



November 30, 2021

Town of Whately
Zoning Board of Appeals
c/o Roger Lipton, Esq., Chairman
4 Sandy Lane
Whately, MA 01373

RE: Special Permit Application Follow-up Items

Dear Chairman Lipton:

Please accept this letter and its attachments as a formal supplemental submission for the Special Permit Application for Indoor Cultivation in greenhouses at 149 Christian Lane.

We are attaching:

- i) An updated Site Plan;
- ii) Narrative regarding non-use of cultivation space within setback;
- iii) Memorandum from Bacon Wilson relative to the agricultural structures in A/R1;
- iv) Recent Decisions (re: DMCTC, Inc.) from the Whately ZBA allowing (a) fence and access road within the 50' setback for marijuana cultivator, and, (b) non-cultivation barn in A/R1.

On November 16, 2021, Greenjeans Farms met with Fire Chief John Hannum to ensure that our site plan allows for proper emergency vehicle access. Chief Hannum noted that a 15-foot width between the security fence and greenhouse edges on the easterly side should be maintained to allow for safe ingress and egress of firetrucks and other emergency vehicles.

Thank you,

A handwritten signature in black ink, appearing to read 'Julie Beauchemin', is written in a cursive style.

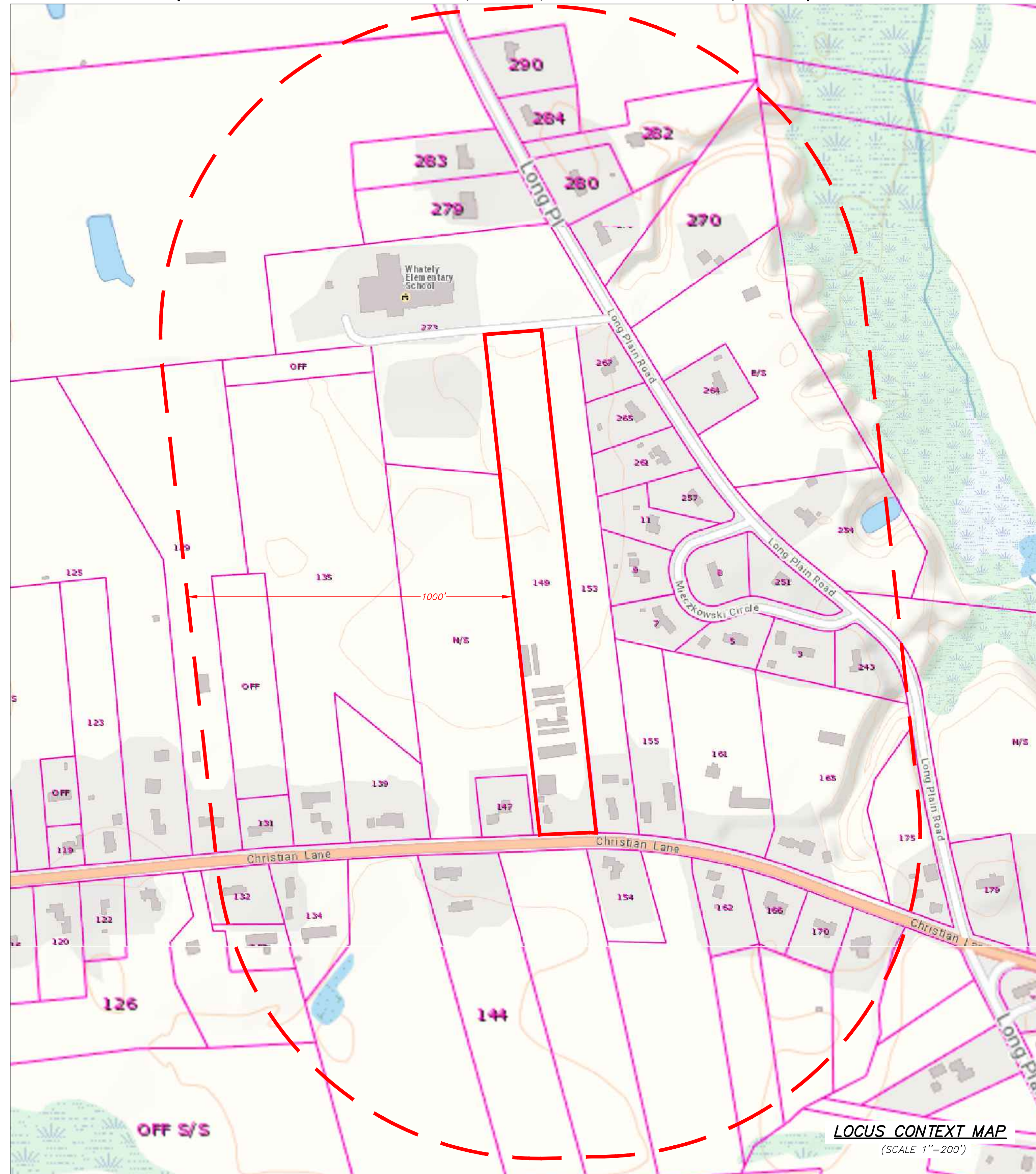
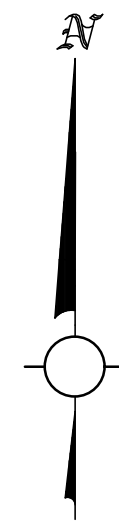
Julie Beauchemin
Greenjeans Farms, LLC
4 Old Sawmill Road
Holliston, MA 01746
julie@greenjeanscoop.com

149 CHRISTIAN LANE (ASSESSORS MAP 20 LOT 27) SITE DEVELOPMENT PLAN SET

LOCATED IN WHATELY, MA
SEPTEMBER 28, 2021
(REVISED NOVEMBER 13, 2021; NOVEMBER 29, 2021)

NOTES:

1. THE INFORMATION DEPICTED ON THIS PLAN HAS BEEN COMPILED FROM THE TOWN OF WHATELY GIS SYSTEM
2. LAND USE WITHIN 1000 FEET OF THE SUBJECT PROPERTY IS PRIMARILY SINGLE FAMILY DWELLINGS AND AGRICULTURAL WITH THE EXCEPTION OF WHATELY ELEMENTARY SCHOOL



RECORD OWNER:

WAYNE M & SCOTT HUTKOSKI
149 CHRISTIAN LANE
SOUTH DEERFIELD, MA 01373
- DEED BOOK 5688 PAGE 39

APPLICANT:

GREENJEANS FARMS, LLC
4 OLD SAWMILL ROAD
HOLLISTON, MA 01746

PREPARED BY:

