: Kelli E. Gunagan, Assistant Attorney General
Municipal Law Unit
Ten Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 x 4406

cc: Town Counsel William L. Lahey

EXHIBIT C



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
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MAURA HEALEY
ATTORNEY GENERAL

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February 1, 2017

Connor Read, Acting Town Clerk
Town of Easton
136 Elm Street
Easton, MA 02356

Re: **Easton Annual Town Meeting of May 16, 2016 - Case # 8150**
Warrant Articles # 32, 33, and 34 (Zoning)

Dear Mr. Read:

Articles 32 and 33 – We approve the amendments adopted under Articles 32, and 33, and the map amendments related to Article 33, at the Easton Annual Town Meeting of May 16, 2016. We will return the approved map to the Town by regular mail.

Article 34 – Except as noted below (see pp. 2, 3, and 5), we approve the amendments adopted under Article 34, and the related map amendments, at the Easton Annual Town Meeting of May 16, 2016. We also have several comments regarding certain of the amendments under Article 34, as explained below.

The vote under Article 34 was a vote to delete the existing zoning by-law, in its entirety, and replace it with new text as indicated on Appendix A attached to the warrant. We have the following comments on the new zoning by-law.

I. **Section 6.2 Signs.**

Section 6.2 details the requirements for various types of signs in various zoning districts in the Town. While we approve Section 6.2, the Town should be aware of the Supreme Court decision in Reed v. Gilbert, Arizona, 135 S. Ct. 2218 (2015), which held that the Town's content-based sign regulation was unconstitutional because it was not narrowly tailored to serve a compelling state interest. Certain provisions in Section 6.2 of the Town's zoning by-law could be considered to be content-based regulations. However, based on our standard of review, we cannot conclude that Section 6.2 would be construed as content-based and subject to the strict scrutiny standard. Even if we were to conclude that the amendments are content-based and thus subject to strict scrutiny, we do not have the factual record necessary to determine whether the amendments are narrowly tailored to serve a compelling municipal interest. The determination of these issues must be left for a court, which would be better equipped to find the facts on a full

record and determine whether the by-law is valid. Additionally, we do not opine whether the sign by-law amendments would be upheld by a court after review on a fuller factual record, or whether a court would determine that the Town's sign regulations impermissibly restrict freedom of speech. Therefore, although there is no basis for us to disapprove the new Section 6.2, the Town may wish to discuss with Town Counsel whether this Section should be amended in light of the Reed decision.

II. Section 7.1, Adult Entertainment Establishments.

Section 7.1 allows adult entertainment establishments by special permit from the Board of Appeals as provided in the Town's Table of Use Regulations. Specifically, Section 7.1.3 provides as follows:

An Adult Entertainment Establishment *may* be permitted as set forth in the Table of Use Regulations by special permit by the Board of Appeals provided a written determination is issued by said board that the special permit decision criteria of Section 10.5 have been met.

We are compelled to disapprove and delete Section 7.1 in its entirety because it is inconsistent with Showtime Entertainment, LLC v. Town of Mendon, 885 F.Supp.2d 479 (2012), as articulated in more detail below. [Disapproval # 1 of 3].

In Showtime Entertainment, LLC v. Town of Mendon, 885 F.Supp.2d 479 (2012), the federal District Court struck down the same special permit language as appears in Section 7.1.3. The Court noted that the Mendon by-law did not define what conditions were sufficient for a special permit to be granted and that the use of the word "may" allowed the Mendon Zoning Board of Appeals to deny a permit application based on undefined criteria, even if all of the enumerated prerequisites for a permit had been met. "[T]he bare text of the by-law provides no definite standard for when the Zoning Board *should* grant a special permit – it only defines when it *must* not." Id. at 487. The Showtime court concluded that the Mendon by-law, as a prior restraint on speech, failed to overcome "a heavy presumption against its constitutional validity." Id., quoting Southeastern Promotions, Ltd. v. Conrad, 420 U.S. 546, 558 (1975). "To overcome this presumption, a governmental entity must prove that its ordinance contains 'narrow, objective, and definite standards' to guide the licensing authority in deciding whether to issue a permit." Id., quoting New England Reg'l Council of Carpenters v. Kinton, 284 F.3d 9, 21 (1st Cir. 2002). See also FW/PBS, Inc. v. City of Dallas, 493 U.S. 215, 226 (1990) ("[A]n ordinance which . . . makes the peaceful enjoyment of freedoms which the Constitution guarantees contingent upon the uncontrolled will of an official -- as by requiring a permit or license which may be granted or withheld in the discretion of such official -- is an unconstitutional censorship or prior restraint upon the enjoyment of those freedoms."). Because the Mendon by-law contained no narrow and objective standards, and vested excessive discretion in the Zoning Board, the Court concluded that it was an invalid prior restraint on speech. Showtime, 885 F.Supp.2d at 489-490.

By using the word "may" in Section 7.1.3, Section 7.1 does not specify when a special permit must, or should, be granted for an adult entertainment establishment and fails "to provide narrow and objective standards" for the exercise of discretion given to the special permit granting authority. Thus, Section 7.1. provides the special permit granting authority with unfettered discretion in violation of the holding in Showtime. Therefore, we must disapprove and delete Section 7.1.

III. Section 8.1.15, Ownership of Contiguous Open Space in a Flexible Development.

Section 8.1.15 dictates that the contiguous open space (that is required for approval of a Flexible Development), "shall, at the PZB's election, be conveyed to..." the Town or various other potential recipients. We disapprove and delete the text in underlined and bold ("at the PZB's election") because it must be the applicant (not the Planning Board or Zoning Board of Appeals) who decides which entity receives the open space by conveyance. [Disapproval # 2 of 3].

General Laws Chapter 41, Section 81Q, prohibits a planning board from requiring the dedication of open space to public use or to the Town, without just compensation, as a condition of subdivision approval, as follows:

No rule or regulation shall require, and no planning board shall impose, as a condition for the approval of a plan of a subdivision, that any of the land within said subdivision be dedicated to the public use, or conveyed or released to the commonwealth or to the county, city or town in which the subdivision is located, for use as a public way, public park or playground, or for any other public purpose, without just compensation to the owner thereof.

In Collings v. Planning Board of Stow, 79 Mass.App.Ct. 447 (2011), the court annulled the planning board's condition, for approval of a subdivision, that open space be dedicated to the public use or transferred to the town or a land trust, without compensation, because such a requirement violated G.L. c. 41, § 81Q. See also Young v. Planning Bd. Of Chilmark, 402 Mass. 841, 842, 844-845 (1988) ("A planning board may not impose, as a condition of its approval, a requirement that any land within a subdivision be conveyed for any public purpose," in the absence of just compensation or the owner's consent.) Because it must be the applicant who determines the recipient of the open space, we disapprove and delete the text in underlined and bold above ("at the PZB's election,") from Section 8.1.15.

IV. Section 10.7 Site Plan Review for Section 3 Uses.

Section 10.7 applies to site plan review for religious, educational, and child care centers that enjoy certain protections from local zoning pursuant to G.L. c. 40A, § 3.

