

# FairTV Commission

Seat	Name	Position	Party	Term Start	Term End
1	Braun, Kathryn L		R	07/16	07/19
2	[VACANT]		*	07/17	07/20
3	Jones, Andrew D		D	07/17	07/20
4	Quinn, James F		D	07/18	07/21
5	Strelzer, Stuart	Chair '19	U	07/18	07/21

Full	
Party	Count
Vacant	1
Democrats	2
Republicans	1
Unaffiliated	1
Total Full	5

The FairTV Commission was established to oversee the development and operation of educational and government access television programming in Fairfield.

**KATHRYN L. BRAUN, ATTORNEY AT LAW**  
**1212 Post Road**  
**Fairfield, Ct 06824**  
**Tel: (203) 256-0334 | Mobile: 203-209-8116 | Fax: (203) 319-0430**  
[klblawoffice@gmail.com](mailto:klblawoffice@gmail.com)

**EXPERIENCE:**

- 6/93 - present     Kathryn L. Braun, Attorney At Law, Fairfield, CT**  
**Owner of Law Firm**  
General Practice includes corporate counsel work, contracts, residential and commercial real estate transactions; real and personal property leases; contracts; business formations, transactions and representation, environmental law and land use; administrative law; appellate law; probate, family and civil litigation.
- 11/90 - 6/93     Laurence V. Parnoff, P.C., Bridgeport, CT**  
**Associate Attorney**  
Represented clients in all aspects of diverse practice including: business law, real estate, civil litigation, workers' compensation, administrative law, appellate work, collections, family law, probate, zoning, insurance law.
- 11/89 - 10/90     Moynahan, Ruskin, Mascolo, Mariani & Minella, Waterbury, CT**  
**Associate Attorney**  
Represented clients in all aspects of diverse general practice including real estate, insurance, civil and criminal litigation.
- 1/83 - 11/89     Textron Lycoming, Stratford, CT**  
**Senior Analyst - Strategic and Operational Planning**  
Managed \$100 million capital investment plan, master sales plan and annual operating plan for gas turbine engine division of major defense contractor. Received community action award; spotlight speaker at management association annual meeting.

**EDUCATION:**

- **Quinnipiac University School of Law: Juris Doctor**  
Awards: three American Jurisprudence Awards
- **University of Connecticut: Master of Business Administration**  
Treasurer, Graduate Student Council; Board of Directors of CDC
- **University of Connecticut: Bachelor of Arts. Major: Economics**  
Student Government Finance Committee

**LICENSES / PROFESSIONAL AFFILIATIONS / COMMUNITY INVOLVEMENT:**

- State of Connecticut Superior Court-12/89; U.S. District Court, District of Connecticut-9/91; Connecticut Bar Association
- Elected member of Town of Fairfield Representative Town Meeting (RTM) 2009-2015
- Adjunct Professor, University of Connecticut in Business Law- 2005-2009



# Ethics Commission

Seat	Name	Position	Party	Term Start	Term End
1	Toth, Marguerite H	Vice Chair '19	R	07/18	07/20
2	Trembicki, Alexander J		D	07/18	07/20
3	Bothwell, David G	Chair '19	R	07/17	07/19
4	Carpenter, Janice I	Secretary '19	R	07/17	07/19
5	Jay, Loretta		D	07/17	07/19

Full	
Party	Count
Democrats	2
Republicans	3
Total Full	5

The Ethics Commission is responsible for investigating allegations of unethical behavior or violations of the Town Charter's Standards of Conduct by town employees and members of town boards.

If the commission finds "probable cause" that such behavior or violations have taken place, the commission holds a hearing. If commission members determine, after the hearing, that unethical behavior or a violation of the Standards of Conduct has taken place, they would recommend disciplinary action to the Board of Selectmen or the head of the department in which the employee works.

**Experience****Attorney at Law and Partner, Bellitto & Bellitto LLC, Fairfield, CT**

1996-present

- Residential and commercial real estate closings
- Wills and probate
- Corporate and business law
- Personal injury
- Residential and commercial real estate title examination

**Temporary Assistant Clerk, State of Connecticut Judicial Branch,  
Judicial District of Fairfield at Bridgeport**

1993-1996

- Clerk for Civil Administrative Judge; civil, criminal and family courts

**Education****Suffolk Law School, Boston, MA**

1990-1993

- Juris Doctor

**Fairfield University, Fairfield, CT**

1986-1990

- B.A., English

**Fairfield College Preparatory School, Fairfield, CT**

1982-1986

**Community****Board of Finance, Town of Fairfield, CT**

2007-2013

- Vice-Chairman 2010-2013
- Secretary 2009-2010
- Representative, Town and BOE Union Contract Negotiations 2009-2011
- Chairman of Budget Subcommittee 2009-2013

**Penfield Pavilion Building Committee, Town of Fairfield, CT**

- Vice-Chairman 2013-2017

**Operation Hope of Fairfield, CT**

- Board of Directors and Finance Committee 2015-present

**Candidate for First Selectman, Town of Fairfield, CT**

2011

**Head Moderator, Town of Fairfield Municipal Election**

2013

**Executive Board, North Stratfield Elementary School PTA and Fairfield  
Woods Middle School PTSA, Fairfield, CT**

2005-2012

**Coach, Fairfield National Little League, Fairfield, CT**

2005-2010

**RECEIVED**

By Office of the First Selectman at 4:32 pm, May 29, 2019



## Town of Fairfield

Office of the First Selectman  
Fairfield, Connecticut 06824

### BOARDS AND COMMISSIONS QUESTIONNAIRE

To be considered for appointment to a Board or Commission please fill out this form, save a copy and email the saved copy, along with a copy of your resume, to the First Selectman's office at [firstselectmanffld@town.fairfield.ct.us](mailto:firstselectmanffld@town.fairfield.ct.us). Please note that your resume and completed questionnaire are public documents. If you have any questions please contact Kathleen Griffin at 203-256-3030 or [kgriffin@town.fairfield.ct.us](mailto:kgriffin@town.fairfield.ct.us).

Board/Commission: Ethics Commission  
Date: 5/15/2019

Name: Robert B. Bellitto, Jr.  
Address: 83 Wheeler Park Avenue  
Fairfield, CT 06825

Email: rbellittojr@gmail.com  
Home Phone: 203-372-1406  
Work Phone : 203-366-5236  
Cell Phone: 203-257-1401

1. How did you learn about this position?

I was contacted by Selectman Ed Bateson.

2. Why are you interested in serving and how can you contribute to this board / commission?

I have served the Town of Fairfield in numerous capacities over the past decade or so, and would welcome the opportunity to serve again. I believe my experience in Town Government and as a lawyer would be an excellent fit for this Commission.

3. Have you attended any meetings or reviewed past minutes / agendas? If yes, please specify.

I have reviewed past minutes and agendas on the Town website.

4. Have you spoken with the chair, any members, or the appropriate Department Head?

Not to date, but I know Maggie Toth and Alex Trembicki and will reach out to them.

5. Have you read the written description of the board's role?

Yes.

6. Do you have any potential conflict of interest?

Not to my knowledge.

7. Do you know the time, date and location of meetings and will you be able to attend and fulfill the obligations of the position?

I understand the board meets on an as needed basis. I will be available.

8. Participation requires that you are registered voter in the town of Fairfield. Additionally, the town charter requires that party balance be maintained on all boards/commissions. Are you registered to vote and what is your party affiliation?

I am a registered Democrat. I switched my party affiliation in January.

9. Use this space to ask any questions you may have or to provide additional information you'd like to share.

I appreciate your consideration for this Commission. Please feel free to contact me with any questions. Thank you, Rob Bellitto

# Solid Waste & Recycling Commission

Seat	Name	Position	Party	Term Start	Term End
1	Becker, Andrew Christopher		R	11/16	11/20
2	MacDonald, Charles P	Chair '19	U	11/16	11/20
3	Dolan, Hugh F	Vice Chair '19	R	11/16	11/20
4	Beyer, Mary S		D	11/18	11/22
5	[VACANT]		*	11/18	11/22
6	[VACANT]		*	11/18	11/22
7	Pagnozzi, Joseph R		R	11/15	11/19

Full	
Party	Count
Vacant	2
Democrats	1
Republicans	3
Unaffiliated	1
Total Full	7

The Solid Waste & Recycling Commission, established in 1990, consists of six volunteer residents who oversee the town's Department of Solid Waste & Recycling and the town Transfer Station, where private haulers and town residents bring garbage, recyclables and yard waste.

# Town of Fairfield

Office of the First Selectman  
725 Old Post Road  
Fairfield, CT 06824



**RECEIVED**

By Office of the First Selectman at 12:59 pm, Apr 26, 2019

## BOARDS AND COMMISSIONS QUESTIONNAIRE

To be considered for appointment to a Board or Commission please fill out this form, save a copy and email the saved copy, along with a copy of your resume, to the First Selectman's office at [firstselectmanffld@town.fairfield.ct.us](mailto:firstselectmanffld@town.fairfield.ct.us). Please note that your resume and completed questionnaire are public documents. If you have any questions please contact the First Selectman's Office at 203-256-3030 or [firstselectmanffld@town.fairfield.ct.us](mailto:firstselectmanffld@town.fairfield.ct.us).

Board/Commission: **Solid Waste & Recycling**  
Date: February 25, 2019

Name: **Dabney H. Bowen**  
Address: **317 Verna Hill Road, 06824**

email: [Dabney.bowen@gmail.com](mailto:Dabney.bowen@gmail.com)  
home phone:  
work phone:  
cell phone: **203-461-4351**

1. How did you learn about this position? Pam Iacono
2. Why are you interested in serving and how can you contribute to this board / commission? As a former real estate brownfield developer and current environmental conservationist, I bring a background in business and a deep understanding of conservation science, as well as experience working with municipal solid waste and recycling officials to reduce the municipal burden and liabilities associated with waste management.
3. Have you attended any meetings or reviewed past minutes / agendas? If yes, please specify. Yes, I have reviewed the agendas and minutes over the past year.
4. Have you spoken with the chair, any members, or the appropriate Department Head? No.
5. Have you read the written description of the board's role? Yes.
6. Do you have any potential conflict of interest? None.
7. Do you know the time, date and location of meetings and will you be able to attend and fulfill the obligations of the position? Yes.
8. Participation requires that you are registered voter in the town of Fairfield. Additionally, the town charter requires that party balance be maintained on all boards/commissions. Are you registered to vote and what is your party affiliation? Yes, I am registered to vote as a member of the independent party.

9. Please use this space to ask any questions you may have or to provide additional information you'd like to share.

Dabney Bowen  
317 Verna Hill Road  
Fairfield, CT 06824

Cell: 203-461-4351

**RECEIVED**

*By Office of the First Selectman at 1:03 pm, Apr 26, 2019*

## Bio

Dabney Bowen is a Master Naturalist and Master Conservationist who has been actively involved in environmental conservation efforts for nearly two decades. She is the face behind Call of the Wild CT, a wildlife and ecology education program that teaches students, scout troops, garden clubs, and other local organizations about biodiversity, wildlife habitats, and human impacts on the natural world; coordinates citizen action campaigns focused on mediating human impacts on the environment; advocates and lobbies for creation of and public access to open spaces; and assists public and private wildlife rescue, rehabilitation and release services. She is also a co-director of estuarine study and field study captain for the Mill River Wetland Committee River-Lab program, where she assists in developing environmental science curriculum and leads students in natural science practicum for Fairfield Public Schools.

Mrs. Bowen is currently a candidate for the CT DEEP Master Wildlife Conservationist program that begins in the fall of 2019. She has been a coordinator and presenter for the Connecticut Audubon Society CANE program, a citizen science volunteer with CT DEEP, and a volunteer for the Nantucket Conservation Association. In the mid-1990's, Mrs. Bowen was a board member of the Roland Park Community Foundation, a civic association charged with maintaining and protecting open spaces, public areas and historic streetscapes within the 700-acre neighborhood in northern Baltimore.

Dabney holds a Master's Degree in Sustainable Real Estate Development from New York University and a Bachelor's Degree in Communications from Towson University. Prior to raising her family, Mrs. Bowen enjoyed a successful career as a real estate developer specializing in remediation and adaptive reuse of historic Brownfield sites, including the former Proctor & Gamble Factory in Baltimore, MD; the former Lord & Taylor Building on Broadway in New York City; and the former Perkin Elmer headquarters in Norwalk, CT.

Mrs. Bowen is an active member of several local and global conservation organizations including The Nature Conservancy, the National Wildlife Federation, the Wildlife Conservation Society, the Sierra Club, the Maria Mitchell Association, and the Nantucket Conservation Association. She is a 14-year resident and property owner in Fairfield, Connecticut. In her recreational time, she enjoys kayaking, horseback riding, and hiking in Fairfield's many open spaces with her three hunting dogs.