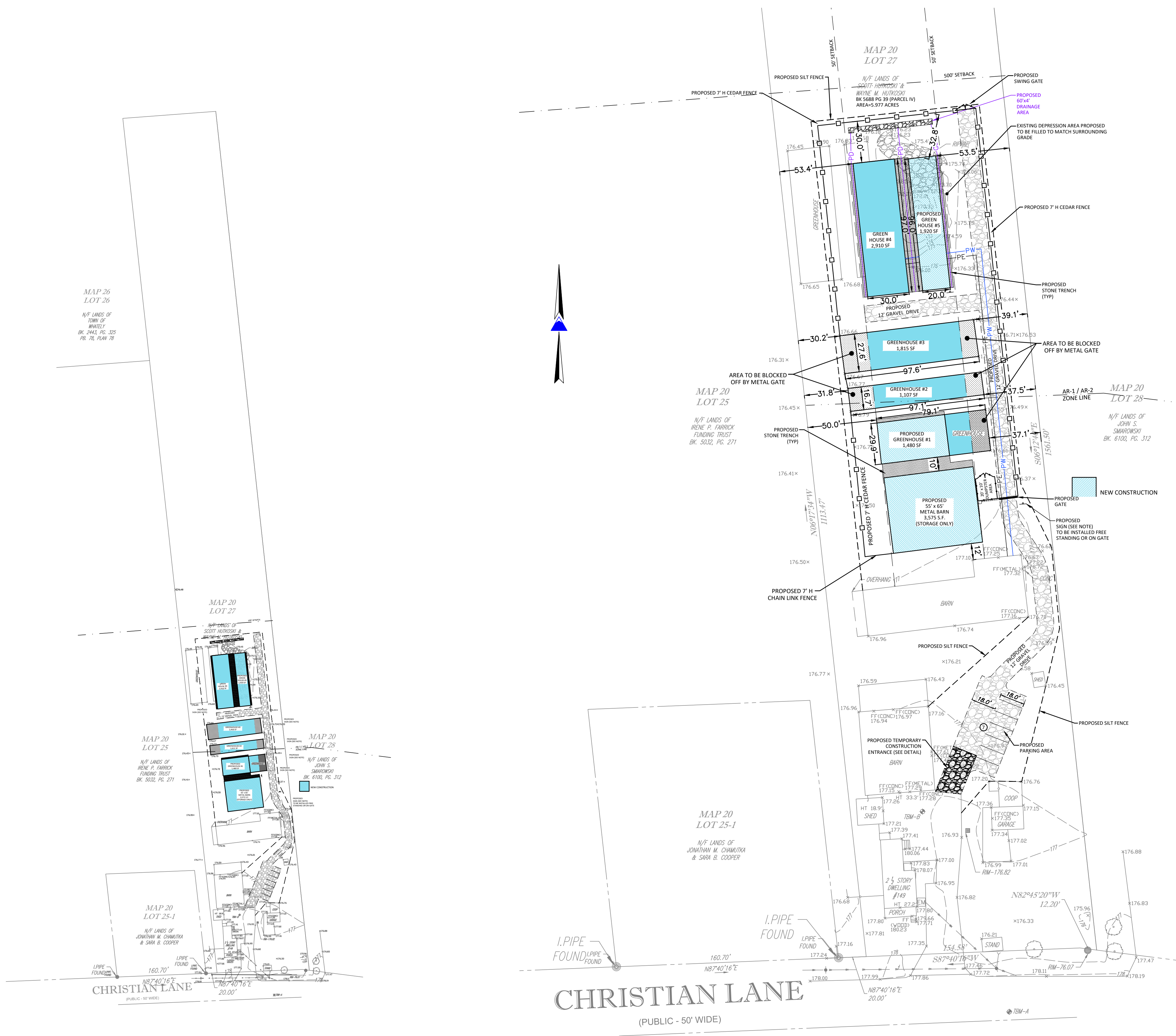


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LEXINGTON, MASSACHUSETTS 02420
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SHEET INDEX

1. COVER SHEET
2. SITE PLAN
3. DETAILS



MAP 26
LOT 26
N/F LANDS OF
TOWN OF
WHATELY
BK. 2461, PG. 325
PL. 78, PLAN 78

MAP 20
LOT 25
N/F LANDS OF
IRENE P. FARROW
FUNDING TRUST
BK. 5032, PG. 271

MAP 20
LOT 27
N/F LANDS OF
SCOTT HADJIOANNI &
MAYME M. HADJIOANNI
BK. 5688 PG. 39 (PARCEL IV)
AREA=5,977 ACRES

MAP 20
LOT 28
N/F LANDS OF
JOHN S.
SMAROWSKI
BK. 4100, PG. 312

MAP 20
LOT 25-1
N/F LANDS OF
JONATHAN M. CHAMUTKA
& SARA B. COOPER

SCALE 1" = 100'

SCALE 1" = 40'

NOTES:

1. THE TOPOGRAPHY, SITE DETAIL & SURFACE IMPROVEMENTS DEPICTED HEREON WERE OBTAINED FROM AN PLAN PREPARED BY EDWARD C MUSZYNSKI LAND SURVEYOR ON NOVEMBER 19, 2018 AND ONSITE FIELD SURVEY CONDUCTED BY HIGH POINT SURVEY ON JUNE 14, 2021
2. THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN ARE APPROXIMATE AND ARE BASED UPON A PARTIAL FIELD SURVEY AND COMPILATION OF PLANS OF RECORD. PATRIOT ENGINEERING DOES NOT WARRANTY NOR GUARANTEE THE LOCATION OF ALL UTILITIES DEPICTED OR NOT DEPICTED. THE CONTRACTOR, PRIOR TO COMMENCEMENT OF CONSTRUCTION, SHALL VERIFY THE LOCATION OF ALL UTILITIES AND CONTACT DIG SAFE AT 1-888-344-7233.
3. THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT, VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
4. THIS PLAN IS NOT TO BE USED FOR THE RECONSTRUCTION OF BOUNDARY LINES OR FOR TITLE INSURANCE PURPOSES. ALL BOUNDARY LINES DEPICTED ARE APPROXIMATE ONLY. PATRIOT DID NOT PERFORM A BOUNDARY RETRACEMENT SURVEY.

TABLE OF DIMENSIONAL REQUIREMENTS

ITEM	REQUIREMENT	PROPOSED	
ZONE: AR-1			
MIN LOT AREA	60,000 SF	MIN LOT AREA	65,722 SF
MIN FRONTAGE	200'	MIN FRONTAGE	166.7'
BUILDING SETBACK		BUILDING SETBACK	
FRONT YARD	50'	FRONT YARD**	284'
SIDE/REAR YARD	20'	SIDE/REAR YARD**	52'
MAX LOT COVERAGE	30%	MAX LOT COVERAGE	23.5%
ZONE: AR-2			
MIN LOT AREA	120,000 SF	MIN LOT AREA	194,540 SF
MIN FRONTAGE	300'	MIN FRONTAGE	166.7'
BUILDING SETBACK		BUILDING SETBACK	
FRONT YARD	50'	FRONT YARD*	476.7'
SIDE/REAR YARD	20'	SIDE/REAR YARD*	55'
MAX LOT COVERAGE	30%	*GREENHOUSES 5 AND 6	
		MAX LOT COVERAGE	7%

LEGEND

- 177 --- EXISTING CONTOUR
- OH --- EXISTING OVERHEAD WIRES
- PD --- PROPOSED DRAIN LINE
- PW --- PROPOSED WATER LINE
- PE --- PROPOSED WATER LINE
- --- PROPOSED SILT FENCE
- --- PROPOSED CEDAR FENCE
- --- PROPOSED CHAIN LINK FENCE
- --- PROPOSED SIGN
- --- DRAINAGE AREA
- --- EXISTING TREE

NOTE:

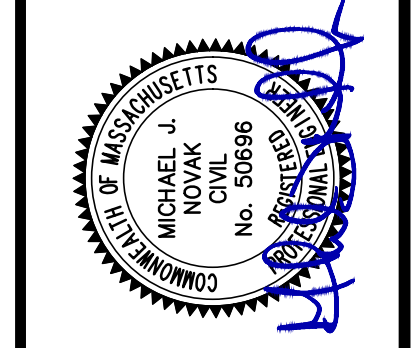
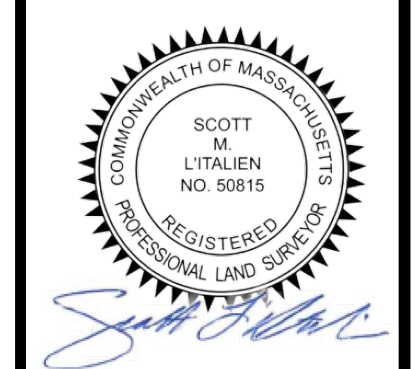
ALL NON-GRAVEL AREAS WILL BE LOAM AND SEEDED WITH GRASS TO PREVENT EROSION.

