

VAUGHAN, DALE, HUNTER, BEAUDETTE AND SWAIN

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

WHALER'S LANE

P.O. BOX 659

NANTUCKET, MASSACHUSETTS 02554

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FAX: (508) 228-3070

EDWARD FOLEY VAUGHAN

KEVIN F. DALE

RICHARD P. BEAUDETTE

BRYAN J. SWAIN

WILLIAM F. HUNTER

OF COUNSEL

April 22, 2022

BY HAND-DELIVERY and EMAIL

Raymond Pohl, Chairman
Nantucket Historical District Commission
2 Fairgrounds Road
Nantucket, Massachusetts 02554

Re: Zais Realty Trust
57 Eel Point Road
Nantucket, Massachusetts 02554

Dear Chairman Pohl,

I am the Trustee of the Zais Realty Trust, the owner of the property located at 57 Eel Point Road, Nantucket, Massachusetts 02554 ("Zais Property"). The Zais Property abuts the property owned by Eel Point Holdings, LLC ("EPH Property") which is located at 55 Eel Point Road, Nantucket, Massachusetts 02554. The EPH Property has applied to the HDC for a certificate of appropriateness for a new garage apartment.

I am concerned that the site plan filed with the EPH Property application does not show the Right of Way and Utility Easement appurtenant to the Zais Property as shown on the enclosed Easement Plan. This Right of Way Easement is limited for usual and non-vehicular passageway purposes. I have highlighted the Easement in yellow. This Easement is registered as Document No. 75457 at the Nantucket Registry District. This Easement constitutes a second driveway on the EPH Property.

The EPH Property HDC submission plan shows two (2) driveways. One driveway is on the east side of the EPH Property and provides access to the existing primary dwelling. The second driveway provides access to the proposed garage apartment.

Section 139-20.1B(1) of the Nantucket Town Code (Zoning By-Law) limits a lot to one (1) driveway access but does provide the Planning Board may grant a waiver to allow two (2) or more driveway accesses to a lot. Section 139-20C provides that the waiver requires a special permit with a finding that the additional driveway(s) will not have a significant and adverse effect on the scenic or historic integrity of the neighborhood and is not contrary to sound traffic and safety conditions.

I ask the HDC to require EPH Properties to file a revised site plan with the HDC which shows the Right of Way and Utility Easement on the EPH Property. The revised site plan will truly reflect the (3) driveways on the EPH Property. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "R. J. Dale", with a long horizontal flourish extending to the right.

Enc.

Cc: Lisa Botticelli



PROJECT
55 EEL POINT RD.

