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# MORTON LAW LLC

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184 Main Street Wareham, Massachusetts 02571 · 508-681-2334

September 14, 2020

Zoning Board of Appeals of Wareham

Memorial Town Hall

54 Marion Road

Wareham, Ma 02571

*Re: Application for Special Permit Assessors Map 114, Lot 18, 10 Jordan Road  
Wareham, MA*

1. Petitioner and Recorded Owner:

Mr. Anthony El Khazen, Trustee of the Homestead Realty Trust  
PO Box 969  
Mattapoisett, MA 02739

2. Certified Abutters List:

Copy Attached as Exhibit A

3. Current Deed and Trust Documents:

Plymouth County Registry of Deeds Book 50393, Page 35 (Deed) and Resignation  
of Trustee and Appointment and Acceptance of Mr. El Khazen attached as well.  
Copies attached as Exhibit B.

4. Building Inspector's Denial Letter:

Denial Letter attached here as Exhibit C from the Building Commissioner referencing Appeal to Zoning Board of Appeal is necessary. \*Please note that Mr. Morris references that an animal kennel is needs for over 4 dogs but in the by-laws it references Animal Kennels in 340.2 as the “ Harboring and/or care of more than three dogs for three or more months per year.”

5. Recorded Plan of Parcel:

Attached as Exhibit D is a copy of the Relevant Plan. Please note our Parcel is in the R-60 district.

6. Photographs:

See the attached Photographs as Exhibit E as accompanying evidence for the allowance this petition.

7. Letter of Support

Dear Chairman and Board Members,

I represent Mr. Anthony El Khazen, Trustee of the Homestead Realty Trust, and owner of 10 Jordan Road in Wareham re the above application for a Special Permit to harbor and care for more than 3 dogs per Zoning By-Laws 340.2 Animal Kennels and per Principle Use Table 321. Mr. El Khazen is a successful local businessman who owners and operates GP East on Cranberry Highway in Wareham. Mr. El Khazen employs many local residents of Wareham and serves many projects around the state of Massachusetts specializing in the erection of structural steel buildings across the commercial and industrial sectors.

**Background:**

My client has been a resident of Wareham for a little over two and a half years and made it his home for his family including his dogs. Mr. El Khazen currently owns two adult German Shepard (one male and one female) and 4 of their puppies- a total of six dogs. My client has owned his male adult dog for about 6 years and his female for a little over 2 years. They recently had puppies and my client was overjoyed. As a lifelong dog owner he was happy to welcome the puppies into his family.

Mr. Khazen does not intend and will not sell these puppies. His intention is to keep the dogs with their parents.

## **The Law:**

We are seeking a Special Permit for an animal kennel as procedurally set out in the Wareham Zoning By-Laws in the Principle Use Table 321 and defined in 340.2 Use Definitions.

The By- Laws provide in the R-60 district if a lot has less than 5 acres, the owner must petition the Zoning Board of Appeals for a special permit for an animal kennel (3 or more dogs). Our property 2.02 acres and under the 5 acre mark. The Lot is at the end of a cul-de sac and the back of the lot where the dogs are kept backs up to open space.

When looking at the approval of a Use Special Permit the Zoning Board of Appeals shall look at the following factors as set out in the By-Laws 1461:

*The Board of Appeals or Planning Board shall not approve any application for a Special Permit unless it finds that in its judgement, all of the following conditions are met:*

- 1. The Use as developed will not adversely affect the neighborhood.*
- 2. The specific site is an appropriate location for such a Use, structure, or condition.*
- 3. There will be no nuisance or serious hazard to vehicles or pedestrians.*
- 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed Use. This includes the provision of appropriate sewage treatment facilities which provide for denitrification, when the permit granting authority deems such facilities necessary for protection of drinking water supply wells, ponds, or saltwater embayments.*
- 5. The Use or structure as proposed does not pose a substantial detriment to the town or neighborhood in which it is proposed.*
- 6. The proposal, as approved, conforms to all other applicable provisions of the Wareham Zoning By-law*

## **Standard as Applied to our case:**

1. Mr. El Khazen's application should be approved as there is no substantially detrimental to the neighborhood for him to own and care for his animals. His lot abuts woods in the back which is where the outbuilding for the animals is. Further the dogs are closed in with a wire fence that from the photos you can clearly keeps them contained and would not be a nuisance to any of the neighbors. Also Mr. Khazen is not trying to breed dogs but merely keeping the puppies his two adult dogs had and does not intend whatsoever to run a business selling the animals
2. The site is an appropriate location again because there are no abutters on the back of the property and the animals are contained.