SIGN NOTE:

SIGNS POSTED TO BE A MINIMUM OF 12"x12" WITH LETTERING NO SMALLER THAN 1" IN HEIGHT, READING: "DO NOT ENTER - LIMITED ACCESS AREA - ACCESS LIMITED TO AUTHORIZED PERSONNEL ONLY"

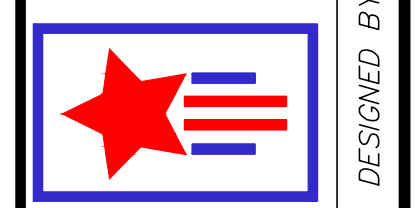
REVISIONS

MVC	DATE	DESCRIPTION
11/13/2021	GREENHOUSE, FENCE, DUMPSTER & DRIVEWAY RELOCATION	
11/29/2021	REVISIONS PER MEETING COMMENTS	

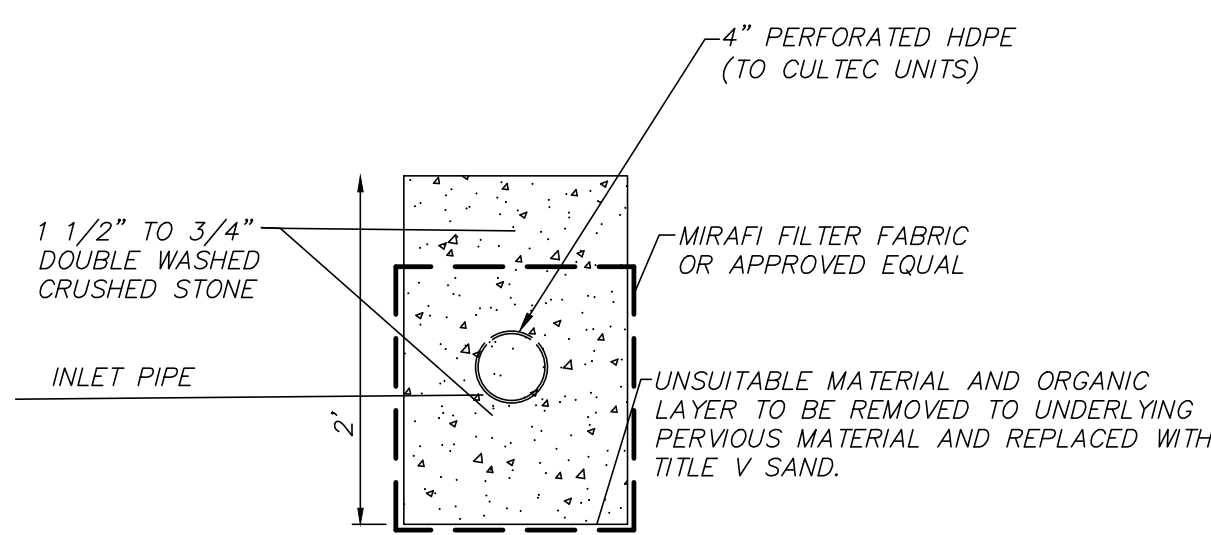


149 CHRISTIAN LANE
SITE PLAN
LOCATED IN
WHATELY, MASSACHUSETTS
PREPARED FOR
GREENJEANS FARMS LLC

Patriot Engineering
35 BEDFORD STREET, SUITE 4
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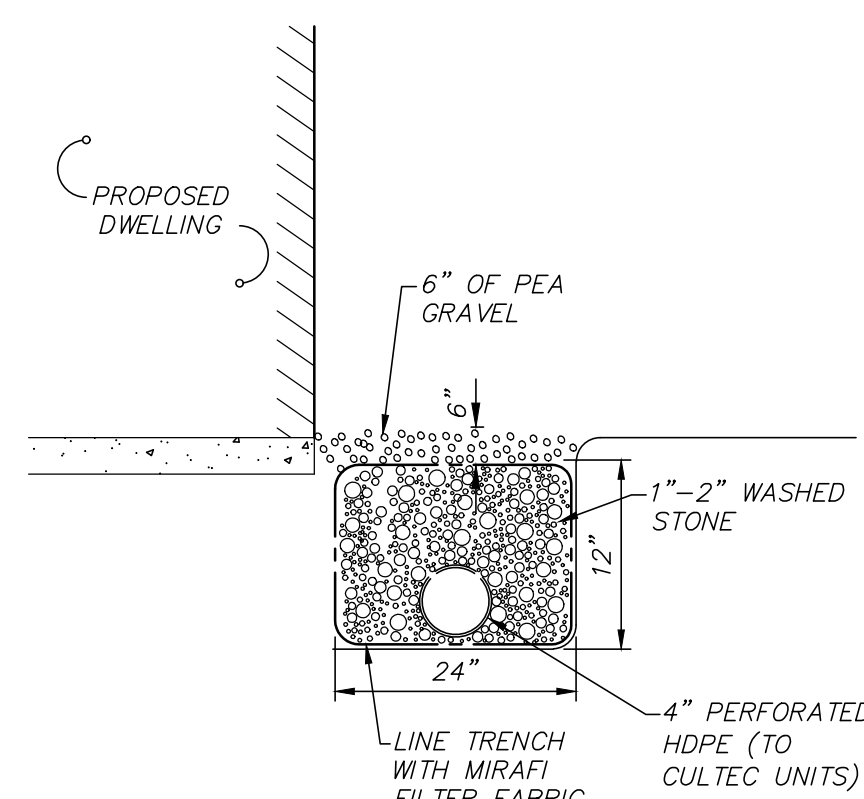


DATE: SEPTEMBER 28, 2021
SCALE: AS NOTED
SHEET No. 2 OF 3
PROJECT No. 21-19

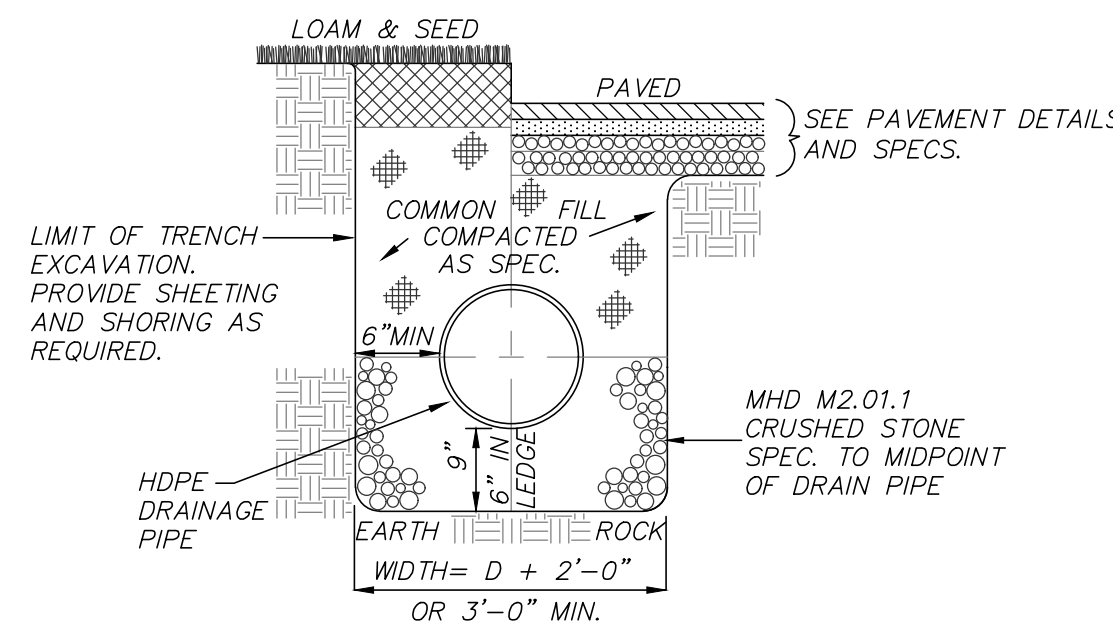


PLACE JUTE NETTING TO STABILIZE SWALE UNTIL A PERMANENT VEGETATED COVER IS ESTABLISHED.