OWNER
 3515 JOHN BOOD,
 HARTFORD, CT 06105

ARCHITECT
 1110 W. 10TH ST.,
 HARTFORD, CT 06102

PROPERTY INFO
 DATE: 10/27

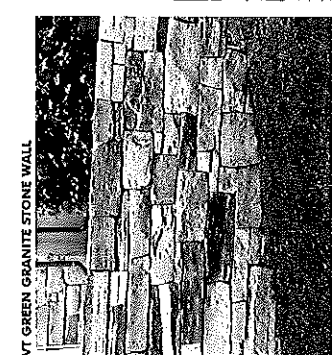
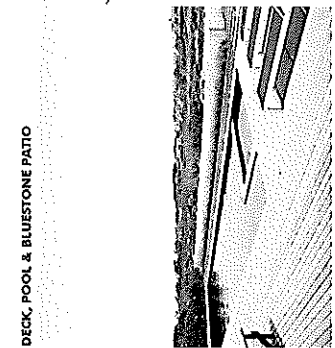
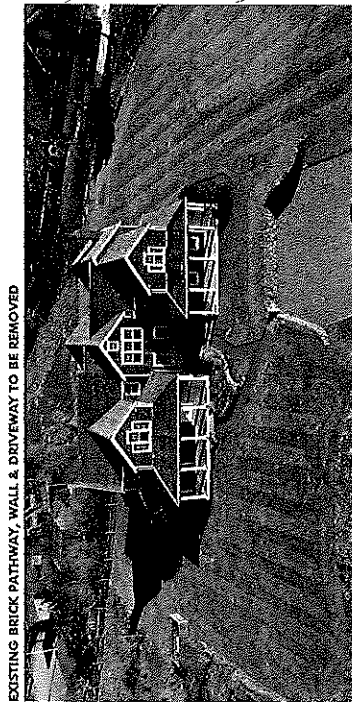
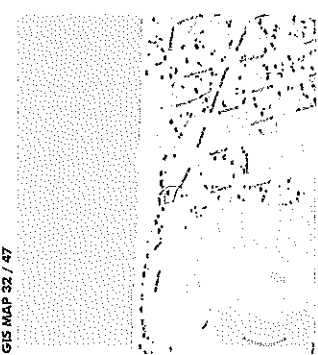
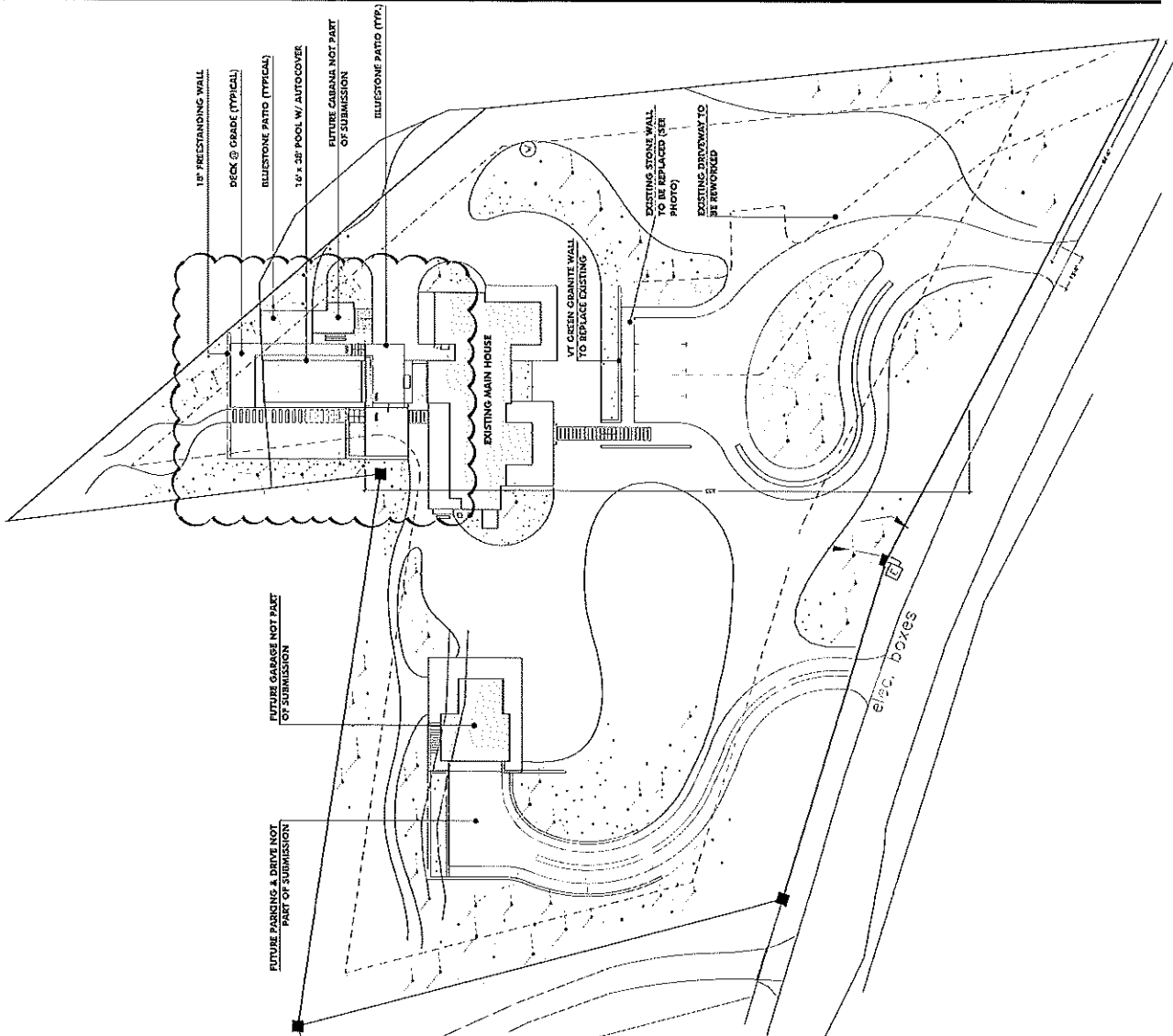
HDC SUBMISSION

