

January 21, 2021

Zoning Board of Appeals  
Town of Wareham  
54 Marion Road  
Wareham, MA 02571

Re: 1 Seth Tobey Road-Narrative  
Application for Special Permit/Variance – Use: Drive-Through.  
Map 87 Lot 1

Dear Mr. Chairman:

On behalf of the Applicant, Wareham Retail Management, LLC (Client), Highpoint Engineering Inc. (Highpoint) is submitting the enclosed Application for Special Permit/Variance and Site Plan Modification relating to a new proposed drive-through at 1 Seth Tobey Road, Wareham.

The project site consists of a 173,370 sf (4.0 acre) parcel of land. The lot is indicated on the Town assessor's maps as map 87, Lot 1. The Site is zoned Strip Commercial (CS) and is located entirely within CS. The application seeks a Special Permit/Variance for use as a restaurant with drive-through with associated modifications to the approved Site Plan.

On June 18, 2019, The Project received a Special Permit- Site Plan Approval, granted by the Planning Board, to construct a three (3) building retail development on the outparcel site of the existing Walmart. Construction of building #2 (Aspen Dental) is complete, and construction of building #2 (Starbucks with drive through and retail) is currently under way. Building #3 was proposed to be a 7,200-sf retail building. The Project proposes to revise the current site plan, in the location of building #3, to accommodate a restaurant drive-through/pickup (Chipotle). To accommodate this modification, all parking areas, drainage, and utilities remain generally unchanged, while the building is reduced from 7,200 sf to 6,350 sf and the drive-through lane incorporated. The overall, 3-building, project development square footage is reduced from 16,200 sf to 13,450 sf.

A comprehensive traffic impact assessment was conducted as part of this application to identify the anticipated change in traffic generation and associated traffic impacts due to the addition of the Chipotle Mexican Grill restaurant use. As documented in this assessment, the project is expected to result in approximately one new entering and exiting trip every three minutes during peak hours of roadway traffic, which does not result in a notable impact to traffic operations as compared to the previously approved development program. Additionally, unlike typical fast-food restaurants the drive-through queue for Chipotle Mexican Grill restaurants, which require preorders prior to pick up, exhibits minimal queuing,

with field observations at an existing operational facility revealing average drive-through queues of only two to three vehicles during peak hours.

The following supporting documents are supplied as part of this submittal:

- Original & seven (7) copies of the Cover Letter/Narrative
- Original & seven (7) copies of the Application for Special Permit/Variance
- Eight (8) Copies of the current Deed
- Original & seven (7) copies of the modified Site Plans
- Eight (8) copies of the approved Special Permit- Site Plan & Conservation Commission RDA
- Eight (8) copies of the Certified Abutters list
- Eight (8) copies of the Tax Verification Form
- Original & seven (7) copies- ZBA Special Permit/Variance Fee- \$750.00 Check to Town of Wareham
- Original & Copy- Notification of Abutters- \$87.49 Check to Town of Wareham
- Original & Copy- Newspaper Hearing Advertisement- \$80.00 Check to Town of Wareham
- Two (2) copies of Traffic Impact Assessment (by Vanasse Associates)- under separate cover

On behalf of the Applicant, we look forward to working with the ZBA on this Project. Please feel free to contact me at 781-713-3401 or at [dredgate@highpointeng.com](mailto:dredgate@highpointeng.com) with any questions.

Regards,

HIGHPOINT ENGINEERING



Derek B. Redgate, PE  
Senior Project Manager

**TOWN OF WAREHAM**

**APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET**

Check Applicable:  Variance     Special Permit     Site Plan     Appeal

Date stamped in: \_\_\_\_\_ Date decision is due \_\_\_\_\_

Applicant's Name: WAREHAM RETAIL MANAGEMENT LLC

Applicant's Address: 30200 TELEGRAPH ROAD, SUITE 205, BINGHAM FARMS, MI 48025

Telephone Number: 248-646-9999

Cell Phone Number: 248-798-0600

Email Address: brandon@alrigusa.com

Address of Property/Project: 1 SETH F. TOBEY ROAD

Landowner's Name: WAREHAM RETAIL MANAGEMENT LLC

Owner's Address: 30200 TELEGRAPH ROAD, SUITE 205, BINGHAM FARMS, MI 48025

Telephone Number: 248-646-9999

Contact Person: BRANDON SCHRAM Telephone Number: 248-798-0600

Map 87 Lot 1 Zone STRIP COMMERCIAL (SC)

Date Approved \_\_\_\_\_ Date Denied \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TOWN OF WAREHAM**  
**ZONING BOARD OF APPEALS**

**APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT**

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- Complete this form.
- Complete information packets. (Directions attached)
- Submit application form and packet to Town Clerk for signature.
- Submit application form and packet to Town Collector for signature.
- Submit completed form, packets, and appropriate fees\*\* to the Zoning Board of Appeals secretary.