INFILTRATION TRENCH SECTION
(NOT TO SCALE)



DRIP EDGE
(NOT TO SCALE)



DRAIN TRENCH
(NOT TO SCALE)

NOTES:

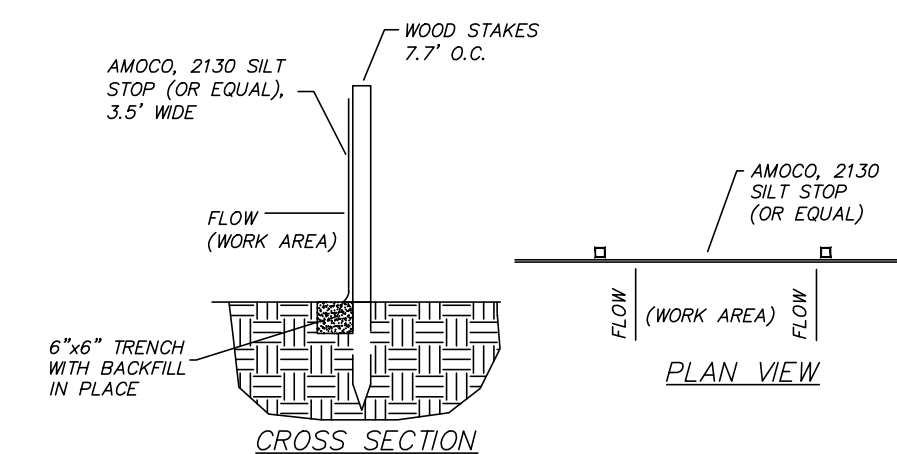
1. UNDERGROUND UTILITIES SHOWN ARE FROM OBSERVED SURFACE INDICATIONS, SUBSURFACE INDICATIONS, AND COMPILED FROM AVAILABLE RECORD PLANS OF UTILITY COMPANIES AND PUBLIC AGENCIES AND ARE APPROXIMATE ONLY. AS OF THE DATE OF THIS SURVEY, NO INFORMATION REGARDING RECORD UTILITIES HAS BEEN PROVIDED BY ELECTRIC AND GAS PROVIDERS. BEFORE CONSTRUCTION CALL "DIG SAFE" 811.
2. THE HORIZONTAL DATUM IS MASSACHUSETTS COORDINATE SYSTEM, THE VERTICAL DATUM IS NAVD88. DATUMS WERE ESTABLISHED USING RTK GPS METHODS.
3. THE POSITIONAL ACCURACY OF THE DATA AND PHYSICAL IMPROVEMENTS IN THIS PLAN SET MAY BE APPROXIMATE. ANY USE OF ELECTRONIC DATA CONTAINED IN AUTOCAD VERSIONS OF THIS PLAN TO GENERATE COORDINATES OR DIMENSIONS NOT SHOWN ON THE PLAN IS NOT AUTHORIZED.

SITE AND UTILITY NOTES:

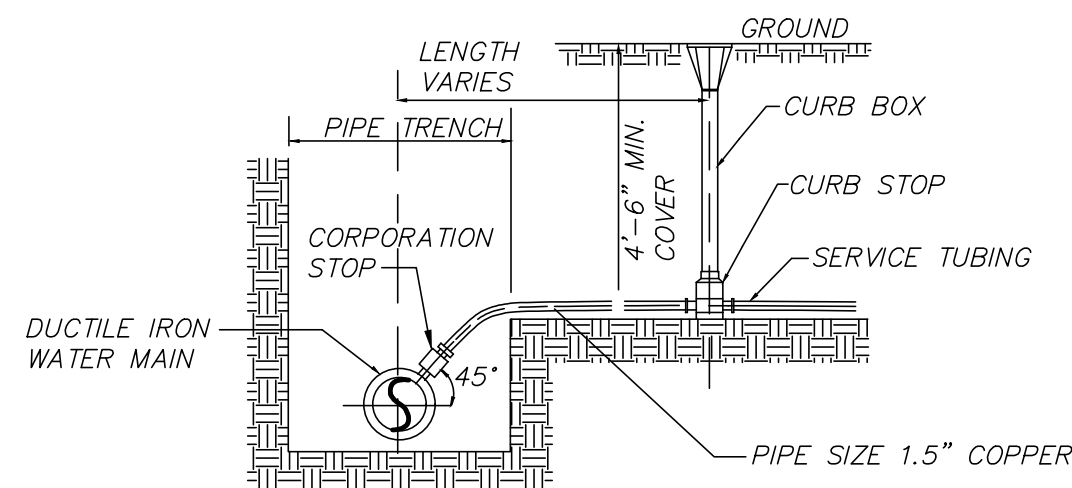
1. ALL SITE WORK SHALL MEET OR EXCEED THE SITE WORK SPECIFICATIONS PREPARED FOR THIS PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THAT THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS DO NOT CONFLICT WITH ANY KNOWN EXISTING OR OTHER PROPOSED IMPROVEMENTS. IF ANY CONFLICTS ARE DISCOVERED, THE CONTRACTOR SHALL NOTIFY THE OWNER AND THE ENGINEER PRIOR TO INSTALLATION OF ANY PORTION OF THE SITE WORK WHICH WOULD BE AFFECTED.
2. THE CONTRACTOR SHALL VERIFY EXISTING GRADES IN THE FIELD AND REPORT ANY DISCREPANCIES IMMEDIATELY TO THE ENGINEER. THE CONTRACTOR SHALL MAKE ALL ARRANGEMENTS FOR THE ALTERATION AND ADJUSTMENT OF GAS, ELECTRIC, TELEPHONE AND ANY OTHER PRIVATE UTILITIES BY THE UTILITY COMPANIES, AS REQUIRED. WHERE AN EXISTING UTILITY IS FOUND TO CONFLICT WITH THE PROPOSED WORK, THE LOCATION, ELEVATION AND SIZE OF THE UTILITY SHALL BE ACCURATELY DETERMINED WITHOUT DELAY BY THE CONTRACTOR, AND THE INFORMATION FURNISHED TO THE OWNER AND ENGINEER FOR RESOLUTION.
3. INSTALL ALL UTILITIES (INCLUDING CONCRETE MECHANICAL PADS) PER UTILITY COMPANY AND LOCAL STANDARDS.
4. CONTRACTOR SHALL PROTECT ALL UNDERGROUND DRAINAGE, SEWER AND UTILITY FACILITIES FROM EXCESSIVE VEHICULAR LOADS DURING CONSTRUCTION. ANY DAMAGE TO THESE FACILITIES RESULTING FROM CONSTRUCTION LOADS WILL BE RESTORED TO ORIGINAL CONDITION AT NO COST TO OWNER.
5. ABANDON EXISTING UTILITY SERVICES ONSITE ACCORDING TO UTILITY COMPANY AND LOCAL REQUIREMENTS.
6. EXCAVATION REQUIRED WITHIN THE PROXIMITY OF EXISTING UTILITY LINES SHALL BE DONE BY HAND. CONTRACTOR SHALL REPAIR ANY DAMAGE TO EXISTING UTILITY LINES OR STRUCTURES INCURRED DURING CONSTRUCTION OPERATIONS AT NO COST TO THE OWNER.
7. COORDINATE UTILITY CONSTRUCTION WITH ALL TRADES AND CORRESPONDING DESIGN PLANS FOR CONNECTION TO ALL BUILDINGS AND SITE UTILITIES.
8. CONTRACTOR TO VERIFY UTILITY STUB LOCATIONS AND ELEVATIONS IN THE FIELD PRIOR TO COMMENCING WORK.