General Laws Chapter 40A, Section 3, protects various uses from a town's zoning power, including the "educational use[s], religious use[s], or child care center[s]" to which Section 10.7 applies. The statute protects educational and religious uses as follows:

No zoning ordinance or by-law shall...prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes...; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

The protections for child care uses are detailed in slightly different language:

No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

Together these provisions establish that a Town by-law may not prohibit, or require a special permit for, educational, religious, or child care uses, but may impose reasonable regulations in eight areas: the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements. *See The Bible Speaks v. Bd. of Appeals of Lenox*, 8 Mass. App. Ct. 19, 33 (1979) (“The Legislature did not intend to impose special permit requirements, designed under [G.L. c. 40A, § 9], to accommodate uses not permitted as of right in a particular zoning district, on legitimate educational uses which have been expressly authorized to exist as of right in any zone.”) The Supreme Judicial Court has indicated that local zoning requirements serving “legitimate municipal purposes” may be applied to Dover Amendment uses. *Trustees of Tufts Coll. v. City of Medford*, 415 Mass. 753, 757-758 (1993) (citing *MacNeil v. Town of Avon*, 386 Mass. 339, 341 (1982)). In addition, the Appeals Court recently upheld a site plan review requirement for Dover Amendment uses, limited (as here) to the application of reasonable regulations as set forth in G.L. c. 40A, § 3, as “consistent with a reasonable reading of the Dover Amendment, G.L. c. 40A, § 3, and *The Bible Speaks v. Board of Appeals of Lenox*, 8 Mass. App. Ct. 19, 31 91978.” *Jewish Cemetery Assoc. of Mass., Inc. v. Bd. of Appeals of Wayland*, 85 Mass. App. Ct. 1105, *2 (2014).

As in *Jewish Cemetery Assoc.*, it appears reasonable for the Town to use a limited site plan review as the process by which it regulates the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements for such statutorily protected uses. On this basis, we approve the limited site plan review requirement in Section 10.7. However, we urge the Town to consult closely with Town Counsel during the site plan review process for religious, educational and child care use to ensure compliance with the protections afforded to disabled persons under G.L. c. 40A, § 3, ¶4:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination.

Uses that qualify as educational, religious or child care pursuant to G.L. c. 40A, § 3 (and thus governed by Section 10.7) may also qualify for the protections accorded to disabled persons under G.L. c. 40A, § 3, ¶4. For example, persons recovering from or receiving treatment for addiction to alcohol or drugs are disabled individuals for the purposes of the Americans with Disabilities Act, 42 U.S.C. §§ 12102 (2) (B) (C), and a substance abuse treatment center is likely to be protected under G.L. c. 40A, § 3, ¶4. *See e.g., Granada House, Inc. v. City of Boston*, 1997 WL 106688 (Mass. Super. Ct.) (the Zoning Act bars the City’s discriminatory treatment of a group home for recovering drug and alcohol users.). We urge the Town to consult closely with Town Counsel during the application of the site plan review process to ensure the Town does not violate these principles.

In addition, certain religious or educational uses protected under G.L. c. 40A, § 3 (and thus subject to Section 10.7) may also be protected by the Fair Housing Act (FHA), the Americans with Disabilities Act (ADA), and/or the Rehabilitation Act (RA). *See, e.g., South Middlesex Opportunity Council, Inc. v. Town of Framingham*, 752 F.Supp.2d 85, 95 (D. Mass. 2010) (Residential substance treatment centers are covered by the FHA because federal regulations define “handicap” to include drug addiction or alcoholism); *Safe Haven Sober Houses, LLC v. Good*, 82 Mass. App. Ct. 1112, *3 (2012) (*citing South Middlesex Opportunity Council*, 752 F.Supp. 2d at 95 (“Response to community pressure may support a finding that discriminatory animus motivated a defendant in enforcement or regulation efforts.”)); *Innovative Health Systems v. City of White Plains*, 931 F.Supp. 222 (S.D.N.Y. 1996) (the ADA and Section 504 of the Rehabilitation Act apply to zoning enforcement activities; and zoning board decision reversing issuance of building permit to outpatient alcohol and drug dependence program violated those statutes.) We urge the Town to consult closely with Town Counsel during the application of the site plan review requirement to such uses protected by the FHA, the ADA, and/or the RA.

Finally, Section 10.7.3 limits site plan review to “[w]hether the use qualifies for protection under G.L. c. 40A, s.3” and, if so, “what reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, if any should be imposed on the use.” However, Section 10.7.5 requires information on “proposed on-site and abutting utilities,” landscape features, and signage. The information required under Section 10.7.5 may be found to be an unreasonable regulation of a protected use if such information does not relate to those eight factors allowed under G.L. c. 40A, § 3. We urge the Town to consult with Town Counsel regarding a future amendment to the by-law to clarify the filing requirements for protected uses.

V. Section 10.8. Request for Reasonable Accommodation.

Section 10.8 establishes a procedure for those applicants requesting a reasonable accommodation under the Fair Housing Act. We approve Section 10.8 except in so far as it requires a public hearing by the Zoning Board of Appeals to consider a request for a reasonable accommodation under the Fair Housing Act (*see* Section 10.8.5). [Disapproval # 3 of 3] This public hearing requirement singles out for different treatment those applicants who are protected by the Fair Housing Act, with no apparent legitimate governmental purpose. The public hearing requirement also violates G.L. c. 40A, § 3, ¶ 4, prohibiting town by-laws from discriminating against disabled persons, because it imposes a “land-use requirement() on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or unrelated persons. . .” and, as such, “constitute(s) discrimination” under that statute. G.L. c. 40A, § 3, ¶ 4. In addition, the public hearing requirement of Section 10.8.5 amounts to an unreasonable regulation of religious, educational, or child care uses in violation of G.L. c. 40A, § 3.

Section 10.8 does not require applicants to request a reasonable accommodation under the Fair Housing Act; rather it establishes a procedure for such applications. Section 10.8.5 requires the Zoning Board of Appeals to hold a public hearing on the application, as follows (emphasis supplied):

10.8.5 ZBA Procedures: The ZBA shall hold a public hearing using the procedures, including notice, set forth in G.L. c. 40A, ss.11 and 15. The deadlines imposed in G.L. c. 40A, s.11 or s. 15 may be extended upon request of the applicant and the approval of the ZBA. The ZBA may seek information from other Town agencies in assessing the impact of the requested accommodation on the rules, policies and procedures of the Town. Upon written notice to the ZBA, an applicant for a Reasonable Accommodation may withdraw the request without prejudice. The ZBA shall consider the following criteria when deciding whether a request for accommodation is reasonable:

1. Whether the requested accommodation would require a fundamental alteration of a legitimate Town policy; and
2. Whether the requested accommodation would impose undue financial or administrative burdens on the Town government.