3. These puppies do not pose any threat to the neighborhood or hazard. German shepherd dogs are noble, diligent, loyal, and highly intelligent dogs. They are also family oriented and are great companions. Further the bylaw seeks that the Use would not adversely affect any traffic or pedestrians- you can see the location of the barn for the animals is in the back of the property not near the road or passersby.
4. As the photos show the property is in excellent shape- the kennel has a cement bottom for easy clean up and the dogs are kenneled inside with woodchips surrounding the kennel.
5. The Use we are requesting is not outside the scope of other Wareham residents who own more than 4 dogs for their own liking. Mr. El Khazen is a seasoned dog owner who has taken all the necessary precautions to protect his animals from harm and providing a wonderful home for his pets.
6. This proposal does comply with all other zoning bylaws and warrants approval based on the precautions he has taken and care in providing a home for these animals.

All things considered allowing this Use Special Permit would not be detrimental to the neighborhood and certainly would not derogate from the intent of the Zoning By Law.

Respectfully submitted,

By \_\_\_\_\_

Jilian A. Morton, Esq.

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: 10 Jordan Road MAP: 114 LOT: 18  
ZONING DISTRICT: R60  
USE REQUESTED: Animal Kennel less than 5 acres  
OWNER OF LAND & BUILDING: Mr. Anthony El Khazen TEL.# Trustee of the Home Stea  
ADDRESS OF OWNER: PO Box 969, Mattapoiset, MA 02739 Realty Trust  
PERSON(S) WHO WILL UTILIZE PERMIT: Mr. El Khazen  
ADDRESS: 10 Jordan Road Wareham MA  
DATE: 9/9/2020 SIGNATURE: [Signature] as attorney for Mr. El Khazen  
This application was received on the date stamped here:

Town Clerk: \_\_\_\_\_ Date: \_\_\_\_\_  
Tax Collector: Haley King Date: 9/14/20  
Planning/Zoning Dept.: \_\_\_\_\_ Date: \_\_\_\_\_  
Application fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_  
Advertising fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_  
Abutters fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_

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: Attorney Jilian Morton

Applicant's Address: 184 Main Street, Wareham, MA 02571

Telephone Number: 508-681-2334

Cell Phone Number: "