GENERAL CONSTRUCTION NOTES:

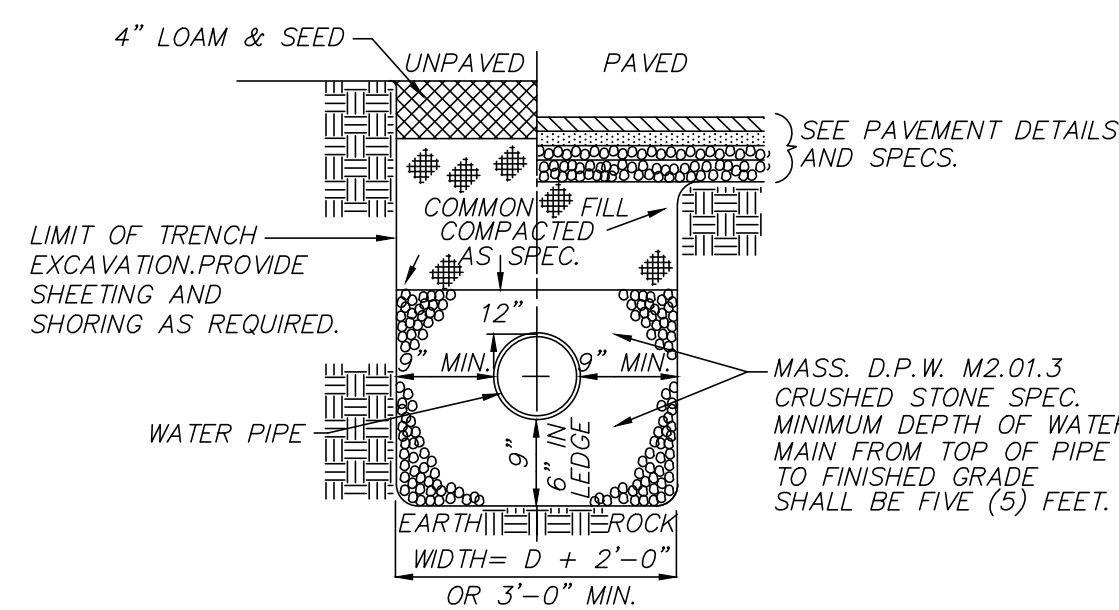
1. THE CONTRACTOR SHALL MAKE ALL NECESSARY CONSTRUCTION NOTIFICATIONS AND APPLY FOR AND OBTAIN ALL NECESSARY CONSTRUCTION PERMITS. THE CONTRACTOR SHALL ALSO PAY ALL FEES AND POST ALL BONDS ASSOCIATED WITH THE SAME.
2. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR JOB SITE SAFETY AND ALL CONSTRUCTIONS MEANS AND METHODS.
3. LIMIT OF WORK SHALL BE WITHIN ESTABLISHED EROSION CONTROL LIMITS AS INDICATED ON DRAWINGS.
4. ALL ITEMS TO BE REMOVED, WHETHER CALLED FOR OR NOT, SHALL BE PART OF THE WORK SCOPE.
5. ANY ALTERATIONS TO THESE DRAWINGS MADE IN THE FIELD DURING CONSTRUCTION SHALL BE RECORDED BY THE CONTRACTOR ON RECORD DOCUMENTS.
6. ANY AREA OUTSIDE THE LIMIT OF WORK THAT IS DISTURBED SHALL BE RESTORED TO ITS ORIGINAL CONDITION AT NO COST TO OWNER.
7. SITE ELEMENTS TO REMAIN MUST BE PROTECTED FOR THE DURATION OF THE PROJECT.



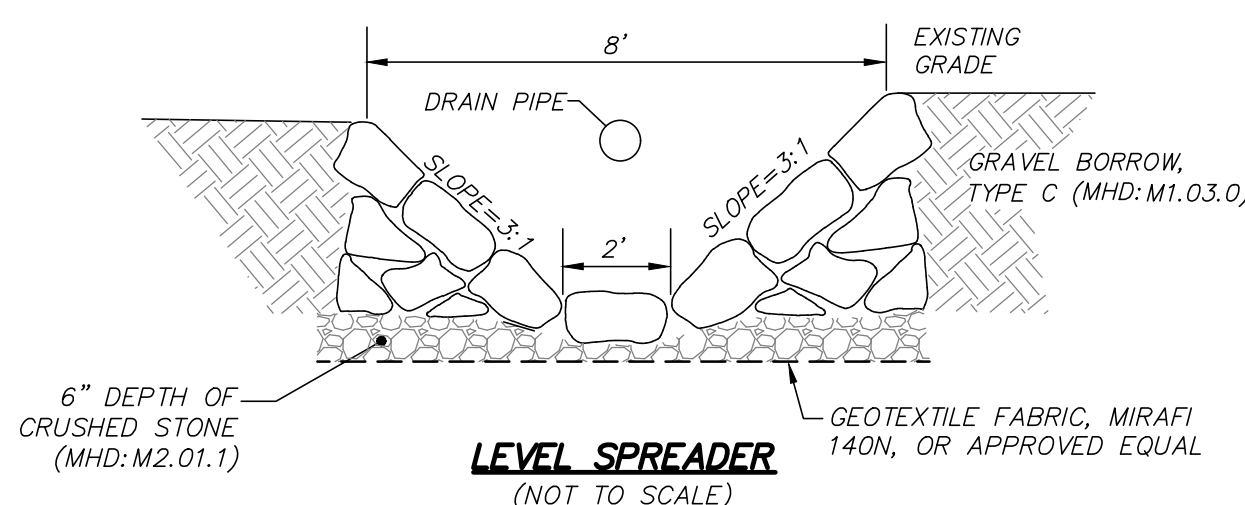
SILT FENCE
(NOT TO SCALE)



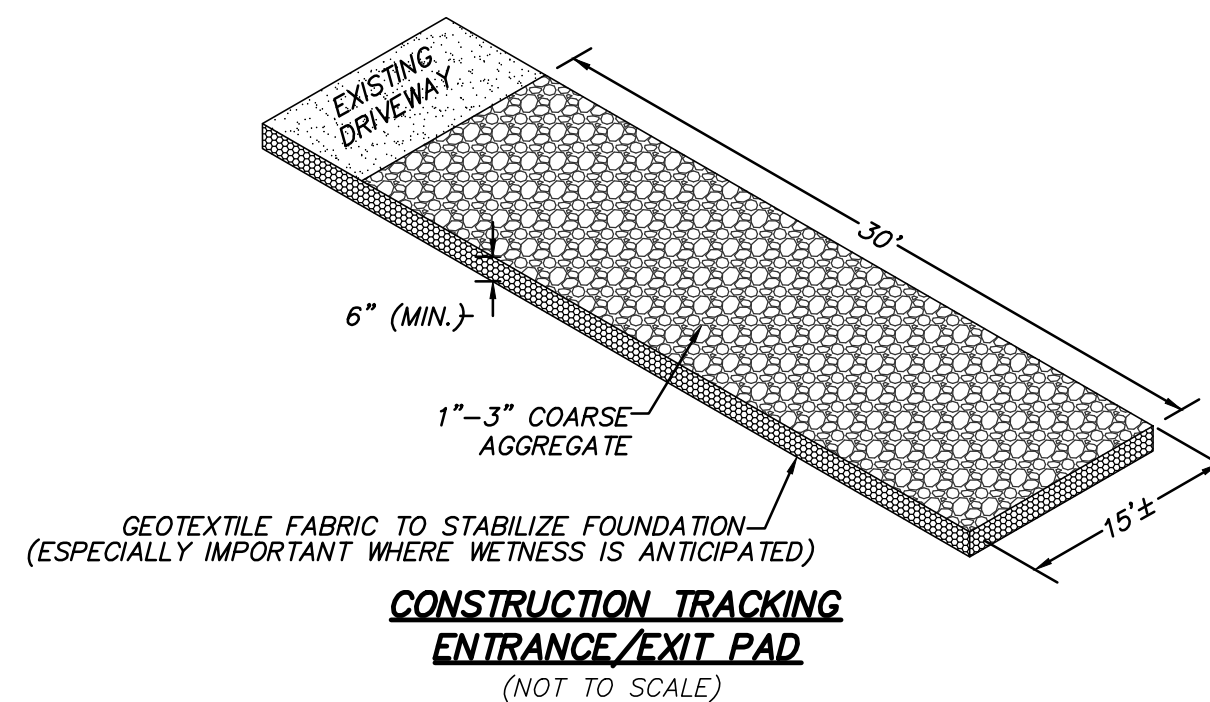
TYPICAL WATER SERVICE
(NOT TO SCALE)