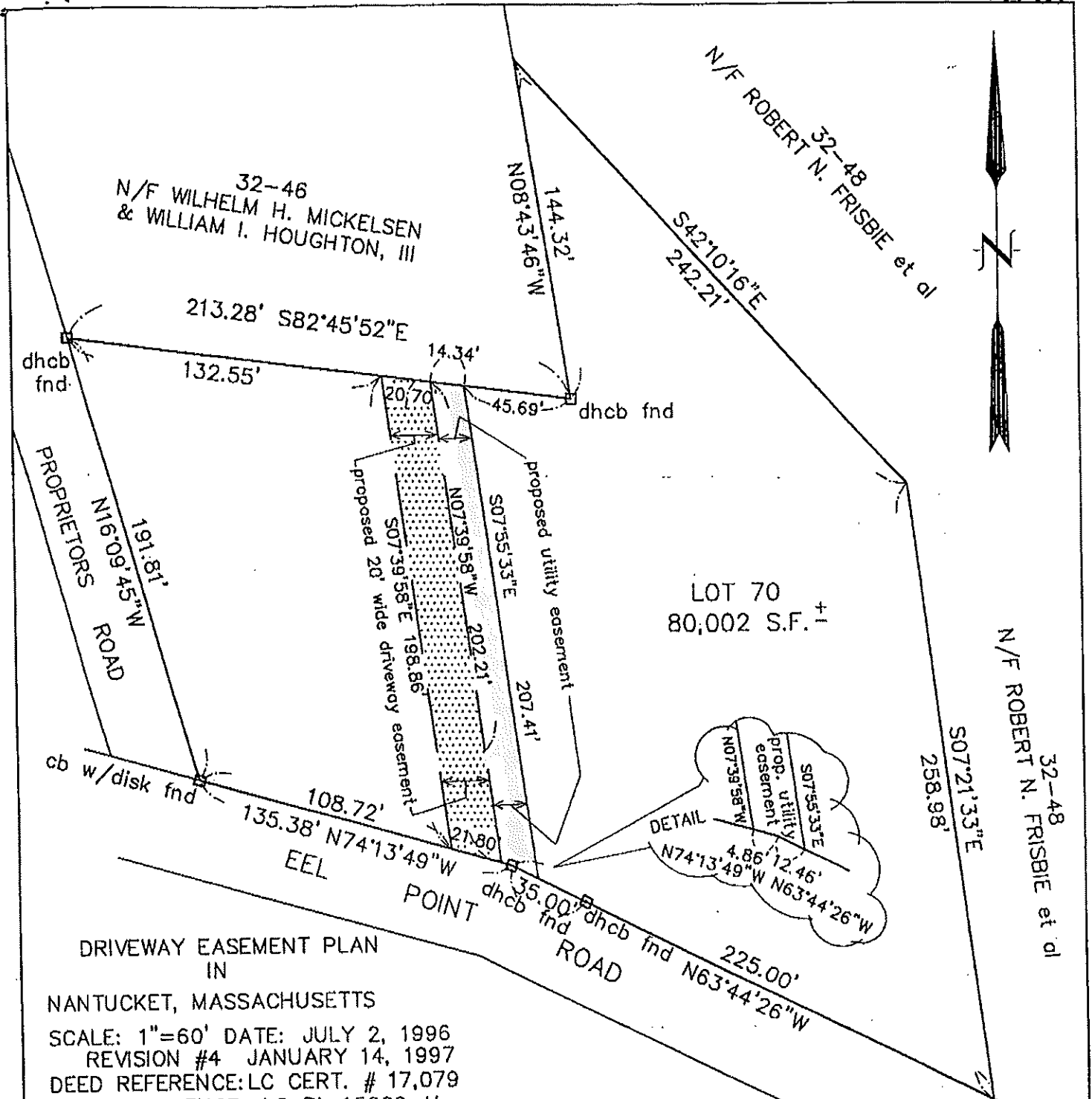
DRAWING INFO
 DATE: APRIL 1, 2010
 SCALE: 1/8" = 1'-0"

REVISIONS

| NO. | DATE | DESCRIPTION |
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HDC.01



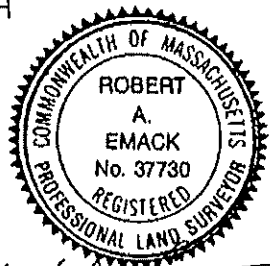


DRIVEWAY EASEMENT PLAN
IN
NANTUCKET, MASSACHUSETTS

SCALE: 1"=60' DATE: JULY 2, 1996
 REVISION #4 JANUARY 14, 1997
 DEED REFERENCE: LC CERT. # 17,079
 PLAN REFERENCE: LC PL 15209-H
 ASSESSOR'S REFERENCE:
 MAP: 32 PARCEL: 47
 PREPARED FOR:

DIANE MARIE MCLAUGHLIN

EMACK SURVEYING
 2 WASHAMAN AVENUE
 NANTUCKET, MA. 02554
 (508) 325-0940



Robert A. Emack

FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN
 RELIES ON CURRENT DEEDS AND PLANS OF RECORD,
 VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON.
 THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION.

Note : The purpose of this plan is to show proposed easements for driveway and utilities to serve land shown hereon as Assessor's Reference 32-46.