**BASIC LEASE INFORMATION**

**Lease Date:** July 1, 2019

**Tenant:** Town of Fairfield

**Identity of Tenant:** Municipal

**Legal Situs of Tenant:** Connecticut

**Address of Tenant:** 725 Old Post Road, Fairfield, CT 06824

**Contact:** First Selectman's Office

**Telephone:** 203-256-3030

**Landlord:** 418 Meadow Street, LLC

**Identity of Landlord:** Limited Liability Company

**Address of Landlord:** 418 Meadow Street, Fairfield, CT 06824

**Contact:** Jason B. Julian

**Telephone:** (203) 416-5308

**Premises:** The premises consisting of approximately Six Thousand Two Hundred and Sixty (6,260) rentable square feet, known as Unit 1-A-2, of the building located at 418 Meadow Street, Fairfield, Connecticut 06824. Final Square footage subject to Architects measurements.

**Lease Term:** The Commencement Date of the Lease Term will be July 1, 2019 and the Lease Term will continue until July 1, 2029. The total term is 10 years.

**Base Rent:** Base rent for Six Thousand Two Hundred and Sixty (6,260) square feet is as follows:

<u>Year</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
07/01/2019--06/30/2020	\$8,117.33	\$97,407.96
07/01/2020--06/30/2021	\$8,279.66	\$99,355.92
07/01/2021--06/30/2022	\$8,445.25	\$101,343.00
07/01/2022--06/30/2023	\$8,614.16	\$103,396.92
07/01/2023--06/30/2024	\$8,786.44	\$105,437.28
07/01/2024--06/30/2025	\$8,962.17	\$107,546.04
07/01/2025--06/30/2026	\$9,141.41	\$109,696.92
07/01/2026--06/30/2027	\$9,324.24	\$111,890.88
07/01/2027--06/30/2028	\$9,510.73	\$114,128.76
07/01/2028--06/30/2029	\$9,700.94	\$116,411.28

**Security Deposit:** Not applicable

**Reimbursable Operating Expenses:** It is the intent of Landlord and Tenant that this Lease is "modified gross plus utilities". Landlord and Tenant agree that the rent stated above is a minimum rent subject to periodic increases, if any, as hereinafter set forth, which increases are hereinafter referred to as "Additional Rent." Additional Rent shall include the Tenants allocated portion of:

The cost of water, gas, electric or such other fuel for the heating, ventilating and air conditioning of the Demised Premises, all utilities associated with the Tenants operations and the cost of sanitary sewer servicing the Demised Premises. If not separately metered said utility charges shall be estimated based upon historical data.

**Tenant's Proportionate Share:** N/A.

**Permitted Use:** Board of Education Warehouse and Office. Tenant shall use the Demised Premises for general office use, warehouse, shipping and receiving, and carpentry shop for the Fairfield Board of Education Maintenance Department. Tenant shall not occupy the premises with more than Ten (10) persons. Business machines and mechanical equipment used by Tenant which cause vibration or noise that may be transmitted to the Building or to any leased space to such a degree as to be reasonably objectionable to Landlord or to any tenants in the Building shall be placed and maintained by Tenant, at its expense, in settings of cork, rubber or spring-type vibration eliminators or by other means sufficient to reduce such vibration or noise to a reasonable degree. In the event that the Tenant's use of the Demised Premises causes any odor or other air quality issues objectionable to the Landlord, in its reasonable discretion, Tenant shall remediate said odor or air quality issue to Landlords reasonable satisfaction.

**Broker:** Tenant warrants that it has had no dealings with any broker or agent in connection with the negotiation or execution of this Lease and agrees to indemnify Landlord against all costs, expenses, attorney's fees or other liability for commissions or other compensation or charges claimed by any broker or agent claiming the same by, through or under Tenant.


**Extension Option:** None

The foregoing Basic Lease Information is hereby incorporated into and made a part of the Lease identified hereinabove. Each reference in the Lease to any of the information and definitions set forth in the Basic Lease Information shall mean and refer to the information and definitions hereinabove set forth and shall be used in conjunction with and limited by all references thereto in the provisions of the Lease. In the event of any conflict between any Basic Lease Information and the Lease, the Lease shall control.

418 MEADOW STREET, LLC

By:   
Andrew C. Julian  
Its Manager  
Duly Authorized

TOWN OF FAIRFIELD

By:   
Title: First Selectman  
Duly Authorized

**LEASE**

**between**

**418 MEADOW STREET, LLC**

**LANDLORD**

**and**

**TOWN OF FAIRFIELD**

**TENANT**

**for a portion of the premises located at  
418 Meadow Street  
Fairfield, Connecticut 06824**

**Date: \_\_\_\_ \_\_, 20 19**

## TABLE OF CONTENTS

### Page

1.	Lease Grant and Term.....	
2.	Renewal Option .....	
3.	Base Rent .....	
4.	Past Due Rent.....	
5.	Security Deposit.....	
6.	Landlord's Obligations .....	
7.	Use .....	
8.	Tenant Alterations, Additions or Improvements .....	
9.	Repairs and Maintenance .....	
10.	Mechanic's Liens .....	
11.	Signs.....	
12.	Tenant's Equipment.....	
13.	Use of Common Areas; Parking .....	
14.	Indemnification .....	
15.	Subordination.....	
16.	Assignment and Subletting .....	
17.	Rules and Regulations.....	
18.	Inspection.....	
19.	Condemnation .....	
20.	Fire or Other Casualty.....	
21.	Holding Over .....	
22.	Events of Default .....	
23.	Landlord Remedies .....	
24.	Tenant Remedies.....	
25.	Surrender of Premises .....	
26.	Attorney's Fees .....	
27.	Certain Rights Reserved by Landlord.....	
28.	No Subrogation-Liability Insurance .....	
29.	Brokerage.....	
30.	Change of Building Name .....	
31.	Estoppel Certificates .....	
32.	Notices .....	
33.	Force Majeure .....	
34.	Separability .....	
35.	No Waiver; Binding Effect .....	
36.	Quiet Enjoyment.....	
37.	Joint and Several Liability .....	
38.	Notice to Lender .....	
39.	Miscellaneous .....	
40.	Environmental.....	
41.	Compliance with ADA.....	

Exhibit A	Premises
Exhibit B	RESERVED
Exhibit C	Rules and Regulations
Exhibit D	Subordination, Nondisturbance and Attornment Agreement
Exhibit E	Tenant Estoppel Certificate

THIS LEASE AGREEMENT ("Lease") is entered into as of the \_\_\_\_ day of \_\_\_, 20\_\_\_, by and between **418 MEADOW STREET, LLC**, a Connecticut limited liability company (hereinafter called "Landlord") with an address of 418 Meadow Street, Fairfield, Connecticut 06824, and **TOWN OF FAIRFIELD**, a Connecticut municipality (hereinafter called ("Tenant") with an address of 725 Old Post Road, Fairfield, CT 06824.

WITNESSETH:

1. Lease Grant and Term.

a. Landlord, in consideration of the rent to be paid and the other covenants and agreements to be performed by Tenant and upon the terms hereinafter stated, does hereby lease, demise and let unto Tenant the premises in the building located at 418 Meadow Street, Fairfield, Connecticut 06824 (the "Building"), and consisting of Six Thousand Two Hundred and Sixty (6,260) square feet generally shown on the plan attached hereto as Exhibit A (the "Premises"), commencing on the Commencement Date (as defined below) and ending on the last day of the Lease Term, unless sooner terminated as herein provided.

b. If this Lease is executed before the Premises become vacant, or otherwise available and ready for occupancy, or if any present tenant or occupant of the Premises holds over and Landlord cannot acquire possession of the Premises prior to the commencement date of this Lease, Landlord shall not be deemed to be in default hereunder, and Tenant agrees to accept possession of the Premises on such date as Landlord is able to tender the same, which date shall be deemed to be the commencement date of this Lease for all purposes, and this Lease shall continue for the Lease Term specified below.

c. The commencement date is \_\_\_\_, 20\_\_ (the "Commencement Date"). Landlord and Tenant acknowledge that as of the date hereof, Tenant has had the opportunity to inspect the Premises. Tenant accepts the Premises "AS-IS", without any representation or warranty of any nature by or on behalf of Landlord including without limitation, with respect to any compliance by all or any part of the building, the Premises or the Property with applicable laws, rules, regulations, ordinances and laws, environmental or health and safety matters.

d. By executing this Lease Tenant shall be deemed to have accepted the same as suitable for the purpose herein intended and to have acknowledged that the same comply fully with Landlord's obligations.

e. The lease term shall begin on the Commencement Date and shall continue for one hundred and twenty (120) calendar months after the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) calendar month to occur following the expiration of the partial calendar month in which the Commencement Date occurs (the "Lease Term").

2. Renewal Option. NONE

3. Base Rent. In consideration of this Lease, Tenant promises and agrees to pay Landlord a base rent ("Base Rent") as follows:

<u>Year</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
07/01/2019--06/30/2020	\$8,117.33	\$97,407.96
07/01/2020--06/30/2021	\$8,279.66	\$99,355.92
07/01/2021--06/30/2022	\$8,445.25	\$101,343.00
07/01/2022--06/30/2023	\$8,614.16	\$103,396.92
07/01/2023--06/30/2024	\$8,786.44	\$105,437.28
07/01/2024--06/30/2025	\$8,962.17	\$107,546.04
07/01/2025--06/30/2026	\$9,141.41	\$109,696.92
07/01/2026--06/30/2027	\$9,324.24	\$111,890.88

07/01/2027--06/30/2028	\$9,510.73	\$114,128.76
07/01/2028--06/30/2029	\$9,700.94	\$116,411.28

(subject to adjustment as hereinafter provided) without deduction or set off, for each month of the entire Lease Term. One such monthly installment together with the security deposit, as provided below shall be payable by Tenant to Landlord contemporaneously with the execution of this Lease, and a like monthly installment shall be due and payable without demand beginning on the first day of the calendar month following the Commencement Date and continuing thereafter on or before the first day of each succeeding calendar month during the term hereof. Base Rent for any fractional month at the beginning of the Lease Term shall be prorated based on the number of days in the month in which the Commencement Date occurs and the monthly Base Rent for each day of the partial month this Lease is in effect, and shall be due and payable upon the Commencement Date. Tenant shall have been deemed to have automatically exercised each applicable Extension Option unless Tenant shall have delivered to the Landlord notice of Tenant's election not to exercise its option to renew by the date that is one (1) year prior to the expiration date of the initial term of this Lease or the applicable Extension Option, as the case may be.

Landlord shall have the right, at any time during the Term of the Lease, to remeasure the rentable square footage of the Building in accordance with the "Standard Method for Measuring Floor Area in Office Buildings", promulgated by the Building Owners and Managers Association (BOMA) Method, American National Standard (ANSI /BOMA Z65.1-1996). Promptly following such remeasurement, Landlord and Tenant shall execute an amendment to this Lease confirming the exact rentable square footage of the Premises and adjusting, as appropriate, any other economic terms of this Lease affected by such rentable square footage determination, including, without limitation, the Base Rent, provided however, in no event shall the Monthly Rent be reduced below that set forth in this Paragraph 3.

4. Past Due Rent. All past due installments of Base Rent, Additional Rent or any other sums which become owing by Tenant to Landlord shall bear interest at the maximum rate permitted by applicable law, from due date until payment is received.

5. Security Deposit. Not applicable

6. Landlord's Obligations.

a. Subject to the limitations hereinafter set forth, Landlord agrees to furnish Tenant, during the Lease Term, the following at Tenant's sole cost and expense:

i. facilities to provide water at those points of supply provided for general use of tenants of the Building;

ii. facilities to provide heat and air conditioning in season, at such times as Landlord normally furnishes these services to all tenants of the Building, and at such temperatures and in such amounts as are reasonably considered by Landlord to be standard, such service at night and on Saturday, Sunday and holidays to be furnished only at the written request of Tenant, who shall bear the entire cost thereof;

iii. electrical facilities;

iv. maintenance of the public and common areas of the Building, such as lobbies, stairs, corridors and restrooms, in reasonably good order and condition, except for damage occasioned by Tenant, or its employees, agents or invitees.

b. If Tenant shall desire any of the services specified in this Paragraph at any time other than times herein designated or in amounts in excess of those deemed by Landlord to be building standard, including without limitation janitorial service within the Premises, such service or services at Landlord's option may be supplied to Tenant only at the written request of Tenant delivered to Landlord before 12:00 noon on the business day preceding such extra usage or quantity, and Tenant shall pay to Landlord as Additional Rent the cost of such service or

services immediately upon receipt of a bill therefor.

c. Failure to any extent to make available, or any slow-down, stoppage or interruption of, these defined services resulting from any cause (including, but not limited to, Landlord's compliance with any voluntary or similar governmental or business guideline now or hereafter published or any requirements now or hereafter established by any governmental agency, board or bureau having jurisdiction over the operation and maintenance of the Building) shall not render Landlord liable in any respect for damages to any person, property or business, nor be construed as an eviction of Tenant or work an abatement of rent, nor relive Tenant from fulfillment of any covenant or agreement hereof.

