

MATERIALS REGARDING HAWTHORNE LANE

*NOT* EXHAUSTIVE



January 18, 2024

Lancaster Select Board  
701 Main Street  
Lancaster, MA 01523

Re: Hawthorne Lane

Dear Members of the Select Board

It is my understanding individuals residing along Hawthorne Lane have asserted that the Town of Lancaster has an ownership interest in the way obligating the Town to maintain the way. Alternatively, the residents claim that the Town should take ownership of the way and maintain it as a public way. *The history of this way and the siting of the water booster station on the Open Space Parcel warrant a future, more detailed letter and analysis.* However, for our purposes today, it is important to establish that the Town does not have any duty to maintain the private way. To the extent the Town wants to accept the way, it must go through the standard process to accept and lay out a way or take the way by eminent domain.

Hawthorne Lane is shown as “Proposed Minor Street” on a plan entitled “Definitive Subdivision Plan, Land in Lancaster, Mass. owned by Poras Realty Trust”, dated October 6, 2015.<sup>1</sup> Hawthorne Lane is a portion of a subdivision approved by the Planning Board in January of 2016.<sup>2</sup> The development is also subject to a Flexible Development Special Permit, issued in December of 2015.<sup>3</sup> Neither the Subdivision Approvals, nor the Flexible Development Permit, require the Town to take ownership of the private way.

Currently, Melanson Bros., Inc. (“Melanson”) owns the fee interest in the way.<sup>4</sup> Although Melanson deeded out various lots in the subdivision, Melanson continues to hold the fee interest in the way. Melanson also created a Hawthorne Lane Homeowners Trust to maintain the way (critically, this is not a homeowners’ association).<sup>5</sup> The purpose of the Trust is to maintain the right of way “until such time as ownership of the Common Area [e.g., the roadway] shall be accepted by the Town of Lancaster.”

On December 1, 2023, the Town recorded an instrument of taking over the Open Space Parcel in the subdivision.<sup>6</sup> While the Town has a “tax title” over this parcel, a tax title is a limited form of ownership and the fee owner – here, Melanson – still has the right to redeem the

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<sup>1</sup> Worcester Registry of Deeds Plan Book 934, Plan 43.

<sup>2</sup> Worcester Registry of Deeds Book 58643, Page 271; Worcester Registry of Deeds Book 58643, Page 280.

<sup>3</sup> Worcester Registry of Deeds Book 58643, Page 266.

<sup>4</sup> Worcester Registry of Deeds Book 58783, Page 374.

<sup>5</sup> Worcester Registry of Deeds Book 62435, Page 196.

<sup>6</sup> Worcester Registry of Deeds Book 69948, Page 163.

Town of LANCASTER  
Real Estate  
History Summary As Of 02/12/2024

Account:	3273
Levy:	2024
Parcel:	36-1D
Record Owner:	MELANSON BROS INC
Location:	HAWTHORNE LN
Balance:	\$1,675.82

Debits

Name	Billing Date	Due Date	Billed	Credits	Remainder	Interest	Total Due	Per Diem
Quarterly Preliminary	7/1/2023	8/1/2023	\$538.83	\$0.00	\$538.83	\$40.30	\$579.13	\$ .206
Quarterly Preliminary	10/1/2023	11/1/2023	\$538.82	\$0.00	\$538.82	\$21.29	\$560.11	\$ .206
Quarterly Actual	12/31/2023	2/1/2024	\$534.33	\$0.00	\$534.33	\$2.25	\$536.58	\$ .205
Quarterly Actual	4/1/2024	5/1/2024	\$534.32	\$0.00	\$534.32	\$0.00	\$0.00	\$ .000
Grand Total			\$2,146.30	\$0.00	\$2,146.30	\$63.84	\$1,675.82	\$ 0.617

Transactions

# History Summary As Of 02/12/2024

Lancaster

Account: 2267066

Levy: 2022

Parcel: 36-1D

Record Owner: MELANSON BROS INC

Location: HAWTHORNE LN

Balance: \$4,151.36

## Debits

Name	Levy Date of Cert.	Billed	Credits	Remainder	Interest	TotalDue	PerDiem
Tax Title Certification	2023	11/17/2023	\$2,403.23	\$0.00	\$2,403.23	\$91.66	\$2,494.89
Tax Title Transfer	2022	11/17/2023	\$1,595.62	\$0.00	\$1,595.62	\$60.85	\$1,656.47
Grand Total			\$3,998.85	\$0.00	\$3,998.85	\$152.51	\$4,151.36

## Transactions





**Town of Lancaster**  
**Office of the Town Administrator**  
701 Main Street, Suite 1  
Lancaster, MA 01523

KATE HODGES, Town Administrator

Kathleen Rocco, Executive Assistant

October 5, 2022

## MEMO

**To: Gary Melanson, Hawthorne Subdivision**  
**From: Kate Hodges, Town Administrator**  
**RE: Hawthorne Lane Subdivision Project Conclusion & Punch List**  
**CC: Select & Planning Boards**  
**Jasmine Farinacci, Community Development & Planning Director**  
**Brian Gingras, Building Inspector**

I appreciate, Gary, the time you took last week to meet with the Town Staff and I regarding the Hawthorne Lane Development Project. I felt our meeting was productive and was conducted with a true spirit of collaboration – I thank *you* for that. As promised, below I have provided a synopsis of the items we discussed. These appeared on Haley and Ward’s “Punch List” memorandum dated 3-31-2021. This list had previously been provided to the Planning Board, in April of 2021; however, the membership of the current Planning Board is different than that of 2021. Because of this, the new board members will need to understand some of the historical background relative to this project in order to assist in closing out the matter. To assist in that effort, I will also be sending a copy of this memo to the Planning Board.

I appreciate the fact that you wish to complete the tasks needed to close of this project by the end of November 2022. I am further grateful for the time you took last week to reaffirm my staff and I of your desire to *comply* with each of the stipulations outlined in the project’s Special Permit which was issued by the Planning Board years ago. Please know that we believe we are partners with you in this matter and want you to feel free to ask questions, voice concerns or explore reasons for any delays. Doing so, we will be better able to avoid rumor, innuendo and bad feelings relative to the project overall.

Given that, the table below seeks to represent the mutually-agreed-upon summary of outstanding matters relative to the eventual completing of the Hawthorn Lane subdivision.

ACTION ITEMS		AGREED UPON REMEDY	
Install Bounds		<b>Completed</b> in May of 2022. Haley & Ward (H&W) need to inspect them. Gary will get in touch with them to schedule.	
Clean trash & debris from stormwater ponds		<b>Completed</b> in November 2021. Gary plowed the subdivision last winter. H&W need to inspect as well.	
Install grates & frames on stormwater outlets		<b>Completed.</b> The Engineer needs to inspect. Gary will coordinate this.	
Install ¼” cover plate over stormwater pond		<b>Completed.</b> The Engineer needs to inspect. Gary will coordinate this.	

outlet structure	
Raise hydrant & gate boxes on homes 45 & 53	<b>Pending Confirmation.</b> Gary <i>believes</i> these were completed when last he and his team were on-site working. Gary will investigate and let the Town know.
Loam & seed shoulder	<b>Completed</b> in <i>appx.</i> Fall of 2021. H&W already inspected this. Gary went back to the site after H&W's inspection and installed additionally fill and seed to support the curb backing.
<del>Provide hoods at catch basins.</del>	<b>WITHDRAWN.</b> No longer needed as these were only necessary during construction to protect wetlands and control stormwater.
Relocate 719 George Hill sewer force main	<b>Completed.</b> This item was relocated in 2019; the sewer main is now located within the George Hill ROW per spec.
Investigate & resolve settlement at NE corner of water boost station	<b>Completed.</b> This is no longer an issue as the areas in question have been graded and prepared for the installation of pavement (see above).
Add step at water boost station	<b>Completed.</b> This will be done at the same time as the final paving tasks are also completed (see task above).
Place binder & top course pavement at water boost station	<b>Outstanding.</b> Gary is going to schedule this work and provide the Town (through this office) with the date(s) this will be taking place.
Install fence & gate around pump station	<b>Outstanding.</b> After the pavement install is scheduled, Gary will order these supplies and install the fencing after they are received.
Raise hydrants to grade at pump station	<b>Outstanding.</b> This will be completed at the same time as the paving.
Raise sewer service curb boxes to grade for whole project & label "sewer"	<b>Outstanding.</b> This will be completed at the same time as the paving.
Raise water service curb boxes to grade for whole project & label "water"	<b>Outstanding.</b> This will be completed at the same time as the paving.
Provide record plans for project	<b>Pending Confirmation.</b> Jasmine and Brian shall confirm that what is on file in their office is exactly what is needed to satisfy this action item.
Provide Draft Homeowners Agreement	<b>WITHDRAWN.</b> A draft of this agreement <i>was</i> provided to the Planning Board many years ago; a copy is on file in the planning office. That said, the homeowners were issued certificates of occupancy and permitted to move-in without any executed HOA agreements. No deeds to any of the homes mention the need or the existence of an HOA. There is no legal recourse, currently and under these circumstances, for the Town to now require this after-the-fact. The Town staff from years' ago mismanaged this; however, it is not the fault of the residents who moved in nor is it reasonable to require (which, for the record, we cannot legally require anyway) them to redo their home deeds and mortgage documents to include an HOA which was not in place at the time of their purchase and has not been in place for the entire time they have lived in the development. This is on the Town and we need to accept it; we don't have to like it, but we have to accept it.
<del>Confirm alarm call-outs to water dept. from pump station</del>	<b>WITHDRAWN.</b> The facility has a dial-up system (phone) in the building that automatically rings to the Fire Dept. If there were to be a loss of electricity which causes the water pump to effectively shut down,

...alarm call-outs (cont.)	the phone in the building automatically calls the Fire Dept. to alert them. Gary also offered that the existing pumpstation has been operational for more than three years and has employed the system detailed above. During that time, there have been no reported calls for a system outage or water pump issue at the site. There is no need to require this additional layer as it is unnecessary and costly.
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During our conversation, there were also several additional points of clarification discussed. We also explored a few other tasks which were not represented on H&W's punch list but were worth exploring as a group.

These included the following:

- ✦ The water department requested that Melanson pave 6' around the pump house structure and add a 12' paved driveway leading to the pump house entrance. The water department staff expressed their need to access the generator within the pump during emergencies and, in order to do that during the winter months, they will have to snowplow/snow blow the area in order to allow access. The original specifications for the area surrounding the pump house outlined a stone dust or rock pathway as a mean of egress. The water department staff are concerned about maintaining the area properly during inclement weather and asked for these modifications; Gary agreed to pave the areas as requested.
- ✦ Chairman of the Planning Board Frank Streeter asked Gary if there was anything that he [Gary] and his team could provide relative to landscaping 'around' the pump house and the structure itself is rather unappealing. Gary agreed to investigate this and see what could be done in terms of planning, shrubbery, and screenings, to make the area more aesthetically pleasing.
- ✦ The open space, as it exists now, has the pump house structure cited within the center of the property. Like the Homeowners Association matter outlined above, homeowners were permitted to occupy their spaces despite the pump house building's location (meaning, within the open space parcel as it has always been.) While the Town maintains its position of discontent with the facility's location, the collective group recognized that moving the building required immense expense, including reciting water and sewer lines, and would render the neighborhood waterless during the construction time which would be lengthy. It was agreed that while not ideal, un-doing this, at this time, would not be in the best interest of the Town or the Residents of Hawthorne Lane. It was agreed, therefore, that:
  - The open space land shall be deeded to the Town, under the care, custody and control of the Select Board as is.
  - Gary's attorney will re-draft the land donation agreement to reflect the change of 'owner' from Conservation to Select Board/Town and will forward a copy to this office for review when it is completed.
- ✦ Haley and Ward have an outstanding bill for services rendered relative to this project which Melanson is responsible for. Gary agreed that he would personally contact H&W directly and make arrangements to provide payment.
- ✦ The Avidia Bank Fund which has been referred to as the '*project bond*<sup>i</sup>' has approximately \$93,000 remaining.

- Gary received \$43,000 BACK (as authorized by the Planning Board) approximately one year ago. This release of funds was signed by Russ Williston who was the Planning Board Chair at the time.
- This amount was returned in recognition of several project milestone completions including:
  - The installation of the main Hawthorne Lane roadway;
  - The completion of the roadway berms which surrounded the curbs along the Hawthorne Lane;
  - The additional of extra loam and seed to backfill the area around the curbing; and
  - The acquisition and installation of twenty-nine (29) street trees (public shade trees) which were planted in a staggered pattern on the sides of Hawthorne Lane .
- When the additional outstanding items outlined in pages 1 and 2 of this memo have been completed, Gary will reappear before the Planning Board to request that the remainder of the funds held in the Avidia account are released.
  - This will signify the project's completion and the acceptance of the project and, by default, the road.
  - The Planning Board expects to hear from Gary at their meeting on October 24<sup>th</sup> and shall be placed on the agenda to provide, at a minimum, an update on the 'punch list' items detailed above.
- ✦ Once the Planning Board has determined that the project is complete, the Select Board should plan to schedule a time to hold a joint meeting with the DPW Commission. At this meeting, the Boards should vote to formally accept the water pump house (DPW) and the open space (Select Bord). This will ensure maintenance and upkeep of the two assets are transferred from that of a private company (Melanson) to the Town (via the DPW and the Town Administrator).

Thank you, once again, for taking the time to meet with us and to help us outline a mutually agreeable pathway forward. I am hopeful, as your proposed November completion date draws near, that you will feel welcome to contact me should you face any delays, barriers, or issues which you believe may prevent your target date from being met.

I believe, as stated before, we can all agree that while the path that led us to this point was muddy at best, we all want to end this project in an open and responsive way which benefits the town, it's residents and your company.

Thank you for being part of that solution. I look forward to hearing about your progress.

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<sup>1</sup> This arrangement is not a bond. The discussion surrounding this matter is not one which the group had with Mr. Melanson; however, it is something which the Town's Select Board and Finance Committee should discuss, at length, in the upcoming months.

October 6, 2015

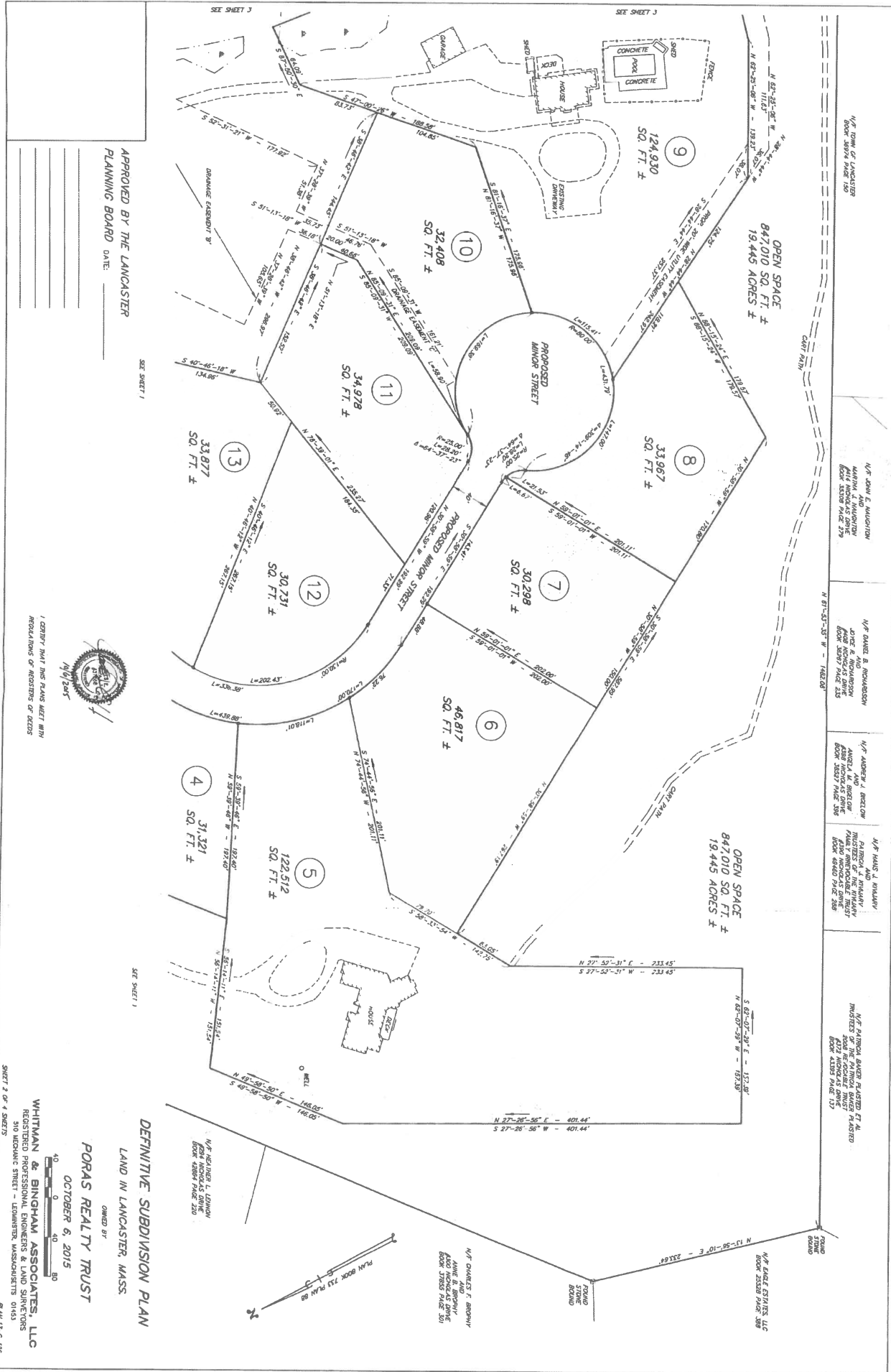
**ENGINEER & SURVEYOR**  
WHITMAN & BINGHAM ASSOCIATES, LLC.  
510 MECHANIC STREET  
LEOMINSTER, MA 01453  
TEL. (978) 537-5296  
FAX (978) 537-1423

