1. Revised Agenda Conservation Commission

   Documents:

   AGENDA REVISED CONCOM MEETING 01202026.PDF

2. Agenda Conservation Commission

   Documents:

   AGENDA CONCOM MEETING 01202026.PDF

3. 33 Goethals Way (Assessor Parcel (5G2) Request For Determination

4. 259 Hines Point (11A29) - Request For Determination

   Documents:

   11A29_RDA_259 HINES POINT_CRAMPTON_.PDF

5. 794 And 690 Chappaquounsett (32A1.1 And 59A1)

   Documents:

   32A1.1_59A1_EMAIL_LANDSCAPE PLAN_06232025.PDF
   32A1.1_59A1_EMAIL_RE_ CHIP CHOP PLAN_REDACTED.PDF
   32A1.1_59A1_ENFORCEMENT ORDER_07292025.PDF
   32A1.1_59A1_ENFORCEMENT ORDER_08132025.PDF
   32A1.1_59A1_ENFORCEMENT ORDER_COMBINED.PDF
   32A1.1_59A1_ENFORCEMENT ORDER_WPA FORM 9.PDF
   32A1.1_59A1_FINES EMAIL TO MALM_ENFORCEMENT ORDER_794_690 CHAPPAQUONSETT RD.PDF
   32A1.1_59A1_MALM_SITE PLAN_II.PDF
   32A1.1_59A1_MCCARRON LTR_ENFORCEMENT ORDER.PDF
   32A1.1_59A1_RESTORATION NARRATIVE_MALM ENFORCEMENT_9-23-25.PDF
   32A1.1_59A1_RESTORATION PLAN_MALM ENFORCEMENT.PDF
   32A1.1_59A1_SCHWIER LTR_ENFORCEMENT ORDER.PDF
   32A1.1_794 CHAPPAQUONSETT_STONE WALL_PICTURES.PDF

6. Update Local Floodplain Bylaws - Minimum Standard

   Documents:

   TISBURY FLOODPLAIN BYLAW - SHANNON REVIEW (002).PDF
   FLOODPLAIN 2020 MA MODEL FAQ.PDF
   2022 FLOODPLAIN BYLAW COMPARISON TISBURY -STF LANGUAGE.PDF
   2020 MA MODEL FLOODPLAIN BYLAW V2 TEMPLATE.PDF

7. 30 Ashtons Way (31B6.1) Salt Marsh Mowing Enforcement Order

   Documents:

   31B6.1_CERT MAIL RECEIPT_ENFORCEMENT_30 ASHTON WY .PDF
   31B6.1_EMAIL ROSE BAGLEY_30 ASHTON WY_SALT MARSH MOWING.PDF
   31B6.1_ENFORCEMENT_WPA FORM9_30 ASHTON WY_SALT MARSH

MOWING.PDF
31B6.1_SALT MARSH MOWING_30 ASHTONS WY_BAGLEY.PDF

8. 44 Hines Point (11A11) Request For Certificate Of Compliance

   Documents:

   11A11_COC_44 HINES POINT_74-882.PDF

9. 15 Duane Way (6C14) - Request For Certificate Of Compliance

   Documents:

   6C14_COC APPL_15 DUANE WY_PROSPECT GIRLS_DEP 996.PDF
   6C14_PLAN AS BUILT_15 DUANE WY_PROSPECT GIRLS_DEP 996.PDF

10. Administrative Approval

    Documents:

    GRAVEL WEST ARM OF LAGOON BEHIND MV SHIPYARD.PDF

TISBURY CONSERVATION COMMISSION
Will meet Tuesday January 20, 2026
Time: 4:00 p.m.
Location: Tisbury Annex
66 High Point Lane Tisbury, MA 02568
REVISED AGENDA

Update local Floodplain Bylaws

Guest Speaker Shannon Hulst, CFM, Deputy Director | Cape Cod Cooperative Extension, Floodplain & CRS Specialist | Cape Cod Cooperative Extension & Woods Hole Oceanographic Institution Sea Grant

New Hearings:

33 Goethals Way (Assessor Parcel 5G2) Request for the Determination of Applicability under M.G.L., C. 131. S.40, the Massachusetts Wetlands Protection Act and Tisbury Wetlands By-law filed for William A. Bruno. The proposed project is to install and maintain a septic system upgrade to serve an existing dwelling located within the Buffer Zone to a Coastal Bank. All work will be within a maintained lawn area. The project is located in the R25 Zoning District.

259 Hines Point (Assessor Parcel 11A29) Request for the Determination of Applicability under M.G.L., C. 131. S.40, the Massachusetts Wetlands Protection Act and Tisbury Wetlands By-law filed for Susan C. Crampton. The proposed project is to construct an addition of a second story ADU above an existing garage and upgrade of an existing septic system to a NitROE denitrification system within the Buffer Zone of Coastal Bank. The project is located in the R20 Zoning District.

Continued Discussions:

- **794 and 690 Chappaquonsett Road (32A1.1 and 59A1)** –*Goldeneye LLC* - **Enforcement Order Update Clarification**

- **30 Ashtons Way (31B6.1)** – Brittany Bagley Trustee **Salt Marsh Mowing- Enforcement Order Update (Continued to 03/24/2026)**

Request for Certificate of Compliance:

44 Hines Point (11A11) – DEP File #74-882 **–** Elevated Boardwalk
15 Duane's Way (16C14) – DEP File #74 -996 – Boat Shed
15 Duane's Way (16C14) – DEP File # 74-1005 – Removal of Invasive Species

Administrative Approvals

MV Shipyard – Gravel west arm of lagoon

Minutes:

January 6, 2026

New Applications & Site Visit Scheduling

30 Beach Road (9C4) remove an existing timber fixed pile pier and rebuild an expanded pier in the same general location. The existing commercial pier is 134' long and the new pier will be 158' long. Vineyard Land Surveying and Engineering.

TISBURY CONSERVATION COMMISSION
Will meet Tuesday January 20, 2026
Time: 4:00 p.m.
Location: Tisbury Annex
66 High Point Lane Tisbury, MA 02568
AGENDA

New Hearings:

33 Goethals Way (Assessor Parcel 5G2) Request for the Determination of Applicability under M.G.L., C. 131. S.40, the Massachusetts Wetlands Protection Act and Tisbury Wetlands By-law filed for William A. Bruno. The proposed project is to install and maintain a septic system upgrade to serve an existing dwelling located within the Buffer Zone to a Coastal Bank. All work will be within a maintained lawn area. The project is located in the R25 Zoning District.

259 Hines Point (Assessor Parcel 11A29) Request for the Determination of Applicability under M.G.L., C. 131. S.40, the Massachusetts Wetlands Protection Act and Tisbury Wetlands By-law filed for Susan C. Crampton. The proposed project is to construct an addition of a second story ADU above an existing garage and upgrade of an existing septic system to a NitROE denitrification system within the Buffer Zone of Coastal Bank. The project is located in the R20 Zoning District.

Continued Discussions:

- **794 and 690 Chappaquonsett Road (32A1.1 and 59A1)** –*Goldeneye LLC* - **Enforcement Order Update**

- Update local Floodplain Bylaws.

- **30 Ashtons Way (31B6.1)** – Brittany Bagley Trustee **Salt Marsh Mowing- Enforcement Order Update (Continued to 03/24/2026)**

Request for Certificate of Compliance:

44 Hines Point (11A11) – DEP File #74-882 **–** Elevated Boardwalk
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Schofield, Barbini & Hoehn Inc.
Land Surveying ⊕ Civil Engineering
SB&H
12 Surveyor's Lane, Box 339
Vineyard Haven, Mass.
508-693-2781
www.sbhinc.net
dhoehn@sbhinc.net

MV 7951

January 5, 2026

Department of Environmental Protection
20 Riverside Drive
Lakeville, MA 02347

Re: Crampton ADU & system upgrade
259 Hines Point – Tisbury Assessor's Parcel 11-A-29

Dear Reviewer:

On behalf of our client, Susan C. Crampton, we are filing a Request for Determination of Applicability under the Massachusetts Wetlands Protection Act and the Tisbury Wetlands Bylaw. The project proposes to add a second story ADU to an existing garage and upgrade an existing septic system to a NitROE denitrification system.

Please find the following regarding this matter:

1. Request for Determination of Applicability with USGS locus map
2. Site Plan MV 7951 dated October 22, 2025
3. Copy of cover letter to Tisbury Conservation Commission

Your consideration of this matter is appreciated. Please feel free to contact me with any questions.

Sincerely,

Christopher P. Alley
Project Engineer

cc: Tisbury Conservation Commission ✓

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

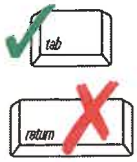
Tisbury
City/Town

WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Susan C. Crampton
Name

E-Mail Address

c/o SB&H, Inc. PO Box 339
Mailing Address

Vineyard Haven
City/Town

MA
State

02568
Zip Code

508-693-2781
Phone Number

508-693-6055
Fax Number (if applicable)

2. Representative (if any):

Schofield ,Barbini, & Hoehn, Inc
Firm

Christopher P. Alley
Contact Name

calley@sbhinc.net
E-Mail Address

12 Surveyors Lane - PO Box 339
Mailing Address

Vineyard Haven
City/Town

MA
State

02568
Zip Code

508 693 2781
Phone Number

508 693 6055
Fax Number (if applicable)

B. Determinations

1. I request the Tisbury (Conservation Commission) make the following determination(s). Check any that apply:

☐ a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.

☐ b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.

☒ c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.

☒ d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

Tisbury
Name of Municipality

☐ e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).

C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

259 Hines Point
Street Address

Tisbury
City/Town

11
Assessors Map/Plat Number

A-29
Parcel/Lot Number

b. Area Description (use additional paper, if necessary):

maintained lawn

c. Plan and/or Map Reference(s):

Site Plan MV 5951 (Con Com)
Title

January 5, 2026
Date

Title

Date

Title

Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

Proposed addition of a second story ADU above an existing garage and upgrade of an existing septic system to a NitROE denitrification system within the Buffer Zone of a Coastal Bank

C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

All work falls within previously disturbed areas (lawn). No perminant impacts on construction areas. Alternative continued use of the existing standard Title 5 septic system is not allowed under Tisbury Board of Health Regulations

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- ☐ Single family house on a lot recorded on or before 8/1/96
- ☐ Single family house on a lot recorded after 8/1/96
- ☐ Expansion of an existing structure on a lot recorded after 8/1/96
- ☐ Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- ☐ New agriculture or aquaculture project
- ☐ Public project where funds were appropriated prior to 8/7/96
- ☐ Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- ☐ Residential subdivision; institutional, industrial, or commercial project
- ☐ Municipal project
- ☐ District, county, state, or federal government project
- ☐ Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Susan C. Crampton
Name

c/o Schofield, Barbini, & Hoehn, Inc., PO Box 339
Mailing Address

Vineyard Haven
City/Town

MA
State

02568
Zip Code

Signatures:

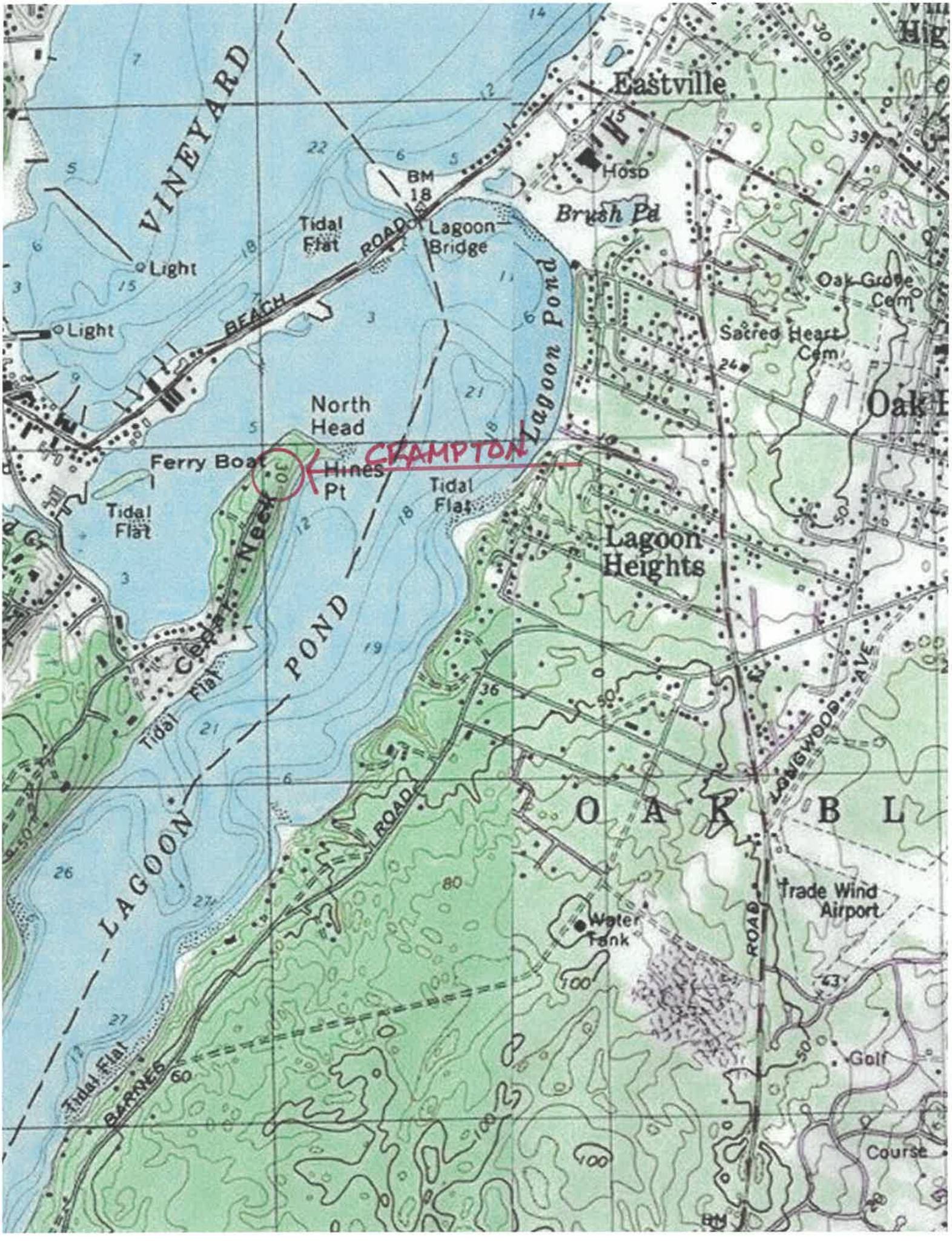
I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Signature of Applicant

Date

Signature of Representative (if any)

January 5, 2026
Date


VINEYARD
LAGOON
POND
Eastville
BM
18
Tidal
Flat
ROAD
Lagoon
Bridge
Light
Light
BEACH
Brush Pd
Lagoon Pond
Oak Grove
Cem
Sacred Heart
Cem
North
Head
Ferry Boat
Hines
Pt
CRAMPTON
Tidal
Flat
Tidal
Flat
Cedar Neck
Lagoon
Heights
Tidal Flat
LONGWOOD AVE
O A K B L
ROAD
Trade Wind
Airport
Water
Tank
Golf
Course
Tidal Flat
BARRIES

Alycelee Pigman

From: Alycelee Pigman
Sent: Monday, June 23, 2025 1:42 PM
To: Jane Varkonda; tmrobinson143@gmail.com; Bartow, Mark (DEP)
Subject: RE: Chip Chop Plan
Attachments: 32A1.1_59A1_Malm_SITE PLAN.pdf

Attached is the site plan requested. It was dropped off on June 19th. I was on vacation last week and so didn't get it until today.

From: Jane Varkonda <jvarkonda@edgartown-ma.us>
Sent: Wednesday, June 18, 2025 12:04 PM
To: tmrobinson143@gmail.com; Alycelee Pigman <apigman@tisburyma.gov>; Bartow, Mark (DEP) <Mark.Bartow@mass.gov>
Subject: Fwd: Chip Chop Plan

---------- Forwarded message ---------
From: **David Malm** <dmalm@websterequitypartners.com>
Date: Wed, Jun 18, 2025 at 9:35 AM
Subject: Chip Chop Plan
To: James Rebello <jrebello.mv@gmail.com>, Carlos Teles Filho <cteles07@gmail.com>, Peggy Schwier <pschwier@vineyard.net>, Jane Varkonda <jvarkonda@edgartown-ma.us>
Cc: Robert McCarron <rmm@edgartownlaw.com>, Gerret C. Conover (gcc@mvlandvest.com) <gcc@mvlandvest.com>

James/Carlos/Peggy – SEND THE [redacted] LANDSCAPE PLAN to Jane TODAY and go in and walk her through it. I am infuriated at how this issue has been mishandled. FIX THE PROBLEM or you are fired!

DPM

WEBSTER EQUITY PARTNERS EMPLOYEES ARE ONLY AUTHORIZED TO CONDUCT ELECTRONIC BUSINESS COMMUNICATIONS VIA THEIR WEBSTER EMAIL ADDRESS, MICROSOFT TEAMS OR ZOOM SMS. PLEASE DO NOT USE TEXT MESSAGING, SOCIAL MEDIA APPS, INSTANT MESSAGING APPS, OR ANY OTHER MEANS OF COMMUNICATION WITH WEBSTER EMPLOYEES FOR ELECTRONIC BUSINESS COMMUNICATION PURPOSES.

Disclaimer

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This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**, an innovator in

From: Alycelee Pigman
To: Jane Varkonda; tmrobinson143@gmail.com; Bartow, Mark (DEP)
Subject: RE: Chip Chop Plan
Date: Monday, June 23, 2025 1:41:00 PM
Attachments: 32A1.1_59A1_Malm_SITE PLAN.pdf

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Sent: Wednesday, June 18, 2025 12:04 PM
To: tmrobinson143@gmail.com; Alycelee Pigman <apigman@tisburyma.gov>; Bartow, Mark (DEP) <Mark.Bartow@mass.gov>
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Subject: Chip Chop Plan
To: James Rebello <jrebello.mv@gmail.com>, Carlos Teles Filho <cteles07@gmail.com>, Peggy Schwier <pschwier@vineyard.net>, Jane Varkonda <jvarkonda@edgartown-ma.us>
Cc: Robert McCarron <rmm@edgartownlaw.com>, Gerret C. Conover (gcc@mvlandvest.com) <gcc@mvlandvest.com>

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Tisbury Conservation Commission

PO Box1239

Vineyard Haven, MA 02568

508 696 4260

July 29, 2025

Golden Eye, LLC
Mr. David Malm
20 Pegan Lane
Dover, MA 02030

Re: 794 Chappaquonsett Road, Assessors Parcel 32-A-1.1 and 59-A-1

Dear Mr. Malm

As per my email sent to you on June 17, 2025, this office has not received the Restoration Plan as required by the Enforcement Order issued for unauthorized activities at the above referenced properties. The Restoration Plan was to be submitted by May 30, 2025.

Therefore, the Tisbury Conservation Commission voted at their meeting on June 17, 2025 to issue fines under non-criminal disposition MGL C. 40 section 21D. The fines are being levied per the Tisbury Conservation Commissions local bylaw, section 1.09 A,B &C.

The first fine being issued, citation 5431, has been calculated for the maximum fine of $300 per day from May 30, 2025 to June 17, 20205 in the amount of $5400.

The second fine being issued is calculated from June 18, 2025 to July 22nd. This period of 34 days without submission of the plan has been calculated at $10,200.

Further failure to submit a restoration plan shall start accumulating daily fines of $300 per starting on July 22 and will be issued approximately every two weeks.

This office suggested that someone with experience in these types of matters be engaged by you to submit a complete and satisfactory restoration plan.

For the Commission,

Jane M. Varkonda
Conservation Agent
Town of Tisbury

TISBURY NOTICE OF VIOLATION
of Town By-Law, Rule or Regulation

DATE OF THIS NOTICE: July 22, 2025 5430

NAME OF OFFENDER: Golden Eye LLC

ADDRESS OF OFFENDER: 20 Pegan Lane Dover, MA

CITY, STATE, ZIP CODE: Dover MA 02030 | DATE OF BIRTH OF OFFENDER:

MV OPERATOR LICENSE NUMBER: | MV AUTO REGISTRATION NUMBER:

OFFENSE: Failure to submit Restoration Plan as per Enforcement

TIME AND DATE OF VIOLATION
(A.M.) (P.M.) ON

AT ~~LOCATION OF VIOLATION~~ Parcels 32-A-1 & 59-A-1

SIGNATURE OF ENFORCING PERSON: | ENFORCING DEPARTMENT: Conservation

I HEREBY ACKNOWLEDGE RECEIPT OF THE FOREGOING CITATION
X

☒ Unable to obtain signature of offender. Date Mailed 7/23/25

THE NONCRIMINAL FINE FOR THIS OFFENSE IS $ 5400.00

YOU HAVE THE FOLLOWING ALTERNATIVES IN THIS MATTER:

Either option (1) or option (2) will operate as a final disposition, with no resulting criminal record.

(1) You may choose to pay the above fine, either by appearing in person or through a duly authorized agent, or by mailing a check, money order or postal note WITHIN 21 DAYS OF THE DATE OF THIS NOTICE to:

Town of Tisbury
Box 606
Vineyard Haven, MA 02568

(2) If you desire to contest this matter, you may do so by making a written request for a noncriminal hearing, and enclosing a copy of this citation, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE to:

Clerk Magistrate
Edgartown District Court
P. O. Box 1284 - Main Street
Edgartown, MA 02539
Attn: 21D Noncriminal Hearings.

(3) If you fail to pay the above fine or to request a hearing within 21 days, of if you fail to appear for the hearing or to pay any fine determined at the hearing to be due, a criminal complaint may be issued against you.

☐ I HEREBY ELECT THE FIRST OPTION above, confess the offense charged, and enclosed payment in the amount of $_____.

☐ I HEREBY REQUEST A NONCRIMINAL HEARING on this matter.

Signature_____
OFFENDER

TISBURY NOTICE OF VIOLATION
of Town By-Law, Rule or Regulation

DATE OF THIS NOTICE: July 22, 2025 5431

NAME OF OFFENDER: Golden Eye LLC David Malm

ADDRESS OF OFFENDER: 20 Pegan Lane

CITY, STATE, ZIP CODE: Dover MA 02030 | DATE OF BIRTH OF OFFENDER:

MV OPERATOR LICENSE NUMBER: | MV AUTO REGISTRATION NUMBER:

OFFENSE: Failure to submit Restoration Plan as per Enforcement Order.

TIME AND DATE OF VIOLATION
(A.M.) (P.M.) ON

AT LOCATION OF VIOLATION Lots 32-A-1 & 59-A-1

SIGNATURE OF ENFORCING PERSON: | ENFORCING DEPARTMENT: Conservation

I HEREBY ACKNOWLEDGE RECEIPT OF THE FOREGOING CITATION
X

☐ Unable to obtain signature of offender. Date Mailed_____

THE NONCRIMINAL FINE FOR THIS OFFENSE IS $_____.

YOU HAVE THE FOLLOWING ALTERNATIVES IN THIS MATTER:

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Vineyard Haven, MA 02568

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P. O. Box 1284 - Main Street
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Attn: 21D Noncriminal Hearings.

(3) If you fail to pay the above fine or to request a hearing within 21 days, of if you fail to appear for the hearing or to pay any fine determined at the hearing to be due, a criminal complaint may be issued against you.

☐ I HEREBY ELECT THE FIRST OPTION above, confess the offense charged, and enclosed payment in the amount of $ 10,200.

☐ I HEREBY REQUEST A NONCRIMINAL HEARING on this matter.

Signature_____
OFFENDER

COPY

Tisbury Conservation Commission

PO Box1239

Vineyard Haven, MA 02568

508 696 4260

August 13, 2025

Golden Eye, LLC
Mr. David Malm
20 Pegan Lane
Dover, MA 02030

Re: 794 Chappaquonsett Road, Assessors Parcel 32-A-1.1 and 59-A-1

Dear Mr. Malm

As per the correspondence dated July 29th from the office regarding the failure to submit a restoration plan, the Commission authorized a fine of $300 per day for each day. The fine has been calculated from July 22nd to August 12, 2025

The fines are being levied per the Tisbury Conservation Commissions local bylaw, section 1.09 A,B &C, non criminal disposition MGL C.40 section 21D , in the amount of $6,300.00.

This office suggested that someone with experience in these types of matters be engaged by you to submit a complete and satisfactory restoration plan. It is my understanding after talking with Doug Hoehn @SB&H and Carlos Teles this afternoon that a full and complete restoration

plan is being formulated and prepared with the input of a consultant with years of experience in the field.

For the Commission,

Jane M. Varkonda
Conservation Agent
Town of Tisbury

Alycelee Pigman

From: Alycelee Pigman
Sent: Monday, June 23, 2025 1:42 PM
To: Jane Varkonda; tmrobinson143@gmail.com; Bartow, Mark (DEP)
Subject: RE: Chip Chop Plan
Attachments: 32A1.1_59A1_Malm_SITE PLAN.pdf

Attached is the site plan requested. It was dropped off on June 19th. I was on vacation last week and so didn't get it until today.

From: Jane Varkonda <jvarkonda@edgartown-ma.us>
Sent: Wednesday, June 18, 2025 12:04 PM
To: tmrobinson143@gmail.com; Alycelee Pigman <apigman@tisburyma.gov>; Bartow, Mark (DEP) <Mark.Bartow@mass.gov>
Subject: Fwd: Chip Chop Plan

---------- Forwarded message ---------
From: **David Malm** <dmalm@websterequitypartners.com>
Date: Wed, Jun 18, 2025 at 9:35 AM
Subject: Chip Chop Plan
To: James Rebello <jrebello.mv@gmail.com>, Carlos Teles Filho <cteles07@gmail.com>, Peggy Schwier <pschwier@vineyard.net>, Jane Varkonda <jvarkonda@edgartown-ma.us>
Cc: Robert McCarron <rmm@edgartownlaw.com>, Gerret C. Conover (gcc@mvlandvest.com) <gcc@mvlandvest.com>

James/Carlos/Peggy – SEND THE [redacted] LANDSCAPE PLAN to Jane TODAY and go in and walk her through it. I am infuriated at how this issue has been mishandled. FIX THE PROBLEM or you are fired!

DPM

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From: Alycelee Pigman
To: Jane Varkonda; tmrobinson143@gmail.com; Bartow, Mark (DEP)
Subject: RE: Chip Chop Plan
Date: Monday, June 23, 2025 1:41:00 PM
Attachments: 32A1.1_59A1_Malm_SITE PLAN.pdf

Attached is the site plan requested. It was dropped off on June 19th. I was on vacation last week and so didn't get it until today.

From: Jane Varkonda <jvarkonda@edgartown-ma.us>
Sent: Wednesday, June 18, 2025 12:04 PM
To: tmrobinson143@gmail.com; Alycelee Pigman <apigman@tisburyma.gov>; Bartow, Mark (DEP) <Mark.Bartow@mass.gov>
Subject: Fwd: Chip Chop Plan

---------- Forwarded message ---------
From: **David Malm** <dmalm@websterequitypartners.com>
Date: Wed, Jun 18, 2025 at 9:35 AM
Subject: Chip Chop Plan
To: James Rebello <jrebello.mv@gmail.com>, Carlos Teles Filho <cteles07@gmail.com>, Peggy Schwier <pschwier@vineyard.net>, Jane Varkonda <jvarkonda@edgartown-ma.us>
Cc: Robert McCarron <rmm@edgartownlaw.com>, Gerret C. Conover (gcc@mvlandvest.com) <gcc@mvlandvest.com>

James/Carlos/Peggy – SEND THE FUCKING LANDSCAPE PLAN to Jane TODAY and go in and walk her through it. I am infuriated at how this issue has been mishandled. FIX THE PROBLEM or you are fired!

DPM

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Tisbury Conservation Commission

PO Box1239

Vineyard Haven, MA 02568

508 696 4260

July 29, 2025

Golden Eye, LLC
Mr. David Malm
20 Pegan Lane
Dover, MA 02030

Re: 794 Chappaquonsett Road, Assessors Parcel 32-A-1.1 and 59-A-1

Dear Mr. Malm

As per my email sent to you on June 17, 2025, this office has not received the Restoration Plan as required by the Enforcement Order issued for unauthorized activities at the above referenced properties. The Restoration Plan was to be submitted by May 30, 2025.

Therefore, the Tisbury Conservation Commission voted at their meeting on June 17, 2025 to issue fines under non-criminal disposition MGL C. 40 section 21D. The fines are being levied per the Tisbury Conservation Commissions local bylaw, section 1.09 A,B &C.

The first fine being issued, citation 5431, has been calculated for the maximum fine of $300 per day from May 30, 2025 to June 17, 20205 in the amount of $5400.

The second fine being issued is calculated from June 18, 2025 to July 22nd. This period of 34 days without submission of the plan has been calculated at $10,200.

Further failure to submit a restoration plan shall start accumulating daily fines of $300 per starting on July 22 and will be issued approximately every two weeks.

This office suggested that someone with experience in these types of matters be engaged by you to submit a complete and satisfactory restoration plan.

For the Commission,

Jane M. Varkonda
Conservation Agent
Town of Tisbury

TISBURY NOTICE OF VIOLATION
of Town By-Law, Rule or Regulation

DATE OF THIS NOTICE: July 22, 2025 5430

NAME OF OFFENDER: Golden Eye LLC

ADDRESS OF OFFENDER: 20 Pegan Lane Dover, MA

CITY, STATE, ZIP CODE: Dover MA 02030 | DATE OF BIRTH OF OFFENDER:

MV OPERATOR LICENSE NUMBER: | MV AUTO REGISTRATION NUMBER:

OFFENSE: Failure to submit Restoration Plan as per Enforcement

TIME AND DATE OF VIOLATION
(A.M.) (P.M.) ON

AT ~~LOCATION OF VIOLATION~~ Parcels 32-A-1 & 59-A-1

SIGNATURE OF ENFORCING PERSON: | ENFORCING DEPARTMENT: Conservation

I HEREBY ACKNOWLEDGE RECEIPT OF THE FOREGOING CITATION
X

☒ Unable to obtain signature of offender. Date Mailed 7/23/25

THE NONCRIMINAL FINE FOR THIS OFFENSE IS $ 5400.00

YOU HAVE THE FOLLOWING ALTERNATIVES IN THIS MATTER:

Either option (1) or option (2) will operate as a final disposition, with no resulting criminal record.