\*\*Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

\*\*A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$80.00.

\*\*The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.73 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

**STREET & NUMBER:** 1 SETH F. TOBEY ROAD **MAP:** 87 **LOT:** 1

**ZONING DISTRICT:** STRIP COMMERCIAL (SC)


**USE REQUESTED:** \_\_\_\_\_

**OWNER OF LAND & BUILDING:** WAREHAM RETAIL MANAGEMENT, LLC **TEL.#** 248-646-9999

**ADDRESS OF OWNER:** 30200 TELEGRAPH ROAD, SUITE 2015, BINGHAM FARMS, MI 48025

**PERSON(S) WHO WILL UTILIZE PERMIT:** BRANDON SCHRAM

**ADDRESS:** 30200 TELEGRAPH ROAD, SUITE 2015, BINGHAM FARMS, MI 48025

**DATE:** 01-21-2020 **SIGNATURE:** 

This application was received on the date stamped here:

**Town Clerk:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Tax Collector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Planning/Zoning Dept.:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Application fee paid:** \_\_\_\_\_ **Check #:** \_\_\_\_\_ **Receipt:** \_\_\_\_\_

**Advertising fee paid:** \_\_\_\_\_ **Check #** \_\_\_\_\_ **Receipt:** \_\_\_\_\_

**Abutters fee paid:** \_\_\_\_\_ **Check #** \_\_\_\_\_ **Receipt:** \_\_\_\_\_

Wareham, MA

1, Seth F Tobey ROAD

Property Address:



Bk: 51752 Pg: 187 Page: 1 of 2  
Recorded: 10/04/2019 03:44 PM  
ATTEST: John R. Buckley, Jr. Reglster  
Plymouth County Registry of Deeds

**MASSACHUSETTS QUITCLAIM DEED**

**28 AND TOBEY, LLC**, a Massachusetts Limited Liability Company, of 2680 Cranberry Highway, Wareham, Plymouth County, Massachusetts 02751,

for consideration paid and in full consideration of **ONE MILLION THREE HUNDRED FIFTY THOUSAND and 00/100 (\$1,350,000.00) DOLLARS**

grants to **WAREHAM RETAIL MANAGEMENT LLC**, a Michigan Limited Liability Company, of 30200 Telegraph Road, Suite 205, Bingham Farms, Michigan 48025,

with QUITCLAIM COVENANTS:

The land in Wareham, Massachusetts, being shown as LOT 1 on a plan entitled "Approval Not Required Plan of Land, S & H Realty, LLC, Seth F. Tobey Road & Cranberry Highway, Lots 1000-A1A, 1000-A1B & 1000-A1C, Map 87, Town of Wareham, Plymouth County, Commonwealth of Massachusetts, Store #2095-06", Surveyed by Control Point Associates, Inc. 352 Turnpike Road, Southborough, MA 01772, dated January 20, 2016, approved by Gerry L. Holdright, April 11, 2016, however same may be bounded and described, which plan is recorded with Plymouth County Registry of Deeds in Plan Book 60, Page 437.

Containing according to said plan 174,370 square feet, or 4.003 acres.

Subject to restrictions and easements in a Notice of Lease with Wal-Mart Stores East, LP dated January 8, 2010 and recorded with Plymouth County Registry of Deeds in Book 38266, Page 106.

Subject to an Easement to Verizon New England Inc. dated March 17, 2014 and recorded with said Registry in Book 44158, Page 269.

Subject to an Easement to Nstar Electric Company and Verizon New England, Inc. dated March 17, 2014 and recorded with said Registry in Book 44159, Page 30.

Subject to a Taking by the Department of Public Works, Division of Highways, acting on behalf of the Commonwealth of Massachusetts dated June 12, 2014 and recorded with said Registry in Book 44459, Page 105.

Return to:

Wareham Retail Management, LLC  
30200 Telegraph Road  
Bingham Farms, MI 48025

**CANCELLED**

MASSACHUSETTS EXCISE TAX  
Plymouth District ROD #11 001  
Date: 10/04/2019 03:44 PM  
Ctrl# 129054 17293 Doc# 00083964  
Fee: \$6,156.00 Cons: \$1,350,000.00

Subject to Amended and Restated Easements with Covenants and Restrictions Affecting Land dated November 14, 2016 and recorded with said Registry in Book 47866, Page 167.

