



# Nantucket Planning Board

## STAFF REPORT

Date: January 5, 2016  
To: Planning Board  
From: Holly E. Backus  
Land Use Specialist  
Re: Staff Report for January 11, 2016 Planning Board Meeting

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### Public Hearings:

- **#7716 Valero Road Subdivision, 60, 62, 64, 66 & 68 Old South Road, action deadline 02-29-16**  
***CONTINUED TO 01-11-16***  
(This Application was not heard at the December meeting.)
- **#7771 White Elephant Hotel LLC, 50 Easton Street, action deadline 02-29-16**  
***CONTINUED TO 02-08-16***  
(This Application was not heard at the December meeting.)
- **#16-15 Brotherhood of Thieves, 23 Broad Street, action deadline 02-29-16**  
***CONTINUED TO 02-08-16***  
(This Application was not heard at the December meeting.)
- **#21-15 46 Surfside Road, LLC, 46 Surfside Road, action deadline 03-31-16**  
***CONTINUED TO 02-08-16***  
(This Application was not heard at the November or December meeting.)
- **#7905 Audrey Sterk, 10 Essex Road, action deadline 04-01-16**  
(This Application was not heard at the December meeting.) The Applicant is proposing a modification to a previously approved Subdivision from 1997 (Registry of Deeds Book 555 / Page 193.) The Applicant currently owns one of the lots (Map 67 Parcel 639) within the subdivision and is requesting to lift the restriction of a two (2) dwelling limitation in the subdivision so that multiple dwelling units of varying types may be permitted on all lots within the subdivision. This amendment would lift the restriction for (10) lots currently prohibited from second dwellings and will clarify that tertiary dwellings are allowed on all lots; not just the Applicant's lot. Staff does not have a recommendation at this time. The entire neighborhood was notified, as well as abutters to the neighborhood. We are very interested to hear the opinions of the other affected property owners.
- **#44-15 Arthur I Reade, Jr. And Peter D. Kyburg, Trustees of Auction House Realty Trust, As Owners, and Walter Glowacki, As Applicant, 4 Lovers Lane, action deadline 01-13-16**  
(This Application was not heard at the December meeting.) The new plans received by Staff on January 5<sup>th</sup> show existing pavement in front of the building to be removed and a proposed dumpster enclosure on a concrete pad with an enclosed cedar fence to the rear of the building, visible from Lovers Lane. The Board previously questioned the applicant about a variety of operational issues and we have not received responses. Staff notes that the gravel parking area that is secured by an easement was approved by the Board when the business was intended to be an auction house. That type of business is significantly less intense than the current proposal of a

70 seat restaurant. Aside from the general operational questions that need to be discussed, the Board should also evaluate whether or not a gravel parking lot is appropriate for the current proposal.

- **#61-15 Seamus M. Crowley & Elizabeth Gennaro, 46 Nobadeer Farm Road**, *action deadline 03-13-16* (This Application was not heard at the December meeting.) The Applicant is requesting a Special Permit for a Major Commercial Development for Nantucket Windows & Doors, Inc. This business exists in this location; however they plan to expand and renovate the existing commercial building for the existing business of a contractor shop with light manufacturing (fabrication of cabinets, windows and doors.) More specifically, the existing business “Nantucket Windows and Door, Inc” is reconstructing their existing site by building an addition to their existing warehouse and by doing so, removing all their exterior storage; including existing storage containers and dumpsters. There is no retail sales existing at this site, nor proposed. Customers (contractors or architects) stop by appointment and meet with the owner.

The Applicant proposes to have approximately 5,494 square feet of contractor shop on the first floor and approximately 3,223 square feet of storage on the second floor. The Applicant is requesting a waiver on the open space requirement of 30% (Section 139-11,) a waiver to forego the inclusionary housing requirement (Section 139-11,) and a waiver to forego a traffic study (Section 139-23.B.2(b).) The proposal provides a total of seven (6) parking spaces (with one ADA space) and a loading zone space. The site will consist of a combination of both gravel and concrete driveway/parking lot area. The Applicant proposes to widen the existing apron, giving a better site distance. The MCD requires a 30% open space, however as a result of the proposed addition; the Applicant is proposing 20% with the inclusion of additional trees along the front of the site. The total proposed ground cover will be 49.8% (out of the 50% allowed.)

Planning Staff met with the Applicant’s project engineer and council on January 7<sup>th</sup> to go over the proposed application. At this meeting, staff was notified of the Applicant’s wiliness and proposal to extend the bike path along Nobadeer Farm Road. The bike path extension will match the existing grade, surface, etc along their property. The Applicant/Owner is also willing to get the Board of Selectman’s approval for the bike path, if necessary. Staff feels this contribution to the area is a great example of an applicant willing to provide something to their adjacent community while asking for waiver(s) from the board. The application has not been reviewed by our consulting engineer, Mr. Ed Pesce; however the application and materials has been emailed to him by the Applicant’s engineer. If the board is to be so inclined to approve, staff respectfully requests that the board motions that the approval is condition upon addressing any comments Mr. Pesce, PE and his office may have for the Applicant and the project engineer.

- **#62-15 James P. Manchester & Helen B. Manchester, 1 Manchester Circle**, *action deadline 03-13-16* (This Application was held by the board at the December meeting.) The Applicant is requesting a Special Permit for a Secondary Residential Lot and a waiver from the single driveway requirement (Section 139-8.C(2(h).) The exiting lot of record is approximately 20,074 square feet and located in the R-20 Zoning District. The proposed primary lot will be approximately 12,050 square feet and the secondary lot will be approximately 8,024 square feet. The Applicant met with staff at the premise and has provided an amended plan that addresses concerns brought up in the December 2015 meeting. Staff recommends approval.

- **#01-16 Tess Anderson, 56C Hooper Farm Road (Map 67 Parcel 317 portion)**, *action deadline 4-10-16* The Applicant is requesting a Special Permit for a waiver from the maximum allowable gross floor area of 550 square feet to convert a proposed 595 square foot studio into a tertiary dwelling. The Applicant received approval for the secondary dwelling in December 2015. At that meeting, the Applicant received a waiver to allow the two curb cuts shown. Staff notes that an article for Town Meeting has been drafted to increase the tertiary dwelling square footage to 650 from the current 550. This proposal is consistent with that proposed change.

The Applicant is proposing to construct a one 1-bedroom tertiary dwelling with a gross floor area of 595 square feet. The site, 56 Hooper Farm Road, will contain a proposed 1,902 square foot primary dwelling unit to be owner occupied. The proposed tertiary dwelling will be located within the second floor of the primary structure, above the two (2) car garage. The primary structure will be located at the east side of the site, which has approximately 10,500 square feet in lot area and is zoned R-10. The lot was created via ANR in March 2015 and meets the road frontage requirement off of Parker Lane.

This is a corner lot and therefore access to the primary structure is with a shell driveway off of Parker Lane, which is an approved paved road. The proposed tertiary dwelling, within the proposed primary dwelling, is

proposed to have an asphalt apron and contain a total of three (3) parking spaces; one (1) exterior and two (2) interior. The applicant is further requesting a waiver to exceed the 550 square foot maximum allowed for a tertiary dwelling through Special Permit relief pursuant to Section 139-2A. The site plan, as submitted, meets the requirements of Zoning Bylaw Sections 139-18 and 139-20.1. Planning staff recommends approval of this application with the following conditions:

- (1) That one of the three (3) dwellings on the site will be owner occupied;
- (2) That no driveway access shall be located closer than 25 feet from the curb-line of an intersecting street, measured from the nearest point of the driveway;
- (3) That apron at the driveway entrance shall be constructed to a minimum depth of ten (10) feet, to be installed from the edge of pavement and in accordance with the provisions of Nantucket Zoning Bylaw Section 139-20.1(B)(2)(d);
- (4) That the driveway entrance be cleared free of any vegetation and obstruction to a width of twelve (12) feet and a height of thirteen (13) feet;
- (5) That any landscaping at the driveway entrance be limited to low growing plant material not to exceed three (3) feet in height; and,
- (6) That the applicant shall submit an As-Built prior to the final inspection by staff which shall take place prior to the issuance of a Certificate of Occupancy.

▪ **#02-16 Mark A. Lombardi & Maureen Lombardi, Trustees of Lombardi Realty Trust, 1 Pochick Avenue, *action deadline 04-10-16***

The Applicant is requesting a modification to the 1 Pochick Avenue definitive subdivision, which was originally approved June 16, 1999 and granted a modification in 2003. More specifically, the Applicant proposes to change the subdivision to propose a total of four (4) lots; two (2) buildable and two (2) unbuildable on a parcel of land about 5 acres in size. The Applicant also proposes a list of waivers from the Rules and Regulations of the Subdivision Regulations. Staff recommends approval.

▪ **#03-16 Greg W. Glowacki, 21 Greglen Avenue, *action deadline 04-10-16***

The Applicant is requesting to amend a previously approved Special Permit for two secondary lots (PB #32-15.) The applicant is requesting to reconfigure lots C and D to accommodate setback issues and to waive the shared driveway access requirement. There have been neighbors interested in the request, but no concerns have been brought to staff's attention. Staff recommends approval of the lot line adjustment, which will need to be addressed through a new ANR plan, and the driveway waivers. However, the proposed parking configuration for Lot C is not suitable and we suggest that two (2) head-in spaces or a tandem configuration be constructed on the west side of the lot.

▪ **#04-16 Christine & Joseph P. Donelan II, owner and Structures Unlimited, applicant, 37 West Miacomet Ave, *action deadline 04-10-16***

The Applicant is requesting to amend a previously approved Special Permit dated July 16, 2012 and modified September 10, 2012, to construct a proposed 198 square foot shed on the property and alter the land by slightly expanding the limit of clearing on the northwest side of the driveway. This property is located within the Moorlands Management District (MMD) and is entitled a maximum ground cover of 1,500 square feet. However, with the proposed 198 square foot shed, the Applicant will not be increasing their ground cover, as 200 square foot is allowed per Section 139-2, as amended at ATM 2015. We note that a shed was proposed in connection with the 2012 permit, but due to neighbor concerns about some of the features of the shed, the applicant withdrew that part of their request. Sheds are a typical accessory use, and Town Meeting unanimously approved the increase to the ground cover exemption in April. Unless some compelling evidence is brought forward that indicates that the proposed shed will have a significant environmental impact to the species that the MMD is designed to protect, staff recommends approval.

▪ **#05-16 Nantucket Boating Club, Inc., owner and John B. Brescher, applicant, 6B Greglen Avenue, *action deadline 04-10-16***

The Applicant is seeking to amend a previously granted Special Permit dated August 17, 1995 to construct a 4500 square foot commercial building that will have a full basement and be used for boat storage, storage and warehousing, light manufacturing, contractor's shop, and fabrication and assembly of component parts for off-site construction. The Applicant is seeking waivers from Open Space (Section 139-11G3), Inclusionary Housing (Section 139-11J), and Site Plan Review (139-23.) The property is located within the Commercial

Trade Entrepreneurial Craft (CTEC) zoning district. Based on the information provided, staff has the following questions/comments:

1. The 30 foot buffer requirement contained within the subdivision approval cannot be maintained with the current site plan;
2. The vehicular circulation for the site is not adequate for the intensity of the uses proposed;
3. Many uses are proposed and more detail is needed about the number garage bays, access to the basement, how many businesses will operate from the site, etc.
4. The amount of open space proposed is not included in the application, and the site plan does not provide any details about the location of open space.

▪ **#06-16 Anderson G. Grennan; Kenneth C. Coffin, 39, 41, 43, 45 Tomahawk Road, *action deadline 04-10-16***

The Applicant is requesting a modification to a previously granted MCD Special Permit (PB #46-15) dated October 15, 2015 to revise the site plan and architecture plans. The Applicant proposes to construct a 6,120 square foot commercial structure consisting of a single story 5,340 square foot warehouse and a two (2) story 780 square foot ancillary office space to be used in connection with the operation of “Nantucket Tents.” The property is located within the Commercial Industrial (CI) zoning district, however the subdivision was created under a zoning freeze under the Residential Commercial-2 (RC-2) zoning district. The premise is also located within the Public Wellhead Recharge District that requires a Special Permit. Staff recommends approval.

**ANR:**

▪ **#7911 Seven Eagle Lane Condominium – Mark Caushon, 5 ½ & 7 Eagle Lane (Map 55.4.1 Parcel 160)**

The purpose of this plan is to adjust the lot line between two existing lots of record. (The original plan was approved by the board on December 8, 2014 (PB #7772.) There two buildings standing on said property prior to 1955; when the subdivision control law went into effect in the Town of Nantucket.) Staff recommends endorsement of the proposed lot line adjustment.

▪ **#7912 27 Sankaty, LLC, 27 Sankaty Road (Map 49.2.3 Parcels 40 & 41)**

The purpose of this plan is a perimeter plan. More specifically, this plan is to combine lots 4 & 5 shown on the plan entitled “Plan of Land at Siasconset belonging to Emily P. Rice and Robert B. Coffin, surveyed by William F. Codd, dated November 4, 1887” and the discontinuance of Adeline Street from 1928 (Deed Book 102 Page 228.) This plan is included in your packet. Staff recommends the endorsement of the proposed perimeter plan.

▪ **#7913 William Edward Pappendick IV & Erica G. Pappendick, 25 Sankaty Road (Map 49.2.3 Parcel 17)**

The purpose of this plan is a perimeter plan. More specifically, this plan is a perimeter plan of lot 3 (including the discontinuance of Adeline Street from 1928 (Deed Book 102 Page 228) and shown on the plan entitled “Plan of Land at Siasconset belonging to Emily P. Rice and Robert B. Coffin, surveyed by William F. Codd, dated November 4, 1887.” This plan is included in your packet. Staff recommends the endorsement of the proposed perimeter plan.

▪ **#7914 B & D Real Estate Trust, 94 Quidnet Road (Map 21 Parcel 107)**

The purpose of this “Paper Street Acquisition Plan” is to create unbuildable lots from unconstructed portions of Sesachacha Road and Ocean Road, pursuant to ATM 2011. Staff recommends endorsement.

▪ **#7915 23 Federal Street Realty Trust, 23 Federal Street (Map 42.3.1 Parcel 9.3)**

The purpose of this plan is a perimeter plan of an existing lot of record. Staff recommends endorsement.

**Second Dwellings:**

None submitted.

**Tertiary Dwellings:**

*See Special Permit#01-16 Tess Anderson, 56C Hooper Farm Road*

### Previous Plans:

- **#20-15 Paul M. Roberts DDS, LLC, 21 Old South Road, *endorse plans***  
The Applicant's agent has submitted final plans for review and endorsement by the board. Staff recommends endorsement.
- **#48-15 South Valley Industrial Park MCD, *Form J for lots 178, 179 & 180***  
The Applicant is requesting that lots 178, 179 and 180 be released from the Covenant. Staff recommends release.
- **#7438 Goose Cove, 5 South Cambridge Street, *Form J for lot 889***  
The Applicant is requesting that lot 889 be released from the Covenant. The board previously approved the release of one lot (lot 890) in August 2015. The status of the escrow account must be brought up to required minimum balance of \$2500.00 Staff recommends release once the escrow has been brought up to the required minimum balance.
- **#7904 Newtown Road Subdivision, *endorse plans***  
The Applicant is requesting the endorsement of their subdivision plans. Since the approval of the application at the December meeting, the project engineer Mr. Leo Asadoorian, PS, CSE and consultant engineer, Mr. Ed Pesce, PE have been corresponding with each other, as necessary about review comments on the plans. Correspondence is included in your packet. As of today, January 8<sup>th</sup>, staff has not received an approval letter from Mr. Pesce. Staff recommends endorsement with the condition that Mr. Pesce is satisfied with the plans.

### Other Business:

- **Proposed Warrant Articles for 2016 ATM**  
Over the holiday, staff sent courtesy notices to property owners who may be affected by proposed zoning changes. We note that a special meeting is scheduled for January 28 at 6:00 to hold public hearings for all zoning map and bylaw changes. The public notice is included in your packet for reference only.
- **Discuss second dwelling conditions such as:**
  1. adding condition regarding travelled way
  2. lot line clearings of obstruction such as boulders
  3. clarify aprons being built to the edge of the travelled way
  4. add language regarding apron to the approval letter

At the October 2015 meeting, several Board members raised concerns about secondary dwelling conditions and or the language in the approval letter and requested that these topics be included as a policy level discussion. At the November meeting, it was discussed that maybe these concerns should be discussed in a separate meeting. There was no time to discuss at the December meeting.
- **REMINDER: SPECIAL PLANNING BOARD MEETING ON JANUARY 28<sup>TH</sup> @ 6:00PM.**



# Nantucket Planning Board

## Nantucket Planning Board Agenda

Monday, January 11, 2016

6:30 PM

4 Fairgrounds Road

Public Safety Facility Community Room

First Floor

[www.nantucket-ma.gov](http://www.nantucket-ma.gov)

Video of meeting available on Town website

**(AGENDA SUBJECT TO CHANGE)**

\*The complete text, plans, application, or other material relative to each agenda items are available for inspection at the Planning Office at 2 Fairgrounds Road between the hours of 8:30 AM and 4:30 PM\*

- I. Call to order:
- II. Approval of the agenda:
- III. Minutes:
  - December 14, 2015
- IV. Public Hearings:
  - #7716 Valero Road Subdivision, 60, 62, 64, 66 & 68 Old South Road, *action deadline 02-29-16, **CONTINUED TO 02-08-16***
  - #7771 White Elephant Hotel LLC, 50 Easton Street, *action deadline 02-29-16, **CONTINUED TO 02-08-16***

- #16-15 Brotherhood of Thieves, 23 Broad Street, *action deadline 02-29-16, **CONTINUED TO 02-08-16***
- #21-15 46 Surfside Road, LLC, 46 Surfside Road, *action deadline 03-31-16, **CONTINUED TO 02-08-16***
- #7905 Audrey Sterk, 10 Essex Road, *action deadline, 04-01-16*
- #44-15 Arthur I. Reade, Jr. And Peter D. Kyburg, Trustees Of Auction House Realty Trust, As Owners, And Walter J. Glowacki, As Applicant, 4 Lovers Lane, *action deadline 01-13-16*
- #61-15 Seamus M. Crowley & Elizabeth Gennaro, 46 Nobadeer Farm Road, *action deadline 03-13-16*
- #62-15 James P. Manchester & Helen B. Manchester, 1 Manchester Circle, *action deadline 03-13-16*
- #01-16 Tess Anderson, 56C Hooper Farm Road (Map 67 Parcel 317 portion of), *action deadline 4-10-16*
- #02-16 Mark A. Lombardi & Maureen Lombardi, Trustees of Lombardi Realty Trust, 1 Pochick Avenue, *action deadline 4-10-16*
- #03-16 Greg W. Glowacki, 21 Greglen Avenue, *action deadline 4-10-16*
- #04-16 Christine & Joseph P. Donelan II, As Owner and Structure Unlimited, As Applicant, 37 West Miacomet Road, *action deadline 4-10-16*
- #05-16 Nantucket Boating Club, Inc., as Owner and John B. Brescher, as Applicant, 6B Greglen Avenue, *action deadline 4-10-16*
- #06-16 Anderson G. Grennan; Kenneth C. Coffin, 39, 41, 43 & 45 Tomahawk Road, *action deadline 4-10-16*

**V.ANR:**

- #7911 Seven Eagle Lane Condominium – Mark Caushon, 5 ½ & 7 Eagle Lane (Map 55.4.1 Parcel 160)
- #7912 27 Sankaty, LLC, 27 Sankaty Road (Map 49.2.3 Parcels 40 & 41)
- #7913 William Edward Pappendick IV and Erica G. Pappendick, 25 Sankaty Road (Map 49.2.3 Parcel 17)
- #7914 Town of Nantucket, 94 Quidnet Road (Map 21 Parcel 107)
- #7915 23 Federal Street Realty Trust, 23 Federal Street (Map 42.3.1 Parcel 9.3)

**VI. Previous Plans:**

- #21-15 Paul M. Roberts DDS, LLC, 21 Old South Road, *endorse plans*
- #48-15 & 1034A South Valley Industrial Park, MCD, *Form J (Lots 178, 179 & 180)*
- #7438 Goose Cove, 5 South Cambridge Street, *Form J (Lot 889)*

- #7904 Newtown Road Subdivision, *endorse plans*

VII. ZBA:

- 01-16 Ann N. Apgar & Mahlon Apgar, Trustees of 22 Broadway Trust, 22 Broadway (Map 73.1.3 Parcel 117)
- #02-16 Daniel G. Counihan, 11 Swain Street (Map 42.4.1 Parcel 77 portion of)
- #03-16 Brandt C. Gould & Gabrielle M. Gould, 15 Margaret's Way (Map 20 Parcel 64)
- #04-16 Donald J. Mackinnon, Trustee of Nantucket 106 Surfside Realty Trust – aka SURFSIDE COMMONS 40b, 106 Surfside Road (Map 67 Parcel 80)