(1) You may choose to pay the above fine, either by appearing in person or through a duly authorized agent, or by mailing a check, money order or postal note WITHIN 21 DAYS OF THE DATE OF THIS NOTICE to:

Town of Tisbury
Box 606
Vineyard Haven, MA 02568

(2) If you desire to contest this matter, you may do so by making a written request for a noncriminal hearing, and enclosing a copy of this citation, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE to:

Clerk Magistrate
Edgartown District Court
P. O. Box 1284 - Main Street
Edgartown, MA 02539
Attn: 21D Noncriminal Hearings.

(3) If you fail to pay the above fine or to request a hearing within 21 days, of if you fail to appear for the hearing or to pay any fine determined at the hearing to be due, a criminal complaint may be issued against you.

☐ I HEREBY ELECT THE FIRST OPTION above, confess the offense charged, and enclosed payment in the amount of $_____.

☐ I HEREBY REQUEST A NONCRIMINAL HEARING on this matter.

Signature_____
OFFENDER

TISBURY NOTICE OF VIOLATION
of Town By-Law, Rule or Regulation

DATE OF THIS NOTICE: July 22, 2025 5431

NAME OF OFFENDER: Golden Eye LLC David Malm

ADDRESS OF OFFENDER: 20 Pegan Lane

CITY, STATE, ZIP CODE: Dover MA 02030 | DATE OF BIRTH OF OFFENDER:

MV OPERATOR LICENSE NUMBER: | MV AUTO REGISTRATION NUMBER:

OFFENSE: Failure to submit Restoration Plan as per Enforcement Order.

TIME AND DATE OF VIOLATION
(A.M.) (P.M.) ON

AT LOCATION OF VIOLATION Lots 32-A-1 & 59-A-1

SIGNATURE OF ENFORCING PERSON: | ENFORCING DEPARTMENT: Conservation

I HEREBY ACKNOWLEDGE RECEIPT OF THE FOREGOING CITATION
X

☐ Unable to obtain signature of offender. Date Mailed_____

THE NONCRIMINAL FINE FOR THIS OFFENSE IS $_____.

YOU HAVE THE FOLLOWING ALTERNATIVES IN THIS MATTER:

Either option (1) or option (2) will operate as a final disposition, with no resulting criminal record.

(1) You may choose to pay the above fine, either by appearing in person or through a duly authorized agent, or by mailing a check, money order or postal note WITHIN 21 DAYS OF THE DATE OF THIS NOTICE to:

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(3) If you fail to pay the above fine or to request a hearing within 21 days, of if you fail to appear for the hearing or to pay any fine determined at the hearing to be due, a criminal complaint may be issued against you.

☐ I HEREBY ELECT THE FIRST OPTION above, confess the offense charged, and enclosed payment in the amount of $ 10,200.

☐ I HEREBY REQUEST A NONCRIMINAL HEARING on this matter.

Signature_____
OFFENDER

COPY

Tisbury Conservation Commission

PO Box1239

Vineyard Haven, MA 02568

508 696 4260

August 13, 2025

Golden Eye, LLC
Mr. David Malm
20 Pegan Lane
Dover, MA 02030

Re: 794 Chappaquonsett Road, Assessors Parcel 32-A-1.1 and 59-A-1

Dear Mr. Malm

As per the correspondence dated July 29th from the office regarding the failure to submit a restoration plan, the Commission authorized a fine of $300 per day for each day. The fine has been calculated from July 22nd to August 12, 2025

The fines are being levied per the Tisbury Conservation Commissions local bylaw, section 1.09 A,B &C, non criminal disposition MGL C.40 section 21D , in the amount of $6,300.00.

This office suggested that someone with experience in these types of matters be engaged by you to submit a complete and satisfactory restoration plan. It is my understanding after talking with Doug Hoehn @SB&H and Carlos Teles this afternoon that a full and complete restoration

plan is being formulated and prepared with the input of a consultant with years of experience in the field.

For the Commission,

Jane M. Varkonda
Conservation Agent
Town of Tisbury

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

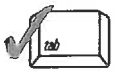
DEP File Number:

WPA Form 9 – Enforcement Order

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and under the Tisbury Wetland Bylaw

A. Violation Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.





This Enforcement Order is issued by:

Tisbury
Conservation Commission (Issuing Authority) — Date

To:

Golden Eye LLC, Mr. David Malm
Name of Violator
20 Pegan Lane, Dover MA 02030
Address

1. Location of Violation:

Property Owner (if different)
7941 Chappaquonsett Road
Street Address
Vineyard Haven, MA 02568
City/Town — Zip Code
32-A-1.1
Assessors Map/Plat Number — Parcel/Lot Number

2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Alteration of vegetation in a coastal dune and a barrier beach; construction of a vertical stone wall. Parking of vehicles in cleared areas.

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

☒ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

B. Findings (cont.)

☐ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Name | Dated

File Number | Condition number(s)

☐ The Order of Conditions expired on (date): Date

☐ The activity violates provisions of the Certificate of Compliance.

☐ The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

☐ Other (specify):

C. Order

The issuing authority hereby orders the following (check all that apply):

☑ The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.

☐ Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

☑ A restoration plan shall be filed with the issuing authority on or before May 30, 2025 (Date)

for the following:

As per the directives in the letter attached

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.

C. Order (cont.)

☐ Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

☐ The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Jane M. Varkonda, Conservation Agent
Name

508 696 4260
Phone Number

M-F 10-5
Hours/Days Available

Issued by:

Tisbury
Conservation Commission

Conservation Commission signatures required on following page.

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

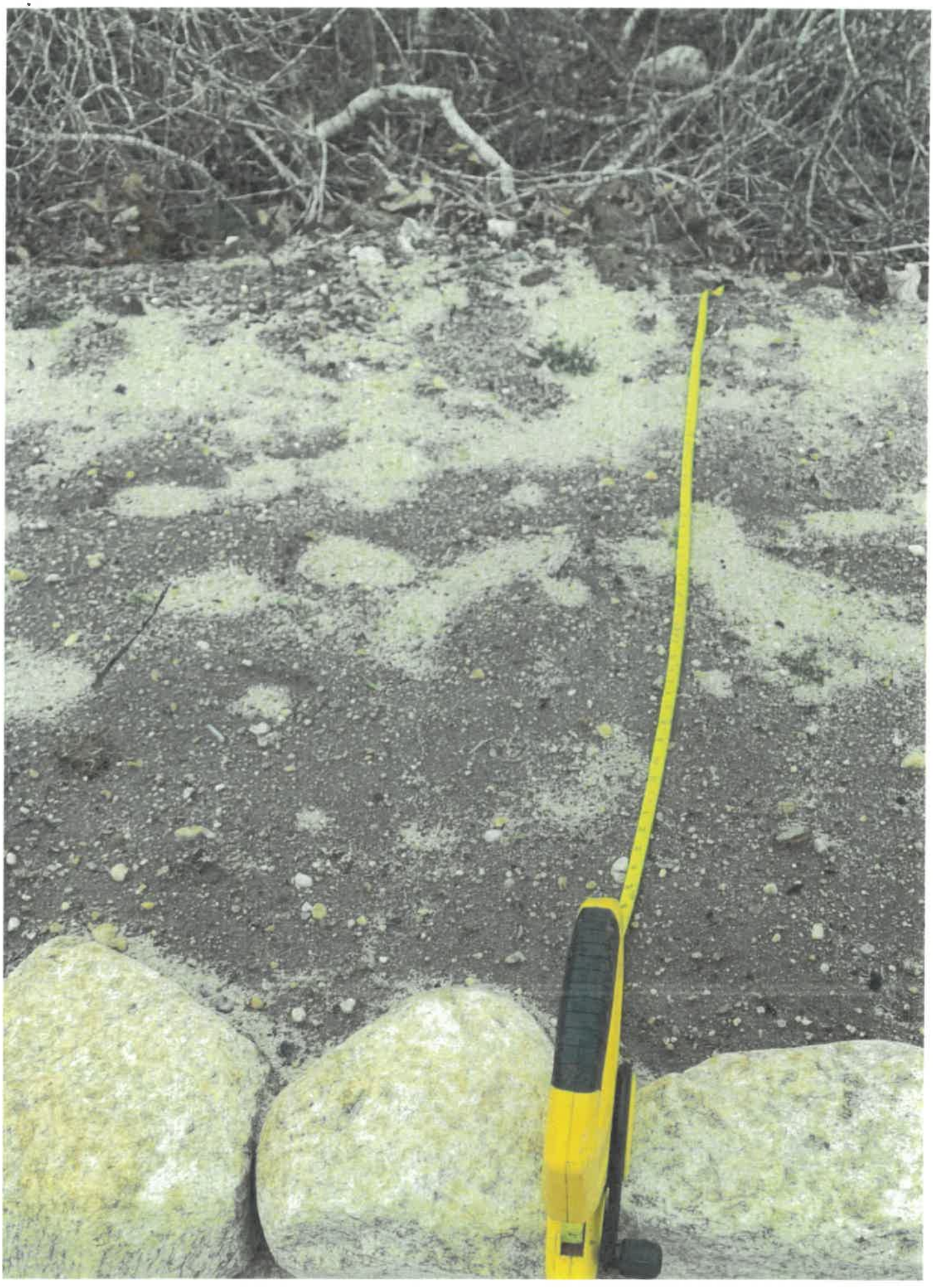
Signatures:

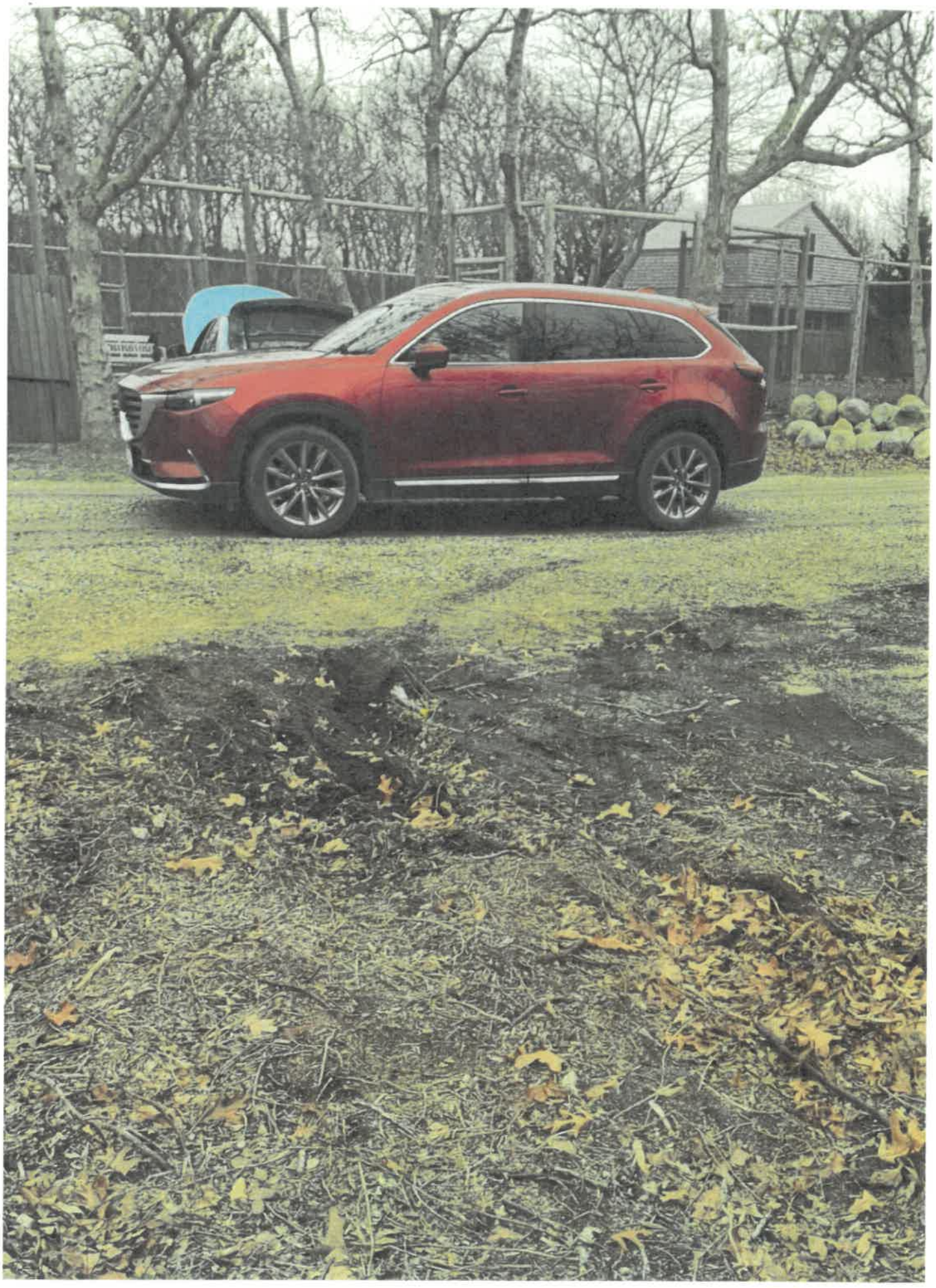
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name

Signature of delivery person or certified mail number










SEP Massachusetts
5JGK 69

TISBURY CONSERVATION
COMMISSION
PO BOX 1239
VINEYARD HAVEN, MA 02568
508 696 4260

April 30, 2025

Re: unauthorized work 794 Chappaquonsett Road, parcel 32-A-1.1

Golden Eye LLC
20 Pegan Lane
Dover, MA 02030
dmalm@websterequitypartners

Mr. David Malm

This office was advised on October 11th that a stone wall was being constructed along the driveway. I called the Landscape Contractor's office and left a message for Mr. Carlos Teles to stop the work. I had given Mr. Teles administrative approval to move the gate. No mention was made of a wall nor was work on anything but the relocation of the gate approved. This office was again contacted on October 20th that the work had not ceased as directed.

Your property is on a Barrier Beach and coastal dunes as defined by the Wetlands Act and local bylaw.

The work on the wall included alteration of the vegetation an average of five feet deep. This has resulted in the area behind the wall being devoid of vegetation.

When the Commission performed a site inspection at the end of October for the proposed resurfacing of the tennis court, we discovered that a large portion of the native vegetation, including small shrubs, vine and trees had been brush cut to the ground of the north side of the road. This was immediately identified as a violation, as the work occurred on a barrier beach and in coastal dunes. The applicant suggested on site that they could revegetate the area as suggested by the landscape architect for the property, and that the work would enhance the appearance of the property. In addition to the brush cutting, the pre-existing wood timber steps in the dune had been replaced with stone without permits from this office.

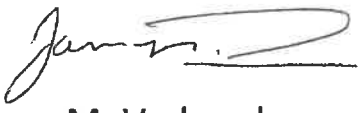
I did another inspection of the site last week and found that cars and trucks are being parked in these disturbed areas and several large vans were parked adjacent to the former caretakers house in areas that should not be parked on. I left a message for the contractor to have those vehicles removed and not to park in areas that were brush cut illegally.

Attached is an Enforcement Order under the Mass. Wetlands Protection Act, MGL C131 s40, and under the Tisbury Wetlands Bylaw. The Order will be ratified by the Commissioners at our next meeting on ~~April~~ MAY 6, 2025. The Order directs that the wall is to be removed, excess cars from the construction may not park, permanently or temporarily on any portion of the site that is not within the designated driveway and parking for the main dwelling. After the wall is removed the areas disturbed and now barren of vegetation shall be stabilized using best available measures. The Commission reserves the right to ask for a performance bond or any other security deemed necessary should you default and fail to complete the work. The areas that were mown may not be planted with anything but shall be left in its natural state to revegetate naturally. The area disturbed during the installation of granite steps in place of the wood timbers will also need to be stabilized. The Order requires submission of a restoration plan for review by May 30, 2025.

I have attached photos of the site taken during my most recent inspection. I have left messages for the contractor, Conover, to address the parking issues and have not heard back. I left another message for them today to please contact me.

Please call this office within 10 days of receipt of this notice. Failure to comply with the terms of the Enforcement Order may results in fines or other legal action.

For the Commission



Jane M. Varkonda
Conservation Agent
Town of Tisbury
Cert mail: 9589 0710 5270 2341 2848 32

From: Jane Varkonda
To: dmalm@westerequitypartners
Cc: tmrobinson143@gmail.com; Alycelee Pigman; Bartow, Mark (DEP)
Subject: Malm enforcement Order 974 Chappaquonsett Road, parcel 32-A-1
Date: Tuesday, June 17, 2025 6:44:56 PM

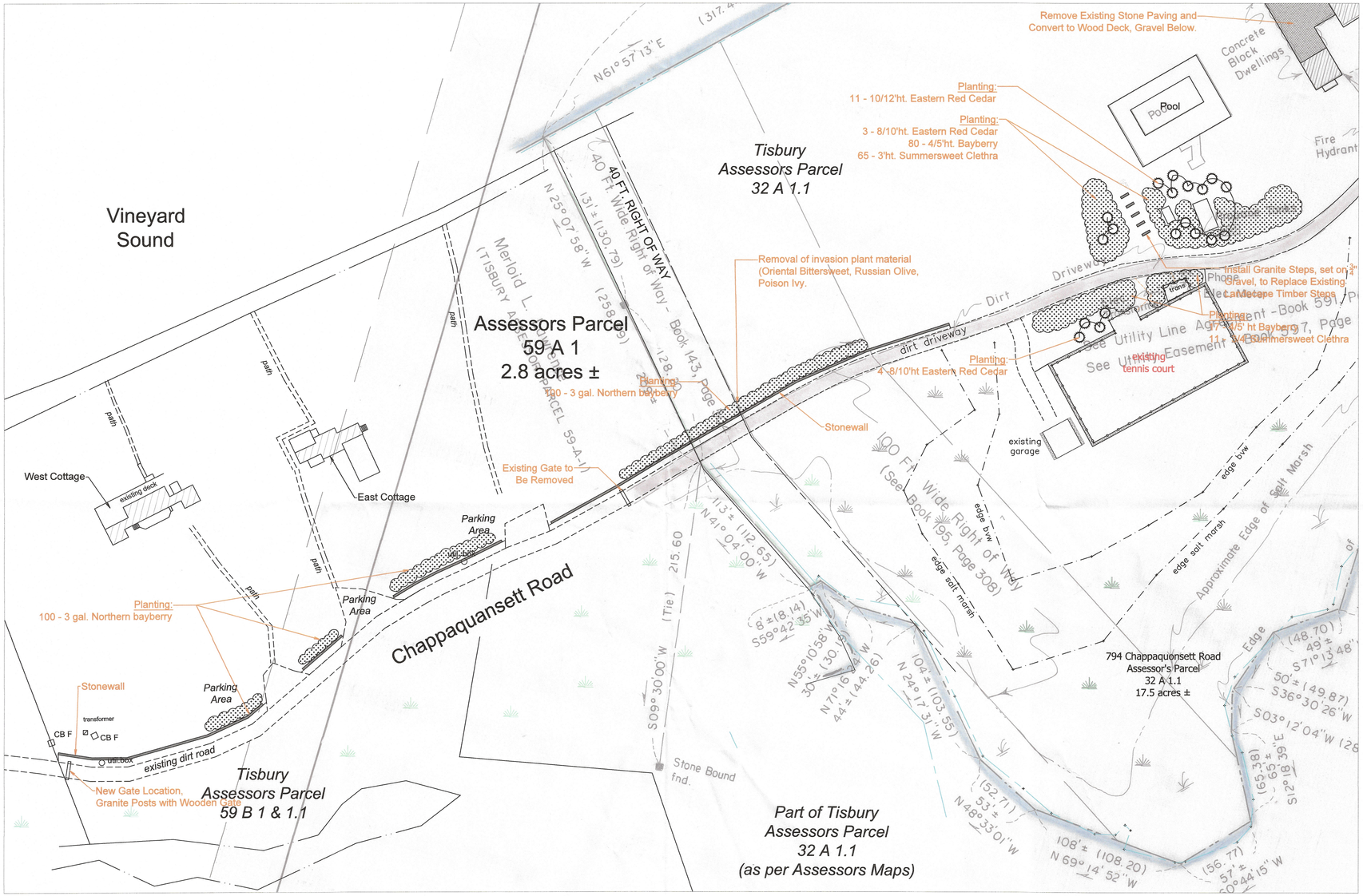
Dear Mr. Malm

The Conservation Commission discussed your Enforcement Order at their meeting this afternoon. We noted that the deadline for the submission of a restoration plan was May 30, 2025. To our knowledge nothing has been submitted nor has anyone representing you contacted this office with on update status of the restoration plan. Therefore, the Commission voted to issue a daily fine, under non criminal disposition, of $300 per day until the restoration plan is submitted. This office will send you a fine in the amount of $5400 based on 18 days x$300. Every day starting tomorrow fines will accrue at $300 day. Those fines will be issued on a weekly bases since I am only working for Tisbury one day a week.

I anticipate that the first fine will be issued on or about June 24, 2025.

For the Conservation Commission,

Jane M Varkonda
Conservation Agent
Town of Tisbury
508 696 4260



Teles Landscaping
p. 508.818.8989
P.O. Box 3761 Edgatown, MA
02539

Chip Chop
690 Chappaquansett Road, Tisbury, MA

Site Plan 1.0
40 scale
06.19.2025

MCCARRON, MURPHY & VUKOTA, LLP
ATTORNEYS AT LAW
282 UPPER MAIN STREET
POST OFFICE BOX 1270
EDGARTOWN, MASSACHUSETTS 02539

ROBERT M. MCCARRON
MARILYN H. VUKOTA
ALSO ADMITTED IN NEW YORK
ROBERT D. MORIARTY
THOMAS J. RAPONE

RICHARD J. MCCARRON (1930-2009)
SEAN E. MURPHY (1961-2021)

TEL: (508) 627-3322
FAX: (508) 627-7848
E-MAIL: RMM@EDGARTOWNLAW.COM

September 2, 2025

Tisbury Conservation Commission
66 Highpoint Lane
Tisbury, MA 02568
Email: apigman@tisburyma.gov

RE: 690 & 740 Chappaquonsett Road
Goldeneye, LLC

Dear Commission Members:

Recent news articles concerning the property owned by Goldeneye, LLC and located at 690 & 740 Chappaquonsett Road ("Chip Chop") are an incomplete narrative, suggesting the property owner has a complete disregard of the environment and the important work of the Conservation Commission. This is not the case. Below is a history of efforts by the property owner and its contractor to work with the Conservation Commission to resolve the unfortunate lapses which occurred at the Property.

- 09/24/2024 – the Contractor requested a ConCom site visit to discuss future work on Chip Chop. During the visit, ConCom approved the relocation of entry gates to the Property.

- 10/24/2024 – Contractor delivered to ConCom a plan showing the stonewalls.

- 10/29/2024 - Site visit for the Tennis Court. At this meeting, ConCom asked the contractor to present a completed plan and file an application/explanation for the stonewall, granite steps, and removing invasive vegetation along the driveway by the pool area.

- SB&H informed ConCom on at least 2 occasions that it has been hired to prepare the base map needed to be able to apply for whatever permits are going to be necessary, before or after the fact. SB&H informed Jane Varkonda that since

this is a large property and that most of SB&H's existing survey work dates back so far that it is not in their current computer system and not usable, that a complete new site plan/base map is needed and it would take some time. This information was provided to Jane that at the Con Com site visit for the request to re-surfacing the tennis court; and again in mid-August when she called SB&H to confirm that we had been hired to do the survey work.

- At the end of October, ConCom requested Contractor stop any work related to the landscape improvements at Chip Chop, including the construction of the stonewall.

- October 30, 2024, Mr. Malm ordered that all work stop.

- 11/12/2024 - First and most completed landscape plan was drafted and emailed to ConCom.

- 11/18/2024 – ConCom emailed to request a site visit

- 11/28/2024 – Contractor visited Jane Varkonda in Edgartown to schedule a site visit.

- 12/03/2024 - Site visit with Jane was conducted at approximately 2:00 pm.

- 01/09/2025 – Contractor met with Jane, in Edgartown to request a site visit to discuss how to move forward with the project.

- 04/30/2025 – ConCom requested and suggested modifications to the plan and also sent enforcement order.

- 05/06/2025 – Contractor and Jane meet to discuss best way to proceed with a full landscape plan to present to the board. On this date, Jane suggested hiring an environmental consultant to guide them through the process.

- Contractor presented a working landscape plan to ConCom, subject to more information needed from SB&H. SB&H had been directed to update all natural resource information.

- 06/18/2025 Contractor and Jane discuss the plan and whether to proceed with the application to ConCom without the information required from Doug Hoehn's office. We also emailed her the plan with additional information on plant materials.

- June 19, 2025 A hard copy of the plan was delivered to the ConCom office in Vineyard Haven.

- SB&H has surveyed the site. Its draft site plan is attached. Updated natural resource information is pending.

- During the months of June and July, Contractor visited ConCom office to inform them that during this period, the Contractor and SB&H were finalizing their work and would provide further information.

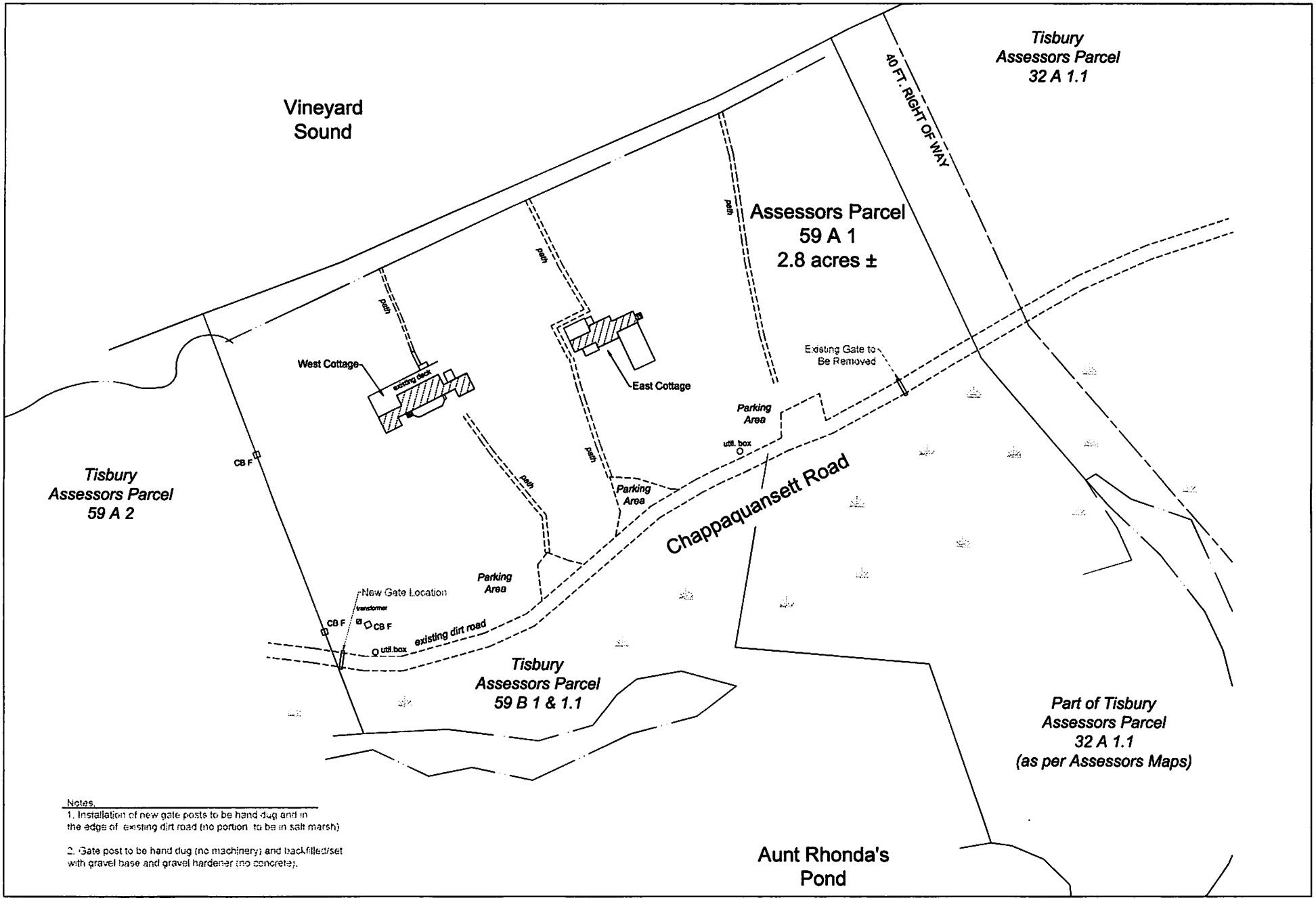
The enforcement order references 3 items. Alteration of vegetation; construction of a stonewall and parking of vehicles in cleared areas. On October 30, 2024, long prior to issuance of the enforcement order, all work at the property had been stopped. The stone wall remains unfinished, disturbed areas have been naturally revegetating, and improper vehicle parking was immediately stopped; see attached emails.

Rather than efforts to ignore or obstruct ConCom's important efforts, the property owner has taken steps to resolve each of its concerns. While there has been some delay in this process, none of that delay has exacerbated any negative environmental conditions, been malicious, or can in any way be characterized as acting in bad faith. Mr. Malm has been and will continue to work diligently to present a plan to ConCom which will satisfy its concerns.

Very truly yours,

Robert M. McCarron

Encl



Notes.