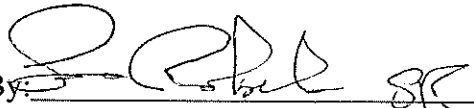
Said parcel is conveyed subject to, and with the benefit of, easements, restrictions and agreements of record insofar as the same are in force and applicable.

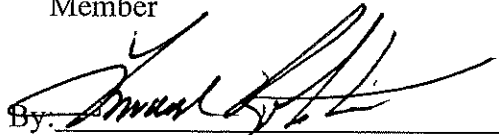
The above conveyance does not constitute all, nor substantially all, of the Grantor's assets, and Grantor has not elected to file as a corporation for Federal income tax purposes.

For GRANTOR'S title see deed dated September 12, 2017 and recorded with the Plymouth County Registry of Deeds in Book 48964, Page 181.

Witness my hand and seal this 4<sup>th</sup> day of October 2019.

28 AND TOBEY, LLC

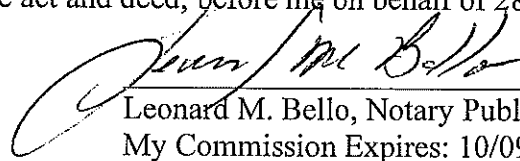
By:   
SCOTT V. ROBERTSON, SR., Managing  
Member

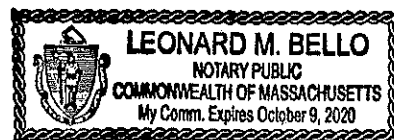
By:   
I. HOWARD ROBERTSON, Managing  
Member

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS.

On this 4th day of October 2019, before me, the undersigned notary public, personally appeared SCOTT V. ROBERTSON, SR, Manager and I. HOWARD ROBERTSON, Manager, and proved to me through satisfactory evidence of identifications, which were **State Driver's Licenses**, to be the persons whose names are signed on this document and acknowledged the foregoing instrument to be their free act and deed, before me on behalf of 28 and Tobey, LLC.

  
Leonard M. Bello, Notary Public  
My Commission Expires: 10/09/2020







## WPA Form 2 – Determination of Applicability

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

### B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

#### Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

---

---

---

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

---

---

---

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

\_\_\_\_\_  
Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Ordinance or Bylaw Citation





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 2 – Determination of Applicability**

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

---

**B. Determination (cont.)**

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:
- 
- 

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

**Negative Determination**

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).
- 
- 

4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**WPA Form 2 – Determination of Applicability**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B. Determination (cont.)**

5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

6. The area and/or work described in the Request is not subject to review and approval by:

Wareham

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Wareham Wetlands Protective Bylaw

Name

Division VI

Ordinance or Bylaw Citation

**C. Authorization**

This Determination is issued to the applicant and delivered as follows:

- by hand delivery on

by certified mail, return receipt requested on

# 7012 3460 0003 3768 7175

March 13, 2019

Date

Date

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent 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>) and the property owner (if different from the applicant).

Signatures:

SSS Lewis [Signature]  
[Signature] [Signature]  
[Signature] [Signature]  
[Signature] [Signature]

3/6/19

Date



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

**WPA Form 2 – Determination of Applicability**

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

---

**D. Appeals**

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, 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 Department of Environmental Protection Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>) to issue a Superseding Determination of Applicability.

The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see 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 Determination. 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. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



# Request for Departmental Action Fee Transmittal Form

Provided by DEP

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

## A. Request Information

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

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



## B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
Box 4062  
Boston, MA 02211



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

\_\_\_\_\_  
Provided by DEP

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

---

**B. Instructions (cont.)**

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. 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.

**WAREHAM PLANNING BOARD**  
**Special Permit Decision**  
**Wareham Retail Management, LLC**  
**1 Seth F. Tobey Road**

**I. Proposal**

This decision concerns an application by Wareham Retail Management, LLC, having an address c/o Highpoint Engineering, 45 Dan Road, Suite 140, Canton, MA 02021 (the "Applicant" or "Owner"), for approval of a Special Permit to construct a commercial shopping center (the "Project") consisting of three new buildings totaling 16,200 square feet of space, which will include a dental office, retail stores and/or restaurant(s) located on 8.45 acres at the intersection of Cranberry Highway and Seth F. Tobey Road, Assessors' Map 87, Lot 1 and recorded at the Plymouth County Registry of Deeds under Book 48964 and Page 181.