Email Address: jam@mortonlawllc.com

Address of Property/Project: 10 Jordan Road, Wareham, MA

Landowner's Name: Mr. Anthony El Khazen

Owner's Address: PO. Box 969, Mattapoisett, MA 02739

Telephone Number: \_\_\_\_\_

Contact Person: Jilian Morton, ESQ Telephone Number: 508-681-2334

Map 114 Lot 18 Zone R60

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

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

# EXHIBIT A

TOWN OF WAREHAM ABUTTERS						
MAP 114/E LOT PG18						
OWNER ANTHONY EL KHAZEN TRUSTEE						
<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>
114/E-PG19	PINE GROVE HOMEOWNER'S	ASSOCIATION INC	19 JORDAN RD	WAREHAM	MA	02571
114/E-PG17	MATTHEW CUNHA		8 JORDAN RD	WAREHAM	MA	02571
114/E-PG16	DAVID A WESTCOTT	CAROLYN M WESTCOTT	6 JORDAN RD	WAREHAM	MA	02571
114/E-PG15	LAUREN FERNANDES	JACEN C FERNANDES	4 JORDAN RD	WAREHAM	MA	02571
114/E-PG14	STEVEN P YURASHA	CHERYLL A YURASHA	9 JORDAN RD	WAREHAM	MA	02571
114/E-13	CURTIS O SPOONER	KRISTIN L HAYES	7 JORDAN RD	WAREHAM	MA	02571
114/E-PG12	ROBERT N FICHTENMAYER	KAREN A FICHTENMAYER	P O BOX 491	W WAREHAM	MA	02576
114/B-PG2	KEKVIN J KITSOCK	AILEEN M KITSOCK	2 SKIPPERS WAY	WAREHAM	MA	02571
CERTIFIED ABUTTERS AS						
THEY APPEAR ON OUR TAX ROLLS						
AS OF 12/31/2019						
<i>M. Renu Davis</i>						
ASSESSORS OFFICE						
REQUESTED BY						
JILLIAN A MORTON ESQ						
508 681-2334						
JAM@MORTONLAWLLC.COM						



# EXHIBIT B


  
 Bk: 50393 Pg: 35 Page: 1 of 2
   
 Recorded: 10/11/2018 02:12 PM
   
 ATTEST: John R. Buckley, Jr., Registrar
   
 Plymouth County Registry of Deeds

MASSACHUSETTS QUITCLAIM DEED

**PINE GROVE ESTATES, LLC**, a Massachusetts limited liability company, of 2854 Cranberry Highway, East Wareham, (Plymouth County) Massachusetts 02538 for consideration paid and in full consideration of **FOUR HUNDRED SEVENTY THOUSAND and 00/100 (\$470,000.00) Dollars**, grants to **KRISTEN TOBIA-SIMMONS, TRUSTEE OF THE HOMESTEAD REALTY TRUST**, under Declaration of Trust dated September 28, 2018 and recorded herewith, of 2363 Cranberry Highway, Unit 2A, West Wareham, (Plymouth County) Massachusetts 02576

with QUITCLAIM COVENANTS:

The land and any structures thereon situated on Jordan Road in Wareham, Plymouth County, Commonwealth of Massachusetts, shown as Lot 18 on a plan of land entitled: "Definitive Subdivision Plan of Land and Cluster Development of Pine Groves Estates in Wareham, Massachusetts, which plan is dated January 22, 2018, Prepared for by Marotta, drawn by JC Engineering, Inc.", and which plan is recorded in the Plymouth County Registry of Deeds in Plan Book 59, Page 338-441, said Lot 18 being shown on Page 539 (hereinafter, the "Plan").

Said Lot 18 contains 87,811 square feet, 2.02 acres  $\pm$ , 965 square feet  $\pm$  UPLANDS) according to said Plan.

The Grantor hereby reserves the ~~right~~ <sup>right</sup> to all of the streets and ways shown on the above referenced Plan or any other interest therein including without limitation that area shown as "Open Space" on said Plan.

Said is conveyed with the right to use Jordan Road, together with others lawfully entitled to ~~square~~ <sup>square</sup>.

This conveyance is not a transfer of all or substantially all of the assets of the grantor located in the Commonwealth of Massachusetts and is made in its ordinary course of business.

Please return to:

Law Office of Bello & Bello  
 184 Main Street  
 Wareham, MA 02571

MASSACHUSETTS EXCISE TAX  
 Plymouth District ROD #11 001  
 Date: 10/11/2018 02:12 PM  
 CUR: 118516 22561 Doc# 60095049  
 Fee: \$2,143.20 Cont# \$470,000.00

CANCELLED

Property Address: 10 Jordan Road, Wareham, MA


authorized and approved.

Grantor hereby releases any and all homestead rights to the within premises, whether created by declaration or operation of law, and further state, under the pains and penalties of perjury, that there are no other persons entitled to homestead rights to the property being conveyed herein.

Being a portion of the premises conveyed to the Grantor by deed of Louise M. Marotta by deed dated November 26, 2014 and recorded at the Plymouth County Registry of Deeds in Book 45031, Page 164.

Witness our hands and seals this 11 day of October, 2018.