We disapprove and delete the text in bold and underlined above (“**The ZBA shall hold a public hearing using the procedures, including notice, set forth in G.L. c. 40A, ss.11 and 15**”) because this public hearing requirement imposes a burden on disabled persons protected by the Fair Housing Act that is not imposed on other land-use applicants. The by-law includes no statement of a legitimate government interest to support the public hearing requirement, and none is discernible. The public hearing requirement thus facially discriminates against disabled persons in violation of the Fair Housing Act. *See Horizon House Developmental Services, Inc. v. Township of Upper Southampton*, 804 F. Supp. 683 (1992) (local ordinance imposing buffer requirement on group homes for handicapped individuals violated the Act because it created an explicit classification based on handicap with no rational basis or legitimate government interest).

The public hearing requirement also violates G.L. c. 40A, § 3, ¶ 4:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination. (emphasis added)

The singling out of disabled persons for a public hearing on a reasonable request for accommodation, as Section 10.8.5 does, is facially discriminatory as defined in G.L. c. 40A, § 3, ¶ 4. *Granada House, Inc. v. City of Boston*, 1997 WL 106688 (Mass. Super. Ct.) (“[T]he Massachusetts Zoning Act must be read to bar the City’s discriminatory treatment of a group home for recovering drug and alcohol users under the Code.”) *See also Brockton Fire Dept. v. St. Mary Broad Street LLC*, ___ F. Supp. 3d ___ (2016) (“(T)he Massachusetts Zoning Act unequivocally prohibits the facially disparate imposition of the (Massachusetts) Sprinkler Law on a group residence sheltering disabled individuals.”).

Finally, as applied to religious, educational, and child care uses, the public hearing requirement in Section 10.8.5 amounts to an unreasonable regulation in violation of G.L. c. 40A, § 3. This additional requirement placed on protected uses is a facially discriminatory regulation of religious, educational and child care uses in violation G.L. c. 40A, § 3. *See Trustees of Tufts College v. City of Medford*, 33 Mass. App. Ct. 580, 581 (1982) (the Dover Amendment invalidates site plan

requirements which “facially discriminate against the use of land for educational purposes”). For all of these violations of the Fair Housing Act and the Massachusetts Zoning Act we must disapprove and delete the highlighted text in Section 10.8.5 (“The ZBA shall hold a public hearing using the procedures, including notice, set forth in G.L. c. 40A, ss.11 and 15.”).

VI. Table of Use Regulations.

We offer the following comments for the Town’s consideration regarding the Town’s Table of Use Regulations, attached as Appendix A to the new zoning by-law.

a. Nursing or convalescent home.

Nursing and convalescent homes are allowed by special permit in three Districts; allowed by right in three other Districts; and prohibited in two Districts. The Town must apply this portion of the Table in a manner consistent with the protections provided to disabled persons under G.L. c. 40A, § 3, as follows:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination. The provisions of this paragraph shall apply to every city or town, including, but not limited to the city of Boston and the city of Cambridge.

The Town should consult with Town Counsel to ensure that it applies this portion of the Table consistent with the protections given under G.L. c. 40A, § 3.

b. Assisted living residence.

Assisted living residences are allowed by special permit in four Districts, and prohibited in the remaining Districts. As with nursing and convalescent homes, the Town must apply this portion of the Table in a manner consistent with the protections provided to disabled persons under G.L. c. 40A, § 3. The Town should consult closely with Town Counsel when applying this portion of the Table of Uses.

c. Heliports, helistop.

Heliports and helistops are allowed by special permit in two of the Town’s Districts and prohibited in all of the other Districts. The Town should discuss with Town Counsel whether this portion of the Table must be reviewed and approved by the Aeronautics Division within the Massachusetts Department of Transportation (MassDOT). See G.L. c. 90, § 39B. ¶ 5; see also Hanlon v. Town of Sheffield (AC 15-P-799) (May 13, 2016) (town’s zoning by-law that purports to

regulate "the use and operation of aircraft on [an] airport or restricted landing area" cannot take effect until submitted to and approved by the Aeronautics Division).¹

d. Cemeteries.

Cemeteries are allowed by right in one District; allowed by special permit in three Districts; and prohibited from all other Districts. The Town should consult closely with Town Counsel when applying this portion of the Table to any religious cemetery protected by the Dover Amendment, G. L. c. 40A, §3, ¶ 2 and/or the federal Religious Land Use & Institutionalized Persons Act, 42 U.S.C. §§ 2000cc *et seq.* ("RLUIPA").

The protections of the Dover Amendment would govern the application of this section of the Table of Use Regulations to a protected religious use. The Dover Amendment was first adopted in 1950 in response to a Dover by-law that prohibited educational uses in a residential district. See The Bible Speaks v. Board of Appeals of Lenox, 8 Mass. App. Ct. 19, 27, n. 10 (1979). Under the current version of the Dover Amendment, G.L. c. 40A, § 3, ¶ 2, a town may not "prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes...provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements." G.L. c. 40A, § 3, ¶ 2. The statute thus prevents towns from adopting or implementing zoning by-laws prohibiting religious or educational uses. "The Dover Amendment bars the adoption of a zoning ordinance or by-law that seeks to prohibit or restrict the *use* of land for educational purposes." Trustees of Tufts College v. Medford, 415 Mass. 753, 757 (1993) (emphasis original). However, a town may adopt reasonable regulations in the eight allowable areas (bulk and height of structures and determining yard sizes lot area, setbacks, open space, parking and building coverage requirements). "The whole of the Dover Amendment, as it presently stands, seeks to strike a balance between preventing local discrimination against (religious and educational uses) and honoring legitimate municipal concerns that typically find expression in local zoning laws." Tufts, 415 Mass. at 757.

The reasonableness of a local zoning by-law, as applied to a proposed religious use, will depend on the facts of each case. But it is clear that, in light of the Dover Amendment, a town may not prohibit a religious use through its zoning by-law, and may not apply regulations against a religious use in a way that would nullify the protections of G.L. c. 40A, § 3. See The Bible Speaks, 8 Mass. App. Ct. at 33 (invalidating a by-law on the basis that it "would enable the board to exercise its preferences as to what kind of educational or religious denominations it will welcome, the very kind of restrictive attitude which the Dover Amendment was intended to foreclose.")

¹ The Town may contact MassDOT's Aeronautics Division for this purpose at: Tracy W. Klay, Deputy General Counsel/Aeronautics Counsel, MassDOT and MBTA, 10 Park Plaza, Room 7760, Boston, MA 02116, Phone: 857-368-8768, email: Tracy.Klay@state.ma.us

Many of the zoning by-law provisions would exceed the allowable regulation of religious uses under G. L. c. 40A, §3, ¶ 2, if applied to a religious use protected by the statute. For example, the Town has no power to prohibit religious uses from certain zones in Town. *See The Bible Speaks*, 8 Mass. App. Ct. at 33 (“The Legislature did not intend to impose special permit requirements...on legitimate educational uses which have been expressly authorized to exist as of right in any zone.”) Therefore, the Town could not apply the by-law such that religious cemeteries are prohibited in any zone in Town.