[illegible]

DEC 09 2015

LANCASTER COMMUNITY  
DEVELOPMENT & PLANNING[illegible]

PLAN INDEX	
SUBDIVISION PLAN OF LAND	1 - 4
EXISTING CONDITIONS/DEMOLITION PLAN	5
STORMWATER MANAGEMENT PLAN	6 - 8
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APPROVED BY THE LANCASTER  
PLANNING BOARD DATE: \_\_\_\_\_

SEE SHEET 1

SEE SHEET 1

DEFINITIVE SUBDIVISION PLAN  
LAND IN LANCASTER, MASS.  
OWNED BY  
PORAS REALTY TRUST  
OCTOBER 6, 2015  
WHITMAN & BINGHAM ASSOCIATES, LLC  
REGISTERED PROFESSIONAL ENGINEERS  
310 MECHANIC STREET - LEOMINSTER, MASSACHUSETTS 01453  
SHEET 2 OF 4 SHEETS  
PLAN 17-C-148

N/T TOWN OF LANCASTER  
BOOK 2874 PAGE 150

N/T JOHN E. MALACHUK  
MARTIN A. MALACHUK  
BOOK 2320 PAGE 279

N/T DANIEL B. MCDONALDSON  
JAMES R. MCDONALDSON  
BOOK 2007 PAGE 235

N/T ANDREW J. BROOKLOW  
ANGELA M. BROOKLOW  
BOOK 2873 PAGE 180

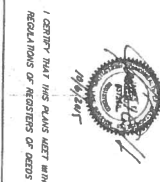
N/T HANS J. KHALAF  
PATRICK A. KHALAF  
BOOK 2873 PAGE 180

N/T PATRICIA BARBER PLASTER ET AL  
INVESTORS OF THE PATRICIA BARBER PLASTER  
4211 WOODS DRIVE  
BOOK 4338 PAGE 127

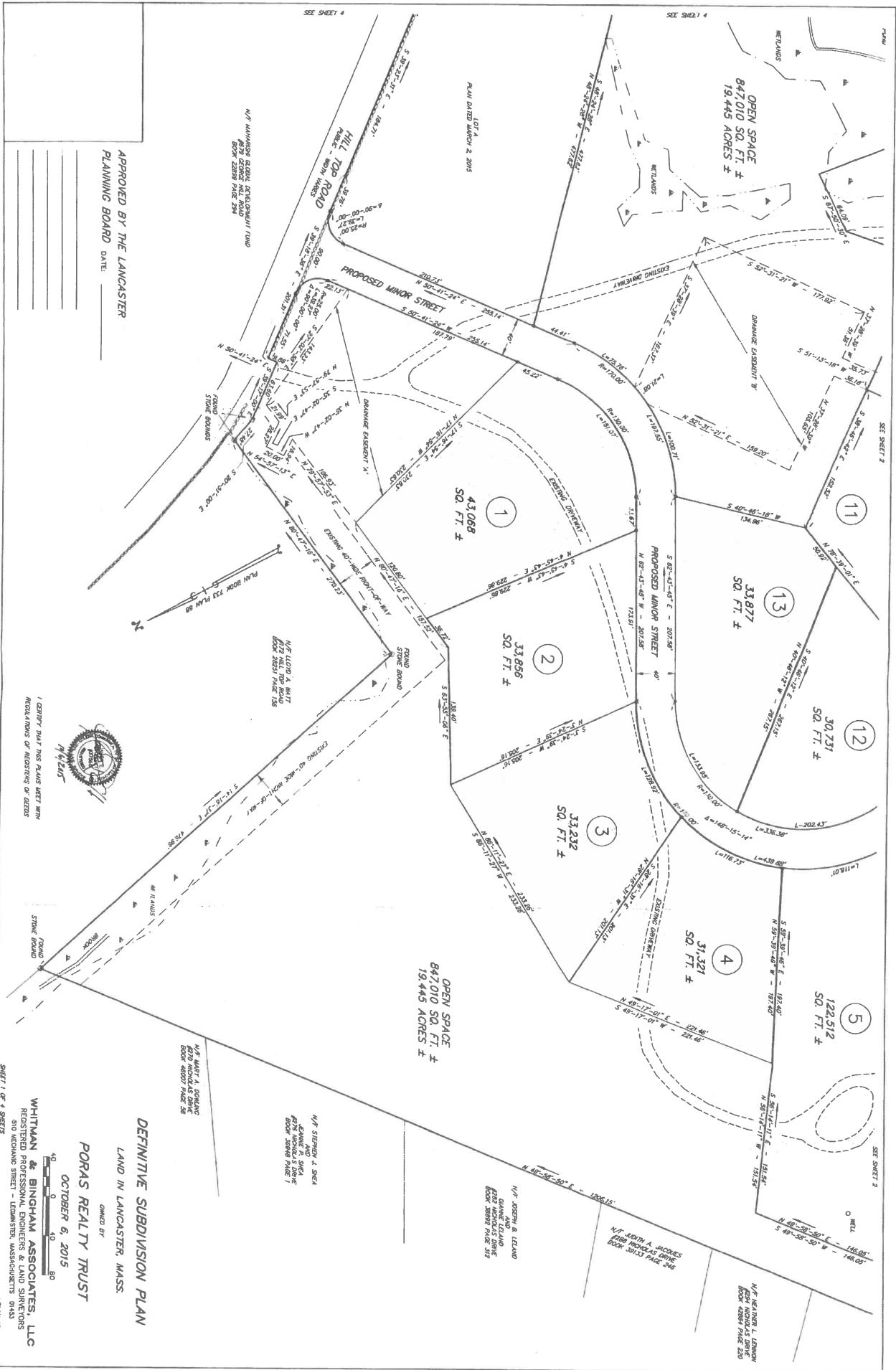
N/T ADOLF STEINER, LLC  
BOOK 2558 PAGE 388



APPROVED BY THE LANCASTER  
PLANNING BOARD DATE: \_\_\_\_\_



DEFINITIVE SUBDIVISION PLAN  
LAND IN LANCASTER, MASS.  
OWNED BY  
OCTOBER 6, 2015  
PORAS REALTY TRUST  
WHITMAN & BINGHAM ASSOCIATES, LLC  
REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS  
510 MECHANIC STREET - LEANSTER, MASSACHUSETTS 01463  
PLAN 17-C-128  
SHEET 3 OF 4 SHEETS

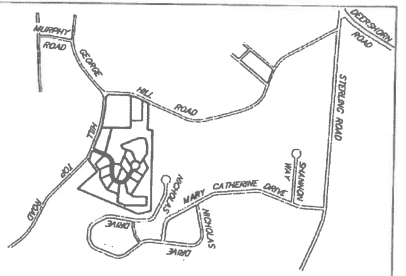


APPROVED BY THE LANCASTER  
PLANNING BOARD DATE: \_\_\_\_\_



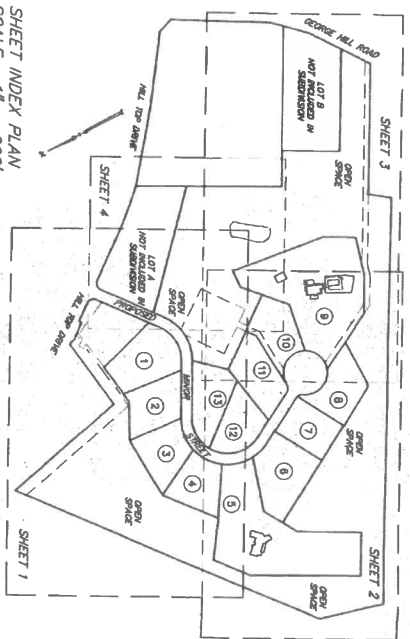
**DEFINITIVE SUBDIVISION PLAN**  
LAND IN LANCASTER, MASS.  
OWNED BY  
**PORAS REALTY TRUST**  
OCTOBER 6, 2015  
**WHITMAN & BINGHAM ASSOCIATES, LLC**  
REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS  
310 MECHANIC STREET - LANCASTER, MASSACHUSETTS 01903  
PLAN 17-C-128





LOCUS MAP  
SCALE: 1" = 1000'

SHEET INDEX PLAN  
SCALE: 1" = 200'



### LOT SHAPE ANALYSIS

LOT 1	PERMUTER 2	101.2	527.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 2	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 3	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 4	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 5	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 6	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 7	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 8	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 9	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 10	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 11	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 12	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70
LOT 13	PERMUTER 2	70.2	616.22	25.3	4.65%	25.3	41.00%	1.07%	2.70

### OPEN SPACE PERCENTAGES

TOTAL AREA OF FLEXIBLE REDEVELOPMENT PARCELS	35.58 ACRES ± (14.58)
TOTAL WETLANDS	18.43 ACRES ± (7.54)
OPEN SPACE AREA (AQU. 400)	1.86 ACRES ± (0.80)
OPEN SPACE WETLANDS	1.86 ACRES ± (0.80)

### LEGEND

- EXISTING STONE WALL
- EXISTING DRAINAGE
- PROPOSED ROW PAV.
- PROPOSED CONCRETE ROAD
- WETLANDS

### CERTIFICATE OF NO APPEAL

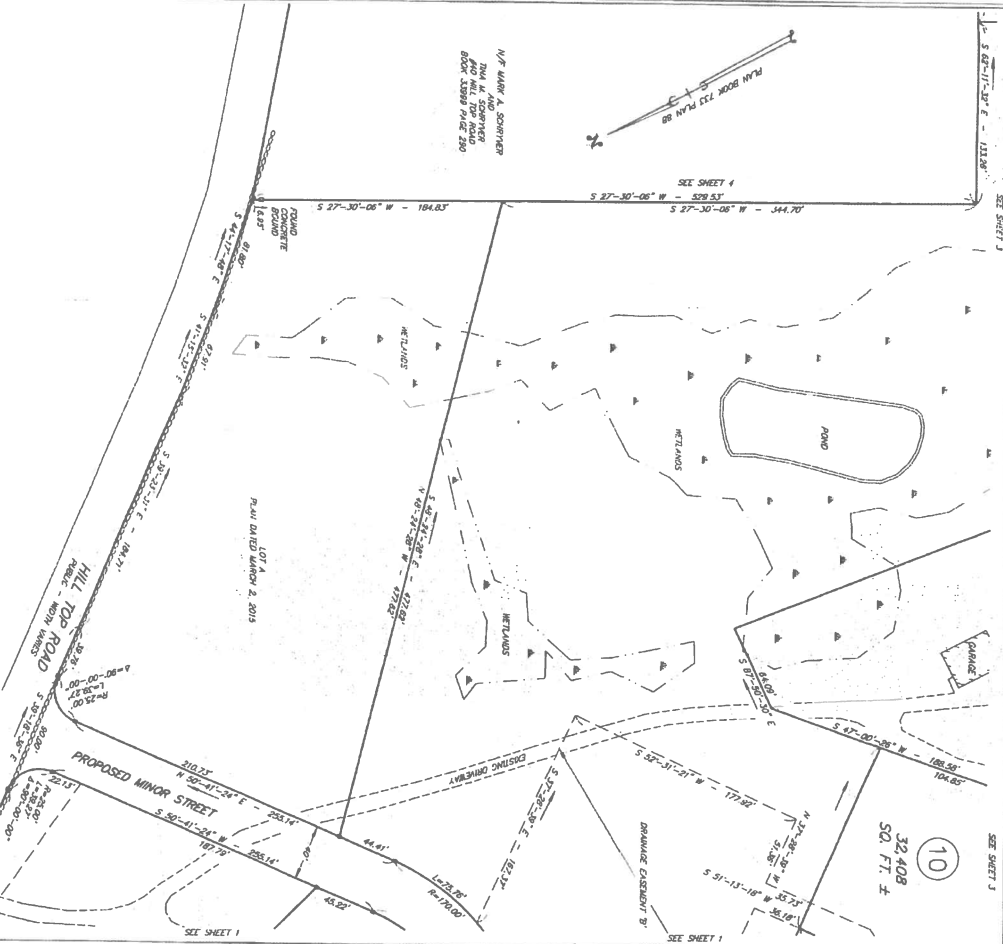
DATE: \_\_\_\_\_  
 THIS IS TO CERTIFY THAT THE SUBDIVISION PLAN AND PLANNING BOARD OF APPROVAL OF THE PLAN HAS BEEN REVIEWED AND RECORDED ON \_\_\_\_\_ AT \_\_\_\_\_ AND NO APPEAL OF APPEAL FROM SUCH APPEAL HAS BEEN RECEIVED DURING THE TWENTY DAYS NEXT AFTER RECEIPT AND RECORD OF SUCH NOTICE OF APPROVAL.

TOWN CLERK

I CERTIFY THAT THIS PLAN MEET WITH REGULATIONS OF RECORDS & DEEDS



DEFINITIVE SUBDIVISION PLAN  
 LAND IN LANCASTER, MASS.  
 OWNED BY  
**PORAS REALTY TRUST**  
 OCTOBER 6, 2015  
**WHITMAN & BINGHAM ASSOCIATES, LLC**  
 REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS  
 310 MECHANIC STREET - LANCASTER, MASSACHUSETTS 01453  
 PLAN 17-C-178  
 SHEET 4 OF 4 SHEETS





DESCRIPTION	R/L	INVERT (ELEV.)	INVERT (ELEV.)
N202	524.40	523.10 [1']	521.30
N203	524.40	523.10 [1']	521.30
N204	524.40	523.10 [1']	521.30
N205	524.40	523.10 [1']	521.30
N206	524.40	523.10 [1']	521.30
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N249	524.40	523.10 [1']	521.30
N250	524.40	523.10 [1']	521.30
N251	524.40	523.10 [1']	521.30
N252	524.40	523.10 [1']	521.30
N253	524.40	523.10 [1']	521.30
N254	524.40	523.10 [1']	521.30
N255	524.40	523.10 [1']	521.30
N256	524.40	523.10 [1']	521.30
N257	524.40	523.10 [1']	521.30
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N278	524.40	523.10 [1']	521.30
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N284	524.40	523.10 [1']	521.30
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N291	524.40	523.10 [1']	521.30
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N293	524.40	523.10 [1']	521.30
N294	524.40	523.10 [1']	521.30
N295	524.40	523.10 [1']	521.30
N296	524.40	523.10 [1']	521.30
N297	524.40	523.10 [1']	521.30
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N299	524.40	523.10 [1']	521.30
N300	524.40	523.10 [1']	521.30

DESCRIPTION	R/L	INVERT (ELEV.)	INVERT (ELEV.)
N202	524.40	523.10 [1']	521.30
N203	524.40	523.10 [1']	521.30
N204	524.40	523.10 [1']	521.30
N205	524.40	523.10 [1']	521.30
N206	524.40	523.10 [1']	521.30
N207	524.40	523.10 [1']	521.30
N208	524.40	523.10 [1']	521.30
N209	524.40	523.10 [1']	521.30
N210	524.40	523.10 [1']	521.30
N211	524.40	523.10 [1']	521.30
N212	524.40	523.10 [1']	521.30
N213	524.40	523.10 [1']	521.30
N214	524.40	523.10 [1']	521.30
N215	524.40	523.10 [1']	521.30
N216	524.40	523.10 [1']	521.30
N217	524.40	523.10 [1']	521.30
N218	524.40	523.10 [1']	521.30
N219	524.40	523.10 [1']	521.30
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N221	524.40	523.10 [1']	521.30
N222	524.40	523.10 [1']	521.30
N223	524.40	523.10 [1']	521.30
N224	524.40	523.10 [1']	521.30
N225	524.40	523.10 [1']	521.30
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N227	524.40	523.10 [1']	521.30
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N230	524.40	523.10 [1']	521.30
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N234	524.40	523.10 [1']	521.30
N235	524.40	523.10 [1']	521.30
N236	524.40	523.10 [1']	521.30
N237	524.40	523.10 [1']	521.30
N238	524.40	523.10 [1']	521.30
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N249	524.40	523.10 [1']	521.30
N250	524.40	523.10 [1']	521.30
N251	524.40	523.10 [1']	521.30
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N253	524.40	523.10 [1']	521.30
N254	524.40	523.10 [1']	521.30
N255	524.40	523.10 [1']	521.30
N256	524.40	523.10 [1']	521.30
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N259	524.40	523.10 [1']	521.30
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N262	524.40	523.10 [1']	521.30
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N281	524.40	523.10 [1']	521.30
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N295	524.40	523.10 [1']	521.30
N296	524.40	523.10 [1']	521.30
N297	524.40	523.10 [1']	521.30
N298	524.40	523.10 [1']	521.30
N299	524.40	523.10 [1']	521.30
N300	524.40	523.10 [1']	521.30

DATE  
TOWN OF LANCASTER  
PLANNING BOARD

**WHITMAN BINGHAM ASSOCIATES**  
REGISTERED ENGINEERS & LAND SURVEYORS  
100 ALFRED STREET  
PO BOX 1200  
LANCASTER, MA 01906  
TEL: (617) 552-1000  
FAX: (617) 552-1001