The Project is depicted on a 14 sheet site plan set entitled "Wareham Retail Management, Site Development Plans" for Wareham Retail Management LLC issued by Highpoint Engineering Inc., dated February 14, 2019 and revised through May 17, 2019. Architectural sketches of the proposed initial building are shown on 1 sheet entitled "Proposed Medical Office, Preliminary Plan and Exterior Elevations" issued by Detroit Architectural Group, dated December 18, 2018, and revised through March 26, 2019.

**II. Jurisdiction**

This application was made and this decision has been issued by the Wareham Zoning Planning Board pursuant to Article 3, Use Regulations, Section 361, Multiple Principle Uses and Article 15, Site Plan Review, and other provisions of the Wareham Zoning By-Laws (the "By-Laws") as they existed on May 13, 2019 the date on which this Special Permit decision was approved. Where reference is made to the By-Laws, it shall refer to the provisions thereof as they existed on May 13, 2019.

**III. Chronology**

Application for this Special Permit was made with the Town Clerk on February 14, 2019. The following list of materials was filed with certain responses.

- Plans have been submitted entitled "Wareham Retail Management, Site Development Plans" for Wareham Retail Management LLC issued by Highpoint Engineering Inc., dated February 14, 2019 (the "Initial Plans"). The following have also been submitted:
  - Project Summary dated February 13, 2019 issued by Highpoint Engineering Inc.
  - Stormwater Calculation Table dated February 14, 2019 issued by Highpoint Engineering Inc.
  - Traffic Impact and Access Study dated February 2019 issued by Vanasse & Associates, Inc.
  - Site Lighting Plan dated February 2019 issued by Radner Design Associates, Inc.
  - Landscaping Plan dated February 2019 issued by Radner Design Associates, Inc.
- The Board's consulting engineer, Charles L. Rowley, filed an initial letter report with findings dated March 21, 2019 ("Initial Peer Review Letter").
- Highpoint Engineering provided a response to the Peer Review Letter, which included the following documents:
  - Revised Plan Set entitled "Wareham Retail Management, Site Development Plans" for Wareham Retail Management LLC issued by Highpoint Engineering Inc., revised through April 15, 2019 (the "First Revised Plans").

- Conceptual Architectural Drawings dated March 26, 2019 prepared by Detroit Architectural Group.
  - Supplemental Stormwater Management Report prepared by Highpoint Engineering, Inc. issued February 14 and Revised April 15, 2019.
  - Wareham Water Department Comment Letter dated April 29, 2019.
- The Board's consulting engineer, Charles L. Rowley, filed an additional common letter dated May 11, 2019 ("Follow Up Peer Review Letter")(the Initial Peer Review Letter and the Follow Up Peer Review Letter are collectively referred to as the "Peer Review Letters").
  - Highpoint Engineering provided a response to the Follow Up Peer Review Letter, which included the following documents:
    - Revised Plan Set entitled "Wareham Retail Management, Site Development Plans" for Wareham Retail Management LLC issued by Highpoint Engineering Inc., revised through May 17, 2019 (the "Second Revised Plans")(the Initial Plans, the First Revised Plans and the Second Revised Plans are collectively known as the "Plans").
    - Post-Development Watershed Plan issued by Highpoint Engineering Inc., revised through May 20, 2019.
    - Soil Suitability Assessment for On-Site Sewage Disposal dated May 17, 2019.
    - Letter dated May 17, 2019 from Highpoint Engineering, Inc. to Wareham Planning Board in Response to Follow Up Peer Review Letter.

A public hearing was opened before the Wareham Planning Board on March 11, 2019 at 7:00 p.m. Notice of this hearing was duly given to abutters in accordance with Massachusetts General Laws Chapter 40A and the Planning Board Special Permit and Site Plan Regulations under section 1510 of the Wareham Zoning Bylaws. The notice was posted with the Town Clerk on February 14, 2019. Notice was also given by publication in Wareham Weekly, a newspaper of general circulation in the Town of Wareham on February 21 and February 28, 2019.

On March 11, 2019, March 25, 2019, May 13, 2019 and May 20, 2019, the Plans and other submissions were reviewed by the Wareham Planning Board at their regularly scheduled meetings.