7. Use: Hours of Operation; Utilities.

a. Use Board of Education Warehouse and Office. Tenant shall use the Demised Premises for general office use, warehouse, shipping and receiving, and carpentry shop for the Fairfield Board of Education Maintenance Department (the "Permitted Use"). Tenant shall not occupy the premises with more than Ten (10) persons. Business machines and mechanical equipment used by Tenant which cause vibration or noise that may be transmitted to the Building or to any leased space to such a degree as to be reasonably objectionable to Landlord or to any tenants in the Building shall be placed and maintained by Tenant, at its expense, in settings of cork, rubber or spring-type vibration eliminators or by other means sufficient to reduce such vibration or noise to a reasonable degree. In the event that the Tenant's use of the Demised Premises causes any odor or other air quality issues objectionable to the Landlord, in its reasonable discretion, Tenant shall remediate said odor or air quality issue to Landlord's reasonable satisfaction. Tenant will not occupy or use the Premises, or permit any portion of the Premises to be occupied or used, for any business or purpose other than the Permitted Use or for any use or purpose which is unlawful in part or in whole or deemed to be disreputable in any manner or extra hazardous on account of fire, nor permit anything to be done which will in any way increase the rate of insurance on the Building or contents; and in the event that, by reason of acts of Tenant, there shall be any increase in rate of insurance on the Building or contents created by Tenant's acts or conduct of business, then such acts of Tenant shall be deemed to be an Event of Default hereunder and Tenant hereby agrees to pay to Landlord the amount of such increase on demand and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights provided herein. Tenant will conduct its business and control its agents, employees and invitees in such a manner as not to create any nuisance, nor interfere with, annoy or disturb other tenants or Landlord in the management of the Building. Tenant will maintain the Premises in a clean, healthful and safe condition and will comply with all laws, ordinances, orders, rules and regulations (state, federal, municipal and other agencies or bodies having any jurisdiction thereof) with reference to the use, condition or occupancy of the Premises.

b. Tenants Access. The Tenant shall have access to the Premises seven (7) days per week, twenty-four (24) hours per day, three hundred and sixty-five (365) or three hundred and sixty-six (366) days per year, as the case may be.

c. Utilities. Throughout the term of this Lease, Tenant shall pay for all water, natural gas, electricity, trash removal, and other utility services furnished to or consumed by Tenant in the Premises. Electricity is separately metered and Tenant shall reimburse Landlord for all costs as they become due or directly pay such electricity provider, as the case may be. The cost of all other utilities that are not separately metered shall be billed to Tenant. Tenant's obligations under this Paragraph, shall survive the expiration or sooner termination of this Lease. Landlord shall not be liable to Tenant or any other person or entity for any loss, damage or expense which may be sustained if the quality or character of electric service, other utility service or other service furnished to the Premises is changed, or such service is no longer available or suitable for Tenant's requirements, or if the service ceases or is interrupted or impaired by fire, other casualty or Act of God, the making of necessary repairs or improvements or by any causes whatsoever. Without limiting the foregoing, the Tenant shall arrange and pay for its own telecommunications services, including, without limitation, telephone and internet.

8. Tenant Alterations, Additions or Improvements.

a. Tenant will not make or permit anyone to make any alterations,

installations, changes, decorations, replacements, additions or improvements ("Alterations") structural or otherwise, in or to the Premises or the Building, without the prior written consent of Landlord and pursuant to plans and specifications as approved by Landlord, which approval shall not be unreasonably denied or delayed, provided however, Tenant, at its sole cost and expense, may install all furniture, fixtures, phone systems, wall finishes and finish capacity. All Alterations shall be done only by Landlord or by contractors and subcontractors approved in writing by Landlord, it being understood that Tenant shall procure and maintain and shall cause such contractors and subcontractors engaged by or on behalf of Tenant to procure and maintain insurance coverage against such risks, in such amounts and with such companies as Landlord may require in connection with the making of any such Alterations. All such Alterations permitted by Landlord must conform to all rules and regulations established from time to time by the underwriters' Association of the local area New England Board of Fire Underwriters and conform to all requirements of the Federal, state and local governments. Tenant, at its expense, shall obtain all necessary governmental permits and certificates for the commencement and prosecution of all Alterations and for final approval thereof. Tenant shall cause all such Alterations to be completed in accordance with all applicable laws, with the plans as approved by Landlord and in a good and workmanlike manner.

b. All Alterations, including wall-to-wall carpet, upon the Premises (whether with or without the prior written consent of Landlord) shall, at the election of the Landlord, remain upon the Premises and be surrendered with the Premises at the expiration of this Lease without disturbance, molestation or injury. Should the Landlord elect that Alterations made by Tenant upon the Premises be removed upon termination of this Lease or upon termination of any renewal period hereof, Tenant hereby agrees to cause same to be removed and to restore the Premises to their former condition at Tenant's sole cost and expense and should Tenant fail to remove the same then and in such event Landlord may cause same to be removed at Tenant's expense and Tenant hereby agrees to reimburse Landlord for the cost of such removal, together with any and all damages which Landlord may suffer and sustain by reason of the failure of Tenant to remove the same.

c. Tenant shall pay for all materials constituting Tenant's Alterations, and Tenant agrees that none of such materials shall be at any time subject to or encumbered by any lien, security interest, encumbrance, charge, installment sales contract or the interest of any other person, firm or corporation whether created voluntarily or involuntarily.

d. Tenant shall pay to Landlord any increase in the amount of taxes payable by Landlord and which increase is attributable to Tenant's Alterations, such payment to be made within thirty (30) days after Landlord's written demand therefor.

e. Tenant will indemnify and hold Landlord harmless from and against any and all expenses, liens, claims or damages to person or property which may or might arise directly or indirectly by reason of the making of any Alterations.

f. If any such Alterations are made without the prior written consent of Landlord, Landlord may correct or remove the same and Tenant shall be liable for any and all expenses incurred by Landlord in the performance of this work.

g. Tenant shall pay to Landlord, Landlord's actual and reasonable costs incurred for the review of the plans for any Alterations pursuant to Subsection (a) hereof, as well as Landlord's actual and reasonable costs incurred in connection with the inspection of any such Alterations for compliance with the terms of this Lease.

#### 9. Repairs and Maintenance.

a. Landlord shall only at its expense, make all repairs and replacements, structural and otherwise, necessary to keep in good order and repair the common areas (including, but not limited to, the public halls and stairways) and the exterior of the building (including all parts of the heating, plumbing, electrical and air-conditioning systems of the building), except those installed by Tenant within the Demised Premises. Landlord reserves the right to enter the Demised Premises or to cause. Its authorized agents, servants or employees to enter the Demised Premises at any



time for the purpose of repairing, at Landlord's sole cost and expense, any utility equipment of any kind in or upon the Demised Premises which service other portions of the building.

The obligation of Landlord to maintain and repair the Premises shall be limited to building standard items. Any Tenant Alterations or any other special leasehold improvements will, at Landlord's option following Tenant's written request, be maintained by Landlord at Tenant's expense which shall be an amount equal to Landlord's actual cost plus an additional charge of fifteen percent (15%) of such cost to cover overhead.

b. Tenant will not in any manner deface or injure the Building, and will pay the cost of repairing any damage or injury done to the Building or any part thereof by Tenant or Tenant's agents, employees or invitees ("Tenant Repairs"). Tenant shall throughout the Lease Term take good care of the Premises and keep them free from waste and nuisance of any kind. Tenant agrees to keep the Premises, including all fixtures installed by Tenant and any plate glass and special store fronts, in good condition and make all necessary non-structural Repairs except those caused by fire, casualty or acts of God covered by Landlord's fire insurance policy covering the Building. The performance by Tenant of its obligations to maintain and make Tenant Repairs shall be conducted only by contractors and subcontractors approved in writing by Landlord, it being understood that Tenant shall procure and maintain and shall cause contractors and subcontractors engaged by or on behalf of Tenant to procure and maintain insurance coverage against such risks, in such amounts and with such companies as Landlord may require in connection with any such maintenance and Tenant Repairs. If Tenant fails to make such Tenant Repairs within fifteen (15) days after the occurrence of the damage or injury, Landlord may at its option make such Tenant Repairs, and Tenant shall, upon demand therefor, pay Landlord for the cost thereof.

10. Mechanics' Liens. If any mechanics' or materialmen's lien is filed against the Premises and/or the Building for work claimed to have been done for, or materials claimed to have been furnished to, Tenant, such lien shall be discharged by Tenant within ten (10) days thereafter, at Tenant's sole cost and expense, by the payment thereof or by filing any bond required by law. If Tenant shall fail to discharge any such mechanics' or materialmen's lien, Landlord may, at its option, discharge the same and treat the cost thereof as Additional Rent payable with the monthly installment of rent next becoming due; it being hereby expressly covenanted and agreed that such discharge by Landlord shall not be deemed to waive, or release, the default of Tenant in not discharging the same.

11. Signs. No signs, advertisement or notice shall be inscribed, painted, affixed or otherwise displayed on any part of the outside or the inside of the Building except on the directories and doors of offices, and then only in such place, number, size, color and style as is (i) in compliance with any and all applicable zoning and land use regulations and other applicable laws, and (ii) approved by Landlord and provided by Landlord at Tenant's cost and expense. If any such sign, advertisement or notice is nevertheless exhibited by Tenant without Landlord's consent, Landlord shall have the right to remove the same and Tenant shall be liable for any and all expenses incurred by Landlord in said removal. Landlord shall have the right to prohibit any advertisement of Tenant which in its opinion tends to impair the reputation of the Building and, upon written notice from Landlord, Tenant shall immediately refrain from and discontinue any such advertisement.

12. Tenant's Equipment. Tenant shall not install any equipment of any kind or nature whatsoever which will or may necessitate any changes, replacements or additions to, or in the use of, the water system, heating system, plumbing system, air conditioning system, or electrical system of the Premises or the Building without first obtaining the prior written consent of Landlord, which consent shall not unreasonably be denied or delayed. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to Landlord or to any tenant shall be installed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate such noise and vibration.

13. Use of Common Areas: Parking. Tenant shall have the non-exclusive right, in common with others, to the use of any common entrances, lobbies, ramps, drives, parking areas, stairs and similar access and service ways and common areas in and adjacent to the Building of

which the Premises are a part, subject to such nondiscriminatory rules and regulations as may be adopted by Landlord. Tenant agrees not to overburden the parking facilities and Landlord and other tenants in the use of parking facilities. Landlord reserves the right in its absolute discretion to determine whether parking facilities are becoming crowded and, in such event, to allocate parking spaces among Tenant and other tenants.

14. Indemnification. Landlord shall not be liable for and Tenant will indemnify and save harmless Landlord of and from all fines, suits, claims, demands, losses and actions (including attorneys' fees) for any injury to person or damage to or loss of property on or about the Premises caused by any act, omission, neglect or misconduct of, or breach of this Lease by Tenant, its employees, agents, subtenants, invitees, or by any other person entering the Premises or the Building under express or implied invitation of Tenant, or arising out of Tenant's use of the Premises. Subject to applicable state law, Landlord shall not be liable or responsible for any loss or damage to any property or death or injury to any person occasioned by theft, fire, act of God, public enemy, criminal conduct of third parties, injunction, riot, strike, insurrection, war, court order, requisition or other act of governmental body or authority, by other tenants of the Building or any other matter beyond the control of Landlord, or for any injury or damage or inconvenience which may arise through repair or alteration of any part of the Building, or failure to make repairs, or from any cause whatever except Landlord's gross negligence or willful wrongdoing.

15. Subordination. This Lease and all rights of Tenant hereunder are subject and subordinate to any mortgages or other instruments of security, as well as to any ground leases or primary leases, that now or hereafter cover all or any part of the Building, the Land or any interest of Landlord therein. This provision is hereby declared by Landlord and Tenant to be self-operative and no further instrument shall be required to effect such subordination of this Lease. Tenant shall, however, upon demand at any time or times execute, acknowledge and deliver to Landlord any and all instruments and certificates that in the judgment of Landlord may be necessary or proper to confirm or evidence such subordination, including, without limitation, a subordination, non-disturbance and attornment agreement in substantially the form of Exhibit D, attached hereto and made a part hereof. Tenant further covenants and agrees upon demand by Landlord's mortgagee at any time, before or after the institution of any proceedings for the foreclosure of any such mortgages or instruments of security, or sale of the Building pursuant to any such mortgages or other instruments of security, to attorn to such purchaser upon any such sale and to recognize such purchaser as Landlord under this Lease. The agreement of Tenant to attorn upon demand of Landlord's mortgagee contained in the immediately preceding sentence shall survive any such foreclosure sale or trustee's sale. Tenant shall upon demand at any time or times, before or after any such foreclosure sale or trustee's sale, execute, acknowledge and deliver to Landlord's mortgagee any and all instruments and certifications that in the judgment of Landlord's mortgagee may be necessary or proper to confirm or evidence such attornment. Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact to execute, acknowledge and deliver any such instruments and certificates which are requested by Landlord or Landlord's mortgagee under this Paragraph on Tenant's behalf.