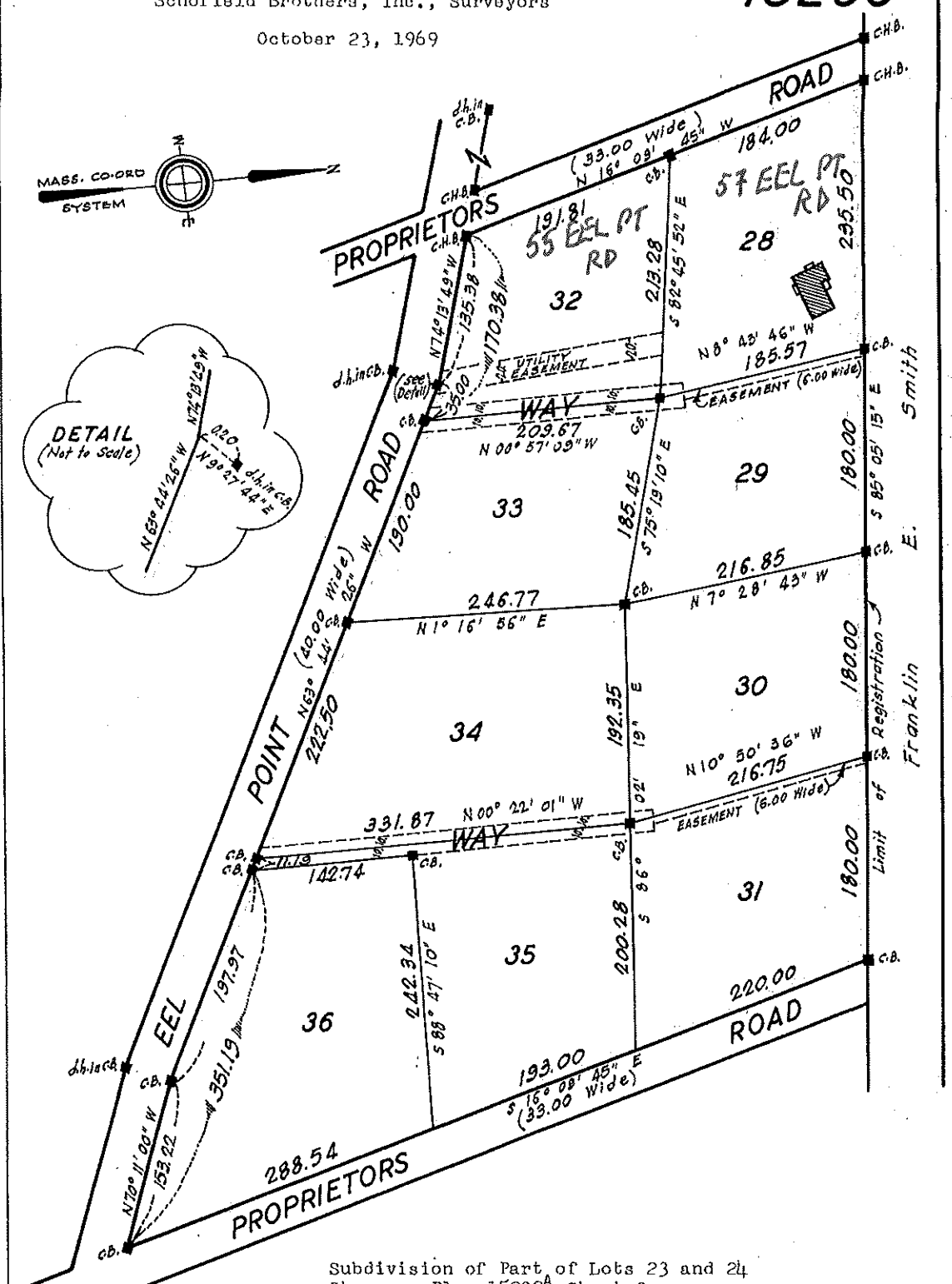
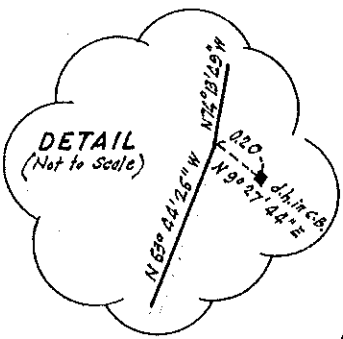
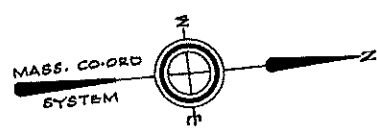
The two existing easements for driveway and utilities are to be discontinued. They are not shown hereon, but are shown on Land Court Plan 15209-H.

SUBDIVISION PLAN OF LAND IN NANTUCKET

Schofield Brothers, Inc., Surveyors

October 23, 1969

15209B



Subdivision of Part of Lots 23 and 24
Shown on Plan 15209A Sheet 3
Filed with Cert. of Title No. 1973
Registry District of Nantucket County

Separate certificates of title may be issued for land
shown hereon as Lots 28 thru 36
By the Court.

Nov. 21, 1969. *Maynard M. Daly*
Recorder

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
NOV. 21, 1969
Scale of this plan 100 feet to an inch
R. L. Woodbury, Engineer for Court

This plan filed with Certificate No. 5908



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 04/06/2022
Data updated Jan. 2021

Print map scale is approximate.
Critical layout or measurement
activities should not be done using
this resource.

075-257

AGREEMENT TO ELIMINATE EXISTING RIGHT OF WAY AND
UTILITY EASEMENT AND TO GRANT NEW RIGHT OF WAY EASEMENT
AND UTILITY EASEMENT

THIS AGREEMENT made this 3rd day of ^{March}~~February~~, 1997, by and between DIANE MARIE MCLAUGHLIN of 928 Westwind Cove, Coppell, Texas, 75019 (hereinafter "McLaughlin") and WILLIAM I. HOUGHTON III and WILHELM H. MICKELSEN c/o 124 Main Street, Newton, New Jersey 07860 (hereinafter "Houghton/Mickelsen").