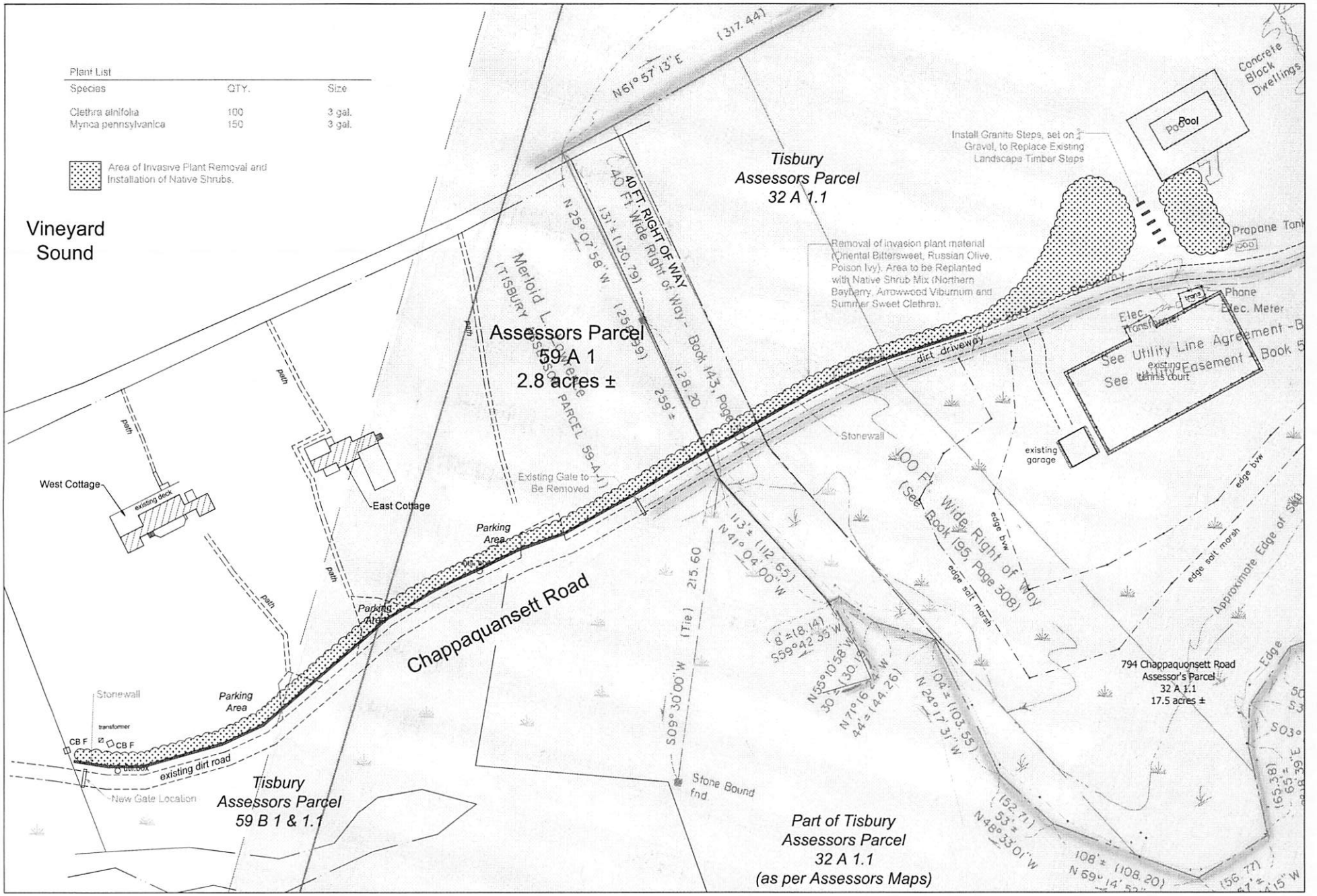
1. Installation of new gate posts to be hand dug and in the edge of existing dirt road (no portion to be in salt marsh)

2. Gate post to be hand dug (no machinery) and backfilled/set with gravel base and gravel hardener (no concrete).

Teles Landscaping
p. 508.818.8989
P.O. Box 3761 Edgatown, MA 02539

Chip Chop
690 Chappaquansett Road, Tisbury, MA

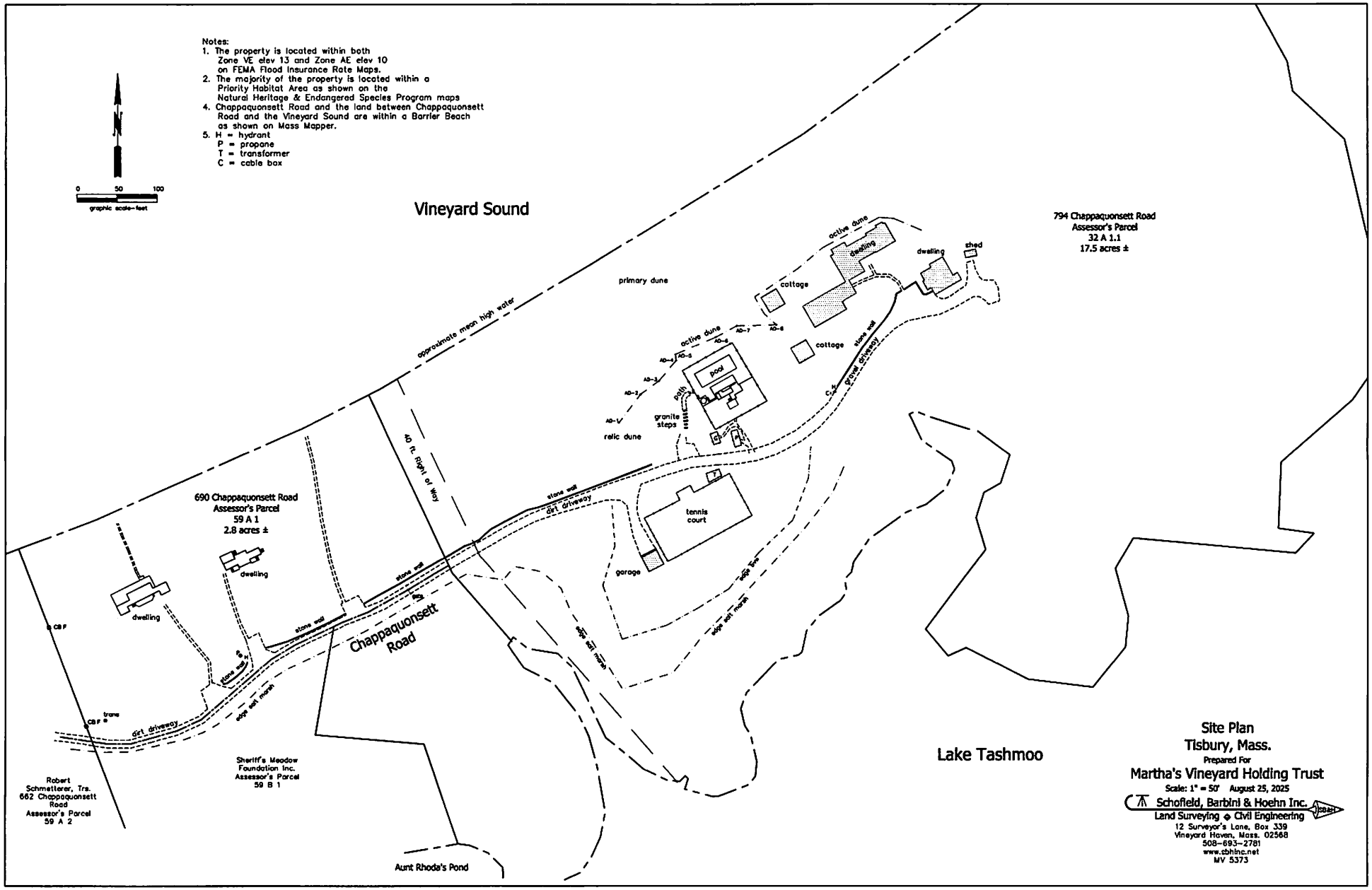
New Gate Location Plan
40 scale
09.24.2024



Teles Landscaping
p. 508.818.8989
P.O. Box 3761 Edgatown, MA
02539

Chip Chop
690 Chappaquansett Road, Tisbury, MA

Site Plan
40 scale
11.12.2024


Notes:
1. The property is located within both Zone VE elev 13 and Zone AE elev 10 on FEMA Flood Insurance Rate Maps.
2. The majority of the property is located within a Priority Habitat Area as shown on the Natural Heritage & Endangered Species Program maps
4. Chappaquonsett Road and the land between Chappaquonsett Road and the Vineyard Sound are within a Barrier Beach as shown on Mass Mapper.
5. H = hydrant
P = propane
T = transformer
C = cable box
0 50 100
graphic scale-feet
Vineyard Sound
approximate mean high water
primary dune
active dune
dwelling
shed
cottage
cottage
stone wall
gravel driveway
pool
path
granite steps
relic dune
AD-1
AD-2
AD-3
AD-4
AD-5
AD-6
AD-7
AD-8
794 Chappaquonsett Road
Assessor's Parcel
32 A 1.1
17.5 acres ±
690 Chappaquonsett Road
Assessor's Parcel
59 A 1
2.8 acres ±
40 ft. Right of Way
stone wall
dirt driveway
tennis court
garage
dwelling
dwelling
stone wall
stone wall
stone wall
Chappaquonsett Road
edge salt marsh
edge salt marsh
edge salt marsh
dirt driveway
trans
Robert Schmetterer, Trs.
662 Chappaquonsett Road
Assessor's Parcel
59 A 2
Sheriff's Meadow Foundation Inc.
Assessor's Parcel
59 B 1
Aunt Rhoda's Pond
Lake Tashmoo
Site Plan
Tisbury, Mass.
Prepared For
Martha's Vineyard Holding Trust
Scale: 1" = 50' August 25, 2025
Schofield, Barbini & Hoehn Inc.
Land Surveying & Civil Engineering
12 Surveyor's Lane, Box 339
Vineyard Haven, Mass. 02568
508-693-2781
www.sbhinc.net
MV 5373

De: **Carlos Teles Filho** <cteles07@gmail.com>
Date: ter., 24 de set. de 2024 às 09:01
Subject: Chip Chop
To: Jane Varkonda <jvarkonda@edgartown-ma.us>

Good morning Jane,
Please let me know the best time to visit the property.
I can pick you up in Vineyard Haven.
Please let me know.
Carlos
Sent from my iPhone

From: David Malm
Sent: Wednesday, October 30, 2024 7:29 PM
To: Jane Varkonda <jvarkonda@edgartown-ma.us>; Carlos Teles Filho <cteles07@gmail.com>
Cc: Alycelee Pigman <apigman@tisburyma.gov>; Greg Monka <gmonka@tisburyma.gov>; Bartow, Mark (DEP) <mark.bartow@state.ma.us>; Peggy Schwier (pschwier@vineyard.net) <pschwier@vineyard.net>
Subject: RE: [EXTERNAL] -chip chop stop work Order

Jane

Please accept my sincere apology for any unapproved work in process. One of the reasons that I work with Carlos and Peggy Schwier is that they are both exceptionally respectful of the ConCom's regulations and are sensitive to actions that might run afoul of them. It was my understanding that you had been briefed in full on the work in process and I can assure you that I had NO IDEA WHATSOEVER that you had directed Carlos to halt further work on the stone wall. Lord knows that there are a lot of adjectives certain people in Edgartown have used to describe me but I don't think stupid is one of them and defying a directive of yours would be insanely stupid.

By all means, I encourage you to inspect other properties which lie within your jurisdiction. The neighbors of 81 South Water Street will unhappily attest that no mowing has occurred in the wetland area or anywhere else for over a year.

Please rest assured that all pencils are down on Chip Chop until Carlos and Peggy can submit fulsome plans to you and gain your approval.

Please do not hesitate to reach out directly to me.

Respectfully –

David Malm

From: David Malm
Sent: Monday, May 5, 2025 8:25 PM
To: Gerret C. Conover (gcc@mvlandvest.com) <gcc@mvlandvest.com>; Jane Varkonda <jvarkonda@edgartown-ma.us>
Cc: Carlos Teles <cteles07@gmail.com>; Peggy Schwier (pschwier@vineyard.net) <pschwier@vineyard.net>
Subject: Construction Parking at Chip Chop

Jane – I am in receipt of your letter of April 30th.

Geri – please ensure that any and all construction workers at Chip Chop park on ONLY the driveway per notification from Jane that they have been parking in restricted areas.

Many thanks

DPM

From: David Malm
Sent: Tuesday, June 17, 2025 7:05 PM
To: Jane Varkonda <jvarkonda@tisburyma.gov>; Carlos Teles Filho <cteles07@gmail.com>; Peggy Schwier <pschwier@vineyard.net>
Subject: Re: [EXTERNAL] -Fw: Malm enforcement Order 974 Chappaquonsett Road, parcel 32-A-1

Jen - my understanding was that you and Carlos had spoken subsequent to your earlier communication and had agreed upon a plan moving forward. Is that not the case?
Sent from my iPhone

On Jun 17, 2025, at 6:54 PM, Jane Varkonda <jvarkonda@tisburyma.gov> wrote:

From: Jane Varkonda
Sent: Tuesday, June 17, 2025 6:44 PM
To: dmalm@westerequitypartners <dmalm@westerequitypartners>
Cc: tmrobinson143@gmail.com <tmrobinson143@gmail.com>; Alycelee Pigman <apigman@tisburyma.gov>; Bartow, Mark (DEP) <mark.bartow@state.ma.us>
Subject: Malm enforcement Order 974 Chappaquonsett Road, parcel 32-A-1

Dear Mr. Malm

The Conservation Commission discussed your Enforcement Order at their meeting this afternoon. We noted that the deadline for the submission of a restoration plan was May 30, 2025. To our knowledge nothing has been submitted nor has anyone representing you contacted this office with on update status of the restoration plan. Therefore, the Commission voted to issue a daily fine, under non criminal disposition, of $300 per day until the restoration plan is submitted. This office will send you a fine in the amount of $5400 based on 18 days x$300. Every day starting tomorrow fines will accrue at $300 day. Those fines will be issued on a weekly bases since I am only working for Tisbury one day a week.

I anticipate that the first fine will be issued on or about June 24, 2025.

For the Conservation Commission,

Jane M Varkonda
Conservation Agent
Town of Tisbury
508 696 4260

Chip Chop Task List
Restoration Order
DRAFT – 9-23-25

In response to the Enforcement Order dated April 30, 2025, the Applicant has previously prohibited parking in undesignated areas and considers this issue resolved. The applicant proposes to address the remaining enforcement order items as follows:

1. Remove recently installed stonewalls. Removal will be done by hand to minimize disturbance to existing soils, with rocks removed directly into trucks and not stockpiled in surrounding areas.
2. Replant/restore area disturbed by stonewall installation as per plans:

Zone A (Stone Pillars to Garage driveway area):

- After removal of stone wall, we will replant with bayberry, seaside golden rod and native grass plugs (Spartina and Panicum)
- (from the end of 3rd Alternate parking spot to the large oak tree): we will replant with rosa ragosa, bayberry, cedar and sweet fern
- (from the big oak tree to the end of wall at pool/garage area): we will replant with clethera, bayberry, sweet fern, seaside goldenrod and native grasses

Zone B (south side of pool structures, at stone steps and front of tennis court area):

A. Remediate brush cutting by prior property owner on north side of driveway, including either side of stone steps
   - Replant area with clethera, cedar, viburnum, beach plum just outside pool gate, sweet fern, seaside goldenrod and native grasses.

B. Remediate brush cutting by prior property owner on south side of driveway in front of tennis court
   - Replant with cedars, viburnum, ilex and meadow grass with expectation of mowing the meadow grass once in spring and once in early summer

C. Approve as installed, the stone steps to pool, which replaced previously existing degraded creosote wood steps. And in addition to:
   - Authorize additional fieldstone steps between the driveway and the first existing stone step to maintain a walking path
   - Remove existing miscanthus around stone steps
   - Plant on either side of stone steps clethera, sweet fern, seaside goldenrod and native grasses

Restoration Plan Notes:
1. Meadow Seed Areas to be Mowed Once in Spring and Once in Summer

690 Chappaquonsett Road
Assessor's Parcel
59 A 1
2.8 acres ±

primary dune

approximate mean high water

40 ft. Right of Way

cottage

cottage

dwelling

active dune

AD-1

AD-2

AD-3

AD-4

AD-5

AD-6

AD-7

AD-8

pool

path

gravel driveway

stone wall

relic dune

Planting:
13 - 10/12'ht. Eastern Red Cedar

Granite Steps. Asking to Approve as Installed

Planting:
3 - 8/10'ht. Eastern Red Cedar
30- 4/5'ht. Arrowwood Viburnum
50 - 3'ht. Summersweet Clethra
60 - 1 gal. Sweetfern

Meadow Seed Mix:
20% Hard Fescue,
40% Creeping Red Fescue,
30% Chewings Fescue,
10% Sheep Fescue

Remove Stone Wall

Planting:
100- 3 gal. Northern bayberry
100 - 1 gal. Sweet Fern
100 - 1 gal. Rosa Rugosa

Planting:
7- 10/12'ht. Tupelo
25- Arrowwood Viburnum
35- Summer Sweet Clethra
50- Sweetfern
75- Golden Rod

Planting:
3- Eastern Red Cedar
6- Viburnum Dentatum
7- Summer Sweet Clethra

Planting:
17 - 4/5' ht Winterberry
11 - 4/5' ht Arrowwood Viburnum

Planting:
4 -8/10'ht Eastern Red Cedar

tennis court

garage

dirt driveway

stone wall

Existing Stonewall
to be Removed

Planting:
40 - 3 gal. Northern bayberry
100 - 1 gal. Golden Rod
750 - Spartina plugs
200 - Panicum plugs

Existing Stonewall
to be Removed

gate

Chappaquonsett Road

edge salt marsh

edge bvw

edge salt marsh

edge salt marsh

dwelling

welling

irt driveway

Sheriff's Meadow
Foundation Inc.
Assessor's Parcel
59 B 1

Teles Landscaping
p. 508.818.8989
P.O. Box 3761 Edgatown, MA
02539

Chip Chop Residence

690 Chappaquansett Road, Vineyard Haven, MA 02568

Date: 09.22.2025
Scale: 1" = 30'-0"

Restoration Plan

From: Robert McCarron
To: Alycelee Pigman
Subject: Fwd: To the ConComm
Date: Tuesday, September 02, 2025 2:54:11 PM

Alycelee please see below from Peggy Schweir, the landscape designer at Chip Chop

Rob

Sent from my iPhone

Begin forwarded message:

> **From:** Peggy Schwier <pschwier@vineyard.net>
> **Date:** September 2, 2025 at 12:23:02 PM
>
> Hello there,
>
> SO sorry to miss this walk around.
>
> I hope I have a reputation for working with clients to successfully solve design issues with an emphasis on making the house look like it belongs at the site. And comply with any site restrictions, be they wetlands, covenants, etc. If a client comments on what they think they'd like, I try to interpret those elements and translate them to the new site. Give them a look they want with the variations appropriate for that particular site. I am big on pulling the Wild back in to have the landscape and house, THERE, to make sense.
>
> I have worked with David for 25 years, at least, and he has always listened and been amenable to adding large clumps of natives, again, pulling the wild back in so the house looks right. He did an enormous conservation remediation at Herring Creek Farm, where there was history of the former owner clearing what he shouldn't have, to make it right. David has always listened to what has been said/requested to do.
>
> Again, because Chip Chop is such a fabulous natural spot (I worked there for several years after Edwina VonGal, of PRFCT EARTH PRJCT, Nature based Gardening, when she helped Mike Nichols with CC when he bought it), and it's a super special place.
>
> We have reduced the garden in front of the kitchen a bit and only would add some of the same roses, natural looking ramblers, and groups of natural perennials, where the extended garden appears on the plan at the front door. We have not messed with any new areas and DID not extend the bed previously and will NOT have it if not approved.
>
> The area between the tennis court and pool, you will find out today, will be either the wild grasses and/or a mix of natives: clethra, bayberry, aronia, i verticillata, blueberries, sweet fern, viburnum, shad. If you don't want those added, we won't

add them!

Thanks

Peggy Schwier

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

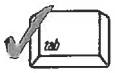
DEP File Number:

WPA Form 9 – Enforcement Order

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
and under the Tisbury Wetland Bylaw

A. Violation Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.





This Enforcement Order is issued by:

Tisbury
Conservation Commission (Issuing Authority) — Date

To:

Golden Eye LLC, Mr. David Malm
Name of Violator
20 Pegan Lane, Dover MA 02030
Address

1. Location of Violation:

Property Owner (if different)
7941 Chappaquonsett Road
Street Address
Vineyard Haven, MA 02568
City/Town — Zip Code
32-A-1.1
Assessors Map/Plat Number — Parcel/Lot Number

2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Alteration of vegetation in a coastal dune and a barrier beach; construction of a vertical stone wall. Parking of vehicles in cleared areas.

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

☒ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

B. Findings (cont.)

☐ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Name | Dated

File Number | Condition number(s)

☐ The Order of Conditions expired on (date): Date

☐ The activity violates provisions of the Certificate of Compliance.

☐ The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

☐ Other (specify):

C. Order

The issuing authority hereby orders the following (check all that apply):

☑ The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.

☐ Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

☑ A restoration plan shall be filed with the issuing authority on or before May 30, 2025 (Date)

for the following:

As per the directives in the letter attached

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.

C. Order (cont.)

☐ Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

☐ The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Jane M. Varkonda, Conservation Agent
Name

508 696 4260
Phone Number

M-F 10-5
Hours/Days Available

Issued by:

Tisbury
Conservation Commission

Conservation Commission signatures required on following page.

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

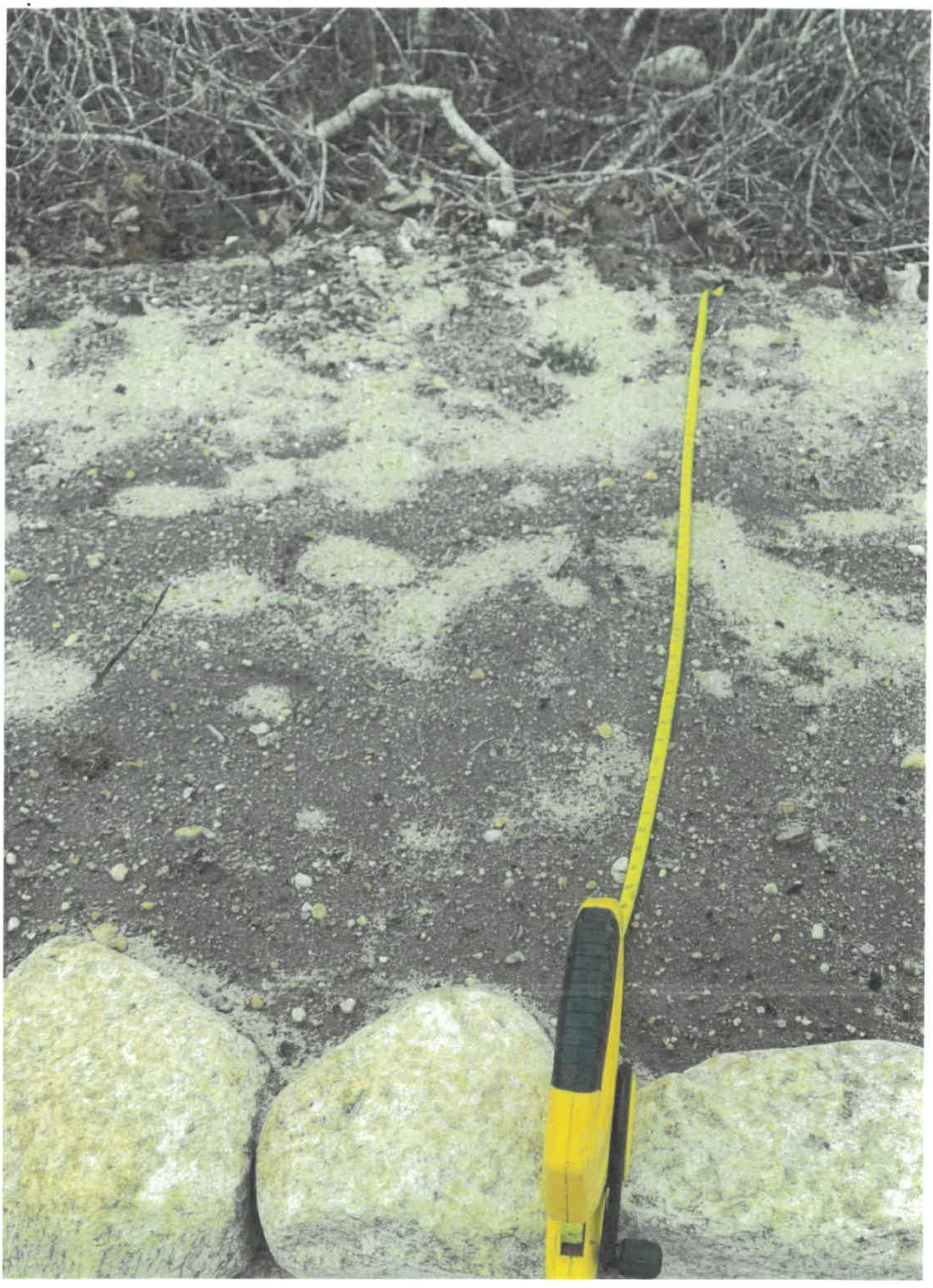
Signatures:

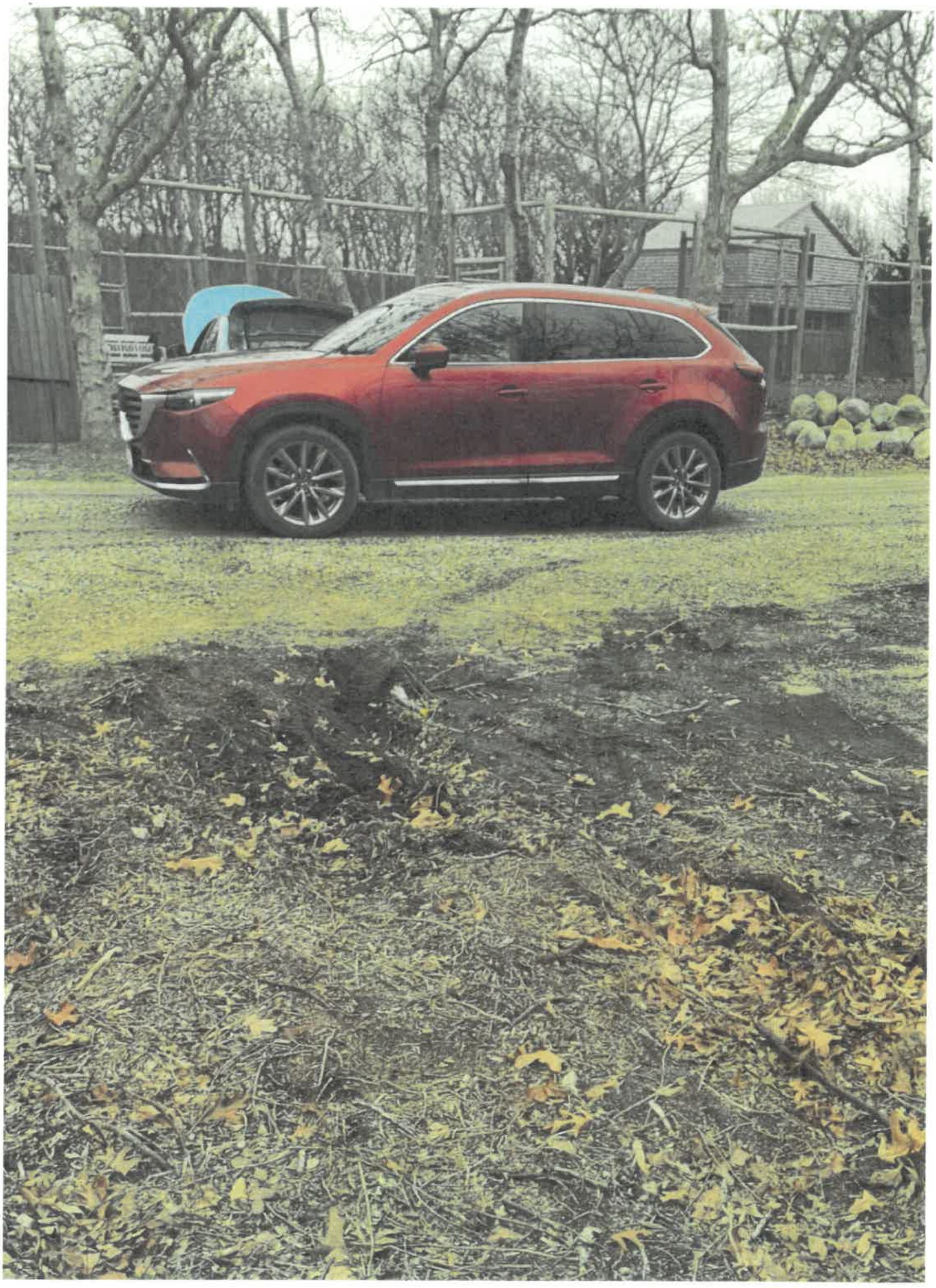
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name
Signature	Printed Name

Signature of delivery person or certified mail number










SEP Massachusetts
5JGK 69

TISBURY CONSERVATION
COMMISSION
PO BOX 1239
VINEYARD HAVEN, MA 02568
508 696 4260

April 30, 2025

Re: unauthorized work 794 Chappaquonsett Road, parcel 32-A-1.1

Golden Eye LLC
20 Pegan Lane
Dover, MA 02030
dmalm@websterequitypartners

Mr. David Malm

This office was advised on October 11th that a stone wall was being constructed along the driveway. I called the Landscape Contractor's office and left a message for Mr. Carlos Teles to stop the work. I had given Mr. Teles administrative approval to move the gate. No mention was made of a wall nor was work on anything but the relocation of the gate approved. This office was again contacted on October 20th that the work had not ceased as directed.

Your property is on a Barrier Beach and coastal dunes as defined by the Wetlands Act and local bylaw.

The work on the wall included alteration of the vegetation an average of five feet deep. This has resulted in the area behind the wall being devoid of vegetation.

When the Commission performed a site inspection at the end of October for the proposed resurfacing of the tennis court, we discovered that a large portion of the native vegetation, including small shrubs, vine and trees had been brush cut to the ground of the north side of the road. This was immediately identified as a violation, as the work occurred on a barrier beach and in coastal dunes. The applicant suggested on site that they could revegetate the area as suggested by the landscape architect for the property, and that the work would enhance the appearance of the property. In addition to the brush cutting, the pre-existing wood timber steps in the dune had been replaced with stone without permits from this office.

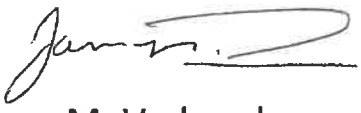
I did another inspection of the site last week and found that cars and trucks are being parked in these disturbed areas and several large vans were parked adjacent to the former caretakers house in areas that should not be parked on. I left a message for the contractor to have those vehicles removed and not to park in areas that were brush cut illegally.