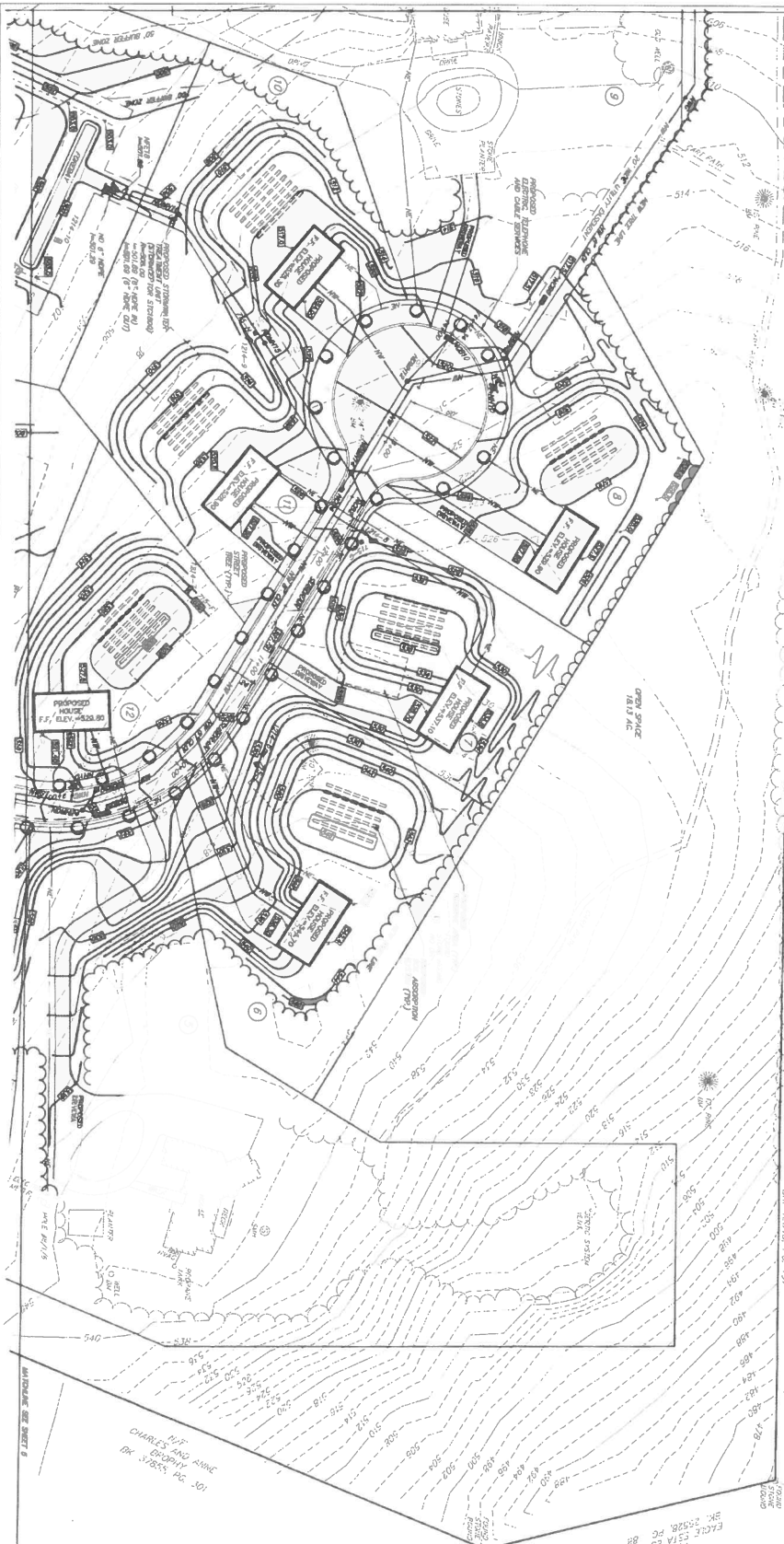
STORMWATER MANAGEMENT  
GRADING AND UTILITIES PLAN  
OFF  
HILLTOP ROAD  
IN  
LANCASTER, MA

PREPARED FOR:  
PORAS REALTY TRUST  
WIENERWALD II REALTY TRUST  
121 PARK AVENUE  
NEWTON, MA 02458

#### REVISIONS

NO.	DESCRIPTION	DATE	BY
1	PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP

DRAWN BY: MFP	CHECKED BY: BPM
DATE: 10/6/15	SCALE: 1"=40'
SHEET NUMBER: 6 OF 17	JOB NUMBER: 13098
COMPS: 9657	PLAN NUMBER: 31-D-21
PLAN REF(S): BY OTHERS	FIELD BOOK REF(S):



MAJOR SEE SHEET 7

DATE	TOWN OF LANCASTER PLANNING BOARD

TOWN OF LANCASTER  
BY: 10/14/15 PC 150

ONLY 2.0 HOURS  
BY: 10/14/15 PC 150

FAHRT AND JOHNS  
BY: 10/14/15 PC 150

ADRIAN AND JOHNS  
BY: 10/14/15 PC 150

W/F JAMES  
BY: 10/14/15 PC 150

EDWARD PLAYSIDE PLAZA BAY  
BY: 10/14/15 PC 150

**WHITMAN & BINGHAM ASSOCIATES**  
REGISTERED ENGINEERS & LAND SURVEYORS  
110 NEPTUNE STREET  
ROCHESTER, MASSACHUSETTS 01501  
TEL: (603) 333-2200  
FAX: (603) 333-2200

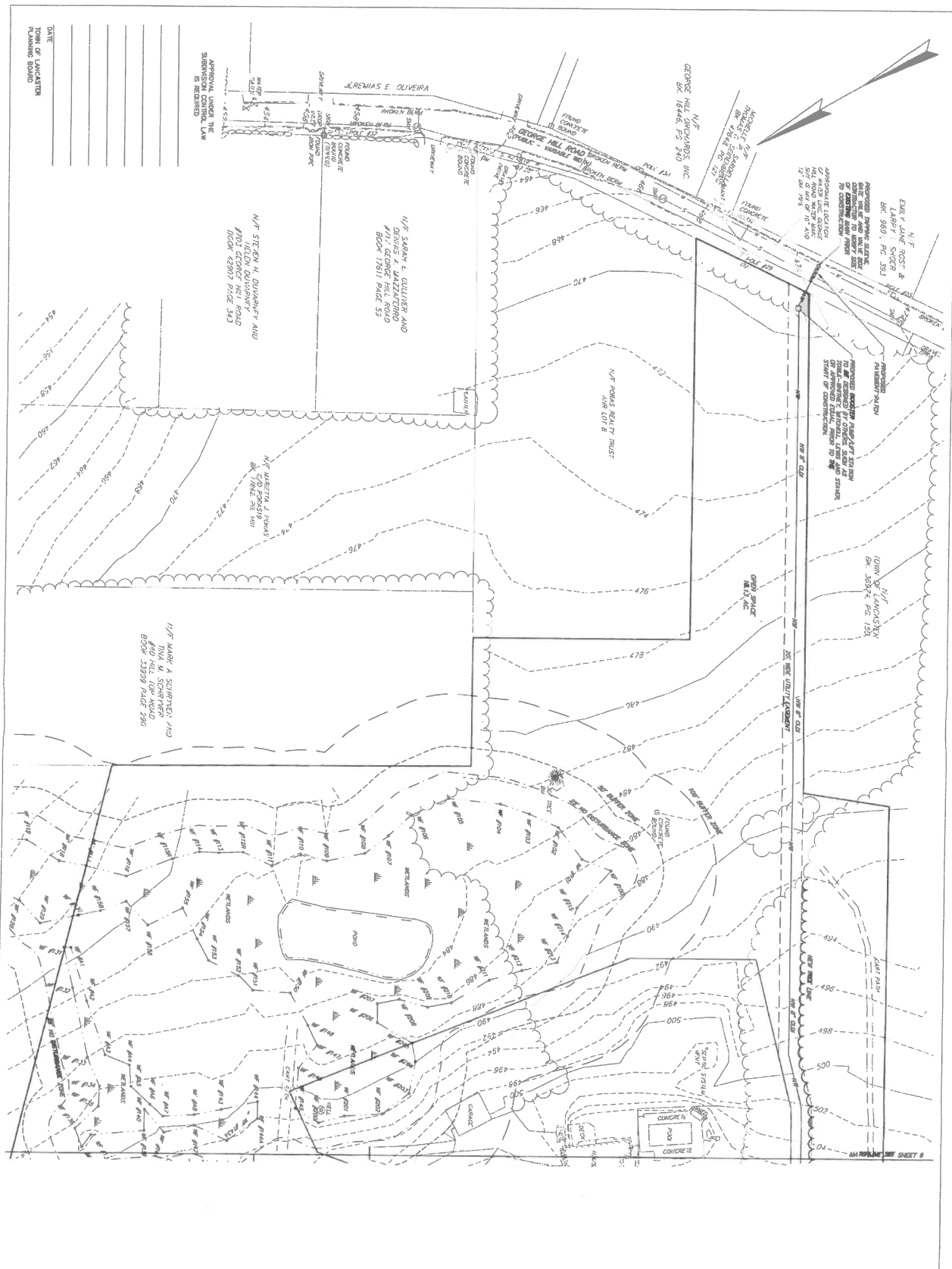


**STORMWATER MANAGEMENT GRADING AND UTILITIES PLAN OF HILLTOP ROAD IN LANCASTER, MA**

PREPARED FOR:  
PORAS REALTY TRUST  
WIENERWALD II REALTY TRUST  
121 PARK AVENUE  
NEWTON, MA 02458

REVISIONS			
NO.	DESCRIPTION	DATE	BY
1	PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP

DRAWN BY: MFP	CHECKED BY: BPM
DATE: 10/6/15	SCALE: 1"=40'
SHEET NUMBER: 7 OF 17	JOB NUMBER: 13099
COMPS: 9657	PLAN NUMBER: 31-D-21
PLAN REF(S): BY OTHERS	FIELD BOOK REF(S):



**WHITMAN BINGHAM ASSOCIATES**  
REGISTERED ENGINEERS & LAND SURVEYORS  
FID 101700000, ERMST  
LEON PETER MARCHETTI 00415  
T.E. 603.754.1410  
FAX 603.754.1415



**STORMWATER MANAGEMENT GRADING AND UTILITIES PLAN OFF HILLTOP ROAD IN LANCASTER, MA**  
  
PREPARED FOR:  
**PORAS REALTY TRUST  
WIENERWALD II REALTY TRUST**  
121 PARK AVENUE  
NEWTON, MA 02458

REVISIONS			
NO.	DESCRIPTION	DATE	BY
1	PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP

DRAWN BY: MFP	CHECKED BY: BPM
DATE: 10/6/15	SCALE: 1"=40'
SHEET NUMBER: 8 OF 17	JOB NUMBER: 13099
COMPS: 9657	PLAN NUMBER: 31-D-21
PLAN REF(S): BY OTHERS	FIELD BOOK REF(S):



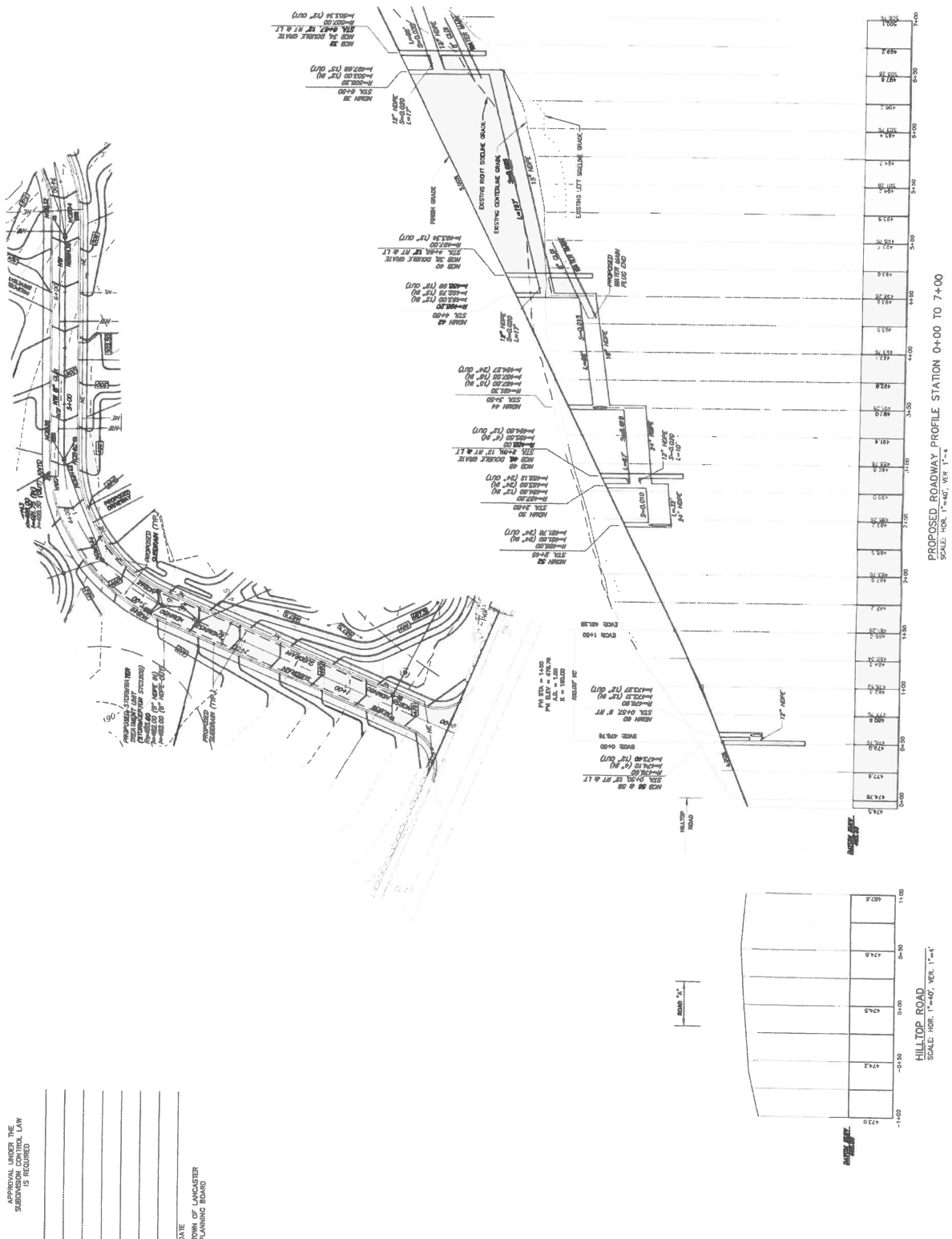
**WHITMAN & BINGHAM**  
ASSOCIATES  
REGISTERED ENGINEERS & LAND SURVEYORS



STREET PLAN AND PROFILE  
OFF  
HILLTOP ROAD  
IN  
LANCASTER, MA

PREPARED FOR:  
PORAS REALTY TRUST  
WIGNERWALD II REALTY TRUST  
121 PARK AVENUE  
NEWTON, MA 02458

NO.		DESCRIPTION		DATE	BY	BY OTHERS	FIELD BOOK REF(S):
			PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP	PLAN REF(S):	
						COMP(S):	
						9 OF 17	PLAN NUMBER: 21-0-21
						SHEET NUMBER:	JOB NUMBER: 13098
				DATE: 10/6/15			SCALE: 1"=40'
REVISIONS		DRAWN BY:		MFP	CHECKED BY:	BRN	







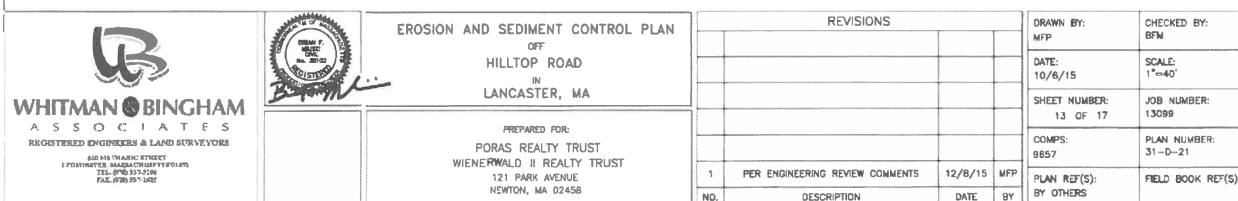








 <b>WHITMAN BINGHAM ASSOCIATES</b> REGISTERED ENGINEERS & LAND SURVEYORS <small>P.O. MECHANIC STREET LEONARDVILLE, MASSACHUSETTS 01541 TEL: (978) 331-1500 FAX: (978) 331-1483</small>		 <i>[Signature]</i>	<b>EROSION AND SEDIMENT CONTROL PLAN</b> OFF HILLTOP ROAD IN LANCASTER, MA		<table><tr><th colspan="4">REVISIONS</th></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></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## CONSTRUCTION NOTES

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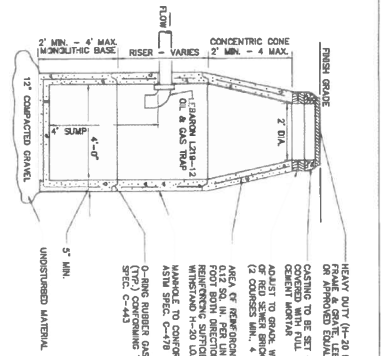
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PREPARED FOR:  
PORAS REALTY TRUST  
WIENERWALD II REALTY TRUST  
121 PARK AVENUE  
NEWTON, MA 02458