**\*This agenda item was not anticipated by the Chairman 48 hours in advance**

VIII. Public Comments:

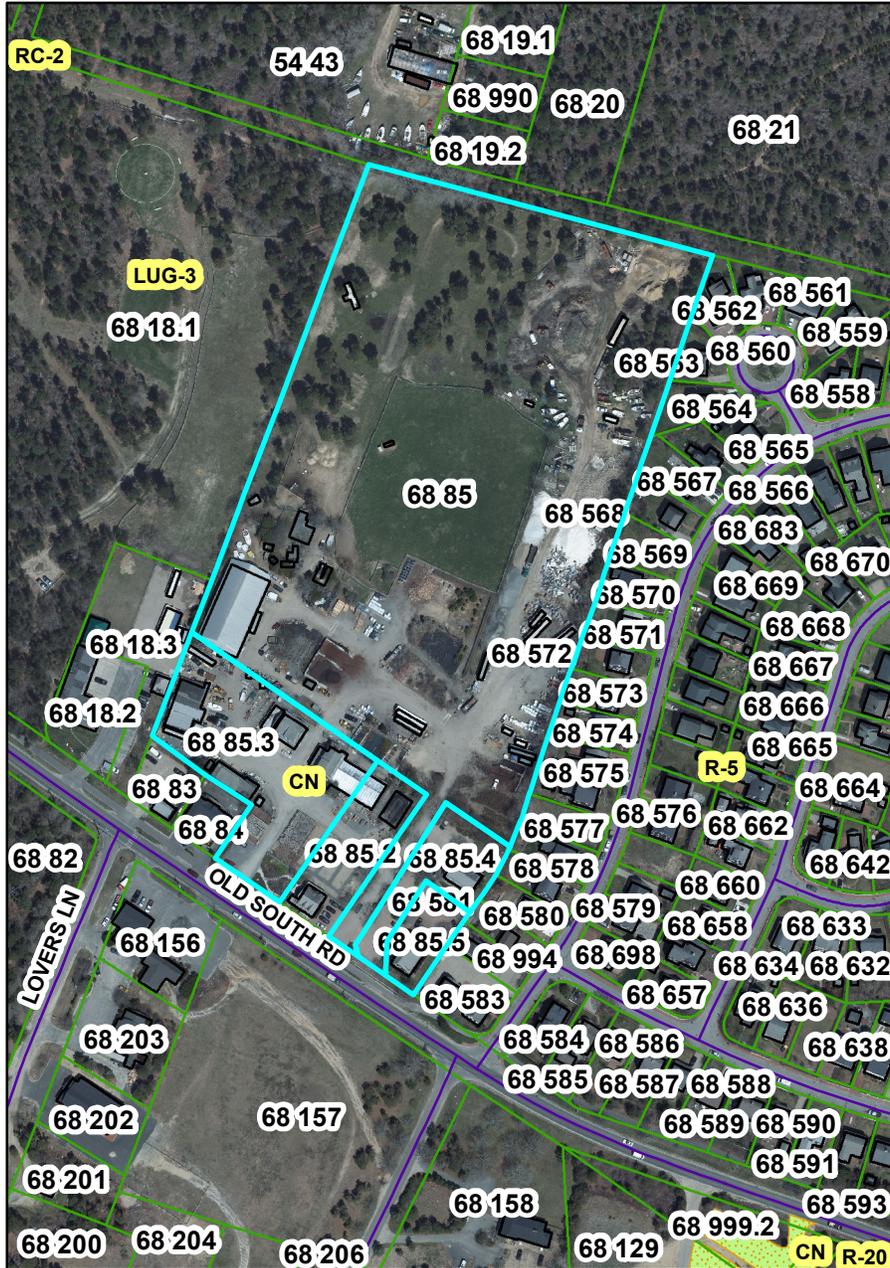
IX. Other Business:

- Proposed Warrant Articles for 2016 ATM
- Discuss second dwelling conditions such as:
  1. encroachment policy
  2. adding condition regarding travelled way
  3. lot line clearings of obstruction such as boulders
  4. clarify aprons being built to the edge of the travelled way
  5. add language regarding apron to the approval letter
- **REMINDING SPECIAL PLANNING BOARD MEETING ON JANUARY 28<sup>TH</sup> @ 6:00PM.**

X. Adjourn:



Planning Board #7716  
Valero Road Definitive Subdivision  
60, 62, 64, 66 & 68 Old South Road  
Map 68 Parcels 85, 85.2, 85.3, 85.4, 85.5





The Richmond Company, Inc.  
23 Concord Street  
Wilmington, Massachusetts 01887  
(979) 988-3900

January 5, 2016

TOWN OF NANTUCKET  
PLANNING BOARD  
2 Fairgrounds Road  
Nantucket, Massachusetts 02554

Attention: Leslie Woodson Snell, AICP, LEED AP, Deputy Director of Planning

Subject: Request for Continuation of January 11, 2016 Public Hearing  
Processing of "Valero Road" Definitive Subdivision  
Valero Properties - # 60, # 62, # 64, # 66, and # 68 Old South Road

Dear Ms. Snell:

The purpose of this correspondence, issued in our capacity as the applicant and development manager, on behalf of the two owners of the subject properties (Old South Road Trust and Valero Realty Trust) is to respectfully request a further continuance of the public hearing related to the Planning Board's consideration and processing of the "Valero Road" definitive subdivision that has been submitted for the Valero properties located at 60, 62, 64, and 68 Old South Road.

As you know, the Planning Board re-opened the public hearing on this matter at its June 8, 2015 meeting and the Board, as well as you and Mr. Vorce, provided us with some preliminary input on certain changes that should be made to the subdivision plans and also asked a series of questions that would need to be addressed before the Board would be expected to close the public hearing and take action on the matter. Immediately prior to the June 8, 2015 meeting, we also received the "Engineering Review" letter issued by Pesce Engineering & Associates, Inc. containing the Town consulting engineer's comments and requests for certain technical clarifications and information with respect to some aspects of the design of the subdivision.

We are continuing to review this information and these questions with our civil engineer (Hayes Engineering) and with the property owners. A final decision with respect to the pending definitive subdivision has also been further complicated by the Valero's need to consider the prospective impacts of the zoning bylaw changes that were approved at the November 9, 2015 Special Town Meeting on the future use and development of the subject property.

Accordingly, in order to allow us sufficient time to complete this process, and to make any changes that may be necessary to the design and plans, we are respectfully requesting a further continuance of the public hearing related to the definitive subdivision from the January 11, 2016 meeting of the Planning Board to the February 8, 2016 meeting of the Planning Board.

Valero / Old South Road Properties  
Definitive Subdivision – Continuance Request  
January 5, 2016  
Page Two

We appreciate your consideration and that of the Planning Board with respect to our request, and we look forward to continuing to work with you and Mr. Vorce, the Planning Board, and all the involved parties as the review of the matter progresses.

If you any immediate questions with respect to either this request or the matter in general, please feel free to contact me at 978-988-3900, Extension # 12.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Armanetti', is centered on a light-colored rectangular background.

David J. Armanetti  
Director of Real Estate Development  
The Richmond Company, Inc.  
On Behalf of Old South Road Trust and Valero Realty Trust

Cc: Town of Nantucket Board of Health  
Richard Valero, OSRT / VRT  
Kenneth Valero, OSRT / VRT  
Eliot Brais, Esq.  
Philip Pastan, TRC  
Kathryn Fossa, TRC  
Andrew Burek, Esq., TRC  
John Ogren, Hayes Engineering

VAUGHAN, DALE, HUNTER AND BEAUDETTE

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

WHALER'S LANE

P.O. BOX 659

NANTUCKET, MASSACHUSETTS 02554

TEL: (508) 228-4455

FAX: (508) 228-3070

EDWARD FOLEY VAUGHAN

KEVIN F. DALE

RICHARD P. BEAUDETTE

—  
LORI D'ELLA

BRYAN J. SWAIN

WILLIAM F. HUNTER

OF COUNSEL

January 4, 2016

Leslie Woodson Snell  
Deputy Director of Planning  
Nantucket Planning Board  
2 Fairgrounds Road  
Nantucket, Massachusetts 02554

Re: Continuance of the White Elephant Hotel LLC,  
50 Easton Street  
Planning Board File# 7771  
Nantucket, MA 02554

Dear Leslie:

As you are aware, I represent the White Elephant Hotel, LLC in the above referenced matter. It is scheduled to be heard at the next Planning Board Meeting. I would like to request a continuance of this matter until the February 8, 2016 public hearing. I appreciate your attention to this matter. If you have any questions please feel free to contact me.

Sincerely,



Richard P. Beaudette

RPB/BJs

Cc: White Elephant Hotel, LLC.

**Catherine Ancero**

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**From:** Rhoda H. Weinman [weinman@nantucketislandlaw.net]  
**Sent:** Tuesday, January 05, 2016 1:48 PM  
**To:** Catherine Ancero  
**Cc:** 'william boardman'  
**Subject:** RE:

Catherine,  
Please put the Brotherhood on the agenda for the February meeting. Thank you.

Rhoda H. Weinman, Attorney at Law  
36 Centre Street, Post Office Box 1365  
Nantucket Island, Massachusetts 02554  
(508) 228-9600  
(508) 228-8926 fax  
[weinman@nantucketislandlaw.net](mailto:weinman@nantucketislandlaw.net)

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**From:** Catherine Ancero [<mailto:CAncero@nantucket-ma.gov>]  
**Sent:** Tuesday, January 05, 2016 9:11 AM  
**To:** 'Rhoda H. Weinman'  
**Subject:** RE:

Morning Rhoda-  
Trying to catch up with all my emails while I was out of the office. It is suppose to unless you want to continue. Please let me know if you want to proceed for the January 11<sup>th</sup> meeting. I am trying to put the agenda today and have it posted by Wednesday the latest.

Thank you,

Catherine Ancero,  
Administrative Specialist  
Planning Board

Planning and Land Use Services (PLUS)  
Planning Board Office  
2 Fairgrounds Road  
Nantucket, MA 02554

Telephone#: 508.325.7587 (PLUS) Ext. 7008  
Facsimile#: 508.228.7298

Email: [cancero@nantucket-ma.gov](mailto:cancero@nantucket-ma.gov)

Town website: <http://www.nantucket-ma.gov>



**From:** Rhoda H. Weinman [<mailto:weinman@nantucketislandlaw.net>]  
**Sent:** Tuesday, December 29, 2015 6:23 PM  
**To:** Catherine Ancero  
**Subject:**

Hi Catherine,

Is the Brotherhood on the January agenda?

Rhoda H. Weinman, Attorney at Law  
36 Centre Street, Post Office Box 1365  
Nantucket Island, Massachusetts 02554  
(508) 228-9600  
(508) 228-8926 fax  
[weinman@nantucketislandlaw.net](mailto:weinman@nantucketislandlaw.net)

**From:** Steven Cohen [steven@cohenlegal.net]  
**Sent:** Tuesday, January 05, 2016 9:41 AM  
**To:** Holly Backus; Catherine Ancero  
**Cc:** 'psantos@nantucketsurveyors.com'  
**Subject:** RE: 46 Surfside Road

Please continue.  
Steven

---

**From:** Catherine Ancero [<mailto:CAncero@nantucket-ma.gov>]  
**Sent:** Tuesday, January 05, 2016 9:18 AM  
**To:** 'psantos@nantucketsurveyors.com' <[psantos@nantucketsurveyors.com](mailto:psantos@nantucketsurveyors.com)>; Steven Cohen <[steven@cohenlegal.net](mailto:steven@cohenlegal.net)>  
**Cc:** Holly Backus <[hbackus@nantucket-ma.gov](mailto:hbackus@nantucket-ma.gov)>  
**Subject:** RE: 46 Surfside Road

Morning Paul and Steven-  
Are we moving forward for the January 11<sup>th</sup> meeting?

Thank you,

Catherine Ancero,  
Administrative Specialist  
Planning Board

Planning and Land Use Services (PLUS)  
Planning Board Office  
2 Fairgrounds Road  
Nantucket, MA 02554

Telephone#: 508.325.7587 (PLUS) Ext. 7008  
Facsimile#: 508.228.7298

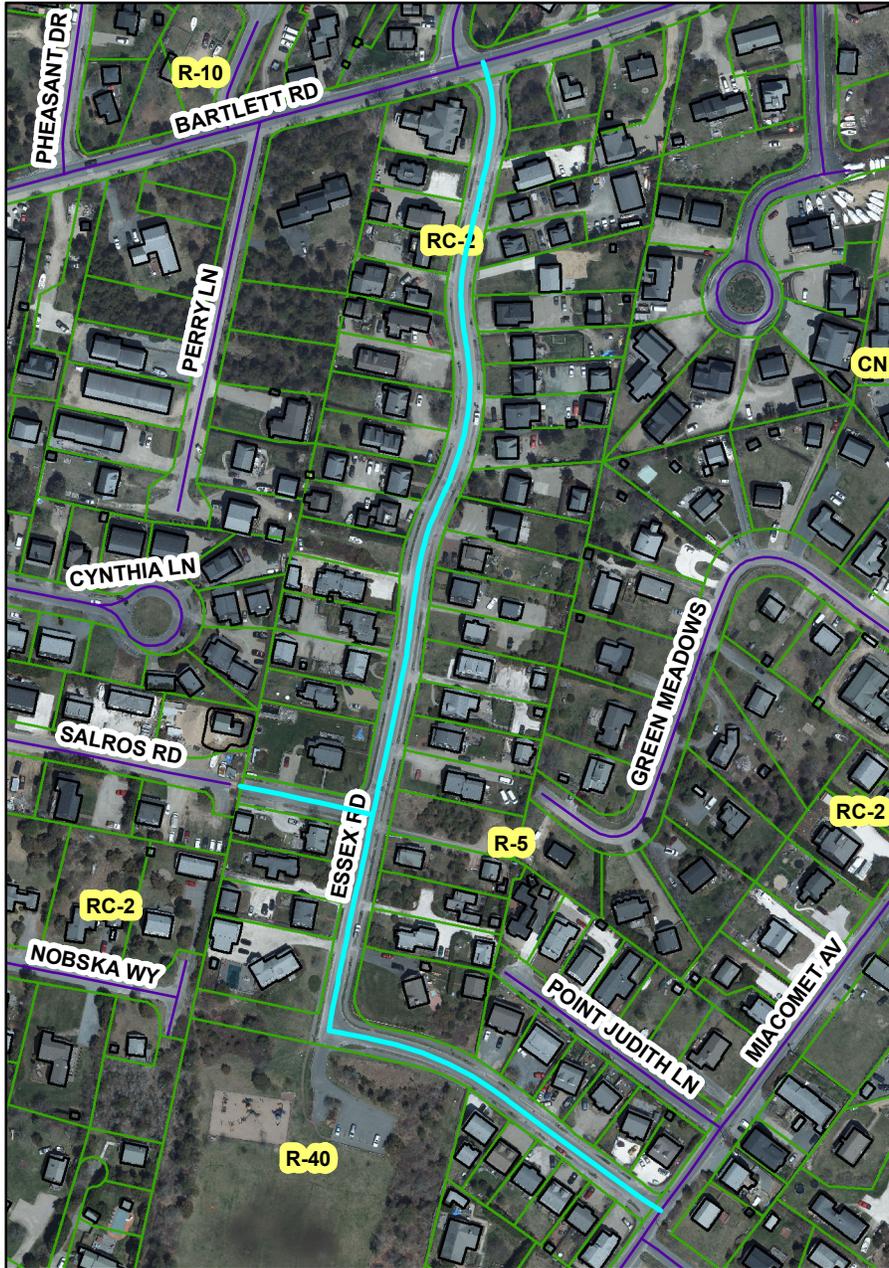
Email: [cancero@nantucket-ma.gov](mailto:cancero@nantucket-ma.gov)

Town website: <http://www.nantucket-ma.gov>





Planning Board #7905  
Essex Road Subdivision  
Map 67 Parcels 600 through 640  
Lots 1 through 41



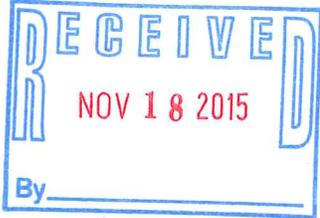
PAT @  
ASSESSOR'S OFFICE  
56 WASHINGTON



#1 \$250 - filing fee  
#2 \$6.74 per abutter  
Pitney Bowes Reserved Funds

(4) COPIES LAYERS.

11/18/15  
Town Clerk



# Nantucket Planning Board

## Form B1

### Application for Approval of a Definitive Subdivision Modification

File one completed form with the Planning Board and one copy with the Town Clerk.

Date: 11/18/15 File #: ~~6150~~ #7905

#### To the Planning Board of Nantucket:

The undersigned, being the applicant as defined under Chapter 41, Section 81-L, for approval of a proposed subdivision *modification* shown on a plan entitled DEFINITIVE SUBDIVISION PLAN ~~TO ESSENTIAL~~ designed by

BLACKWELL & ASSOC. dated 1/28/1997, and described as follows: located on see PLAN 51-G

TO ESSENTIAL, number of lots proposed N/A, total acreage of tract 93.47 N/A, hereby submits said plan as a **definitive plan modification** in accordance with the *Rules and Regulations Governing the Subdivision of Land* of the Nantucket Planning Board and makes application to the Board for approval of said modification.

The undersigned's title to said land is derived from VANANUS N/A by deed dated March 13th 1904 and recorded in the Nantucket Registry of Deeds Book 889, Page 54, registered in the Nantucket Registry District of the Land Court, Certificate of Title # \_\_\_\_\_ and shown on Nantucket Assessor's Map # 67, Parcels 600 through 690, and said land is free of encumbrances except for the following: THE TOWN

Said plan  has  has not evolved from a preliminary plan submitted to the Board on \_\_\_\_\_ (date) and  approved  disapproved on 6/24/1997 (date).

The undersigned hereby applies for the approval of said **definitive plan modification** by the Board, in belief that the plan conforms to the Board's *Rules and Regulations*.

Name(s) and address(es) of the Applicant(s):

(to include all the names and addresses of the principals of the owner entity such as principal officers of the corporation, trustees of a trust or partners of a partnership)

AUDREY STERK  
10 ESSEX RD.

Contact Phone #: (508) 221-6996 Contact Fax #: \_\_\_\_\_

Name of owner(s): AUDREY STERK

Address of owner(s): 10 ESSEX RD.

I hereby certify that the applicant(s) listed above have been authorized by me to file a subdivision plan modification with the Planning Board on property that I own.

Owner's signature

Received by Town Clerk:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Received by Board of Health:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Planning Board File #:

STATEMENT OF CONDITIONS OF SUBDIVISION APPROVAL

We, D. ERIC MCKECHNIE and DUNCAN F. WINTER, as Trustees of 22 BARTLETT ROAD REALTY TRUST under Declaration of Trust dated September 16, 1995, recorded with Nantucket Deeds in Book 482, Page 327 (the "Owner") have submitted an application dated December 16, 1996, to the NANTUCKET PLANNING BOARD (the "Planning Board") for approval of a definitive plan (the "Plan") of a subdivision of land, prepared by Blackwell & Associates, Inc., dated January 28, 1997, now owned by the Owner, of land located on Bartlett Road, Nantucket, Massachusetts, and showing forty-two building lots, and a new roadway called Essex Road (the "Subdivision"). The Planning Board has approved the Plan by vote taken on June 23, 1997, and has endorsed the Plan on September 19, 1997, subject to the terms and conditions of subdivision approval herein set forth.

In consideration of the Planning Board's approval of the Plan, the Owner hereby subjects all of the land in the Subdivision to all conditions, terms and provisions set forth in the following:

- (a) The Plan, as approved and endorsed pursuant to the Subdivision Control Law by the Planning Board.
- (b) The Subdivision Control Law and the Planning Board's Rules and Regulations Governing the Subdivision of Land which were in effect on September 3, 1996, the date of filing of the preliminary plan from which the Plan was derived.
- (c) The Planning Board's letter of approval dated June 24, 1997, a copy of which is annexed hereto as Exhibit A.

All of said conditions, terms and provisions shall constitute restrictions running with the land, and shall be enforceable in perpetuity by the Inhabitants of the Town of Nantucket, acting by and through the Planning Board.

For title to all of the land in the Subdivision, see deed recorded with Nantucket Deeds in Book 482, Page 335.

Executed and sealed as of August 15, 1997.

D. Eric McKechnie  
D. Eric McKechnie, as Trustee  
of 22 Bartlett Road Realty  
Trust as aforesaid  
Duncan F. Winter  
Duncan F. Winter, as Trustee  
of 22 Bartlett Road Realty  
Trust as aforesaid

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

August 15, 1997

Then personally appeared the above-named D. Eric McKechnie and acknowledged the foregoing instrument to be his free act and deed, before me,

Marianne Harley  
Notary Public

Printed name: Marianne Harley  
My commission expires: November 8, 2002

ACCEPTANCE BY PLANNING BOARD

We, as a majority of the members of the Nantucket Planning Board, hereby accept and approve the foregoing Statement of Conditions of Subdivision Approval.

Dated: Sept. 19, 1997

C. Marshall Beale

[Signature]  
[Signature]  
[Signature]

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

Sept. 19, 1997

Then personally appeared the above-named C. Marshall Beale, being one of the members of the Nantucket Planning Board, and acknowledged the foregoing instrument to be his free act and deed, before me,

[Signature]  
Notary Public

Printed name: Margaret R. Parry  
My commission expires: 9/13/2002



## NANTUCKET PLANNING BOARD

1 EAST CHESTNUT STREET NANTUCKET, MASSACHUSETTS 02554  
(508) 228-7233

### APPROVAL OF DEFINITIVE SUBDIVISION PLAN ERNESTINA WAY II SUBDIVISION PB FILE #6158

June 24, 1997

**BY CERTIFIED MAIL:**

Re: Ernestina Way II Subdivision Approval

22 Bartlett Road Realty Trust  
D. Eric McKechnie, and  
Duncan F. Winter, Trustees  
76 North Liberty  
Nantucket, MA 02554

Dear Mr. McKechnie and Mr. Winter:

It is hereby certified that the Planning Board of the Town of Nantucket, at a meeting on June 23, 1997, voted to APPROVE your 42-lot (buildable) Definitive Subdivision Plan for a tract located off of Bartlett Road. Approval of the subdivision, on plans prepared by Blackwell & Associates, Inc., dated January 28, 1997 (as revised in accordance with the conditions of this decision) is granted conditional upon compliance with the Town's Rules and Regulations Governing the Subdivision of Land (as amended through January 28, 1991), and on the following additional requirements and agreements:

1. All required infrastructure improvements shall be completed in accordance with the endorsed definitive plans within three years from the date of definitive plan endorsement. The Planning Board may grant extensions of this deadline without holding a public hearing.