Applying the by-law to a religious cemetery may well also violate the federal Religious Land Use & Institutionalized Persons Act, 42 U.S.C. §§ 2000cc *et seq.* (“RLUIPA”), in that requiring special permit approval for such a use may “impose[] a substantial burden on the religious exercise” of a religious group without advancing a compelling governmental interest. *See, e.g., Garu Nanak Sikh Society of Yuba City v. County of Sutter*, 456 F.3d 978 (9th Cir. 2006) (county board of supervisors violated RLUIPA in denying religious organization’s application for conditional use permit to build Sikh temple on land that was zoned agricultural). The Town should also consult with Town Counsel on this issue.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Margaret J. Hurley

By: Margaret J. Hurley
Chief, Central Massachusetts Division
Director, Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4402

cc: Town Counsel Jason Talerma

EXHIBIT D

5

DiNapoli, MaryAnn

From: Balmer, Nan
Sent: Friday, September 22, 2017 7:38 PM
To: DiNapoli, MaryAnn
Subject: Fwd: Wayland-Loker/Dow Recreational area

Correspondence

Nan Balmer
(508) 237-1330

Begin forwarded message:

From: "Carolyn M. Murray" <CMurray@k-plaw.com>
Date: September 22, 2017 at 5:57:30 PM EDT
To: "nbalmer@wayland.ma.us" <nbalmer@wayland.ma.us>
Cc: "Lee S. Smith" <LSmith@k-plaw.com>
Subject: Wayland-Loker/Dow Recreational area

Nan,

As a follow-up to our prior opinion on the above-referenced property, we have reviewed all title documents, and our opinion remains that there are no restrictions that would prohibit the construction of a turf field within the recreational area. We do recommend, however, that the Conservation Agent be asked to review the various Orders of Condition to ensure that there are no outstanding issues that could impact the site.

Also, please be advised that the plans show a drainage easement crossing the recreational area; this easement will have to be considered when the precise location of the field within the recreation area is determined.

If you have any further questions, please contact me or my colleague, Lee Smith.

Thank you,

Carolyn M. Murray, Esq.
KP | LAW
[101 Arch Street, 12th Floor](https://www.k-plaw.com)
[Boston, MA 02110](https://www.k-plaw.com)
O: [\(617\) 654 1726](tel:6176541726)
F: [\(617\) 654 1735](tel:6176541735)
C: [\(617\) 257 9581](tel:6172579581)
cmurray@k-plaw.com
www.k-plaw.com

✓ (6)



500 Summit Lake Drive, 4th Floor
Valhalla, NY 10595
(914) 801-9770
pamela.goldstein@verizon.com

Pamela N. Goldstein
Associate General Counsel

BY FEDERAL EXPRESS

September 27, 2017

Office of the Board of Selectmen
Wayland Town Building
41 Cochituate Road
Wayland, MA 01778

Re: Cable Television Final License Granted to Verizon New England Inc. (the "Final License")

Dear Board of Selectmen:

I would like to introduce myself as Verizon's new contact for the Final License. Any time you have questions about the Final License, or anything related to Verizon's Fios TV service, please direct them to me. You'll find my contact information in the upper right corner of this letter. Thank you.

Sincerely,

Pamela N. Goldstein
Associate General Counsel

cc: Cable Advisory Committee

RECEIVED

SEP 27 2017

Board of Selectmen
Town of Wayland



HOUGHTY'S HEROES



Bi-Monthly News from the Wayland Fire Department

Volume Eight

September 2017

It's Only a Drill: Each year for the past several years, the fire department has worked with the Recreation Department on a joint set of "real world" drills for the beach staff. This year several scenarios were conducted in which a life size mannequin was lowered into different areas of Lake Cochituate, and the guards conducted their protocols and procedures from beginning to end. Anyone who watched this would be proud of the staff there, and as much as it seems like a competition between the groups, each group performed extremely well. The bottom line is that it is safe to go in the water at the town beach, as long as the lifeguards are on duty. As a side note, this year we did not have a single emergency incident at the beach that required a response from public safety.



New and Improved: The workstations in the dispatch center have been replaced with upgraded equipment that is ergonomically correct and allows the dispatchers to sit or stand to do their work, allowing them to reach all of their equipment without leaving their stations. We were able to move some items around in the space which allowed us to add a third workstation that we hope to equip with all of the same components as the two primary stations, with the exception of the 911 phone system. The biggest challenge was making the changes while keeping the two dispatchers up and running and the noise level down so they could talk on the radios and phones. Thanks to Rich Freni, the Dispatch Coordinator, for his help in keeping the project running smoothly by digging in to move and rewire the center.



Greener Pasture: Firefighter/Paramedic Derek Jordan left Wayland Fire in August for a firefighter position with the Cambridge Fire Department. Derek started his career in Wayland as a part-time paramedic in July 2012, was hired full-time in July 2013, and finished his career here on August 16th. We wish him well with his new department. Currently we have begun the process of hiring a replacement, and we hope to have that person on board early this fall.

Hose Them Down: As part of the Recreation Department's summer program, a number of attendees and staff toured the Public Safety Building to learn more about the daily roles of police and firefighters. At the conclusion of this exciting day, Ladder 1 was brought to the high school to help cool the kids. Fun was had by all!



GPSing Fire Hydrants: One of the many new initiatives the Department has taken on recently is that of actually locating every fire hydrant that the Department would use, which includes some hydrants in our surrounding communities and private hydrants. We purchased a hand held GPS unit and have located nearly 600 hydrants with a few more to go. This accurate information has been given to Brendan Decker, the Town's GIS Manager, to import on a layer within the system. It is our hope that we will soon be able to use this information in vehicles as part of software using new mobile data terminals.

New Engine 2: It took longer than anticipated to complete the truck and training, but the new Engine 2 is in service at Station 2. The truck carries more water than the past vehicle, and it has many features to make it safer to operate. The truck is a little bigger than the one it replaced, but it is so much quieter and seems to be more fuel efficient. The engine that was the primary truck out of Station 2 has been sent to the local dealer to have paint issues addressed at no charge to us. We hope to have that engine back in Wayland and in service the first part of October.

Ouch: While the Department was conducting the drills at the beach, a call came in reporting a tree down on a car on West Plain Street. On arrival, we observed that a rotten tree limb had fallen onto a Jeep. The operator self-extricated and was transported to the hospital with minor injury. The car did not fair out as well. The DPW made quick work of the tree, and one lane was opened to keep the traffic moving. While the car was being picked up, a hydraulic line burst causing hydraulic fluid to leak, and as luck would have it, a street drain was close by. The on duty shift responded quickly and requested the containment trailer with all the tools in an attempt to keep the fluid from entering the street drain. Due to the quick actions by the duty shift, only a small amount of fluid leaked into the drain, but it was promptly located, absorbed and removed. The DPW responded and opened covers downstream to be sure we got it all.



Under Construction: The new Ladder 1 is well under way and will be here late fall. The truck components are near full completion, and the ladder itself is under construction. Once the ladder is completed, it will be installed on the truck, tested, and shipped to our local dealer for final adjustments and inspections. Once the final inspection has been completed and lettering of the truck takes place, the equipment on the current ladder truck will be stripped and moved to the new ladder truck. The old ladder truck will then be traded in. Since the new ladder has many new features that the 25 year old truck didn't have, in depth training will be provided by the manufacturer.