WITNESSETH:

WHEREAS, McLaughlin is the owner of the land situated at 55 Eel Point Road, Nantucket, Massachusetts 02554 and shown as Lot 70 on Land Court Plan No. 15209-H filed with Certificate of Title No. 16405 at the Nantucket Registry District for the Land Court (hereinafter "McLaughlin Land"); and

WHEREAS, Houghton and Mickelsen are the owners of the improved land situated at 57 Eel Point Road, Nantucket, Massachusetts 02554 and shown as Lot 28 on Land Court Plan No. 15209-B filed with Certificate of Title No. 5908 at the Nantucket Registry District for the Land Court (hereinafter "Houghton/Mickelsen Land"); and

WHEREAS, the McLaughlin Land is subject to and burdened by a certain twenty (20') foot wide Way and twenty (20') foot wide Utility Easement as shown on Land Court Plan No. ~~16,405-H~~ ¹⁵²⁰⁹⁻¹ and said Way and Utility Easement are appurtenant to the Houghton/Mickelsen Land; and

WHEREAS, the parties to this agreement desire to eliminate and extinguish the existing Way and Utility Easement ¹⁵²⁰⁹⁻¹ shown on Land Court Plan No. ~~16,405-H~~ and to create a New Right of Way Easement and New Utility Easement on the McLaughlin Land which easements are appurtenant to, and for the benefit of, the Houghton and Mickelsen Land;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and the mutual covenants and agreements set forth herein, the parties to this Agreement agree as follows:

1. Houghton and Mickelsen hereby releases, eliminates and extinguishes all of his right, title and interest in the twenty (20') foot wide Right of Way and twenty (20') foot wide Utility Easement existing on the McLaughlin Land and shown on ¹⁵²⁰⁹⁻¹ Land Court Plan No. ~~16,405-H~~, a copy of which is annexed hereto as Exhibit "A"; and

2. McLaughlin hereby grants to Houghton and Mickelsen, their heirs, successors and assigns, a twenty (20') foot wide Way and utility easement for usual passageway and utility purposes to and from Eel Point Road to the Houghton and

075457

Mickelsen Land as more specifically shown on a certain Driveway Easement Plan prepared for Diane Marie McLaughlin by Emack Surveying, dated July 2, 1996, revised January 14, 1997, a copy of which is annexed hereto as Exhibit "B" (hereinafter "New Driveway Easement"). This New Driveway Easement shall burden the McLaughlin Land, shall benefit and be appurtenant to the Houghton and Mickelsen Land, and shall constitute a covenant running with the McLaughlin Land and the Houghton and Mickelsen Land which shall be binding on the parties, their heirs, successors and assigns, in perpetuity. McLaughlin, her heirs, successors and assigns hereby reserve the right to use the New Driveway Easement for usual pedestrian and non-vehicular passageway purposes in common with Houghton and Mickelsen on the condition that McLaughlin, her heirs, successors and assigns, shall not use the New Driveway Easement for vehicular passage.

3. McLaughlin hereby grants to Houghton and Mickelsen, their heirs, successors and assigns, a fourteen and 3/4 (14 3/4') foot wide New Utility Easement for the installation, repair and maintenance of electric, water, sewer, telephone and cable television utility services to and from Eel Point Road to the Houghton and Mickelsen land as more specifically shown a certain Driveway Easement Plan prepared for Diane Marie McLaughlin by Emack Surveying, dated July 2, 1996, revised January 14, 1997, a copy of which is annexed hereto as Exhibit "B". This New Utility Easement shall burden the McLaughlin land, shall benefit and be appurtenant to the Houghton and Mickelsen land, and shall constitute a Covenant running with the McLaughlin land and the Houghton and Mickelsen land which shall be binding on the parties, their heirs, successors and assigns, in perpetuity.

WITNESS our hands and seals this day 17th of January, 1997.

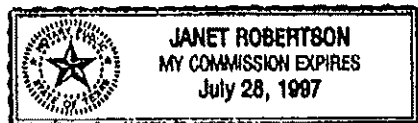
Diane Marie McLaughlin
DIANE MARIE MCLAUGHLIN

STATE OF TEXAS

Dallas County ss.

January 17, 1997

Then personally appeared the above named Diane Marie McLaughlin and acknowledged the foregoing instrument to be her free act and deed, before me,