16. Assignment.

a. Tenant shall not, without the prior written consent of Landlord, which consent maybe granted or withheld in its sole discretion: (i) assign or in any manner transfer this Lease or any estate or interest therein, or (ii) permit any assignment of this Lease or any estate or interest therein by operation of law, or (iii) sublet the Premises or any part thereof, or (iv) grant any license, concession or other right of occupancy of any portion of the Premises, or (v) permit the use of the Premises by any parties other than Tenant, its agents and employees, and any such acts without Landlord's prior written consent shall be void and of no effect. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignments and subletting, Tenant and any guarantor of Tenant's obligations under this Lease shall at all times remain fully responsible and liable for the payment of the rent herein specified and for compliance with all of the Tenant's obligations under this Lease. If an event of default, as hereinafter defined, should occur while the Premises or any part thereof are then assigned or sublet, Landlord, in addition to any other remedies herein provided or provided by law, may at its option collect directly from such assignee or sublessee all rents becoming due to Tenant under such assignment or sublease and apply such rent against any sums due to Landlord by Tenant hereunder, and Tenant hereby authorizes and directs any such

assignee or sublessee to make such payments of rent directly to Landlord upon receipt of notice from Landlord. No direct collection by Landlord from any such assignee or sublessee shall be construed to constitute a novation or a release of Tenant or any guarantor of Tenant from the further performance of its obligations hereunder. Receipt by Landlord of rent from any assignee, sublessee or occupant of the Premises shall not be deemed a waiver of the covenant in this Lease contained against assignment and subletting or a release of Tenant under this Lease. The receipt by Landlord from any such assignee or sublessee obligated to make payments of rent shall be a full and complete release, discharge, and acquittance to such assignee or sublessee to the extent of any such amount of rent so paid to Landlord.

b. Tenant shall not mortgage, pledge or otherwise encumber this Lease or any estate or interest therein or in the Premises.

c. If Tenant requests Landlord's consent to an assignment of the Lease or subletting of all or a part of the Premises, it shall submit to Landlord, in writing, the name of the proposed assignee or subtenant and the nature and character of the business of the proposed assignee or subtenant, the term, use, rental rate and other particulars of the proposed subletting or assignment, including without limitation, evidence satisfactory to Landlord that the proposed subtenant or assignee is financially responsible and will immediately occupy and thereafter use the Premises (or any sublet portion thereof) for the remainder of the Lease Term (or for the entire term of the sublease, if shorter). Landlord shall have the option (to be exercised within thirty (30) days from submission of Tenant's written request) to cancel this Lease (or the applicable portion thereof as to a partial subletting) as of the commencement date stated in the above mentioned subletting or assignment. If Landlord elects to cancel this Lease as stated, then the term of this Lease, and the tenancy and occupancy of the Premises by Tenant thereunder, shall cease, terminate, expire, and come to an end with respect to that portion of the Premises so assigned or sublet as if the cancellation date were the original termination date of this Lease and Tenant shall pay to Landlord all costs or charges which are the responsibility of Tenant hereunder with respect to that portion of the Premises so assigned or sublet, and Tenant shall, at its own cost and expense, discharge in full any outstanding commission obligation of Landlord with respect to this Lease, or any part hereof so canceled. Thereafter Landlord may lease the Premises to any person, including the prospective subtenant or assignee, without liability to Tenant. If Landlord does not thus cancel this Lease, the terms and provisions of Paragraph 16(a) hereof will apply.

d. If Landlord consents to any subletting or assignment by Tenant as hereinabove provided, and subsequently any rents received by Tenant under any such sublease are in excess of the rent payable by Tenant under this Lease, or any additional consideration is paid to Tenant by the assignee under any such assignment, then Landlord may, at its option, either (i) declare such excess rents under any sublease or such additional consideration for an assignment to be due and payable by Tenant to Landlord as Additional Rent hereunder, or (ii) elect to cancel this Lease as provided in Paragraph 18(c) hereof.

e. Landlord shall have the right to transfer, assign and convey, in whole or in part, the Building and any and all of its rights under this Lease, and in the event Landlord assigns its rights under this Lease, Landlord shall thereby be released from any further obligations hereunder, and Tenant agrees to attorn and look solely to such successor interest of Landlord for performance of such obligations.

17. Rules and Regulations. Tenant and Tenant's agents, employees, and invites will comply fully with all requirements of the Rules and Regulations of the Building and related facilities which are attached hereto as Exhibit C. Landlord shall at all times have the right to change such Rules and Regulations or to promulgate each other Rules and Regulations in such manner deemed advisable for safety, care, or cleanliness of the Building and related facilities or the Premises, and for preservation of good order therein, all of which Rules and Regulations changes and amendments will be forwarded to Tenant in writing and shall be carried out and observed by Tenant. Tenant shall further be responsible for the compliance with such Rules and Regulations by the employees, servants, agents, visitors, and invitees of Tenant. In the event of any conflict between the provisions of the Lease (including Riders thereto) and the provisions of the Rules and Regulations, then the provisions of the Lease shall control.

18. Inspection. Landlord or its officers, agents, and representatives shall have the right to enter into and upon any and all parts of the Premises at all reasonable hours (or, in any emergency, at any hour) to (a) inspect same or clean or make repairs or alterations or additions as Landlord may deem necessary (but without any obligation to do so, except as expressly provided for herein) or (b) show the Premises to prospective tenants, purchasers or lenders; and Tenant shall not be entitled to any abatement or reduction of rent by reason thereof, nor shall such be deemed to be an actual or constructive eviction.

19. Condemnation. If the Premises, or any part thereof, or if the Building or any portion of the Building leaving the remainder of the Building unsuitable for its use as of the Commencement Date of this Lease, shall be taken or condemned in whole or in part for public purposes, or sold in lieu of condemnation, then the Lease Term shall, at the sole option of Landlord, forthwith cease and terminate; all compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of Landlord, and Tenant shall have no claim thereto, the same being hereby expressly waived by Tenant. Tenant hereby assigns to Landlord all rights to compensation or damages, if any, sustained by Tenant on condemnation of the Premises in whole or in part under power of condemnation.

If any such condemnation of the Premises reduces the floor area of the Premises available for Tenant's use by more than twenty-five percent (25%) or renders the part thereof not condemned permanently untenable, either party hereto, by thirty (30) days' notice to the other, may terminate this Lease; but if the Lease is not so terminated, Landlord shall make such repairs, if any, as are reasonably necessary to restore the part thereof not condemned to tenantable condition. Landlord, in so doing, shall not be required to expend more than the net amount received or expected to be received by Landlord in the condemnation proceedings for damage to such part of the Premises not condemned, unless Tenant pays the amount of the excess of expenditure and, before commencement of the restoration repairs, provides Landlord with reasonable security for such payment by Tenant. Restoration repairs, if made, shall begin promptly after Tenant vacates the part of the Premises condemned and be completed with reasonable diligence, subject, however, to delays incident to governmental regulation, unavailability of material or labor and other causes beyond Landlord's control. In the event of a partial taking which does not effect a termination of this Lease but does deprive Tenant of the use of a portion of the Premises, there shall be either an abatement or an equitable reduction of the total rent, depending on the period for which and the extent to which the Premises so taken are not reasonably usable for the Permitted Use.

20. Fire or Other Casualty.

a. In the event that the Premises (other than Tenant's Alterations), or any part thereof, or access thereto, shall be damaged or destroyed by fire or other insured casualty, but Tenant shall continue to have reasonably convenient access to the Premises and the Premises shall not thereby be rendered unfit for use and occupancy by Tenant for the Permitted Use, Landlord shall repair such damage or destruction (except damage or destruction to Tenant's property or Tenant's Alterations) with reasonable diligence. During the period when such repair work is being conducted, the rent shall not be abated or suspended.

b. In the event that the Premises or any part thereof, or access thereto, shall be so damaged or destroyed by fire or other insured casualty that Tenant shall not have reasonably convenient access to the Premises or the Premises shall thereby be rendered unfit for use and occupancy by Tenant for the Permitted Use, and if in the sole judgment of Landlord the damage or destruction may be repaired within one hundred eighty (180) days after the occurrence of the damage or destruction, then Landlord shall so notify Tenant within thirty (30) days after the occurrence of the damage or destruction and Landlord shall repair such damage or destruction (except damage or destruction to Tenant's property or Tenant's Alterations) with reasonable diligence. If in the sole judgment of Landlord the Premises or means of access thereto cannot be repaired within one hundred eighty (180) days after the occurrence of the damage or destruction and Landlord does not give Tenant the notice referred to in this Paragraph 20(b), then either party shall have the right to terminate the term of this Lease by giving written notice of such termination to the other party within the period of thirty (30) to forty-five (45) days after the occurrence of such damage or destruction. If neither party gives such notice of intention to terminate the term of this Lease, then Landlord shall repair the damage or destruction with reasonable diligence.

c. In addition to and apart from the foregoing provisions of this Paragraph 22, (i) if more than twenty-five percent (25%) of the Premises shall be totally or almost totally damaged or destroyed by fire or other cause at any time during the last six (6) months of the term of this Lease or any renewal thereof, either Landlord or Tenant may terminate the term of this Lease by giving written notice of such termination to the other party within ten (10) days after the occurrence of such damage or destruction, and (ii) if the Building is damaged or destroyed by fire or other cause to such extent that the cost to repair the damage or destruction, as reasonably estimated by Landlord, will be more than twenty-five percent (25%) of the replacement value of the Building immediately prior to the occurrence of such damage or destruction, then Landlord may terminate the term of this Lease by giving written notice of such termination to Tenant within thirty (30) days after the occurrence of such damage or destruction.

d. No damages, compensation or claim shall be payable by Landlord to Tenant, or any other person, by reason of inconvenience, loss of business or annoyance arising from any damage or destruction, or any repair thereof, as is referred to in this Paragraph 19.

e. In addition to and apart from the foregoing provisions of this Paragraph, in the event any mortgagee under a mortgage deed or security agreement on the Building should require that the insurance proceeds be used to retire the mortgage debt, Landlord shall have no obligation to rebuild and this Lease shall terminate upon notice to Tenant. Except as hereinafter provided, any insurance which may be carried by Landlord or Tenant against loss or damage to the Building or to the Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.

21. Holding Over. Should Tenant, or any of its successors in interest, hold over the Premises, or any part thereof, after the expiration of the Lease Term, unless otherwise agreed in writing by Landlord, such holding over shall constitute and be construed as a tenancy at will only, at a daily rental equal to the daily rent payable for the last month of the Lease Term. In the event of an unauthorized holding over, Tenant shall indemnify Landlord against all claims for damages by any other tenant to whom Landlord may have leased all or any part of the Premises. Nothing contained herein shall be construed as Landlord's consent for Tenant to hold over.

22. Events of Default. The following events shall be deemed to be events of default by Tenant under this Lease ("Event of Default"):

a. Tenant shall fail to pay when due any Base Rent, Additional Rent or other sums payable by Tenant hereunder (or under any other Lease now or hereafter executed by Tenant in connection with space in the Building).

b. Tenant shall fail to comply with or observe any other provision of this Lease (or any other Lease now or hereafter executed by Tenant in connection with space in the Building).

c. Tenant shall desert or vacate any portion of the Premises.

d. Either (i) the appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or any guarantor of Tenant's obligations, or (ii) a general assignment by Tenant, or any guarantor of Tenant's obligations, for the benefit of creditors, or (iii) any action taken or suffered by Tenant, or any guarantor of Tenant's obligations, under any section or chapter of the Bankruptcy Code of the United States, as amended, or under any similar law or statute of the United States or any state thereof shall constitute a default of this Lease by Tenant, and Landlord may terminate this Lease forthwith and upon notice of such termination, Tenant's right to possession of the Premises shall cease; and Tenant shall then quit and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided in this Paragraph.

Landlord and Tenant understand that, notwithstanding certain provisions to the contrary contained herein, a trustee or debtor in possession under the Bankruptcy Code of the United States may have certain rights to assume or assign this Lease. Landlord and Tenant further understand that in any event Landlord is entitled under the Bankruptcy Code to adequate assurances of future performance of the terms and provisions of this Lease. For purposes of any

such assumption or assignment, the parties hereto agree that the term "adequate assurance" shall include at least the following:

i. In order to assure Landlord that the proposed assignee will have the resources with which to pay the rent called for herein, any proposed assignee must have demonstrated to Landlord's satisfaction a net worth (as defined in accordance with generally accepted accounting principles consistently applied) at least as great as the net worth of Tenant on the date this Lease became effective, increased by ten percent (10%) for each year from the effective date of the Lease through the date of the proposed assignment. The financial condition and resources of Tenant were a material inducement to Landlord in entering into this Lease.

ii. Any proposed assignee must have been engaged in the Permitted Use for at least five (5) years prior to any such proposed assignment.

iii. In entering into this Lease, Landlord considered extensively the Tenant's Permitted Use and determined that such Permitted Use would add substantially to Landlord's tenant balance and that were it not for Tenant's agreement to make only Tenant's Permitted Use of the Premises, Landlord would not have entered into this Lease. Landlord's overall operation will be substantially impaired if the trustee in bankruptcy or any assignee of this Lease makes any use of the Premises other than the Permitted Use as described herein.