Unsafe or Vacant: The Fire Department, in cooperation with the Building Department, has been visiting many structures in Wayland that are of concern because they are unoccupied, neglected, or both. We now have four buildings that have been posted under 527CMR 1, meaning that the structure is unsafe for firefighters to enter due to neglect, or since the structure is vacant, there is no reason firefighters should be expected to enter the structure. The postings either have a red slash or a red "X" on them. The red slash indicates that the building is vacant, there are no known structural deficiencies, and it may only be entered if absolutely necessary. A red "X" means there are structural issues, the building should not be entered, and any fire must be fought from the outside. All of these buildings have been jointly inspected by the Building Department and the Fire Department, and they are secured from the exterior. The plan is to check these buildings on a regular basis.



It's Time for a Change: It is that time of year again... not sure where the summer went, but soon we will be moving the clocks back an hour. This is the time you should test your smoke and carbon monoxide detectors and change the batteries. Remember all smoke detectors that are older than ten years should be replaced. When you take the detector down from the ceiling, the date will be stamped on the back. Even if you have hardwired detectors they should have a battery back-up as well. As we have seen many times, the test only proves the detector alarm works, but the part that detects smoke may be deteriorating and may not work when you need it. If you have any questions or need any assistance, please call the on duty shift officer at 508-358-7951, and they will make arrangements to help you out. It's a simple thing, but it could make a big difference in your and your family's lives.



Wayland Cultural Council

Meeting Minutes

June 1, 2017

7:00 pm

Wayland Town Building

Committee members in attendance: Jon Saxton (Chair), Brenda Ross, Barbara Holtz, Kara Brewton

Committee members not in attendance: Barbara Hoffman, Matt Ludwig

Meeting Materials: April 24th draft minutes, Revised Draft Community Survey (J. Saxton)

1. April Minutes

The April 24th minutes were reviewed and approved as amended. Brenda abstained as she was not present at that meeting.

2. Review draft Community Survey

Jon walked through the revised draft survey, which incorporated comments from the April 24th meeting. Brenda offered significant suggestions including reordering and language edits to help the survey overall read clearer and more useful once we receive the results. Barbara also asked that the survey or survey instructions include language for people to know how to volunteer to serve on the WCC. The Committee agreed that Jon would incorporate the edits, finalize the survey, and send the Committee a template email so that all Committee members could ask their contacts to help get the word out about the survey.

Other topics that came up during discussion of the survey included:

- Brenda will be asking the Finance Director about the process to utilize the Joan Memorial Fund for the designated purpose. Implementing the memorial may be a practical way to raise the Town's awareness of the Wayland Cultural Council's activities.
- Kara shared text services that could be used for community participation activities. The group agreed this might be more appropriate for a directed focus but not to be combined with a survey of a dozen or more questions. Other ideas for attracting attention included inviting an organist Roger Wiegand to community events, lawn signs to the survey, and holding posters at Town Center (intersection of 20/27/126).

3. Finalize implementation Community Survey implementation

The Committee agreed to the following timeline:

- Week of June 12th: post & distribute survey
- June 19th: deadline to publicize survey & public hearing date in Town Crier & Patch
- July: hold required public hearing
- August 4th: close survey
- August 15th: meet & analyze survey results
- September 1st: revise & post online Wayland Local Cultural Council guidelines

Committee members volunteered to the following action items related to implementation

Jon	<p>Confirm with Massachusetts Cultural Council that with the new e-application system that all applicants get confirmation of receipt.</p> <p>Ask Town staff for access to WCC webpage so that we can link to a pull-through of ArtsBoston events tagged with Wayland.</p> <p>Ask Matt about future WCC availability and also whether any date has been secured for a public hearing.</p> <p>Ask Kathy Trologo about applying for WCC</p> <p>Outreach by postcards and/or emails to: Housing Authority, Wayland Social Justice Group, Wayland Business Association, ArtsWayland</p> <p>Ask WayCam to do TV show, potentially with Brenda</p> <p>Write Parch & Town Crier articles after figuring out public hearing date with Matt</p>
Brenda	<p>Post postcards and/or emails to: WCPA, Russell's Garden Farmers' Market, Town Beach, restaurants (110 Grill/ Local), Cochituate Post Office, Wayland Dads e-group, Creative Arts Parents Organization, Wayland PTO, Wayland Town Pool, Panera Community Board, Starbucks Community Board, Stop & Shop Community Board</p> <p>Create header stationery for WCC for hard copy of surveys for library, Town Hall, etc.</p>
Barbara	<p>Post postcards and/or emails to: Council on Aging, Wayland eNews, Wayland Voters Network</p>
Kara	<p>Send everyone the copier ID at Town Hall for WCC business</p> <p>Schedule the next meeting via doodle poll & set up meeting with Town Hall</p> <p>Arrange for a WCC banner to be created that can be displayed at community event tables (up to \$200).</p> <p>Design and order postcards for the community survey.</p> <p>Ask Recreation Department about placing notice of survey/ application cycle in Fall classes calendar.</p> <p>Send dates of Wayland Wednesdays at Town Center to groups to ask for volunteers for survey (5:30-7pm)</p> <p>Ask contacts about Single Parents e-mail newsgroup</p> <p>Ask Sarkis for list of Town organizations & contacts for Town Center activities</p> <p>Post survey on NextDoor webpage</p> <p>Post postcards and/or emails to: Interfaith Clergy Network</p>

4. Other business

Jon brought up the topic of redistributing Committee assignments to allow for Brenda to receive relief from the Treasurer duties. Following further discussion, Jon made a motion to nominate Kara Brewton as Chair, approved unanimously. Kara then nominated Jon Saxton as Treasurer, unanimously approved. Barbara asked that we bring up Committee duties again at the following meeting: Corresponding Secretary, Recording Secretary, and perhaps a Memorial Fund Secretary.

5. Schedule next meeting

Kara will send a doodle poll around to schedule the next meeting for July's public hearing, following feedback from Jon.

6. Adjourn

Jon made a motion to adjourn the meeting, which was unanimously agreed to.

EDC Meeting Minutes - August 2, 2017 - Economic Development Committee - Wayland MA

TOWN OF WAYLAND - TOWN CLERK'S OFFICE
NOTICE OF MEETINGS OF TOWN BOARDS/COMMITTEES/COMMISSIONS
Posted in accordance with the provisions of the Open Meeting Law

NAME OF BOARD/COMM: Wayland Economic Development Committee

FILED BY: Sarkis Sarkisian, Town Planner

DATE OF MEETING: Wednesday, August 2, 2017

TIME OF MEETING: 8:00 a.m.

PLACE OF MEETING: Wayland Town Building

NOTE: Notices and agendas are to be posted at least 48 hours in advance of the meetings excluding Saturdays, Sundays, and legal holidays. Please keep in mind the Town Clerk's business hours of operation and make the necessary arrangements to be sure this notice is received and stamped in an adequate amount of time.