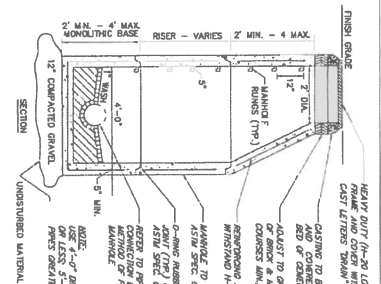
REVISIONS			
1	PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP

DRAWN BY: MFP	CHECKED BY: BFM
DATE: 10/6/15	SCALE: NONE
SHEET NUMBER: 14 OF 17	JOB NUMBER: 13099
COMPS: 9657	PLAN NUMBER: 31-D-21
PLAN REF(S): BY OTHERS	FIELD BOOK REF(S):

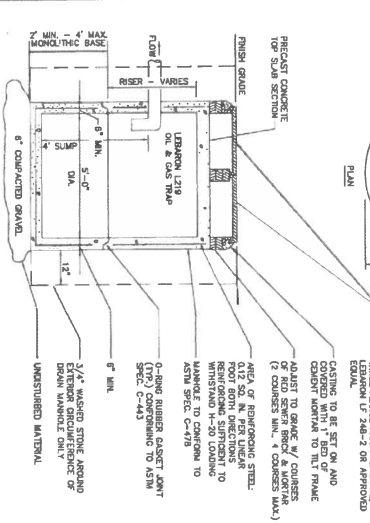
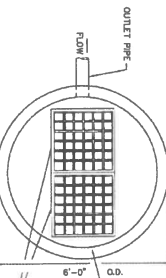




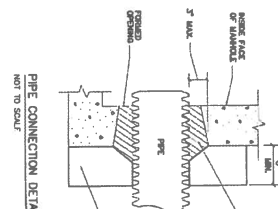
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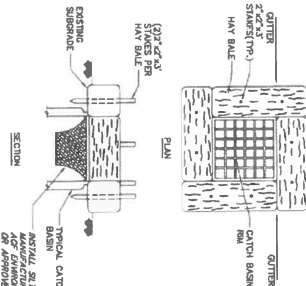
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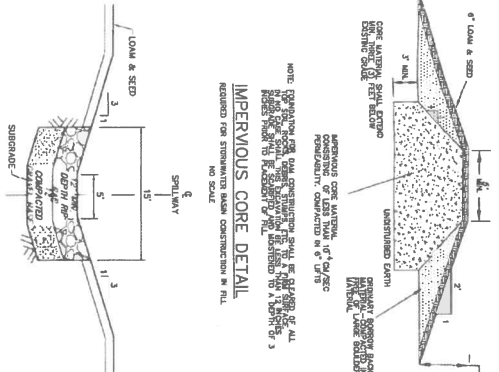
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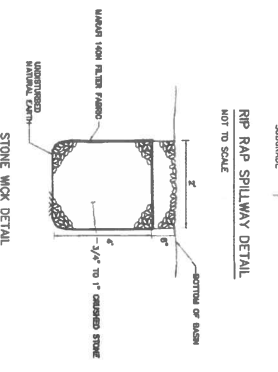
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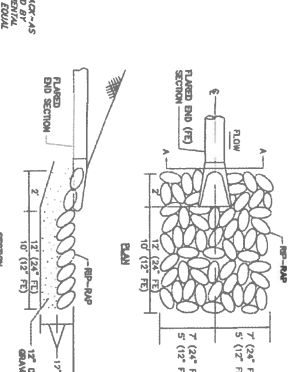
CATCH BASIN INLET EROSION CONTROL  
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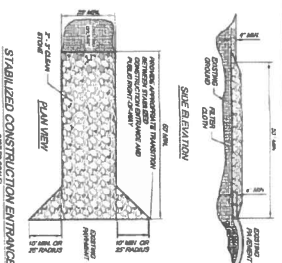
IMPERVIOUS CORE DETAIL  
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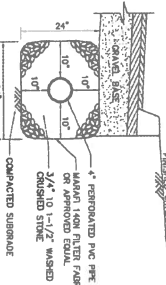
RIP RAP SPILLWAY DETAIL  
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STONE WICK DETAIL  
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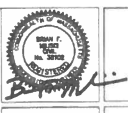


TYPICAL TRENCH SECTION  
NOT TO SCALE



PERFORATED ROADWAY SUBDRAIN DETAIL  
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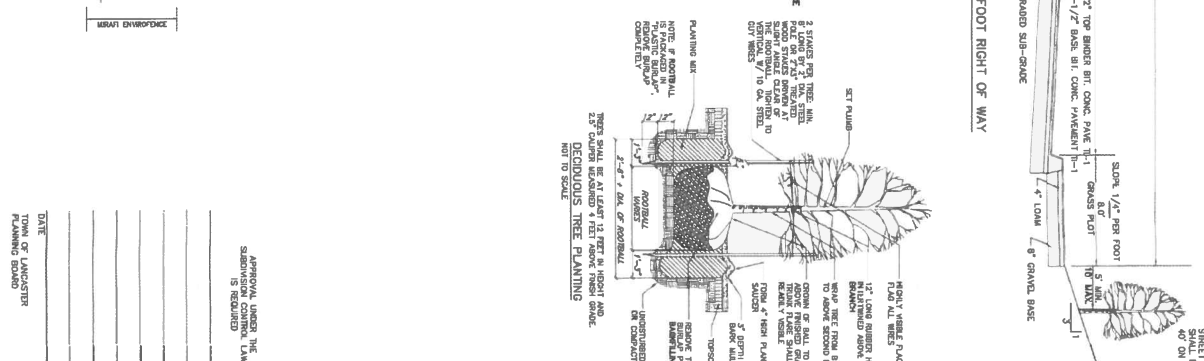
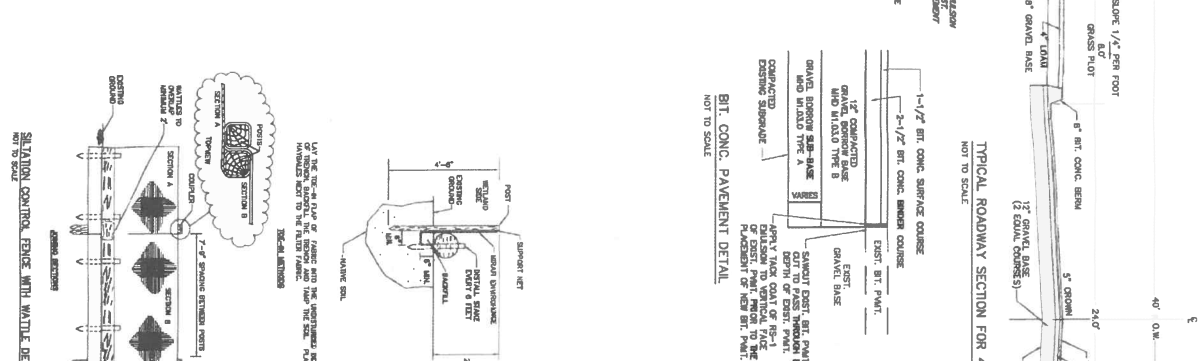
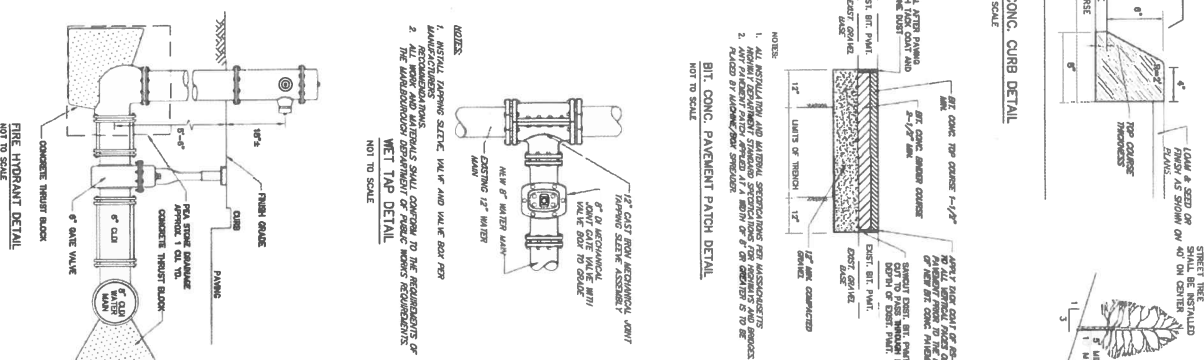
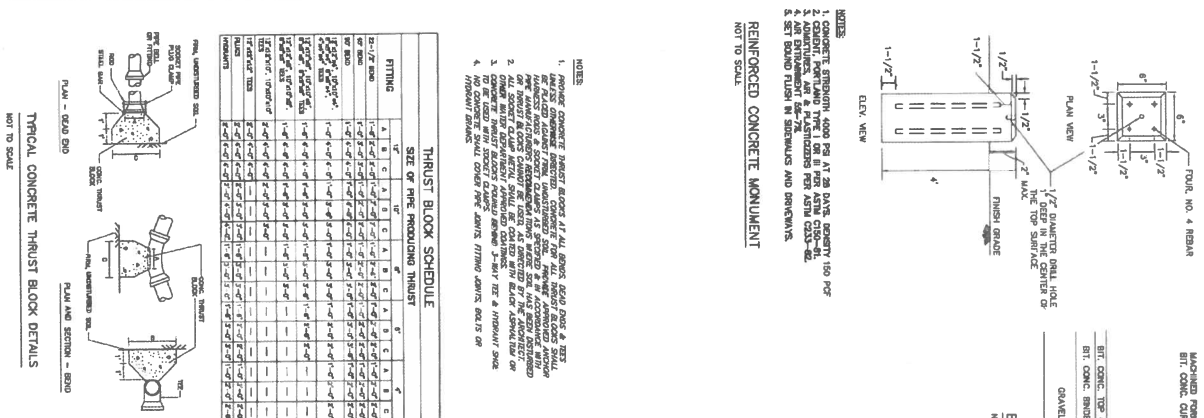
**WHITMAN BINGHAM ASSOCIATES**  
REGISTERED ENGINEERS & LAND SURVEYORS  
1200 HILLTOP ROAD, SUITE 100  
LANCASTER, MASSACHUSETTS 01901  
TEL: 978-681-1500 FAX: 978-681-1503



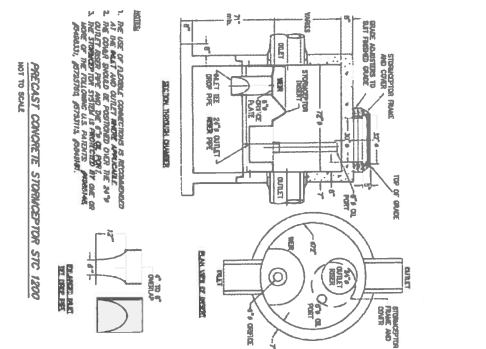
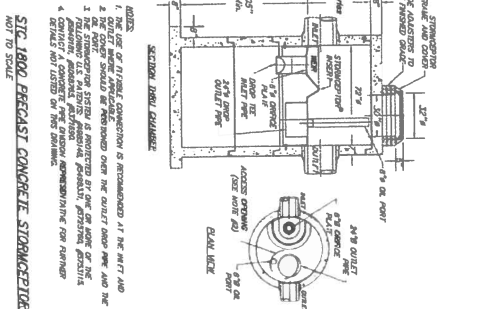
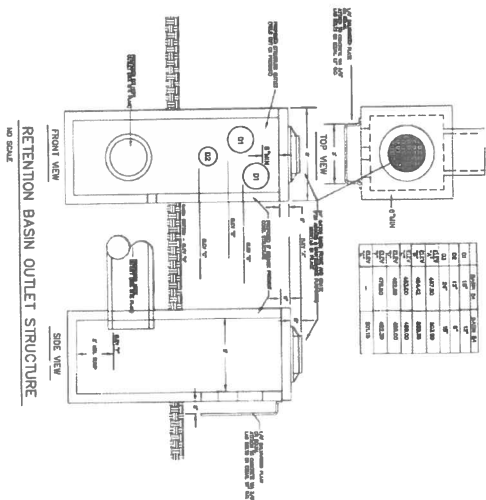
CONSTRUCTION DETAILS #1  
OF  
HILLTOP ROAD  
IN  
LANCASTER, MA  
  
PREPARED FOR:  
PORAS REALTY TRUST  
WIENERWALD II REALTY TRUST  
121 PARK AVENUE  
NEWTON, MA 02456

REVISIONS			
NO.	DESCRIPTION	DATE	BY
1	PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP

DRAWN BY: MFP	CHECKED BY: BPM
DATE: 10/6/15	SCALE: AS NOTED
SHEET NUMBER: 15 OF 17	JOB NUMBER: 13099
COMPS: 9857	PLAN NUMBER: 31-D-21
PLAN REF(S): BY OTHERS	FIELD BOOK REF(S):



<p><b>DATE</b> 10/6/15</p> <p><b>DESIGNED BY</b> MFP</p> <p><b>CHECKED BY</b> BFM</p> <p><b>SCALE</b> AS NOTED</p> <p><b>JOB NUMBER</b> 13099</p> <p><b>PLAN NUMBER</b> 31-D-21</p> <p><b>FIELD BOOK REF(S)</b></p>	<p><b>REVISIONS</b></p> <table> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> <th>BY</th> </tr> <tr> <td>1</td> <td>PER ENGINEERING REVIEW COMMENTS</td> <td>12/8/15</td> <td>MFP</td> </tr> </table>	NO.	DESCRIPTION	DATE	BY	1	PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP	<p><b>CONSTRUCTION DETAILS #2</b> OF <b>HILLTOP ROAD</b> IN <b>LANCASTER, MA</b></p> <p>PREPARED FOR: <b>PORAS REALTY TRUST</b> <b>WIENERWALD II REALTY TRUST</b> 121 PARK AVENUE NEWTON, MA 02458</p>	<p><b>WHITMAN BINGHAM ASSOCIATES</b> REGISTERED ENGINEERS &amp; LAND SURVEYORS 630 MIDDLEBURY STREET LEWISTOWN, MA 01840 TEL: 978-251-1111 FAX: 978-251-1112</p>
NO.	DESCRIPTION	DATE	BY								
1	PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP								



PRECAST CONCRETE STORAGE TANK, STD. 1800  
NOT TO SCALE

PRECAST CONCRETE STORAGE TANK, STD. 1800  
NOT TO SCALE

PRECAST CONCRETE STORAGE TANK, STD. 1800  
NOT TO SCALE

SIGHT DISTANCE PLAN  
SCALE 1"=40'

APPROVAL UNDER THE  
SEAL OF THE STATE OF MASSACHUSETTS  
IS REQUIRED

**WHITMAN & BINGHAM**  
ASSOCIATES  
REGISTERED ENGINEERS & LAND SURVEYORS  
120 MINUTEMAN STREET  
PO BOX 100  
NEWTON, MA 02459  
TEL: 617-552-1100  
FAX: 617-552-1101



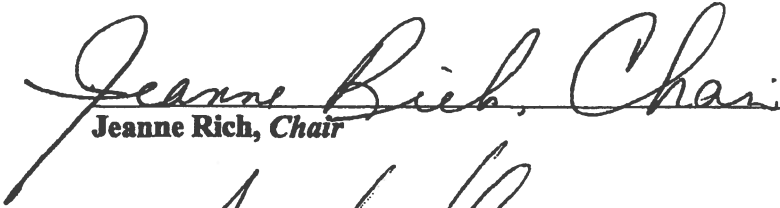
CONSTRUCTION DETAILS #3  
OFF  
HILLTOP ROAD  
IN  
LANCASTER, MA

PREPARED FOR:  
PORAS REALTY TRUST  
WIENERWALD II REALTY TRUST  
121 PARK AVENUE  
NEWTON, MA 02456

REVISIONS			
NO.	DESCRIPTION	DATE	BY
1	PER ENGINEERING REVIEW COMMENTS	12/8/15	MFP


DRAWN BY: MFP	CHECKED BY: BPM
DATE: 10/6/15	SCALE: AS NOTED
SHEET NUMBER: 17 OF 17	JOB NUMBER: 13089
COMPS: 9857	PLAN NUMBER: 31-D-21
PLAN REF(S): BY OTHERS	FIELD BOOK REF(S):

Signed by the Lancaster Planning Board on January 25, 2016.