Attached is an Enforcement Order under the Mass. Wetlands Protection Act, MGL C131 s40, and under the Tisbury Wetlands Bylaw. The Order will be ratified by the Commissioners at our next meeting on ~~April~~ MAY 6, 2025. The Order directs that the wall is to be removed, excess cars from the construction may not park, permanently or temporarily on any portion of the site that is not within the designated driveway and parking for the main dwelling. After the wall is removed the areas disturbed and now barren of vegetation shall be stabilized using best available measures. The Commission reserves the right to ask for a performance bond or any other security deemed necessary should you default and fail to complete the work. The areas that were mown may not be planted with anything but shall be left in its natural state to revegetate naturally. The area disturbed during the installation of granite steps in place of the wood timbers will also need to be stabilized. The Order requires submission of a restoration plan for review by May 30, 2025.

I have attached photos of the site taken during my most recent inspection. I have left messages for the contractor, Conover, to address the parking issues and have not heard back. I left another message for them today to please contact me.

Please call this office within 10 days of receipt of this notice. Failure to comply with the terms of the Enforcement Order may results in fines or other legal action.

For the Commission



Jane M. Varkonda
Conservation Agent
Town of Tisbury
Cert mail: 9589 0710 5270 2341 2848 32

From: Jane Varkonda
To: dmalm@westerequitypartners
Cc: tmrobinson143@gmail.com; Alycelee Pigman; Bartow, Mark (DEP)
Subject: Malm enforcement Order 974 Chappaquonsett Road, parcel 32-A-1
Date: Tuesday, June 17, 2025 6:44:56 PM

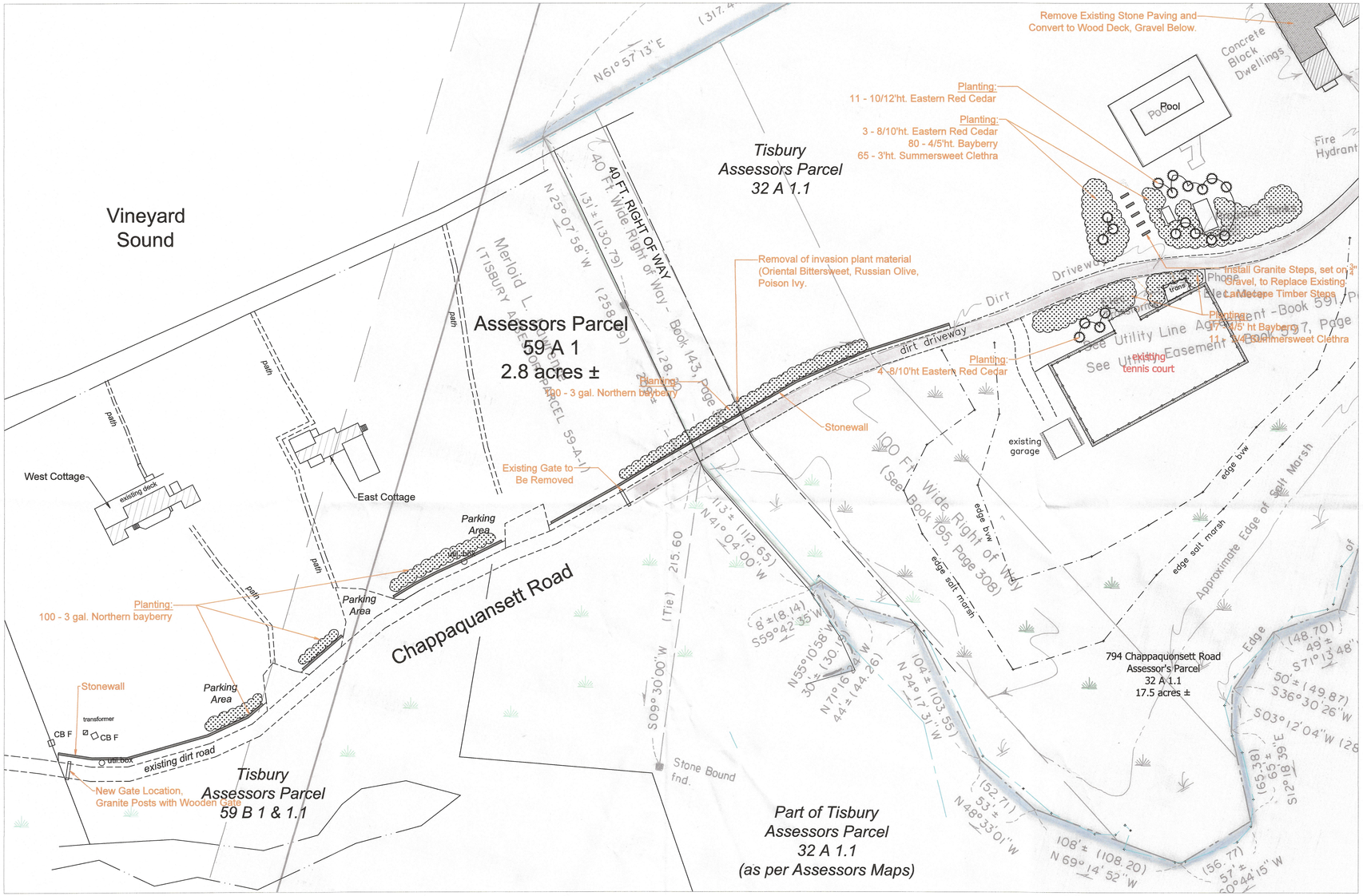
Dear Mr. Malm

The Conservation Commission discussed your Enforcement Order at their meeting this afternoon. We noted that the deadline for the submission of a restoration plan was May 30, 2025. To our knowledge nothing has been submitted nor has anyone representing you contacted this office with on update status of the restoration plan. Therefore, the Commission voted to issue a daily fine, under non criminal disposition, of $300 per day until the restoration plan is submitted. This office will send you a fine in the amount of $5400 based on 18 days x$300. Every day starting tomorrow fines will accrue at $300 day. Those fines will be issued on a weekly bases since I am only working for Tisbury one day a week.

I anticipate that the first fine will be issued on or about June 24, 2025.

For the Conservation Commission,

Jane M Varkonda
Conservation Agent
Town of Tisbury
508 696 4260



Teles Landscaping
p. 508.818.8989
P.O. Box 3761 Edgatown, MA
02539

Chip Chop
690 Chappaquansett Road, Tisbury, MA

Site Plan 1.0
40 scale
06.19.2025

MCCARRON, MURPHY & VUKOTA, LLP
ATTORNEYS AT LAW
282 UPPER MAIN STREET
POST OFFICE BOX 1270
EDGARTOWN, MASSACHUSETTS 02539

ROBERT M. MCCARRON
MARILYN H. VUKOTA
ALSO ADMITTED IN NEW YORK
ROBERT D. MORIARTY
THOMAS J. RAPONE

RICHARD J. MCCARRON (1930-2009)
SEAN E. MURPHY (1961-2021)

TEL: (508) 627-3322
FAX: (508) 627-7848
E-MAIL: RMM@EDGARTOWNLAW.COM

September 2, 2025

Tisbury Conservation Commission
66 Highpoint Lane
Tisbury, MA 02568
Email: apigman@tisburyma.gov

RE: 690 & 740 Chappaquonsett Road
Goldeneye, LLC

Dear Commission Members:

Recent news articles concerning the property owned by Goldeneye, LLC and located at 690 & 740 Chappaquonsett Road ("Chip Chop") are an incomplete narrative, suggesting the property owner has a complete disregard of the environment and the important work of the Conservation Commission. This is not the case. Below is a history of efforts by the property owner and its contractor to work with the Conservation Commission to resolve the unfortunate lapses which occurred at the Property.

- 09/24/2024 – the Contractor requested a ConCom site visit to discuss future work on Chip Chop. During the visit, ConCom approved the relocation of entry gates to the Property.

- 10/24/2024 – Contractor delivered to ConCom a plan showing the stonewalls.

- 10/29/2024 - Site visit for the Tennis Court. At this meeting, ConCom asked the contractor to present a completed plan and file an application/explanation for the stonewall, granite steps, and removing invasive vegetation along the driveway by the pool area.

- SB&H informed ConCom on at least 2 occasions that it has been hired to prepare the base map needed to be able to apply for whatever permits are going to be necessary, before or after the fact. SB&H informed Jane Varkonda that since

this is a large property and that most of SB&H's existing survey work dates back so far that it is not in their current computer system and not usable, that a complete new site plan/base map is needed and it would take some time. This information was provided to Jane that at the Con Com site visit for the request to re-surfacing the tennis court; and again in mid-August when she called SB&H to confirm that we had been hired to do the survey work.

- At the end of October, ConCom requested Contractor stop any work related to the landscape improvements at Chip Chop, including the construction of the stonewall.

- October 30, 2024, Mr. Malm ordered that all work stop.

- 11/12/2024 - First and most completed landscape plan was drafted and emailed to ConCom.

- 11/18/2024 – ConCom emailed to request a site visit

- 11/28/2024 – Contractor visited Jane Varkonda in Edgartown to schedule a site visit.

- 12/03/2024 - Site visit with Jane was conducted at approximately 2:00 pm.

- 01/09/2025 – Contractor met with Jane, in Edgartown to request a site visit to discuss how to move forward with the project.

- 04/30/2025 – ConCom requested and suggested modifications to the plan and also sent enforcement order.

- 05/06/2025 – Contractor and Jane meet to discuss best way to proceed with a full landscape plan to present to the board. On this date, Jane suggested hiring an environmental consultant to guide them through the process.

- Contractor presented a working landscape plan to ConCom, subject to more information needed from SB&H. SB&H had been directed to update all natural resource information.

- 06/18/2025 Contractor and Jane discuss the plan and whether to proceed with the application to ConCom without the information required from Doug Hoehn's office. We also emailed her the plan with additional information on plant materials.

- June 19, 2025 A hard copy of the plan was delivered to the ConCom office in Vineyard Haven.

- SB&H has surveyed the site. Its draft site plan is attached. Updated natural resource information is pending.

- During the months of June and July, Contractor visited ConCom office to inform them that during this period, the Contractor and SB&H were finalizing their work and would provide further information.

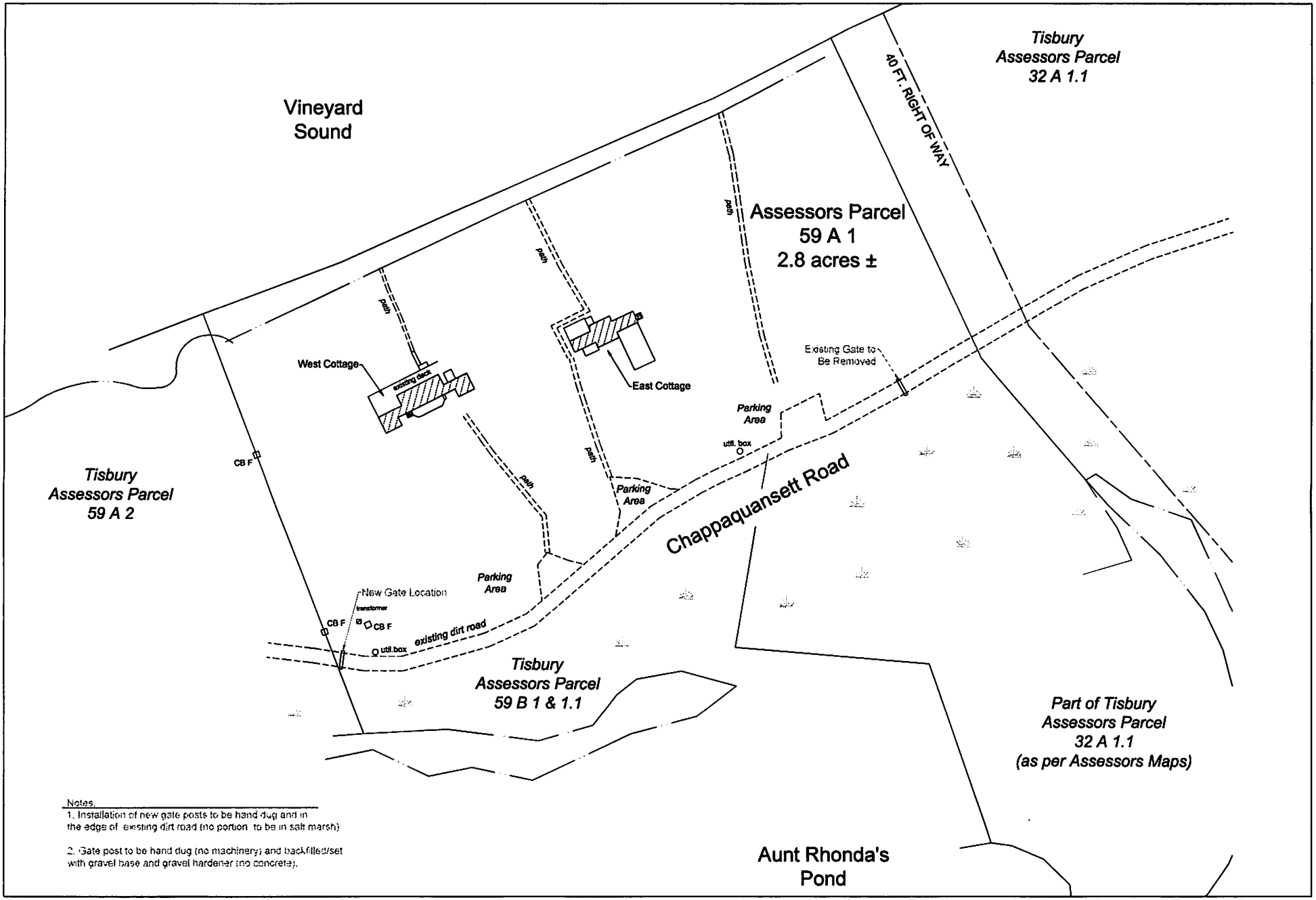
The enforcement order references 3 items. Alteration of vegetation; construction of a stonewall and parking of vehicles in cleared areas. On October 30, 2024, long prior to issuance of the enforcement order, all work at the property had been stopped. The stone wall remains unfinished, disturbed areas have been naturally revegetating, and improper vehicle parking was immediately stopped; see attached emails.

Rather than efforts to ignore or obstruct ConCom's important efforts, the property owner has taken steps to resolve each of its concerns. While there has been some delay in this process, none of that delay has exacerbated any negative environmental conditions, been malicious, or can in any way be characterized as acting in bad faith. Mr. Malm has been and will continue to work diligently to present a plan to ConCom which will satisfy its concerns.

Very truly yours,

Robert M. McCarron

Encl



Notes.

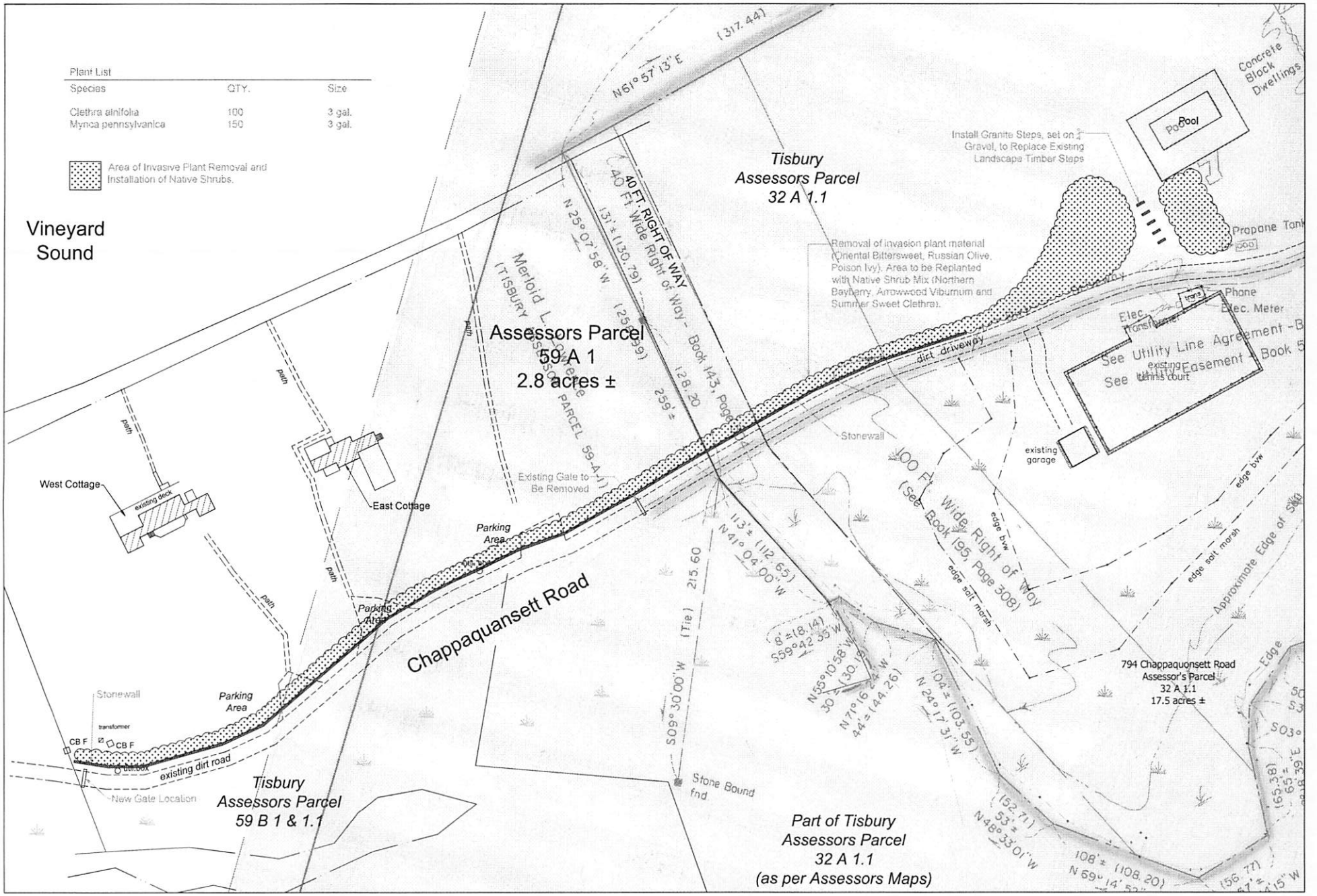
1. Installation of new gate posts to be hand dug and in the edge of existing dirt road (no portion to be in salt marsh)

2. Gate post to be hand dug (no machinery) and backfilled/set with gravel base and gravel hardener (no concrete).

Teles Landscaping
p. 508.818.8989
P.O. Box 3761 Edgatown, MA 02539

Chip Chop
690 Chappaquansett Road, Tisbury, MA

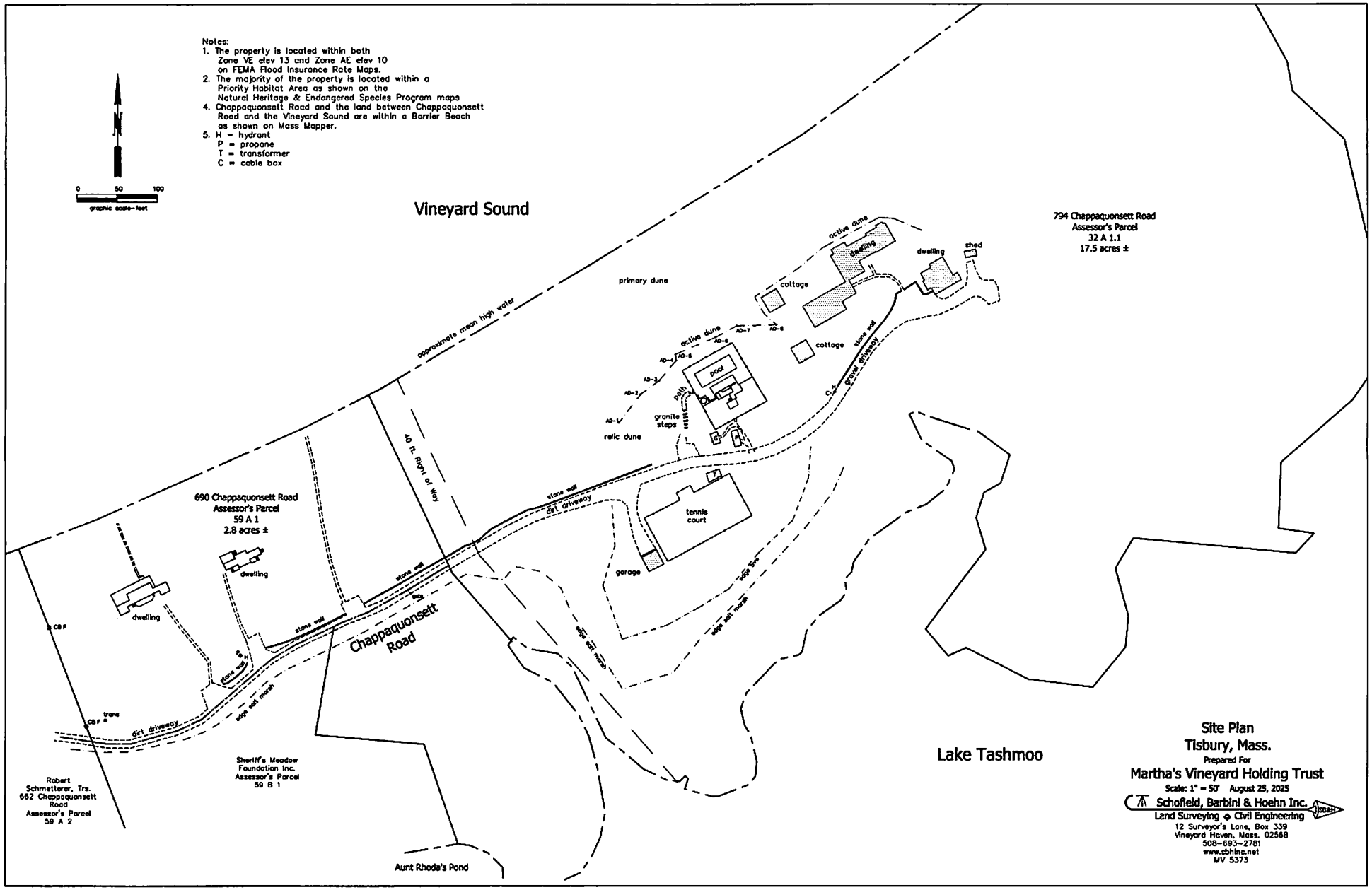
New Gate Location Plan
40 scale
09.24.2024



Teles Landscaping
p. 508.818.8989
P.O. Box 3761 Edgatown, MA
02539

Chip Chop
690 Chappaquansett Road, Tisbury, MA

Site Plan
40 scale
11.12.2024


Notes:
1. The property is located within both Zone VE elev 13 and Zone AE elev 10 on FEMA Flood Insurance Rate Maps.
2. The majority of the property is located within a Priority Habitat Area as shown on the Natural Heritage & Endangered Species Program maps
4. Chappaquonsett Road and the land between Chappaquonsett Road and the Vineyard Sound are within a Barrier Beach as shown on Mass Mapper.
5. H = hydrant
P = propane
T = transformer
C = cable box
0 50 100
graphic scale-feet
Vineyard Sound
approximate mean high water
primary dune
active dune
dwelling
shed
cottage
cottage
stone wall
gravel driveway
pool
path
granite steps
relic dune
AD-1
AD-2
AD-3
AD-4
AD-5
AD-6
AD-7
AD-8
794 Chappaquonsett Road
Assessor's Parcel
32 A 1.1
17.5 acres ±
690 Chappaquonsett Road
Assessor's Parcel
59 A 1
2.8 acres ±
40 ft. Right of Way
stone wall
dirt driveway
tennis court
garage
dwelling
dwelling
stone wall
stone wall
stone wall
Chappaquonsett Road
edge salt marsh
edge salt marsh
edge salt marsh
dirt driveway
trans
Robert Schmetterer, Trs.
662 Chappaquonsett Road
Assessor's Parcel
59 A 2
Sheriff's Meadow Foundation Inc.
Assessor's Parcel
59 B 1
Aunt Rhoda's Pond
Lake Tashmoo
Site Plan
Tisbury, Mass.
Prepared For
Martha's Vineyard Holding Trust
Scale: 1" = 50' August 25, 2025
Schofield, Barbini & Hoehn Inc.
Land Surveying & Civil Engineering
12 Surveyor's Lane, Box 339
Vineyard Haven, Mass. 02568
508-693-2781
www.sbhinc.net
MV 5373

De: **Carlos Teles Filho** <cteles07@gmail.com>
Date: ter., 24 de set. de 2024 às 09:01
Subject: Chip Chop
To: Jane Varkonda <jvarkonda@edgartown-ma.us>

Good morning Jane,
Please let me know the best time to visit the property.
I can pick you up in Vineyard Haven.
Please let me know.
Carlos
Sent from my iPhone

From: David Malm
Sent: Wednesday, October 30, 2024 7:29 PM
To: Jane Varkonda <jvarkonda@edgartown-ma.us>; Carlos Teles Filho <cteles07@gmail.com>
Cc: Alycelee Pigman <apigman@tisburyma.gov>; Greg Monka <gmonka@tisburyma.gov>; Bartow, Mark (DEP) <mark.bartow@state.ma.us>; Peggy Schwier (pschwier@vineyard.net) <pschwier@vineyard.net>
Subject: RE: [EXTERNAL] -chip chop stop work Order

Jane

Please accept my sincere apology for any unapproved work in process. One of the reasons that I work with Carlos and Peggy Schwier is that they are both exceptionally respectful of the ConCom's regulations and are sensitive to actions that might run afoul of them. It was my understanding that you had been briefed in full on the work in process and I can assure you that I had NO IDEA WHATSOEVER that you had directed Carlos to halt further work on the stone wall. Lord knows that there are a lot of adjectives certain people in Edgartown have used to describe me but I don't think stupid is one of them and defying a directive of yours would be insanely stupid.

By all means, I encourage you to inspect other properties which lie within your jurisdiction. The neighbors of 81 South Water Street will unhappily attest that no mowing has occurred in the wetland area or anywhere else for over a year.

Please rest assured that all pencils are down on Chip Chop until Carlos and Peggy can submit fulsome plans to you and gain your approval.

Please do not hesitate to reach out directly to me.

Respectfully –

David Malm

From: David Malm
Sent: Monday, May 5, 2025 8:25 PM
To: Gerret C. Conover (gcc@mvlandvest.com) <gcc@mvlandvest.com>; Jane Varkonda <jvarkonda@edgartown-ma.us>
Cc: Carlos Teles <cteles07@gmail.com>; Peggy Schwier (pschwier@vineyard.net) <pschwier@vineyard.net>
Subject: Construction Parking at Chip Chop

Jane – I am in receipt of your letter of April 30th.

Geri – please ensure that any and all construction workers at Chip Chop park on ONLY the driveway per notification from Jane that they have been parking in restricted areas.

Many thanks

DPM

From: David Malm
Sent: Tuesday, June 17, 2025 7:05 PM
To: Jane Varkonda <jvarkonda@tisburyma.gov>; Carlos Teles Filho <cteles07@gmail.com>; Peggy Schwier <pschwier@vineyard.net>
Subject: Re: [EXTERNAL] -Fw: Malm enforcement Order 974 Chappaquonsett Road, parcel 32-A-1

Jen - my understanding was that you and Carlos had spoken subsequent to your earlier communication and had agreed upon a plan moving forward. Is that not the case?
Sent from my iPhone

On Jun 17, 2025, at 6:54 PM, Jane Varkonda <jvarkonda@tisburyma.gov> wrote:

From: Jane Varkonda
Sent: Tuesday, June 17, 2025 6:44 PM
To: dmalm@westerequitypartners <dmalm@westerequitypartners>
Cc: tmrobinson143@gmail.com <tmrobinson143@gmail.com>; Alycelee Pigman <apigman@tisburyma.gov>; Bartow, Mark (DEP) <mark.bartow@state.ma.us>
Subject: Malm enforcement Order 974 Chappaquonsett Road, parcel 32-A-1

Dear Mr. Malm

The Conservation Commission discussed your Enforcement Order at their meeting this afternoon. We noted that the deadline for the submission of a restoration plan was May 30, 2025. To our knowledge nothing has been submitted nor has anyone representing you contacted this office with on update status of the restoration plan. Therefore, the Commission voted to issue a daily fine, under non criminal disposition, of $300 per day until the restoration plan is submitted. This office will send you a fine in the amount of $5400 based on 18 days x$300. Every day starting tomorrow fines will accrue at $300 day. Those fines will be issued on a weekly bases since I am only working for Tisbury one day a week.

I anticipate that the first fine will be issued on or about June 24, 2025.

For the Conservation Commission,

Jane M Varkonda
Conservation Agent
Town of Tisbury
508 696 4260

Chip Chop Task List
Restoration Order
DRAFT – 9-23-25

In response to the Enforcement Order dated April 30, 2025, the Applicant has previously prohibited parking in undesignated areas and considers this issue resolved. The applicant proposes to address the remaining enforcement order items as follows:

1. Remove recently installed stonewalls. Removal will be done by hand to minimize disturbance to existing soils, with rocks removed directly into trucks and not stockpiled in surrounding areas.
2. Replant/restore area disturbed by stonewall installation as per plans:

Zone A (Stone Pillars to Garage driveway area):

- After removal of stone wall, we will replant with bayberry, seaside golden rod and native grass plugs (Spartina and Panicum)
- (from the end of 3rd Alternate parking spot to the large oak tree): we will replant with rosa ragosa, bayberry, cedar and sweet fern
- (from the big oak tree to the end of wall at pool/garage area): we will replant with clethera, bayberry, sweet fern, seaside goldenrod and native grasses

Zone B (south side of pool structures, at stone steps and front of tennis court area):

A. Remediate brush cutting by prior property owner on north side of driveway, including either side of stone steps
   - Replant area with clethera, cedar, viburnum, beach plum just outside pool gate, sweet fern, seaside goldenrod and native grasses.