23. Landlord Remedies. Upon the occurrence of any Event of Default specified in this Lease, Landlord shall have the option to pursue any one or more of the following remedies without any further notice or demand whatsoever:

a. Acceleration of Rent.

i. By notice to Tenant, Landlord shall have the right to accelerate all Base Rent and all Additional Rent due hereunder and otherwise payable in installments over the remainder of the Lease Term, and, at Landlord's option, any other Additional Rent to the extent that such Additional Rent can be determined and calculated (which may be reasonably estimated by Landlord) to a fixed sum; and the amount of all of such accelerated rent, without further notice or demand for payment, shall be due and payable by Tenant within five (5) days after Landlord has so notified Tenant. Additional Rent which has not been included in accelerated rent, shall be due and payable by Tenant during the remainder of the Lease Term, in the amounts and at the times otherwise provided for in this Lease.

ii. Notwithstanding the foregoing or the application of any rule of law based on election of remedies or otherwise, if Tenant fails to pay the accelerated rent in full when due, Landlord thereafter shall have the right by notice to Tenant (a) to terminate Tenant's further right to possession of the Premises; and (b) to terminate this Lease under subparagraph (c) below; and if Tenant shall have paid part but not all of the accelerated rent, the portion thereof attributable to the period equivalent to the part of the Lease Term remaining after Landlord's termination of possession or termination of this Lease shall be applied by Landlord against Tenant's obligations owing to Landlord as determined by the applicable provisions of subparagraphs (d) and (f) below.

b. Taking of Possession - curing Tenant's Defaults.

i. With or without notice, Landlord shall have the right to enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor. No re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease, unless a written notice of termination is given to Tenant.

ii. With or without re-entering and taking possession of the Premises, and with or without notice to Tenant, Landlord may make any payment which Tenant was obligated but failed to make under this Lease, and perform or attempt to perform any other obligation of Tenant under this Lease which Tenant has failed to perform.

c. Termination of Lease.

i. By notice to Tenant, Landlord shall have the right to terminate this Lease as of a date specified in the notice. Tenant's rights to the possession and use of the Premises shall end absolutely as of the specified termination date, and this Lease shall terminate in all respects except for the provisions hereof regarding Landlord's damages and Tenant's liabilities arising prior to, out of and following the Event of Default and the ensuing termination, and the provisions hereof which by their terms survive termination.

ii. Following such termination (as well as upon any other termination of this Lease by expiration of the Lease Term or otherwise) Landlord immediately shall have the right to recover possession of the Premises; and to that end, Landlord may enter the Premises and take possession, without the necessity of giving Tenant any notice to quit or any other notice, with or without legal process or proceedings, and in so doing Landlord may remove Tenant's property (including any improvements or additions to the Premises which Tenant made, unless made with Landlord's consent which expressly permitted Tenant to not remove the same upon expiration of the Lease Term), as well as the property of others as may be in the Premises, and make disposition thereof in such manner as Landlord may deem to be commercially reasonable under the circumstances.

d. Tenant's Continuing Obligations - Landlord's Re-letting Rights.

i. Unless and until Landlord shall have terminated this Lease under subparagraph (c) above, Tenant shall remain fully liable and responsible to perform all of the covenants and to observe all of the conditions of this Lease throughout the remainder of the Lease Term; and, in addition, Tenant shall pay to Landlord, on demand and with interest thereon at the maximum rate permitted by law from the due date until paid, the total sum of all costs, losses and expenses, including reasonable counsel fees, as Landlord incurs, directly or indirectly, because of any Event of Default having occurred.

ii. If Landlord either terminates Tenant's right to possession without terminating the Lease or terminates this Lease and Tenant's leasehold estate as above provided, Landlord shall have the unrestricted right to re-let the Premises or any part thereof to such tenants, on such provisions, and for such periods as Landlord may deem appropriate. It is understood that Landlord shall have no obligation to have the Premises available for re-letting or otherwise endeavor to re-let so long as Landlord (or any affiliated entity) has other comparable or competing vacant space or property available for leasing to other parties in the Building or in other buildings in the general market area of which the Building is a part; and that notwithstanding nonavailability of other space or property, Landlord's obligation to mitigate damages shall be limited to such efforts as Landlord, in its reasonable judgment, deems appropriate.

e. Except as otherwise provided herein, Tenant, for itself, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, does hereby waive and surrender all right and privilege, so far as is permitted by law, which they or any of them might have under or by reason of any present or future law, of the service of any notice of intention to reenter and also waives any and all right of redemption or reentry or repossession in case Tenant shall be dispossessed or ejected by process of law or in case of reentry or repossession by Landlord after thirty (30) days notice or in case of any expiration or termination of this Lease as herein provided.

Tenant waives Tenant's rights, if any, to designate the items against which any payments made by Tenant are to be credited, and Tenant agrees that Landlord may apply any payments made by Tenant to any items it sees fit, irrespective of and notwithstanding any designation or request by Tenant as to the items against which any such payments shall be credited.

Tenant waives Tenant's rights, if any, to assert a counter-claim in any summary proceeding brought by Landlord against Tenant, and Tenant agrees to assert any such claim against Landlord only by way of a separate action or proceeding.



TENANT ACKNOWLEDGES THAT THIS LEASE IS A COMMERCIAL TRANSACTION AND HEREBY WAIVES ANY AND ALL RIGHTS TO NOTICE AND HEARING UNDER CONNECTICUT PREJUDGMENT REMEDY STATUTE CHAPTER 903a OF THE CONNECTICUT GENERAL STATUTES IN CONNECTION WITH ANY SUIT BROUGHT UNDER ANY PROVISION OF THIS LEASE. TENANT DOES HEREBY AGREE THAT AN ATTACHMENT AND/OR GARNISHMENT MAY ISSUE AGAINST TENANT UPON THE COMMENCEMENT OF A LAWSUIT, WITHOUT ANY NOTICE OR HEARING TO DETERMINE WHETHER OR NOT THERE IS PROBABLE CAUSE TO SUSTAIN THE VALIDITY OF LANDLORD'S CLAIM. TENANT MAY REQUEST A HEARING AT ANY TIME AFTER PREJUDGMENT REMEDY HAS BEEN ISSUED.

f. Landlord Damages.

i. The damages which Landlord shall be entitled to recover from Tenant shall be the sum of:

a. all Rent accrued and unpaid as of the termination date; and

b. (1) all costs and expenses incurred by Landlord in recovering possession of the Premises, including removal and storage of Tenant's property, improvement and Alterations therefrom, (2) the costs and expenses of curing or attempting to cure any default by Tenant, (3) the costs and expenses of restoring the Premises to the condition in which the same were to have been surrendered by Tenant as of the date of termination, or, in lieu thereof, the costs and expenses of remodeling or altering the Premises or any part for re-letting the same, (4) the costs of re-letting (exclusive of those covered by the foregoing) including brokerage fees and reasonable counsel fees, and (5) any special overhead expenses related to the vacancy of the Premises not in excess of ten percent (10%) of the monthly Base Rent otherwise to be paid by Tenant over the remainder of the Lease Term, for each month or partial month between the date of termination and the re-letting of the entire Premises; and

c. all Base Rent and Additional Rent and any other sums (to the extent that the amount of Additional Rent has been then determined or estimated as provided above) otherwise payable by Tenant over the remainder of the Lease Term;

d. Less, deducting from the total determined under subparagraphs (a), (b) and (c), all rent and additional rent which Landlord receives from other tenants by reason of the leasing of the Premises or part thereof during or attributable to any period falling within what would otherwise have been the remainder of the Lease Term.

The damages payable by Tenant under the preceding provisions of this subparagraph shall be payable on demand from time to time as the amounts are determined; and if Landlord's subsequent receipt of rent as aforesaid from re-letting shall create any excess payment(s) by Tenant by reason of the crediting of such rent thereafter received, the excess payment(s) shall be refunded by Landlord to Tenant, without interest.

24. Tenant Remedies. Tenant specifically agrees to look solely to Landlord's interest in the Building for the recovery of any judgment from Landlord; it being agreed that Landlord, or if Landlord is a partnership, its partners whether general or limited, or if Landlord is a corporation, its directors, officers and shareholders, or if Landlord is a limited liability company, its members and managers, shall not be personally liable for any judgment.

25. Surrender of Premises. At the expiration or sooner termination of this Lease, Tenant shall promptly quit and surrender the Premises in broom-clean condition, reasonable wear and tear excepted, and shall deliver all keys and combinations to locks, safes and vaults to Landlord. Before surrendering said Premises, Tenant shall remove all (i) its personal property, (ii) its signs, and (iii) if requested by Landlord pursuant to Paragraph 7, trade fixtures, Alterations and additions, and will repair any damage caused thereby. Tenant's obligations under this Paragraph shall survive the expiration of the Lease Term. If Tenant fails to remove its property upon the expiration or sooner termination of this Lease, the said property shall be deemed abandoned and shall become the property of Landlord and Tenant shall be liable to Landlord for all costs incurred by Landlord related to such property. No act or thing done by



Landlord or its agents during the Lease Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless the same be made in writing and signed by Landlord.

26. Attorney's Fees. In case it should be necessary or proper for Landlord to bring any action under this Lease or to consult or place said Lease, or any amount payable by Tenant hereunder, with an attorney concerning or for the enforcement of any of Landlord's rights hereunder or with respect to any requests of the Tenant for approvals or matters relating to this Lease, then Tenant agrees in each and any such case to pay to Landlord a reasonable attorney's fee.

27. Certain Rights Reserved by Landlord. Landlord shall have the following rights, exercisable without notice and without liability to Tenant for damage or injury to property, persons or business and without effecting an eviction, constructive or actual, or disturbance of Tenant's use of possession or giving rise to any claim or set off or abatement of rent:

- a. To decorate and to make repairs, alterations, additions, changes or improvements, whether structural or otherwise, in and about the Building, or any part thereof, and for such purposes to enter upon the Premises and, during the continuance of any such work, to temporarily close doors, entryways, public space and corridors in the Building, to interrupt or temporarily suspend Building services and facilities and to change the arrangement and location of entrances or passageways, doors and doorways, corridors, elevators, stairs, toilets, or other public parts of the Building, all without abatement of rent or affecting any of Tenant's obligations hereunder, so long as the Premises are reasonably accessible, and Tenant is not unreasonably disturbed.
- b. To have and retain a paramount title to the Premises free and clear of any act of Tenant purporting to burden or encumber them.
- c. To grant to anyone the exclusive right to conduct any business or render any service in or to the Building, provided such exclusive right shall not operate to exclude Tenant from the use expressly permitted herein.
- d. To prohibit the placing of vending or dispensing machines of any kind in or about the Premises without the prior written consent of Landlord.
- e. To have access for Landlord and other tenants of the Building to any mail chutes located on the Premises according to the rules of the United States Postal Service.
- f. To take all such reasonable measures as Landlord may deem advisable for the security of the Building and its occupants, including without limitation, the search of all persons entering or leaving the Building, the evacuation of the Building for cause, suspected cause, or for drill purposes, the temporary denial of access to the Building, and the closing of the Building after normal business hours and on Saturdays, Sundays and holidays, subject, however, to Tenant's right to admittance when the Building is closed after normal business hours under such reasonable regulations as Landlord may prescribe from time to time which may include by way of example but not of limitation, that persons entering or leaving the Building, whether or not during normal business hours, identify themselves to a security officer by registration or otherwise and that such persons establish their right to enter or leave the Building.

28. No Subrogation-Liability Insurance.

- a. Each party hereto hereby waives any cause of action it might have against the other party on account of any loss or damage that is insured against under any insurance policy (to the extent that such loss or damage is recoverable under such insurance policy) that covers the Building, the Premises, Landlord's or Tenant's fixtures, personal property, leasehold improvements or business and which names Landlord or Tenant, as the case may be, as a party insured, it being understood and agreed that this provision is cumulative of Paragraph \_\_ hereof. Each party hereto agrees that it will require its insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the other party.

b. Tenant shall procure and maintain throughout the Lease Term a policy or policies of insurance at its sole cost and expense and in amounts of not less than a combined single limit of \$1,000,000 or such other amounts as Landlord may from time to time require, insuring Tenant and Landlord against any and all liability to the extent obtainable for injury to or death of a person or persons or damage to property occasioned by or arising out of or in connection with the use, operation and occupancy of the Premises. Tenant shall furnish a certificate of insurance and such other evidence satisfactory to Landlord of the maintenance of all insurance coverage required hereunder, and Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least thirty (30) days prior to cancellation or material change of any such issuance. In addition to liability insurance, Tenant shall procure and maintain throughout the Lease Term, a policy or policies of insurance at its sole cost and expense insuring all personal property (including without limitation trade fixtures and Tenant's contents) located on the Premises against physical hazards on an "all risk" basis including fire and theft. In no event shall Tenant's personal property be insured under any policy or policies maintained by Landlord.

29. Brokerage. Tenant warrants that it has had no dealings with any broker or agent in connection with the negotiation or execution of this Lease and agrees to indemnify Landlord against all costs, expenses, attorney's fees or other liability for commissions or other compensation or charges claimed by any broker or agent claiming the same by, through or under Tenant.