  
\_\_\_\_\_  
**Jeanne Rich, Chair**

  
\_\_\_\_\_  
**Philip Lawler, Vice-Chair**

\_\_\_\_\_  
**Francis Sullivan, Clerk**

  
\_\_\_\_\_  
**Victor Koivumaki**

  
\_\_\_\_\_  
**Thomas Christopher**

## **ADDENDUM A**

1. The developer will prepare design plans subject to the approval of the Town of Lancaster Board of Public Works (Water Division) to expand the water system above the normal hydraulic grade of the public water supply distribution system.
2. The developer will prepare a submittal to Massachusetts Department of Environmental Protection (MassDEP) on behalf of the Town of Lancaster Board of Public Works (Water Division) through the application process of BRP WS 32 - Distribution Modifications for Systems that serve more than 3,300 people. All design work shall in accordance with the applicable MassDEP Guidelines for Public Water Systems and Town of Lancaster DPW standard practice.
3. The developer will maintain an escrow account with the Town to fund the cost of reasonable professional engineer review and coordination services.
4. The preference for development of the system expansion will be as follows with consideration given to reasonable as built system costs and legal access to available land and utilities.
  - a) Expansion of the existing Eagle Ridge high pressure system with the addition of elevated storage or
  - b) Expansion of the existing normal pressure system from George Hill Road or Hilltop Road through the installation of a booster pump station and distribution main to create a second high pressure system or
  - c) Expansion of the normal pressure system for domestic service only through the installation of a booster pump station and distribution system. Fire protection will be provided through the installation of underground storage chamber(s) with a fire pump and jockey pump to feed a separate pressure fire system.
5. The completed system will provide a minimum of 750 gallons per minute of fire flow at each hydrant will maintaining a minimum residual system pressure of 20 psi.
6. The completed system will provide a minimum of 35 psi throughout the distribution system during normal domestic flow conditions.
7. The completed system will be integrated in to the Water Division's telemetry system for control and alarm management.
8. Water distribution piping will be constructed using double cement lined, 350 pressure class ductile iron pipe (AWWA C151) or PVC 305 pressure class with service saddles (AWWA C909).
9. Water Division standard hydrants with isolation valves, shall be provided at a maximum spacing of 500 feet within the fire protection service area, at high points in the distribution system and at dead ends.
10. Water Division standard, resilient wedge main line gate valves shall be provided at the existing system connection point and at a maximum spacing of 1,000 feet throughout the system.
11. The elevated water storage tank, if required, will be designed and constructed in accordance with:



- a) **Applicable AWWA Standards:**
    - i. **AWWA D100-11 Welded Carbon Steel Tanks for Water Storage or**
    - ii. **AWWA D103-09 Factory-Coated Bolted Carbon Steel Tanks for Water Storage**
  - b) **An overflow elevation of 650 feet**
  - c) **Two hours of fire flow storage available above elevation 582**
  - d) **Fill/drain passive mixing system**
  - e) **Fenced site with paved access road**
  - f) **Accessories to include: caged ladder meeting OSHA standards, two ground level manways, vacuum relief vent, dome access manway, overflow**
  - g) **Isolation valves and site hydrant for draining.**
12. **The booster pump station, if required, will be designed and constructed in accordance with:**
- a) **Duplex domestic pumping system with premium efficiency motors and variable speed drives**
  - b) **Each pump shall provide for the projected daily domestic flow with a peak factor of at least 10**
  - c) **Third pump, if applicable for fire flow capacity**
  - d) **Backup power supply or engine driven back pump**
  - e) **Bronze and stainless fitted pumps for all moving parts. Epoxy or similar coating on other wetted parts**
  - f) **Fully enclosed, above grade, insulated, weather proof enclosure allowing full standing height and free movement**
  - g) **Fenced site with paved access road**
  - h) **Accessories to include: propane heat, thermostat controlled fan, interior and exterior LED lighting**
  - i) **Station alarms will include intrusion, low temperature, low and high system pressure, phase failure, pump fault, generator fault and fire**
  - j) **Underground propane storage tank on site sized for heat and 3 days of emergency generator/engine use**
  - k) **Isolation valves and two site hydrants for emergency bypass piping**
13. **The onsite fire storage and pumping facility, if required, will be designed and constructed in accordance with:**

- a) Two hours of fire flow storage available
- b) Engine driven pump package meeting NFPA 20 standards for stationary pump installation
- c) Pressure sustaining jockey pump with premium efficiency electric motor and variable frequency drive or equivalent pressure sustaining supply from a separate domestic water system
- d) Bronze and stainless fitted pumps for all moving parts. Epoxy or similar coating on other wetted parts.
- e) Fully enclosed, above grade, insulated, weather proof enclosure allowing full standing height and free movement.
- f) Fenced site with paved access road
- g) Accessories to include: propane heat, thermostat controlled fan, interior and exterior LED lighting
- h) Station alarms will include intrusion, low temperature, low and high system pressure, phase failure, pump fault, engine fault and fire
- i) Underground propane storage tank on site sized for heat and 3 days of emergency generator/engine use
- j) Isolation valves and two site hydrants for emergency bypass piping
- k) Refill capability using a domestic supply system or tankers

ATTEST: WORC. Anthony J. Vigliotti, Register

**HAWTHORNE LANE  
HOMEOWNERS TRUST  
DECLARATION OF TRUST**

The undersigned Melanson Bros., Inc., of Lancaster, Massachusetts, establishes this Trust to be known as the "Hawthorne Lane Trust", which Trust is to be owned by said Melanson Bros. Inc. This Trust is formed to provide for the maintenance of the roadway, drainage facilities and fire cisterns, until such time as ownership of the roadway and the water boost system, (collectively the "Common Area"), shall be accepted by the Town of Lancaster, Massachusetts.

**1. DEFINITIONS:**

The following words and phrases when used in the Declaration of Trust and in any easement deeds or other documents executed in connection herewith shall have the meanings hereinafter ascribed to them unless the context indicate a contrary intention;

A. "Definitive Subdivision Plan." "Definitive Subdivision Plan," prepared by Whitman & Bingham Associates, LLC, Leominster, dated October 6, 2015, said plan recorded with Worcester County Registry of Deeds at Plan Book 934, Plan 43, (the 'Plan').

B. "Lot." Each one of the building lots as shown as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 on the Plan.

C. "Common Area Expenses." All ordinary and extraordinary costs for the maintenance of the Common Area in accordance with the provisions of Section 15 of the Lancaster Planning Board Certificate of Approval of a Definitive Subdivision Plan dated January 26, 2016 and recorded with the Worcester County (Worcester District) Registry of Deeds in Book 58643, Page 271; and all reasonable costs and expenses incurred by the Trustees in connection with the administration or other business of the Trust.

**2. BENEFICIAL INTERESTS:**

Melanson Bros., Inc., shall be the Beneficiary under this Trust.

### 3. PURPOSE OF TRUST:

The purpose of the trust is as follows:

a. to maintain the Common Area until such time as ownership of the Common Area shall be accepted by the Town of Lancaster, Massachusetts; and

b. To insure ongoing compliance with the provisions of Section 15 of the Lancaster Planning Board Certificate of Approval of a Definitive Subdivision Plan dated January 26, 2016 and recorded with the Worcester County (Worcester District) Registry of Deeds in Book 58643, Page 271, until such time as ownership of the roadway and water boost system shall be accepted by the Town of Lancaster, Massachusetts.

### 4. TRUSTEE: Number and Term.

a. Number and Terms of Trustees:

There shall be one original Trustee hereunder as follows:

Melanson Bros., Inc.  
28 Mary Catherine Drive  
Lancaster, MA 01523

who shall continue to serve until such time as ownership of the roadway and water boost system shall be accepted by the Town of Lancaster, Massachusetts. Immediately thereafter, this Trust shall be terminated.

### 4. TRUSTEES: DUTIES, POWERS AND COMPENSATION:

a. Duties: It shall be the responsibility of the Trustee or the Trustees (as the case may be)

(i) to maintain Common Area; and

(ii) To insure ongoing compliance with the provisions of Section 15 of the Lancaster Planning Board Certificate of Approval of a Definitive Subdivision Plan dated January 26, 2016 and recorded with the Worcester County (Worcester District) Registry of Deeds in Book 58643, Page 271, until such time as ownership of the roadway and water boost system shall be accepted by the Town of Lancaster, Massachusetts.

b. Powers: Except as otherwise specifically provided herein to the contrary, the Trustees shall have:

(i) Supervision and control of the Common Area;

(ii) The power to open a bank account with any licensed banking institution in the Commonwealth of Massachusetts and to designate the signatory or signatories therefor;

(iii) The power to collect, sue for, receive and give acquittances for all sums of money due to the Trust;

(v) The power to contract with, employ, elect, appoint, remove from office or dismiss agents, attorneys, officers, contractors and employee or any other persons contracted with or employees by the Trust unless such act is also a willful breach of trust on the part of said Trustee;

(vi) to settle and compromise any claim at any time made by or against the trust and to submit any such claim to arbitration; and

(vii) to adopt and from time to time amend and repeal administrative rules and regulations covering the use and operations of the Common Area. The Trustees, may, in addition, adopt such reasonable sanctions, including monetary fines as they deem necessary to enforce such rules.

c. Compensation: The Trustees shall not be entitled to compensation for their services but shall be reimbursed for all reasonable out-of pocket expenses incurred by them for the benefit of the Trust.

## 5. NEGATION OF PERSONAL LIABILITY, TRUSTEE'S INDEMNITY:

All persons, corporation or other entities extending credit to, contracting with or having any claim against the Trust or Trust property except for the Town of Lancaster Officials and for compliance with the provisions of this Trust shall look solely to the funds and assets of the Trust for payment of such obligations or claims so that the Trustee shall be personally liable therefore. A Trustee shall be liable only for willful breach of Trust hereunder, and no Trustee shall be liable except for his or her own acts. Except in the case of a willful breach of trust, any Trustee shall be entitled to indemnity out of the Trust property against any liability incurred in the execution of the Trustee's duties hereunder, including but not limited to, liabilities in contract and tort and for damages, penalties and fines. Any Trustee may demand reasonable security for such indemnity prior to taking any action as a trustee. In every note or contract for the payment of money borrowed by and in every other written contract of the Trust, it shall be the duty of the Trustees or other officers or agents expressly to stipulate that the Trustee shall not be held to any personal liability under or by reason thereof, provided, however, that the failure to include such a provision shall not by itself invalidate any such document nor result in any personal liability to the Trustee.

## 6. RESERVED

7. RESERVED

8. RESERVED

9. TRUSTEE'S CERTIFICATE:

A certificate signed by Melanson Bros, Inc., the Trustee of this Trust, as to any fact relating to the Trust shall be binding and exclusive as to all persons dealing with the Trust in reliance thereon upon recording with the Worcester District Registry of Deeds.

10. AMENDMENT:

This Declaration may be amended by instrument in writing by the Trustee appearing upon the records of Worcester District Registry of Deeds to be trustees hereunder. No such amendment shall be effective until record with said Registry of Deeds indexed under the name of this Trust.

11. INSURANCE:

To the extent that insurance coverage is available at reasonable premium cost, the Trustee may maintain insurance in such amounts, as they shall deem reasonably appropriate in their discretion covering the Common Area.

12. RESERVED

13. WAIVER:

No provisions contained in this Declaration, or any rule or regulation adopted hereunder, shall be deemed to have been waived or abrogated by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur, nor shall a waiver on any particular occasion be deemed to constitute a waiver of the same or any other provisions on any other occasion.

14. INVALIDITY:

The invalidity of any provision of this Declaration shall not be deemed to impair or affect the balance hereof, which shall continue in force and affect as if such invalid provision had not been included herein.

15. NOTICES:

Any notice required or permitted to be given hereunder, including without limitation notices of meetings and of assessments, shall be properly given if delivered in hand or if mailed by first-class mail, postage prepaid.

EXECUTED AS INSTRUMENT UNDER SEAL THIS 20<sup>th</sup>  
DAY OF May, 2020

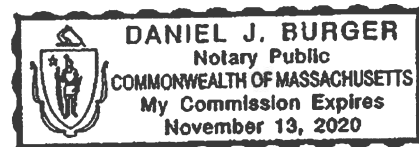
Melanson Bros., Inc.  
By: [Signature]  
Name: Gary Melanson  
Title: President

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this 20<sup>th</sup> day of May, 2020, before me, the undersigned notary public, Gary Melanson personally appeared, as President of Melanson Bros., Inc., a corporation, proved to me through satisfactory evidence of identification, which were MA Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed as the voluntary act of the corporation.

[Signature]  
Notary Public:  
My commission expires:



ATTEST: WORC Kathryn A. Toomey, Register



**TOWN OF LANCASTER**  
*Office of Community Development & Planning*

**Tel: (978) 365-3326**  
**Fax: (978) 368-4009**

695 Main Street • Suite 4  
Lancaster, MA 01523

**LANCASTER PLANNING BOARD**

**CERTIFICATE OF APPROVAL – SPECIAL PERMIT APPLICATION**

**Subject:** Special Permit application pursuant to Section 220-15 of the Lancaster Zoning Bylaw to allow a Flexible Development consisting of thirteen (13) building lots and one (1) open space parcel.

**Applicant:** Poras Realty Trust and Wienerwald II Realty Trust

**Owner:** Poras Realty Trust and Wienerwald II Realty Trust

**Location:** 122 Hilltop Road

**Plan:** A 17-page set of plans entitled “Definitive Subdivision Plan off Hilltop Road, Lancaster, Massachusetts” by Whitman & Bingham Associates, LLC, Plan No. 17-C-126, dated October 6, 2015.

**Assessor’s Reference:** Map 36, Parcels 1, 1A

**Statement of Facts**

**Background:**

A Special Permit application was filed with the Community Development and Planning Office on October 5, 2015, in which the petitioner requested authorization to form a Flexible Development from two parcels consisting of 35.74 acres of land.

This new flexible development consists of thirteen (13) reduced-area building lots on 16.29 acres, and one (1) open space parcel on 19.45 acres. The location of this property is at 122 Hilltop Road, Lancaster, MA, in the Residential Zoning District.

The Planning Board held a public hearing on this petition to request a Special Permit on November 9, 2015, and continued to November 23, 2015, and December 14, 2015 on which date the hearing was closed. Notices of the hearing were published in the Item on October 23, 2015, and October 30, 2015, and parties in interest were notified as required by law.



**Findings:**

After due deliberation of the facts presented to the Lancaster Planning Board at a public hearing held on November 9, 2015, and on December 14, 2015, and of the materials submitted to the Board by the applicant, the Lancaster Planning Board makes the following findings of fact in accordance with Section 220-15 of the Lancaster Zoning Bylaws:

Each lot area averages to 30,000-40,000 SF, with frontages running between 118-150 feet. No bonus lots are included.

The Flexible Development Plan creates a single parcel of open space consisting of 19.45 acres which is 55% of the total land area, meeting the minimum of 40% to be set aside as open space.

All land used in calculating permitted lots is contiguous and in the same ownership as the premises being developed.

The standards for a Flexible Development Special Permit have been satisfactorily met:

- As compared with the conventional plan, the Flexible Development plan reduces the displacement of natural features by shortening the subdivision road and by clustering house sites closer together. The associated reduction of impervious surfaces reduces the potential for water quality deterioration.
- The Flexible Development plan better protects neighboring properties from visual intrusion as compared with the conventional plan. The open space parcel separates the building lots from adjacent existing single-family house lots on Hilltop Road, George Hill Road, and on Nicholas Drive.
- The Flexible Development plan reduces the potential for traffic conflicts by spacing most driveway connections along the circumference of the relocated cul-de-sac.

**Decision:**

After full and careful consideration on December 14, 2015, the Planning Board voted unanimously (4 ayes, 0 nays) to grant the Special Permit to allow a Flexible Development consisting of thirteen building lots and one open space parcel. The following voted in favor: Jeanne Rich, Philip Lawler, Victor Koivumaki and Thomas Christopher.

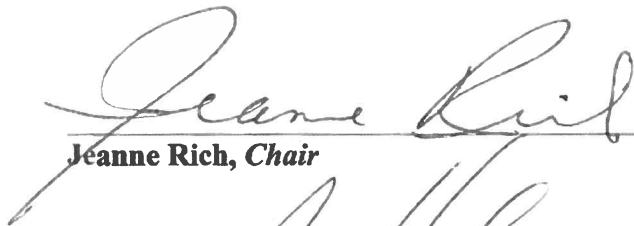
**Conditions:**

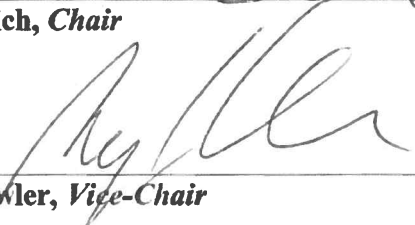
This Special Permit is granted subject to the following conditions:

1. A copy of the Planning Board's decision articulating the Special Permit approval shall be filed with the Town Clerk and shall be recorded in the Registry of Deeds.
2. A copy of the Planning Board's vote and certificate of action shall be filed with the Town Clerk.
3. The Special Permit holder shall grant the Town a permanent deed restriction, in a form approved by Town Counsel, providing that no land within the development may be divided into additional building lots and specifying that at most one dwelling unit is allowed on each of the thirteen building lots shown on the Flexible Development plan.
4. The conditions of the Certificate of Approval of a Definitive Subdivision Plan for Poras Realty Trust and Weinerwald II Realty Trust granted by the Planning Board on January 11, 2016 are incorporated herein by reference.
5. Prior to the Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan, and in the event the Open Space parcel is not conveyed to the Town or its Conservation Commission, the Applicant shall provide to the Planning Board a proposed perpetual conservation or agricultural preservation restriction, of the types described in M.G.L. Chapter 184, Section 31 and Lancaster Zoning Bylaw Section 220-15, running to and enforceable by the Town, with respect to the ownership, maintenance and use of the Open Space parcel. Such proposed restriction shall provide that said parcel shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, passive recreation; and that said parcel shall not be used as the site of any buildings or other permanent structures; except that the two (2) Drainage Easements on the Open Space parcel may be used for storm water management as represented on the Flexible Development plan. Any and all documents required for this condition shall be submitted to Town Counsel for review and approval prior to Planning Board endorsement.
6. Prior to the Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan, the Applicant shall make provision pursuant to Lancaster Zoning Bylaw Section 220-15 for the ownership and maintenance of the Open Space parcel either by the Town of Lancaster acting by and through its Board of Selectmen or Conservation Commission; or by a nonprofit organization, the principal purpose of which is the conservation of open space; or by a membership corporation, trust or association of lot owners within the development upon proper finding by the Planning Board and review and approval by Town Counsel of all documents creating and establishing same.