AGENDA

Note: Items may not be discussed in the order listed or at the specific time estimated.

- 1) Public Comment
- 2) Approve Meeting Minutes: June 1st
- 3) River's Edge Wayland (Becky)
 - a) River's Edge Advisory Committee
- 4) Business Community Issues
 - a) Town Center / Hardware store & other storefronts
 - b) Town Branding (Sarkis)
 - c) Rail Trail update (Sarkis)
 - d) Wayland Business Association (Seth)
 - e) Route 20 Wastewater
 - f) Fresh Market Update
 - g) Finnerty's site/CVS status update (Jim)
- 5) Town Center Municipal Pad
 - a) Senior/Community Center update
- 6) Adjourn

EDC Meeting Minutes - August 2, 2017 - Economic Development Committee - Wayland MA

**Minutes
Economic Development Committee
Town of Wayland MA
Planning Office
August 2, 2017**

Present: Becky Stanizzi, Seth Roman, Jim Grumbach, Frank Panaccio, Kamal Namou, Andy Oppenheim

Guests: Sarkis Sarkisian, Cherry Karlson, Mary Antes, Jean Milburn, Bill Sterling, Molly Upton (arrived mid-meeting)

Becky Stanizzi called the meeting to order at 8:07 a.m. in the Planning Office at Town Building.

Introductions of two new EDC members: Kamal Namou and Andy Oppenheim

Meeting Minutes: Minutes from June 1, 2017 meeting were approved 4-0; 2 new members abstained since not in attendance for past meeting

Public Comment:

- Bill Sterling requested possible EDC help to focus on town branding and PR for Wayland
 - o Wayland has a rich history both colonial and pre-colonial that can be leveraged for better branding in order to raise profile of Wayland
 - o Possibility to initiate a working group to study our past
 - o Nearby towns, such as Concord and Sudbury, have successfully promoted themselves through recurring annual events that attract visitors
 - o EDC will discuss further avenues to advances these ideas

- Jean Milburn noted opportunities for a more consistent appearance for the community and ideas about building appearance design

- Cherry Karlson provided an update on recent BOS activity
 - o Last Monday, the BOS met with the new manager of 110 Grill; business is going well
 - o Zurich has a new portfolio manager for Town Center who may meet BOS while in town on Aug 14th
 - o Zurich has reaffirmed their commitment to make Town Center a success
 - o Salon at Town Center is doing well and is seeking to expand
 - o There are continued discussions around waste water flows; Town Engineer, Paul Brinkman, has been providing some assistance
 - o Actual outflows to river are much lower than estimates

- Mary Antes extended offer to help with outreach to locate member to fit last EDC opening

EDC Meeting Minutes - August 2, 2017 - Economic Development Committee - Wayland MA

Fresh Market (Note agenda items discussed in varied order vs agenda, given several of the topics arose during Public Comment)

- Sarkis reported still in process of internal demolition
- All proceeding as planned, except target opening date of February could be pushed back
-

Town Center & Town Branding

- Discussed above during Public Comment

Rail Trail

- Eversource will begin its construction in September with a target to end by November
- DCR may put in place another contract to pave the Rail Trail (~\$1.5M); this will pave over the gravel (10ft wide/ 4.2 miles) with hard asphalt; November target
- Historic Commission wants to restore a cattle crossing in Wayland that goes under the trail; estimated cost is \$30k
- There are \$250K in funds available for the Rail Trail; \$30k from CPA

River's Edge

- Land Disposition Agreement was signed
- Due Diligence is commencing on site (90 days)

Town Municipal Pad

- No new update; BOS still in discussions to get parcel released from prior developer

Wayland Business Association

- No update to report

Finnerty's

- To be deleted from next agenda; CVS nearing completion

The next EDC meeting will be held on Friday, September 15th at 8am.

Meeting adjourned at 9:10am, 6-0 vote

Respectfully submitted, Frank Panaccio

Wayland Planning Board Approved Minutes

DATE OF MEETING: February 7, 2017
TIME OF MEETING: 7:30 P.M.
PLACE OF MEETING: Town Building, 41 Cochituate Road

AGENDA

7:30 P.M. Open Meeting Comment/Correspondence/ Matters Not Reasonably Anticipated by the Chair 48 Hours In Advance Of the Meeting/Town Planner report

7:35 P.M. Public hearing PUBLIC HEARING RE: ZONING BY-LAW AMENDMENTS

The Wayland Planning Board will hold a public hearing on Tuesday, February 7, 2017 at 7:35 p.m. in the Planning Board Office, Wayland Town Building, 41 Cochituate Road, Wayland, Massachusetts, 01778. The subject of this hearing will be proposed amendments to the Wayland Zoning Bylaw, which will be considered at the 2017 Wayland Spring Town Meeting. The text of these amendments and maps can be viewed at the Planning Board Office and outside the Building Department Office at the Wayland Town Building (9:00 AM to 4:00 PM during normal work days), Copies will be provided upon request. Reasonable accommodations and audio-visual aids and services will be available upon request. The proposed amendments and subject matter to the Wayland Zoning Bylaws are summarized as follows:

1. The Town of Wayland is proposing to adopt an amendment to the Zoning Bylaw that would establish a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments through January 1, 2019 or six months from the date that final regulations are issued by the Cannabis Control Commission, whichever date is later to allow time to study the issue and develop appropriate bylaws and ordinances.
2. The Town of Wayland is proposing to adopt an amendment to the Zoning Bylaw that would establish a limited site plan approval for all proposed uses of land protected under G.L. c. 40A, §3 (i.e., agricultural, educational, religious, or child care uses) ("Section 3 Uses") shall be subject to site plan

review under Article 6, which shall be limited consistent with those statutory provisions. The purpose is to ensure that all such uses and facilities are reasonably regulated in regards to bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage.

8:35 P.M. Michael Road update on violations and approve Homeowners Association Documents and Maintenance Covenant.

8:45 P.M. Review Guidelines for Chapter 40B

8:50 P.M. Approve minutes January 17, 2017

9:00 P.M Adjourn

D. Hill called the meeting to order at 7:44 PM. D. Hill, I. Montague, A. Reck and N. Riley in attendance.

No public comment was presented.

Public Hearing was held regarding Zoning By-law amendments:

1. Moratorium on Recreational Marijuana establishments:

Presentation by the Petitioners, Brenda Ross of the Youth Advisory Committee and Jason Verhoosky, Prevention Specialist. Ms. Ross presented the amendment as giving time to be more informed on the implications and impacts of the recreational establishments, and giving time to collect information from states that have implemented these recreational facilities and to learn from them.

Mr. Hill clarified that the referendum passed in 2016 to push back the timing on the implementation of the recreational marijuana law by six months from January 1, 2018 to July 1, 2018, which was passed as a session law.

Mr. Verhoosky presented the moratorium as doing two things: 1) to Ms. Ross' point, to have a better understanding of what we are looking at in terms of commercial implications, and 2) in the event the cannabis commission is not fully formed, as a Town we would have the opportunity to have regulations in place. The issue regarding the language in the law is that Towns "shall" allow recreational facilities, not "may", so unless a town has opted out of including recreational facilities within the town, if someone were to apply for a permit/license prior to the regulations being in place the Town would have no guidance.