Janet Robertson
Notary Public
My Commission Expires: 7-28-97

William I. Houghton III
WILLIAM I. HOUGHTON III

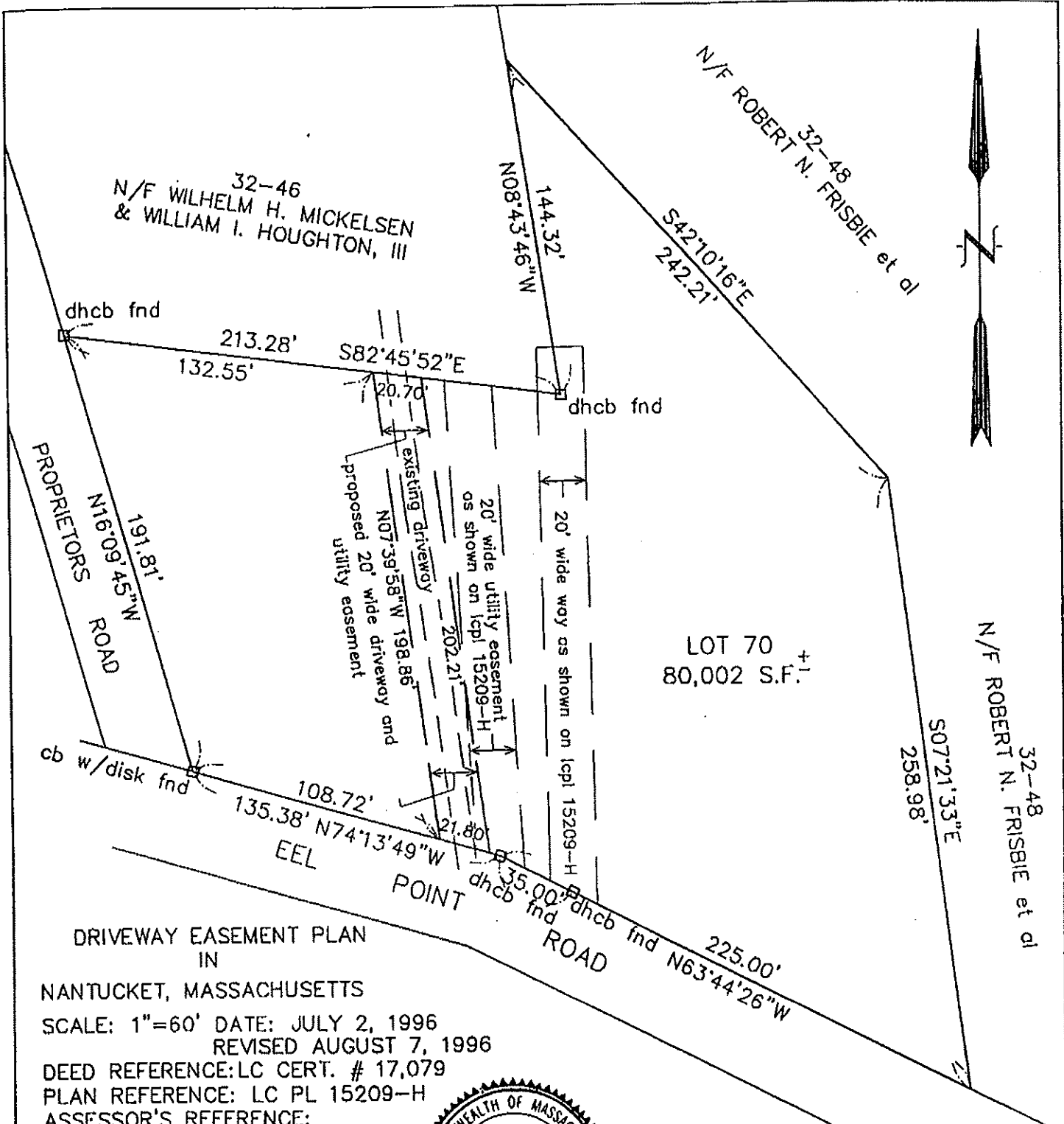
Wilhelm H. Mickelsen
WILHELM H. MICKELSEN

STATE OF NEW JERSEY

Sussex , ss. ~~March~~ February 3rd, 1997

Then personally appeared the above named William I. Houghton III and Wilhelm H. Mickelsen and acknowledged the foregoing instrument to be their free act and deed, before me,

Barbara G. Rigby
Notary Public
My Commission Expires:
BARBARA G. RIGBY
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Nov. 20, 1997



DRIVEWAY EASEMENT PLAN
IN

NANTUCKET, MASSACHUSETTS

SCALE: 1"=60' DATE: JULY 2, 1996
REVISED AUGUST 7, 1996

DEED REFERENCE: LC CERT. # 17,079

PLAN REFERENCE: LC PL 15209-H

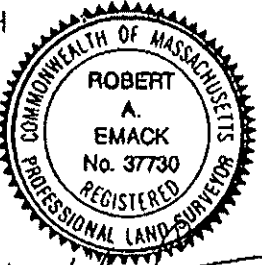
ASSESSOR'S REFERENCE:

MAP: 32 PARCEL: 47

PREPARED FOR:

DIANE MARIE MCLAUGHLIN

EMACK SURVEYING
2 WASHAMAN AVENUE
NANTUCKET, MA. 02554
(508) 325-0940



Robert A. Emack

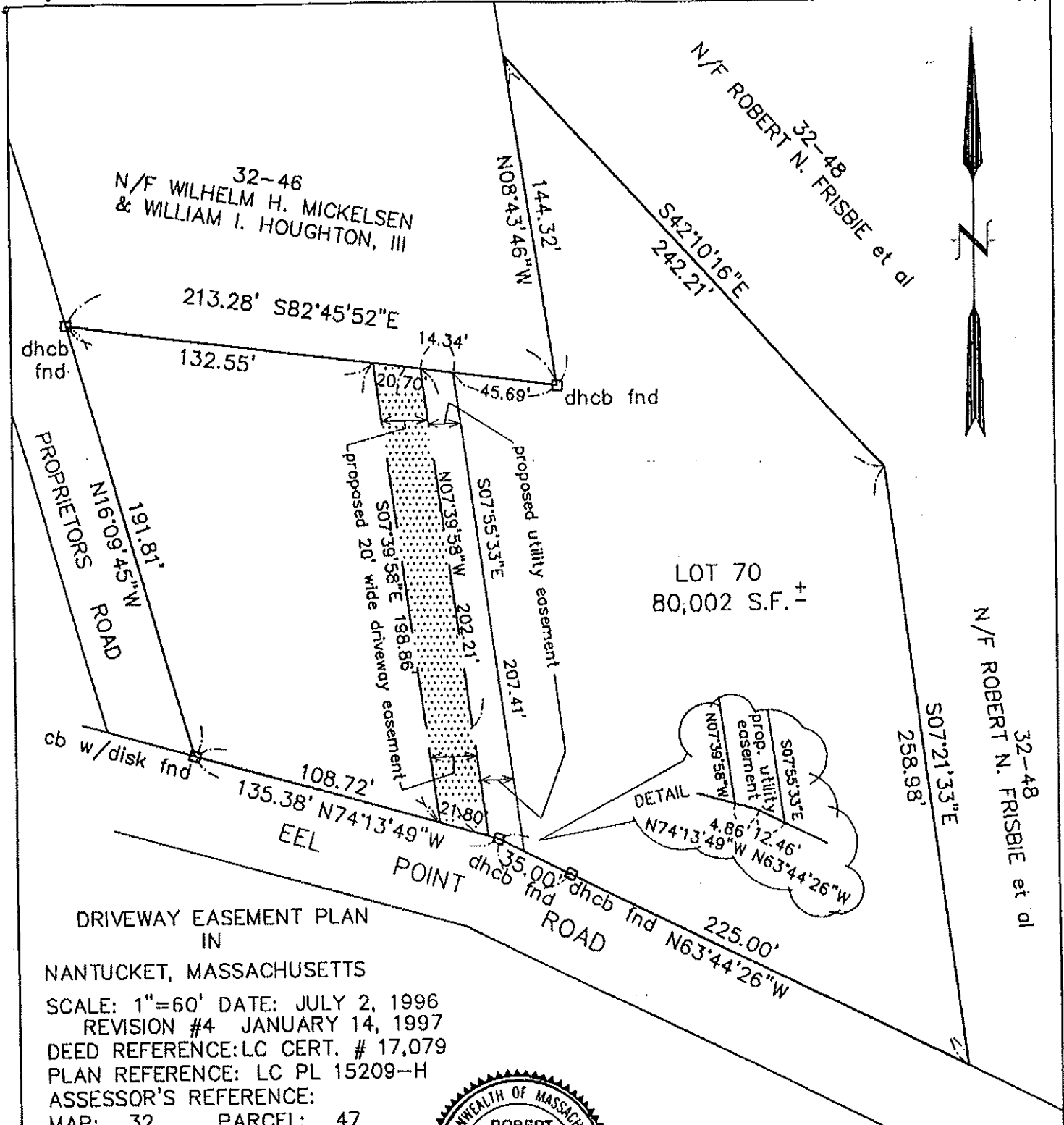
Note : The purpose of this plan is to show the proposed easement for the existing driveway serving land shown hereon as Assessor's Reference 32-46. The proposed driveway easement will also serve as a utility easement benefitting land shown hereon as Assessor's Reference 32-46. Existing utilities will be relocated to within the proposed 20' wide driveway and utility easement.

The two existing easement locations are scaled from Land Court Plan 15209-H.

J-072

FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION.

N.B. 02/23

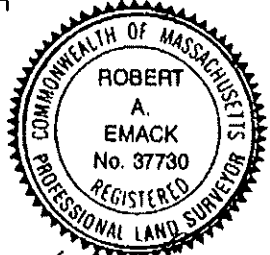


**DRIVEWAY EASEMENT PLAN
IN**

NANTUCKET, MASSACHUSETTS

SCALE: 1"=60' DATE: JULY 2, 1996
 REVISION #4 JANUARY 14, 1997
 DEED REFERENCE: LC CERT. # 17,079
 PLAN REFERENCE: LC PL 15209-H
 ASSESSOR'S REFERENCE:
 MAP: 32 PARCEL: 47
 PREPARED FOR:
 DIANE MARIE MCLAUGHLIN

EMACK SURVEYING
 2 WASHAMAN AVENUE
 NANTUCKET, MA. 02554
 (508) 325-0940



Robert A. Emack

Note: The purpose of this plan is to show proposed easements for driveway and utilities to serve land shown hereon as Assessor's Reference 32-46.

The two existing easements for driveway and utilities are to be discontinued. They are not shown hereon, but are shown on Land Court Plan 15209-H.