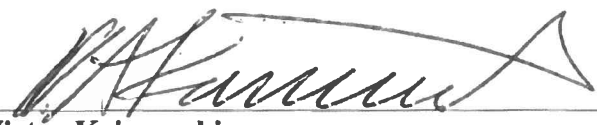
7. Prior to the Planning Board's endorsement of Definitive Subdivision Approval on the Flexible Development plan, the Applicant shall provide to the Planning Board a 30-foot wide Utility Easement spanning one of the proposed lots and the open space parcel to the west of the development and to the Eagle Ridge property. This easement would allow the option to tie into the existing water high-level service area and municipal sewer through the Eagle Ridge development. This may provide more favorable options for domestic water use, fire protection, and wastewater disposal services to the proposed subdivision.

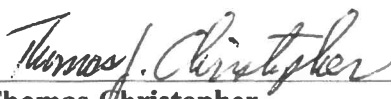
Signed by the Lancaster Planning Board on January 11, 2016.

  
\_\_\_\_\_  
**Jeanne Rich, Chair**

  
\_\_\_\_\_  
**Philip Lawler, Vice-Chair**

\_\_\_\_\_  
**Francis Sullivan, Clerk**

  
\_\_\_\_\_  
**Victor Koivumaki**

  
\_\_\_\_\_  
**Thomas Christopher**

**Lancaster Town Clerk Certification**

I hereby certify that twenty (20) days have elapsed since the filing of the above-referenced decision in the office of the Town Clerk on January 12, 2016, and that no notice of an appeal of that decision has been filed with me.

---

**Mary de Alderete**  
***Lancaster Town Clerk***

---

**Date**

Property Address:

## **QUITCLAIM DEED**

MELANSON BROS., INC., a Massachusetts corporation with a principal business of 28 Mary Catherine Drive, Lancaster, MA 01523,

for consideration paid and in full consideration of less than One Hundred and 00/100 Dollars (\$100.00)

grants to THE INHABITANTS OF THE TOWN OF LANCASTER

**with quitclaim covenants**

A certain parcel of land, situated in Lancaster, Mass. on the northwesterly side of George Hill Road and the southwesterly side of Hill Top Road and shown as "Open Space" a plan entitled "Definitive Subdivision Plan, Land in Lancaster, Mass." Owned by Poras Realty Trust, dated October 6, 2015, by Whitman & Bingham Associates, LLC, which plan is recorded in the Worcester District Registry of Deeds in Plan Book 934, Plan 43 (hereinafter, the "Plan").

Said Open Space parcel contains 847,101 square feet more or less, according to the Plan.

This transaction does not constitute a sale of all or substantially all of the assets of the corporation in Massachusetts.

Grantee hereby reserves to itself, and to its successors and assigns, the temporary right and easement, for the purpose of bringing and placing on said strip all personnel, tools, equipment, vehicles and appliances necessary to construct roadway, drainage and slopes, including any necessary landscaping and other improvements related thereto, in connection with the completion of the subdivision shown on the Plan as the Grantee may from time to time deem necessary and the right and easement to cut and trim trees, bush, overhanging branches and other obstructions to the extent that the Grantee deems necessary; and the right to enter said parcel for access thereto for all the above purposes.

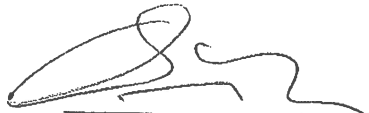
By its acceptance of this grant the Grantee, for itself and its respective successors and assigns, agrees that this temporary construction easement shall automatically terminate and be of no further force or effect on and after the second (2<sup>nd</sup>) anniversary of the date of this deed.

Being a portion of the same premises conveyed to the Grantor by deed recorded with the Worcester District Registry of Deeds at Book 58783, Page 374.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Executed as a sealed instrument this 17<sup>TH</sup> day of NOVEMBER, 2022.

Melanson Bros., Inc.



Steven Melanson, Treasurer

COMMONWEALTH OF MASSACHUSETTS

County of: WORCESTER

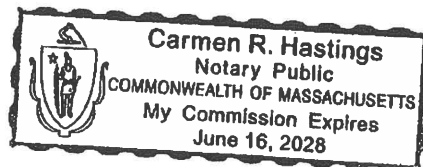
NOVEMBER 17<sup>TH</sup>, 2022

Then personally appeared the above named Steven Melanson, as Treasurer of Melanson Bros., Inc., a corporation, proved to me through satisfactory evidence of identification, which were ☒ driver's license; ☐ state ID; ☐ passport ☐ other government issued ID; ☐ known to me; ☐ other, 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 purposes, before me,

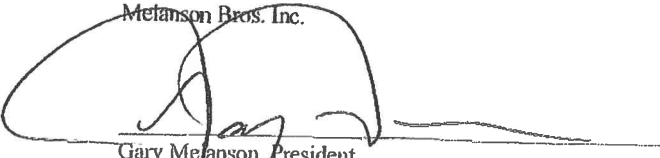


Notary Public: CARMEN R. HASTINGS

My Commission Expires: JUNE 16, 2028



Executed as a sealed instrument this 22 day of November, 2022.


Melanson Bros. Inc.  
  
Gary Melanson, President

COMMONWEALTH OF MASSACHUSETTS

County of: Middlesex

November 22, 2022

Then personally appeared the above named Gary Melanson, as President of Melanson Bros., Inc., a corporation, proved to me through satisfactory evidence of identification, which were ☐ driver's license; ☐ state ID; ☐ passport ☐ other government issued ID; ☒ known to me; ☐ other, 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 purposes, before me,

  
Notary Public: Daniel J. Burger

My Commission Expires: 10/28/2027



**DANIEL J. BURGER**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
October 28, 2027





Bk: 58643 Pg: 289

Page: 1 of 6 04/09/2018 03:35 PM WD

**PORAS REALTY TRUST DEFINITIVE SUBDIVISION PLAN  
DECLARATION OF RESTRICTIVE COVENANTS  
PURSUANT TO M.G.L. Chapter 41, §81U**

**WHEREAS**, Peter F. Poras and Joseph C. Poras, as Trustees of Poras Realty Trust, under a Declaration of Trust dated December 29, 2000 and recorded in the Worcester District Registry of Deeds (the "Registry") in Book 23382, Page 209, and Peter F. Poras and Joseph C. Poras, as Trustees of Wienerwald II Realty Trust, under a Declaration of Trust dated May 31, 2006 and recorded in the Registry in Book 39103, Page 305, of which the mailing address of each Trust is c/o John B. Shevlin, Esq., Gilman, McLaughlin & Hanrahan LLP, 101 Merrimac Street, Suite 810, Boston, MA 02114 (collectively, the "Declarant"), are all of the owners of certain parcels of land consisting of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 and other areas, including, without limitation, a proposed minor street and open space, all as shown on a plan entitled: "Definitive Subdivision Plan of Hilltop Road, Lancaster, Massachusetts", prepared by Whitman & Bingham Associates, LLC, dated October 6, 2015, as affected by a modification thereto, which modification was approved by the Planning Board of the Town of Lancaster ("Planning Board") on January 22, 2018 and recorded with the Registry in Plan Book 934, Plan 43 (the "Subdivision Plan") and;

**WHEREAS**, Declarant has requested the Planning Board to approve the Subdivision Plan without requiring a performance bond,

**NOW THEREFORE**, in consideration of the Planning Board approving the Subdivision Plan without requiring a performance bond, the undersigned covenant and agree with the Town of Lancaster as follows:

(1) Except as otherwise expressly provided in Massachusetts General Laws, Chapter 41, Section 81U, Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, and 13 as shown on the Subdivision Plan (but not Lot 5) shall not be built upon or conveyed other than by mortgage deed until the construction of ways and installation of municipal services necessary to adequately serve said lots have been completed in accordance with the covenants, conditions, agreements, terms and provisions (the "Requirements") as specified in the following:

- a. Application for Approval of Definitive Plan dated 1-11-16;
- b. The Planning Board's Certificate of Approval for the Subdivision Plan dated 12-11-17 and recorded herewith with the Registry, Book 58643, Page 280, and the conditions of approval specified therein;
- c. The Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land, Lancaster, Massachusetts, adopted by the Planning Board.
- d. The Subdivision Plan.

Provided, however, that a mortgagee who acquires title to Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, or 13 or any combination of these lots (but not Lot 5) by foreclosure or otherwise, and any successive owner who derives title from said mortgagee, may sell any such lot, subject only to that portion of this Declaration of Restrictive Covenants that said lot(s) shall not be built upon until ways and services have been provided to serve said lot(s) in accordance with the above.

(2) The undersigned shall conform to the conditions, limitations and restrictions as set forth in the Requirements;

(3) This agreement shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned and shall constitute a covenant running with the land and operate as restrictions upon said land.

(4) The lots within the Subdivision subject to this covenant shall, respectively, be released from the foregoing conditions only upon satisfactory performance of this covenant with respect to said lot and the recording of a certificate of performance executed by a majority of said Planning Board and enumerating the specific lots to be so released.

(5) The undersigned represents and covenants that the undersigned are all of the owners in fee simple of all the land included in the aforesaid subdivision and that there are no mortgages of record or otherwise on any of said land.

(6) The Declarant shall reference this Covenant on and record it with the endorsed Subdivision Plan.

(7) Upon final completion of the construction of ways and installation of municipal services as specified herein or the posting of any bond or surety hereafter given and approved by the Planning Board as adequate security for said final completion, as evidenced by a majority vote of the Planning Board, the Planning Board shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete the construction and installation within the time specified in the Requirements shall result in automatic rescission of the approval of the Subdivision Plan as set forth therein, and upon such rescission, as confirmed by the completion of those requirements to effect rescission set forth in G.L. c.41, §81W, the covenants, agreements, conditions, limitations, terms, provisions, and restrictions set forth in this Declaration (collectively, the "Declaration Covenants") shall be null and void, and neither the Declarant nor any subsequent owner of any lot shown on the Subdivision Plan or any other land shown on the Subdivision Plan shall be bound by the Declaration Covenants.

(8) Nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this Covenant of either the entire parcel of land shown on the Subdivision Plan or of all lots not previously released by the Planning Board.

(9) A deed of any part of the subdivision in violation of this Covenant shall be voidable by the grantee prior to the release of this Covenant, but not later than three (3) years from the date of such deed, as provided in M.G.L. c.41, §81U.

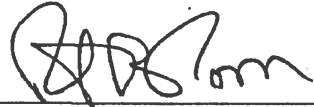
(10) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS DECLARATION, LOT 5, AS SHOWN ON THE SUBDIVISION PLAN, TOGETHER WITH THE APPURTENANT EASEMENT AND RIGHT TO USE THE EXISTING DRIVEWAY, AS SHOWN ON THE SUBDIVISION PLAN, FOR ACCESS TO HILL TOP ROAD, IS NOT SUBJECT TO THE REQUIREMENTS OR ANY COVENANTS, AGREEMENTS, CONDITIONS, LIMITATIONS, TERMS, PROVISIONS, OR RESTRICTIONS SET FORTH IN THIS DECLARATION.

(11) For Declarant's title see deed dated December 29, 2000 and recorded with the Registry in Book 23382, Page 215 and deed dated May 31, 2006 and recorded with the Registry, in Book 39103, Page 313.


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IN WITNESS WHEREOF, the undersigned, the Declarant, do set their hands and seals effective this 8 day of February, 2018.

**PORAS REALTY TRUST**

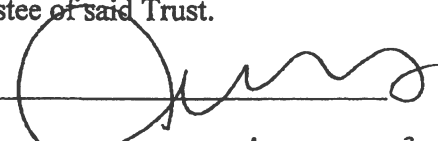
By:   
Name: Peter F. Poras, Trustee

**WIENERWALD II REALTY TRUST**

By:   
Name: Peter F. Poras, Trustee

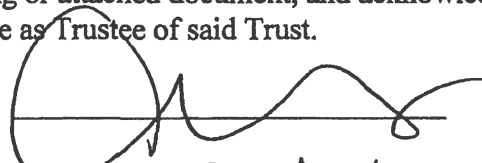
Suffolk, ss. COMMONWEALTH OF MASSACHUSETTS

On this 8 day of February, 2018, before me, the undersigned notary public, personally appeared Peter F. Poras as Trustee of Poras Realty Trust, proved to me through satisfactory evidence of identification, which was personally known, 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 as Trustee of said Trust.

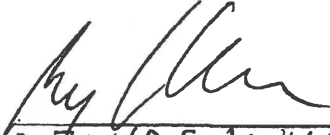
  
Notary Public Amelia Lopez  
My commission expires: 4/13/2018

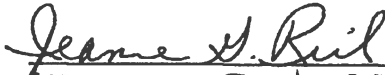
Suffolk, ss. COMMONWEALTH OF MASSACHUSETTS

On this 8 day of February, 2018, before me, the undersigned notary public, personally appeared Peter F. Poras as Trustee of Wienerwald II Realty Trust, proved to me through satisfactory evidence of identification, which was personally known, 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 as Trustee of said Trust.

  
Notary Public Amelia Lopez  
My commission expires: 4/13/2018


Approved: Feb 12, 2018  
Lancaster Planning Board

  
[ Philip F. Latta ], Chair

  
[ Jeanne G. Rich ], Vice-Chair

  
[ Thomas S. Christopher ], Member

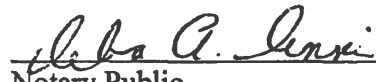
\_\_\_\_\_, Clerk

  
[ Russell W. Williams ], Member

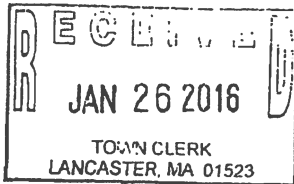
COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 12<sup>th</sup> day of February, 2018, before me, the undersigned notary public, personally appeared Lancaster Planning Board Members proved to me through satisfactory evidence of identification, which was Personal Knowledge [personal knowledge or drivers' license], 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.

  
Notary Public

My commission expires: March 9, 2018



A TRUE COPY ATTEST:

*Mary de Alderete*  
TOWN CLERK

## LANCASTER PLANNING BOARD

### CERTIFICATE OF APPROVAL OF A DEFINITIVE SUBDIVISION PLAN

January 26, 2016

Mary de Alderete, *Town Clerk*  
695 Main Street  
Lancaster, MA 01523

**Re: *Poras Realty Trust and Wienerwald II Realty Trust* Definitive Subdivision Plan  
Dated October 6, 2015**

**Applicant: Poras Realty Trust and Wienerwald II Realty Trust**

**Prepared by: Whitman & Bingham Associates, LLC**

Dear Ms. de Alderete:

The Lancaster Planning Board hereby certifies that at a meeting of said Board on January 11, 2016, at which a quorum was present, following a duly noticed public hearing held by the Board on November 9, 2015, and continued to November 23, 2015, December 14, 2015, and January 11, 2016 on which date the hearing was closed. It was voted to approve a Modification to a Definitive Subdivision Plan of Land entitled "Definitive Subdivision Plan off Hilltop Road, Lancaster, Massachusetts", prepared by Whitman & Bingham Associates, LLC, dated October 6, 2015, which was submitted for the Board's approval by Poras Realty Trust and Wienerwald II Realty Trust. Said Definitive Plan is approved with the following conditions:

1. The conditions of the Flexible Development Special Permit Certificate of Approval for Poras Realty Trust and Wienerwald II Realty Trust granted by the Planning Board on December 14, 2015 are incorporated herein by reference.
2. Prior to the Planning Board's endorsement of approval on the Definitive Plan Modification, the Applicant shall submit a performance guarantee in a form acceptable to the Planning Board as provided in G.L. c. 41, Sec. 81U, clause

(3), executed by the owner(s) of record of all the land shown on the Plan. Prior to its execution, the proposed performance guarantee shall be submitted for review by Town Counsel.

3. The endorsement of the approved Definitive Plan Modification by the Lancaster Planning Board shall be required prior to the recording of the Plan at the Worcester District Registry of Deeds.
4. No lot shall be released from the performance guarantee required under Condition 2, and no Building Permit shall be issued with respect to any of the lots, until either (a) the secured improvements are satisfactorily completed to the specifications of the Definitive Plan, or (b) the base course of the roadway pavement and all municipal services necessary to adequately serve the roadway and lot or lots has been completed to the satisfaction of the Planning Board and all remaining construction and installation necessary to serve said lot have been secured by an alternative form of performance guarantee under G.L. c. 41, §81U, which the Planning Board has deemed to be sufficient to secure the completion.
5. Prior to Planning Board endorsement of the Definitive Plan Modification, the Applicant shall add the following notation to the Plan: "No land shown on the plan of the Subdivision shall be further divided or used in any manner so as to create additional building lots."
6. Prior to Planning Board endorsement of the Definitive Plan, the Applicant shall add to the Plan a notation that the subdivision is approved in accordance with this Certificate of Approval and Conditions therein, dated January 25, 2016, and in accordance with the Flexible Development Special Permit Certificate of Approval and the Findings and Conditions therein, dated January 11, 2016, and both to be recorded at the Registry of Deeds simultaneously with the Plan.
7. The Applicant shall provide street trees per the Lancaster Subdivision Regulations.
8. The Applicant shall supply the Mylar and six sets of prints for the endorsement of the Lancaster Planning Board.
9. All streets or ways shall be surfaced with at least a 2-inch binder course prior to application for a Certificate of Occupancy for any structures served by such streets or ways. A notation to this effect shall be placed on the Definitive Plan Modification prior to endorsement.
10. During construction, all Local, State and Federal laws shall be followed regarding noise, vibration, dust, and blocking of town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to



residents in the general area. Construction of the proposed ways and services shall not occur on Saturdays, Sundays and Federal and State holidays and shall not otherwise commence on any day before 7:00 AM and shall not continue beyond 5:00 PM. All traffic related to and generated by construction of the ways and services of the subdivision shall remain within the site and off established Hilltop Road, except as necessary to install a water main connection to the existing water main at Hilltop Road.