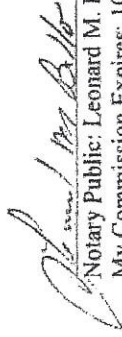
Pine Grove Estates, LLC

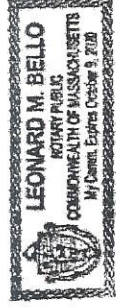
By:   
Nazih Elkallassi, Manager and  
Authorized Real Estate Signatory

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS.

On this 11 day of October, 2018, before me, the undersigned notary public, personally appeared Nazih Elkallassi, Manager of Pine Grove Estates, LLC and proved to me through satisfactory evidence of identification which was a Massachusetts State Driver's licenses, to be the person whose name is signed on this document and acknowledged the foregoing instrument to be his free act and deed, before me on behalf of Pine Grove Estates, LLC.

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



Bk: 51409 Pg: 196 Page: 1 of 2  
Recorded: 07/25/2019 09:44 AM  
ATTE: John R. Buckley, Jr. Register  
Plymouth County Registry of Deeds

HOMESTEAD REALTY TRUST

TRUSTEE'S CERTIFICATE OF APPOINTMENT AND ACCEPTANCE

In accordance with Section VIII of the Declaration of Trust of The Homestead Realty Trust dated September 28, 2018, the undersigned GP East Steel Co, being the holder of a majority of the beneficial interest hereby certifies that Kristen Tobias-Simmons has resigned as the sole Trustee of the Homestead Realty Trust and that Anthony El Khazen of 10 Jordan Road, Wareham, MA 02571 has been voted the Successor Trustee and as such shall have the same rights, powers, and duties as the original Trustee. Said appointment to be effective forthwith.

Witness our hands and seals this 16<sup>th</sup> day of July 2019.

GP EAST STEEL CO.

By George El Khazen, Pres.  
and Anthony El Khazen, Treasurer

I Anthony El Khazen, hereby accept the position of Trustee of the Homestead Realty Trust.

Anthony El Khazen  
Anthony El Khazen

\*recorded with the Plymouth County Registry of Deeds in Book 50393, Page 26.

LAW OFFICES OF BELLO AND BELLO  
184 MAIN STREET  
WAREHAM, MA 02571

TRUSTEE'S RESIGNATION  
ADMINISTRATIVE TRUST

The undersigned being the Trustee of the Homestead Realty Trust under a

Declaration of Trust dated September 28<sup>th</sup>, 2018, recorded with the Plymouth County

Registry of Deeds in Book 50393, Page 26, hereby resigns as a Trustee effective forthwith.

Signed this the 18 day of July 2019.

*Kristen Tobia-Simmons*  
KRISTEN TOBIA-SIMMONS

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

JULY 18, 2019

On this the 18 day of July 2019, before me, the undersigned Notary Public, personally appeared the above-named, Kristen Tobia-Simmons, and proved to me through satisfactory evidence of Massachusetts State Driver's License and/or other photo identification, to be the person whose name is signed on this document and acknowledged the foregoing instrument to be her free act and deed, before me.

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

LAW OFFICES OF BELLO AND BELLO  
184 MAIN STREET  
WAREHAM, MA 02571

# EXHIBIT C



# TOWN of WAREHAM

*Massachusetts*

## BUILDING DEPARTMENT

David E Morris  
Director of Inspectional Services

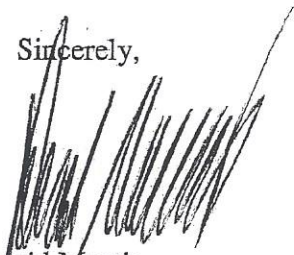
Anthony El Khazen  
PO Box 969  
Mattapoissett, Ma 02739

May 6, 2020

Dear El Khazen,

I have received your request for an animal kennel for over 4 dogs at 10 Jordan Road. According to Principle Use Table 321 in the Town of Wareham Zoning By-Laws, this use is allowed by Special Permit. In order to proceed, you must appeal to the Zoning Board of Appeals. The subject property is in the R-60 District with less than 5 acres.