On May 20, 2019, the Planning Board closed the public hearing and voted to make the following findings and grant a Special Permit and Site Plan Review authorizing the project, with the conditions enumerated below. The members of the Planning Board were recorded as follows: [Members George Barrett, Michael A. Baptiste, Sr., Emmanuel Daskalakis, Marc Bianco and Michael King were recorded as voting in favor of the decision. No members were recorded as voting against. – **VOTE: 5-0-0**]

#### **IV. Findings**

1. The subject Property, consisting of approximately 8.45 acres developed with an existing business establishment is located within the Strip Commercial (CS) zoning district as depicted on the Town of Wareham Zoning Map. The By-Laws allow the proposed use of the Project that proposes multiple buildings on the same lot by Special Permit from the Planning Board.
2. The Property is owned by Wareham Retail Management, LLC, having an address c/o Highpoint Engineering, 45 Dan Road, Suite 140, Canton, MA 02021.
3. As shown on the plans, the Project consists of the development of the site for retail, office and/or restaurant uses. The three (3) separate buildings are of a common architectural theme and occupy a total building area of 16,200 square feet. The buildings are variable in height but consist of one story each.

4. The Project site is not in an area mapped by the Massachusetts Natural Heritage & Endangered Species Program (NHESP) as "Priority Habitat of Rare Species" and "Estimated Habitat of Rare Wildlife" under the Massachusetts Endangered Species Act (MGL c.131A) and its regulations (321 CMR 10.00).
5. The Project was approved by the Conservation Commission, with conditions, at its meeting on March 6, 2019.
6. The Project is located at the intersection of Cranberry Highway, a State Highway and Seth F. Tobey Road a town way. There have been numerous traffic mitigation measures applied along Cranberry Highway and Seth F. Tobey Road, including a right turn in/right turn out only intersection on Cranberry Highway located east of the intersection with Seth F. Tobey Road.
7. Traffic impacts were presented in a separate report by Vanasse & Associates, Inc., Transportation Engineers & Planners of Andover, MA. The Board accepted the Traffic Impact and Access Study that was filed with the application.
8. The applicant proposes handicapped access, including ADA-compliant handicapped parking spaces and ADA-compliant wheelchair ramps connecting various portions of the project, all as shown on the site plans.
9. The applicant proposes to include new lighting on the property consisting of individual and double light fixtures on 25' high light poles. The lighting plan shows that there is not significant spillover of lighting onto abutting properties.
10. Application of the Zoning By-Law's parking requirements of Article 9 based on dental office use for the 3,600 square foot middle building requires 15 parking spaces, and the 5,400 square foot retail building and the 7,200 square foot retail building require a minimum of 42 parking spaces. Should all or any portion of either of the retail building be used for restaurant use, the required parking spaces will increase based on the requirement of 1 parking space for every restaurant seat. As shown on the Revised Plans, the project contains 97 parking spaces, of which 6 are handicapped accessible spaces. The Revised Plans also include a "Potential Future Parking Area" in which up to an additional 26 parking spaces could be constructed based on potential restaurant use at the Project.
11. The Project will be connected to the Town of Wareham sewer system with new lateral lines to Seth F. Tobey Road. Per Guy Campinha, Director of the Wareham Wastewater Treatment Facility, 12,000 gallons per day of sewer capacity has been allocated to the Project, which is sufficient to accommodate the Project's estimated 900 gallons per day of sewer flow.
12. The project will be connected to the water system of the Wareham Fire District. The Applicant has confirmed with the Wareham Water Department and the Wareham Fire Department that the water mains, fire hydrants and related fixtures comply with the relevant Wareham regulations.
13. The Project plans were reviewed and commented upon by the Zoning Board's Consulting Engineer, Charles Rowley, and the Applicant addressed the consultant's comments in its supplemental submissions. The proposed drainage facilities design and stormwater projections are satisfactory and in compliance with the objectives of Article 1541, for the preservation of natural features. Site design is in compliance with generally accepted engineering practice for access and egress to and from Seth F. Tobey Road with right turns out only onto Cranberry Highway.



14. Based on the foregoing findings, the Planning Board hereby further finds that the Project, as conditioned below, is consistent with applicable state and town regulations, statutes, bylaws and plans, will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or groundwater quality or air quality, will not have a significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibrations, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage Program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the town's landfill and waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other waste, will provide adequate off-street parking, will not cause excessive erosion or cause increased runoff onto neighboring properties or into any natural river, stream, pond or water body and will not otherwise be detrimental to the town or the area.

## **V. Conditions**

### **APPROVED PLANS**

Construction of the Project shall be done only in accordance with the following plans hereby approved by the Planning Board: 1) A set of 14 sheets entitled "Wareham Retail Management, Site Development Plans" for Wareham Retail Management LLC issued by Highpoint Engineering Inc., dated February 14, 2019 and revised through April 15, 2019, and 2) Architectural sketches of the proposed building are shown on 1 sheet entitled "Proposed Medical Office, Preliminary Plan and Exterior Elevations" issued by Detroit Architectural Group, dated December 18, 2018, and revised through March 26, 2019.