11. The subdivision will be served by the Town of Lancaster municipal water system. The Applicant shall construct a water supply system sufficient to provide the subdivision with adequate water from the Town of Lancaster municipal water system. The Applicant must obtain all applicable approvals and permits for the water system design and connection from the Massachusetts Department of Environmental Protection and the Lancaster Department of Public Works prior to commencement of any construction. The water supply system shall be designed and constructed in accordance with Section 301-12.B of the Subdivision Rules and Regulations, and the following further conditions as found in Addendum A.
12. The Applicant must obtain all applicable approvals and permits for the wastewater system design and connection from the Massachusetts Department of Environmental Protection prior to commencement of any construction.
13. Prior to the final release of security for the subdivision modification, the Applicant shall provide the As-Built Plans to the Planning Board and shall have obtained Town acceptance of the roadways and necessary utilities serving the roadway by approved Easement Deed or Deed of Conveyance or satisfactory evidence that the herein referenced Poras Realty Trust and Weinerwald II Realty Trust Homeowner Association has been approved and established and has accepted ownership and maintenance of said roadway and necessary utilities.
14. The cul-de-sac road shall not be either extended or connected to any other road in the future.
15. Prior to the conveyance of any lots, the Applicant shall provide to the Planning Board evidence of recording in the Worcester District Registry of Deeds a declaration of trust for a homeowner's association for maintenance of any subdivision improvements, including but not limited to the roadway, drainage facilities, and fire cisterns, until such time, if any, as ownership of the parcels and/or subdivision improvements may be accepted by the Town. Said declaration to be in a form approved by the Planning Board and Town Counsel.
16. Failure by the Applicant to obtain the endorsement of the Lancaster Planning Board within six months of the date of this approval shall result in the

automatic rescission of this approval. The time for such endorsement may be extended for not more than one year upon the written request of the Applicant, for good cause shown, prior to the expiration of said six-month period, and upon a vote of the majority of the Lancaster Planning Board then present.

17. Failure by the Applicant to complete the construction of the ways and the installation of the services shown on the Definitive Subdivision Plan Modification within five years of the date of endorsement shall result in the automatic rescission of this approval. The time for such construction and/or installation may be extended upon the written request of the Applicant, for good cause shown, prior to the expiration of said five-year period, and upon a vote of the majority of the Lancaster Planning Board then present.
18. This approval is further subject to town counsel review of the following documents:
  - a) Declaration establishing the Poras Realty Trust and Weinerwald II Realty Trust Homeowners Association Trust with responsibility for the maintenance of the retention ponds, all private, common facilities in the subdivision.
  - b) A Grant of Easement to the Town for a 30-foot wide Utility Easement spanning one of the proposed lots and the open space parcel to the west of the development and to the Eagle Ridge property. This easement would allow the option to tie into the existing water high-level service area and municipal sewer through the Eagle Ridge development. This may provide more favorable options for domestic water use, fire protection, and wastewater disposal services to the proposed subdivision.

**Waivers:**

In granting its approval of the Definitive Plan Modification, the Planning Board has granted the following waiver of the Board's Subdivision Rules and Regulations:

1. No waivers are requested.

# Worcester South District Registry of Deeds Electronically Recorded Document

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## Recording Information

Document Number	: 51646
Document Type	: TRUST
Recorded Date	: May 20, 2020
Recorded Time	: 01:51:37 PM
Recorded Book and Page	: 62435 / 195
Number of Pages(including cover sheet)	: 6
Receipt Number	: 1227612
Recording Fee	: \$255.00

Worcester South District Registry of Deeds  
Kathryn A. Toomey, Register  
90 Front St  
Worcester, MA 01608  
(508) 798-7717

**HAWTHORNE LANE  
HOMEOWNERS TRUST  
DECLARATION OF TRUST**

The undersigned Melanson Bros., Inc., of Lancaster, Massachusetts, establishes this Trust to be known as the "Hawthorne Lane Trust", which Trust is to be owned by said Melanson Bros. Inc. This Trust is formed to provide for the maintenance of the roadway, drainage facilities and fire cisterns, until such time as ownership of the roadway and the water boost system, (collectively the "Common Area"), shall be accepted by the Town of Lancaster, Massachusetts.

**1. DEFINITIONS:**

The following words and phrases when used in the Declaration of Trust and in any easement deeds or other documents executed in connection herewith shall have the meanings hereinafter ascribed to them unless the context indicate a contrary intention;

A. "Definitive Subdivision Plan." "Definitive Subdivision Plan," prepared by Whitman & Bingham Associates, LLC, Leominster, dated October 6, 2015, said plan recorded with Worcester County Registry of Deeds at Plan Book 934, Plan 43, (the 'Plan').

B. "Lot." Each one of the building lots as shown as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 on the Plan.

C. "Common Area Expenses." All ordinary and extraordinary costs for the maintenance of the Common Area in accordance with the provisions of Section 15 of the Lancaster Planning Board Certificate of Approval of a Definitive Subdivision Plan dated January 26, 2016 and recorded with the Worcester County (Worcester District) Registry of Deeds in Book 58643, Page 271; and all reasonable costs and expenses incurred by the Trustees in connection with the administration or other business of the Trust.

**2. BENEFICIAL INTERESTS:**

Melanson Bros., Inc., shall be the Beneficiary under this Trust.

**3. PURPOSE OF TRUST:**

The purpose of the trust is as follows:

a. to maintain the Common Area until such time as ownership of the Common Area shall be accepted by the Town of Lancaster, Massachusetts; and

b. To insure ongoing compliance with the provisions of Section 15 of the Lancaster Planning Board Certificate of Approval of a Definitive Subdivision Plan dated January 26, 2016 and recorded with the Worcester County (Worcester District) Registry of Deeds in Book 58643, Page 271, until such time as ownership of the roadway and water boost system shall be accepted by the Town of Lancaster, Massachusetts.

**4. TRUSTEE: Number and Term.**

a. Number and Terms of Trustees:

There shall be one original Trustee hereunder as follows:

Melanson Bros., Inc.  
28 Mary Catherine Drive  
Lancaster, MA 01523

who shall continue to serve until such time as ownership of the roadway and water boost system shall be accepted by the Town of Lancaster, Massachusetts. Immediately thereafter, this Trust shall be terminated.

**4. TRUSTEES: DUTIES, POWERS AND COMPENSATION:**

a. Duties: It shall be the responsibility of the Trustee or the Trustees (as the case may be)

(i) to maintain Common Area; and

(ii) To insure ongoing compliance with the provisions of Section 15 of the Lancaster Planning Board Certificate of Approval of a Definitive Subdivision Plan dated January 26, 2016 and recorded with the Worcester County (Worcester District) Registry of Deeds in Book 58643, Page 271, until such time as ownership of the roadway and water boost system shall be accepted by the Town of Lancaster, Massachusetts.

b. Powers: Except as otherwise specifically provided herein to the contrary, the Trustees shall have:

(i) Supervision and control of the Common Area;

(ii) The power to open a bank account with any licensed banking institution in the Commonwealth of Massachusetts and to designate the signatory or signatories therefor;

(iii) The power to collect, sue for, receive and give acquaintances for all sums of money due to the Trust;

(v) The power to contract with, employ, elect, appoint, remove from office or dismiss agents, attorneys, officers, contractors and employee or any other persons contracted with or employees by the Trust unless such act is also a willful breach of trust on the part of said Trustee;

(vi) to settle and compromise any claim at any time made by or against the trust and to submit any such claim to arbitration; and

(vii) to adopt and from time to time amend and repeal administrative rules and regulations covering the use and operations of the Common Area. The Trustees, may, in addition, adopt such reasonable sanctions, including monetary fines as they deem necessary to enforce such rules.

c. Compensation: The Trustees shall not be entitled to compensation for their services but shall be reimbursed for all reasonable out-of pocket expenses incurred by them for the benefit of the Trust.

##### 5. NEGATION OF PERSONAL LIABILITY, TRUSTEE'S INDEMNITY:

All persons, corporation or other entities extending credit to, contracting with or having any claim against the Trust or Trust property except for the Town of Lancaster Officials and for compliance with the provisions of this Trust shall look solely to the funds and assets of the Trust for payment of such obligations or claims so that the Trustee shall be personally liable therefore. A Trustee shall be liable only for willful breach of Trust hereunder, and no Trustee shall be liable except for his or her own acts. Except in the case of a willful breach of trust, any Trustee shall be entitled to indemnity out of the Trust property against any liability incurred in the execution of the Trustee's duties hereunder, including but not limited to, liabilities in contract and tort and for damages, penalties and fines. Any Trustee may demand reasonable security for such indemnity prior to taking any action as a trustee. In every note or contract for the payment of money borrowed by and in every other written contract of the Trust, it shall be the duty of the Trustees or other officers or agents expressly to stipulate that the Trustee shall not be held to any personal liability under or by reason thereof, provided, however, that the failure to include such a provision shall not by itself invalidate any such document nor result in any personal liability to the Trustee.

##### 6. RESERVED

7. RESERVED

8. RESERVED

9. TRUSTEE'S CERTIFICATE:

A certificate signed by Melanson Bros, Inc., the Trustee of this Trust, as to any fact relating to the Trust shall be binding and exclusive as to all persons dealing with the Trust in reliance thereon upon recording with the Worcester District Registry of Deeds.

10. AMENDMENT:

This Declaration may be amended by instrument in writing by the Trustee appearing upon the records of Worcester District Registry of Deeds to be trustees hereunder. No such amendment shall be effective until record with said Registry of Deeds indexed under the name of this Trust.

11. INSURANCE:

To the extent that insurance coverage is available at reasonable premium cost, the Trustee may maintain insurance in such amounts, as they shall deem reasonably appropriate in their discretion covering the Common Area.

12. RESERVED

13. WAIVER:

No provisions contained in this Declaration, or any rule or regulation adopted hereunder, shall be deemed to have been waived or abrogated by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur, nor shall a waiver on any particular occasion be deemed to constitute a waiver of the same or any other provisions on any other occasion.

14. INVALIDITY:

The invalidity of any provision of this Declaration shall not be deemed to impair or affect the balance hereof, which shall continue in force and affect as if such invalid provision had not been included herein.

15. NOTICES:

Any notice required or permitted to be given hereunder, including without limitation notices of meetings and of assessments, shall be properly given if delivered in hand or if mailed by first-class mail, postage prepaid.

EXECUTED AS INSTRUMENT UNDER SEAL THIS 20<sup>th</sup>  
DAY OF May, 2020

Melanson Bros., Inc.  
By: [Signature]  
Name: Gary Melanson  
Title: President

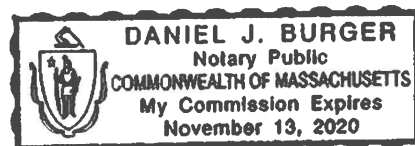
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this 20<sup>th</sup> day of May, 2020, before me, the undersigned notary public, Gary Melanson personally appeared, as President of Melanson Bros., Inc., a corporation, proved to me through satisfactory evidence of identification, which were MA Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed as the voluntary act of the corporation.

[Signature]  
Notary Public:

My commission expires:



ATTEST: WORC Kathryn A. Toomey, Register





*The Leader in Public Sector Law*

101 Arch Street, Boston, MA 02110  
Tel: 617.556.0007 | Fax: 617.654.1735  
[www.k-plaw.com](http://www.k-plaw.com)

April 10, 2020

**Jonathan D. Eichman**  
[jeichman@k-plaw.com](mailto:jeichman@k-plaw.com)

BY ELECTRONIC MAIL ONLY (MAntonellis@lancasterma.net)

Mr. Michael Antonellis  
Planning Director  
Community Development and Planning  
701 Main Street, Suite 4  
Lancaster, MA 01523

Re: George Hill Road - Water Booster Pump Station

Dear Mr. Antonellis,

On behalf of the Board of Appeals, you requested that I review and provide you with my evaluation of the legal arguments raised in two petitions appealing the Building Commissioner's written decisions not to take zoning enforcement action against the construction of a private water booster pump station (the "Pump Station") serving a flexible residential development on Hilltop Road approved by the Planning Board in January, 2016. Specifically, I refer to the appeal filed by Russell Williston (the "Williston Appeal"), and the appeal filed by Larry Shoer and Donald Chaisson (the "Chaisson Appeal"). I will address the claims made in each appeal separately below.

You have provided me copies of the Williston Appeal, the Chaisson Appeal, a flexible development special permit issued on January 11, 2016 referencing and approving a plan entitled: "Definitive Subdivision Plan off Hilltop Road, Lancaster, Massachusetts", by Whitman & Bingham Associates, dated October 6, 2015 (the "Subdivision Plan"), and a certificate of subdivision approval issued by the Planning Board on January 25, 2016 for the Subdivision Plan. You have further provided me with the Permitting Plan for the Hilltop Road Subdivision Booster Pump Station, dated November 2018.

As set forth below, in my opinion, the Building Commissioner acted within his authority and properly interpreted and applied the Zoning Bylaws when he declined to take zoning enforcement action against the construction of the Pump Station. The Building Commissioner properly determined, in my opinion, that the Pump Station met the applicable setback requirement. The Building Commissioner further correctly determined, in my opinion, that the flexible development special permit issued by the Planning Board in 2016 authorized construction of the Pump Station in its present location within open space depicted on the Subdivision Plan, and that no further permits were required under the Zoning Bylaws for that use.



Mr. Michael Antonellis  
Planning Director  
April 10, 2020  
Page 2

### Factual Background

On October 5, 2015 Poras Realty Trust and Wienardward II Realty Trust (the "Applicants") filed a special permit application seeking authorization, pursuant to Section 220-15 of the Zoning Bylaws, for a flexible residential development on two parcels located in the Residential Zoning District together consisting of 35.74 acres of land (the "Development"). As depicted on the Subdivision Plan filed with the special permit application, the Development consisted of thirteen reduced-area building lots on 16.29 acres, and one open space lot with an area of 19.45 acres (the "Open Space"). It appears that at or about that same time, the Applicants also filed an application for approval of the Subdivision Plan under the Subdivision Control Law, and the Planning Board heard both applications together.

Following a public hearing on the special permit and subdivision applications for the Development, on January 11, 2016 the Planning Board issued a decision granting the Applicants' special permit application (the "Special Permit"), and filed the decision with the Town Clerk on January 12, 2016. The Special Permit referenced and approved the Subdivision Plan as the "Flexible Development Plan". Sheet 8 of the Subdivision Plan depicts a "proposed booster pump/lift station to be designed by others . . . prior to the start of construction" located within the Open Space near its frontage on George Hill Road. The plan does not depict the exact location and dimensions of the pump station.

On January 25, 2016, the Planning Board issued a certificate of approval under the Subdivision Control Law approving the Subdivision Plan with conditions (the "Subdivision Approval"). Condition #11 of the Subdivision Approval required construction of a water supply system "sufficient to provide the subdivision with adequate water from the Town of Lancaster municipal water system," and provided that the system be designed and constructed in accordance with further conditions set forth in Addendum A. Paragraph #4 of Addendum A sets forth three options for the required water supply system, two of which require construction of a booster pump station to provide the requisite water pressure. While the options are listed in order of preference, it is clear from the context of the Subdivision Approval, in my opinion, that the permit holder was authorized to choose the appropriate option based on construction costs and legal access to land and utilities.

After construction of the Pump Station commenced, a group of citizens appeared before the Planning Board on November 25, 2019, and December 9, 2019, nearly four years after issuance of the Special Permit and Subdivision Approval, to express their concerns regarding the siting of the Pump Station. The Planning Board received information from the residents and directed them to the Building Commissioner for further action. On December 9, 2019 the Building Commissioner issued a building permit for the Pump Station. On or about December 12, 2019, the Building



Mr. Michael Antonellis  
Planning Director  
April 10, 2020  
Page 3

Commissioner received two written requests to enforce the Zoning Bylaws relative to the Pump Station. The Building Commissioner responded to these requests by two separate written decisions dated December 17, 2019, in which he determined that no zoning or building violations existed, and declined to take any enforcement action. The Williston Appeal and Chaisson Appeal timely followed.

#### Williston Appeal

The Williston Appeal challenges the Building Commissioner's determination that the Pump Station is subject to the applicable side yard setback requirement, not a front yard setback requirement. In my opinion, the Building Commissioner acted within his discretion in determining that the frontage for the Open Space parcel on George Hill Road constituted a side or rear lot line, and correctly applied the setback requirements accordingly.

According to the information provided to me, the Pump Station is located 20.7 feet from the sideline of George Hill Road, a minor street in the Town. Pursuant to Section 220-11(A)(1), a lot in the Residential Zoning District that abuts a minor street is subject to a front yard setback of 30 feet from the street sideline, or 55 feet from the street centerline, whichever is more restrictive. Pursuant to Section 220-11(B)(4), the same lot is subject to side and rear yard setbacks of 20 feet. Thus, if the Pump Station were subject to the front yard setback, it would be in violation of Section 222-11(A)(1) by approximately 9.3 feet.