Ernestina Way II Subdivision Approval - PB #6158  
June 24, 1997

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2. A minimum of ten lots shall be restricted to only one dwelling per lot. The lots to be restricted shall be determined at the time of lot release. The status of each lot with regard to eligibility for secondary dwellings will be noted of the Form J lot release document. Recorded copies of all lot releases shall be provided to the Planning Board.
3. The applicant has proposed a use restriction permitting commercial uses only on the first 11 lots closest to Bartlett Road (Lots 1 - 7, and Lots 38 - 41). All other lots would be restricted to residential use only (excluding Lot 44, the proposed park). This restriction shall be included in the protective covenants with a right of enforcement granted to the Town. The restriction shall also appear on the deeds for those lots effected by the restriction.
4. The applicant has proposed to dedicate Lot 44 to the Town of Nantucket to be used as open space and recreational land. Approval of the subdivision is based on this representation. Any change from this proposal shall constitute cause for re-opening a public hearing to consider the potential impacts of Lot 44 as a buildable lot.
5. The applicant has agreed to grant a bikepath easement to the County along the Bartlett Road frontage. The easement shall be recorded prior to the release of any lots.
6. Recorded copies of the footpath easements on Lots 27 and 28 shall be provided to the Planning Board prior to the final two lot releases.
7. The Lots comprising the roadway right-of-way (Lots 42 and 43) shall be transferred to either the County or Town of Nantucket or the Homeowners' Association. Evidence of the conveyance shall be presented to the Planning Board prior to the final lot release.
8. Lots 17 - 25 shown on the plan are subject to the provisions of the Public Wellhead Recharge District regulation, §139-12B of the Nantucket Zoning Bylaw. The deeds for these lots shall list the uses prohibited under this section.
9. Public water supply shall be extended through the subdivision and all lots shall be served by the public water system. The public water system shall be approved by the Wannacomet Water Company and activated prior to any lot releases. The applicant agrees to dedicate the water system to the Wannacomet Water Company and grant appurtenant easements for maintenance and repair should the road remain private. A recorded copy of said easement shall be submitted to the Planning Board prior to any lot releases.
10. All lots within the subdivision shall be served by the sewer system. The system shall be approved by the Department of Public Works and activated prior to any lot releases. The sewer lines shall be dedicated to the County or Town of Nantucket along with an easement for maintenance and repair in the event the County or Town does not accept all road right-of-way lots as a public roads.

Ernestina Way II Subdivision Approval - PB #6158  
June 24, 1997

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11. The following waivers from the Subdivision Rules & Regulations are granted:

- 2.06a House numbers - waive
- 2.06b On site disposal areas for brush and trees - waive
- 2.06b Erosion & airborne dust control plan - waive

12. Modifications of the requirements of the Subdivision Rules & Regulations have been granted as follows:

- 4.03a Secondary Street - allow a paved width of 18 feet w/ machined asphalt curbing for Miacomet Ave. due to the narrow right-of-way
- 4.16 Landscaping - allow a 2 1/2 inch caliper tree size for better survivability
- 4.18 Sidewalks - allow six (6) foot wide bikepath/sidewalks on each side of Ernestina Way and a single six foot wide sidewalk/bikepath on Miacomet Ave. in lieu of sidewalks
- 4.19 Bicycle Paths - allow the combination sidewalk/bikepath as stated immediately above
- 4.20 Street lights - allow a minimum of 3 street lights, one at the Bartlett Road intersection, one at Lot 44, and one at the Miacomet Ave. intersection

13. A Homeowners' Association shall be established by the applicant for the maintenance of all required improvements such as the interior roadway, its drainage, bikepath, and utilities. The association shall be initially endowed at \$200 per building lot (\$8,400 total) prior to the release of the final four building lots.

14. Lot 1 shall be restricted from using Bartlett Road for vehicular access to the lot. This restriction shall be recorded as a protective covenant with a grant of right of enforcement granted to the Town of Nantucket.

15. A maintenance plan for the catch basins and oil/water separators, approved by the Planning Board, shall be incorporated into the Maintenance and Endowment Agreement.

16. All efforts shall be made to minimize erosion and prevent airborne dust. Excavation work for all roadways shall be followed immediately by preparation of the sub-base, and paving of the base course. In addition, the shoulders shall be loamed and seeded immediately following construction of the road. Notes to this effect shall be added to the plan.

**Ernestina Way II Subdivision Approval - PB #6158**  
**June 24, 1997**

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17. Plans and associated legal documents, including a "Statement of Conditions", shall be presented to the Planning Board for endorsement within 3 months of the date of this approval (September 23, 1997). The Planning Board may grant extensions of this deadline without holding a public hearing.

18. Recorded copies of all legal documents (Homeowners' Association document, Road Maintenance and Endowment Agreement, Grant of Right of Enforcement, Statement of Conditions, Declaration of Protective Covenants, and Covenant) shall be presented to the Planning Board prior to the release of any building lots.

19. A recorded copy of the Covenant shall be presented to the Planning Board within six (6) months of the endorsement of the definitive plan. Failure to so comply shall automatically rescind approval. The Planning Board may grant extensions of this deadline without holding a public hearing.

20. No lots shall be released from the covenant until the water service, sewer service, drainage structures, utilities, and the base course for the roadways have been installed and approved by the Planning Board.

21. Roadway and associated infrastructure construction shall not commence until the definitive plan has been endorsed by the Planning Board. The definitive plan shall include a detailed design plan for Miacomet Avenue extending from the end of pavement near Otokomi Road to the end of the proposed pavement at Celtic Drive acceptable to the Planning Board.

22. The applicant agrees that no clearing or construction for roadway and drainage systems shall occur until a pre-construction meeting has been held. Such meeting shall, at a minimum, include representatives of the Planning Board, Department of Public Works, Wannacomet Water Company, the Nantucket Electric Company, the developer, and construction contractors.

Ernestina Way II Subdivision Approval - PB #6158  
June 24, 1997

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23. A letter of intent regarding infrastructure improvements along Miacomet Avenue and coordination between the parties doing work in Miacomet Avenue, shall be submitted to and approved by the Planning Board prior to endorsement of the definitive plan. Said Letter of Intent shall be adhered to.

Please call the Planning Staff at 228-7233 with any questions regarding this decision.

APPROVED

*C. Marshall Beale*  
*Thomas H. Corso*  
*James Barnes*

NANTUCKET PLANNING BOARD

COMMONWEALTH OF MASSACHUSETTS

NANTUCKET, SS

June 26, 1997

Then personally appeared *C. Marshall Beale*, one of the above-named members of the Planning Board of Nantucket, Massachusetts and acknowledged the fore-going instrument to be his/her free act and deed before me.

*Margaret R. Fay* Notary Public  
My Commission Expires: 9/13/2002

DEC 03 1997  
NANTUCKET COUNTY  
REC'D ENTERED

9:29AM  
SANDRA M CHADWICK  
ATTEST REGISTER

RECEIVED  
TOWN CLERK'S OFFICE  
NANTUCKET, MA 02554  
JUN 26 1997  
TIME: 3:45P  
CLERK: 132

End of  
Instrument

DECLARATION OF RESTRICTIONS AND EASEMENTS

This Declaration of Restrictions and Easements is made by D. ERIC MCKECHNIE and DUNCAN F. WINTER, as Trustees of 22 BARTLETT ROAD REALTY TRUST under Declaration of Trust dated September 16, 1995, recorded with Nantucket Deeds in Book 482, Page 327, as the Owner of the Land herein described.

ARTICLE ONE  
Definitions

1.01. "Association". The Trustees from time to time of Essex Homeowners Association Trust under Declaration of Trust dated August 15, 1997, recorded with Nantucket Deeds in Book 555, Page 198.

1.02. "Building Lot". Each of Lots 1 through 41, inclusive.

1.03. "Covenant". A Covenant between D. Eric McKechnie and Duncan F. Winter, as Trustees of 22 Bartlett Road Realty Trust, and the Planning Board dated August 15, 1997, in File No. 6158, recorded with Nantucket Deeds in Book 555, Page 184.

1.04. "Developer". D. Eric McKechnie and Duncan F. Winter, as Trustees of 22 Bartlett Road Realty Trust under Declaration of Trust dated September 16, 1995, recorded with Nantucket Deeds in Book 482, Page 327, the present Owners of the Land, or such other person or entity as shall hold the rights of the Developer hereunder by express written and recorded instrument of assignment executed by D. Eric McKechnie and Duncan F. Winter, as

Trustees of 22 Bartlett Road Realty Trust as aforesaid, or its successor as the Developer.

1.05. "Driveway Easement Area". Those areas denoted as "Typical 10' Wide Driveway Easement" upon the Plan.

1.06. "Land". The land in Nantucket, Nantucket County, Massachusetts, consisting of the Lots shown upon the Plan.

1.07. "Lot". Each of Lots 1 through 44, inclusive, upon the Plan. (The word "Lot" followed by a number shall refer to the Lot designated by that number on the Plan.)

1.08. "Owner". The person or persons or other entity, considered collectively, who are, from time to time, the owners of any Lot, according to the records at such time at the Nantucket Registry of Deeds.

1.09. "Plan". A plan by Blackwell & Associates, Inc., dated January 28, 1997, as endorsed by the Planning Board as approved under the Subdivision Control Law in File No. 6158, recorded with Nantucket Deeds in Plan File 516.

1.10. "Planning Board". The Nantucket Planning Board.

1.11. "Roadway". Essex Road, shown upon the Plan as Lots 42 and 43, which shall be owned by the Association.

1.12. "Town". The Town of Nantucket, Massachusetts.

1.13. "Utility Lines". Pipes, wires, cables, or other means of transmission of electric, telephone, cable television, water, sewer, and if now or in the future applicable, gas and such other utility services as are now or may in the future be

customarily installed to serve residential building lots in Nantucket, Massachusetts.

ARTICLE TWO  
Recital of Purposes

2.01. General Purpose. The general purpose of this instrument is to restrict the use of the Land, and of each Lot, so that the development of the Land is done in conformity with the conditions of approval by the Planning Board as set forth in the Covenant. Furthermore, it is the purpose of this instrument to establish easements to enable the utilization of the Land in an appropriate manner.

2.02. Fulfillment of Conditions of Approval. In addition to the general purpose stated in Section 2.01, it is the further purpose of this instrument to establish restrictions and easements which have been required by the Planning Board in connection with its approval of the Plan.

ARTICLE THREE  
Restrictions

3.01. General. The Land shall be subject to the following Restrictions, as set forth in this Article Three.

3.02. Restriction Against Subdivision. No Lot shall be divided or subdivided into additional lots or parcels; provided, however, that this shall not prohibit division of a Lot or Lots into separate parcels for the purpose of effecting boundary line changes not creating additional building lots within the Land.

3.03. Site Plan Review. No building or other structure of any nature shall be erected, maintained or suffered to exist upon the Land, so long as the Developer shall own any of the Lots and for two years thereafter, unless the siting of such building or other structure, and landscaping plans for the Lot upon which such building or structure is to be placed shall have been previously approved by written and recordable instrument executed by the Developer; such approval may contain ongoing requirements for the maintenance of landscaping and replacement of landscaping elements and plant materials. The Developer may adopt reasonable rules and submission requirements with regard to requests for approval of the siting of buildings, structures, and landscaping.

3.04. Restrictions Against Commercial Uses. No commercial activity of any nature or type (including customary home occupations) shall be conducted upon any portion of Lots 8 through 37 inclusive.

3.05. Restriction Against Outdoor Storage and Uses. No trailers of any type, nor unregistered motor vehicles, shall be stored outdoors upon any portion of the Land. Not more than one commercial vehicle may be parked overnight upon any Lot. Not more than one boat may be stored outdoors upon any Lot. No exterior laundry drying facilities shall be placed upon any Lot unless they are screened from view from all areas outside that Lot. No scallop shanties shall be constructed, maintained or used upon any Lot. The structures and grounds on each Building Lot shall be maintained in a neat and attractive manner, and the Developer may from time to time promulgate rules and regulations

as to such maintenance, and at such time as the Developer no longer owns any Lots, the Association may promulgate such rules and regulations. Notwithstanding the foregoing provisions of this Section 3.05, the Developer, and at such time as the Developer no longer owns any Lots, the Association, shall have the right to waive the restrictions set forth in this Section 3.05.

**3.06. Single-Family Dwelling Restrictions. No dwelling shall be constructed upon any Lot, except for (a) one single-family dwelling, with customary appurtenances thereto, and (b) a secondary dwelling, as defined by the Nantucket Zoning By-law as then in effect, only with respect to any Lot as to which the release of such Lot from the Covenant, as executed by the Planning Board and recorded at Nantucket Registry District, expressly provides that such Lot shall be permitted to have a secondary dwelling, and provided further that not more than thirty-one (31) Lots shall be permitted to have a secondary dwelling.**

**3.07. Public Wellhead Recharge District Restrictions. Lots 17 through 25, inclusive, as shown upon the plan are situated within the Public Wellhead Recharge District, an overlay district under the Nantucket Zoning By-law as now in effect. Under Zoning By-law Section 139-12.B(2), the following uses are prohibited in this district:**

- (a) All uses prohibited in the underlying district.
- (b) The manufacture, use, pipeline transport, storage, disposal or treatment of hazardous or toxic materials, except as noted in By-law Section 139-12.B(1)(b), (c), (d) and (e).
- (c) Sanitary landfills, dumps, junkyards or disposal or landfilling of solid waste, sludge, sewage or septage.
- (d) Animal feedlots and manure storage.
- (e) Washing, painting, repair or other servicing of motorized vehicles in garages or in the open.
- (f) On-site disposal of wastewater exceeding two thousand gallons (2,000) gallons per day.
- (g) Road salt storage.
- (h) Truck or bus terminals.
- (i) Public or private sewage treatment facilities in excess of two thousand (2,000) gallons per day.
- (j) Commercial servicing, repair or construction of boats or boat motors.
- (k) Dry cleaning establishments.
- (l) Coin or commercial laundries which rely on on-site septic systems.
- (m) Chemical and bacteriological laboratories.
- (n) Salvage yards.
- (o) Leather tanning and finishing.
- (p) Stockpiling and disposal of snow or ice which contains de-icing materials.
- (q) New underground fuel storage tanks with the exception of propane.

(r) Land uses that result in rendering impervious more than fifteen per cent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in the degradation of ground water quality.

3.08. Driveway Access Restrictions. Lot 1 is hereby restricted against using Bartlett Road as a means of vehicular access to said Lot. No driveways shall be placed upon Lot 1 entering directly from Bartlett Road. Driveways on any Building Lot upon which a Driveway Easement Area is located shall be constructed within the Driveway Easement Area.

3.09. Buffer Strip Restriction. No structures shall be built upon that portion of Lot 1 designated as "20' Buffer Strip and Bikepath Easement" upon the Plan.

ARTICLE FOUR  
Easements

4.01. Roadway Easement. The Owner of each Lot, and the Association, shall have a permanent easement to use the Roadway for all purposes for which streets are customarily used in Nantucket, including passage and repassage by foot, in vehicles, or otherwise; installation, maintenance, repair, use and replacement of underground Utility Lines and services; and improvements for such purposes.

4.02. Utility and Drainage Easement. The Developer and the Association shall have a permanent easement in the "10' Utility & Drainage Easement" as shown upon the Plan for the purpose of constructing, installing and maintaining Utility Lines,

landscaping, and to construct, repair and maintain drainage structures therein in conformity with the accompanying plans and materials filed with the Planning Board in connection with the approval of the Plan. The Owner of each Lot shall have a permanent easement to use all Utility Lines which may be so installed.

4.03. Drain Easement. The Developer and the Association shall have a permanent easement to enter upon the area in Lot 44 shown upon the Plan as "Drainage Easement" and to construct, repair and maintain drainage structures therein in conformity with the accompanying plans and materials filed with the Planning Board in connection with the approval of the Plan.

4.04. Driveway Easements. The Owner of a Lot on which a portion of a Driveway Easement Area is located shall have a permanent easement, in common with the Owner of the adjacent Lot on which the same Driveway Easement Area is located to pass and repass by foot, by vehicles, or otherwise, and to install, maintain, and replace underground utility lines, upon or under the surface of the Driveway Easement Area, and to maintain repair and improve the surface thereof.

4.05. Footpath Easement. The Developer, the Association, the Owner of each Lot, and the Town shall have a permanent easement to use those portions of Lots 27 and 28 shown as "Footpath Easement 5 Feet Wide" for pedestrian access to the Roadway and to the way shown as "Green Meadow Dr." upon the Plan.

4.06 Slope Easement. The Developer and the Association shall have a permanent easement to enter upon those areas of Lots

22 and 44 shown as "Permanent Slope Easements" for the purpose of grading and maintaining the slope of the adjacent Roadway.

ARTICLE FIVE  
Enforcement of Restrictions

5.01. Restrictions in Gross. The Association shall have the right, to be held in gross and not as appurtenant to any real property interest, to enforce all of the Restrictions.

5.02. Restrictions Enforceable by Town. The Developer shall have the right to grant to the Town, acting by and through the Planning Board, the right to enforce any or all of the Restrictions. Such grant shall be in the form of a writing signed and acknowledged on behalf of the Developer and accepted in writing by the signatures of a majority of the members of the Planning Board, and recorded with Nantucket Registry District. Upon the recordation of such a grant with Nantucket Registry District, no provision hereof relating to any Restriction, the right of enforcement of which has been granted to the Town, may be amended without the written and recorded consent of a majority of the Planning Board.

5.03. Appurtenant Restrictions. Each Owner of a Lot shall have the right to enforce any Restriction, as appurtenant to such Lot, on or after the first date upon which the Developer or any successor Developer shall no longer own any of the Lots, upon any violation of any Restriction upon any of the Land, and each part of the Land shall be deemed to be benefited hereby.

5.04. Duration of Restrictions in Gross. The rights of enforcement of the Restrictions held in gross, except the rights

of enforcement assigned to the Town which shall be permanent, shall expire upon August 15, 2027, unless a notice of extension of restriction in accordance with Massachusetts General Laws, c. 184, §27, is registered with Nantucket Registry District on or before August 15, 2027, in which event the term for enforcement of such right shall be extended for a period of twenty years; and in the event of such extension, such right of enforcement may be extended for further successive periods of twenty years by the filing of further notices of extension, all as permitted by applicable law.

5.05. Duration of Appurtenant Restrictions. The Restrictions, as appurtenant to each Owner of a Lot, shall be deemed to be imposed as part of a common scheme applicable to four or more contiguous parcels, and shall expire on August 15, 2027, except that they may be extended from and after August 15, 2027, for further successive periods of twenty years in the manner provided by Massachusetts General Laws, c.184, §27.

5.06. Form of Notice of Extension of Restrictions. Any notice of extension of the Restrictions to be filed for record hereunder shall (a) be signed by a person or persons then entitled of record to the benefit of the Restrictions and shall contain a description of their benefited land, if any, (b) shall describe the Land, (c) shall name one or more of the persons appearing of record to own each portion of the Land at the time, and (d) shall refer to this instrument and its place of recording in the public records.

5.07. Enforcement by Judicial Proceedings. Any party entitled to enforce any of the Restrictions shall have the right to enforce the same by securing injunctive relief from a court of competent jurisdiction and shall have the right to recover money damages by reason of any violation of any of the Restrictions.

5.08. Restrictions to Run with Land. Upon the registration of this instrument with Nantucket Registry District of the Land Court, the Restrictions and all other provisions of this instrument shall run with and bind the Land and every portion thereof.

5.09. Release or Waiver of Restrictions. The Developer, so long as the Developer (including any successor Developer) shall own any Lot, and thereafter the Association, shall have the right to release, waive or modify any restriction hereunder, except those restrictions the right of enforcement of which has been granted to the Town of Nantucket, acting by and through its Planning Board as set forth in Paragraph 5.02 hereof.

ARTICLE SIX  
Liens and Assessments

6.01. Assessments and Charges. Each Owner of a Building Lot, by accepting a deed therefor, whether or not the same shall be expressed in such deed, shall be deemed to covenant to pay to the Association annual assessments or charges, and special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof (including

attorneys' fees) as hereinafter provided, shall be a charge on each Building Lot and shall be a continuing lien upon the Building Lot against which each such assessment is made. Each assessment, together with such interest and costs, shall also be a personal obligation of each Owner of the Building Lot against which such assessment is made at the time when the same falls due.

6.02. Purposes of Assessments. All assessments shall be collected and held by the Association and shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners, occupants and visitors to any of the Land, and in particular for the improvement, repair and maintenance of the Roadway and the Utility Lines, including but not limited to the payment of liability insurance premiums, maintenance of roads, paths, Utility Lines, equipment, drainage structures, landscaping, the costs of labor, equipment, materials, management and supervision thereof, and enforcement of the Restrictions.

6.03. Amount and Time of Payment of Assessments. The amount of each assessment and the time at which the same shall be payable shall be determined by the Association in accordance with its governing documents. Each Building Lot shall be assessed equally for each assessment, except for matters particularly for work done to serve a specific Building Lot or Building Lots.