D. Hill questioned who issues the licenses? Mr. Verhoosky responded it would be the Board of Health and compliance with zoning regulations would be required. We could

follow the model currently in place for liquor stores in terms of zoning if we moved forward with recreational facilities in Town.

D. Hill clarified that a state license comes first, followed by a Board of Health permit, followed by required compliance with zoning regulations.

D. Hill asked if there was any benefit to putting the moratorium at the Board of Health level. Mr. Verhoosky responded that there are no regulations in place yet so anything being passed would need to go through land use as the existing structure of regulation.

Mr. Verhoosky provided that the new application deadline for permits for recreational facilities is October 1, 2018.

A. Reck asked what other towns are doing in terms of moratoriums. West Bridgewater has already passed a 6 month moratorium with Quincy at 1 year and Arlington and Ashland considering a temporary moratorium as well. Mr. Verhoosky mentioned there may be others, but those he could currently confirm.

Gretchen Schuler commented she was concerned with the format of the amendment as currently drafted as we need to ensure it fits with our current Zoning By-law.

D. Hill asked if there was a place that the amendment would go in the current code? Petitioners are working with Town Counsel on the same issue.

Ms. Schuler confirmed this would be a 2/3 vote and that a report would be provided from the Planning Board.

2. By-law amendment regarding Site Plan Review for Chapter 40A uses:

D. Hill presented the revisions involved with non-profit, educational, religious, agricultural and day care uses as governed by Chapter 40A through a slide presentation. Intention is to modify the current process where site plan review is discretionary and goes through the Building Inspector rather than the Planning Board.

Case studies such as the Jewish Cemetery Association of Mass. V. Board of Appeals were discussed where in 2011 the change was made from site plan review being required to then going through the Building Inspector with limited site plan review. A recent example was the Carroll School, which was a cooperative proponent, which may not always be the case. S. Sarkisian pointed out that in that case the entire file went to the Planning Board and went through a complete site plan review process, which was totally voluntary. The issue of whether the related meetings were public hearings or not also came up as the process was voluntary.

D. Hill presented the concern as not regulating these types of protected uses, but rather intending to work through a better process for larger and more complicated projects. Various historical projects in Wayland and surrounding towns were discussed.

I. Montague questioned whether we can enforce these types of uses not having events beyond those allowed by the state statute, such as with Lookout Farm, where the agricultural use has become commercial.

Anette Lewis commented that if the use is educational she is not sure how we can regulate them.

An example of Belmont Athletic High School was brought up with limiting light pole heights, which are protected as part of the use, but the case law references a test to apply to show a need for the particular aspect in question to effectuate the protected use. Ultimately the goal is to have a framework to be able to look at these types of uses.

Ms. Lewis discussed the technical placement of the By-law amendment and how it would tie in with the existing language.

Kurt Tramosch provided commentary as someone who uses his property for agricultural uses. Mr. Tramosch purchased his property for use as a commercial nursery. His questions included what would trigger site plan review? Mr. Tramosch also stated that Wayland has no agricultural commission or any right to farm groups, as Lincoln, Concord, Framingham, West and others have. He called for a better idea of the agricultural use in Wayland before we start to more heavily regulate the same.

A discussion was had on whether the current By-law regulates agricultural uses and a decision was made to remove the language involving agricultural. >

A. Reck made a motion to close the hearing regarding the By-laws and I. Montague seconded. Motion passed 4-0.

I. Montague made a motion for the Planning Board to move to support the By-law amendment regarding a moratorium of recreational marijuana facilities with the amendments discussed. N. Riley seconded. Motion passed 4-0.

Guidelines for Chapter 40B:

A discussion was held on updating guidelines done by prior Planning Board and Planner for 40B projects. The Housing Partnership is already working on the process as well. An email was sent to DHCD to update the inventory of affordable housing. If the 188 units in River's Edge are counted and the 15 units with Greenways are included, we are far closer to the 10% requirement.

Michael Road Updates:

D. Hill presented on a meeting with Barberry Homes. Jim Williamson and David Carter were present and all open issues from prior Planning Board meetings were discussed, including the need to apply for an extension to the performance agreement.

A question was raised whether we can impose stricter compliance with building hours and increase the fines.

Approve Minutes for January 17, 2017:

I. Montague made a motion to approve as amended. A. Reck seconded. Motion approved 4-0.

Motion to adjourn made by A. Reck. I. Montague seconded. Motion approved 4-0.

Attachments:

D. Hill presentation on Amendments to Site Plan Review for Chapter 40A Uses



TOWN OF WAYLAND – MINUTES

NAME OF BOARD/COMM: Surface Water Quality Committee

FILED BY: Lisa Newton, Member

DATE OF MEETING: Tuesday August 29, 2017

TIME OF MEETING: 7:30 PM

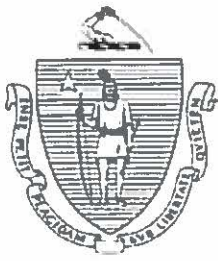
PLACE OF MEETING: Town Building, Senior Center

ATTENDING: Tom Largy, Lisa Newton, Mike Lowery, Toni Moores.

WSWQC MINUTES 29 August 2017

1. Approval of minutes – unanimous.
2. Public Comments – Dick Miller of Natick and Jim Howell of Sherborn attended to discuss the proposed installation of a dog park between Fisk Pond and South Pond of Lake Cochituate in Natick. This would be funded in part by the Stanton Foundation. The Natick Health Department is opposed to this project, but the Natick Conservation Commission which owns the parcel is a proponent. Dick and Jim are concerned that this will affect water quality in Lake Cochituate which could impact Natick’s well water. They would like the Wayland SWQC to write a letter to the Natick Board of Selectman and Natick Conservation Commission with a cc to the Natick Board of Health expressing concern about the dog park and describing our experiences with bacterial contamination of Wayland water bodies.
3. Dudley Pond – Mike Lowery
 - a. E. Coli. Mansion Beach. Counts are lower and swimming ban has been lifted.
 - b. Milfoil state. Very little milfoil, though divers have found and removed lots of trash.
 - c. Pond testing results. Toni took water samples 2017-08-01 and prepared report. Trophic State Index is exceptionally low (good).
4. Heard Pond – Tom Largy
 - a. Water Chestnut: Pulling is complete, 12,500 plants. Cost \$8,100.00.
 - b. NOI for chemical control of milfoil: Conservation Commission approved NOI. Cost \$3,340.00.
 - c. Milfoil: No evidence of milfoil, though lots of algae, perhaps limiting light penetration.
5. Lake Cochituate.
 - a. Dog waste: Mike and others noted that dog park is unnecessary risk. Lake Cochituate already is in the worst possible shape (TMDL category 5). Toni will write a letter to Natick Conservation Commission indicating that the increased nutrients and E. Coli will be detrimental to the pond.
 - b. Outfalls: Natick has hired Geosyntec to map outfalls. There will be further funds available from DCR for outfall mapping on North Pond.
 - c. Drawdown: There will be a 3.5 foot drawdown of Lake C. to allow construction of new boat ramp in fall 2018.
6. Mill Pond – Tom Largy – Hydro-raking Project
Hydro-raking project is complete. Cost \$12,000.00. Some wire and branches remain to be removed by DPW.
7. Committee member’s reports and concerns.
8. Next meeting date Tuesday 3 October 2017, 7:30 pm
9. Invoice Approval.
 - Solitude, \$2920.00.
 - Nashoba Labs, \$1539.00 for water quality testing.
 - David Pool, \$90.00 for diving
 - Allison LaClaire, \$3780.00 for diving.
10. Adjournment – unanimous approval to adjourn at 9:05 pm