B. Remediate brush cutting by prior property owner on south side of driveway in front of tennis court
   - Replant with cedars, viburnum, ilex and meadow grass with expectation of mowing the meadow grass once in spring and once in early summer

C. Approve as installed, the stone steps to pool, which replaced previously existing degraded creosote wood steps. And in addition to:
   - Authorize additional fieldstone steps between the driveway and the first existing stone step to maintain a walking path
   - Remove existing miscanthus around stone steps
   - Plant on either side of stone steps clethera, sweet fern, seaside goldenrod and native grasses

Restoration Plan Notes:
1. Meadow Seed Areas to be Mowed Once in Spring and Once in Summer

690 Chappaquonsett Road
Assessor's Parcel
59 A 1
2.8 acres ±

primary dune

approximate mean high water

40 ft. Right of Way

cottage

cottage

dwelling

active dune

AD-1

AD-2

AD-3

AD-4

AD-5

AD-6

AD-7

AD-8

pool

path

gravel driveway

stone wall

relic dune

Planting:
13 - 10/12'ht. Eastern Red Cedar

Granite Steps. Asking to Approve as Installed

Planting:
3 - 8/10'ht. Eastern Red Cedar
30- 4/5'ht. Arrowwood Viburnum
50 - 3'ht. Summersweet Clethra
60 - 1 gal. Sweetfern

Meadow Seed Mix:
20% Hard Fescue,
40% Creeping Red Fescue,
30% Chewings Fescue,
10% Sheep Fescue

Remove Stone Wall

Planting:
100- 3 gal. Northern bayberry
100 - 1 gal. Sweet Fern
100 - 1 gal. Rosa Rugosa

Planting:
7- 10/12'ht. Tupelo
25- Arrowwood Viburnum
35- Summer Sweet Clethra
50- Sweetfern
75- Golden Rod

Planting:
3- Eastern Red Cedar
6- Viburnum Dentatum
7- Summer Sweet Clethra

Planting:
17 - 4/5' ht Winterberry
11 - 4/5' ht Arrowwood Viburnum

Planting:
4 -8/10'ht Eastern Red Cedar

tennis court

garage

dirt driveway

stone wall

Existing Stonewall
to be Removed

Planting:
40 - 3 gal. Northern bayberry
100 - 1 gal. Golden Rod
750 - Spartina plugs
200 - Panicum plugs

Existing Stonewall
to be Removed

gate

Chappaquonsett Road

edge salt marsh

edge bvw

edge salt marsh

edge salt marsh

dwelling

welling

irt driveway

Sheriff's Meadow
Foundation Inc.
Assessor's Parcel
59 B 1

Teles Landscaping
p. 508.818.8989
P.O. Box 3761 Edgatown, MA
02539

Chip Chop Residence

690 Chappaquansett Road, Vineyard Haven, MA 02568

Date: 09.22.2025
Scale: 1" = 30'-0"

Restoration Plan

From: Robert McCarron
To: Alycelee Pigman
Subject: Fwd: To the ConComm
Date: Tuesday, September 02, 2025 2:54:11 PM

Alycelee please see below from Peggy Schweir, the landscape designer at Chip Chop

Rob

Sent from my iPhone

Begin forwarded message:

> **From:** Peggy Schwier <pschwier@vineyard.net>
> **Date:** September 2, 2025 at 12:23:02 PM
>
> Hello there,
>
> SO sorry to miss this walk around.
>
> I hope I have a reputation for working with clients to successfully solve design issues with an emphasis on making the house look like it belongs at the site. And comply with any site restrictions, be they wetlands, covenants, etc. If a client comments on what they think they'd like, I try to interpret those elements and translate them to the new site. Give them a look they want with the variations appropriate for that particular site. I am big on pulling the Wild back in to have the landscape and house, THERE, to make sense.
>
> I have worked with David for 25 years, at least, and he has always listened and been amenable to adding large clumps of natives, again, pulling the wild back in so the house looks right. He did an enormous conservation remediation at Herring Creek Farm, where there was history of the former owner clearing what he shouldn't have, to make it right. David has always listened to what has been said/requested to do.
>
> Again, because Chip Chop is such a fabulous natural spot (I worked there for several years after Edwina VonGal, of PRFCT EARTH PRJCT, Nature based Gardening, when she helped Mike Nichols with CC when he bought it), and it's a super special place.
>
> We have reduced the garden in front of the kitchen a bit and only would add some of the same roses, natural looking ramblers, and groups of natural perennials, where the extended garden appears on the plan at the front door. We have not messed with any new areas and DID not extend the bed previously and will NOT have it if not approved.
>
> The area between the tennis court and pool, you will find out today, will be either the wild grasses and/or a mix of natives: clethra, bayberry, aronia, i verticillata, blueberries, sweet fern, viburnum, shad. If you don't want those added, we won't

add them!

Thanks

Peggy Schwier




PRIVATE
PROPERTY



~TZBL 09.05.01 – 05.12

Original: 09.05 FLOODPLAIN DISTRICT

.01 Purpose:

~~To promote the health, safety, and general welfare of the inhabitants of the Town of Tisbury by ensuring that structures, facilities, and uses are sited, constructed, and arranged so as to preclude or minimize Flood/Storm effects.~~

~~To protect the economic well-being of the Town of Tisbury and its inhabitants by preventing burdensome property and employment losses.~~

~~To make available to the inhabitants of the Town of Tisbury Flood Insurance (under the National Flood Insurance Program) and to the Town of Tisbury eligibility for federal disaster relief funds by establishing and maintaining a qualifying Flood/Storm Program conforming to the "Flood Disaster Protection Act of 1968" (Title 13 of the Housing and Urban Development Act of 1968 - Public Law 90-448), 42 U.S.C. 4001-4128 and 44 CFR 67, the specific enumerations found in 44 CFR section 60,3(e) and such amendments thereto as are applicable.~~

~~To accomplish the purposes set forth in the above three paragraphs by uniform administrative procedures, conformity with land and water use policies, and in keeping with objectives to preserve the character of Tisbury's waterfronts.~~

Ensure public safety through reducing the threats to life and personal injury;

Eliminate new hazards to emergency response officials;

Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;

Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;

Eliminate costs associated with the response and cleanup of flooding conditions;

Reduce damage to public and private property resulting from flooding waters.

.02 Floodplain District Boundaries:

The Floodplain District is herein established as an overlay district to all other districts. The District includes all special flood hazard areas within the Town of Tisbury designated as Zone ~~A~~,A, AH, AO, AE or VE on the Dukes County Flood Insurance Rate Map (FIRM) dated July 20, 2016 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Dukes County FIRM that are wholly or partially within the Town of Tisbury are panel numbers 25007C0082J, 25007C0083J, 25007C0084J, 25007C0101J, 25007C0102J, 25007C0103J, 25007C0104J and 25007C0111J dated July 20,2016.

The exact boundaries of the District ~~may~~ shall be defined by the ~~**100 year**~~ 1%-chance base flood elevations shown on the FIRM and further defined by the ~~Dukes County~~ Dukes County Flood Insurance Study (FIS) report dated July 20, 2016. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

All development in the district, comprised of all land in the Town of Tisbury inland of the Mean Low Water (MLW) line lying along the shores of Lake Tashmoo, Vineyard Sound, Vineyard Haven Harbor and Lagoon Pond, including structural and non-structural activities whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code (CMR 780)which addresses flood plain and coastal high hazard areas.

- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00)

- Inland Wetlands Restriction, Department of Environmental Protection DEP (currently 310 CMR 13.00);

- Coastal Wetlands Restriction, Department of Environmental Protection DEP (currently 310 CMR 12.00);

- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, Department of Environmental Protection DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

.03 Floodway Data:

\

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In A Zones, in the absence of FEMA BFE data and floodway data, the Building/Zoning Inspector will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

.04 Notification of Watercourse Alteration

In a riverine situation, the Building Inspector shall notify the following of any alteration or relocation of a watercourse:

a. Adjacent communities,
b. NFIP State Coordinator
   Massachusetts Department of Conservation and Recreation
   251 Causeway Street, 8th Floor, Boston, MA 02114-2140

c. NFIP Program Specialist
   Federal Emergency Management Agency, Region I

   99 High Street, 6th Floor, Boston, MA 02110

.05 Use Regulations:

~~Man-made~~ alteration of sand dunes ~~within Zone VE~~ which would increase potential flood damage are prohibited.

All new construction within Zones VE must be located landward of the reach of mean high tide.

All subdivision proposals must be designed to assure that:

a. Such proposals minimize flood damage;
b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
c. Adequate drainage is provided to reduce exposure to flood hazards.

Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

In, A, AO AH, AE Zones, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

.06 Basis:

Administrative and regulatory address to construction, facilities, uses and arrangements shall be based upon:

- Mean Sea Level (MSL) elevation as determined by the "National Geodetic Vertical Datum of 1929" (NGVD 1929);
- North American Vertical Datum (NAVD) 1988
- The Flood Insurance Rate Map

.07 Floodplain Rules and Regulations:

Coastal and Elevation Data Plans may be a required attachment for all properties in the Town of Tisbury located within all flood hazard zones, as defined by the Dukes County Flood Insurance Rate Maps.

There shall be established a “routing procedure” which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, and Building Inspector for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

The cognizant Board, Commission or Official may require certifications by a Massachusetts Registered Professional Engineer(s) and Registered Land Surveyor (s) as to situations, designs, data, calculations, statements of effect or non-effect, values, ratings, specifications, etc.

.08 Exceptions, Waivers and Appeals:

Any variance to the requirements of state regulations or FEMA’s minimum standards for floodplain management must go through the proper state channels and conform to FEMA’s guidelines as listed in CFR 44, 60.0.

The applications, procedures and requirements relating to *EXCEPTIONS* (whether considered in the form of "Special Permits" or in the form of "Variances"), *WAIVERS* (pertinent only to Rules and Regulations) and *APPEALS* (whether an appeal from a determination or alleging a failure to act) are set forth in MGL Chapter 40A, elsewhere in the Zoning Bylaws and in the established administrative procedures of the cognizant Board, Commission or Official.

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

.09 Variances to the Building Code Floodplain Standards

The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance and will maintain this record in the community’s files.

The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

.10 Disclaimer of Liability

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

.11 Severability

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

.12 Compliance:

~~The Building/Zoning Inspector shall:~~

- ~~make site inspections and determinations of physical and use compliance in matters of specification particulars;~~
- ~~ensure that the plans and specifications submitted as a part of Building Permit Applications comply; and,~~

The Town Tisbury requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

Tisbury's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits and must submit the completed checklist demonstrating that all necessary permits have been acquired.

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

.13 Enforcement:

The Building/Zoning Inspector shall enforce program or permit specification particulars, and the conditions and restrictions imposed by Special Permits, Waivers, Variances, and Appeal determinations, as provided for in Chapter 40A (MGL) and elsewhere in the Zoning Bylaws.

In the manner, and to the extent, provided by law, cognizant Boards, Commissions and Officials may obtain enforcement of procedural, class or

category requirements by such processes as 'cease and desist orders', 'unfit for habitation or occupancy closures', and 'revocation or suspension of authorization'.

.14 Floodplain Administrator

The Building/Zoning Inspector shall be the official floodplain administrator for the Town of Tisbury.

.15 Interpretation:

Notwithstanding any other Town of Tisbury Bylaw, this Section 09.05 (Floodplain District) and its provisions shall be determinative with regard to Flood/Storm hazards, the prevention or mitigation of Flood/Storm effects and the maintenance of qualifying status under the National Flood Insurance Program.

In the interpretation and application of this Section 09.05 (Floodplain District), all provisions shall be:

- considered as minimum requirements;
- liberally construed in favor of the Town of Tisbury;
- deemed neither to limit nor repeal any other powers granted under the statutes of the Commonwealth of Massachusetts.

16 Penalties:

Whosoever violates the provisions of this Section 09.05 (Floodplain District)and the Rules and Regulations herein authorized and legally adopted may be fined two hundred dollars ($200) for each violation and for each day each violation continues after notice or such lesser amount as may be set by statute.

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The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

In the interpretation and application of this Section 09.05 (Floodplain District), all provisions shall be:

- considered as minimum requirements;
- liberally construed in favor of the Town of Tisbury;
- deemed neither to limit nor repeal any other powers granted under the statutes of the Commonwealth of Massachusetts.

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2020 MA Model Floodplain Bylaw **Frequently Asked Questions**

These questions were posed during the 2020 Model Bylaw training sessions offered by the state and FEMA in early October 2020. To access the Model and the presentation, go to:

https://www.mass.gov/guides/floodplain-management

Adoption deadline

By what date will these bylaws need to be adopted?

If your community will be receiving new maps, then the 2020 Model will be used to review your bylaws (or ordinances) as a part of your map adoption process by the effective date of the new maps.

If the state or FEMA conducts a monitoring visit or interview with your community, the 2020 Model will be used in reviewing your bylaws, and you will need to provide a date by which you will adopt them.

If neither of the above applies to your community within the next year, then we will expect that you will adopt the 2020 Model bylaws at your next earliest convenience.

Location of bylaws in local codes

In what part of the local code should a community place these floodplain bylaws?

This decision is up to the community, but the bylaws need to reside in an adopted and enforceable part of your codes (bylaws or ordinances.) You may gather them together under your Floodplain Overlay District section of your zoning bylaws, put them together in your wetlands bylaws, or other reasonable location where citizens and floodplain developers can find them. Some of these pertain to subdivisions, and may go in that section. Wherever the bylaws reside, we will need you to cite them for us when we review your code if we cannot find them.

What about towns that don't have wetlands bylaws?

Many communities put these bylaws in their zoning regulations, typically under a Floodplain Overlay District section.

If we address subdivisions and flood elevations in the Subdivisions Rules & Regulations, do we also need to include the subdivision language in our Floodplain Overlay District zoning bylaw?

The bylaws do not need to be duplicated in different parts of your local codes, but you will need to enforce them throughout your floodplains, so it would be best to put them where developers can find them for proposed projects.

Map references

How do we know whether to use the community or county map references section?

On your community's flood maps, the name of the community (town, city, or county) is shown on the title panel at the lower right corner. If you need assistance in making this determination, you can contact Eric Carlson at eric.carlson@mass.gov.

Do we still need to insert all the panel numbers and dates as we did before?

FEMA is no longer requiring that each map panel be separately referenced. The date of the Index (of maps) and the Flood Insurance Study must each be referenced. Using the provided bylaw text should make this easy.

Legal purpose bylaws

What if we have these (abrogation/ greater restriction, disclaimer of liability, severability) **in a different part of our local codes? Do we have to move or add them to the Floodplain Overlay District section?**

No. As long as you can cite them from an enforceable part of your adopted code, they can stay right where they are. No need to add to another section.

Floodplain Administrator (FPA)

Can a Floodplain Administrator be designated as more than one position?

No. The purpose of designating an FPA is so that both FEMA and the state will have one contact for the community for communication regarding NFIP and floodplain matters. While we understand that best practice floodplain management means that an integrated team of people will review and enforce floodplain development, we will still need the position (and thereby the name, title, and contact information) of your designated FPA.

For FPA, is it acceptable for a community to designate an entire board or committee?

No, it's not acceptable for an entire board or committee to be the FPA. You may, however, designate the head of that group as the FPA, or perhaps the staff contact for the group.

Does the floodplain administrator need to be a Certified Floodplain Manager (CFM)?

No, but that's a worthy goal as this certification indicates both the person's and the community's desire to put forth the best floodplain management possible. Also, there are additional points for a CRS community that has certified staff.

Can you define the role of the Administrator more specifically?

The role of the FPA is more fully explained in the 2020 Model Bylaw, section 4.

Variances

Which communities have the authority to issue a variance to the state building code? How do we know if we are one of them?

There are very few. These communities have local Building Code Appeals Boards (in contrast to a Zoning Code Appeals Board.) If you aren't sure, you're probably not one of them. To find out, contact the staff at the Board of Building Regulations and Standards: Dan Walsh, Chief of Inspections, 617-826-5236 or dan.p.walsh@mass.gov

If building code variances are issued by the state, why is the town held responsible?

The community is not held responsible for actions by the state. The variance sections found in the 2020 Model Bylaw are there to assure that 1) the community is aware of the request for a variance from floodplain regulations; 2) if the variance is granted, that the community notify the applicant in writing that there may be increased flood risk associated with the variance, and an increase in annual flood insurance premiums; and 3) the community documents the variance and notification in their permit files for future reference.

Would allowing a variance disqualify a community from the Community Rating System?

The allowance of a variance does not disqualify a community from the Community Rating System (CRS.) A pattern of allowing frequent or unjustified variances may impact a community's standing in the NFIP (and therefore CRS), however, and may be investigated in order to find a way to reduce this practice. If the state is approving the variances, the state will be involved in such an inquiry.

Is a variance also required from the ordinance/bylaw itself?

Yes, if the variance is to the floodplain development regulations found in your local code. See the explanation for bylaw #9 in the Model, section 4.

Permit for all development

The suggested bylaw states that the community will require "a permit for all proposed construction or other development in the floodplain…" Does this mean that we have to institute a new permit form and fees for things other than the building code?

Not necessarily. Different communities use different methods to assure that all floodplain development is reviewed. The intention here is to assure that all development in the floodplain is reviewed by the community, using whatever tools the community deems best for this practice. For example, some communities use an integrated online review tool for every activity in their floodplains. Others use a checklist showing that pertinent departments and boards have signed off on the development as proposed. You may develop or use a form if that best fits your needs—whatever assures that appropriate review is being conducted for all development in the floodplain. Please see the NFIP definition of "development" in the Model to understand the reach of this bylaw.

Can things like fences and driveways be permitted through a building permit, rather than a special permit?

Your local building official knows which things can be permitted through the building code. Paving is generally covered under local bylaws; some communities put these in their zoning regulations and some in their stormwater management plans. If the pavement is to be placed where it will impact a resource area, the conservation commission will most likely need to review the proposal to determine its impact on area resources including the floodplain. However your community reviews these development types, the review needs to be documented.

Do solar arrays need to be permitted?

If the development (e.g. proposed solar arrays) is in the floodplain, then yes—it needs to be fully reviewed using some kind of documentable process such as described above.

All permits must be acquired

How do we know what other permits would apply to a particular development?

There is currently no complete checklist for permits required, but relevant state and federal agencies can help you determine what permits might be required. Here are a few suggestions:

MA Office of Coastal Zone Management (CZM) can assist with understanding coastal permits: https://www.mass.gov/orgs/massachusetts-office-of-coastal-zone-management

MA Dept. of Environmental Protection regional coordinators can advise on soil, water and air quality permits: https://www.mass.gov/orgs/massachusetts-department-of-environmental-protection DEP can also advise for mining, dredging and drilling operations, as well as federal permits required by the EPA.

The US Army Corps of Engineers has permits for some work in waterways and tidal wetlands: https://www.usace.army.mil/ CZM will often know about these, too.

Who is responsible to get these permits?

The applicant is responsible to get the permits, but this bylaw states that the community will assure that the necessary permits are obtained for all development in the floodplain.

More restrictive codes—compensatory storage vs. hydrologic & hydraulic study-- Floodway Encroachments

Is the NFIP requirement more restrictive than the MA Wetlands Protection Act for compensatory storage in the floodplain?

Possibly. The Wetlands Protection Act requires that *"Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding…"* [310 CMR 10.57(4)(a)]

The NFIP requires that the developer prove that a) in floodplains without a regulatory floodway, the development will cause no more than one foot of rise in the base flood, or b) in regulatory floodways the development will cause absolutely no rise in the base flood. This certification needs to be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice. For more information, see the Model, section 4, item 15, or contact the state or FEMA references at the bottom of this document.

Submitting technical data & watercourse alteration notifications

What's the difference between these two bylaws? (See bylaws #7 and #16 in the Model)

Bylaw #7 regards the submission of new technical data that the community may have about the floodplain maps. This needs to go to FEMA for their files. Bylaw #16 regards changes in a watercourse (if this is allowed to happen in a community)—this information needs to be shared with adjacent communities and FEMA for their awareness. In both cases, the information should be copied to the state NFIP coordinator. See section 4 of the model for further explanation.

How do you define watercourse alteration?

A watercourse is any natural channel conveying water such as a river, stream, or creek. The alteration of this might include such practices as channelization, culverting, diversion or even daylighting a stream that was previously channeled underground.

Does the watercourse alteration bylaw apply when changing a water course in land subject to coastal storm flowage?

This bylaw (#16) is specifically for riverine situations, but if changes will affect up or downstream neighbors, these should still be notified. And of course, if there is new technical data involved, this would be submitted to FEMA under bylaw #7, Requirement to submit new technical data.

Does this only apply to watercourses within the mapped flood zones?

Good question! Most watercourses will be found in the mapped floodplain, but yes, in any case the alteration of a watercourse must be notified as written in the bylaw requirement.

Local Enforcement

Is there model language for bylaws item #20 on local enforcement?

No. A community can describe their process of local enforcement, but many of those "pieces" are found in existing codes such as the building code. Please see the explanation for this in section 4 in the Model.

What about towns that don't have non-criminal disposition to be able to issue fines?

Even if your community has not adopted the provisions of Mass General Law chapter 40, section 21D (non-criminal disposition), you must still be able to levy some type of penalty for non-compliant floodplain development. The NFIP community should work with their attorney to assure that non-compliant floodplain development will be addressed through both violation notifications and penalties. *"The NFIP requires that the floodplain management ordinance be legally enforceable and enforced uniformly throughout the community."* [44 CFR 60.1(b)]

Recreational Vehicles

Is recreational vehicle defined? Would it apply to food trucks?

Yes, the definition for a recreational vehicle is found in section 3 of the Model. Since part of the definition includes *"designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use,"* a food truck may or may not be considered a recreational vehicle.

Is there a difference between a recreational vehicle and a park model?

Typically a park model is treated like a manufactured home, and would need to be installed on a permanent foundation. The primary concern with a park model is that to fit under the definition of recreational vehicle, it must be self-propelled or towable by a "light-duty truck." A light-duty truck is a United States designation for trucks and vehicles that have a gross vehicle weight of up to 8500 pounds and payload capacities of up to 4000 pounds. [https://www.epa.gov/moves/how-does-moves-define-light-duty-trucks]

Is there a grandfather clause for recreational vehicles?

No. All RVs must be either installed on a permanent foundation (as would a manufactured home), or be highway ready.

What about an RV sales operation?

Great question. In most cases the RV dealership will have temporary tags so they can move the RVs (hopefully all in good operating order!) out of the floodplain should a flood alert be issued. This type of development is storage in the floodplain and should be permitted as such.

Protection of dunes

If we don't have dunes do we have to include the #19 bylaw about dunes?

No.

Definitions

Since these definitions seem to come primarily from the federal code, could we simply reference that code instead of adopting in local bylaw/ordinance?

No. The definitions have been in the federal code for more than four decades, but there have been many instances where local folks don't seem to be aware of them. Many other states require a much longer list of definitions (e.g. Florida), but we've slimmed down the list to those that are critical to compliant floodplain management.

The definition of structure does not appear to include decks or carports because they don't have walls and roofs. Correct?

Correct, although if a deck or carport is attached to a structure then it would be a part of the structure. A self-standing deck or carport would not necessarily be a structure, per this definition, although these are still considered to be development.

If we do not have the Flood Boundary & Floodway Map (FBFM) or the Flood Hazard Boundary Map (FHBM), do we have to include these definitions?

If you do not have these types of map as your current effective maps, then you do not need to include these terms in your list of definitions.

Subdivisions

Please provide some guidance regarding Approval Not Required (ANR) plans, as we have limited control and some can be over 5 acres. Right now we cannot treat these as a subdivision.

Even though you do not treat ANR dispositions as subdivisions, if the structure or other development in the ANR is sited in a regulated floodplain you will need to apply all of the requirements for flood resistant construction and drainage, just as you would for any other development in the floodplain.

Model Language	Existing Town Language / Notes

General Provisions

1. Purpose The purpose of the Floodplain Overlay District is to: 1) Promoting flood resiliency through planning and design; 2)Reducing the creation of new public safety hazards caused by development in flood zones; 3) Reducing the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding; 4) Reducing the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding; 5) Reducing costs and safety risks associated with the response and cleanup of flooding conditions; and 6) Reducing damage to public and private property resulting from flooding waters.	09.05.01

2. Establishment of Floodplain Overlay District	

The Floodplain District is herein established as an overlay district. The District includes, and this Floodplain Overlay District Bylaw shall apply in all special flood hazard areas within [Community Name] designated as Zone A, AE, AH, AO, A99, V, or VE on the [County Name] Flood Insurance Rate Map (FIRM) dated [FIRM date] issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the [County Name] Flood Insurance Study (FIS) report dated [FIS date]. All flood zones referenced within this Floodplain Overlay District Bylaw [Ordinance] shall mean the flood zones designated on the FIRM dated [insert date]. The FIRM and FIS report are incorporated herein by reference and are on file with the Town/City Clerk, Planning Board, Building Official, Conservation Commission and [other].

.02 with minor edits (noted in Word document)

3. Abrogation

The floodplain management provisions found in this Floodplain Overlay District Bylaw [Ordinance] shall take precedence over and shall supersede any less restrictive, conflicting local bylaws, ordinances, codes or regulations of [insert name of Town/City].

4. Degree of Protection

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection. .10

5. Severability

The degree of flood protection required by this Floodplain Overlay District Bylaw [Ordinance] is based on reasonable scientific and engineering considerations but does not imply total flood protection. This Bylaw [Ordinance] shall not create liability on the part of [insert name of Town/City] or any officer or employee thereof for any flood damage that may result from reliance on the provisions hereof, or from any administrative decision made hereunder. .11 but could update to this language

General Floodplain Regulations

1. Designation of Floodplain Administrator

The position of [insert title of position] is hereby designated to be the official Floodplain Administrator of [insert name of City/Town].

2. Requirement to Submit New Technical Data

If the Town/City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town/City will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.)
Notification shall be submitted to:
FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

3. Unnumbered A Zones

In A Zones, in the absence of FEMA BFE and/or floodway data, the [insert City/Town name] Building Department shall reasonably obtain, review and utilize base flood elevation and floodway data available from a Federal, State, or other source for determining whether residential and nonresidential structures must be elevated to or above base flood level, whether floodproofing is required or whether encroachments in floodways should be prohibited.

4. Floodway Encroachment

In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's/City's FIRM or Flood Boundary & Floodway Map (choose map which delineates floodways for your community) encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

.03 existing revisions and additional revisions from me in Word doc (just delete original text and replace with the new text. It's redundant otherwise.)

5. Watercourse Alterations or Relocations in Riverine Areas

In a riverine situation, the Floodplain Administrator shall notify the following entities of any alteration or relocation of a watercourse:

•Adjacent Communities, especially upstream and downstream
•Bordering States, if affected
•NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor
Boston, MA 02114
•NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

.04 with minor edits in Word doc

6. Drainage Requirements in AO and AH Zones

Before any activity that constitutes Development, New Construction, Substantial Improvement, Site Alterations or Subdivision (as those terms are defined herein) is commenced within Zones AO and AH on the FIRM, the Floodplain Administrator shall confirm that the work includes adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

.05

7. Recreational Vehicles

In A, A1-30, AO, AH, AE Zones, V1-30, VE, and V Zones, unless fully licensed and highway ready, all recreational vehicles on the site for 180 consecutive days or more shall be elevated and anchored in accordance with the zone's applicable Building Code requirements for foundation and elevation.	.05

8. Permit Requirements The Town/City of _____ requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or filling, grading, drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.	.12

Administration

1. Variances from Massachusetts Building Code Floodplain

Variances to the flood-resistant standards as found in the MA State Building Code may only be issued by the MA State Building Code Appeals Board.
Upon learning that an applicant intends to file for a variance from the State Building Code Appeals Board, the Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.
Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.
The Town/City will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

.09, but consider adjusting to this language

2. Variances from this local Floodplain Overlay District Bylaw

A variance from the provisions contained in this Floodplain Overlay Protection Bylaw may only be granted if the [insert name of the Board or Commission charged with enforcing the Floodplain Overlay Protection Bylaw/Ordinance] makes the following findings: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

.08

4. Enforcement

Violations of any section or provision of this Bylaw may be enforced by the institution of enforcement actions, either criminal or civil, either legal or equitable or both, or by fines of not more than three hundred (300) dollars for each offense. Each day that such offense continues shall constitute a separate offense.

Subdivision Requirements

1. Subdivisions within Floodplain Overlay District

All preliminary and definitive subdivision applications filed with the [insert name of City/Town] Planning Board for land located within the Floodplain Overlay District shall be reviewed by the Planning Board as part of its review under the Subdivision Control Law and the local [insert name of City/Town] Subdivision Regulations to assure that:
(a) Such proposals minimize flood damage;
(b) Public utilities and facilities are located and constructed so as to minimize flood damage; and
(c) Adequate drainage is provided. .05

2. Base Flood Elevation Data for Subdivision Proposals

When proposing subdivisions greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the proposed subdivision plans. .12

Defintions

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM.) An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:
(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
(1) By an approved state program as determined by the Secretary of the Interior or
(2) Directly by the Secretary of the Interior in states without approved programs.
[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:
(a) Built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck; and
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

Include relevant flood zones:

ZONE A means an area of special flood hazard without water surface elevations determined

ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)

ZONE V means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

ZONE V1-30 and ZONE VE (for new and revised maps) means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

Massachusetts Model Floodplain Bylaws 2020 version 2

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Section 1. Introduction

After years of devastation from flooding across the nation, Congress created the National Flood Insurance Act of 1968 in an attempt to offer flood disaster relief in the form of insurance. This insurance would be available to residents of communities that voluntarily adopt and enforce floodplain management ordinances that meet at least minimum National Flood Insurance Program (NFIP or the Program) requirements.

According to FEMA's Community Status Book, the first Massachusetts community to officially participate in the NFIP was the Town of Wareham, who joined the NFIP on May 28, 1971. Most other MA communities quickly followed suit in the 1970s and early 1980s. The State NFIP Coordinating Office was created by Executive Order of the Governor in 1978 and is housed under the Water Resources Commission in the Department of Conservation & Recreation's Flood Hazard Management Program.

This document has been prepared in order to assist NFIP communities in Massachusetts to understand the minimum requirements of the NFIP, and to assure that their local bylaws or ordinances contain the necessary and proper language for compliance with the Program.

The local floodplain overlay district is established as an overlay to all other districts. In Massachusetts, the floodplain overlay district bylaw or ordinance is part of a federal requirement for communities that choose to participate in the NFIP. However, the state already administers regulations that take care of many floodplain management requirements and concerns. Referencing existing regulations is important to ensure that projects have been reviewed under the appropriate state regulations and that variances to the conditions of the bylaw do not erroneously allow variances to state requirements.

All development in the floodplain overlay district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- 780 CMR- Massachusetts Statewide Building Code
- 310 CMR- Department of Environmental Protection Regulations

For those NFIP requirements that are not found in the above state regulations, the community must adopt these requirements in their bylaws (towns) or ordinances (cities.) The following section contains all NFIP requirements that must be adopted as local regulations, since they are not found in the above listed regulations.

Section 3 contains floodplain management definitions that FEMA Region I feels are critical for inclusion in local codes.

Section 4 of this document offers explanations to support local understanding of these requirements.