6.04. Assessment for Enforcement of Restrictions. In the event that the Association shall enforce any of the Restrictions against the Owner of any Lot, the cost of such enforcement shall

be assessed to the Owner of the Lot in question and shall be added to and become a part of the assessments and charges against such Lot hereunder.

6.05. Certification of No Lien. The Association shall, upon demand at any time, furnish to any Owner of a Lot a certificate, in form suitable for recording, signed by a Trustee of the Association, setting forth the amount and due date of all assessments upon such Lot, and whether the same have been paid. The signature thereof by such Trustee shall be conclusive evidence of his authority to make such certificate on behalf of the Association, and such certificate shall be conclusive evidence of the matters therein stated, except to the extent that the Owner of such Lot disputes the amount of any assessment therein stated to be unpaid.

6.06. Effect of Nonpayment of Assessments. If any assessment is not paid when due, the same shall be deemed delinquent and shall, together with interest and costs as herein provided, be a continuing lien upon the Lot upon which the same was assessed, and shall run with such Lot and bind it in the hands of its Owner at the time of such assessment and the successors in title to such Owner. The Association shall have the right to proceed to enforce such lien by the sale of the Lot in question, such sale to be conducted in the same manner provided by Massachusetts law for a sale to enforce a mechanic's lien under a written contract. If any assessment is not paid within thirty days after it shall become due, it shall bear interest from the date when due at the rate of fifteen per cent

(15%) per annum. In the event of any proceeding to enforce a lien hereunder, the Association shall be entitled to collect as a part thereof its reasonable costs of collection, including attorneys' fees.

ARTICLE SEVEN  
General

7.01. Amendment. This instrument may from time to time be amended by written instrument executed and acknowledged by the Developer, so long as the Developer (including any successor Developer) shall own any of the Lots, and thereafter by Owners of a majority of the Lots; and any such amendment shall be effective when the same is recorded with Nantucket Registry of Deeds. However, (a) no amendment, the effect of which will be more onerous upon the use of any Lot, shall be effective without the consent of the Owner of such Lot, and (b) no Restriction, the right of enforcement of which has been granted to the Town, shall be amended without the prior written consent of a majority of the Planning Board. Any such consent shall be attached to the instrument of amendment at the time of its recording.

7.02. Notices. All notices hereunder shall be effective only when mailed by certified mail, return receipt requested, addressed (if to the Association) to Essex Homeowners Association Trust, 76 North Liberty Street, Nantucket, Massachusetts 02554, or such other address as the Association may, from time to time, designate by notice to each Owner, or addressed (if to an Owner) to such Owner at the street address of any Lot owned by such

Owner, or such other address as such Owner may, from time to time, designate by notice to the Association.

7.03. Severability. Invalidation of any provision hereof by judicial determination shall not affect the remaining provisions, which shall remain in full force and effect.

7.04. Construction of Instrument. This instrument shall be construed under the laws of Massachusetts. References or language herein contained, relating to any gender, shall refer also to other genders as appropriate.

The undersigned, by virtue of their execution hereof, hereby certify that : (a) they are the sole Trustees of 22 Bartlett Road Realty Trust; (b) said Trust has not been altered, amended, revoked, or terminated; (c) no beneficiary of said Trust is a minor or under any incapacity; and (d) that they have been authorized and directed by all of the beneficiaries of said Trust to execute and acknowledge the foregoing Declaration of Restrictions and Easements.

Executed and sealed as of August 15, 1997.

D. Eric McKechnie  
D. Eric McKechnie, as Trustee  
of 22 Bartlett Road Realty  
Trust as aforesaid

Duncan R. Winter  
Duncan R. Winter, as Trustee  
of 22 Bartlett Road Realty  
Trust as aforesaid

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

August 15, 1997

Then personally appeared the above-named D. Eric McKechnie and acknowledged the foregoing instrument to be his free act and deed, before me,

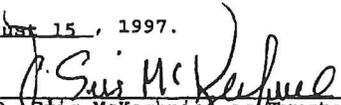
Marianne Farley  
Notary Public

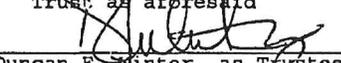
Printed name: Marianne Farley  
My commission expires: November 8, 2002

GRANT OF RIGHT OF ENFORCEMENT OF RESTRICTIONS

We, D. ERIC MCKECHNIE and DUNCAN F. WINTER, as Trustees of 22 BARTLETT ROAD REALTY TRUST under Declaration of Trust dated September 16, 1995, recorded with Nantucket Deeds in Book 482, Page 327, in consideration of the approval by the Nantucket Planning Board of a definitive plan of a subdivision of land, prepared by Blackwell & Associates, Inc., dated January 28, 1997, of land located on Bartlett Road, Nantucket, Massachusetts, and showing forty-two building lots and a new roadway called Essex Road, recorded with Nantucket Deeds in Plan File 51-6, acting pursuant to Section 5.02 of that certain Declaration of Restrictions and Easements dated August 15, 1997, recorded herewith at Nantucket Registry of Deeds in Book 555, Page 220, hereby grants to the Town of Nantucket, acting by and through its Planning Board, the right to enforce all of the Restrictions under Sections 3.02, 3.04, 3.06, 3.07, 3.08, and 3.09, only, as set forth therein.

Executed and sealed as of August 15, 1997.

  
 D. Eric McKechnie, as Trustee  
 of 22 Bartlett Road Realty  
 Trust as aforesaid

  
 Duncan F. Winter, as Trustee  
 of 22 Bartlett Road Realty  
 Trust as aforesaid

(r) Land uses that result in rendering impervious more than fifteen per cent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in the degradation of ground water quality.

3.08. Driveway Access Restrictions. Lot 1 is hereby restricted against using Bartlett Road as a means of vehicular access to said Lot. No driveways shall be placed upon Lot 1 entering directly from Bartlett Road. Driveways on any Building Lot upon which a Driveway Easement Area is located shall be constructed within the Driveway Easement Area.

3.09. Buffer Strip Restriction. No structures shall be built upon that portion of Lot 1 designated as "20' Buffer Strip and Bikepath Easement" upon the Plan.

ARTICLE FOUR  
Easements

4.01. Roadway Easement. The Owner of each Lot, and the Association, shall have a permanent easement to use the Roadway for all purposes for which streets are customarily used in Nantucket, including passage and repassage by foot, in vehicles, or otherwise; installation, maintenance, repair, use and replacement of underground Utility Lines and services; and improvements for such purposes.

4.02. Utility and Drainage Easement. The Developer and the Association shall have a permanent easement in the "10' Utility & Drainage Easement" as shown upon the Plan for the purpose of constructing, installing and maintaining Utility Lines,

landscaping, and to construct, repair and maintain drainage structures therein in conformity with the accompanying plans and materials filed with the Planning Board in connection with the approval of the Plan. The Owner of each Lot shall have a permanent easement to use all Utility Lines which may be so installed.

4.03. Drain Easement. The Developer and the Association shall have a permanent easement to enter upon the area in Lot 44 shown upon the Plan as "Drainage Easement" and to construct, repair and maintain drainage structures therein in conformity with the accompanying plans and materials filed with the Planning Board in connection with the approval of the Plan.

4.04. Driveway Easements. The Owner of a Lot on which a portion of a Driveway Easement Area is located shall have a permanent easement, in common with the Owner of the adjacent Lot on which the same Driveway Easement Area is located to pass and repass by foot, by vehicles, or otherwise, and to install, maintain, and replace underground utility lines, upon or under the surface of the Driveway Easement Area, and to maintain repair and improve the surface thereof.

4.05. Footpath Easement. The Developer, the Association, the Owner of each Lot, and the Town shall have a permanent easement to use those portions of Lots 27 and 28 shown as "Footpath Easement 5 Feet Wide" for pedestrian access to the Roadway and to the way shown as "Green Meadow Dr." upon the Plan.

4.06. Slope Easement. The Developer and the Association shall have a permanent easement to enter upon those areas of Lots

22 and 44 shown as "Permanent Slope Easements" for the purpose of grading and maintaining the slope of the adjacent Roadway.

ARTICLE FIVE  
Enforcement of Restrictions

5.01. Restrictions in Gross. The Association shall have the right, to be held in gross and not as appurtenant to any real property interest, to enforce all of the Restrictions.

5.02. Restrictions Enforceable by Town. The Developer shall have the right to grant to the Town, acting by and through the Planning Board, the right to enforce any or all of the Restrictions. Such grant shall be in the form of a writing signed and acknowledged on behalf of the Developer and accepted in writing by the signatures of a majority of the members of the Planning Board, and recorded with Nantucket Registry District. Upon the recordation of such a grant with Nantucket Registry District, no provision hereof relating to any Restriction, the right of enforcement of which has been granted to the Town, may be amended without the written and recorded consent of a majority of the Planning Board.

5.03. Appurtenant Restrictions. Each Owner of a Lot shall have the right to enforce any Restriction, as appurtenant to such Lot, on or after the first date upon which the Developer or any successor Developer shall no longer own any of the Lots, upon any violation of any Restriction upon any of the Land, and each part of the Land shall be deemed to be benefited hereby.

5.04. Duration of Restrictions in Gross. The rights of enforcement of the Restrictions held in gross, except the rights

of enforcement assigned to the Town which shall be permanent, shall expire upon August 15, 2027, unless a notice of extension of restriction in accordance with Massachusetts General Laws, c. 184, §27, is registered with Nantucket Registry District on or before August 15, 2027, in which event the term for enforcement of such right shall be extended for a period of twenty years; and in the event of such extension, such right of enforcement may be extended for further successive periods of twenty years by the filing of further notices of extension, all as permitted by applicable law.

5.05. Duration of Appurtenant Restrictions. The Restrictions, as appurtenant to each Owner of a Lot, shall be deemed to be imposed as part of a common scheme applicable to four or more contiguous parcels, and shall expire on August 15, 2027, except that they may be extended from and after August 15, 2027, for further successive periods of twenty years in the manner provided by Massachusetts General Laws, c.184, §27.

5.06. Form of Notice of Extension of Restrictions. Any notice of extension of the Restrictions to be filed for record hereunder shall (a) be signed by a person or persons then entitled of record to the benefit of the Restrictions and shall contain a description of their benefited land, if any, (b) shall describe the Land, (c) shall name one or more of the persons appearing of record to own each portion of the Land at the time, and (d) shall refer to this instrument and its place of recording in the public records.

5.07. Enforcement by Judicial Proceedings. Any party entitled to enforce any of the Restrictions shall have the right to enforce the same by securing injunctive relief from a court of competent jurisdiction and shall have the right to recover money damages by reason of any violation of any of the Restrictions.

5.08. Restrictions to Run with Land. Upon the registration of this instrument with Nantucket Registry District of the Land Court, the Restrictions and all other provisions of this instrument shall run with and bind the Land and every portion thereof.

5.09. Release or Waiver of Restrictions. The Developer, so long as the Developer (including any successor Developer) shall own any Lot, and thereafter the Association, shall have the right to release, waive or modify any restriction hereunder, except those restrictions the right of enforcement of which has been granted to the Town of Nantucket, acting by and through its Planning Board as set forth in Paragraph 5.02 hereof.

ARTICLE SIX  
Liens and Assessments

6.01. Assessments and Charges. Each Owner of a Building Lot, by accepting a deed therefor, whether or not the same shall be expressed in such deed, shall be deemed to covenant to pay to the Association annual assessments or charges, and special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof (including

attorneys' fees) as hereinafter provided, shall be a charge on each Building Lot and shall be a continuing lien upon the Building Lot against which each such assessment is made. Each assessment, together with such interest and costs, shall also be a personal obligation of each Owner of the Building Lot against which such assessment is made at the time when the same falls due.

6.02. Purposes of Assessments. All assessments shall be collected and held by the Association and shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners, occupants and visitors to any of the Land, and in particular for the improvement, repair and maintenance of the Roadway and the Utility Lines, including but not limited to the payment of liability insurance premiums, maintenance of roads, paths, Utility Lines, equipment, drainage structures, landscaping, the costs of labor, equipment, materials, management and supervision thereof, and enforcement of the Restrictions.

6.03. Amount and Time of Payment of Assessments. The amount of each assessment and the time at which the same shall be payable shall be determined by the Association in accordance with its governing documents. Each Building Lot shall be assessed equally for each assessment, except for matters particularly for work done to serve a specific Building Lot or Building Lots.

6.04. Assessment for Enforcement of Restrictions. In the event that the Association shall enforce any of the Restrictions against the Owner of any Lot, the cost of such enforcement shall

be assessed to the Owner of the Lot in question and shall be added to and become a part of the assessments and charges against such Lot hereunder.

6.05. Certification of No Lien. The Association shall, upon demand at any time, furnish to any Owner of a Lot a certificate, in form suitable for recording, signed by a Trustee of the Association, setting forth the amount and due date of all assessments upon such Lot, and whether the same have been paid. The signature thereof by such Trustee shall be conclusive evidence of his authority to make such certificate on behalf of the Association, and such certificate shall be conclusive evidence of the matters therein stated, except to the extent that the Owner of such Lot disputes the amount of any assessment therein stated to be unpaid.

6.06. Effect of Nonpayment of Assessments. If any assessment is not paid when due, the same shall be deemed delinquent and shall, together with interest and costs as herein provided, be a continuing lien upon the Lot upon which the same was assessed, and shall run with such Lot and bind it in the hands of its Owner at the time of such assessment and the successors in title to such Owner. The Association shall have the right to proceed to enforce such lien by the sale of the Lot in question, such sale to be conducted in the same manner provided by Massachusetts law for a sale to enforce a mechanic's lien under a written contract. If any assessment is not paid within thirty days after it shall become due, it shall bear interest from the date when due at the rate of fifteen per cent

(15%) per annum. In the event of any proceeding to enforce a lien hereunder, the Association shall be entitled to collect as a part thereof its reasonable costs of collection, including attorneys' fees.

ARTICLE SEVEN  
General

7.01. Amendment. This instrument may from time to time be amended by written instrument executed and acknowledged by the Developer, so long as the Developer (including any successor Developer) shall own any of the Lots, and thereafter by Owners of a majority of the Lots; and any such amendment shall be effective when the same is recorded with Nantucket Registry of Deeds. However, (a) no amendment, the effect of which will be more onerous upon the use of any Lot, shall be effective without the consent of the Owner of such Lot, and (b) no Restriction, the right of enforcement of which has been granted to the Town, shall be amended without the prior written consent of a majority of the Planning Board. Any such consent shall be attached to the instrument of amendment at the time of its recording.

7.02. Notices. All notices hereunder shall be effective only when mailed by certified mail, return receipt requested, addressed (if to the Association) to Essex Homeowners Association Trust, 76 North Liberty Street, Nantucket, Massachusetts 02554, or such other address as the Association may, from time to time, designate by notice to each Owner, or addressed (if to an Owner) to such Owner at the street address of any Lot owned by such

Owner, or such other address as such Owner may, from time to time, designate by notice to the Association.

7.03. Severability. Invalidation of any provision hereof by judicial determination shall not affect the remaining provisions, which shall remain in full force and effect.

7.04. Construction of Instrument. This instrument shall be construed under the laws of Massachusetts. References or language herein contained, relating to any gender, shall refer also to other genders as appropriate.

The undersigned, by virtue of their execution hereof, hereby certify that : (a) they are the sole Trustees of 22 Bartlett Road Realty Trust; (b) said Trust has not been altered, amended, revoked, or terminated; (c) no beneficiary of said Trust is a minor or under any incapacity; and (d) that they have been authorized and directed by all of the beneficiaries of said Trust to execute and acknowledge the foregoing Declaration of Restrictions and Easements.

Executed and sealed as of August 15, 1997.

D. Eric McKechnie  
D. Eric McKechnie, as Trustee  
of 22 Bartlett Road Realty  
Trust as aforesaid

Duncan R. Winter  
Duncan R. Winter, as Trustee  
of 22 Bartlett Road Realty  
Trust as aforesaid

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

August 15, 1997

Then personally appeared the above-named D. Eric McKechnie and acknowledged the foregoing instrument to be his free act and deed, before me,

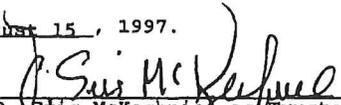
Marianne Farley  
Notary Public

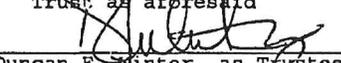
Printed name: Marianne Farley  
My commission expires: November 8, 2002

GRANT OF RIGHT OF ENFORCEMENT OF RESTRICTIONS

We, D. ERIC MCKECHNIE and DUNCAN F. WINTER, as Trustees of 22 BARTLETT ROAD REALTY TRUST under Declaration of Trust dated September 16, 1995, recorded with Nantucket Deeds in Book 482, Page 327, in consideration of the approval by the Nantucket Planning Board of a definitive plan of a subdivision of land, prepared by Blackwell & Associates, Inc., dated January 28, 1997, of land located on Bartlett Road, Nantucket, Massachusetts, and showing forty-two building lots and a new roadway called Essex Road, recorded with Nantucket Deeds in Plan File 51-6, acting pursuant to Section 5.02 of that certain Declaration of Restrictions and Easements dated August 15, 1997, recorded herewith at Nantucket Registry of Deeds in Book 555, Page 220, hereby grants to the Town of Nantucket, acting by and through its Planning Board, the right to enforce all of the Restrictions under Sections 3.02, 3.04, 3.06, 3.07, 3.08, and 3.09, only, as set forth therein.

Executed and sealed as of August 15, 1997.

  
 D. Eric McKechnie, as Trustee  
 of 22 Bartlett Road Realty  
 Trust as aforesaid

  
 Duncan F. Winter, as Trustee  
 of 22 Bartlett Road Realty  
 Trust as aforesaid

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

August 15, 1997

Then personally appeared the above-named D. Eric McKechnie and acknowledged the foregoing instrument to be his free act and deed, before me,

Marlene Hawley  
Notary Public

Printed name: Marlene Hawley  
My commission expires: November 8, 1997

**DEED**

We, D. ERIC McKECHNIE and DUNCAN F. WINTER, Trustees of **22 BARTLETT ROAD REALTY TRUST** under Declaration of Trust dated September 16, 1985, recorded with Nantucket Deeds in Book 482, Page 327, as affected by Amendment of Trust dated May 1, 1998, recorded with Nantucket Deeds in Book 577, Page 31, c/o 76 North Liberty Street, Nantucket, Massachusetts 02554, for consideration paid in the amount of \$115,000.00, grant to **LESLIE B. JOHNSON**, of Post Office Box 1412, Nantucket, Massachusetts 02554, with QUITCLAIM COVENANTS,

That certain parcel of land, located in Nantucket, Nantucket County, Massachusetts, now known and numbered as **10 Essex Road**, bounded and described as follows:

- WESTERLY by Lot 43 on plan hereinafter mentioned, forty-five and 25/100 (45.25) feet;
- SOUTHERLY by Lot 39 on said plan, one hundred ninety-eight and 43/100 (198.43) feet;
- EASTERLY by land now or formerly of H. Flint Ranney & Charron P. Ranney, forty-six and 49/100 (46.49) feet, and
- NORTHERLY by Lot 41 on said plan, two hundred thirteen and 99/100 (213.99) feet.

Said land is shown as **Lot 40** on plan recorded with Nantucket Deeds in Plan File 51-G, and contains 9,314± square feet, more or less, according to said plan.

There is expressly excluded from this conveyance the fee and soil in Essex Road, as shown upon said plan.

Said land is conveyed **subject to the following matters:**

- (a) A Statement of Conditions of Subdivision Approval recorded with Nantucket Deeds in Book 555, Page 189.
- (b) A Declaration of Restrictions and Easements recorded with Nantucket Deeds in Book 555, Page 220 as affected by a Grant of Right of Enforcement of Restriction, recorded with Nantucket Deeds in Book 555, Page 236.
- (c) A Road Maintenance and Endowment Agreement recorded with Nantucket Deeds in Book 555, Page 239.
- (d) An Instrument of Trust of Essex Homeowners Association Trust dated August 15, 1997, recorded with Nantucket Deeds in Book 555, Page 198.
- (e) A Covenant to the Nantucket Planning Board, recorded with Nantucket Deeds in Book 555, Page 184, as affected by that certain Form J Release dated July 27, 1998, recorded in Book 587, Page 46.
- (f) A Grant of Easement to the Town of Nantucket, recorded with Nantucket Deeds in Book 555, Page 250.

(g) A Grant of Easement to Nantucket Electric Company, recorded with Nantucket Deeds in Book 555, Page 244.

(h) Grant of Right of Enforcement of Restrictions dated September 18, 1995, recorded with Nantucket Deeds in Book 482, Page 323, as affected by an Amendment of Restriction recorded with Nantucket Deeds in Book 555, Page 179.

(i) Real estate taxes assessed by the Town of Nantucket for fiscal year 1999.

(j) Easement Agreement dated March 25, 1996, recorded with Nantucket Deeds in Book 519, Page 328, as affected by Amendment to Easement Agreement, recorded with Nantucket Deeds in Book 579, Page 40.

(k) Easement to New England Telephone and Telegraph Company, dated May 11, 1998, recorded with Nantucket Deeds in Book 577, Page 32.