1. No motor vehicle sales, repair or services are allowed under this Special Permit.
2. The Planning Board will determine whether any modifications to the Approved Plans are substantial or insubstantial. Substantial modifications shall not be approved until confirmed by a majority vote of the Planning Board after a public meeting.
3. If necessary based on the account balance, the MGL c.44 sec.53G peer review account shall be replenished for construction and site inspections in an amount approved by the Planning Board, prior to issuance of a Building Permit.
4. The project shall comply with all applicable building, fire safety and health codes.
5. A pre-construction conference with Town departments and the town's consulting engineer shall be held prior to the commencement of construction.
  - a. A proposed schedule of construction inspections shall be provided by the Owner or its General Contractor for review and approval by the Town Planner.
  - b. Emergency and Owner's representative names and contact numbers shall be submitted to the Planning office.
  - c. A Construction Management Plan shall be submitted detailing the Owner's proposed plan for construction access, signage, fencing and dust control.
6. Site security shall be the responsibility of the Owner.
7. Construction activities shall not customarily take place in connection with this project (i) before 7 a.m. or after 6 p.m. Monday through Saturday, or (ii) on Sundays or holidays.
8. No de-icing chemicals, other than a mixture of sand and calcium chloride or sand alone shall be used on any roadways, driveways or other impervious surfaces of the Project.
9. All conditions of this decision shall run with the land and are binding on the Owner and its successors and assigns in title.

10. No building or occupancy permits may be issued while there exists any substantial violation of the conditions of this Special Permit unless the Planning Board, by a majority vote at a regular meeting, should allow such issuance.
11. Prior to the issuance of any building permit for the Project, the applicant shall provide the Planning Board and the Wareham Building Inspector with copies of this Special Permit decision as recorded with the Plymouth County Registry of Deeds, showing the Book and Page where it is recorded or its recordation number. This decision shall not take effect, and no work may be commenced on construction of this project until this decision has been so recorded.
12. The Planning Board and its agents may enter onto the property to view and inspect the property during regular business hours, subject to applicable safety regulations.
13. Upon completion, "As Built" plans are to be submitted to the Building Department with a copy provided to the Planning Board.
14. No temporary or final certificate of occupancy shall be issued unless all infrastructure, common improvements, landscaping, lighting and traffic controls have been installed. Exceptions may be granted by the Planning Board, after proper security and a schedule of completion has been approved by the Planning Board.
15. The property shall be connected to the public water and sewer lines. Curb cuts and utility connections shall be approved by the respective town agency prior to issuance of a Building Permit.
16. The design and construction of all proposed buildings shall be generally consistent with the depiction and style shown on the conceptual architectural sketches provided to the Planning Board. Any material deviation from the general style shown shall be presented to the Planning Board for review and reasonable approval.
17. The size, style, and dimensions of all free standing signs and proposed signs used on the facades of buildings shall comply with all provisions of Article 11, Signs of the Zoning By-Law.
18. No temporary or permanent outdoor products for sale shall be permitted.
19. In the event that the Owner decides to utilize all or a portion of one of the retail buildings at the Project and the Owner either elects (or is required for zoning compliance) to construct all or a portion of the parking spaces in the "Potential Future Parking Area", the Owner shall provide the Planning Board with prior written notice thereof, along with an updated "As Built" plan reflecting the additional spaces.
20. Appropriate receptacles for smoking, trash, and recyclable materials shall be installed.

#### **VI. Expiration, Extension or Modification**

Pursuant to Massachusetts General Law, Chapter 40A, Section 9 and Article 14, Section 1451.4 of the Wareham Zoning By-Law, this Special Permit shall lapse within two (2) years, which shall not include such time required to pursue or wait the determination of any appeal from the grant hereof, if a substantial use hereof is not sooner commenced except for good cause.

The applicant shall require a specific determination of good cause by a favorable vote of four members of the Planning Board if claiming an extension of the 2-year period, except to wait the determination of any appeal from the grant hereof.

**[Remainder of Page Intentionally Left Blank]**

**VII. Signature and Filing**

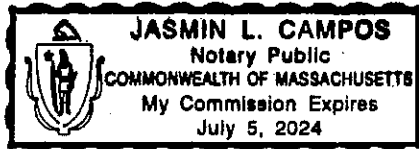
This Special Permit decision document, which incorporates by reference herein all attachments and plans, has been approved as of the 20th day of May, 2019. A copy of same shall be filed with the Town Clerk in accordance with applicable law.