Section 2. Required Local Bylaws

For those National Flood Insurance Program minimum requirements that are not found in existing state law, the following articles must be adopted by the community as a part of their local bylaws or ordinances, if these are not already adopted. The suggested language in this section is compliant with the federal requirements.

1. Stated local purpose for flood resistant standards

The purpose of the Floodplain Overlay District is to:

1) Ensure public safety through reducing the threats to life and personal injury
2) Eliminate new hazards to emergency response officials
3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
5) Eliminate costs associated with the response and cleanup of flooding conditions
6) Reduce damage to public and private property resulting from flooding waters

2. Use of FEMA maps and supporting studies

A community must select the appropriate option as follows:

A. Bylaw text for communities with "Community-Based" FIRMs, FBFM and FIS

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the [Town or City]'s Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated [effective map dates on FIRM] and on the Flood Boundary & Floodway Map (if applicable) dated [FBFM effective date.] These maps indicate the 1%-chance regulatory floodplain. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated [FIS date.] The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other.]

OR

B. Bylaw text for communities with "Countywide" FIRMs and FIS

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within [Community Name] designated as Zone A, AE, AH, AO, A99, V, or VE on the [County Name] Flood Insurance Rate Map (FIRM) dated [FIRM date] issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the [County Name] Flood Insurance Study (FIS) report dated [FIS date]. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and [other].

3. Designation of community Floodplain Administrator

The Town/City of _____ hereby designates the position of _____ to be the official floodplain administrator for the Town/City.

4. Permits are required for all proposed development in the Floodplain Overlay District

The Town/City of _____ requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

5. Assure that all necessary permits are obtained

The town's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

6. Floodway encroachment

In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's/City's FIRM or Flood Boundary & Floodway Map (choose map which delineates floodways for your community) encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

7. Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

8. AO and AH zones drainage requirements *(if applicable in your community)*

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

9. Subdivision proposals

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

(a) Such proposals minimize flood damage.

(b) Public utilities and facilities are located & constructed so as to minimize flood damage.

(c) Adequate drainage is provided.

10. Base flood elevation data for subdivision proposals

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

11. Recreational vehicles

In A, A1-30, AH, AO, AE Zones, ~~V1-30~~, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

[Note – include all zones applicable to your community]

12. Protection of dunes *(if applicable in your community)*

Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

13. Watercourse alterations or relocations in riverine areas

In a riverine situation, the _____ (appropriate official in community) shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation
  ~~251 Causeway Street, 8th floor, Boston, MA 02114~~
- NFIP Program Specialist
  Federal Emergency Management Agency, Region I
  ~~99 High Street, 6th Floor, Boston, MA 02110~~

14. Requirement to submit new technical data

If the Town/City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town/City will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation
  ~~251 Causeway Street, 8th floor, Boston, MA 02114~~
- NFIP Program Specialist
  Federal Emergency Management Agency, Region I
  ~~99 High Street, 6th Floor, Boston, MA 02110~~

15. Variances to building code floodplain standards

CHOOSE THE APPROPRIATE OPTION:

A. If the State issues variances to the flood-resistant standards as found in the state building code, the community will use this text for local adoption:

The Town/City will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

B. Certain communities have the authority to issue variances to the state building code. If your community has this authority from the BBRS, you will use this text for local adoption:

Variances to floodplain development regulations shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

A written justification for the variance will be maintained in the Town's/City's building permit files, delineating the technical reason for the variance, and stating that the variance is the minimum necessary (considering the flood hazard) to afford relief.

The Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

16. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

17. Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

18. Disclaimer of liability

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

19. Severability section

If any section, provision or portion of this bylaw [ordinance] is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

20. Local Enforcement

This is not sample bylaw text, but rather an instruction:

Please read the explanation in Section 4 about the importance of being able to point to specific local enforcement procedures for non-compliant floodplain development.

Section 3. Definitions not found in the State Building Code

National Flood Insurance Program (NFIP) definitions are found in Title 44 of the Code of Federal Regulations, section 59.1. The definitions below refer to their source; if the definition is from the MA building code, it is from the 9th Edition, which meets the minimum standards of the NFIP.

In order for the bylaw or ordinance to be clearly understood, it is necessary to define technical terms or key words. An understanding of these terms is a prerequisite to effective administration of the floodplain management bylaw or ordinance.

Per FEMA Region I, these additional definitions must be included in local bylaws or ordinances.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.) *(if applicable in your community)*

FLOOD HAZARD BOUNDARY MAP (FHBM.) An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59] *(if applicable in your community)*

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:
(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
(1) By an approved state program as determined by the Secretary of the Interior or
(2) Directly by the Secretary of the Interior in states without approved programs.
[US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement*. [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:
(a) Built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck; and
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural

part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

ZONES, FLOOD – ***These definitions do not need to be included in local bylaws.***

Definitions of Flood Zones

The community shall use the pertinent definitions for flood zones delineated within the community. All of these terms are defined in the US Code of Federal Regulations, Title 44, Part 64.3.

ZONE A means an area of special flood hazard without water surface elevations determined

ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. *(Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)*

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. *(Zone X replaces Zones B and C on new and revised maps.)*

ZONE V means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

ZONE V1-30 and ZONE VE *(for new and revised maps)* means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

Section 4. Explanations

The requirements of the NFIP can be found in the US Code of Federal Regulations, Title 44 Emergency Management, generally in sections 59 through 75, although the requirements that most specifically address development in the floodplain are found in section 60.3. The highlighted bold italic type below states the requirement as found in the federal code and is followed by the code citation.

1. Stated local purpose for flood resistant standards

To justify the community's reasoning behind local floodplain overlay district zoning bylaws, the NFIP requires:

> ***A purpose section citing health, safety, and welfare reasons for adoption* [44 CFR 59.22(a)(1)]**

The statement of purpose should set forth the goals and objectives to be achieved through the bylaw or ordinance. In other words, the statement of purpose enumerates what the community intends to accomplish by enacting regulations. The underlying purpose of the floodplain management regulations is to protect the public health, safety, and general welfare and to minimize the harmful impacts of flooding upon the community

These stated purposes will be ever more critical as community liabilities increase due to climate changes and increased flooding/ flood damages. The community is responsible to assure that all development is implemented in a safe, healthy, and socially/economically acceptable manner.

2. Use of FEMA maps and supporting studies

For local adoption of current effective FEMA flood maps and Flood Insurance Studies (FIS), the NFIP requirements state:

> ***Adopt or reference correct Flood Insurance Rate Map (and where applicable, Flood Boundary Floodway Map) and date.* [44CFR 60.2(h)]**
>
> and
>
> ***Adopt or reference correct Flood Insurance Study and date. [44CFR 60.2(h)]***

FEMA guidance (publication #495) states:

"The basis of your community's floodplain management regulations is the flood hazard data FEMA provides. In support of the NFIP, FEMA identifies flood hazards nationwide and publishes and periodically updates flood hazard data. These data are provided to communities in the form of a Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report…"

and *"Each time FEMA provides your community with new or revised flood hazard data, you must either adopt new floodplain management regulations to incorporate the data into your ordinance or amend the existing ones to reference the new FIRM and FIS report."*

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the 1973 Act as amended. (Text from actual FEMA Letter of Final Determination.)

3. Designation of community Floodplain Administrator

Designate the official responsible to submit a report to the Federal Insurance Administrator concerning the community participation in the Program, including, but not limited to the development and implementation of floodplain management regulations. [44CFR 59.22 (b)]

The community must designate by title one person to act as the community's floodplain administrator (sometimes referred to as the FPA.). This is so that FEMA can use this information in their local contacts database, and so that this person can act on behalf of the community when implementing certain tasks under the National Flood Insurance Program. For example, the local FPA would sign the Community Acknowledgement Form when a property owner wishes to file for a Letter of Map Revision (LOMR).

The designation refers to a local staff position and can be anyone with the local authority to assure that the community is meeting its obligations as a participant in the National Flood Insurance Program. The FPA does not need to be someone who is directly involved in local development, but it should be someone who has at least a general concept of NFIP requirements and of the community's obligations under the Program. Typically, across the nation the FPA can be a building commissioner, town manager, town engineer, director of planning, environmental planner, etc.

Typical duties of an FPA include but are not limited to:

a) Understanding the regulations for development in the floodplain overlay district
b) Ensuring that permits are applied for when development of any kind is proposed in the floodplain overlay district

c) Involvement with the permit process and/or permit application review for development in the floodplain overlay district
d) Coordinating with other local departments such as public works, stormwater/ engineering, planning & zoning, conservation commission, or housing
e) Notifying adjacent communities prior to alteration of a watercourse
f) Dealing with compliance issues and enforcement actions such as correcting violations, or working with the appropriate local staff to correct violations
g) Maintaining records of floodplain development, and keeping FEMA current and historic maps available for public inspection

4. Permits are required for all proposed development in the Floodplain Overlay District

Require permits for all proposed construction and other developments including the placement of manufactured homes [44CFR 60.3(b)(1)]

NFIP requirements are focused on "development" in the floodplain. The NFIP definition of development is *"any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations."* [44CFR 59.1]

Most Massachusetts communities have long used building permits to review construction in their floodplain overlay district, and conservation commissions use several documents for review of other types of development, but the regulation of all development in a floodplain is essential so that flood risks are not increased either on the site or to adjacent or upstream/downstream properties.

Some communities use a 'Floodplain Development Review Form" in addition to the traditional building permit, so they can document the review of all activities in the floodplain such as filling and grading; excavation, mining and drilling, storage of materials or equipment, placement of recreational vehicles or temporary stream crossings, and the review of activities conducted by other agencies such as roads or bridges built by state or federal government.

In Massachusetts, the local conservation commission reviews many of the above-listed activities, but use of a floodplain development review form for all floodplain overlay district proposals ensures that nothing slips through the cracks. This NFIP permitting requirement is not prescriptive, but the documentation of some kind of permit or review process is mandatory for all floodplain development.

An additional benefit of documenting all floodplain development is that when a violation is discovered, the community can demonstrate that they did not approve the development as constructed, or that the developer did not come in for a full review of the development activity.

5. Assure that all necessary permits are obtained

Assure that all other State and Federal permits are obtained [44CFR 60.3(a)(2)]

While the community does not have to participate in the acquisition or review of all necessary state and federal permits for floodplain development, the community is obligated to assure that all necessary permits have been obtained by the proponent. The use of a checklist facilitates awareness for the proponent of which other permits must be obtained, generally prior to beginning the development project.

6. Floodway encroachment

310 CMR 10.57(4) General Performance Standards.
(a) Bordering Land Subject to Flooding.
1. Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding, when in the judgment of the issuing authority said loss will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows.

Compensatory storage shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream or creek.

2. Work within Bordering Land Subject to Flooding, including that work required to provide the above-specified compensatory storage, shall not restrict flows so as to cause an increase in flood stage or velocity.

This standard is found in the Wetlands Protection Act (WPA), and essentially means that there is no rise allowed in the elevation of the base flood anywhere in the entire floodplain. While an official certification is not required in floodways that are not regulated (shown on the FEMA map), for the intent of the WPA to be fulfilled the community must be sure that there will be no rise in the base flood elevation. If the area is located in an unnumbered A zone, a BFE must be determined before the development is designed, so that the "no rise" standard can be demonstrated.

Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase

in flood levels within the community during the occurrence of the base flood discharge. [44CFR 60.3(b)(6)]

Under federal NFIP requirements, the community must require certification from a registered professional that shows there will be no rise in the base flood elevation when development takes place in the regulated floodway. This cannot be accomplished by showing compensatory alone; the documentation must include a hydrologic and hydraulic (H&H) analysis.

7. Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review and reasonably utilize base flood elevation and floodway data available from available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways. [44CFR 60.3(b)(4)]

If the community has the engineering resources required to determine the base flood elevation in an unnumbered A zone, these resources can be used to meet this requirement. For those communities that do not have these resources, and even in communities that do, the permitting office can require that the proponent pay for resources to determine the base flood elevation when a development is being proposed. Historical records can be used, as well as any other data that reasonably indicates the 1% chance flood event. Two notes about this requirement:

a) FEMA does allow a "defacto" elevation of two (2) feet above the highest adjacent grade in cases where the BFE cannot be reasonably determined, but the 9th Edition of the Massachusetts building code requires an additional foot of freeboard. This means that the top of the lowest floor would have to be three (3) feet above the highest adjacent grade.

b) The 9th Edition of the MA building code allows communities to use preliminary FEMA maps once the Letter of Final Determination has been issued. These maps may indicate a BFE where none existed before, by virtue of the map update process.

8. AO and AH zones drainage requirements

In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [44CFR 60.3(c)(11)]

Guiding water away from the structure must also consider adjacent properties, where drainage cannot impact those lots or structures.

9. Subdivision proposals

Review subdivision proposals and development proposals to assure that:

(a) Such proposals minimize flood damage.
(b) Public utilities and facilities are located & constructed so as to minimize flood damage.
(c) Adequate drainage is provided.
[44CFR 60.3(a)(4) (I thru iii)]

10. Base flood elevation data for subdivision proposals

Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [44CFR 60.3(b)(3)]

If a subdivision fitting this size description is proposed in the floodplain overlay district where there are not already base flood elevations (BFEs) for each parcel, then the developer must provide BFEs for each parcel so that flood-resistant standards can be appropriately applied. The developer is responsible for providing the necessary technical data to support the base flood elevations shown on his/her design drawings.

11. Recreational vehicles

In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed and highway ready. [44CFR 60.3(c)(14)]

In V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less than 180 consecutive days or be fully licensed & highway ready. [44CFR 60.3(e)(9)]

"Fully licensed and highway ready" means that wheels must be inflated; the vehicle must be self-propelled or towable by a light-duty truck; have no attached deck, porch or shed; and have quick-disconnect sewage, water and electrical connections. In other

words, the vehicle must be ready to relocate immediately upon notification of the possibility of flooding in the area.

12. Protection of dunes

Prohibit alteration of sand dunes which would increase potential flood damage. [44CFR 60.3(e)(7)]

13. Watercourse alterations or relocations in riverine areas

In riverine areas, notify neighboring communities of watercourse alterations or relocations. [44CFR 60.3(b)(6)]

Neighboring communities (and possibly a neighboring state) need to know in advance if the alteration or relocation of a watercourse might change their floodplain or flood risk. Send plans for this development to the CEOs of those communities, as well as to the Massachusetts NFIP State Coordinator and to the FEMA Regional Office.

14. Requirement to submit new technical data

Within 6 months, notify FEMA of changes in the base flood elevation by submitting technical or scientific data so insurance & floodplain management can be based on current data. [44CFR 65.3]

Many development changes to the floodplain will trigger the requirement to file a Letter of Map Revision or other type of Letter of Map Change. When the development does not trigger the LOMC requirement but impacts the heights or extents of the base flood (usually to lower the risk), FEMA should be notified that a change was made so that in future map studies/updates this can be adequately addressed.

15. Variances to building code floodplain standards

44CFR 60.6(a)(3-6):

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section.

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance

Because a variance can lead to an increased risk to life and property, variances from flood elevation requirements or other floodplain management requirements should be granted only rarely. Variances for floodplain development regulations must show that:

- Good and sufficient cause and exceptional hardship exist;
- The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- The variance is the minimum action necessary to afford relief.

In Massachusetts, typically the State Building Code Appeals Board issues a variance to the state building code, unless your community is one of those approved by BBRS for local variance authority. When a local building official's interpretation of the flood-resistant standards under the building code are contested through the appeal process, the community must keep written documentation of both:

a. the justification for local decision to deny the permit, and

b. the results of the state's appeal/variance hearing (either in agreement with the local community, or having granted the variance through appeal.)

The community must also send a letter to the property owner stating that the implications of this variance may adversely impact the cost of the flood insurance policy covering the structure.

A FEMA suggestion for language to be used in such a letter is as follows:

"The granting of this variance may result in increased flood insurance premium rates, up to $25 per $100 of coverage, and such construction below the base flood level increases risks to life and property."

The justification for the variance (or the denial of the variance) and the community letter must be maintained as documentation that these actions were taken.

16. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

Please note: This section addresses local Zoning Board variances only, and applies only when other variance procedures (such as those under the state building code) do not cover the variance request.

§60.6 Variances and exceptions. Excerpts:

(a) The Federal Insurance Administrator does not set forth absolute criteria for granting variances from the criteria set forth in §§60.3, 60.4, and 60.5. The issuance of a variance is for flood plain management purposes only.

The community, after examining the applicant's hardships, shall approve or disapprove a request.

The Federal Insurance Administrator may review a community's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound flood plain management, the Federal Insurance Administrator may take appropriate action under §59.24(b) of this subchapter.

Procedures for the granting of variances by a community are as follows:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

(5) A community shall notify the applicant in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (a)(6) of this section; and

(6) A community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

(7) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

For further information, see FEMA publication P-993, "Variances & the National Flood Insurance Program."

From the State NFIP Coordinating Office: For all variances to floodplain development regulations, the community must maintain documentation that includes the variance request; determinations made by the entity granting the request that the three criterium listed above have been met; a copy of the letter to the property owner

regarding possible insurance premium impacts; and that all appropriate flood protection and hazard mitigation measures were taken where applicable and possible, as specifically described in the variance file.

17. Abrogation and greater restriction section

The community must provide that floodplain management regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. [44CFR 60.1(b)]

This is a legal provision that specifies that the floodplain management bylaw, ordinance, regulations, and building codes take precedence over less restrictive requirements.

18. Disclaimer of liability

The community must state that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

19. Severability section

If any section, provision or portion of the ordinance is deemed unconstitutional or invalid by a court, the remainder of the ordinance shall still be effective.

20. Local Enforcement

The NFIP requires that the floodplain management ordinance be legally enforceable and enforced uniformly throughout the community. [44 CFR 60.1(b)]

Sample bylaw language has not been offered regarding local enforcement of flood-resistant and flood reduction standards because enforcement is typically already addressed elsewhere in codes that are locally enforced.

As a part of implementing the NFIP in a local community, however, FEMA will need to know how the community enforces these regulations and standards. Each NFIP community should be prepared to answer the following questions:

1. How do you enforce the building code in your community? What specific actions are taken, and how are these actions documented? What penalties are specified? *[Definitions and regulations related to building code enforcement are found in*

CMR 780 Chapter 1 Sections 114 and 115, which refer to M.G.L. c. 143, c. 148, and M.G.L. c. 148A, and specifically M.G.L. c. 143, section 94(a.)]

2. How do you enforce the Wetlands Protection Act? What actions and documentation exist to prove that enforcement was implemented? *[Enforcement regulations related to the Wetlands Protection Act are found in 310 CMR section 10.08.]*

3. How are other NFIP floodplain development requirements enforced, such as fencing that increases flood risk, the placement of recreational vehicles in the floodplain, re-grading of large commercial properties, construction of agricultural structures, placement of tanks, pools, temporary construction offices, etc.?

FEMA will expect to hear about a rigorous enforcement program that includes specific actions taken by the community for non-compliant floodplain development. Enforcement provisions establish the responsibilities of persons, enforcement authority, what makes a violation, notice of violation, stop work and other orders, and citation and penalties for violations. These penalties may include fines and/or jail sentences.

Explanations for Definitions found in Section 3

Development. FEMA's minimum standards for the NFIP require review of, and possibly permitting for all activities defined as development within the Special Flood Hazard Area (SFHA.) Some of these activities might not normally require permitting under existing state or local regulations, and not all of these activities might be reviewed by the building department in a community.

Flood Boundary & Floodway Map. Some communities with older mapping (typically 1987 and prior) have two sets of flood maps, the familiar Flood Insurance Rate Map (FIRM) and the Flood Boundary & Floodway Map (FBFM). The floodway is delineated only on the FBFM. Communities with a FBFM must include it in the district definition in order to enforce floodway standards.

Flood Hazard Boundary Map. Communities with very old mapping (usually prior to 1980) might have a Flood Hazard Boundary Map (FHBM). This map must be referenced in the community's floodplain district definition. In most cases the FHBM has been converted to a FIRM by letter but the map will still say "Flood Hazard Boundary Map."

Floodway, Regulatory Floodway. The floodway, or regulatory floodway, is established by regulation and through hydraulic analysis. It is not a natural, physical feature of the watercourse. It is part of the 100-year floodplain but has specific requirements that exceed those in the floodplain fringe (the rest of the floodplain). The NFIP standards for floodway encroachments (for example including no-rise analysis) are not in state regulations.

Functionally dependent use. This term is used in the evaluation of variances to floodplain management standards. Sometimes variances can be issued for functionally dependent uses.

Highest adjacent grade. In an AO zone, the base flood elevation is determined by adding the depth indicated on the FIRM to the highest adjacent grade, or two feet if no depth is indicated (and if no alternative floodplain analysis is conducted and applied.)

Historic structure. NFIP standards for substantial improvement include an exception for structures that are identified as historic structures. Only those structures meeting this definition are eligible for this exception.

New construction. NFIP minimum standards apply to all new construction, which includes improvements to structures defined as new construction. as follows: (1) new construction, including subsequent work to such structures, and (2) work classified as

substantial improvement of an existing structure that is not an historic structure. [ASCE 24-14]

Recreational vehicle. NFIP elevation standards can sometimes apply to these vehicles when they are placed in the SFHA.

Special Flood Hazard Area (SFHA). The flood-prone areas on the FEMA maps (and subsequently adopted in a community's Floodplain Overlay District) where NFIP minimum standards apply. within special flood hazard areas.

Start of construction. Knowing the start of construction, as defined, can sometimes determine which version of a FIRM or regulation is used in situations where the FIRM or the regulation has been or is being updated.

Structure. NFIP minimum standards apply to all structures meeting this definition.

Substantial Repair of a Foundation. This is a Massachusetts unique definition included in the 9th Edition Building Code. It is important to be familiar with this definition as Building Code standards will apply.

Variance. It is important to understand the term in order to properly administer, consider and potentially issue variances. Note that variances are not the same as (and shouldn't be confused with) similar terms and/or processes such as special permits, exceptions or exemptions. Variances to standards enforced under state regulations must be administered through the proper state authority.

Violation. Violations can affect the community's standing in the NFIP and will likely result in higher flood insurance premiums. Violations can also prevent a community from entering participating in the Community Rating System.



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VINEYARD HAVEN
OCT 16 2025
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MA 02568

9589 0710 5270 2341 2674 91

Sent To: Brittany Bagley Trustee 3136.1
Street and Apt. No., or PO Box No.: 3030 Pacific Ave
City, State, ZIP+4®: San Francisco CA 94115

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

From:	Rose THE Goddess
To:	Alycelee Pigman
Cc:	Hillary Conklin; Sean Young; Josh Bagley; Jessamyn Bagley; Brittany Bagley
Subject:	Re: Bagley
Date:	Wednesday, October 29, 2025 9:39:16 AM
Attachments:	1969_Path.png



Dear Alycelee,

Thank you for sending the file and for your quick response.

I see there is no formal complaint — only a routine site visit note. That's very helpful.

To clarify: The mowed path from 30 Ashton's Way to the beach has been maintained in the same location and width for over 40 years. I've attached a 1969 aerial photo (from Historic Aerials) showing the path clearly predates the 1972 Wetlands Protection Act.

I'm happy to file a **Request for Determination of Applicability (RDA)** to formalize this grandfathered use, if needed. Please let me know if you'd like me to submit one.

Thank you again,

Rose Bagley 30 Ashton's Way (summer resident) 123 Derby Rd, Melrose, MA 02176 781-475-9518 rbagley123@gmail.com

On Wed, Oct 29, 2025 at 8:10 AM Alycelee Pigman <apigman@tisburyma.gov> wrote:

> Dear Rose Bagley,
>
> Attached is the requested information regarding the salt marsh mowing at 30 Ashton Way.
>
> Feel free to call or email with any questions.
>
> Regards,
>
> Alycelee Pigman
>
> ZBA and ConCom Assistant
>
> PO Box 1239
>
> Vineyard Haven, MA 02568
>
> 508-696-4260

From: Hillary Conklin <hconklin@tisburyma.gov>
Sent: Tuesday, October 28, 2025 2:17 PM
To: Alycelee Pigman <apigman@tisburyma.gov>
Subject: Bagley

> Thanks!!
>
> J. Hillary Conklin
>
> Tisbury Town Clerk

hconklin@tisburyma.gov

PO Box 606

51 Spring St.

Vineyard Haven, MA 02568

508-696-4215 p

508-693-5876 f

From: Rose Bagley via Town of Tisbury MA <cmsmailer@civicplus.com>
Sent: Tuesday, October 28, 2025 11:09 AM
To: Hillary Conklin <hconklin@tisburyma.gov>
Subject: Form submission from: Submit Public Records Request

Submitted on Tuesday, October 28, 2025 - 11:09am

Submitted values are:

==Request Information==
Date of Request: October 28, 2025
Description of Materials Sought: All files related to the salt marsh mowing complaint at/near 30 Ashton's Way, Wilfred's Pond, including original report, photos, site visits, and enforcement status
Options:
Other or Additional Information:

==Requester's Information==
Name of Requestor: Rose Bagley
Firm or Company:
Mailing Address: 123 Derby Rd
City: Melrose
State: MA
Zip Code: 02176
Phone: 7814759518
Fax Number:
E-mail address: rbagley123@gmail.com

The results of this submission may be viewed at:
https://www.tisburyma.gov/node/8663/submission/10306

--
No, No Thank YOU!
Goddess Rose
Great Granddaughter of the Light....

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 9 – Enforcement Order

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

A. Violation Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.





This Enforcement Order is issued by:

TISBURY
Conservation Commission (Issuing Authority)

10/14/2025
Date

To:

BAGLEY BRITTANY TRUSTEE
Name of Violator

3030 PACIFICE AVE SAN FRANCISCO, CA 94115
Address

1. Location of Violation:

Property Owner (if different)

30 ASHTON WY
Street Address

TISBURY
City/Town

02568
Zip Code

31/B/6.1
Assessors Map/Plat Number

31/B/6.1
Parcel/Lot Number

2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

SEE ATTACHED PAGE: 5-10

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

☒ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

B. Findings (cont.)

☐ the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Name _____ Dated _____

File Number _____ Condition number(s) _____

☐ The Order of Conditions expired on (date): _____ Date

☐ The activity violates provisions of the Certificate of Compliance.

☐ The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

☐ Other (specify):

C. Order

The issuing authority hereby orders the following (check all that apply):

☒ The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.

☐ Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

☐ A restoration plan shall be filed with the issuing authority on or before _____ Date

for the following:

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.

C. Order (cont.)

☐ Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

☐ The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Sean Young
Name

5086964280 syoung@tisburyma.gov
Phone Number

M-T-F 8/4
Hours/Days Available

Issued by:

TISBURY
Conservation Commission

Conservation Commission signatures required on following page.

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

TISBURY

Signatures:

Signature	Printed Name
John D. Best	JOAN D. BEST
Thomas Robinson	Thomas Robinson
Nancy Weaver	Nancy Weaver
Sarah Toste	Sarah Toste

Signature of delivery person or certified mail number

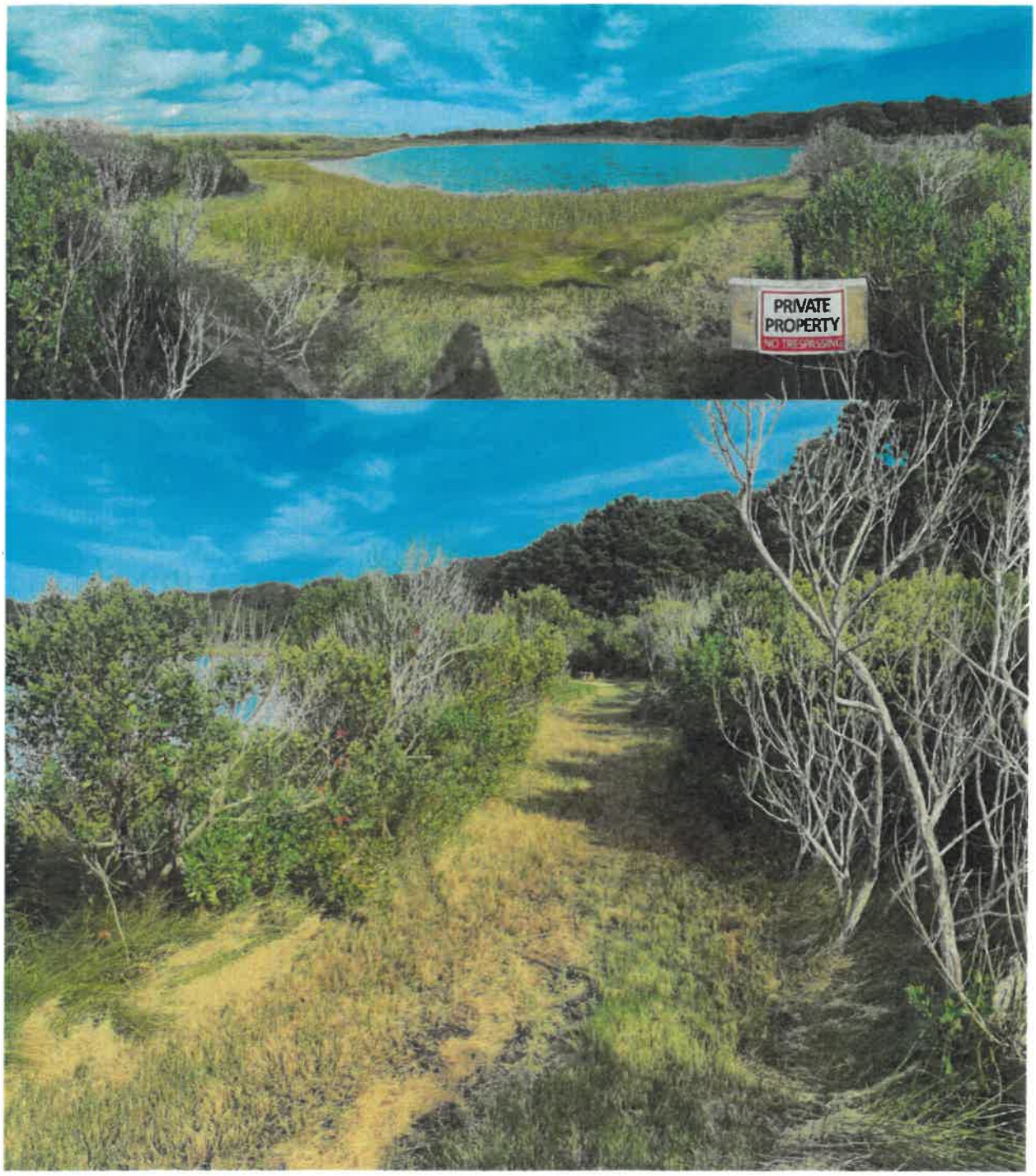
Clearing and mowing of vegetation within a bordering vegetated wetland (BVW) and along the edge of a coastal pond, both protected resource areas under 310 CMR 10.55 and 310 CMR 10.32, respectively. The activity extends through marsh vegetation from the upland edge and continues along approximately one-quarter to one-half of the pond's perimeter and portions of the property's wetland boundary. Vegetation, including shrubs and marsh grasses, has been cut to ground level. Evidence of machine access is present, indicating disturbance and compaction of wetland soils along the cleared path and around the property perimeter.