(l) A restriction hereby imposed upon said Lot 40 for the benefit of grantor's other land, that the commercial uses upon said Lot 40 shall be restricted to wholesale storage of ice cream products. The right of enforcement of this restriction is hereby granted to D. Eric McKechnie and Duncan F. Winter, Trustees of the Essex Road Homeowners Association under Instrument of Trust dated August 15, 1997, recorded with Nantucket Deeds in Book 555, Page 198, (the "Association"), and said restriction may be amended, modified or waived by the Association upon a finding by the Association that such amendment, modification or waiver shall not result in a commercial use upon said Lot which is substantially more detrimental to the neighborhood than the existing commercial use upon said Lot.

(m) The provisions of §139-12B, which prohibit the following uses upon said Lot 40:

(a) All uses prohibited in the underlying district.

(b) The manufacture, use, pipeline transport, storage, disposal or treatment of hazardous or toxic materials, except as noted in By-law Section 139-12.B(1)(b), (c), (d) and (e).

(c) Sanitary landfills, dumps, junkyards or disposal or landfilling of solid waste, sludge, sewage or septage.

(d) Animal feedlots and manure storage.

(e) Washing, painting, repair or other servicing of motorized vehicles in garages or in the open.

(f) On-site disposal of wastewater exceeding two thousand gallons (2,000) gallons per day.

(g) Road salt storage.

(h) Truck or bus terminals.

(i) Public or private sewage treatment facilities in excess of two thousand (2,000) gallons per day.

(j) Commercial servicing, repair or construction of boats or boat motors.

(k) Dry cleaning establishments.

(l) Coin or commercial laundries which rely on on-site septic systems.

(m) Chemical and bacteriological laboratories.

(n) Salvage yards.

(o) Leather tanning and finishing.

(p) Stockpiling and disposal of snow or ice which contains de-icing materials.

(q) New underground fuel storage tanks with the exception of propane.  
(r) Land uses that result in rendering impervious more than fifteen per cent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in the degradation of ground water quality.

(n) A Grant of Easement recorded with Nantucket Deeds in Book 550, Page 256.

Pursuant to the provisions of Nantucket Zoning By-law §139-24 A.(2), the grantor hereby designates the year 2004 as the earliest calendar year in which a building permit may be issued for the premises.

For title, see deed recorded with Nantucket Deeds in Book 482, Page 335.

The undersigned, by virtue of their execution hereof, hereby certify that : (a) they are the sole Trustees of 22 Bartlett Road Realty Trust; (b) said Trust has not been altered, amended, revoked, or terminated; (c) no beneficiary of said Trust is a minor or under any incapacity; and (d) that they have been authorized and directed by all of the beneficiaries of said Trust to execute, acknowledge, and deliver the within deed to Leslie B. Johnson.

Executed and sealed on September 14, 1998.

For authority of one Trustee to sign, see Amendment to Trust, dated May 1, 1998 recorded at Book 577, Page 31.

*D. Eric McKechnie*  
D. Eric McKechnie, Trustee as aforesaid

Duncan F. Winter, Trustee as aforesaid

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

September 14, 1998

Then personally appeared the above-named D. Eric McKechnie, and acknowledged the foregoing instrument to be his free act and deed, before me,

*Marianne Parley*  
Notary Public

Printed name:  
My commission expires:

SECRET LAND MASS. CERTIFICATE  
X \$ 8,300.00  
17453 9/28/98  
Excise Tax

DEEDS REG. NANTUCKET  
1997-1998  
Cancelled  
EXCISE TAX

SEP 28 1998  
NANTUCKET COUNTY  
REC'D ENTERED

2:17 PM  
SANDRA M CHADWICK  
ATTEST REGISTER

End of Instrument

DEED

LESLIE B. JOHNSON, of Post Office Box 1412, Nantucket, Massachusetts 02554, for consideration paid in the amount of \$285,000.00 grant to AUDREY STERK, of Post Office Box 3251, Nantucket, Massachusetts 02584, with QUITCLAIM COVENANTS,

That certain parcel of vacant land, located in Nantucket, Nantucket County, Massachusetts, now known and numbered as 10 Essex Road, bounded and described as follows:

- WESTERLY by Lot 43 on plan hereinafter mentioned, forty-five and 25/100 (45.25) feet;
- SOUTHERLY by Lot 39 on said plan, one hundred ninety-eight (198.43) feet;
- EASTERLY by land now or formerly of H. Flint Ranney & Charron P. Ranney, forty-six and 49/100 (46.49) feet, and
- NORTHERLY by Lot 41 on said plan, two hundred thirteen and 99/100 (213.99) feet.

Said land is shown as Lot 40 on plan recorded with Nantucket Deeds in Plan File 51-G.

There is expressly excluded from this conveyance the fee and soil in Essex Road, as shown upon said plan.

Said land is conveyed subject to the following matter of record:

- (a) Real estate taxes for fiscal years 2004 and 2005.
- (b) Matters set forth on Deed recorded with Nantucket Deeds in Book 594, Page 42.

Pursuant to the provisions of Nantucket Zoning By-law §139-24 A.(2) 2004 has been designated as the earliest calendar year in which a building permit may be issued for the Premises.

For title, see Deed recorded with Nantucket Deeds in Book 594, Page 42.

Executed and sealed on MAY 13, 2004

Leslie B. Johnson  
Leslie B. Johnson

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss

MAY 13, 2004

Then personally appeared the above named Leslie B. Johnson, and acknowledged the foregoing instrument to be her free act and deed before me,

Patricia A. Halsted  
Notary Public

Printed Name: PATRICIA A. HALSTED  
My commission expires: 1/27/04

NANTUCKET LAND BANK CERTIFICATE	
<input checked="" type="checkbox"/> Paid \$	<u>1,700.00</u>
<input checked="" type="checkbox"/> Exempt	<u>M</u>
<input type="checkbox"/> Non-applicable	
No.	<u>24352</u>
Date	<u>5/14/04</u>
Authorization	<u>Chattel</u>

NANTUCKET  
REG DEEDS 16  
NANTUCKET

Cancelled  
05/14/04 12:39PM 01  
000000 #5110

Nantucket County Received & Entered  
Date: MAY 14 2004 Time: 1:25pm  
Attest: Jeanne J. Kelley Register of Deeds

FEE \$1299.60  
CASH \$1299.60

End of  
Instrument

Certificate No: OP-2008-0350

Building Permit No.: BP-2005-0207

**Commonwealth of Massachusetts**

**Town of Nantucket**

Building Electrical Mechanical Permits

This is to Certify that the MIXED USE located at  
Dwelling Type

10 ESSEX RD  
Address

in the

TOWN OF NANTUCKET  
Town/City Name

**IS HEREBY GRANTED A PERMANENT CERTIFICATE OF OCCUPANCY**

Mixed use private building 5B construction use groups R-3 & B  
3 Bedrooms 3 bathrooms CO for permit 395-05 M/P 67-639

This permit is granted in conformity with the Statutes and ordinances relating thereto, and expires \_\_\_\_\_ unless sooner suspended or revoked.  
Expiration Date

Issued On: Wed Aug 13, 2008

GeoTMS® 2008 Des Lauriers Municipal Solutions, Inc.

*Bernard Baillif*

MASSACHUSETTS  
NANTUCKET Map 67 Parcel 639

**PARTMENT**

Building Inspector FEE \$ 2003.50

May 6 20 05

**PERMIT**

10 Essex Road HAS

5 Bedrooms 3 Bathrooms 3 Bedrooms PROVIDED THAT

FORM TO THE TERMS OF THE APPLICATION ON THE PROVISIONS OF THE STATUTES AND THE MAINTENANCE AND INSPECTION OF BUILDINGS UNDER ITS STATE BUILDING CODE 780 CMR.

ON RETURN OF THIS PERMIT ONLY AFTER ALL CONDITIONS STATED BY THE APPROPRIATE INSPECTOR.

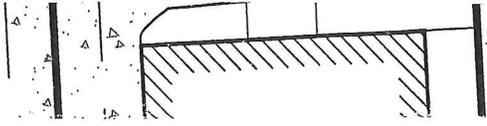
FROM THE DATE OF ISSUE IF THE WORK IS NOT BEING CONTINUOUSLY TO COMPLETION AS

SPICUOUS PLACE ON THE PREMISES.

*Bernard Baillif*  
BUILDING INSPECTOR

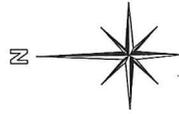
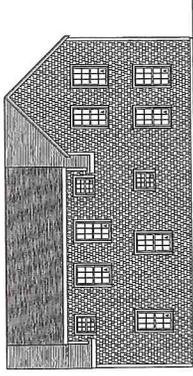
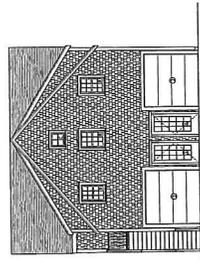
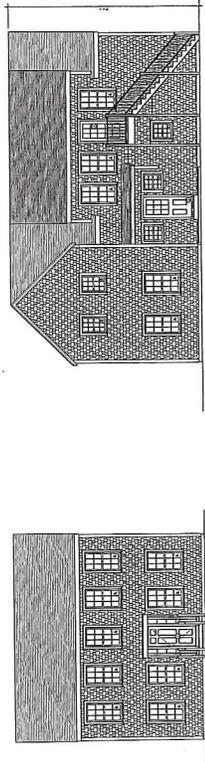
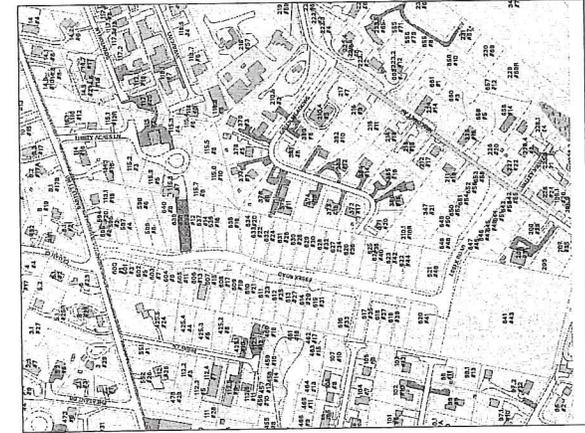
ON: RC

& DRAIN  
MENT  
4 of 59

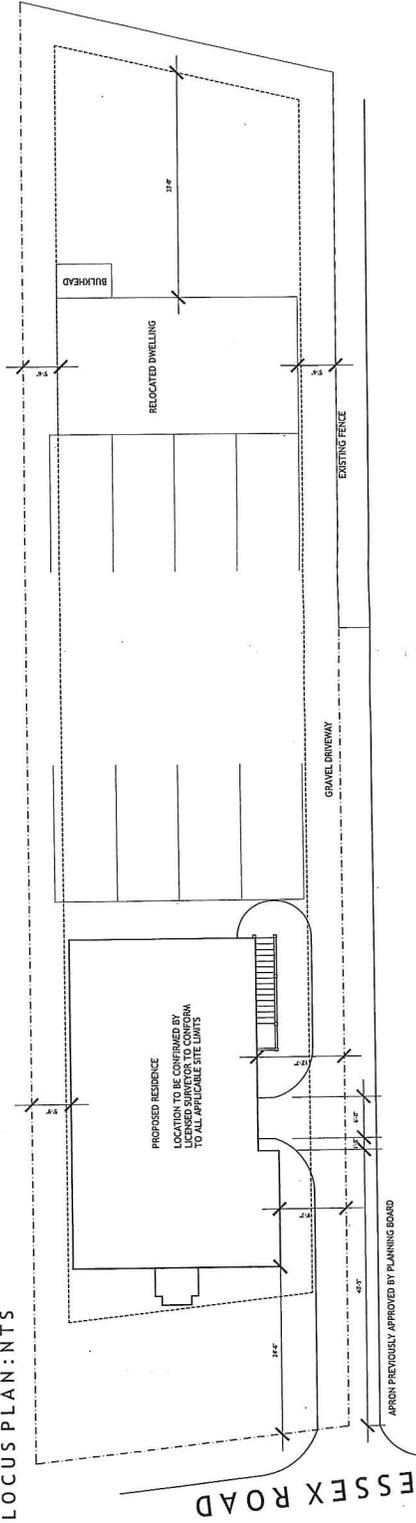


RD.  
CERTIFICAT  
E PROPER  
ERTIES AF  
SENSOR RI  
7. . . , P  
6-20-08.d

# Sterk Residence



LOCUS PLAN: NTS



APP - 8 2005

**SHEET LIST**

- C1.1 COVER: LOCUS / SITE / ELEVATIONS @ 1/8" = 1'-0"
- A1.1 ELEVATIONS
- A2.0 BASEMENT PLAN & DOOR & WINDOW SCHEDULE
- A2.1 FIRST & SECOND FLOOR PLANS

SITE PLAN: 1/16" = 1'-0"

PELLINGER  
PELLINGER  
CUTONE  
ARCHITECTURE

100 MAIN STREET  
NANTUCKET, MA 02554  
P 508 221 2722  
F 508 374 6898

**Sterk Residence**  
Nantucket, MA

HDC Revisions

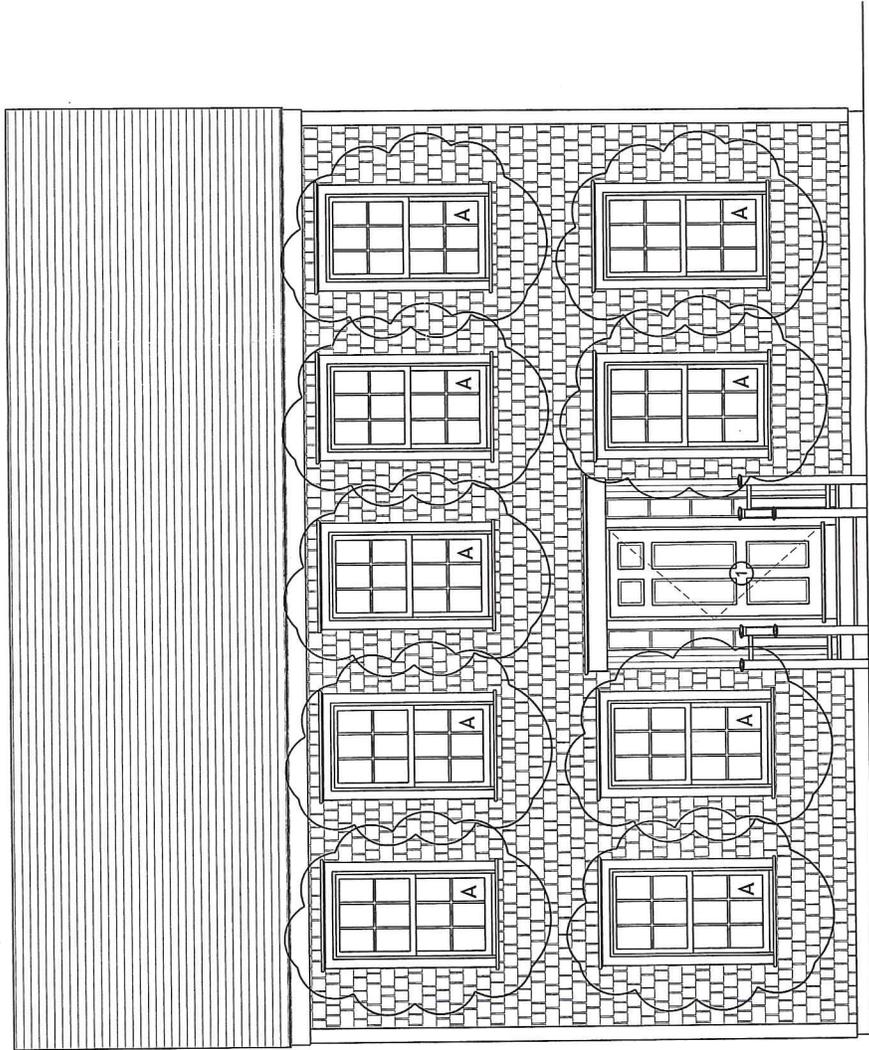
Cover

C1.1  
12.APR.05

APPROVED

APR 19 10 30 07

BY SA. ERICUS CHANGES  
WITHOUT H.D.C. APPROVA



27'-8" +/-  
GRADE TO RIDGE

8'-0"  
PLATE HEIGHT

6'-11"  
WINDOW HEADER

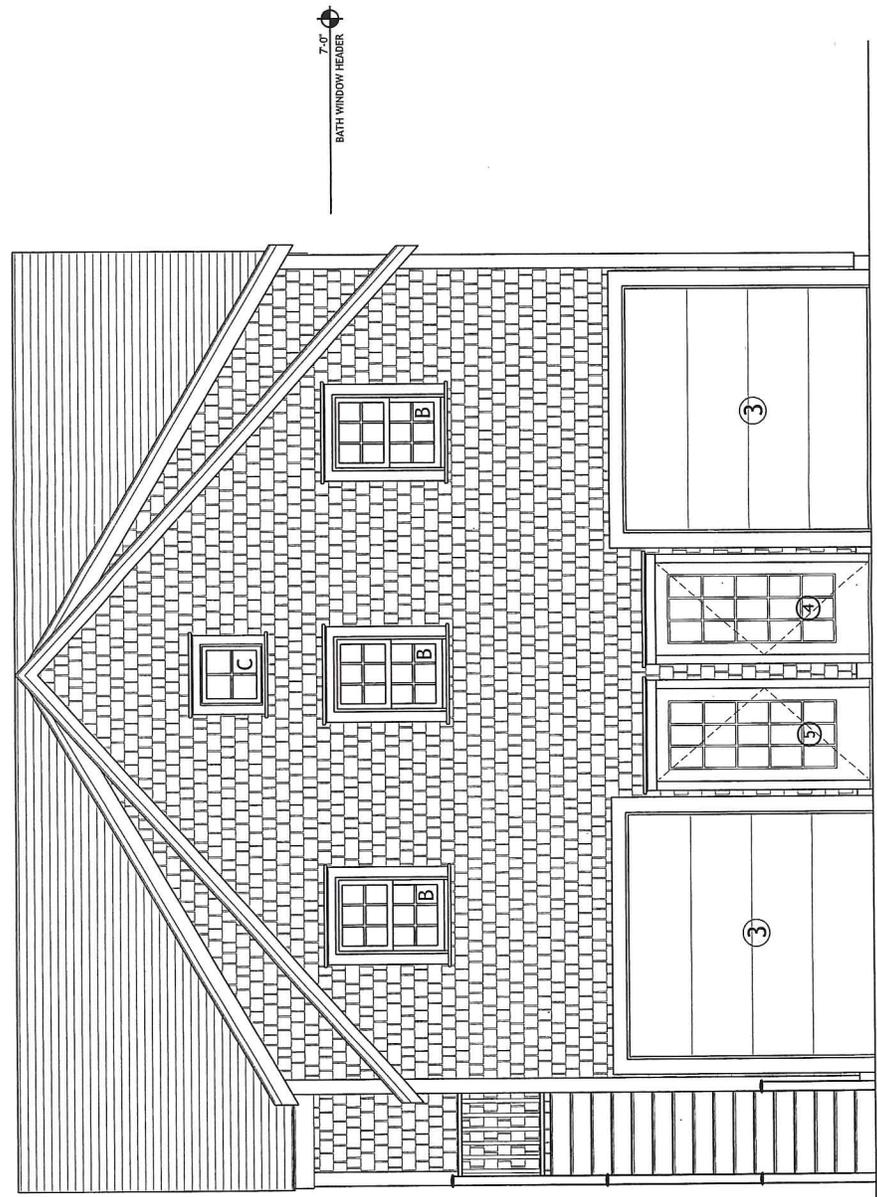
0'-0"  
SECOND FLOOR HEIGHT

8'-0"  
PLATE HEIGHT

6'-11"  
WINDOW HEADER

0'-0"  
FIRST FLOOR HEIGHT

1 WEST ELEVATION  
1/4" = 1'-0"



- 27'-8" - 1'-4" GRADE TO RIDGE
- 11'-3" GABLE WINDOW HEADER
- 8'-6" DORMER PLATE HEIGHT
- 6'-11" WINDOW HEADER  
4'-6" KNEE WALL HEIGHT
- 0'-0" SECOND FLOOR HEIGHT
- 9'-6" PLATE HEIGHT
- 8'-0" GARAGE DOOR HEADER
- 6'-11" DOOR HEADER
- 1'-8" FIRST FLOOR HEIGHT
- 8'-0" FLOOR SLAB HEIGHT