12



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

September 20, 2017

Dear Ms. Nan Balmer,

Congratulations! I am pleased to notify you that the Town of Wayland has been awarded a Recycling Dividends Program grant of \$4,550 through the Sustainable Materials Recovery Program. I want to thank you for your commitment to reducing waste and increasing recycling for the benefit of our communities and the environment.

Enclosed you will find further instructions from the Department of Environmental Protection on next steps. Please feel free to contact Tina Klein at 617-292-5704 if you have any questions.

Governor Charles D. Baker

Lt. Governor Karyn E. Polito

Handwritten signature of Charles D. Baker in blue ink.

Handwritten signature of Karyn E. Polito in blue ink.

RECEIVED

SEP 25 2017

**Board of Selectmen
Town of Wayland**



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Matthew A. Beaton
Secretary

Karyn E. Polito
Lieutenant Governor

Martin Suuberg
Commissioner

September 20, 2017

Ms. Nan Balmer
Town Administrator
Town of Wayland
41 Cochituate Road
Wayland, MA 01778

Dear Ms. Balmer,

Congratulations! It is my pleasure to inform you that the Massachusetts Department of Environmental Protection (MassDEP) has awarded the Town of Wayland Recycling Dividends funds under the Sustainable Materials Recovery Program. The Town of Wayland has earned 13 points and will receive \$4,550.

Please note, awards for the following grant categories are being evaluated (Mattress Recycling Initiative, SMART/PAYT, Curbside Recycling/Food Waste Carts, Drop-off Equipment, School Recycling Assistance, Waste Reduction Enforcement Coordinator, Waste Reduction Projects, Organics Capacity Projects) and will be announced separately.

The Sustainable Materials Recovery Program (SMRP) was created under 310 CMR 19.300-303 and the Green Communities Act, which directs a portion of the proceeds from the sale of Waste Energy Certificates to recycling programs approved by MassDEP. The Recycling Dividends Program (RDP) provides payments to municipalities that have implemented specific programs and policies proven to maximize reuse, recycling and waste reduction. Municipalities receive payments according to the number of criteria points their program earns. Eligibility criteria will ramp up over time, leveraging increasingly greater diversion results and lower solid waste disposal.

The key dates and deadlines specific to your award are summarized in the enclosed Checklist. The detailed terms and conditions are specified in the RDP Contract which has been mailed to the Recycling Contact of record for your municipality, copied below. The Recycling Contact will facilitate getting this document signed by an Authorized Signatory and will return it to MassDEP. Once received, the RDP Payment will be remitted to your municipality. Should you have any questions, please call Tina Klein at 617-292-5704.

Thank you for your commitment to advancing recycling and waste reduction in Massachusetts. Together our efforts will reduce greenhouse gas emissions, conserve natural resources and save energy, while also supporting jobs and reducing disposal costs for waste generators and municipalities.

Sincerely,

Martin Suuberg
Commissioner

cc: Daniel Cabral, DPW Office Coordinator-Administrator

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website www.mass.gov/dep

Printed on Recycled Paper



Checklist for Recycling Dividends Program Grant Award
This document contains important grant deadlines and requirements

STEP ONE: EXECUTING THE CONTRACT

It is the responsibility of the municipal Recycling Contact to ensure that the RDP Contract is signed by an individual currently holding one of the Titles listed on page 1 of the enclosed Authorized Signatory Listing form, which your municipality filed with MassDEP in the spring of 2017. If the person(s) listed on the form has changed (for example, a new Mayor has been elected), the municipal official with the same title may sign the RDP Contract. A new Authorized Signatory Listing form IS NOT REQUIRED.

For reference, a copy of your Authorized Signatory Listing has been sent to the municipal Recycling Contact.

*The signed original RDP Contract must be returned to the address listed below **no later than December 31, 2017 or funds will be forfeited.***

STEP TWO: TRACK EXPENDITURES BY APPROVED EXPENSE CATEGORY

- This is not a reimbursement-based grant. Your award payment will be processed as soon as the RDP Contract is returned.
- However, you are required to keep track of approved expenditures, by expense categories. See Section 8 – Use of Funds, for a list of approved expense categories, and Section 9 for record keeping requirements.
- Be prepared to be audited.

STEP THREE: REPORT EXPENDITURES AND REMAINING BALANCE

- Funds do not need to be spent in the fiscal year awarded; they may be accumulated across fiscal years in order to make a larger purchase than is possible with one year's award. The municipality is required to report all expenditures from the previous calendar year no later than February 15th.

Contact Dawn Quirk with any questions: 617-292-5557 or Dawn.Quirk@state.ma.us

Return completed documents to: Dawn Quirk, MassDEP, Consumer Programs, One Winter Street, 7th Floor, Boston, MA 02108



Ben 13

September 20, 2017

Dear Local Official:

The MunEnergy program's Fall 2017 breakfast series is coming up on October 17th, 24th, and 26th. These discussions are timely; the winter heating season will be here before we all know it.

We invite you to join us for a **hot breakfast and conversation** about creating an energy strategy for your municipality. Constellation's energy experts will discuss the current market drivers influencing energy rates, the price components within your control, when is the best time to seek quotes, and more.

We have also added a new feature to these educational seminars. The Constellation team will present their exclusive **Efficiency Made Easy program**, designed to help cities and towns make necessary energy efficiency upgrades without the upfront cost. This program helps members reduce energy costs and is another benefit provided through the MunEnergy program.

You may register online at www.mma.org or complete this registration form and send it to: Katie McCue, Massachusetts Municipal Association, One Winthrop Sq., Boston, MA 02110, or by email to kmccue@mma.org.

Please share this invitation with members of your municipal staff.

**Fall 2017 MunEnergy Breakfast Series
Today's Energy Market, Efficiency Made Easy, and More:
Creating a Complete Energy Strategy for your Community**

All meetings are from 8:00 – 10:00 a.m.

Tuesday, October 17

Franklin
3 Restaurant, 461 W. Central St, Franklin

Tuesday, October 24

Leominster
Doubletree by Hilton, 99 Erdman Way, Leominster

Thursday, October 26

East Longmeadow
Center Square Grill, 84 Center Square, East Longmeadow

If you cannot attend but would like additional information about the MunEnergy program, please contact Katie McCue at the MMA.