These activities constitute alteration of wetland resource areas and associated buffer zones without authorization under M.G.L. c. 131 § 40 and 310 CMR 10.02(2)(a), which prohibit removal, filling, dredging, or alteration of wetlands without a valid Order of Conditions or other approval from the Conservation Commission.

31B6.1 30 Ashton

Someone reported to me salt marsh mowing at Wilfred's Pond.
I went and looked and took these photos.
It appears to be on Bagley's property, connecting to Atwood's.
Nancy




PRIVATE
PROPERTY
NO TRESPASSING




PRIVATE
PROPERTY


PRIVATE
PROPERTY
NO TRESPASSING

Someone reported to me salt marsh mowing at Wilfred's Pond.
I went and looked and took these photos.
It appears to be on Bagley's property, connecting to Atwood's.
Nancy




PRIVATE
PROPERTY
NO TRESPASSING






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SOURATI
engineering group LLC

www.souratigroup.com

Martha's Vineyard Office
107 Beach Rd., Suite 202
P.O. Box 4458, Vineyard Haven, MA 02568
Phone: 508-693-9933, Fax: 508-693-4933

Nantucket Office:
35 Old South Road, Nantucket, MA 02554
Phone: 508-228-7888, Fax: 508-228-5511

January 7, 2026

Tisbury Conservation Commission
PO Box 1239
Vineyard Haven, MA 02568

RE: Request for Certificate of Compliance
DEP File #SE74-882 - Elevated Boardwalk
Hines Point Realty LLC
44 Hines Point Road, Assessor's Map 11-A, Parcel 11
Tisbury, MA 02568

Dear Commissioners,

Enclosed please find a Request for Certificate of Compliance for the above referenced project. Also attached is an As-built Site Plan dated October 3, 2025.

The construction of the elevated boardwalk was completed in general compliance with the Site Plan approved by the Conservation Commission, with the following exceptions:

- The seaward portion of the boardwalk located above the Salt Marsh was elevated, eliminating the one-step transition shown on the approved Site Plan*
- The seasonal stairs were installed perpendicular to the boardwalk, instead of at the end*
- The boardwalk extends approximately 1.7' further into Lagoon Pond than the boardwalk and stairs shown on the approved Site Plan*

*The above changes to the boardwalk were made in response to comments received during permitting of the project with the US Army Corps of Engineers.

Enclosed documents:

- WPA Form 8A – Request for Certificate of Compliance
- Filing Fee Check #22741 in the amount of $100.00
- Photographs of the Boardwalk
- Order of Conditions SE74-882, Book 1513 Page 471
- Extension Permit for Order of Conditions SE74-882, Book 1645 Page 799
- As-Built Site Plan dated October 3, 2025, prepared by Sourati Engineering Group, LLC
- Conservation Commission Site Plan, revision date August 28, 2019, prepared by Sourati Engineering Group, LLC, (Con Com approved Site Plan)
- US Army Corps Plans dated November 10, 2022, prepared by Sourati Engineering Group, LLC (USACE approved Plans)

Please contact me if you have any questions.

Sincerely,

Charles R. Gilstad

Charles R. Gilstad, P.L.S.

SEG #102046

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 8A – Request for Certificate of Compliance

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

SE74-882
Provided by DEP

A. Project Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.





1. This request is being made by:

Hines Point Realty LLC c/o Sourati Engineering Group, LLC
Name

PO Box 4458
Mailing Address

Vineyard Haven | MA | 02568
City/Town | State | Zip Code

(508) 693-9933
Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

Hines Point Realty LLC
Applicant

November 10, 2019 | SE74-882
Dated | DEP File Number

Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

3. The project site is located at:

44 Hines Point | Tisbury
Street Address | City/Town

11-A | 11
Assessors Map/Plat Number | Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

Property Owner (if different)

Dukes | 1513 | 471
County | Book | Page

Certificate (if registered land)

5. This request is for certification that (check one):

☒ the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

☐ the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

☐ the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.

A. Project Information (cont.)

6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

   ☒ Yes — If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order.

   ☐ No

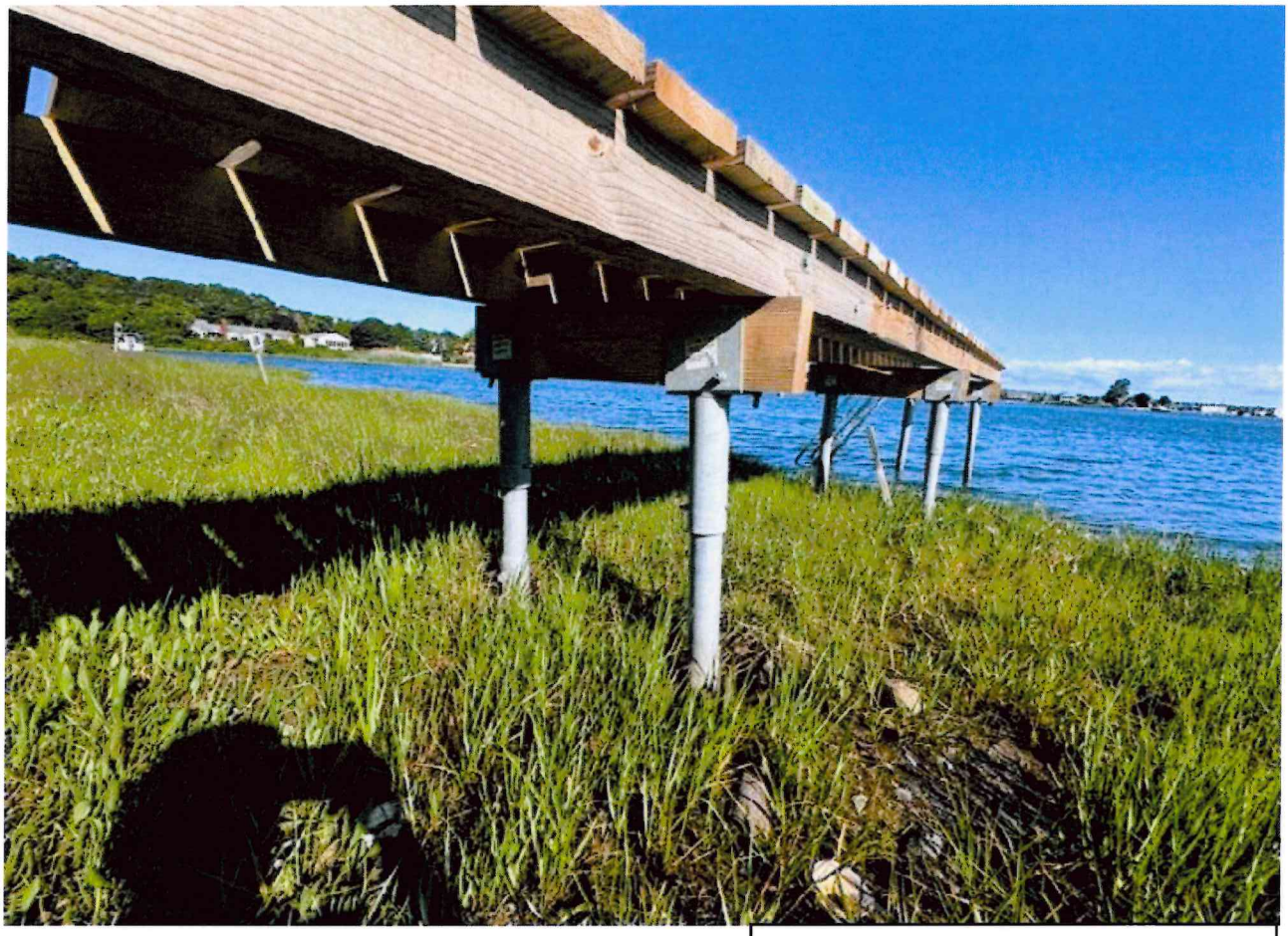
B. Submittal Requirements

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html).





102046 Photographs (Page 1 of 2)
Hines Point Realty LLC
44 Hines Point, Map 11-A, Parcel 11
Tisbury, MA 02568



102046 Photographs (Page 2 of 2)
Hines Point Realty LLC
44 Hines Point, Map 11-A, Parcel 11
Tisbury, MA 02568

2019 00007018
Bk: 1513 Pg: 471 Doc: ORD
Page: 1 of 13 11/26/2019 02:53 PM

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
74-882
MassDEP File #

eDEP Transaction #

Tisbury
City/Town

A. General Information

Please note: this form has been modified with added space to accommodate the Registry of Deeds Requirements

1. From: Tisbury
Conservation Commission

2. This issuance is for (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.

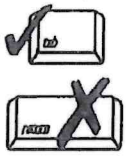
a. First Name | b. Last Name

Hines Point Realty LLC
c. Organization

452 Wilbur Avenue
d. Mailing Address

Swansea | MA | 02777
e. City/Town | f. State | g. Zip Code

4. Property Owner (if different from applicant):



a. First Name | b. Last Name

c. Organization

d. Mailing Address

e. City/Town | f. State | g. Zip Code

5. Project Location:

44 Hines Point Road
a. Street Address

Tisbury
b. City/Town

11-A
c. Assessors Map/Plat Number

11
d. Parcel/Lot Number

Latitude and Longitude, if known: d m s
d. Latitude

d m s
e. Longitude

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP: 74-882
MassDEP File #

eDEP Transaction #

Tisbury
City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Dukes
a. County

b. Certificate Number (If registered land)

1478
c. Book

529
d. Page

7. Dates: 7/29/19 (a. Date Notice of Intent Filed) 9/17/19 (b. Date Public Hearing Closed) 11/10/19 (c. Date of Issuance)

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Site plan
a. Plan Title

Sourati Engineering Group
b. Prepared By

Charles Gilstad, PLS
c. Signed and Stamped by

8/28/19
d. Final Revision Date

e. Scale

USGS Locus
f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

a. ☐ Public Water Supply
b. ☑ Land Containing Shellfish
c. ☐ Prevention of Pollution
d. ☐ Private Water Supply
e. ☑ Fisheries
f. ☑ Protection of Wildlife Habitat
g. ☐ Groundwater Supply
h. ☑ Storm Damage Prevention
i. ☐ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
74-882
MassDEP File #

eDEP Transaction #

Tisbury
City/Town

B. Findings (cont.)

Denied because:

b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**

c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. ☐ Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. ☐ Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. ☐ Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. ☐ Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. ☐ Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. ☐ Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
74-882
MassDEP File #

eDEP Transaction #

Tisbury
City/Town

B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. ☐ Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. ☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. ☐ Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. ☐ Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. ☐ Coastal Banks	a. linear feet	b. linear feet		
16. ☐ Rocky Intertidal Shores	a. square feet	b. square feet		
17. ☐ Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. ☐ Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. ☐ Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. ☐ Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. ☐ Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
74-882
MassDEP File #

eDEP Transaction #

Tisbury
City/Town

B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. ☐ Restoration/Enhancement *:

a. square feet of BVW _____ b. square feet of salt marsh _____

23. ☐ Stream Crossing(s):

a. number of new stream crossings _____ b. number of replacement stream crossings _____

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
   a. the work is a maintenance dredging project as provided for in the Act; or
   b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
74-882
MassDEP File #

eDEP Transaction #

Tisbury
City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.

10. A sign shall be displayed at the site not less then two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]

"File Number 74-882 "

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.

12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.

13. The work shall conform to the plans and special conditions referenced in this order.

14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.

15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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Tisbury
City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project") is** (1) ☐ **is not** (2) ☑ **subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement) for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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Tisbury
City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
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Tisbury
City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☑ Yes ☐ No
2. The Tisbury Conservation Commission hereby finds (check one that applies):
   a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

      1. Municipal Ordinance or Bylaw | 2. Citation

      Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

   b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

      1. Municipal Ordinance or Bylaw | 2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
   The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

ATTACHMENT FOR ORDER OF CONDITIONS FOR
HINES PONT REALTY LLC
DEP #74-882

18. Prior to any work on the applicants agent and the person (s) performing the work and the Commission's Agent shall hold an on site meeting to review the project.

19. The stairs may not have solid wood risers.

20. The stairs on the water end of the pier shall be removed off season. The stairs may not touch the bottom of the pond except for in extreme tides in the Lagoon.

21. Lighting and utilities have not been applied for and therefore, may not be installed without approval from the Commission.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
74-~~865~~ 882
MassDEP File #

eDEP Transaction #

Tisbury
City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of Issuance.

11/10/19
1. Date of Issuance

Please indicate the number of members who will sign this form.
This Order must be signed by a majority of the Conservation Commission.

5
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

☒ by hand delivery on 11/10/19
Date

☐ by certified mail, return receipt requested, on
Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
74-882
MassDEP File #

eDEP Transaction #

Tisbury
City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

TISBURY
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

TISBURY
Conservation Commission

Please be advised that the Order of Conditions for the Project at:

44 HINES POINT ROAD
Project Location

SE# 74-0882
MassDEP File Number

Has been recorded at the Registry of Deeds of:

COUNTY OF DUKES COUNTY
County

1513
Book

417
Page

for: HINES POINT REALTY LLC
Property Owner

and has been noted in the chain of title of the affected property in:

1478
Book

529
Page

In accordance with the Order of Conditions issued on:

10 NOVEMBER 2019
Date

If recorded land, the instrument number identifying this transaction is:

2019 00007018
Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

SOURATI ENGINEERING GROUP, LLC
Signature of Applicant

ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds

2023 00000075
Bk: 1645 Pg: 799 Doc: EXT
Page: 1 of 3 01/05/2023 03:22 PM

DEP File Number:

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 7 – Extension Permit for Orders of Conditions

SE74-882 (Provided by DEP)

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.

1. Applicant:

Hines Point Realty LLC c/o Sourati Engineering Group LLC
Name

PO Box 4458
Mailing Address

Vineyard Haven | MA | 02568
City/Town | State | Zip Code

2. Property Owner (if different):

Name

Mailing Address

City/Town | State | Zip Code

B. Authorization

The Order of Conditions (or Extension Permit) issued to the applicant or property owner listed above on:

11-10-2019 (Date) Issued by: Tisbury (Conservation Commission)

for work at: 44 Hines Point Road (Street Address) | 11-A (Assessor's Map/Plat Number) | 11 (Parcel/Lot Number)

recorded at the Registry of Deeds for:

Dukes (County) | ~~1478~~ 1513 (Book) | ~~529~~ 471 (Page)

Certificate (if registered land)

is hereby extended until: 11/10/25 (Date) | Date the Order was last extended (if applicable)

This date can be no more than 3 years from the expiration date of the Order of Conditions or the latest extension. Only unexpired Orders of Conditions or Extension may be extended.

This Extension Permit must be signed by a majority of the Conservation Commission and a copy sent to the applicant and the appropriate DEP Regional Office (https://www.mass.gov/service-details/massdep-regional-offices-by-community).

B. Authorization (cont.)

Issue Date (mm/dd/yyyy)

Signatures	Printed Name
	Thomas Robinson
	CAROLINE LITTLE
	Lilian Robinson
	Nancy Weaver

C. Recording Confirmation

The applicant shall record this document in accordance with General Condition 8 of the Order of Conditions (see below), complete the form attached to this Extension Permit, have it stamped by the Registry of Deeds, and return it to the Conservation Commission.

Note: General Condition 8 of the Order of Conditions requires the applicant, prior to commencement of work, to record the final Order (or in this case, the Extension Permit for the Order of Conditions) in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, it shall be noted in the Registry's Granter Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, it shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done.

Detach this page and submit it to the Conservation Commission prior to the expiration of the Order of Conditions subject to this Extension Permit.

To:

_____
Conservation Commission

Please be advised that the Extension Permit to the Order of Conditions for the project at:

_____ _____
Project Location DEP File Number

has been recorded at the Registry of Deeds of:

_____
County

for:

_____
Property Owner

and has been noted in the chain of title of the affected property in accordance with General Condition 8 of the original Order of Conditions on:

_____ _____ _____
Date Book Page

If recorded land the instrument number which identifies this transaction is:

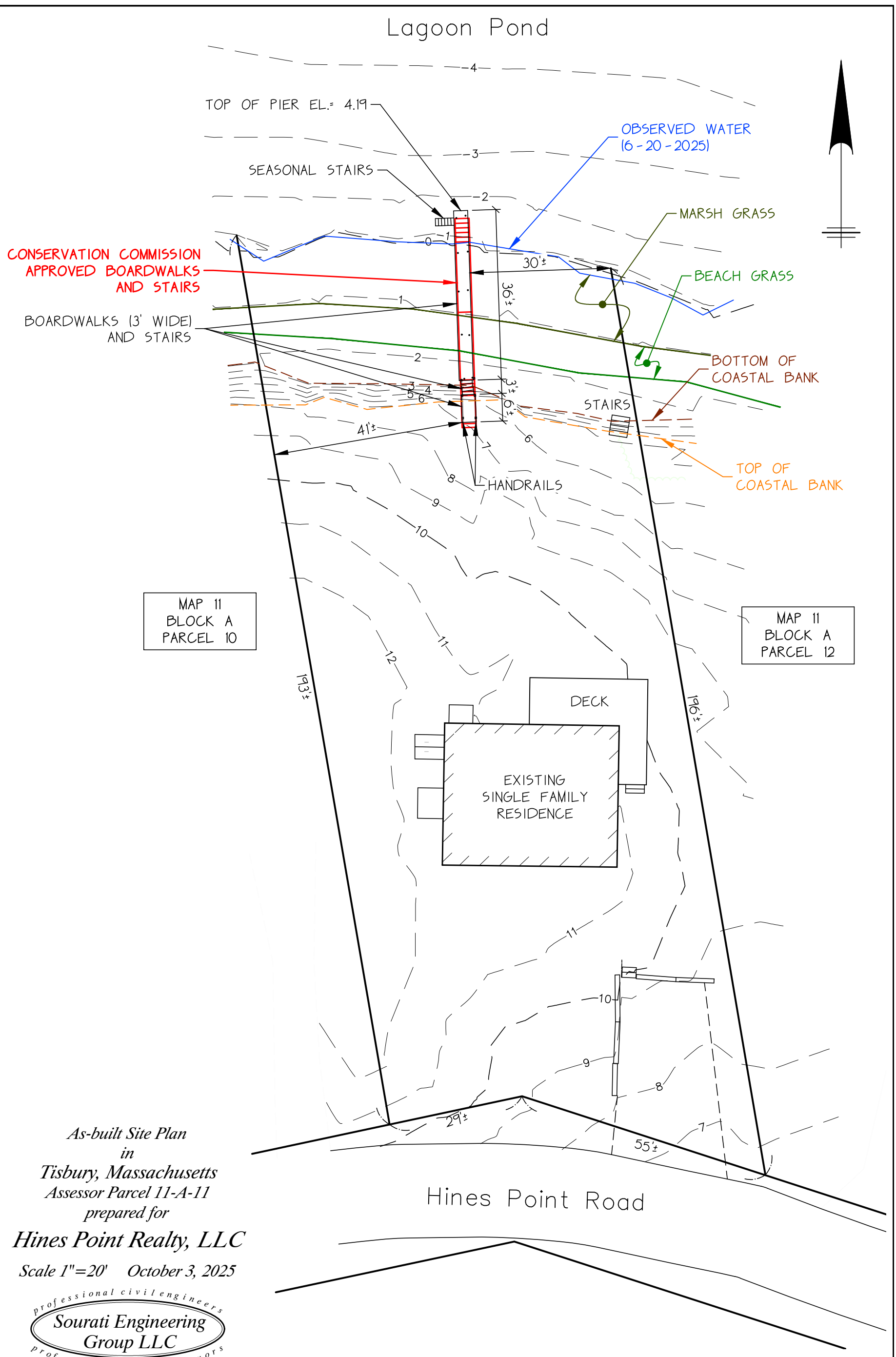
_____
Instrument Number

If registered land, the document number which identifies this transaction is:

_____
Document Number

_____
Signature of Applicant

ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds



As-built Site Plan
in
Tisbury, Massachusetts
Assessor Parcel 11-A-11
prepared for

Hines Point Realty, LLC

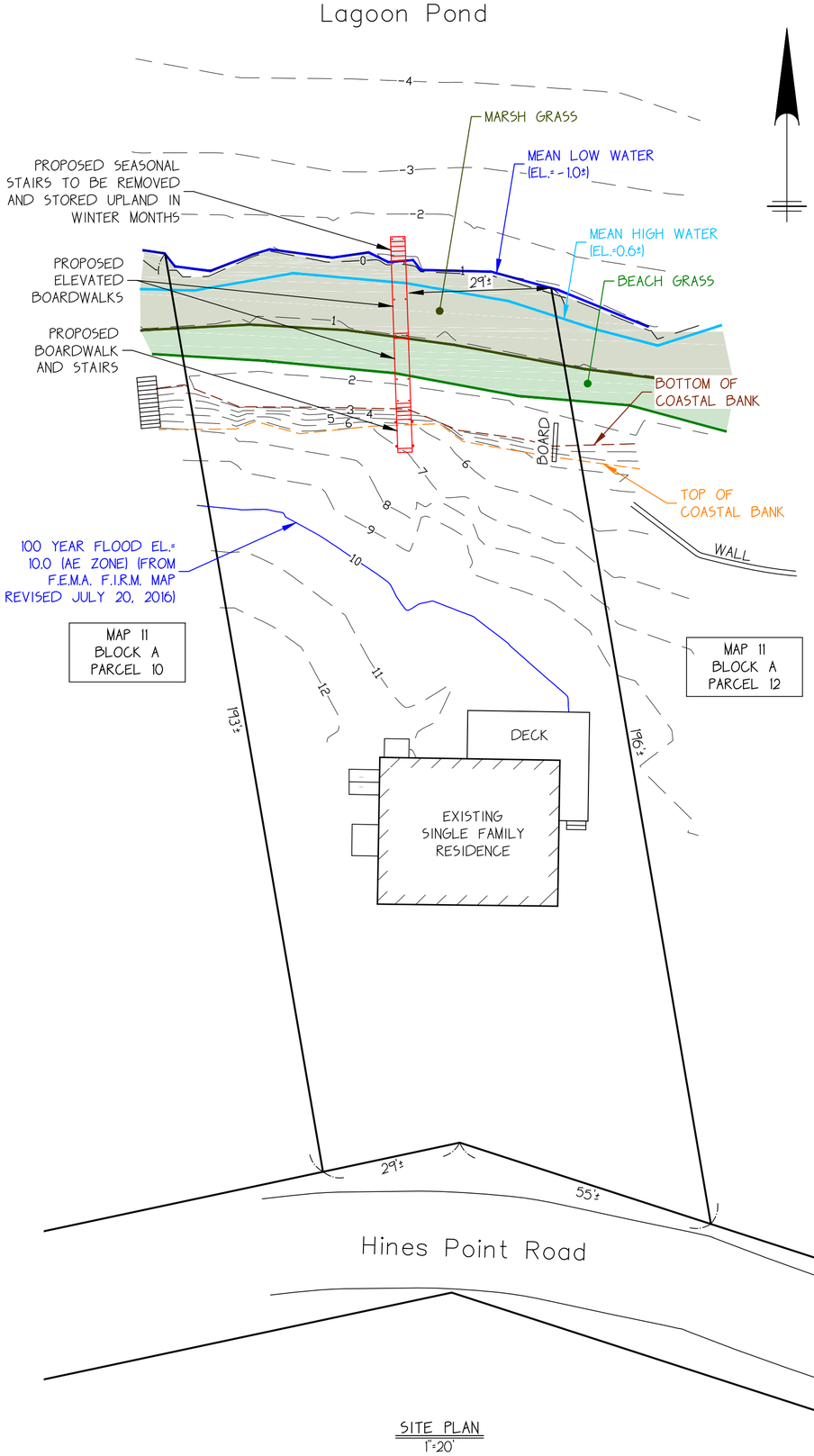
Scale 1"=20' October 3, 2025

professional civil engineers
Sourati Engineering Group LLC
professional land surveyors

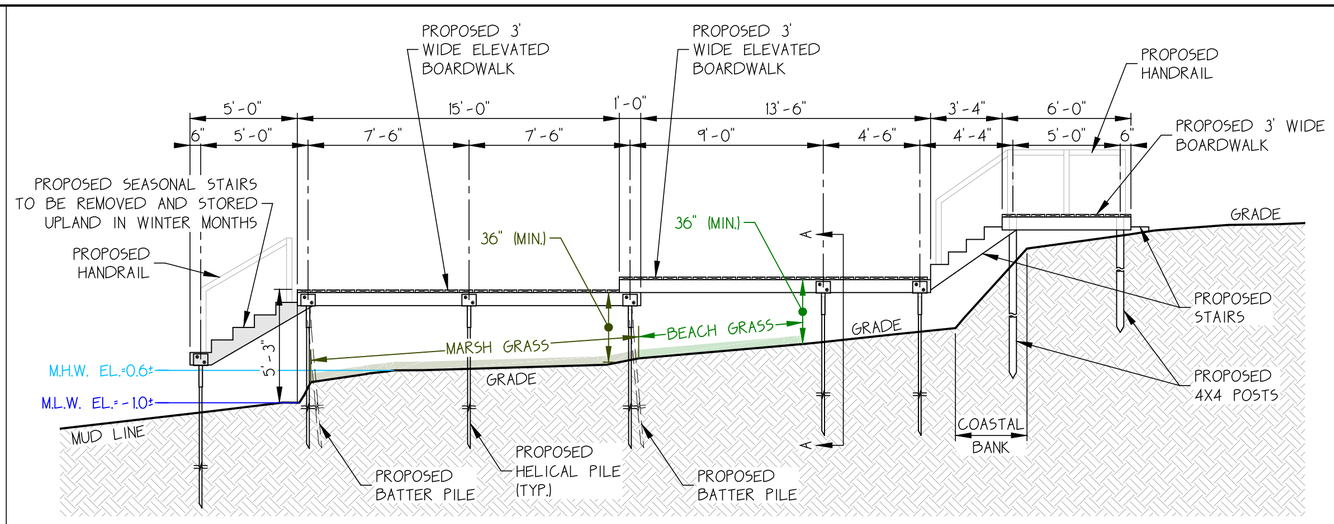
P.O. Box 4458
107 Beach Road, Suite 202
Vineyard Haven, MA 02568
Phone (508) 693-9933 souratigroup.com

NOTES:
1. LOT AREA: 14,780± SQ. FT.
2. DATUM: NAVD88.

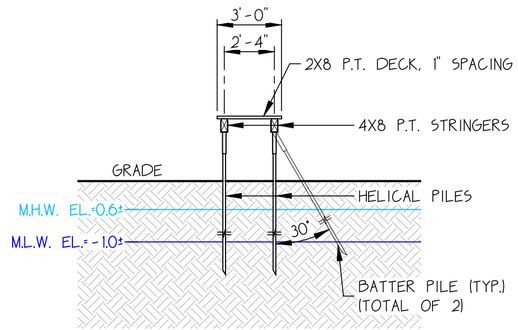
Job No. 102046



SITE PLAN
1"=20'



PROFILE
1"=5'



TYPICAL BOARDWALK SECTION A-A
1"=5'

NOTES:
1. LOT AREA: 14,780± SQ. FT.
2. DATUM: NAVD88.