**APPROVED**

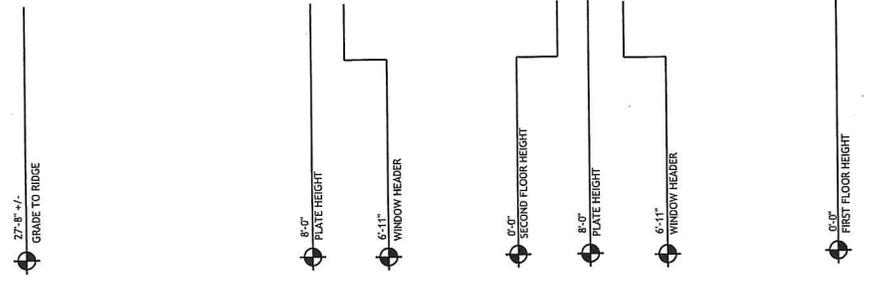
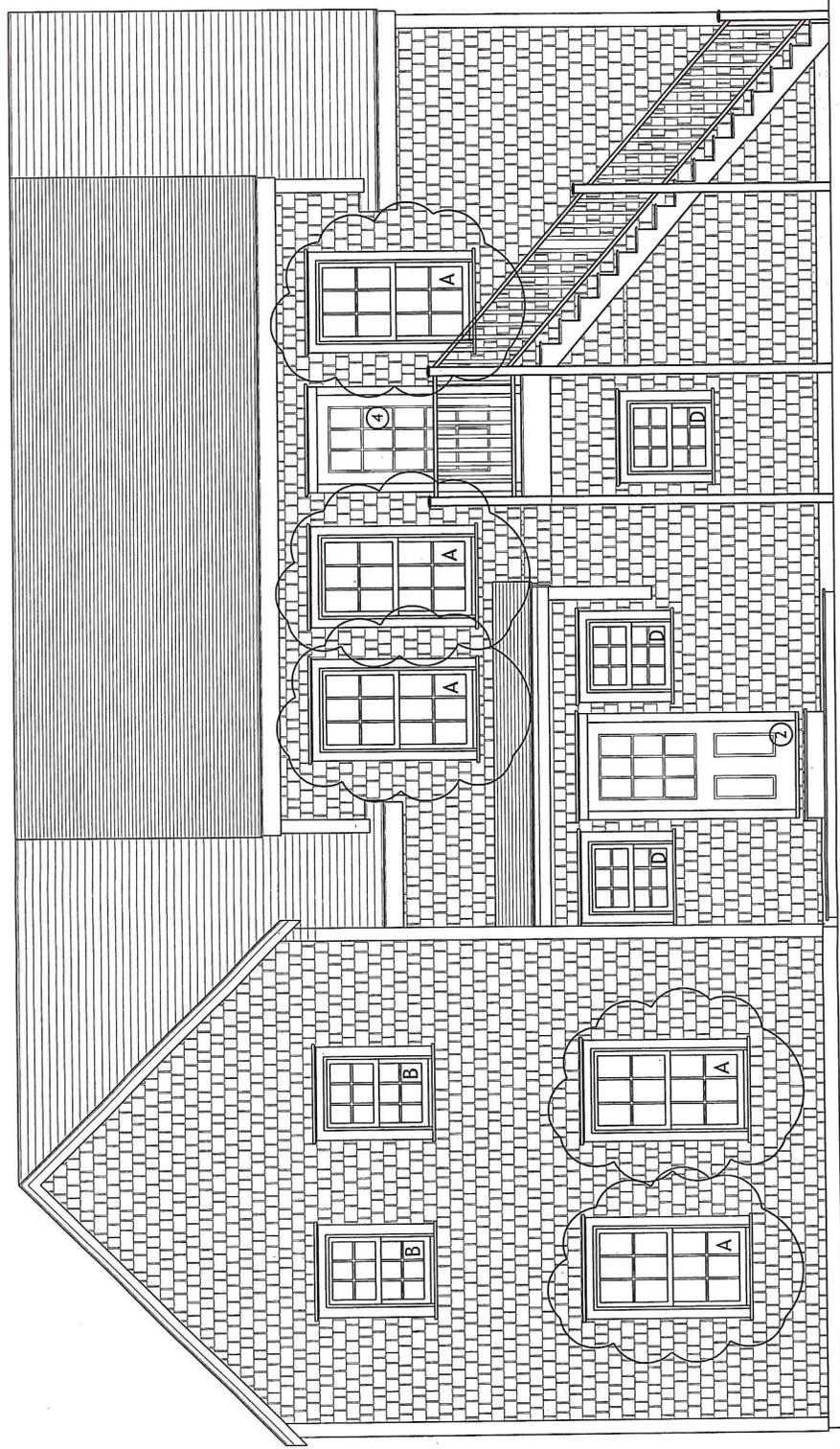
APR 19 10 10 7  
 CA. ERIC... CHANGES  
 WITHOUT H.D.C. APPROVA

2 EAST ELEVATION  
 1/4" = 1'-0"

APPROVED

APP. 9 7

NO CHANGES WITHOUT H.D.C. APPROVAL

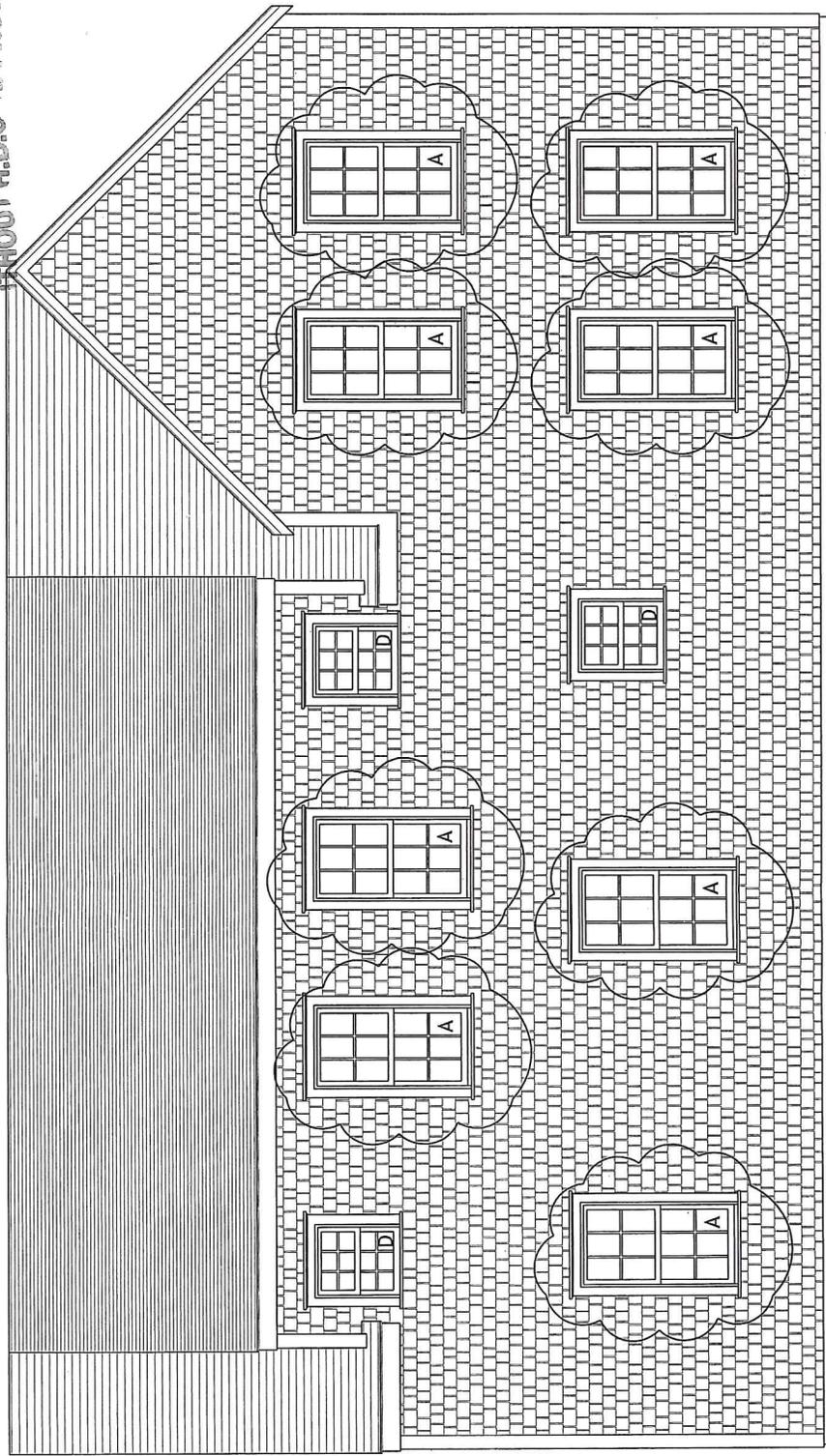


3 SOUTH ELEVATION  
1/4" = 1'-0"

APPROVED

APR 19 2017

CHANGES WITHOUT H.D.C. APPROVAL



27'-8" +/-  
GRADE TO RIDGE

8'-0"  
DORMER PLATE HEIGHT

6'-11"  
WINDOW HEADER

4'-5"  
KNEE WALL HEIGHT

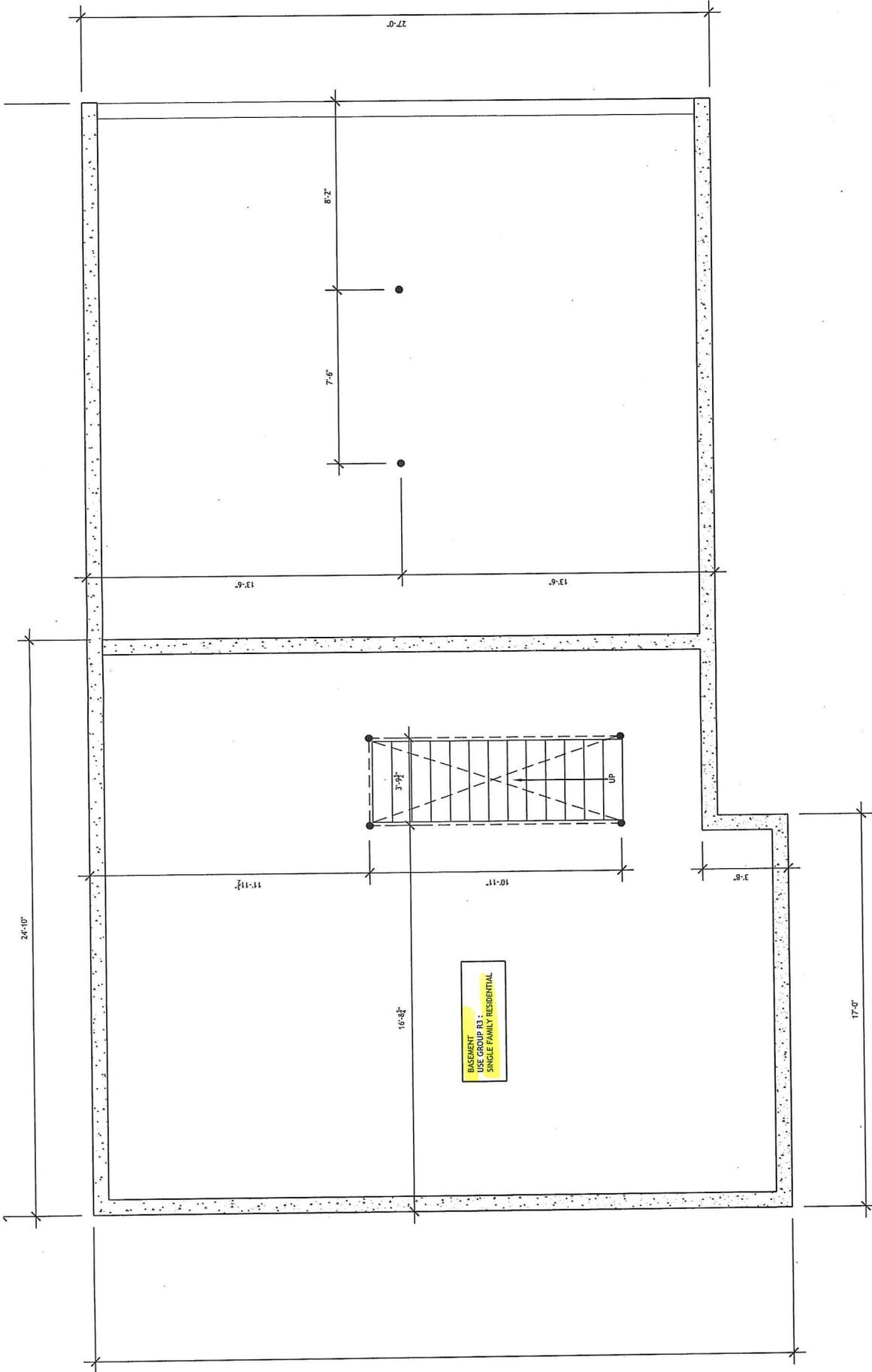
0'-9"  
SECOND FLOOR HEIGHT

8'-0"  
PLATE HEIGHT

8'-5"  
GARAGE WINDOW HEADER

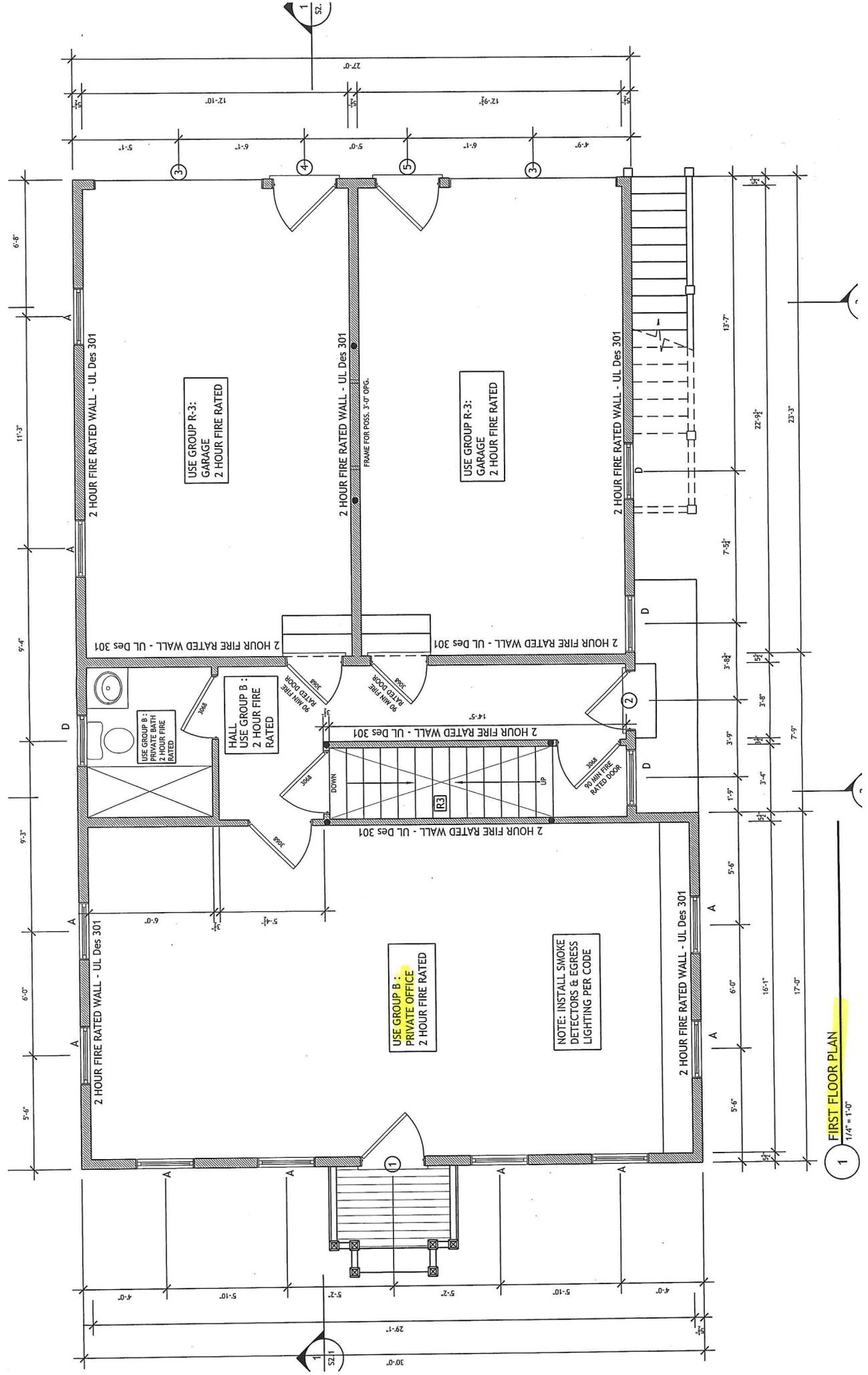
0'-0"  
FLOOR SLAB HEIGHT

4 NORTH ELEVATION  
1/4" = 1'-0"

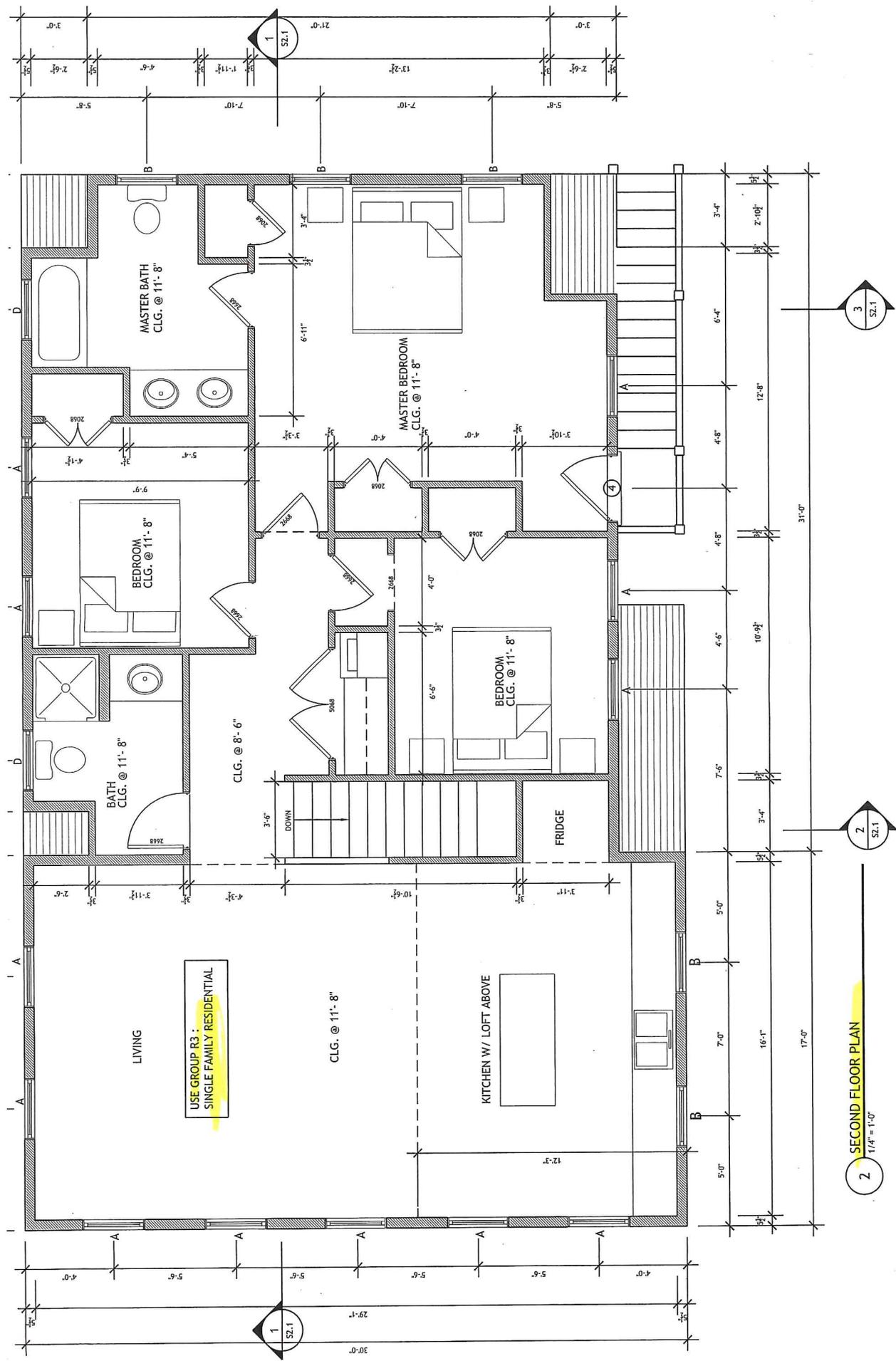


JD-02

1 BASEMENT PLAN  
1/4" = 1'-0"

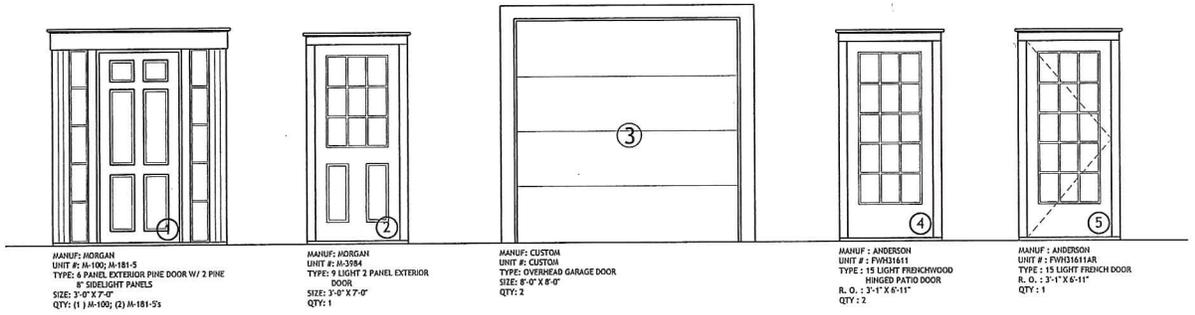


1 FIRST FLOOR PLAN  
1/4" = 1'-0"



USE GROUP R3 :  
SINGLE FAMILY RESIDENTIAL

2 SECOND FLOOR PLAN  
1/4" = 1'-0"



MANUF: HORGAN  
 UNIT #: M-100; M-181-5  
 TYPE: 6 PANEL EXTERIOR PINE DOOR W/ 2 PINE  
 8" SIDELIGHT PANELS  
 SIZE: 3'-0" X 7'-0"  
 QTY: (1) M-100; (2) M-181-5