Sincerely,



David Morris  
Director of inspectional Services

# EXHIBIT D

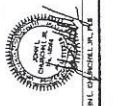




Approved by Planning Board  
 Approved by Select Board  
 Approved by Town Meeting

FOR REGISTRY USE ONLY

**LOUIS MAP**  
 SCALE 1" = 300'  
 (CERTIFY THAT THIS MAP CONFORMS TO THE RULES AND REGULATIONS OF THE BOARD OF REGISTRY OF MAPS OF THE COMMONWEALTH OF MASSACHUSETTS)



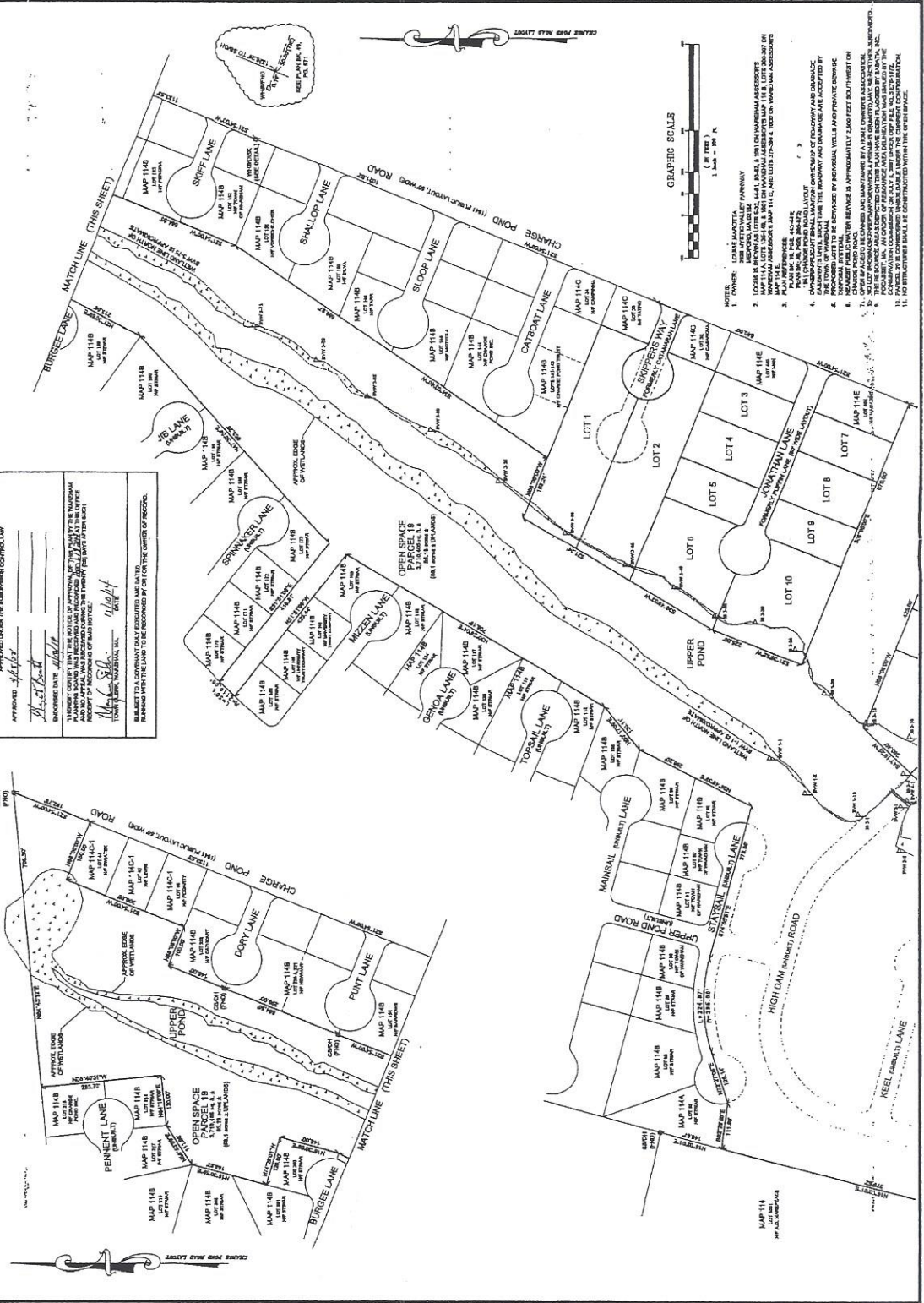
DEFINITIVE SUBDIVISION  
 CLUSTER DEVELOPMENT  
 PINE GROVE  
 ESTATES  
 WAREHAM  
 MASSACHUSETTS  
 (PLYMOUTH COUNTY)  
 LOT LAYOUT-  
 OPEN SPACE