However, the Open Space has frontage on two streets: George Hill Road and Hilltop Road. When a lot has frontage on more than one street, courts look to the relevant definition section of the zoning bylaw to determine whether there is only one front yard, or if the front yard setback is to apply in each instance. See Bell v. Zoning Bd. of Appeals of Cohasset, 14 Mass.App.Ct. 97 (1982). Here, Section 220-3 defines "Lot Line, Front" as: "[a] property line dividing a lot from a street or way. On lots abutting more than one street, the front lot line shall be that so designated by a permit applicant or, if not, as **designated by the Building Inspector.**" (Emphasis added).

In his December 17, 2019 decision, the Building Commissioner determined that "[t]he frontage for this subdivision is on Hilltop Road . . ." and that "[t]he water booster structure is located on the side lot line of the subdivision." This constituted the Building Commissioner's designation, in my opinion, of the frontage on Hilltop Road as the front lot line for the Open Space, thereby rendering the remaining lot lines, including the frontage on George Hill Road, side or rear lot lines. Accordingly, he correctly determined that the required setback for the Pump Station from George Hill Road was 20 feet. In my opinion, the Building Commissioner acted lawfully and within his discretion in making that designation, and there are no criteria within the Zoning Bylaws by which the Building Commissioner's decision in that regard may be challenged. Therefore, where the Pump

Mr. Michael Antonellis  
Planning Director  
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Station complies with the required side and rear yard setbacks, in my opinion, the Building Commissioner correctly declined to take the zoning enforcement action requested by Mr. Williston.

Chaisson Appeal

The Chaisson Appeal raises two substantive issue. First, it asserts by various arguments that the siting of the Pump Station violated Section 220-15, the Flexible Development Bylaw. Second, it challenges the Building Commissioner's determination that the Pump Station is not required to obtain a separate special permit from the Board of Appeals.

As to the first issue, in my opinion, the Chaisson Appeal constitutes an untimely challenge to the Special Permit, and thus the Board of Appeals lacks jurisdiction to hear and decide the question raised. Massachusetts appellate courts have held that a party with adequate notice of an order or decision must appeal that order within the time provided by law, and cannot sit on their rights while the recipient of a permit incurs substantial expenses, only to have the aggrieved person spring into action later and demand zoning enforcement. See Gallivan v. Zoning Bd. of Appeals of Wellesley, 71 Mass.App.Ct. 850, 857 (2008); see also G.L. c.40A, §17 (judicial review of special permit granting authority's decision shall be the exclusive remedy); Klein v. Planning Bd. of Wrentham, 31 Mass.App.Ct. 777, 778 (1992) (having failed to take a timely appeal from a decision granting a special permit with conditions, an aggrieved party may not later challenge the validity of those conditions or the authority of the special permit granting authority to impose those conditions).

Pursuant to G.L. c.40A, §17, a person aggrieved by a decision of a special permit granting authority may appeal that decision within 20 days of the date the decision is filed with the Town Clerk. Here, the Planning Board filed the Special Permit decision with the Town Clerk on January 12, 2016, and the time to appeal that decision and the interpretation and application of the Zoning Bylaws made therein expired on February 1, 2016. No appeal was filed during that time and thus the matters decided by the issuance of the Special Permit are now closed to further appeal. Those matters include, in my opinion, the siting of the Pump Station within the Open Space, the approximate location of which is clearly depicted on the Subdivision Plan approved under the Special Permit.

As to the second issue, in my opinion, the Building Commissioner correctly found that the Pump Station was an accessory structure to the Development approved pursuant to the Special Permit, and accordingly did not require further approvals for this structure as a separate use of land under the Zoning Bylaws. Accessory structures and uses are those customarily associated with and incidental to a permitted use, and are allowed as part of that use unless the Zoning Bylaws expressly provide otherwise. A private pump station whose sole purpose is to provide potable water to a residential development is plainly a part of and accessory to that residential use. Here, the Special



Mr. Michael Antonellis  
Planning Director  
April 10, 2020  
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Permit issued pursuant to the Zoning Bylaws explicitly allows for the use of a pump station to provide water to the Development, thereby confirming the Pump Station as part of and accessory to the permitted use.

The Chaisson Appeal asserts that the Pump Station nonetheless requires a special permit from the Board of Appeals as a separate, distinct use of property. The Appeal does not, however, identify the location of that requirement in the Zoning Bylaws. The Use Regulation Schedule (Section 220-8) sets forth principal uses of property allowed in the Town, and regulates certain accessory uses. Because the Pump Station is accessory to the Development, it does not, in my opinion, constitute a separate, principal use of property that must be set forth in the Schedule as an allowed use. Nor is it one of the types of residential accessory uses regulated in the Schedule. Thus, in my opinion, the Special Permit is sufficient to authorize its construction and use, and the Building Commissioner was correct in so finding.

If you have further questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jonathan D. Eichman".

Jonathan D. Eichman

JDE/smm

cc: Board of Selectmen (by electronic mail only)

717404/LANC/0128

## Orlando Pacheco

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**From:** Tony Zahariadis  
**Sent:** Wednesday, May 6, 2020 8:57 AM  
**To:** Russ Williston (russwillistonpublic@gmail.com)  
**Cc:** Orlando Pacheco; Michael Antonellis; Jonathan D. Eichman  
**Subject:** Town Counsel Opinion - Poras Appeals.pdf  
**Attachments:** Town Counsel Opinion - Poras Appeals.pdf

Hello Mr. Williston,

I have reviewed your updated complain, which in my opinion was already decided. It is my determination that there is no zoning complaint and no further zoning action is warranted.  
I have included town counsel legal opinion letter.

Sincerely,

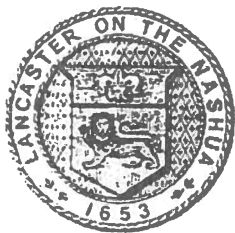
*Tony Zahariadis*  
Building Commissioner  
Zoning Enforcement Officer

*Town of Lancaster*  
Building Department  
695 Main St.  
Lancaster, Ma. 01523  
Office(978) 365-3326 ext 1309  
Fax (978) 368-4009  
tzahariadis@lancasterma.net



*The contents of this email and any attachments are the property of the Town of Lancaster Massachusetts and subject to the Public Records Law, M.G.L. c. 66, section 10.  
When writing or responding, please remember that the Massachusetts Secretary of State's Office has determined that email is a public record and not confidential.*

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**Town of Lancaster**  
**BOARD OF APPEALS**  
**Lancaster, Massachusetts 01523**

**ADMINISTRATIVE APPEAL - FINDINGS OF FACT AND DECISION**

**Assessor's Map 36 - Parcel 1.D**

On February 27, 2020, at 7:00 p.m., the Lancaster Board of Appeals held a hearing at Prescott Building, Nashaway Meeting Room 701 Main Street, Lancaster, Massachusetts, on the Appeal of Russell Williston from a determination by the Building Commissioner dated December 12, 2019.

It was ordered by the Board that notices of a public hearing to be held on February 27, 2020 be sent to the individuals listed on the Town of Lancaster Certified Abutter's list for the property.

On February 7, 2020 and February 14, 2020, notice of the hearing was duly advertised in The Item.

On February 27, 2020, the hearing was called to order by Jeanne Rich, Chair. Present for the hearing were Chair Jeanne Rich, members Hannah Meyer, Frank Sullivan, and Matthew Mayo, and associate members Rob Alix and Ryan Aldrich. The Board continued the hearing to April 24, 2020 in order to gather more information from the Building Commissioner regarding his determination.

On April 24, 2020 the hearing was called to order by Jeanne Rich, Chair. Present for the hearing were Chair Jeanne Rich, members Hannah Meyer, Frank Sullivan, Matthew Mayo, and David Stadtherr, and associate member Rob Alix.

The Board heard testimony, and received the documents and exhibits found in the attached Exhibit A.

**FINDINGS**

The Lancaster Board of Appeals conducted a public hearing and reviewed all the submitted evidence, and finds as follows:

1. Russell Williston, whose address is 4 Highfield Drive, is the petitioner for an administrative appeal concerning the land situated at Assessor's Map 36, Lot 1.D (A/K/A The Poras Subdivision; A/K/A Hawthorn Lane) in the Town of Lancaster and more particularly described in a deed recorded with the Worcester District Registry of Deeds in Book 58783, Page 374, and Plan book 767, Page 1.
2. Said land is located in the Residential zoning district.



3. Pursuant to an approved subdivision plan and a Flexible Development Special Permit issued for the land, a portion of the land is designated for the purpose of "open space."
4. The petitioner seeks to appeal the decision of the Building Commissioner, dated December 12, 2019, in which he determined that the water pump station constructed on the portion of the Flexible Development designated as Open Space to serve the Flexible Development is in compliance with zoning and approvals on file for the Subdivision and Flexible Development Special Permit, and is not in violation of the dimensional setback requirements found in Section 220-10 of the Lancaster Zoning Bylaw.
5. The petitioner contends that the water pump station does not conform with front yard setbacks;
6. The Flexible Development property, including the Open Space, abuts both the street line of George Hill Road and the street line of Hilltop Road.
7. The Building Commissioner designated Hilltop Road as the front lot line of the Flexible Development property, and George Hill Road as a side lot line.
8. The pump station is set back at least 20 feet from the lot line on George Hill Road.
9. The petitioner contends that the front yard setback is measured from all abutting street lines, regardless of the location of the front lot line, and therefore applies to the water pump station;
10. Town Counsel provided an opinion to the Board in a letter dated April 10, 2020.

## DECISION

Following testimony, the Board closed the public hearing and began deliberation. The Chair designated associate member Robert Alix to sit as a voting member for the purpose of voting on the appeal. During its deliberation, the Board considered the testimony and the documents and exhibits listed in Exhibit A.

On April 24, 2020, following discussions of the Board, a motion was made and seconded to grant the appeal of the petitioner and reverse the decision of the Building Commissioner. The vote on the motion was 3 in favor, 2 opposed. Board members who voted in favor of the motion were Board members Matthew Mayo, Hannah Meyer and Robert Alix. Board members who voted in opposition to the motion were Jeanne Rich and Frank Sullivan.

Pursuant to Massachusetts General Laws Chapter 40A, Section 15, a concurring vote of four out of five members of the Board is required to reverse any order or decision of the Building Commissioner. A supermajority of the Board having failed to concur, the motion to uphold the appeal of the petitioner and reverse the decision of the Building Commissioner **FAILED**. Accordingly, the decision of the Building Commissioner is **UPHELD**.

Pursuant to the Board's discussion, and as reasons for its decision, Chair Rich and member Sullivan agreed that the Building Commissioner has the authority, pursuant to the definition of "Lot Line, Front" in Section 220-3 of the Lancaster Zoning Bylaw, to designate which street or way shall be the front lot line for a property abutting more than one street, and that he expressly designated Hilltop Road as the front lot line of the property, and George Hill Road as the side lot line. They further agreed that the Building Inspector correctly interpreted the Zoning Bylaw to limit application of the front yard setback requirement to the front lot line. Because the water pump station is located at least 20 feet from the side lot line on George Hill Road, the Building Commissioner correctly determined that it met the side yard setback requirement as set forth in Section 220-11 of the Lancaster Zoning Bylaw.



It was **ORDERED** by the Board that persons notified of the hearing be notified of the foregoing decision.

**ADJOURNED**

\_\_\_\_\_  
**JEANNE RICH**

DATE \_\_\_\_\_

\_\_\_\_\_  
**FRANK SULLIVAN**

DATE \_\_\_\_\_

\_\_\_\_\_  
**MATTHEW MAYO**

DATE \_\_\_\_\_

\_\_\_\_\_  
**ROBERT ALIX**

DATE \_\_\_\_\_

\_\_\_\_\_  
**HANNAH MEYER**

DATE \_\_\_\_\_

Appeals of this decision shall be made pursuant to M.G.L. c. 40A § 17 and shall be filed within twenty days after the filing of this decision in the office of the Town Clerk.

**Exhibit A**

The documents and exhibits to follow are those that were received by the board during and prior to the close of the Public Hearing:

- Letter dated December 12, 2019 to the Building commissioner signed by Larry Shoer, et al.
- Application package submitted by Russell Williston dated January 2, 2020;
- Form A; Request for Public Hearing submitted by the Appellant;
- Plan titled Hilltop Road Subdivision Water Booster Station; prepared by CEC; dated November 2018;
- Comments submitted to the Planning Board by Donald Chaisson dated April 12, 2020;
- Approve Definitive Subdivision Plan for the Poras Subdivision (A/K/A Hawthorn Lane)
- Email from Noreen Piazza dated October 30, 2015;
- Haley & Ward, Inc, letter to the Planning Board dated October 31, 2018;
- Email from Larry Shoer; dated February 26, 2020;
- Letter from Mass DEP dated February 28, 2019;
- Planning Board Opinion Memo dated April 23, 2020;
- Review memo by the Planning Director; dated February 27, 2020

- Special Permit Application by Poras realty Trust dated October 5, 2015;
- Special Permit Decision dated January 12, 2016;
- Certificate of Approval of Definitive Subdivision Plan dated January 26, 2016;
- Town Counsel opinion dated April 10, 2020;
- Whitman and Bingham, Inc Letter dated December 8, 2015;
- Comments received from Lynda and Ronald Gaulin date received April 8, 2020.
- Letter to the board by Russell Williston dated April 13, 2020.



## *Town of Lancaster*

*695 Main Street, Suite 4  
Lancaster, MA 01523  
Telephone: 978-365-3326 ext. 1310  
Fax: 978-368-4009*

*Department of  
Community  
Development and  
Planning*

To: Lancaster Board of Selectmen  
Stephen J. Kerrigan, Chair  
Jason Allison, Member  
Alix W. Turner, Clerk  
Prescott Building  
701 Main Street, 2<sup>nd</sup> floor  
Lancaster, MA 01523

January 29<sup>th</sup>, 2024

Dear Members of the Lancaster Select Board,

The Conservation Commission asks the Lancaster Select Board to support the Nashua, Squannacook, and Nissitissit Rivers Wild and Scenic Stewardship Council's Forest Legacy project.

The Council's grant application has been approved and funded by the U.S. Department of Agriculture's Forest Legacy Program to acquire forested land and Conservation Restrictions (C.R.'s) worth \$11.7 million of which \$4 million is in Lancaster. The Lancaster funding budget includes \$2,530,000 in federal funds to cover fee acquisitions, C.R.'s, and due diligence.

To provide Lancaster's match, the project proposes transferring ownership of Blood Town Forest land that is currently unprotected to the Conservation Commission. Also, to be transferred are New England Power lands abutting the Pellecchia Conservation Land and Canoe Launch. These transfers will require a vote at Town Meeting. We ask the Board to put this on the agenda and support it.

Thank you,  
Bryanna Weigel  
Conservation Agent



## *Town of Lancaster*

*695 Main Street, Suite 4  
Lancaster, MA 01523  
Telephone: 978-365-3326 ext. 1310  
Fax: 978-368-4009*

*Department of  
Community  
Development and  
Planning*



# TOWN OF LANCASTER

## BOARD OF HEALTH

701 Main Street, Suite 6

Lancaster, MA 01523

Tel: (978) 365-3326 ext. 1086

Email: BOH@lancasterma.gov

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February 7, 2024

Town of Lancaster Select Board  
Chairman Steve Kerrigan  
Delivered by hand to Office of Town Administrator

RE: United Ag and Turf, 700 Fort Pond Road, Lancaster, MA

Dear Mr. Kerrigan,

The Board of Health has requested and failed to receive a response to a letter (see attached), dated 11/22/2023 regarding an existing violation to Title 5, 15.021(4): Certificates of Compliance.

The Board of Health requests the class I Motor Vehicle Dealer License for the above referenced property be revoked and not renewed until such time as the violations cited in the Select Board Annual License Renewal Department Comment Form and BOH letter dated 11/22/2023 be addressed.

Please contact the Board with any questions.

Respectfully,

Jeff Paster, Lancaster Board of Health Chairman

Cc:

Town Administrator

NABH

United Ag and Turf: Dave Hammond, CBO- P.O. Box 30, Fairfield, ME 04937

## **FY25 Budget Update**

Please cut & paste the link below into your preferred browser to access the Updated Version of the FY25 Budget, undated 02/06/2024.

[https://www.ci.lancaster.ma.us/system/files/uploads/fy25\\_budget\\_v2.pdf](https://www.ci.lancaster.ma.us/system/files/uploads/fy25_budget_v2.pdf)



# TOWN OF LANCASTER

## BOARD OF HEALTH

701 Main Street, Suite 6  
Lancaster, MA 01523

Tel: (978) 365-3326 ext. 1086  
Fax: (978) 368-4009

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November 22, 2023

United Ag and Turf NE, LLC  
Dave Hammond, CBO  
P.O. Box 30  
Fairfield ME, 04937

RE: Certificate of Compliance—700 Fort Pond Rd. Lancaster, MA

Dear Mr. Hammond,

It has come to the Board's attention that a Certificate of Compliance for the permit to install a septic tank and pump chamber, dated 12/9/2021 for the above referenced property, has not been issued as of this date. Title 5, 15.021:, Certificates of Compliance requires that a Certificate of Compliance be issued prior to the use of any septic system component.

The following information is outstanding:

- Engineer's as-built plan and certification, as required by Title 5, 15.021(4) and the 12/9/2021 permit.
- Installers as-built plan and certification, as required by Title 5, 15.021(4) and the 12/9/2021 permit.

Please submit the outstanding information within 30 days of receipt of this letter.

Contact the Board of Health with any questions.

Respectfully,

Jeff Paster, Lancaster Board of Health Chairman