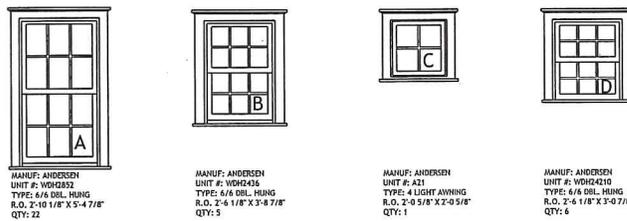
MANUF: HORGAN  
 UNIT #: M-3584  
 TYPE: 9 LIGHT 2 PANEL EXTERIOR  
 DOOR  
 SIZE: 3'-0" X 7'-0"  
 QTY: 1

MANUF: CUSTOM  
 UNIT #: CUSTOM  
 TYPE: OVERHEAD GARAGE DOOR  
 SIZE: 8'-0" X 8'-0"  
 QTY: 2

MANUF: ANDERSON  
 UNIT #: PWH31611  
 TYPE: 15 LIGHT FRENCHWOOD  
 HINGED PATIO DOOR  
 R. O.: 3'-1" X 6'-11"  
 QTY: 2

MANUF: ANDERSON  
 UNIT #: PWH31611AR  
 TYPE: 15 LIGHT FRENCH DOOR  
 R. O.: 3'-1" X 6'-11"  
 QTY: 1

**1 DOOR SCHEDULE**  
 1/4" = 1'-0"



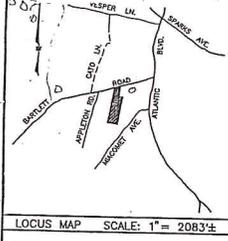
MANUF: ANDERSON  
 UNIT #: WDK2455  
 TYPE: 6/6 DBL HUNG  
 R.O.: 2'-10 1/8" X 3'-4 7/8"  
 QTY: 22

MANUF: ANDERSON  
 UNIT #: WDK2455  
 TYPE: 6/6 DBL HUNG  
 R.O.: 2'-6 1/8" X 3'-8 7/8"  
 QTY: 5

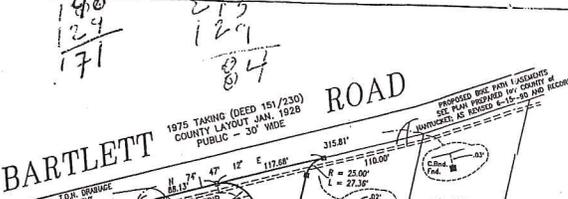
MANUF: ANDERSON  
 UNIT #: A21  
 TYPE: 4 LIGHT AWNING  
 R.O.: 2'-0 5/8" X 2'-9 5/8"  
 QTY: 1

MANUF: ANDERSON  
 UNIT #: WDK2410  
 TYPE: 6/6 DBL HUNG  
 R.O.: 2'-6 1/8" X 3'-0 7/8"  
 QTY: 6

**2 WINDOW SCHEDULE**  
 1/4" = 1'-0"



NO DISTURB BUFFER:  
VEGETATION WITHIN THE 20 FOOT BUFFER STRIP SHALL BE REQUIRED TO REMAIN IN ITS NATURAL STATE, WITH THE EXCEPTION OF PRUNING AND TRIMMING OF DEAD MATERIAL, MAINTENANCE CUTTING IN ACCORDANCE TO THE CODING OF THE FOREST SHALL BE EXCLUDED FROM THIS REQUIREMENT.  
PHYSICAL ACCESS TO LOT ONE SHALL BE FROM ESSEX ROAD ONLY AND NOT THROUGH AND PORTION OF THE 20' BUFFER STRIP.



NANTUCKET REGISTRY OF DEEDS  
Date: Dec. 3, 1997  
Time: 9:29 AM  
Plan Bk.: Pg.  
Plan File: 51-G  
Amber McKechnie  
Registrar  
RESERVED FOR REGISTRY USE

CURRENT ZONING CLASSIFICATION:  
Residential Commercial (RC-2)  
MINIMUM LOT SIZE: 5000 S.F.  
MINIMUM FRONTAGE: 40 FT.  
FRONT YARD SETBACK: 20 FT.  
REAR/SIDE SETBACK: 5 FT.  
GROUND COVER %: 50%



DATE: Sep 19, 1998  
REBECCA J. LOHMAN, CLERK OF THE TOWN OF NANTUCKET, HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO NOTICE OF APPEAL WAS RECEIVED DURING THE THIRTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.  
Heleen J. Cohen  
TOWN CLERK

THE PLANNING BOARD DETERMINES THAT:

(b) LOT(S) 1-44 DO NOT CONTAIN AREAS SUBJECT TO PROTECTION UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT WHICH ARE REQUIRED TO BE EXCLUDED FROM LOT AREA UNDER THE NANTUCKET ZONING BY-LAW BUT STILL MAY BE SUBJECT TO PROTECTION UNDER STATE AND LOCAL WETLAND BY-LAWS. DETERMINATION OF APPLICABILITY MAY BE OBTAINED THROUGH APPLICATION TO THE CONSERVATION COMMISSION.

LEGEND

- DENOTES CONCRETE BOUND TO BE SET.
- DENOTES CONCRETE BOUND FOUND.
- DENOTES STEEL SURVEY MARKER FOUND.
- DENOTES TYPICAL 10' WIDE DRIVEWAY EASEMENT.

Nantucket Planning Board  
APPROVAL UNDER THE  
SUBDIVISION CONTROL LAW

REQUIRED  
*Amber McKechnie*  
*Robert J. Winter*  
*Paul Barron*

DATE APPROVED: June 23, 1997  
DATE ENDORSED: 9/19/97  
PLANNING BD. FILE No. 6158



I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.  
*Amy S. Blackwell*  
PROFESSIONAL LAND SURVEYOR 7-80-97  
DATE

Definitive Subdivision Plan  
of Land  
Nantucket, Mass.

Prepared for:  
22 BARTLETT ROAD REALTY TRUST  
D. ERIC McKECHNIE, DUNCAN F. WINTER  
TRUSTEES  
Scale: 1" = 60' JANUARY 28, 1997  
BLACKWELL AND ASSOCIATES, Inc.  
Professional Land Surveyors  
6 YOUNG'S WAY  
NANTUCKET, MASS. 02554  
(508) 228-8026  
GRAPHIC SCALE



ASSESSOR MAP 67, PARCEL 113 DEED REFERENCE: 482/335

B-4509

FORM J  
CERTIFICATE OF COMPLETION  
AND  
RELEASE OF MUNICIPAL INTEREST IN  
SUBDIVISION PERFORMANCE SECURITY

July 27, 1998

Planning Board, Nantucket, Massachusetts

Subdivision Name: Ernestina Way II Subdivision  
Owner: D. Eric McKechnie and Duncan F. Winter, Trustees of 22 Bartlett Road Realty Trust  
Owner's Address: 76 North Liberty Street, Nantucket, Massachusetts  
Applicant, if other than owner: n/a  
Applicant's Address: n/a  
Date of Subdivision Plan: January 28, 1997  
Planning Board File No.: 6158  
Land Located: Essex Road, Nantucket, Massachusetts

Plan Recorded: Nantucket Registry of Deeds  
or Plan Book 51-G, Page  
Plan Registered: Nantucket Land Registry, Land Court  
Plan No.         

Type of Performance Security:

- ( ) Covenant, dated: August 15, 1997  
Covenant recorded: Nantucket Registry of Deeds, Book 555, Page 184  
or  
Covenant registered: Nantucket Land Registry District as  
Document No.          and noted on Certificate of Title  
No.          in Registration Book         , Page         .
- ( ) Bond, Agreement dated:           
Surety Company:           
Address of Surety:
- ( ) Deposit of Money, agreement dated:           
Bank, if bank passbook:           
Address of Bank:
- ( ) Other Security, agreement dated:
- ( ) Letter of Credit, agreement dated:           
Bank:           
Address of Bank:

The undersigned, being a majority of the Planning Board of Nantucket have determined that the construction of ways and installation of municipal services in the subdivision referred to above have been ( ) completed ( ) partially completed by the applicant in accordance with the Board's rules and regulations to adequately serve the following enumerated lots: Lot 1, 6, 9, 11, 14, 23, 30, 31, 5, 27, and 40\*

Pursuant to Section 81.U of Chapter 41, M.G.L. and in consideration of said construction and installation, the Town of Nantucket, a Massachusetts corporation, acting through its Planning Board, hereby releases its interest in the Performance Security referred to above.

Duly executed as a sealed instrument this 27 day of July, 19 98

\*Pursuant to the Statement of Conditions of Subdivision Approval dated August 15, 1997, and recorded with Nantucket Deeds in Book 555, Page 189, each of the foregoing lots are eligible for the construction of secondary dwellings.

*[Handwritten signatures of Planning Board members]*

Signed by a Majority of the Planning Board of the Town of Nantucket

COMMONWEALTH OF MASSACHUSETTS

NANTUCKET, SS

July 28, 19 98

Then personally appeared C. Marsu one of the above-named members of the Planning Board of Nantucket, Massachusetts and acknowledged the foregoing instrument to be (his/her) free act and deed before me.

*[Signature of Notary Public]*  
Notary Public

My Commission Expires:

Duplicate copy to Planning Board.

A True Copy Attest  
ANDREW V. VORCE  
NOTARY PUBLIC  
My commission expires Feb. 11, 2005



JUL 29 1998  
NANTUCKET COUNTY  
REC'D ENTERED

9:26 AM  
SANDRA M CHADWICK  
ATTEST REGISTER

End of  
Instrument

## Holly Backus

---

**To:** Dr. Mary Russell  
**Cc:** Catherine Ancero; Eleanor Antonietti; Leslie Snell; Andrew Vorce  
**Subject:** RE: #7905-Audrey Sterk-10 Essex Rd

Good Morning Dr. Russell,

Thank you for your comments and concerns regarding the above referenced Planning Board matter. Your email will be included in the packet given to the Board members prior to the Planning Board hearing on January 11<sup>th</sup>. If you are on island, you are also welcome to attend this hearing during which there will be a chance for you and your neighbors to comment before the Board. The hearing is in the 1<sup>st</sup> floor Community Room of the Public Safety Building (Nantucket Police Station) located at 2 Fairgrounds Road and starts at 6:30pm.

Please let me know if you have any questions or if I can be of further assistance.  
Take care,

Holly E. Backus  
Land Use Specialist

Town of Nantucket  
Planning & Land Use Services  
2 Fairgrounds Road  
Nantucket, MA 02554

Tel: 508-325-7587 X 7026  
Fax: 508-228-7298  
[hbackus@nantucket-ma.gov](mailto:hbackus@nantucket-ma.gov)  
<http://www.nantucket-ma.gov>



---

**From:** Dr. Mary Russell [<mailto:drmaryrussell@yahoo.com>]  
**Sent:** Sunday, January 03, 2016 10:25 AM  
**To:** Holly Backus  
**Subject:** #7905-Audrey Sterk-10 Essex Rd

Dear Nantucket Planning Board- we have significant concerns related to the after effects of the proposed amended subdivision restrictions so that multiple dwelling units of varying types may be permitted on all lots within the subdivision. Ernestina Way II. There is already a problem of owners, renters and lodgers finding parking places. On Essex Road, the homeowner's association had placed barriers on the curbs adjoining the grassy areas. Overflow parking is taking place on Cedar Circle, a private road. We have personally been impacted and threatened by this as it creates a hostile situation when we approach these car owners asking them not to park there. This is compounded by a lack of English proficiency. They park on the grass blocking the sidewalk for children and adults on their way to the bus stop. This is a big problem at night when there is near-zero visibility. We have replaced our mailbox twice from cars backing up into our post. Our sidewalk is being degraded by these vehicles and we are unable to grow grass between the sidewalk and the road due to these cars parking. In this area of Nantucket, it is commonplace for two persons to live in each room; This is not just limited to bedrooms. Please be sure that there is ample parking provided at each unit on Essex Road. We would also appreciate complementary law enforcement when uninvited vehicles park on Cedar Circle. There is already a no parking sign on both sides of the road on Cedar Circle, but it is being ignored. We also posted a no parking sign on our property but this was stolen once and knocked down once. We appreciate your consideration of this concern. Please reply that you received is message. Thank you.

Donald and Mary Russell

2 Cedar Circle  
Nantucket, MA 02554

Wintertime address:  
680 NE Harbour Drive  
Boca Raton, FL 33431  
[drmaryrussell@yahoo.com](mailto:drmaryrussell@yahoo.com) or [don602@yahoo.com](mailto:don602@yahoo.com)

## Catherine Ancero

---

**From:** Audrey sterk [audreysterk@me.com]  
**Sent:** Thursday, November 19, 2015 10:03 AM  
**To:** Catherine Ancero; Andrew Vorce  
**Subject:** Letter to accompany the subdivision modification

Hello Catherine,

I spoke with Andrew and he assisted me in drafting this letter, please let me know if you have any questions.

Best,

Audrey

Proposing:

The needs for housing has changed since 1997, when the Essex Subdivision was founded. The building cap and concerns on overbuilding has shifted to attention on the interest for different types of housing in this current housing crisis on Nantucket. The demand for housing has never been more apparent as we have Nantucket families, and important members of the community needing to leave the island because they cannot find housing.

I am proposing to lift the restriction of a two dwelling limitation in the subdivision to include tertiary dwellings as it will assist with the need for housing. I would also like to remove the restriction of one single family dwelling and one secondary dwelling to allow for different forms of family units. In the original document for the subdivision the literal read is restricting duplexes, however there are many existing today on Essex Rd. In light of the passing of tertiary dwellings on Nantucket, I would like lift the Two dwelling restriction in the subdivision to allow for a third dwelling/tertiary dwelling.

Thank you!

Audrey

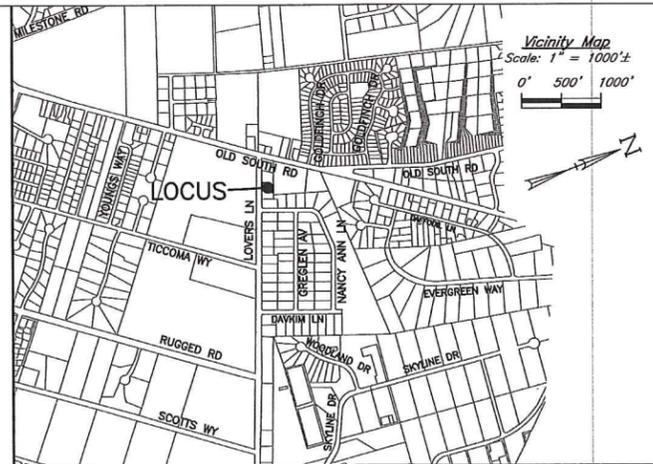
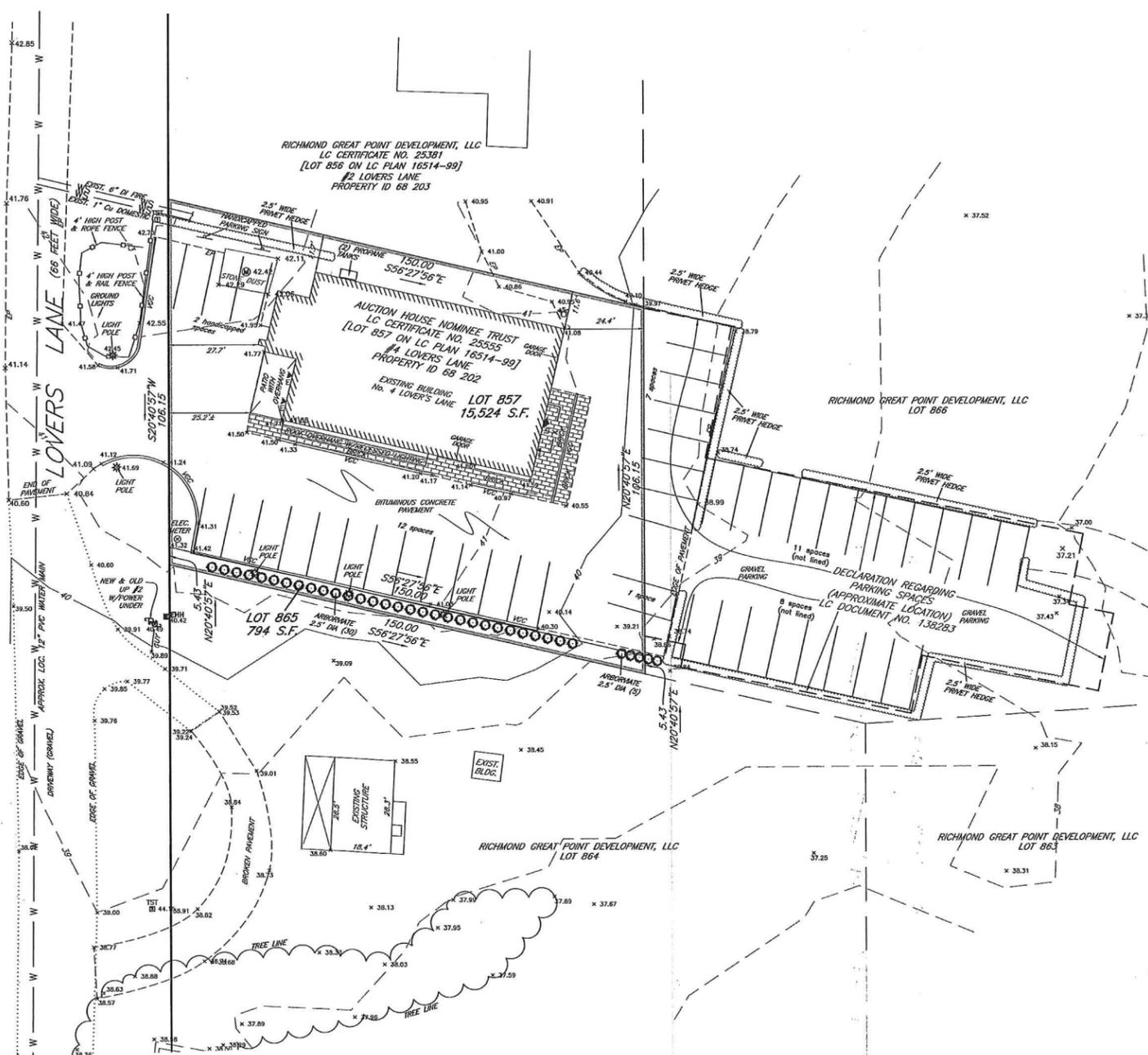
Audrey Sterk Design  
Studio: 18 Broad St.  
Nantucket MA 02554  
(508) 221-6996  
[www.AudreySterk.com](http://www.AudreySterk.com)





Planning Board #44-15  
Trustees of Auction House Realty Trust  
4 Lovers Lane  
Map 68 Parcel 202





ZONING TABLE		
ZONE	CN	SITE
DIMENSIONAL CONTROLS	REQUIRED/ALLOWED	PROVIDED
FRONT YARD SETBACK	10 ft.	25.2± ft.
SIDE YARD SETBACK	5 ft.	11.6 ft.
REAR YARD SETBACK	10 ft.	24.4 ft.
MIN. FRONTAGE	50 ft.	111.58 ft.
MIN. LOT AREA	7,500 s.f.	16,318 sf.
MAX. GROUND COVER RATIO	40%	23.5%
MIN. OPEN AREA	30%	20.8%



- NOTES:**
- PROPERTY BOUNDARIES DEPICTED ON THIS PLAN ARE THE RESULT OF AN ACTUAL FIELD SURVEY PERFORMED BY HAYES ENGINEERING, INC. ON JULY 16, 2015.
  - LOT 865 IS NOT TO BE CONSIDERED A SEPARATE BUILDING LOT BUT IS TO BE HELD IN COMMON OWNERSHIP WITH ADJOINING LAND OF AUCTION HOUSE NOMINEE TRUST [LOT 857 ON LC PLAN 16514-99] TO FORM ONE BUILDING LOT (TOTAL AREA = 16,318 S.F.) (rf = 0.954).
  - LOT 865 DEPICTED HEREON IS TAKEN FROM "SUBDIVISION PLAN OF LAND IN NANTUCKET, MASS." DATE JULY 16, 2015 PREPARED BY HAYES ENGINEERING, INC.
  - TOPOGRAPHIC INFORMATION DEPICTED HEREON IS THE RESULT OF AN ACTUAL FIELD SURVEY PERFORMED BY HAYES ENGINEERING, INC. ON THE FOLLOWING DATES:
    - SEPTEMBER 22, 2014
    - JUNE 16, 2015
    - SEPTEMBER 17, 2015
    - DECEMBER 4, 2015
  - THE DATUM IS NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
  - THE ENTIRE PARCEL IS LOCATED WITHIN THE WATER RESOURCE PROTECTION DISTRICT, ZONE II WELLHEAD PROTECTION AREA.
  - THE UNDERGROUND UTILITIES SHOWN HAVE BEEN COMPILED FROM FIELD SURVEY INFORMATION AND AVAILABLE EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. FURTHER, THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES AND DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE.