Conservation Commission Site Plan
in
Tisbury, Massachusetts
Assessor Parcel 11-A-11
prepared for

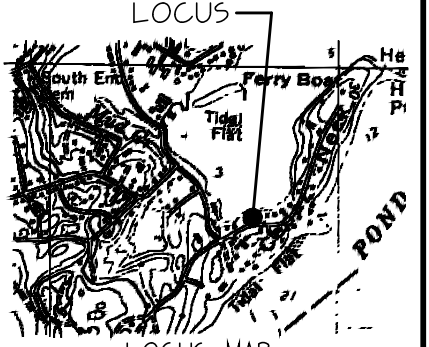
Hines Point Realty, LLC

Scale: As Shown July 11, 2019
Revision Date August 28, 2019

professional civil engineers
Sourati Engineering Group
professional land surveyors

P.O. Box 4458
107 Beach Road, Suite 202
Vineyard Haven, MA 02568
Phone (508) 693-9933 Fax (508) 693-4933

Job No. 102046

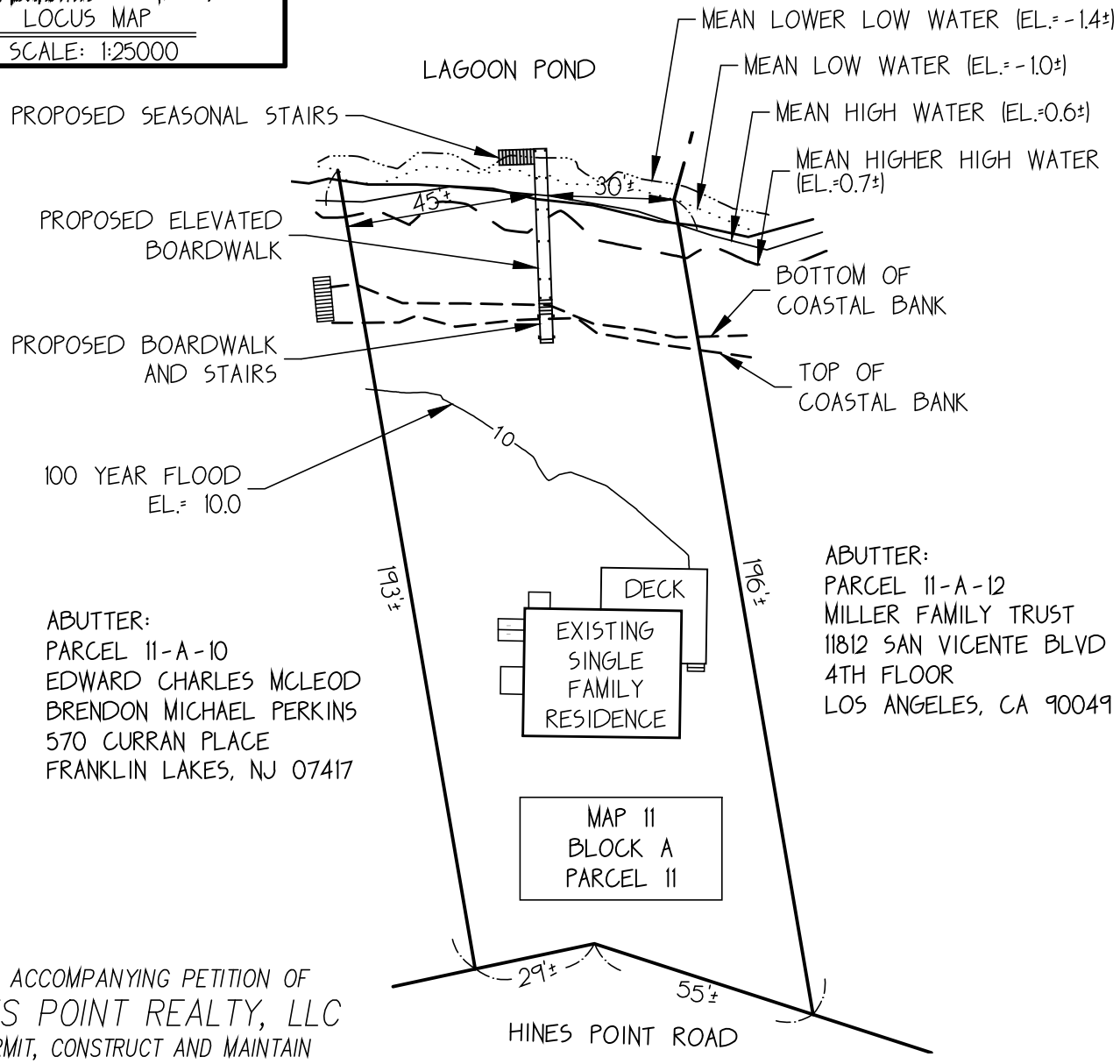


LOCUS MAP
SCALE: 1:25000

GRAPHIC SCALE
0 20 40 80

DATUM: NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)

PROJECT COORDINATES
41° 26' 53.00" N
70° 35' 42.10" W



ABUTTER:
PARCEL 11-A-10
EDWARD CHARLES MCLEOD
BRENDON MICHAEL PERKINS
570 CURRAN PLACE
FRANKLIN LAKES, NJ 07417

ABUTTER:
PARCEL 11-A-12
MILLER FAMILY TRUST
11812 SAN VICENTE BLVD
4TH FLOOR
LOS ANGELES, CA 90049

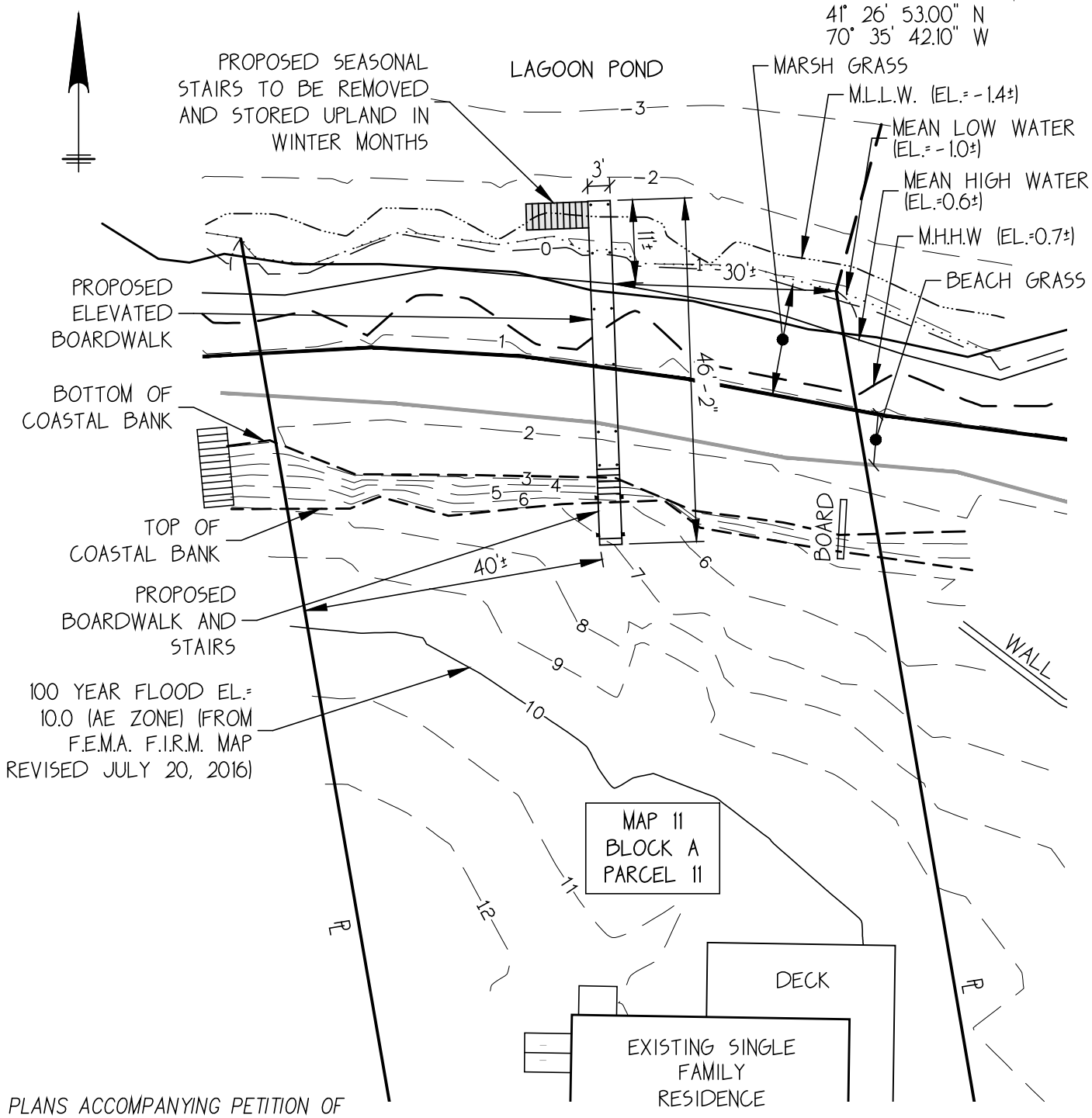
PLANS ACCOMPANYING PETITION OF
HINES POINT REALTY, LLC
TO PERMIT, CONSTRUCT AND MAINTAIN BOARDWALKS AND STAIRS ON LAGOON POND
44 HINES POINT, ASSESSOR PARCEL 11-A-11
TISBURY, MASSACHUSETTS

SCALE: 1"=40' *DATE: November 10, 2022*

SOURATI ENGINEERING GROUP, LLC
P.O. BOX 4458, VINEYARD HAVEN, MA 02568
(508) 693-9933

NOTES:
1. OPPOSITE SHORELINE OF LAGOON POND IS GREATER THAN 1,400 FEET AWAY.
2. 100 YEAR FLOOD EL.= 10 (AE ZONE).

Drawing No. 102046 Army Corps
FOR PERMITTING PURPOSES ONLY



PLANS ACCOMPANYING PETITION OF

HINES POINT REALTY, LLC

TO PERMIT, CONSTRUCT AND MAINTAIN BOARDWALKS AND STAIRS ON LAGOON POND
44 HINES POINT, ASSESSOR PARCEL 11-A-11
TISBURY, MASSACHUSETTS

SCALE: 1"=20' *DATE: November 10, 2022*

GRAPHIC SCALE

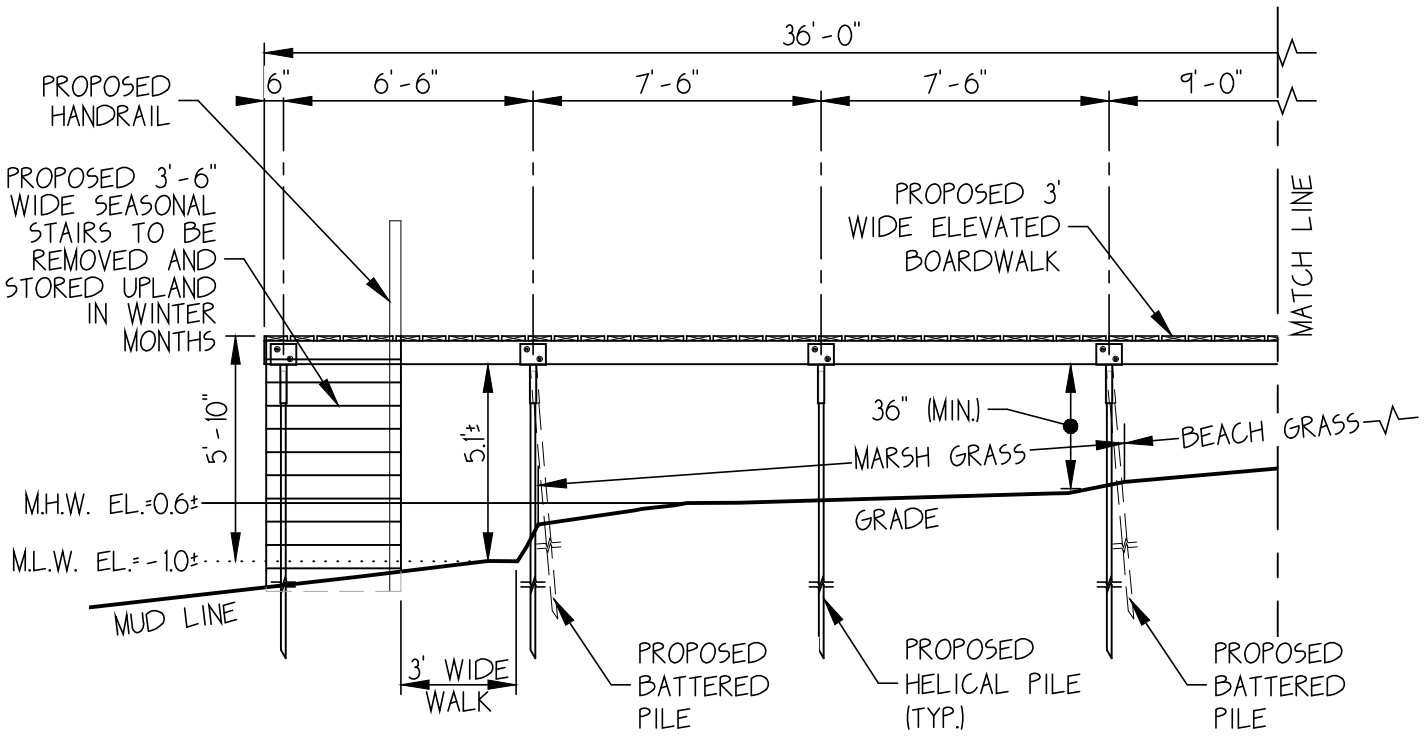
0 10 20 40

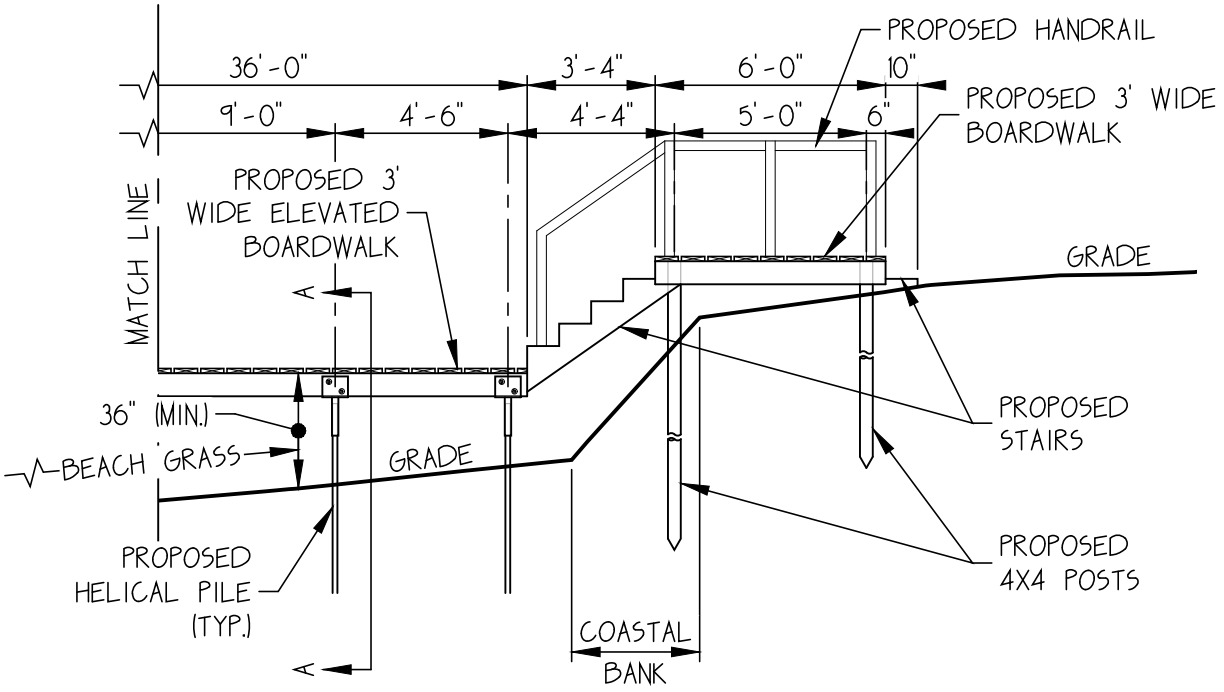
DATUM: NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)

SOURATI ENGINEERING GROUP, LLC
P.O. BOX 4458, VINEYARD HAVEN, MA 02568
(508) 693-9933

Drawing No. 102046 Army Corps

FOR PERMITTING PURPOSES ONLY





PROFILE
1"=5'

PLANS ACCOMPANYING PETITION OF

HINES POINT REALTY, LLC

TO PERMIT, CONSTRUCT AND MAINTAIN BOARDWALKS AND STAIRS ON LAGOON POND
44 HINES POINT, ASSESSOR PARCEL 11-A-11
TISBURY, MASSACHUSETTS

SCALE: 1"=5' *DATE: November 10, 2022*

GRAPHIC SCALE

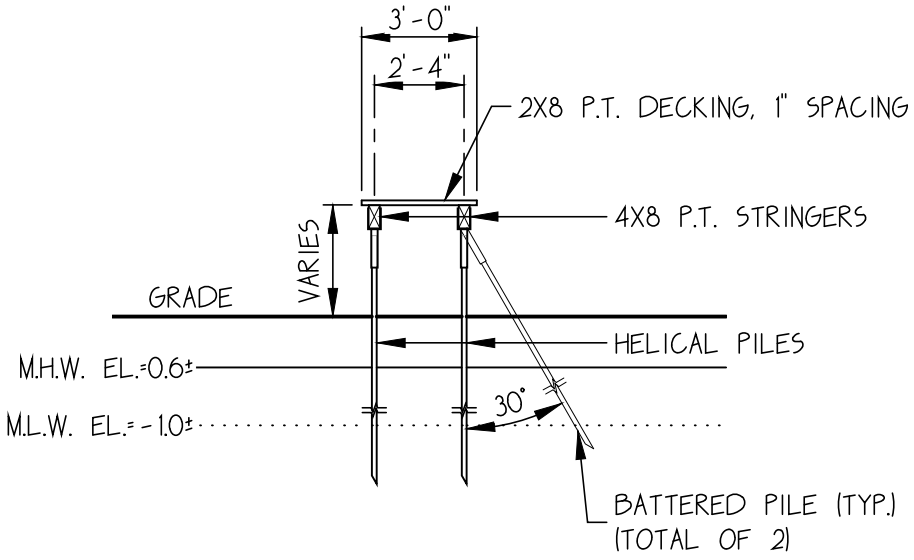
0 2.5 5 10

DATUM: NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)

SOURATI ENGINEERING GROUP, LLC
P.O. BOX 4458, VINEYARD HAVEN, MA 02568
(508) 693-9933

Drawing No. 102046 Army Corps

FOR PERMITTING PURPOSES ONLY



TYPICAL BOARDWALK SECTION A-A

1"=5'

PLANS ACCOMPANYING PETITION OF

HINES POINT REALTY, LLC

TO PERMIT, CONSTRUCT AND MAINTAIN
BOARDWALKS AND STAIRS ON LAGOON POND
44 HINES POINT, ASSESSOR PARCEL 11-A-11
TISBURY, MASSACHUSETTS

SCALE: 1"=5' DATE: November 10, 2022

SOURATI ENGINEERING GROUP, LLC
P.O. BOX 4458, VINEYARD HAVEN, MA 02568
(508) 693-9933

GRAPHIC SCALE

0 2.5 5 10

DATUM: NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)

Drawing No. 102046 Army Corps

FOR PERMITTING PURPOSES ONLY

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 8A – Request for Certificate of Compliance

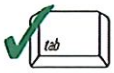
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

Tisbury
Provided by DEP

A. Project Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.





1. This request is being made by:

Prospect Girls, LLC
Name

c/o Schofield, Barbini & Hoehn Inc., Box 339
Mailing Address

Vineyard Haven | MA | 02568
City/Town | State | Zip Code

508-693-2781
Phone Number

2. This request is in reference to work regulated by a final Order of Conditions issued to:

Prospect Girls, LLC
Applicant

06/04/2025 | 074-0996
Dated | DEP File Number

Upon completion of the work authorized in an Order of Conditions, the property owner must request a Certificate of Compliance from the issuing authority stating that the work or portion of the work has been satisfactorily completed.

3. The project site is located at:

15 Duane Wayt | Tisbury
Street Address | City/Town

6 C | 14
Assessors Map/Plat Number | Parcel/Lot Number

4. The final Order of Conditions was recorded at the Registry of Deeds for:

Prospect Girls, LLC
Property Owner (if different)

Dukes | 1710 | 319
County | Book | Page

Certificate (if registered land)

5. This request is for certification that (check one):

☒ the work regulated by the above-referenced Order of Conditions has been satisfactorily completed.

☐ the following portions of the work regulated by the above-referenced Order of Conditions have been satisfactorily completed (use additional paper if necessary).

☐ the above-referenced Order of Conditions has lapsed and is therefore no longer valid, and the work regulated by it was never started.

A. Project Information (cont.)

6. Did the Order of Conditions for this project, or the portion of the project subject to this request, contain an approval of any plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor?

☒ Yes — If yes, attach a written statement by such a professional certifying substantial compliance with the plans and describing what deviation, if any, exists from the plans approved in the Order.

☐ No — Boat shed is located in the same position as on the approved plan but rotated.

B. Submittal Requirements

Requests for Certificates of Compliance should be directed to the issuing authority that issued the final Order of Conditions (OOC). If the project received an OOC from the Conservation Commission, submit this request to that Commission. If the project was issued a Superseding Order of Conditions or was the subject of an Adjudicatory Hearing Final Decision, submit this request to the appropriate DEP Regional Office (see http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html).

Douglas R. Hahn agent for owners

Prospect Girls, LLC

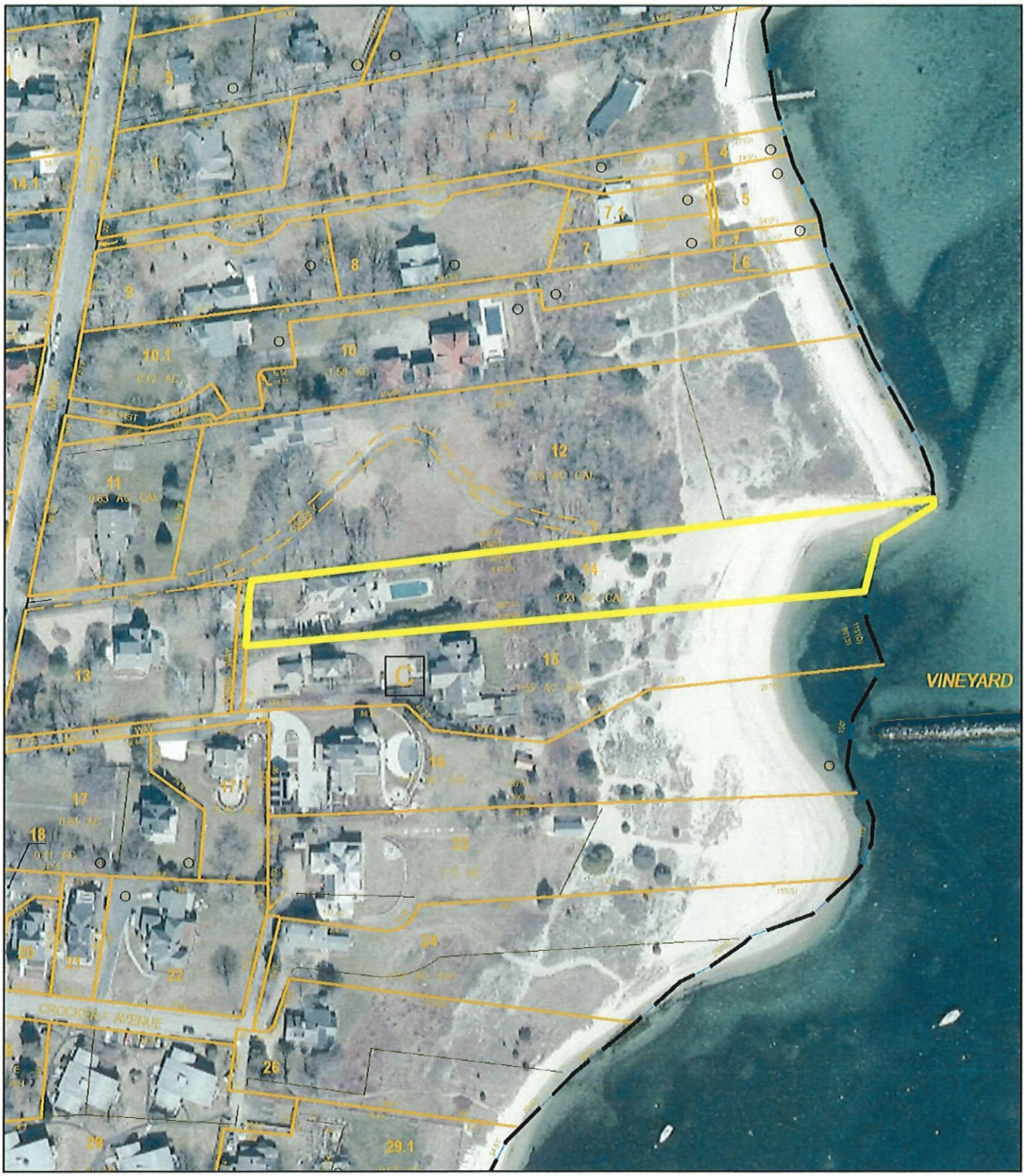
Town of Tisbury, MA

1 inch = 160 Feet

0 160 320 480

January 12, 2026

CAI Technologies
Precision Mapping Geospatial Solutions
www.cai-tech.com



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

2025 00002564
Bk: 1710 Pg: 319 Doc: ORD
Page: 1 of 11 06/04/2025 09:47 AM

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:074-0996
eDEP Transaction #:1891197
City/Town:TISBURY

A. General Information

1. Conservation Commission: TISBURY
2. Issuance: a. ☑ OOC b. ☐ Amended OOC
3. Applicant Details

a. First Name		b. Last Name			
c. Organization	PROSPECT GIRLS, LLC				
d. Mailing Address	C/O SCHOFIELD, BARBINI & HOEHN INC, BOX 339				
e. City/Town	VINEYARD HAVEN	f. State	MA	g. Zip Code	02568

4. Property Owner

a. First Name		b. Last Name			
c. Organization	PROSPECT GIRLS, LLC				
d. Mailing Address	C/O SCHOFIELD, BARBINI & HOEHN INC, BOX 339				
e. City/Town	VINEYARD HAVEN	f. State	MA	g. Zip Code	02568

5. Project Location

a.Street Address	15 DUANE WAY**		
b.City/Town	TISBURY	c. Zip Code	02568
d. Assessors Map/Plat#	6C	e. Parcel/Lot#	14
f. Latitude	41.46151N	g. Longitude	70.60125W

6. Property recorded at the Registry of Deed for:

a. County	b. Certificate	c. Book	d. Page
DUKES		1615	774

7. Dates

a. Date NOI Filed : 2/12/2025 b. Date Public Hearing Closed: 4/15/2025 c. Date Of Issuance: 6/4/2025

8. Final Approved Plans and Other Documents

a. Plan Title:	b. Plan Prepared by:	c. Plan Signed/Stamped by:	d. Revised Final Date:	e. Scale:
SITE PLAN PREPARED FOR PROSPECT GIRLS LLC	DOUGLAS HOEHN	SHOFIELD BARBINI & HOEHN	1280682024	1" = 20'
WHITE BOATHOUSE 15 DUANE WAY TISBURY MA			02/04/2025	1/2" = 1'

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act

Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:074-0996
eDEP Transaction #:1891197
City/Town:TISBURY

Check all that apply:

a. ☐ Public Water Supply	b. ☐ Land Containing Shellfish	c. ☐ Prevention of Pollution
d. ☐ Private Water Supply	e. ☐ Fisheries	f. ☐ Protection of Wildlife Habitat
g. ☐ Ground Water Supply	h. ☐ Storm Damage Prevention	i. ☐ Flood Control

2. Commission hereby finds the project, as proposed, is:

Approved subject to:

a. ☑ The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

b. ☐ The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**

c. ☐ The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act , and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. ☐ Buffer Zone Impacts:Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a). _____ a. linear feet

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. ☐ Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. ☐ Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. ☐ Land under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. ☐ Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____	_____	_____	_____

	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8.☐ Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9.☐ Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10.☐ Designated Port Areas	Indicate size under Land Under the Ocean, below			
11.☐ Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12.☐ Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13.☐ Coastal Beaches	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
14.☐ Coastal Dunes	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
15.☐ Coastal Banks	a. linear feet	b. linear feet		
16.☐ Rocky Intertidal Shores	a. square feet	b. square feet		
17.☐ Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18.☐ Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19.☐ Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20.☐ Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			

	c. c/y dredged	d. c/y dredged
21. ☑ Land Subject to Coastal Storm Flowage	200	200
	a. square feet	b. square feet

22.

☐ Restoration/Enhancement (For Approvals Only)

If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please entered the additional amount here.

a. square feet of BVW

b. square feet of Salt Marsh

23.

☐ Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
   a. the work is a maintenance dredging project as provided for in the Act; or
   b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered

land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work..

10. A sign shall be displayed at the site not less then two square feet or more than three square feet in size bearing the words,

" Massachusetts Department of Environmental Protection"
[or 'MassDEP"]
File Number :"074-0996"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) ☐ is not (2)☑ subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been

removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.*. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.

g) The responsible party shall:

1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:
SEE ATTACHED

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☑ Yes ☐ No

2. The Conservation Commission hereby(check one that applies):

a. ☐ DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. ☑ APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw: TISBURY WETLAND BYLAWS AND REGUTATIONS

2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHED

E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

6/4/2025
1. Date of Original Order

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

5
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

☐ by hand delivery on

Date

☐ by certified mail, return receipt requested, on

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

TISBURY

ATTACHMENT FOR ORDER OF CONDITIONS FOR
PROSPECT GIRLS LLC
74-996

This Order allows for the construction and maintenance of a boathouse.

Assessors Parcel: 6-C-14

20. Prior to any work on site the applicant shall hold a preconstruction site visit with the Commission's agent or their designee.

21. Access to the site for materials and crew shall be from the neighbor's driveway to the north.

22. All work shall be done by hand, no machinery is required.

23. The boathouse shall be set on sona tubes.

24. The proposal does not require any removal of vegetation and none is approved in this Order.

25 Utilities and plumbing have not been applied for and none is approved in this Order.

26. No changes in grade are allowed.

27. It is likely that use of the building will require the installation of a ramp or stairs. Those plans shall be submitted for review prior to performing the work.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

15 Duane Way (Assessor Parcel 6C14)

Provided by MassDEP: 74-996
MassDEP File #

eDEP Transaction #
Tisbury
City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance. — 1. Date of Issuance

Please indicate the number of members who will sign this form.
This Order must be signed by a majority of the Conservation Commission. — 2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signature	Printed Name
Nancy Weaver	Nancy Weaver
	J Thomas Robinson
	JOHN D. BEST
	CAROLINE LITTLE
	Lilian Robinson

☑ by hand delivery on 6/4/25 (Date)

☐ by certified mail, return receipt requested, on (Date)

ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds

Notes:
1. Locus is in the Tisbury R–25 Zoning District.
   Mimimum lot size=25,000 s.f.,
   minimum setbacks=25 ft. front, side & rear.
2. The parcel is not located within the Coastal District
   as defined in the Tisbury Zoning By–laws.
3. The property is not located within a Priority Habitat Area or
   an Estimated Habitat Area as shown on the Natural Heritage
   and Endangered Species maps.

FEMA 100 Year Storm
Zone VE elev 13

inland edge of
beach grass

Windy Shade LLC
36 Osprey Lane
Assessor's Parcel
6 C 12

0 20 40
graphic scale–feet

back of beach &
beginning of
sparse beach grass

stone groin

25'

path

inland edge of beach grass

approved shed

"as-built" shed

15 Duane Way
Assessor's Parcel
6 C 14
1.24 acres ±

sand beach

approx mhw
Nov 2024
253'± "by"

486.58'

647'±

IP F

25'

161'±

100'

MV Property Holdings LLC
52 Mill House Way
Assessor's Parcel
6 C 15

Legend:
CB F □ ...denotes concrete bound found
IP F ◎ ...denotes iron pipe found

COMMONWEALTH OF MASSACHUSETTS
DOUGLAS R. HOEHN
No. 32094
REGISTERED PROFESSIONAL LAND SURVEYOR

Vineyard Haven Harbor
Site Plan
Tisbury, Mass.

Prepared For
Prospect Girls LLC

Scale: 1" = 20' December 6, 2024
revised: December 31, 2025 (as-built shed)

Schofield, Barbini & Hoehn Inc.
SB&H
Land Surveying ⊕ Civil Engineering
12 Surveyor's Lane, Box 339
Vineyard Haven, Mass.
508–693–2781
www.sbhinc.net
MV 9517

From: nancy wainer
To: Angeline Pignani; Sean Young
Subject: Wetlands
Date: Thursday, January 15, 2026 10:54:28 AM

Looks like gravel going into the west arm of the lagoon- behind MV Shipyard.