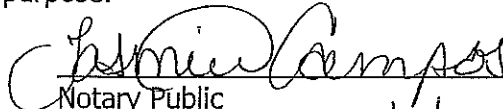
  
\_\_\_\_\_  
Wareham Planning Board  
- Duly Authorized Member

Commonwealth of Massachusetts


Plymouth, ss

On this 20<sup>th</sup> day of May, 2019, before me, the undersigned notary public, personally appeared George Barrett, a member of the Wareham Planning Board, proved to me through satisfactory evidence of identification, which was MA Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose.



  
\_\_\_\_\_  
Notary Public  
My Commission Expires July 5, 2024

A copy of this decision and the accompanying Approved Plans endorsed by the Planning Board has been duly filed on May 23, 2019 with the Town Clerk of Wareham.

  
\_\_\_\_\_  
Town Clerk

Notice of this decision was mailed on May 28, 2019 to the Applicant, to the parties in interest designated in Massachusetts General Law, Chapter 40A, Section 11 and all persons at the hearing who requested such notice. Any appeal should be made pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws 20 days after the date of such filing.

I, \_\_\_\_\_ Town Clerk of the Town of Wareham, hereby certify that a copy of this decision and the accompanying plans endorsed by the Planning Board were filed with the office of the Town Clerk on June 18, 2019, 2019 and that no appeal of that decision was filed within twenty (20) days thereafter.

Nichelle Bissone  
Town Clerk  
Date: June 18, 2019

Upon expiration of the statutory appeal period with no appeal having been filed, this Special Permit decision has been endorsed by the undersigned members of the Wareham Planning Board on May \_\_\_\_, 2019 and may be recorded.

[Signature]  
[Signature] SR  
[Signature]  
[Signature]  
[Signature]

63403131 v1

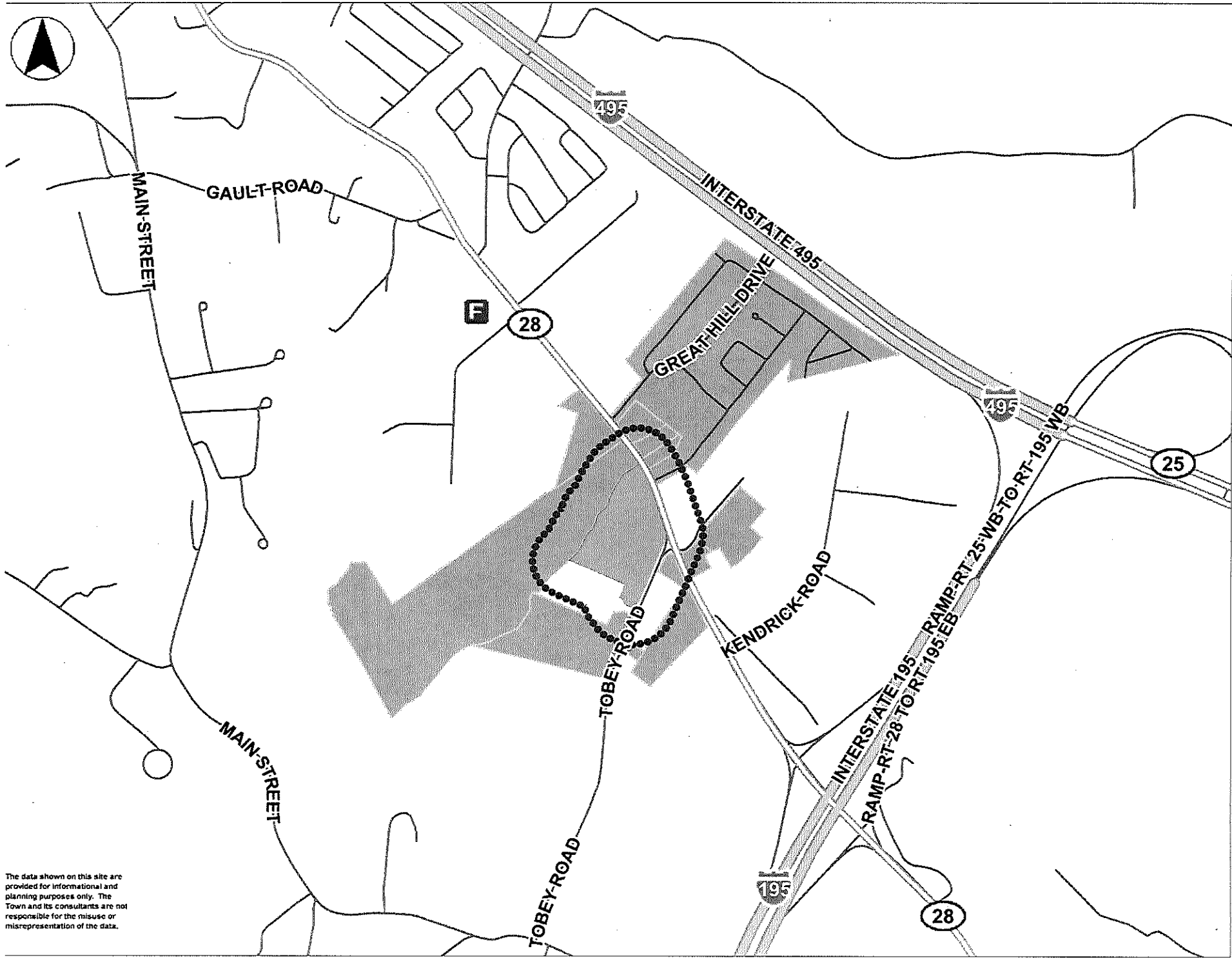
**I hereby certify that 20 days have elapsed after the decision was filed in the office of the Town Clerk of Wareham and no appeal has been filed in accordance with Section 17, Chapter 40 A of the Massachusetts General Laws.**