- LEGEND:**
- - BOLLARD
  - ▣ - CATCH BASIN
  - ⊙ - CATCH BASIN ROUND
  - ⊕ - HYDRANT
  - ⊖ - WATER SHUTOFF
  - ⊗ - WATER METER
  - ⊘ - WATER GATE
  - ⊙ - IRRIGATION CONTROL VALVE
  - ⊕ - SEWER MANHOLE
  - ⊖ - MANHOLE
  - ⊗ - WELL
  - ⊘ - UTILITY POLE
  - ⊙ - SIGN
  - BIT BERM - BITUMINOUS CONCRETE CURB
  - CCB - CAPE COD BERM
  - VCC - VERTICAL GRANITE CURB
  - CCWC - CONCRETE
  - TRANS PAD - TRANSFORMER AND CONCRETE PAD
  - - EDGE OF PAVEMENT
  - x 37.54 - EXISTING SPOT ELEVATION
  - - EXISTING CONTOUR
  - - EXISTING FENCE
  - ▲ - EXISTING SPOT LIGHT
  - ▲ - EXISTING EXTERIOR LIGHT
  - ★ - EXISTING LIGHT POLE

Prepared For:  
 Applicant:  
 Auction House Realty Trust  
 Peter D. Kyburg, Trustee  
 18 Broad Street  
 Nantucket, MA 02554  
 508-225-2790

Prepared By:  
 Hayes Engineering, Inc.  
 603 Salem Street  
 Nantucket, MA 02554  
 508-225-2790  
 www.hayeseng.com

Design By: JO  
 Drawn By: JO  
 Checked By:  
 Project File: NAN-0142  
 Comp. No: NAN66  
 Issued For Permit  
 Issued For Review  
 Issued For Bid  
 Issued For Construction  
 Not For Construction

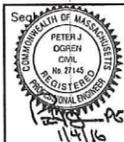
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 0' 10' 20' 40'

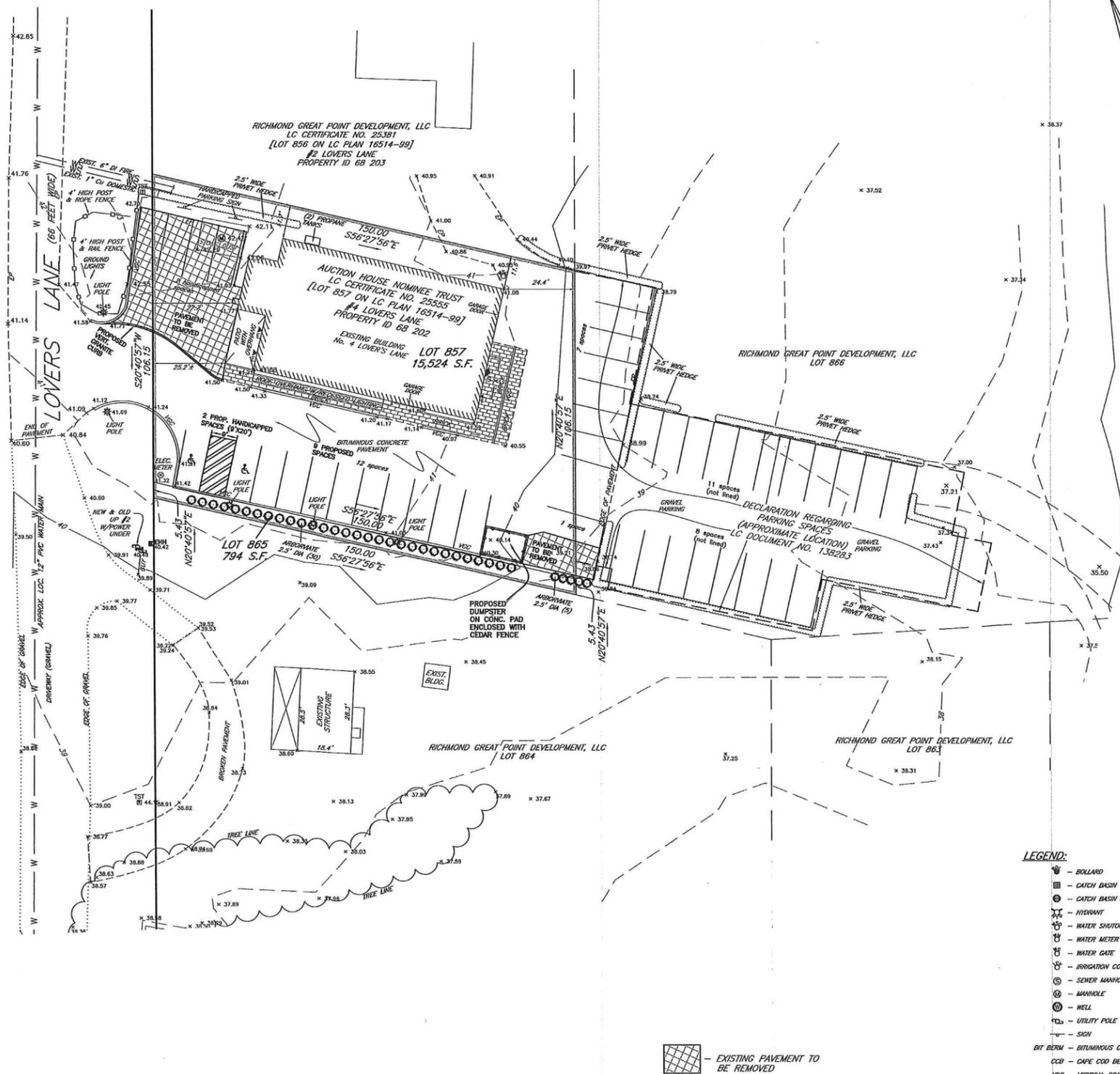
Date: December 7, 2015

Drawing Title:  
**Major Commercial Development  
 Existing Conditions & Site Plan  
 4 Lovers Lane  
 NANTUCKET, MASS.**

Drawing No.:  
**E1**

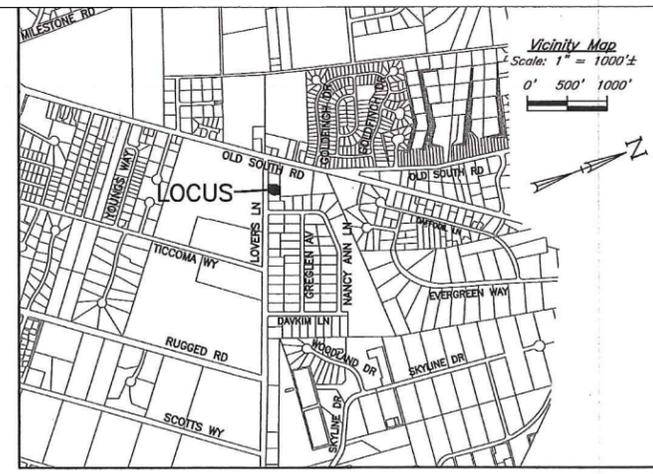
SHEET 1 OF 2





- LEGEND:**
- ⊕ - BOLLARD
  - ⊞ - CATCH BASIN
  - ⊙ - CATCH BASIN ROUND
  - ⚡ - HYDROVENT
  - ⊕ - WATER SHUTOFF
  - ⊕ - WATER METER
  - ⊕ - WATER GATE
  - ⊕ - IRRIGATION CONTROL VALVE
  - ⊕ - SEWER MANHOLE
  - ⊕ - MANHOLE
  - ⊕ - WELL
  - ⊕ - UTILITY POLE
  - - SIGN
  - BIT BERM - BITUMINOUS CONCRETE CURB
  - CCB - CAPE COD BERM
  - VCC - VERTICAL GRANITE CURB
  - CCNC - CONCRETE
  - TRANS PAD - TRANSFORMER AND CONCRETE PAD
  - - EDGE OF PAVEMENT
  - x 37.54 - EXISTING SPOT ELEVATION
  - - EXISTING CONTOUR
  - - EXISTING FENCE
  - ⊕ - EXISTING SPOT LIGHT
  - ⊕ - EXISTING EXTERIOR LIGHT
  - ⊕ - EXISTING LIGHT POLE

EXISTING PAVEMENT TO BE REMOVED



**ZONING TABLE**

ZONE	CN	SITE
DIMENSIONAL CONTROLS	REQUIRED/ALLOWED	PROVIDED
FRONT YARD SETBACK	10 ft.	25.2± ft.
SIDE YARD SETBACK	5 ft.	11.6 ft.
REAR YARD SETBACK	10 ft.	24.4 ft.
MIN. FRONTAGE	50 ft.	111.58 ft.
MIN. LOT AREA	7,500 s.f.	16,318 sf.
MAX. GROUND COVER RATIO	40%	23.5%
MIN. OPEN AREA	30%	30.2%

- PARKING REQUIREMENTS:**
- RESTAURANTS: 1.0 PARKING SPACE PER 3 SEATS  
REQUIRED: 70 seats X 1 sp./3 seats = 23.3 spaces
  - EMPLOYEES: 1.0 PARKING SPACE PER 3 EMPLOYEES ON PEAK SHIFT  
REQUIRED: 6 employees X 1 sp./3 employees = 2 spaces
  - TOTAL REQUIRED: 25 spaces
  - PROPOSED: 38 PARKING SPACES (19 gravel spaces not lined; 17 & 2 HP paved spaces)

- NOTES:**
- PROPERTY BOUNDARIES DEPICTED ON THIS PLAN ARE THE RESULT OF AN ACTUAL FIELD SURVEY PERFORMED BY HAYES ENGINEERING, INC. ON JULY 16, 2015.
  - LOT 865 IS NOT TO BE CONSIDERED A SEPARATE BUILDING LOT BUT IS TO BE HELD IN COMMON OWNERSHIP WITH ADJOINING LAND OF AUCTION HOUSE NOMINEE TRUST [LOT 857 ON LC PLAN 16514-99] TO FORM ONE BUILDING LOT (TOTAL AREA = 16,318 S.F.) (rf = 0.954).
  - LOT 865 DEPICTED HEREON IS TAKEN FROM "SUBDIVISION PLAN OF LAND IN NANTUCKET, MASS." DATE JULY 16, 2015 PREPARED BY HAYES ENGINEERING, INC.
  - TOPOGRAPHIC INFORMATION DEPICTED HEREON IS THE RESULT OF AN ACTUAL FIELD SURVEY PERFORMED BY HAYES ENGINEERING, INC. ON THE FOLLOWING DATES:
    - SEPTEMBER 22, 2014
    - JUNE 16, 2015
    - SEPTEMBER 17, 2015
    - DECEMBER 4, 2015
  - THE DATUM IS NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
  - THE ENTIRE PARCEL IS LOCATED WITHIN THE WATER RESOURCE PROTECTION DISTRICT, ZONE II WELLHEAD PROTECTION AREA.
  - THE UNDERGROUND UTILITIES SHOWN HAVE BEEN COMPILED FROM FIELD SURVEY INFORMATION AND AVAILABLE EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. FURTHER, THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES AND DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE.

Prepared For:  
 Applicant:  
 Auction House Realty Trust  
 Peter D. Kyoung, Trustee  
 18 Broad Street  
 Nantucket, MA 02554  
 508-228-2790

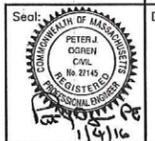
Prepared By:  
 Hayes Engineering, Inc.  
 603 Salem Street  
 Weymouth, MA 01980  
 PH: 781.246.2800  
 FAX: 781.246.7500  
 www.hayeseng.com

No.	Date	Revision
10		
9		
8		
7		
6		
5		
4		
3		
2		
1		

Scale: 1"=20'  
 0' 10' 20' 40'

Date: December 7, 2015

Drawing Title:  
**Major Commercial Development  
 Site Plan  
 4 Lovers Lane  
 NANTUCKET, MASS.**



Drawing No.:  
**SP1**  
 SHEET 2 OF 2

## Holly Backus

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**From:** Catherine Ancero  
**Sent:** Tuesday, January 05, 2016 10:50 AM  
**To:** 'PETER KYBURG'  
**Cc:** Holly Backus; Leslie Snell  
**Subject:** RE: #44-15 Arthur I. Reade, Jr. & Peter D. Kyburg, Trustees of Auction House Realty Trust, As Owners, and Walter J. Glowacki, as Applicant, 4 Lovers Lane

**Categories:** Planning Board Matters

Thanks Peter I will follow up with Leslie.

-Catherine

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**From:** PETER KYBURG [<mailto:pkyburg@gmail.com>]  
**Sent:** Tuesday, January 05, 2016 10:31 AM  
**To:** Catherine Ancero  
**Cc:** Holly Backus  
**Subject:** Re: #44-15 Arthur I. Reade, Jr. & Peter D. Kyburg, Trustees of Auction House Realty Trust, As Owners, and Walter J. Glowacki, as Applicant, 4 Lovers Lane

Catherine

We will be moving forward. I have had John Ogden forward the plans on to Leslie. I believe all has been addressed with the exception of what the Board might like to see with respect to drainage, if anything.

I look forward to hearing from you.

Peter

Sent from my iPhone

On Jan 5, 2016, at 8:21 AM, Catherine Ancero <[CAncero@nantucket-ma.gov](mailto:CAncero@nantucket-ma.gov)> wrote:

Morning Peter-

Could you let me know if you are moving forward with the application for the January 11<sup>th</sup> meeting? I am putting the agenda together and will be posting the agenda by Wednesday the latest.

Thank you,

Catherine Ancero,  
Administrative Specialist  
Planning Board

Planning and Land Use Services (PLUS)  
Planning Board Office  
2 Fairgrounds Road  
Nantucket, MA 02554

Telephone#: 508.325.7587 (PLUS) Ext. 7008  
Facsimile#: 508.228.7298

PB #44-15

**Holly Backus**

**From:** Catherine Ancero  
**Sent:** Wednesday, December 09, 2015 12:05 PM  
**To:** Holly Backus  
**Cc:** Leslie Snell; Eleanor Antonietti  
**Subject:** FW: Major Commercial Development; Existing Conditions & Site Plan 4 Lovers Lane  
**Attachments:** 12022015111409 (1).pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** Planning Board Matters

See below.

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**From:** Peter Kyburg [mailto:pykyburg@gmail.com]  
**Sent:** Wednesday, December 09, 2015 10:43 AM  
**To:** Catherine Ancero; Sol Costa; Nikki; pogren@hayeseng.com  
**Subject:** Re: Major Commercial Development; Existing Conditions & Site Plan 4 Lovers Lane

Catherine:

In partial response to the Board's request for information;

1. The parking is shown on the plan and the calculations will be reviewed at the hearing with a chart if necessary. It is the same amount of parking as before, which is based on 70 seats.
2. The hours of operation will be from 10AM to 10PM.
3. We would request 8 events and 3 auctions.
4. Please see attached copy of the recorded easement
5. Landscaping is indicated on the plan. We can add privet to the parking areas if necessary.
6. Handicap spaces are indicated on the plan.
7. There will be no outdoor seating
8. There will be regular porch lighting over the entrance to the restaurant with additional flood lights on the peaks of the building.
9. Open space is shown on the plan; if we are missing open space, we will lower the seating to 50 and use some of the excess parking as open space, if necessary. Our engineer can speak to this matter at the hearing. I believe open space was determined when the original MCD permit was issued.
10. Trash receptacles are behind the building and should be shown on the plan, as as the Board determined when the MCD permit was issued.
11. Drainage is as currently existing and as already determined by the Board when the MCD permit was issued.
12. Loading zone is as shown on the plan.
13. There will be no amplified music.
14. The Food Truck delivery or pick up will happen between 8AM and 4 PM.
15. There will be a waiting bar only. This bar will be used by people waiting to be seated.
16. We hope there will be as many as three seatings on a busy day.

Our engineer will help flesh some of these details out at the hearing with respect to the plan details. I have the original hard copy of the plan which I bring to your office Thursday. Please do not hesitate to contact me for any reason on the above.

Peter.

On Tue, Dec 8, 2015 at 2:10 PM, Catherine Ancero <[CAncero@nantucket-ma.gov](mailto:CAncero@nantucket-ma.gov)> wrote:

Hi Peter-

I believe these were some of the Boards concerns from last October meeting. I have cc'd my associates in case I may have left something out.

1. Parking should be shown in compliance with plan (parking calculation chart and # of space)
2. Show Hours of operation
3. Number of events that will take place on the site annually
4. Recorded Easement should be filed with us
5. Type of screening and landscaping
6. Handicap accessible spaces
7. Show outdoor seating
8. Exterior light – show type
9. Open space
10. Trash receptacles needs to show on plan
11. Drainage
12. Location of loading zone
13. Amplified music
14. Food truck delivery (hours of time/days/
15. Bar
16. Number of seatings/people????

**Again the Planning Board packet will be picked up by the Board Thursday, December 10<sup>th</sup>**

**Thank you,**

**Catherine Ancero,**

**Administrative Specialist**

**Planning Board**

Planning and Land Use Services (PLUS)

Planning Board Office

2 Fairgrounds Road

Nantucket, MA 02554

Telephone#: 508.325.7587 (PLUS) Ext. 7008

Facsimile#: 508.228.7298

Email: cancero@nantucket-ma.gov

Town website: http://www.nantucket-ma.gov



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**From:** Peter Kyburg [mailto:pkyburg@gmail.com]

**Sent:** Tuesday, December 08, 2015 1:48 PM

**To:** Catherine Ancero

**Subject:** Fwd: Major Commercial Development; Existing Conditions & Site Plan 4 Lovers Lane

----- Forwarded message -----

From: **Peter Kyburg** <pkyburg@gmail.com>

Date: Mon, Dec 7, 2015 at 2:49 PM

Subject: Major Commercial Development; Existing Conditions & Site Plan 4 Lovers Lane

To: Sol Costa <solange.costa.sol@hotmail.com>, Nikki <nikki@nantucket.net>

Sol and Nikki:

Please find enclosed a Site Plan plan for the proposed restaurant at 4 Lovers Lane to be used at the Planning Board. As of now, it can be changed and the Planning Board will likely request changes etc.

I look forward to hearing from you.

Peter

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Peter D. Kyburg, Esq.  
Law Offices of Peter D. Kyburg, P.C.  
18 Broad Street  
Nantucket, MA 02554  
Telephone (508) 228-2790

Fax (508) 228-7852

email: [pkyburg@gmail.com](mailto:pkyburg@gmail.com)

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Peter D. Kyburg, Esq.  
Law Offices of Peter D. Kyburg, P.C.  
18 Broad Street  
Nantucket, MA 02554  
Telephone (508) 228-2790

138283



Cert: 4825 Doc: DECL  
Registered: 09/20/2012 11:47 AM

Commonwealth of Massachusetts

Nantucket, ss

DECLARATION

WHEREAS WALTER J. GLOWACKI (hereinafter "GLOWACKI") is the owner of the property located at 4 Lover's Lane, more particularly described as Lot 66 on Land Court Plan No. 16514-O, as evidenced by Certificate of Title No. 4825, (hereinafter "LOCUS"), which is the subject of a Modification to a Special Permit for a Major Commercial Development (Planning Board File No. 22-12), recorded herewith as Document No. 138282;

WHEREAS, LOCUS does not have sufficient parking to meet the parking requirements as set forth in said Special Permit Modification;

WHEREAS, GLOWACKI owns property adjacent to LOCUS, more particularly described as Lot 185 on Land Court Plan No. 16514-Z, as evidenced by Certificate of Title No. 4825, and presented to the Planning Board during the Special Permit Modification hearing, that twenty-eight (28) parking spaces, servicing LOCUS, would be permitted on said Lot 185 as shown on Exhibit A attached hereto;

WHEREAS, the decision of the Planning Board in approving said Special Permit Modification was based, in part, on such representation, written evidence of said parking arrangement is required as a condition of said decision;

WHEREAS GLOWACKI, in consideration of the Planning Board's approval of the Modification of Special Permit, hereby memorializes the existence of said parking arrangement to insure that current and future owners of both LOCUS and Lot 185 on Land Court Plan No. 16514-Z will be aware of the rights and obligations relative to such parking arrangement;

NOW THEREFORE, GLOWACKI hereby establishes a parking easement for the benefit of LOCUS, and burdening Lot 185 on Land Court Plan 16514-Z, for parking twenty-eight (28) cars, as shown on the sketch plan attached hereto.

In consideration of the approval by the Nantucket Planning Board of that certain Modification of Special Permit for Major Commercial Development by the Nantucket Planning Board on August 13, 2012 (Planning Board File No. 22-12), recorded with the Nantucket Registry District for the Land Court herewith as Document No. 138282, hereby grant to the Town of Nantucket, acting by and through its Planning Board, the right to enforce this parking easement.

Witness my hand and seal this 20<sup>th</sup> day of August, 2012

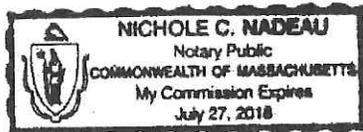
*Walter J. Glowacki*  
Walter J. Glowacki

COMMONWEALTH OF MASSACHUSETTS

County of Nantucket

On this 20<sup>th</sup> day of August, 2012, before me, the undersigned notary public, personally appeared Walter J. Glowacki (a)  personally known to me, or (b)  proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, (type of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

*Nichole C. Nadeau*  
Official Signature and Seal of Notary Public  
My Commission expires:



ACCEPTANCE BY PLANNING BOARD

We, as a majority of the members of the Nantucket Planning Board, hereby accept and approve the foregoing Grant of Right of Enforcement of Restrictions.

Dated: 8/20/12

\_\_\_\_\_  
Barry Rector

Sylvia Howard  
Sylvia Howard

John McLaughlin  
John McLaughlin

Linda Williams  
Linda Williams

Nathaniel Lowell  
Nathaniel Lowell

Commonwealth of Massachusetts

Nantucket, ss

On this 20th day of August, 2012, before me, the undersigned notary public, personally appeared Sylvia Howard, being one of the members of the Nantucket Planning Board, (a)  personally known to me, or (b) \_\_\_\_\_ proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, (type of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Lynell D. Vollans  
Notary Public

My Commission Expires: \_\_\_\_\_  
**LYNELL D. VOLLANS**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
December 28, 2018