REVISIONS:  
 ALL DATE DESC.

PREPARED FOR:  
 LOUISE MAROTTA  
 3926 WOODBERRY HIGHWAY  
 WEBSTER, MA 02157

ENGINEERED BY:  
 J.C. ENGINEERING, INC.  
 2854 CRANBERRY HIGHWAY  
 EAST WAREHAM, MA 02538  
 508-775-0877

DATE:	JANUARY 21, 2007
PLANS:	JCM07
CALCULATIONS:	JCM
DRAWN BY:	JCM
OTHERS:	JCM
JOINED:	JCM
DATE:	JANUARY 21, 2007



APPROVED FOR PLANNING BOARD  
 APPROVED BY SELECT BOARD  
 APPROVED BY TOWN MEETING

APPROVED BY TOWN MEETING  
 DATE: 1/26/07

REMARKS TO CORRECT MAP ONLY EXCLUDED AND DATED  
 RECORDED WITH THE LAND TO BE RECORDED BY OR FOR THE QUANTITY OF RECORD.

NOTES:

- OWNER: LOUISE MAROTTA, 3926 WOODBERRY HIGHWAY, WEBSTER, MA 02157
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 100-110, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 111-120, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 121-130, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 131-140, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 141-150, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 151-160, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 161-170, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 171-180, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 181-190, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 191-200, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 201-210, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 211-220, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 221-230, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 231-240, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 241-250, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 251-260, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 261-270, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 271-280, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 281-290, WAREHAM, MASSACHUSETTS
- LOCAL RECORDING ADDRESS: MAP 1148, LOT 291-300, WAREHAM, MASSACHUSETTS

14-767 (4/04)

SHEET 4 OF 4

LY HIGH DAM RD  
60' WIDE (AS-BUILT)



LOT 14  
45,512 sq. ft.  
1.04 acres  
(38,572 sq. ft. UPLANDS)

LOT 13  
23,100 sq. ft.  
0.53 acres

LOT 18  
87,811 sq. ft.  
2.02 acres  
(75,855 sq. ft. UPLANDS)

LOT 17  
27,712 sq. ft.  
0.64 acres

LOT 16  
36,000 sq. ft.  
0.83 acres

LOWER POND

WETLAND LINE

UNOFFICIAL

OPEN SPACE

BVW 2-5

BVW 2-1

BVW 4-1

BVW 4-5

BVW 4-10

BVW 4-15

IB 3-15

IB 3-5

IB 3-10

47.88'

L=30.24'

R=20.00'

Tan=18.88'

Δ=86°37'40"

285.78'

N21°54'00"E  
226.75'

N21°54'00"E  
340.00'

N21°54'00"E  
242.00'

100.00'

S44°19'25"W  
153.714'

200.00'

N68°06'17"W  
220.00'

S43°19'25"W  
79.58'

S43°19'25"W  
105.86'

N43°20'00"W  
108.72'

L=148.47' R=340.00'

L=77.40' R=390.00'

L=228.45' R=374.45'

L=158.84' R=374.45'

S21°34'00"W  
65.00' (RADIAL TIE)

N68°06'30"W (TIE)

105.00'

S48°06'12"E  
120.00'

# EXHIBIT E