WATER TRENCH
(NOT TO SCALE)

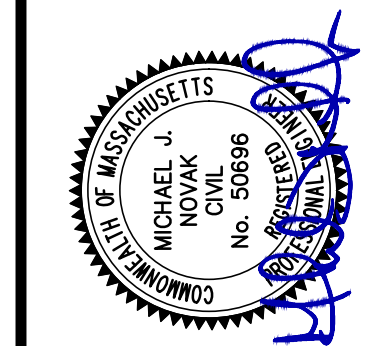


LEVEL SPREADER
(NOT TO SCALE)



CONSTRUCTION TRACKING ENTRANCE/EXIT PAD
(NOT TO SCALE)

REVISIONS	DATE	DESCRIPTION
NO REVISIONS TO THIS SHEET	11/13/2021	
NO REVISIONS TO THIS SHEET	11/29/2021	



149 CHRISTIAN LANE
DETAILS
 LOCATED IN
WHATELY, MASSACHUSETTS
 PREPARED FOR
GREENJEANS FARMS LLC

Patriot Engineering
 95 BEDFORD STREET, SUITE 4
 LEXINGTON, MASSACHUSETTS 02420
 T: (978) 726-2654
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DATE:
 SEPTEMBER 28, 2021
 SCALE:
 SHEET No.
3 OF 3
 PROJECT No.
21-19

To: Town of Whately Zoning Board of Appeals
From: Thomas R. Reidy, Esq., Bacon \ Wilson, P.C.
on behalf of Greenjeans Farms, LLC
Date: November 30, 2021
RE: RECONSTRUCTION OF GREENHOUSES IN EXISTENCE PRIOR TO APRIL 24, 2018

Greenjeans Farms, LLC (“Greenjeans”) has submitted a Special Permit (and Site Plan Review) Application for the Indoor Cultivation of Marijuana in Agricultural buildings and greenhouses in existence on April 24, 2018 (the “Application”) at 149 Christian Lane in Whately (the “Site”).

The Zoning Board of Appeals (“ZBA”) has raised a question as to the Application’s compliance with the Zoning Bylaw in that two (2) of the greenhouses that Greenjeans seeks to use in the A/R1 for its Cultivation were in existence on April 24, 2018, but were subsequently damaged in December of 2018 and have yet to be rebuilt.

The Zoning Bylaw is clear: the greenhouse or building must have been in existence on April 24, 2018. Notably, there is not a requirement that the agricultural greenhouse or building continues to be in existence on the date of Application.¹

However, it would appear that some time limit should exist so that it is not open-ended. As the structures were in compliance when the bylaw was enacted, but would have been unlawful for the marijuana cultivation purpose if they were built subsequent to the bylaw’s enacted date, once destroyed they became pre-existing, nonconforming structures.

The Whately zoning bylaw provides, in Section 171-12(D) that any

“Nonconforming structures damaged or destroyed by fire or other accidental causes may be repaired or reconstructed, provided that the new structure is in equal or better condition than the damaged structure, is located on the same portion of the lot and has the same dimensions as the damaged structure, is not substantially more detrimental to the neighborhood than the damaged structure, is put to the same use as the damaged structure or is rebuilt in conformance with this chapter.”

¹ It appears the intent of this requirement is to prevent subsequent creation of agricultural buildings and greenhouses—under the favorable MGL c. 40A, § 3—and then convert them into indoor cultivation for marijuana. The agricultural greenhouses at the Site were in existence since 2000/2001, long before the subject date (April 24, 2018); the purpose of the specific bylaw would not be frustrated by the instant Application.

Such repair or reconstruction of a damaged structure are required to be substantially completed within two years. If any of the aforementioned conditions does not apply, a Special Permit from the ZBA is required.

The landowner of the Site had not yet been able to rebuild the damaged greenhouses due to the pandemic. Under the language of the zoning bylaw they would have until December 22, 2020 to substantially complete the rebuild.

However, beginning on March 10, 2020 until June 15, 2021, the Governor of the Commonwealth of Massachusetts declared a State of Emergency due to the Covid-19 Pandemic. During that State of Emergency, the Governor issued an Executive Order (COVID-19 Order No. 42) which tolled certain permits, approvals, and actions for the duration of the State of Emergency (to wit: 462 days).

Such tolling existed because of the uncertainty (health, economic, and otherwise) of the pandemic and the reasoning that it would be innately unfair to require action, or to penalize inaction, during the State of Emergency.

The Executive Office of Energy and Environmental Affairs and Executive Office of Housing and Economic Development have published Joint Guidance on Permit Tolling Following the End of the State of Emergency (revised, June 14, 2021). That document provides information on how to calculate the remaining time of the tolled action.

For the greenhouses: the greenhouse was destroyed on December 22, 2018, the landowner would have until December 22, 2020 to rebuild. Because the landowner would have had 287 days (from March 10, 2020—the beginning of the State of Emergency—to December 22, 2020—the date by which they had to reconstruct) we add 287 days onto the expiration of the State of Emergency (June 15, 2021 plus 287 days = March 29, 2022). Therefore, the landowner has until March 29, 2022 to reconstruct their greenhouses to be in compliance with the Whately zoning bylaw.

Greenjeans' Application is appropriate and may proceed conditioned upon the agricultural structures being reconstructed prior to March 29, 2022.²

Notably, while eight (8) greenhouses totaling 13,440 square feet existed on April 14, 2018, Greenjeans is only looking to utilize five (5) greenhouses (totaling 9,752 square feet), including the reconstruction of 1,480 square feet in the A/R1 which existed at the time the bylaw was passed.

² Parenthetically, Greenjeans will attempt to, but is not sure if it can, have the structure be substantially completed by that date given the impending winter conditions. If it is unable to or it appears unlikely it will be able to, it will be filing for a Special Permit as provided in Section 171-12(D).