Nichelle Bissone  
**Town Clerk**

**TRUE COPY ATTEST:**

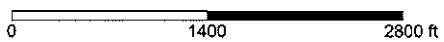
Nichelle Bissone  
**TOWN CLERK**

TOWN OF WAREHAM ABUTTERS						
MAP 87 LOT 1						
WAREHAM RETAIL MANAGEMENT LLC						
<b>MAP &amp; LOT</b>	<b>OWNER</b>	<b>CO-OWNER</b>	<b>STREET ADDRESS</b>	<b>TOWN</b>	<b>STATE</b>	<b>ZIP CODE</b>
87-1000/A2	BLISS FAMILY FOUNDATION TO	C/O PETER LATHAM	PO BOX 721	WAREHAM	MA	02571
87-2	S&H REALTY LLC		PO BOX 231	WAREHAM	MA	02571
87-1000/B	SAV ASSOCIATES LLC		1 EXPRESS DRIVE	WAREHAM	MA	02571
108-1002/B1	NELSON CARL A JR & SALLY ANN	TRUSTEES OF CNF TRUST	28 WESTMINSTER ST	WARREN	RI	02885
85-1004/C	CHAMBERLAIN ROBERT C & DANIEL W	TRUSTEES SETH TOBEY REALTY TRUST	PO BOX 271	S DENNIS	MA	02660
108-1002/D	NELSON CARL A JR & SALLY ANN	TRUSTEES OF CNF TRUST	28 WESTMINSTER ST	WARREN	RI	02885
108/A	PETER GERRY WAREHAM LLC		275 EAST MAIN ST	ORANGE	MA	01364
108-1002/B2	NELSON CARL A JR	NELSON SALLY ANN TRUSTEES	28 WESTMINSTER ST	WARREN	RI	02885
85-JDC1	JDC WAREHAM LLC		ONE BURLINGTON WOODS DR	BURLINGTON	MA	01803
85-JDC3	JDC WAREHAM LLC		ONE BURLINGTON WOODS DR	BURLINGTON	MA	01803
108-1004/A1	MAYFLOWER COOPERATIVE BANK	C/O ROCKLAND TRUST/FACILITIES DEPT	288 UNION ST	ROCKLAND	MA	02370
108-1002/A	GREAT HILL CORP		200 NORTON AVE	TAUNTON	MA	02780
108-1004/AA	CJE & R CO INC		PO BOX 92	WAREHAM	MA	02571
CERTIFIED ABUTTERS AS						
THEY APPEAR ON OUR TAX ROLLS						
AS OF 12/31/2020						
<i>G. Peter Atkins</i>						
ASSESSORS OFFICE						
REQUESTED BY						
ALFONS KOKA						
HIGHPOINT ENGINEERING INC						
781 770-0974						
AKOKA@HIGHPOINTENG.COM						



- MA Places
  - Fire Station
  - Police Station
  - Town Hall
  - Public Library
  - School
- Buildings
- Parcels
- Town Boundary
- MA Highways
  - Interstate
  - US Highway
  - Numbered Route
- Streets
- Bathymetry
  - 0-5 ft
  - 5-10 ft
  - 10-15 ft
  - 15-20 ft
  - 20-30 ft
  - 30-40 ft
  - 40-50 ft
  - 50-60 ft
  - 60-70 ft
  - 70+ ft
- Abutting Town Labels
- Abutting Towns

The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 10/22/2020 at 09:55 AM