30. Change of Building Name. Landlord reserves the right at any time to change the name by which the Building is designated.

31. Estoppel Certificate. Tenant agrees to furnish from time to time within ten (10) business days of written request by Landlord, the holder of any mortgage or the lessor under any ground lease covering all or any part of the Building or the improvements therein or the Premises or any interest of Landlord therein, a certificate in substantially the form of Exhibit E signed by Tenant confirming and containing such factual certifications and representations deemed appropriate by Landlord, the holder of any mortgage or the lessor under any ground lease covering all or any part of the Building or the improvements therein or the Premises or any interest of Landlord therein, and Tenant shall, within ten (10) business days following receipt of said proposed certificate from Landlord, return a fully executed copy of said certificate to Landlord. In the event Tenant shall fail to return a fully executed copy of such certificate to Landlord within the foregoing ten (10) business day period, then Tenant shall be deemed to have approved and confirmed all of the terms, certifications and representations contained in such certificate.

32. Notices. Each provision of this Agreement, or any applicable governmental laws, ordinances, regulations, and other requirements with reference to the sending, mailing or delivery of any notice, or with reference to the making of any payment by Tenant to Landlord, shall be deemed to be complied with when and if the following steps are taken:

a. All rent and other payments required to be made by Tenant to Landlord hereunder shall be payable to Landlord at the address set forth in the first paragraph hereof or at such other address as Landlord may specify from time to time by written notice delivered in accordance herewith.

b. Any notice or document required to be delivered hereunder shall be deemed to be delivered if actually received and whether or not received when deposited in the United States mail, postage prepaid, certified or registered mail (with or without return receipt requested), addressed to the parties hereto at the respective addresses set forth in the first paragraph hereof or at such other address as either of said parties have theretofore specified by written notice delivered in accordance herewith.

33. Force Majeure. Whenever a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the control of Landlord nor shall the obligations of Tenant hereunder be affected or impaired by any such delays.

34. Separability. If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws effective during the Lease Term, then in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby.

35. No Waiver; Binding Effect. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing signed by Landlord and addressed to Tenant, nor shall any custom or practice which may evolve between the parties in the administration of the terms hereof be construed to waive or lessen the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof. The terms and conditions contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided.

36. Quiet Enjoyment. Provided Tenant has performed all of the terms and conditions of this Lease, including the payment of rent, to be performed by Tenant, Tenant shall peaceably and quietly hold and enjoy the Premises for the Lease Term, without hindrance from Landlord, subject to the terms and conditions of this Lease.

37. Joint and Several Liability. If there be more than one Tenant, the obligations hereunder imposed upon Tenant shall be joint and several. If there be a guarantor of Tenant's obligations hereunder, the obligations hereunder imposed upon Tenant shall be the joint and several obligations of Tenant and such guarantor and Landlord need not first proceed against Tenant before proceeding against such guarantor nor shall any such guarantor be released from its guaranty for any reason whatsoever, including without limitation, in case of any amendments hereto, waivers hereof or failure to give such guarantor any notices hereunder.

38. Notice to Lender. If the Premises or the Building or any part thereof are at any time subject to a first mortgage or other similar instrument and this Lease or the rentals are assigned to such mortgagee, trustee or beneficiary and Tenant is given written notice thereof, including the post office address of such assignee, then Tenant shall not terminate this Lease or abate rentals for any default on the part of the Landlord without first giving written notice by certified or registered mail, return receipt requested, to such assignee, specifying the default in reasonable detail, and affording such assignee a reasonable opportunity to make performance, at its election, for and on behalf of Landlord.

39. Miscellaneous.

a. Captions. The captions contained in this Lease are for the conveniences of reference only, and in no way limit or enlarge the terms and conditions of this Lease.

b. No Partnership. Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Landlord and Tenant, or to create any other relationship between the parties hereto other than that of Landlord and Tenant.

c. Benefit and Burden. The provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and each of their respective representatives, successors and assigns. Landlord may freely and fully assign its interest hereunder.

d. Entire Agreement. This Lease, together with the Exhibits attached hereto, contains and embodies the entire agreement of the parties hereto, and no representations, inducements or agreements, oral or otherwise, between the parties not contained in this Lease and the Exhibits, shall be of any force or effect. This Lease may not be modified, changed or terminated in whole or in part in any manner other than by an agreement in writing duly signed by both parties hereto.

e. Applicable Law. This Lease and the rights and obligations of both parties hereto hereunder shall be governed by the laws of the State of Connecticut.

f. Gender. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

g. No Warranty of Tenant Plans by Landlord. Any approval by Landlord or Landlord's architects and/or engineers of any of Tenant's drawings, plans and specifications which are prepared in connection with any construction of improvements in the Premises shall not in any way be construed or operate to bind Landlord or to constitute a representation or warranty of Landlord as to the adequacy or sufficiency of such drawings, plans and specifications, or the improvements to which they relate, for any use, purpose, or condition, but such approval shall merely be the consent of Landlord as may be required hereunder in connection with Tenant's construction of improvements in the Premises in accordance with such drawings, plans and specifications.

h. No Merger. There shall be no merger of this Lease or of the leasehold estate hereby created with the fee estate in the Premises or any part thereof by reason of the fact that the same person may acquire or hold, directly or indirectly, this Lease or the leasehold estate hereby created or any interest in this Lease or in such leasehold estate as well as the fee estate in the leasehold Premises or any interest in such fee estate.

i. No Representations. Neither Landlord nor Landlord's agents or brokers have made any representations or promises with respect to the Premises, the Building or the Land, except as herein expressly set forth and no rights, easements or licenses are required by Tenant by implication or otherwise, except as expressly set forth in the provisions of this Lease.

j. No Offer. The submission of this Lease to Tenant shall not be construed as an offer, nor shall Tenant have any rights with respect thereto unless and until Landlord shall, or shall cause its managing agent to, execute a copy of this Lease and deliver the same to Tenant.

k. Corporate Authority. If Tenant signs as a corporation, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing corporation, qualified to do business in the State of Connecticut, that the corporation has full right and authority to enter into this Lease, and that each and both of the persons signing on behalf of the corporation were authorized to do so.

l. No Recording. Tenant shall not record this Lease or any Notice of Lease on the land records without the prior consent of Landlord.

m. Exhibits and Attachments. All exhibits, attachments, riders and addenda referred to in this Lease and the exhibits listed herein below are incorporated into this Lease and made a part hereto for all intents and purposes.

Exhibit A	Premises
Exhibit B	RESERVED
Exhibit C	Building Rules and Regulations
Exhibit D	Subordination, Nondisturbance and Attornment Agreement
Exhibit E	Tenant Estoppel Certificate

#### 40. Environmental.

a. Tenant represents that it will not, undertake any activity causing: (i) the Premises to become a hazardous waste treatment, storage or disposal facility within the meaning of, or otherwise bring the Premises within the ambit of, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et. seq., as amended ("RCRA"), or any similar federal, state or local laws or regulations, (ii) the Premises to be rendered an "establishment" as defined by the Connecticut Transfer Act, Conn. Gen. Stat. Section 22a 134, et seq., (iii) a release or threatened release of hazardous waste from the Premises within the ambit of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et. seq., as amended ("CERCLA") or the Toxic Substances Control Act, 15 U.S.C. §2601 et. seq., as amended ("TSCA"), or any similar Federal, state or local laws and regulations, or (iv) the discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions, which would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. §1251 et. seq., as amended ("FWPCA"), or the Clean Air Act, 42 U.S.C. §7401, et. seq., as amended ("CAA"), respectively, or any similar federal, state or local laws or regulations.

b. No oil, petroleum, chemical liquids, solid, liquid, gaseous products, toxic substances, or any wastes, solid waste, hazardous waste or hazardous substance of any kind, are currently stored or used on the Premises by Tenant and have not been stored or used on the Premises in the past by Tenant, except in the ordinary course of Tenant's business and as used and stored in compliance with Environmental Law (as defined below). As used herein, the terms "wastes," "solid waste," "hazardous waste," and "hazardous substance" shall have the meanings ascribed to them in CERCLA and RCRA, as amended, and any regulations now or hereafter promulgated pursuant thereto, and shall also include any sewage or mixture of sewage or other waste material that passes through a sewer system to a treatment facility, any industrial wastewater discharges subject to regulation under FWPCA, and any source material, special nuclear material or byproduct material as defined by the Atomic Energy Act of 1954, 42 U.S.C. §3011 et. seq., as amended.

c. Tenant shall not cause or suffer to occur, a discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous waste (a "spill"), as those terms are used under Federal, State or local law, at, upon, under, within or emanating from the Premises or any contiguous real estate.

d. Prior to the Commencement Date, Tenant shall obtain all required Federal, state, and local licenses, certificates or permits relating to its use of the Premises and its facilities, businesses, property, and equipment are in compliance with such in all material respects.

e. Tenant has complied and shall comply strictly and in all respects with the requirements of the Environmental Laws and shall notify the Landlord promptly in the event of any spill upon the Premises, and shall promptly forward to the Landlord copies of all orders, notices, reports, permits, applications and other communications in connection with any such spill or any other matters relating to the Environmental Laws as they may affect the Premises. There have been no outstanding citations, notices or orders of noncompliance or violation issued to the Tenant or relating to its business, assets or property under the Environmental Laws with respect to the Premises or any contiguous real estate.

f. Tenant shall not store or use on the Premises any oil, petroleum, chemical liquids, solid, liquid, gaseous products, toxic substances, or any wastes, solid waste, hazardous waste or hazardous substance of any kind, except in the ordinary course of Tenant's business and in compliance with all Environmental Laws.

g. Tenant shall at all times indemnify and hold harmless Landlord, and its successors and assigns forever, from and against all loss, liability, damage and expense, including without limitation, attorneys' and other professional fees, suffered or incurred by Landlord, and its successors and assigns, in connection with: (i) any violation of the Environmental Laws by Tenant, its officers, employees, contractors, agents or invitees, including without limitation, the assertion of any lien thereunder, and (ii) any spill affecting the Premises caused by Tenant, its officers, employees, contractors, agents or invitees, whether or not the same originates or emanates from the Premises or any such contiguous real estate, including, without limitation, any loss of value of the Premises as a result of each such spill.

h. In the event of any spill affecting the Premises caused by Tenant, its officers, employees, contractors, agents or invitees, whether or not the same originates or emanates from the Premises or any contiguous real estate which has been included in the property description of the Land and the Premises, and/or the failure by Tenant, its officers, employees, contractors, agents or invitees to comply with any of the Environmental Laws, Tenant shall take, at its sole expense, such action as is necessary to remedy said spill or cure said failure of compliance, to Landlord's reasonable satisfaction.

41. Compliance with Americans with Disabilities Act. Landlord represents that the Premises currently comply with the Americans with Disabilities Act, 42 U.S.C. Section 1210, et seq. (the "ADA"). Notwithstanding anything contained herein to the contrary, Tenant shall be responsible for all repairs, replacements, maintenance and liabilities with respect to any improvements made to the Premises by Tenant and that any such repairs, replacements, maintenance, and improvements shall comply with the ADA. In addition, Tenant shall be responsible for, and shall indemnify Landlord with respect to, (i) any costs and expenses in connection with the Premises being in compliance with the ADA, applicable to Tenant's use and

occupancy of the Premises, excluding therefrom Tenant's Finish, and (ii) any costs and expenses in connection with the Premises being in compliance with the ADA as a result of changed requirements of the ADA after the Commencement Date.

42. Approval Requirements. This lease shall not become effective or binding against the Tenant until it has been approved by the Fairfield Board of Selectmen and Representative Town Meeting.

[signature page follows]

Dated as of the \_\_\_\_ day of \_\_\_\_, 2019.

418 MEADOW STREET, LLC

By: 

Andrew C. Julian  
Its Manager  
Duly Authorized

TOWN OF FAIRFIELD

By: 

Its First Selectman  
Duly Authorized





EXHIBIT A

[Premises]

EXHIBIT B

RESERVED

## EXHIBIT C

### BUILDING RULES AND REGULATIONS

Unless otherwise expressly permitted in the Lease:

The sidewalks, entrances, elevators, vestibules, stairways, corridors, or halls shall not be obstructed or encumbered by any Tenant or used for any purpose other than ingress and egress to and from the demised Premises.

No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted, or affixed by any Tenant on any part of the leased Premises or building without the prior written consent of the Landlord. In the event of the violation of the foregoing by any Tenant, the Landlord may remove the same without any liability, and may charge the expense incurred by such removal to the Tenant or Tenant's violating this rule.

The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways, or other public places in the Building shall not be covered or obstructed by any Tenant, nor shall any bottles, parcels, or other articles be placed on the window ledges.

No showcase or other articles shall be put in front of or affixed on any part of the exterior of the building; nor shall any such items be placed in the halls, corridors, vestibules, or on Tenant's entrance door and sidelights without prior written consent of Landlord.

The water, wash closets, and other plumbing fixtures shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, or other substance shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by the Tenant who, or whose servants, employees or agents, shall have caused the same. Only standard toilet tissue may be flushed in commodes.