Franklin County Registry of Deeds
Electronically Recorded Document

This is the first page of the document - Do not remove

Recording Information

Document Number	: 5223
Document Type	: DECIS
Recorded Date	: May 03, 2021
Recorded Time	: 01:30:26 PM
Recorded Book and Page	: 07755 / 300
Number of Pages(including cover sheet)	: 6
Receipt Number	: 174682
Recording Fee	: \$105.00

Franklin County Registry of Deeds
Scott A. Cote, Register
Courthouse
43 Hope Street
P.O. Box 1495
Greenfield, MA 01302-1495
413-772-0239
www.Masslandrecords.com

NOTICE OF VARIANCE
OR SPECIAL PERMIT

TOWN OF WHATELY
MASSACHUSETTS

TOWN OF WHATELY
TOWN CLERK

2020 SEP 29 PM 1:57

ZONING BOARD OF APPEALS

Date 9/26/20

Notice is hereby given that a Conditional or Limited Variance or Special Permit has been granted
To Sam Hammer of Debilitating Medical Condition Treatment Centers, Inc.
Owner or Petitioner

Address 1113 Hampden St. Springfield MA 01103
by the Town of Whately Board of Appeals affecting the rights of the owner with respect to the use of premises on
7 River Road

The record title standing in the name of Lawrence, Benedict and Nicole Rowits

whose address is 15 Desperado Dr. Lammie WY 82070
Street City or Town State

by a deed duly recorded at the Franklin County Registry of Deeds in Book 5740 Page 248

or Franklin County Registry District of Land Court, Certificate No. _____, Book _____ Page _____

The decision, and all plans and documents referred to in said decision of the Board of Appeals, made in compliance with the statutory requirements, has been filed with the Town Clerk and the Planning Board of the Town of Whately.

Dated: 9/26/20

Roger Riston
Chairman, Board of Appeals
Robert Shaw
Clerk, Board of Appeals

10/22/20

Certification is given that twenty days have elapsed, and no appeal has been filed, or if such appeal has been filed, that it has been dismissed, since the filing in the office of the Town Clerk of the Decision of the Zoning Board of Appeals in connection with the land herein affected.

Laura M. Sibley
Town Clerk, Town of Whately

Received and entered with the Registry of Deeds _____ District in the County of Franklin.

Book _____ Page _____

Attest: _____
Registrar of Deeds

Note: This notice must be recorded by the landowner before a Building Permit can be issued. This notice must be recorded at Franklin County Registry of Deeds before the decision of the Zoning Board of Appeals is effective.

TOWN OF WHATELY, MASSACHUSETTS
ZONING BOARD OF APPEALS

Sam Hammer of Debilitating
Medical Condition Treatment Centers, Inc.
Applicant or Petitioner

NOTICE OF DECISION

Date: 9/26/20

Case No.: _____

7 River Road, Whately, MA
Premises affected

Appeal
Variance Petition
Special Permit Application

Referring to the above appeal, petition or application, so as to permit operation of outdoor
marijuana cultivation facility at 7 River Rd
after a public hearing held on 9/3 and 9/24, 2020, the Board of Appeals, at its meeting on 9/24/2020

VOTED TO GRANT: _____ A variance from requirements under Article _____, Section _____ of the Zoning By-Laws.

X A Special Permit under Article 171, Section 28.6 of the Zoning By-Laws.

_____ Authorized the Building Inspector to allow for the construction of the above work, or
desired use of premises, subject to the following conditions:

VOTED TO DENY: The Appeal, Petition for Variance, or Application for Special Permit.

The decision of the Board, together with a detailed record of its proceedings, indicating the vote of each member upon each question and setting forth clearly the reason or reason for its decision and of its official actions, is on file at the office of the Town Clerk.

Robert P. Surr
Clerk, Zoning Board of Appeals of Whately

NOTE: This granting (if made) is effective only after a Notice has been recorded at the Franklin County Registry of Deeds, said Notice having been signed by the Chairman and Clerk of the Zoning Board of Appeals and certified by the Town Clerk.

APPEAL PROVISIONS: Any person aggrieved by a decision of the Board may appeal to the Superior Court by bringing an action within 20 days after the decision has been filed in the office of the Town Clerk. Notice of the action with a copy of the complaint shall be given to such town clerk within 20 days, in accord with Chapter 40A, Section 17.



TOWN OF WHATELY, MASSACHUSETTS

Date filed: _____

RECORD OF PROCEEDINGS - ZONING BOARD OF APPEALS

I, ROBERT SMITH, Clerk of the Board of Appeals under the Zoning board of appeals under the zoning By-Laws of the Town of Whately hereby certify that the following is a detailed record of all its proceedings relative to the (petition) (application) (appeal) of Dehabilitating Medical Condition Treatment Centers, Inc. For a (variance) (special permit) under Section 171-28.6 of the Zoning By-Laws.

The Applicant desires to: operate an outdoor marijuana cultivation facility on premises zoned A/R1 + A/R2

The premises affected are located at 7 River Road, Whately MA being in the A/R1 + A/R2 Zone, in which zone the above-mentioned use requires: a special permit, or _____ is not permissible under the terms of said By-Law.

1. On August 13, 2020 (a petition) (an application) (an appeal), of which a true copy marked "A" accompanies this certificate and is made a part of this record, was presented to the Board of Appeals, accompanied by the filing fee of \$ 175 and in the case of an appeal, the Refusal of the Building Inspector or the selectmen to issue a permit, a true copy of which refusal, marked "B", accompanies this certificate and is made a part of this record.
2. An advertisement, a true copy of which, marked "C" accompanies this certificate and is made a part of this record, was published in the Daily Hampshire Gazette, a newspaper published in Northampton and circulated in Franklin County, on Aug 20, 2020 and on Aug 27, 2020.
3. A copy of the advertisement in the form of a notice was posted at the Town Hall for a period of not less than fourteen days before the date of the hearing, and copies of said notice, a copy of which, marked "D" accompanies this certificate and is made a part of this record, were mailed postage prepaid, to the petitioner, abutters, owners of land directly opposite on the public or private way, owners of land within three hundred feet of the property line as appearing on the most recent applicable tax list, the Planning Board of the Town of Whately and the Planning Board of every abutting town, the Building Inspector and the Board of Selectmen.

4. On 9/3/20 + 9/24/20, a hearing was held at Town Offices at which hearing opportunity was given to all those interested to be heard in favor of, or in opposition to said petition, application or appeal, at which hearing the following took place,

Two hearings took place with a Site View in between. There was no opposition. The Applicant satisfied all 20 points required by the by-law. There was also discussion of the other approvals needed by the Applicant from other Boards and the State before operation can begin.

5. Following the hearing, the Board made the following specific findings regarding the land in question and the proposed use, and the following reasons for the decision of the Board are cited. If this is a re-hearing, the required changes in conditions are cited.

We approved request #1 for the cultivation facility as this is secluded farm land.

We did not make a "Finding" per request #2 as that is not in our power. We did not "Clarify" per request #3 who could live in the existing farmhouse.

The vote, concerns and comments of each member are shown below. If a member was absent, or failed to vote, said absence said absence or failure is noted:

Member: Roger Lipton
Vote: Approve Request #1 as to the outdoor cultivation as the location is in keeping with the intent of the by-law.

Member: Debra Carney
Vote: Approve the request for outdoor cultivation: consistent with the bylaw and the agricultural nature of the area

Member: Robert P. Smish
Vote: approve request for out door cultivation as it is consistent w/ bylaw

Member: _____
Vote: _____

Member: _____
Vote: _____

7. The record of these proceedings and all attachments relating to said hearing shall be filed with the Town Clerk and shall be a public record, said filing to be made within fourteen days of the date of decision. Notice of said decision shall be mailed forthwith to the petitioner, applicant or appellant, to all parties in interest, and to every person present at the hearing who requested the same.