FOR PROPERTY LINE DETERMINATION THIS PLOT PLAN RELIES ON CURRENT DEEDS AND PLANS OF RECORD, VERIFIED BY FIELD MEASUREMENTS AS SHOWN HEREON. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION.
 N.B. 02/23



2009 00129394
 Cert: 23454 Doc: DD
 Registered: 12/31/2009 11:01 AM



2009 00003731
 Bk: 1214 Pg: 939 Page: 1 of 4
 Doc: DD 12/31/2009 11:03 AM

DEED

We, GLENN J. DeSIMONE and VIRGINIA G. DeSIMONE, of Greenwich, Connecticut, for consideration paid in the amount of \$9,500,000.00, grant to KEVIN F. DALE, as Trustee of ZAIS REALTY TRUST under Declaration of Trust dated December 31, 2009, and registered as Document No. 129396 and noted upon Certificate of Title No. 23454 at the Nantucket Registry District, with a mailing address of Post Office Box 659, Nantucket, Massachusetts 02554, with QUITCLAIM COVENANTS,

Those two certain parcels of land situated in Nantucket, Nantucket County, Massachusetts, together with the buildings thereon, now known and numbered as 57 Eel Point Road, bounded and described as follows:

PARCEL ONE (Registered)

NORTHERLY by land now or formerly of Franklin E. Smith, two hundred thirty-five and 50/100 (235.50) feet;

WESTERLY by a Proprietors Road, one hundred eighty-four (184.00) feet;

SOUTHERLY by Lot 32 on plan hereinafter mentioned, two hundred thirteen and 28/100 (213.28) feet; and

EASTERLY by Lot 29 on said plan, one hundred eighty-five and 57/100 (185.57) feet.

Said land is shown as Lot 28 on Land Court Plan 15209-B, filed with Certificate of Title No. 5908 at Nantucket Registry District.

For title to Parcel One, see Certificate of Title No. 21783 at Nantucket Registry District.

PARCEL TWO (Unregistered)

The land shown as Parcel N2 on that certain plan containing five sheets and entitled "Phase I Disposition Plan in Nantucket, Mass. of Tristram Avenue, Alliance Land, Proprietors Road, Assessors Maps 31 & 32", dated March 2, 2009, prepared by Bracken Engineering, Inc. and filed with the Nantucket Registry of Deeds as Plan No. 2009-27.

For title to Parcel Two, see deed from the Town of Nantucket dated December 30, 2009, recorded with Nantucket Deeds in Book 1214, Page 321.

Said Parcels One and Two are conveyed subject to the following matters:

(a) Rights and easements as set forth in Certificate of Title No. 21783 at Nantucket Registry District, as affected, amended, replaced and restated by instrument dated March 3, 1997, registered as Document No. 75457 at Nantucket Registry District.

(b) Provisions of an Order of Taking by the Town of Nantucket of the fee interest in certain portions of Tristram Avenue, Alliance Lane and Ranger Road, dated December 17, 2008, registered as Document No. 126049 at Nantucket Registry District and recorded with Nantucket Deeds in Book 1166, Page 108.

(c) Restrictions set forth upon Certificate of Title No. 21783, to the extent now in force and applicable.

(d) Restrictions and provisions set forth in the deed from the Town of Nantucket to the grantors herein, dated December 30, 2009, recorded with Nantucket Deeds in Book 1214, Page 321.

(e) Real estate taxes assessed by the Town of Nantucket for the fiscal year 2010, commencing on July 1, 2009.

Executed and sealed on December 19, 2009.

Glenn J. DeSimone
Glenn J. DeSimone

Virginia G. DeSimone
Virginia G. DeSimone

STATE OF CONNECTICUT

Fairfield, ss. GREENWICH

December 19, 2009

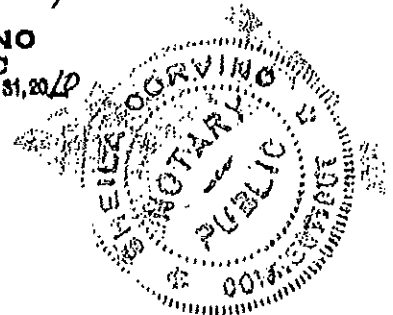
Then personally appeared the above-named Glenn J. DeSimone and Virginia G. DeSimone, and acknowledged the foregoing instrument to be their free act and deed, before me,

Sheila Corvino
Notary Public

My commission expires: 3/31/2010

| | |
|---|--------------------|
| NANTUCKET LAND BANK CERTIFICATE | |
| <input checked="" type="checkbox"/> Paid \$ | <u>190,000-</u> |
| <input type="checkbox"/> Exempt | |
| <input type="checkbox"/> Non-applicable | |
| No. | <u>30435</u> |
| Date | <u>12/31/09</u> |
| Authorization | <u>[Signature]</u> |

SHEILA CORVINO
NOTARY PUBLIC
MY COMMISSION EXPIRES MAR. 31, 2010



MASSACHUSETTS EXCISE TAX KAC
Nantucket County ROD #16 001
Date: 12/31/2009 11:01 AM
Otr/# 459002 22872 Doc# 00129394
Fee: \$43,320.00 Cone: \$9,500,000.00

NANTUCKET COUNTY Received & Entered
Attest: Jennifer H. Ferraira, Register of Deeds

DOC No: 00129394

NANTUCKET COUNTY LAND COURT
REGISTRY DISTRICT

** RECEIVED FOR REGISTRATION **

On: Dec 31, 2009 at 11:01A

Document Fee: 125.00 Rec Total: \$43,735.00

CERTIFICATE No: 23454

CERT 21783

Also noted on