No Tenant shall mark, paint, drill into, or in any way deface any part of the demised Premises or the Building of which they form a part. No boring, cutting, or stringing of wires shall be permitted except with the prior written consent of Landlord and as the Landlord may direct.

No bicycles, motorcycles, or animals of any kind shall be brought into or kept in or about the Premises. No cooking shall be done or permitted by any Tenant on said Premises. However, this does not prevent Tenant from having coffee, soft drinks, candy and other items for use of Tenant's employees, agents or visitors. Refrigerators are permitted. Tenant shall not cause or permit any unusual or objectionable odors to be produced upon or permeate from the demised Premises.

No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any Tenant, nor shall any changes be made in existing locks or the mechanism thereof, without prior written approval of Landlord, which approval shall not be unreasonably withheld. Tenant will be supplied, free of charge, with two keys for each door of the leased Premises. Each Tenant must, upon the termination of his tenancy, restore to the Landlord all keys of offices and toilet rooms, either furnished to or otherwise procured by Tenant.

All removals or the carrying in or out of any safes, freight, furniture, or bulky matter of any description must take place during the hours which the Landlord or its agent may reasonably determine from time to time. The moving of safes or other fixtures or bulky matter of any kind must be made upon previous notice to the superintendent of the building and under his supervision.

The requirements of Tenants will be attended to only upon application at the office of the Building. Landlord's employees shall not perform any work or do anything outside of their regular duties unless under special instructions from the office of the Landlord. Requests for such requirements must be submitted in writing to the Landlord.

No Tenant shall make, or permit to be made, any unseemly or disturbing noises or disturb or interfere with the occupants of this or neighboring buildings or premises or those having business with them. No Tenant shall throw anything out of the doors, windows, or skylights, or down the passageways.

Canvassing, soliciting and peddling in the Building are prohibited, and each Tenant shall cooperate to prevent the same.

Tenant shall not install draperies, curtains, or any other type of window covering without prior written consent of Landlord.

EXHIBIT D

SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and among **THE TOWN OF FAIRFIELD**, a Municipality with an office located at 725 Old Post Road, Fairfield, Connecticut 06824 (hereinafter called "Tenant"), **418 MEADOW STREET, LLC**, a Connecticut limited liability company with an office located at 418 Meadow Street, Fairfield, Connecticut 06824 (hereinafter called "Landlord"), and \_\_\_\_\_ hereinafter called "Bank").

WITNESSETH:

WHEREAS, the Tenant has entered into a certain lease (the "Lease") dated as of \_\_\_\_\_, 2018, with Landlord whereby Landlord leased to Tenant those certain premises within a certain building located at 418 Meadow Street, Fairfield, Connecticut and being more particularly bounded and described in Exhibit A attached hereto and made a part hereof (the "Premises"); and

WHEREAS, the Bank has made a loan in the amount of \_\_\_\_\_ and 00/100 DOLLARS (\$\_\_\_\_\_) (the "Loan") secured by an Open-End Mortgage and Security Agreement dated \_\_\_\_\_ (the "Mortgage") covering the Premises to the Landlord which Mortgage will be recorded in the Office of the Town Clerk of Fairfield, Connecticut on or about the date herewith; and

WHEREAS, Tenant acknowledges that said Mortgage constitutes a lien or charge upon the Premises which is unconditionally prior and superior to the Lease and the leasehold interest of Tenant; and

WHEREAS, as a condition precedent to making the Loan, Bank has required that Landlord and Tenant enter into a non-disturbance agreement with Bank.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties hereto mutually covenant and agree as follows:

1. The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of the Tenant in and to said Premises are and shall be subject and subordinate to the Mortgage and to all of the terms and conditions contained therein, and to any renewals, modifications, replacements, consolidations and extensions thereof.
2. Bank consents to the Lease and, in the event of foreclosure of said Mortgage, or in the event Bank comes into possession of, or acquires title to the Premises as a result of the enforcement of foreclosure of the Mortgage or the note secured thereby, or as a result of any other means, Bank agrees to recognize Tenant and further agrees that so long as Tenant is not in default under the Lease (beyond any applicable grace periods set forth in the Lease) Tenant shall not be disturbed in its possession of the Premises for any reason other than one which would entitle the Landlord to terminate the Lease under its terms or would cause, without any further action by such Landlord, the termination of the Lease or would entitle such Landlord to dispossess the Tenant from the Premises and that it will not join or name Tenant as a party in any proceedings to foreclose the Mortgage.
3. Tenant shall not, without the consent of Bank, its successors and assigns (which consent may be withheld for any reason whatsoever), join, appear or petition to become a party in any foreclosure action or other legal proceeding in connection with the enforcement of the Mortgage or any other document related thereto in which Tenant is not named as a party defendant by Bank.
4. Tenant agrees with Bank that if the interests of Landlord in the Premises shall be transferred to and owned by Bank by reason of foreclosure or other proceedings brought by it, or any other manner, or shall be conveyed thereafter by Bank or shall be conveyed pursuant to a

foreclosure sale of the Premises (and for purposes of this paragraph, the term "Bank" shall be deemed to include any grantee of the Bank or purchaser at foreclosure sale), Tenant shall be bound to Bank under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Bank were the Landlord under the Lease, and Tenant does hereby agree to attorn to Bank as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Bank succeeding to the interest of the Landlord in the Premises. Tenant agrees, however, upon the election of and written demand by Bank within sixty (60) days after Bank receives title to the Premises, to execute an instrument in confirmation of the foregoing provisions, reasonably satisfactory to Bank, in which Tenant shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.

5. Tenant agrees with Bank that if Bank shall succeed to the interest of Landlord under the Lease, Bank shall not be (a) liable for any action or omission of any prior landlord under the Lease other than continuing defaults (such as Landlord's failure to make required repairs), or (b) subject to any offsets or defenses which Tenant might have against any prior landlord, or (c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord, or (d) bound by any security deposit which Tenant may have paid to any prior landlord, unless such deposit is in an escrow fund which fund has been deposited with a Connecticut banking institution pursuant to a certain pledge and escrow agreement to which Bank is a party, or (e) bound by any amendment or modification of the Lease made without Bank's consent, or (f) bound by any provision in the Lease which obligates the Landlord to erect or complete any building or to perform any construction work or to make any improvements to the Premises. Tenant further agrees with Bank that Tenant will not voluntarily subordinate the Lease to any lien or encumbrance without Bank's consent.

6. In the event that the Landlord shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Tenant shall give prompt written notice thereof to the Bank simultaneous with any notice given to Landlord and the Bank shall have the right (but not the obligation) to cure such default. It is further agreed that such notice will be given to any successor in interest of Bank in the Mortgage, provided that prior to any such default of Landlord such successor in interest shall have given written notice to Tenant of its acquisition of Bank's interest therein, and designated the address to which such notice is to be directed. Tenant shall not take any action with respect to such default under the Lease including without limitation any action in order to terminate, rescind or void the Lease or to withhold any rental thereunder, for a period of thirty (30) days after receipt of such written notice thereof by the Bank with respect to any such default capable of being cured by the payment of money and for a period of thirty (30) days after receipt of such written notice thereof by the Bank with respect to any other such default (provided, that in the case of any default which cannot be cured by the payment of money and cannot with diligence be cured with such 30-day period because of the nature of such default or because Bank requires time to obtain possession of the Premises in order to cure the default, if the Bank shall proceed promptly to attempt to obtain possession of the Premises, where possession is required, and to cure the same and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity).

7. This Agreement shall bind and inure to the benefit of the parties hereto, their successors and assigns. As used herein the term "Tenant" shall include the Tenant, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure; and the word "Bank" shall include the Bank herein specifically named and any of its successors and assigns, including anyone who shall have succeeded to Landlord's interest in the Premises by, through or under foreclosure of the Mortgage.

8. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the Lease and leasehold interest of Tenant to the lien or charge of the Mortgage in favor of Bank, and, with respect to Bank and Tenant only, shall supersede and cancel any prior agreements as to such, or any, subordination, including, but not limited to, those provisions, if any, contained in the Lease, which provide for the subordination

of the Lease and leasehold interest of Tenant to a deed or deeds of trust or to a mortgage or mortgages to be thereafter executed, and shall not be modified or amended except in writing signed by all parties hereto.

9. Tenant declares, agrees and acknowledges that it intentionally and unconditionally waives, relinquishes and subordinates the Lease and its leasehold interest in favor of the lien or charge upon said land of the Mortgage above mentioned to the extent set forth in this Agreement, and, in consideration of this waiver, relinquishment and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

10. The use of the neuter gender in this Agreement shall be deemed to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

11. Any notice required or allowed by this Agreement shall be in writing and shall be sent by certified or registered United States mail, postage prepaid, return receipt requested:

If to Tenant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Bank:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The parties may, by written notice to the others, designate a different mailing address for notices.

12. The respective rights and obligations of Tenant and Bank upon an attornment to Bank, to the extent of the then remaining term of the Lease (as the same may be extended by the exercise of any right of renewal or extension set forth in the Lease), shall be the same as now set forth therein, it being the intention of the parties hereto to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length herein.

13. The duties and liabilities of Bank imposed in this Agreement, except (a) such as may arise from Bank's possession of pre-paid rent or a security or deposit fund, or (b) such as may have arisen from a breach by Bank of any terms, covenants and conditions of the Lease, shall cease and terminate immediately upon the termination of Bank's interest in the Mortgage and in the Premises, and upon notice to Tenant of the occurrence of such termination.

14. Landlord hereby irrevocably directs Tenant to pay all rents due and payable under the Lease directly to Bank immediately following Bank's delivery of written notice ("Bank's Rent Payment Notice") to Tenant to the effect that Landlord is in default under the Mortgage (or any related loan documents), notwithstanding any subsequent contrary direction, instruction or assertion by Landlord. Tenant shall be under no duty to investigate, controvert or challenge Bank's Rent Payment Notice. Tenant's compliance with Bank's Rent Payment Notice shall not be deemed to violate the Lease. Landlord hereby releases Tenant from, and shall indemnify and hold Tenant harmless from and against any and all losses, claims, damages, liabilities, costs or expenses (including the payment of reasonable attorneys' fees, forum costs and disbursements) arising from any claim based on Tenant's compliance with Bank's Rent Payment Notice. Tenant shall be entitled to full credit under the Lease for any rents paid to Bank pursuant to Bank's Rent Payment Notice to the same extent as if such rents were paid directly to Landlord.

IN WITNESS WHEREOF, the parties hereto have placed their hands and seals the day and year first above written.

Signed and acknowledged in the presence of us:

TENANT:

THE TOWN OF FAIRFIELD

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Its  
Duly Authorized

BANK:


\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Its  
Duly Authorized

LANDLORD:

418 MEADOW STREET, LLC

  
Matthew Julian

By: 

Its *Matthew Julian*  
Duly Authorized

STATE OF CONNECTICUT)  
COUNTY OF \_\_\_\_\_ ) at \_\_\_\_\_

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, and that he/she, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained as his/her free act and deed and the free act and deed of the \_\_\_\_\_.

In Witness Whereof I hereunto set my hand.

\_\_\_\_\_  
Notary Public/My Commission Expires:  
Commissioner of the Superior Court



STATE OF CONNECTICUT)  
COUNTY OF \_\_\_\_\_ ) at \_\_\_\_\_

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, and that he/she, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained as his/her free act and deed and the free act and deed of the bank.

In Witness Whereof I hereunto set my hand.

\_\_\_\_\_  
Notary Public/My Commission Expires:  
Commissioner of the Superior Court

STATE OF CONNECTICUT)  
COUNTY OF \_\_\_\_\_ ) at \_\_\_\_\_

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, and that he/she, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained as his/her free act and deed and the free act and deed of the \_\_\_\_\_.

In Witness Whereof I hereunto set my hand.

\_\_\_\_\_  
Notary Public/My Commission Expires:  
Commissioner of the Superior Court

EXHIBIT E  
ESTOPPEL CERTIFICATE

PREMISES: 418 Meadow Street, Fairfield, Connecticut 06824

LANDLORD: 418 Meadow Street, LLC

TENANT: The Town of Fairfield

LEASE DATED: \_\_\_\_\_, 2018

TENANT'S NOTICE ADDRESS:

The undersigned, Tenant, hereby certifies to \_\_\_\_\_ ("Bank") that:

1. Tenant has accepted possession of the Premises pursuant to the Lease. The Lease term commenced on \_\_\_\_\_. The termination date of the Lease term, excluding renewals and extensions, is \_\_\_\_\_, 20\_\_.

2. Any improvements required by the terms of the Lease to be made by landlord have been completed to the satisfaction of Tenant in all respects, and Landlord has fulfilled all of its duties under the Lease.

3. Any improvements required by the terms of the Lease to be made by Tenant have been completed to the satisfaction of Landlord in all respects, and Tenant has fulfilled all of its duties under the Lease.

4. The Lease has not been assigned, modified, supplemented or amended in any way. The Lease constitutes the entire agreement between the parties and there are no other agreements between Landlord and Tenant concerning the Premises.