8. DECISION OF THE BOARD: Deny the petition, application, or appeal.
GRANT the petition, application, or appeal, subject to the following conditions, if any: as to outdoor cultivation

Robert P. Smish
Clerk, Zoning Board of Appeals

NOTICE OF VARIANCE
OR SPECIAL PERMIT

TOWN OF WHATELY
MASSACHUSETTS

TOWN OF WHATELY
TOWN CLERK

2021 SEP 15 PM 1:43

ZONING BOARD OF APPEALS



2021 00014525

Bk: 7889 Pg: 103 Franklin County
Page: 1 of 7 11/08/2021 11:13 AM

Date Aug 29, 2021

Notice is hereby given that a Conditional or Limited Variance or Special Permit has been granted
To Debilitating Medical Conditions Treatment Centers, Inc.
Owner or Petitioner

Address 11-13 Hamden St. Springfield, MA 01103

by the Town of Whately Board of Appeals affecting the rights of the owner with respect to the use of premises on

3 River Rd, Whately
The record title standing in the name of Carol + Ai Annis (as life tenants)

whose address is 5 River Road Whately MA
Street City or Town State

by a deed duly recorded at the Franklin County Registry of Deeds in Book 7382 Page 142

or Franklin County Registry District of Land Court, Certificate No. _____, Book _____ Page _____

The decision, and all plans and documents referred to in said decision of the Board of Appeals, made in compliance with the statutory requirements, has been filed with the Town Clerk and the Planning Board of the Town of Whately.

Dated: August 29, 2021

Roger Linton
Chairman, Board of Appeals
Robert F. Jones
Clerk, Board of Appeals

10/6/2021

Certification is given that twenty days have elapsed, and no appeal has been filed, or if such appeal has been filed, that it has been dismissed, since the filing in the office of the Town Clerk of the Decision of the Zoning Board of Appeals in connection with the land herein affected.

Amy Schrader
Town Clerk, Town of Whately

Received and entered with the Registry of Deeds _____ District in the County of Franklin.

Book _____ Page _____

Attest: _____
Registrar of Deeds

Note: This notice must be recorded by the landowner before a Building Permit can be issued. This notice must be recorded at Franklin County Registry of Deeds before the decision of the Zoning Board of Appeals is effective.

TOWN OF WHATELY, MASSACHUSETTS
ZONING BOARD OF APPEALS

NOTICE OF DECISION

Rehabilitating Medical Condition's Treatment
Applicant or Petitioner Centers, Inc.

Date: August 29, 2021

5 River Road Whately
Premises affected

Case No.: _____

Appeal
Variance Petition
 Special Permit Application

Referring to the above appeal, petition or application, so as to permit manufacturing and
processing of cannabis at an existing engine repair shop
after a public hearing held on June 3, 2021, the Board of Appeals, at its meeting on Aug. 5, 2021

VOTED TO GRANT: _____ A variance from requirements under Article _____, Section _____ of the Zoning By-Laws.

A Special Permit under Article 171, Section 28.6 of the Zoning By-Laws. and MHZ B

_____ Authorized the Building Inspector to allow for the construction of the above work, or
desired use of premises, subject to the following conditions:

VOTED TO DENY: The Appeal, Petition for Variance, or Application for Special Permit.

The decision of the Board, together with a detailed record of its proceedings, indicating the vote of each member upon each question and setting forth clearly the reason or reason for its decision and of its official actions, is on file at the office of the Town Clerk.

Robert [Signature]
Clerk, Zoning Board of Appeals of Whately

NOTE: This granting (if made) is effective only after a Notice has been recorded at the Franklin County Registry of Deeds, said Notice having been signed by the Chairman and Clerk of the Zoning Board of appeals and certified by the Town Clerk.

APPEAL PROVISIONS: Any person aggrieved by a decision of the Board may appeal to the Superior Court by bringing an action within 20 days after the decision has been filed in the office of the Town Clerk. Notice of the action with a copy of the complaint shall be given to such town clerk within 20 days, in accord with Chapter 40A, Section 17.



TOWN OF WHATELY, MASSACHUSETTS

Date filed: _____

RECORD OF PROCEEDINGS - ZONING BOARD OF APPEALS

I, _____, Clerk of the Board of Appeals under the Zoning board of appeals under the zoning

By-Laws of the Town of Whately hereby certify that the following is a detailed record of all its proceedings

relative to the (petition) (application) (appeal) of Debilitating Medical Conditions

For a (variance) (special permit) under Section 171.28-6 of the Zoning By-Laws. and 171-12 B

The Applicant desires to: manufacture and process cannabis
at an existing engine repair shop

The premises affected are located at 5 State Road being in the

AR-1 Zone, in which zone the above-mentioned use requires: a special permit, or _____ is not

permissible under the terms of said By-Law.

1. On April 15, 2021 (a petition) (an application) (an appeal), of which a true copy marked "A" accompanies this certificate and is made a part of this record, was presented to the Board of Appeals, accompanied by the filing fee of \$72500 and in the case of an appeal, the Refusal of the Building Inspector or the selectmen to issue a permit, a true copy of which refusal, marked "B", accompanies this certificate and is made a part of this record.
2. An advertisement, a true copy of which, marked "C" accompanies this certificate and is made a part of this record, was published in the Greenfield Record a newspaper published in Greenfield and circulated in Franklin County, on May 20, 2021 and on May 27, 2021.
3. A copy of the advertisement in the form of a notice was posted at the Town Hall for a period of not less than fourteen days before the date of the hearing, and copies of said notice, a copy of which, marked "D" accompanies this certificate and is made a part of this record, were mailed postage prepaid, to the petitioner, abutters, owners of land directly opposite on the public or private way, owners of land within three hundred feet of the property line as appearing on the most recent applicable tax list, the Planning Board of the Town of Whately and the Planning Board of every abutting town, the Building Inspector and the Board of Selectmen.

4. On June 3, 2021, a hearing was held at via Zoom at which hearing opportunity was given to all those interested to be heard in favor of, or in opposition to said petition, application or appeal, at which hearing the following took place,

The applicant presented their rationale for the special permits. See attached document for the detailed explanation:

5. Following the hearing, the Board made the following specific findings regarding the land in question and the proposed use, and the following reasons for the decision of the Board are cited. If this is a re-hearing, the required changes in conditions are cited.

On August 5, the voting members of the ZBA approved the special permit application with the conditions specified in Exhibits A and B.

The vote, concerns and comments of each member are shown below. If a member was absent, or failed to vote, said absence said absence or failure is noted:

Member: Roger Lipton, Approved as the new use will be
Vote: an improvement to the neighborhood.

Member: Debra Carney
Vote: Approve special permit subject to attached conditions.

Member: Robert F. Smith
Vote: Approve special permit subject to attached conditions.

Member: _____
Vote: _____

Member: _____
Vote: _____

7. The record of these proceedings and all attachments relating to said hearing shall be filed with the Town Clerk and shall be a public record, said filing to be made within fourteen days of the date of decision. Notice of said decision shall be mailed forthwith to the petitioner, applicant or appellant, to all parties in interest, and to every person present at the hearing who requested the same.

8. DECISION OF THE BOARD: Deny the petition, application, or appeal.
 GRANT the petition, application, or appeal, subject to the following conditions, if any:
See attached Exhibits A & B

Robert Smith
Clerk, Zoning Board of Appeals

EXHIBIT A
CONDITIONS

An Odor Control Plan is to be submitted before the beginning of operations, to be endorsed by a Professional Engineer (PE) or a Certified Industrial Hygienist (CIH). The plan must address:

- Standard Operating Procedures**

- A commitment to the Use of Best Available Technology (BAT); and a description of the BAT planned for this location.**

- Proposed Questions for any Complainants**

- Proposed Protocols for Responding to Complaints**

EXHIBIT B

Maintenance

DMCTC will

- Have its Facilities Manager maintain, test, and replace all fans, pre-filters, and filters on a regular basis to ensure proper operation
- Have the fan and filter systems inspected, cleaned, and maintained every month
- Clean or change the pre-filter screens, which catch large particulates, every 90-180 days, depending on its cleanliness during monthly inspection
 - Changing the pre-filter increases the life of the carbon filter by preventing large particles from filling the carbon pores
- The fans and carbon filters will be audited for maintenance and tested for efficacy every 180-360 days

ATTEST: FRANKLIN, Scott A. Cote Register