5. The Lease is valid and in full force and effect, and, to the best of Tenant's knowledge, neither Landlord nor Tenant is in default thereunder. Tenant has no defense, setoff or counter-claim against Landlord arising out of the Lease or in any way relating thereto, or arising out of any other transaction between Tenant and Landlord, and no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease.

6. No rent or other sum payable under the Lease has been paid in advance.

7. The minimum monthly rent presently payable under the Lease is \$ \_\_\_\_\_.

8. Tenant acknowledges that this Estoppel Certificate constitutes notice that the Lease will be assigned to Bank, and Tenant has received no notice of a prior assignment, hypothecation or pledge of the Lease or the rents, income, deposits or profits arising thereunder. Tenant understands that under the provisions of the assignment, the Lease cannot be terminated (either directly or by the exercise of any option which could lead to termination) or modified in any of its terms, or consent be given to the release of any party having liability thereon, without the prior written consent of Bank, that without such consent, no rent may be collected or accepted more than two months in advance and that the interest of the Landlord in the Lease has been assigned to Bank solely as security for the purposes specified in the assignment and Bank assumes no duty, liability or obligations whatever under the Lease or any extension or renewal thereof.

9. Tenant hereby acknowledges and agrees that if Bank shall succeed to the interest of Landlord under the Lease, Bank shall assume (only while owner of and in possession or control of the building or which the Premises are a part) and perform all of Landlord's obligations under the Lease, but shall not be liable for any act or omission of any prior landlord (including the present landlord), liable for the return of any security deposit, subject to any offset

or defense which Tenant may have against any such prior landlord or bound by any rent or additional rent Tenant may have paid for more than the current month to any such prior landlord or bound by any assignment, surrender, termination, cancellation, waiver, release, amendment or modification of the Lease made without its express written consent.

10. Tenant shall give Bank prompt written notice of any default of Landlord under the Lease, if such default entitles Tenant, under law or otherwise, to terminate the Lease, reduce rent or credit or offset any amount against future rents and shall give Bank reasonable time (but in no event less than ninety (90) days after receipt of such notice) to cure or commence during such default prior to exercising (and as a condition precedent to its right to exercise) any right Tenant may have to terminate the Lease or to reduce rent or credit or offset any amounts against the rent. Tenant shall give written notice to any successor in interest of Bank, any purchaser at a foreclosure sale under the mortgage, any transferee who acquired the property by deed in lieu of foreclosure or any successor or assign thereof.

11. All notices and other communications from Tenant to Bank shall be in writing and shall be delivered or mailed by registered mail, postage paid, return receipt requested, addressed to Bank at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

or at such other address as Bank, any successor, purchaser or transferee shall furnish to Tenant in writing.

12. This Estoppel Certificate is being executed and delivered by Tenant to induce Bank to make a loan to Landlord, which loan is to be secured in part by an assignment to Bank of Landlord's interest in the Lease and with the intent and understanding that the above statements will be relied upon by Bank.

\_\_\_\_\_, 2018

[\_\_\_\_\_]

By: \_\_\_\_\_

Its  
Duly Authorized



STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



2800 BERLIN TURNPIKE, P.O. BOX 317546  
NEWINGTON, CONNECTICUT 06131-7546  
Phone: (860) 594-2454

April 8, 2019

CERTIFIED MAIL

The Honorable Michael C. Tetreau  
First Selectman  
Town of Fairfield  
Old Town Hall  
611 Old Post Road  
Fairfield, Connecticut 06824

*To: Stanton Lesse*

Dear First Selectman Tetreau:

Subject: File No.: 173-468-004  
Owner(s): Town of Fairfield  
Town: Fairfield

The State of Connecticut Department of Transportation (Department) is now acquiring property for U.S. Route 1 (Boston Post Road) at Route 135 (North Benson Rd.) & South Benson Road. In connection therewith, we enclose our map dated November 2018, detailing the proposed acquisition.

The State's offer of compensation, as evidenced by the enclosed offer letter, is \$6,625.00. This offer is based upon an estimate of compensation as prepared by the Division of Rights of Way.

As is standard of real estate acquisitions of this type, the conveyance of "good and sufficient title" is required from the owners of record. Should the Department's title examination of your property reflect encumbrances that prohibit the transfer of adequate title, your assistance will be required. In this regard, a copy of our title reports cover page is enclosed for your review and comment.

If the offer is acceptable, please execute the enclosed acceptance agreement and W-9 form and return them to my attention. Kindly include a resolution or other documentation indicating the person(s) authorized to sign on behalf of The Town of Fairfield. You may keep the page marked "duplicate copy" for your records.

Oral representations or promises made during the negotiation process are not binding on the Department.

I am available to meet with you to review the offer, the construction plans, and answer any questions you may have. Please contact me at the above telephone number or address no later than May 8, 2019.

Very truly yours,

Craig Illinger  
Acquisition/Relocation Section  
Division of Rights of Way

Enclosures

RECEIVED

APR 11 2019

FIRST SELECTMAN'S OFFICE



STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION



2800 BERLIN TURNPIKE, P.O. BOX 317546

NEWINGTON, CONNECTICUT 06131-7546

Phone: (860) 594-2454

DATE: April 8, 2019

OWNER: Town of Fairfield

PROPERTY FILE NO.: 173-468-004

ADDRESS: 900 Post Road

TOWN: Fairfield

Pursuant to Connecticut General Statute(s) and as required for U.S. Route 1 (Boston Post Road) at Route 135 (North Benson Rd.) & South Benson Road, the Commissioner of Transportation finds it necessary to acquire from you the following property rights as described on the attached map; dated November 2018.

Compensation payable to you for the proposed acquisition and all legal damages to any remainder is as follows:

Value of easement to be acquired: \$6,625.00

Total Compensation \$6,625.00

Building, structure and other improvements: \* N/A

Tenant owned improvements not covered in offer: N/A

The above represents an offer of just compensation for the property rights as developed by the Division of Rights of Way. Should you wish to accept this offer, please review and execute page two of this offer letter.

If you have any questions regarding this matter, please contact Craig Illinger at the telephone number or address shown above.

Very truly yours,

  
James T. Mason

Transportation Principal Property Agent  
Connecticut Department of Transportation

Attachment: Taking Map



STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION

Property File No.: 173-468-004

Owner Name: Town of Fairfield

**Acceptance Agreement**

It is understood that you agree to the State's offer in the amount of \$6,625.00. The following shall apply:

- The above award is in full settlement for all real property rights acquired and constitutes a full and final payment for any and all loss of value caused by this acquisition.
- This acquisition is in accordance with C.G.S. Sec.13a-73(c), 13b-36(a) & 13a-79; as applicable.
- This agreement is subject to final approval(s) in accordance with C.G.S. Sec. 13a-73(h)
- Pending the delivery of good and sufficient title, an Immediate Right of Entry is hereby granted to the State of Connecticut, and/or its agents to proceed with the construction of the subject project.
- Payment(s) will be made by check issued from the Treasurer of the State of Connecticut to the property owner and/or mortgagee (if applicable) at the time of closing.
- The owner agrees to assist in the securing of good and sufficient title and agrees to convey the same by instrument prepared by the Department.

Owner's Legal Signature \_\_\_\_\_ Date \_\_\_\_\_

Owner's Legal Signature \_\_\_\_\_ Date \_\_\_\_\_

James I. Mason, Transportation Principal Property Agent Date \_\_\_\_\_

State Properties Review Board Date \_\_\_\_\_

**FOR INTERNAL USE ONLY**

revised: 11/01/17

Invoice Date: \_\_\_\_\_ Invoice #: \_\_\_\_\_ CORE P.O. #: \_\_\_\_\_ CORE Receipt #: \_\_\_\_\_

**Payee: (Name & Address)**

Town of Fairfield

**Payee's FEIN/SSN:**

--

**Invoice Amount:**

\$6,625.00
------------

**Property Location:**

900 Post Road, Fairfield, CT
------------------------------

Coded By: \_\_\_\_\_ Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_

FUND	SID	DeptID	Project No.	Activity	Source Type	Account	Parcel No.	Detail Amount
12062	22108	DOT57125	DOT01730468RW	RW0000	RW201	55470	4	\$6,625.00

RECEIVED CHECK NO. \_\_\_\_\_  
IN THE AMOUNT OF \$ \_\_\_\_\_  
IN PAYMENT OF ABOVE.

DATE \_\_\_\_\_  
BY \_\_\_\_\_

**DUPLICATE**

STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION

Property File No.: 173-468-004

Owner Name: Town of Fairfield

**Acceptance Agreement**

It is understood that you agree to the State's offer in the amount of \$6,625.00. The following shall apply:

- The above award is in full settlement for all real property rights acquired and constitutes a full and final payment for any and all loss of value caused by this acquisition.
- This acquisition is in accordance with C.G.S. Sec.13a-73(c), 13b-36(a) & 13a-79; as applicable.
- This agreement is subject to final approval(s) in accordance with C.G.S. Sec. 13a-73(h)
- Pending the delivery of good and sufficient title, an Immediate Right of Entry is hereby granted to the State of Connecticut, and/or its agents to proceed with the construction of the subject project.
- Payment(s) will be made by check issued from the Treasurer of the State of Connecticut to the property owner and/or mortgagee (if applicable) at the time of closing.
- The owner agrees to assist in the securing of good and sufficient title and agrees to convey the same by instrument prepared by the Department.

Owner's Legal Signature \_\_\_\_\_ Date \_\_\_\_\_

Owner's Legal Signature \_\_\_\_\_ Date \_\_\_\_\_

James I. Mason, Transportation Principal Property Agent Date \_\_\_\_\_

State Properties Review Board Date \_\_\_\_\_

**FOR INTERNAL USE ONLY**

revised: 11/01/17

Invoice Date: \_\_\_\_\_ Invoice #: \_\_\_\_\_ CORE P.O. #: \_\_\_\_\_ CORE Receipt #: \_\_\_\_\_

Payee: (Name & Address)

Town of Fairfield

Payee's FEIN/SSN:

--

Invoice Amount:

\$6,625.00
------------

Property Location:

900 Post Road, Fairfield, CT
------------------------------

Coded By: \_\_\_\_\_ Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_

FUND	SID	DeptID	Project No.	Activity	Source Type	Account	Parcel No.	Detail Amount
12062	22108	DOT57125	DOT01730468RW	RW0000	RW201	55470	4	\$6,625.00

RECEIVED CHECK NO. \_\_\_\_\_  
IN THE AMOUNT OF \$ \_\_\_\_\_  
IN PAYMENT OF ABOVE.

DATE \_\_\_\_\_  
BY \_\_\_\_\_



## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.  <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <small>(Applies to accounts maintained outside the U.S.)</small>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-				-	
or									
Employer identification number									
				-					

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign  
Here

Signature of  
U.S. person ►

Date ►

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.







STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION

2800 BERLIN TURNPIKE, P.O. BOX 317546  
NEWINGTON, CONNECTICUT 06131-7546

Phone: (860) 594-2454



February 11, 2019

CERTIFIED MAIL

The Honorable Michael C. Tetreau  
First Selectman  
Town of Fairfield  
Old Town Hall  
611 Old Post Road  
Fairfield, Connecticut 06824

*To: A Calabrese  
B Carey  
W Hervey  
J Macchiarangelo*

Dear First Selectman Tetreau:

Subject: File No.: 173-468-004  
Owner: Town of Fairfield  
Town: Fairfield

This letter is being sent to advise you that the Department of Transportation will be conducting an analysis of the 4(f) process as it relates to Jennings's Park and the offer previously made to the Town in conjunction with the project known as U.S. Route 1 (Boston Post Road) at Route 135 (North Benson Rd.) & South Benson Road. Once the analysis is completed, I will generate a revised offer and acceptance paperwork that will be sent to you via certified mail. In the meantime and because of the 4(f) analysis, the offer of compensation noted in the State's offer letter dated January 23, 2019 in the amount of \$6,625.00 is hereby rescinded.

Please feel free to contact me at the telephone number or address noted above, or alternatively at [craig.illinger@ct.gov](mailto:craig.illinger@ct.gov) should you have any questions or concerns about the project.

Very truly yours,

Craig Illinger  
Acquisition/Relocation Division  
Division of Rights of Way

Enclosures

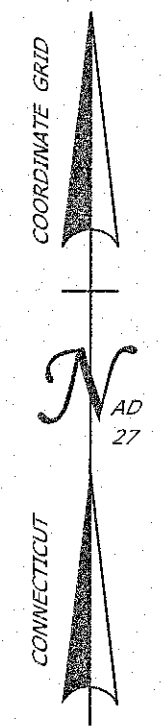
RECEIVED

FEB 13 2019

FIRST SELECTMAN'S OFFICE

**TOWN OF FAIRFIELD  
DEFINED EASEMENT FOR HIGHWAY PURPOSES  
AREA = 325± SQ.FT.**

EASEMENT FOR HIGHWAY PURPOSES AND  
APPURTENANCES THERETO ACQUIRED.



REFERENCES:

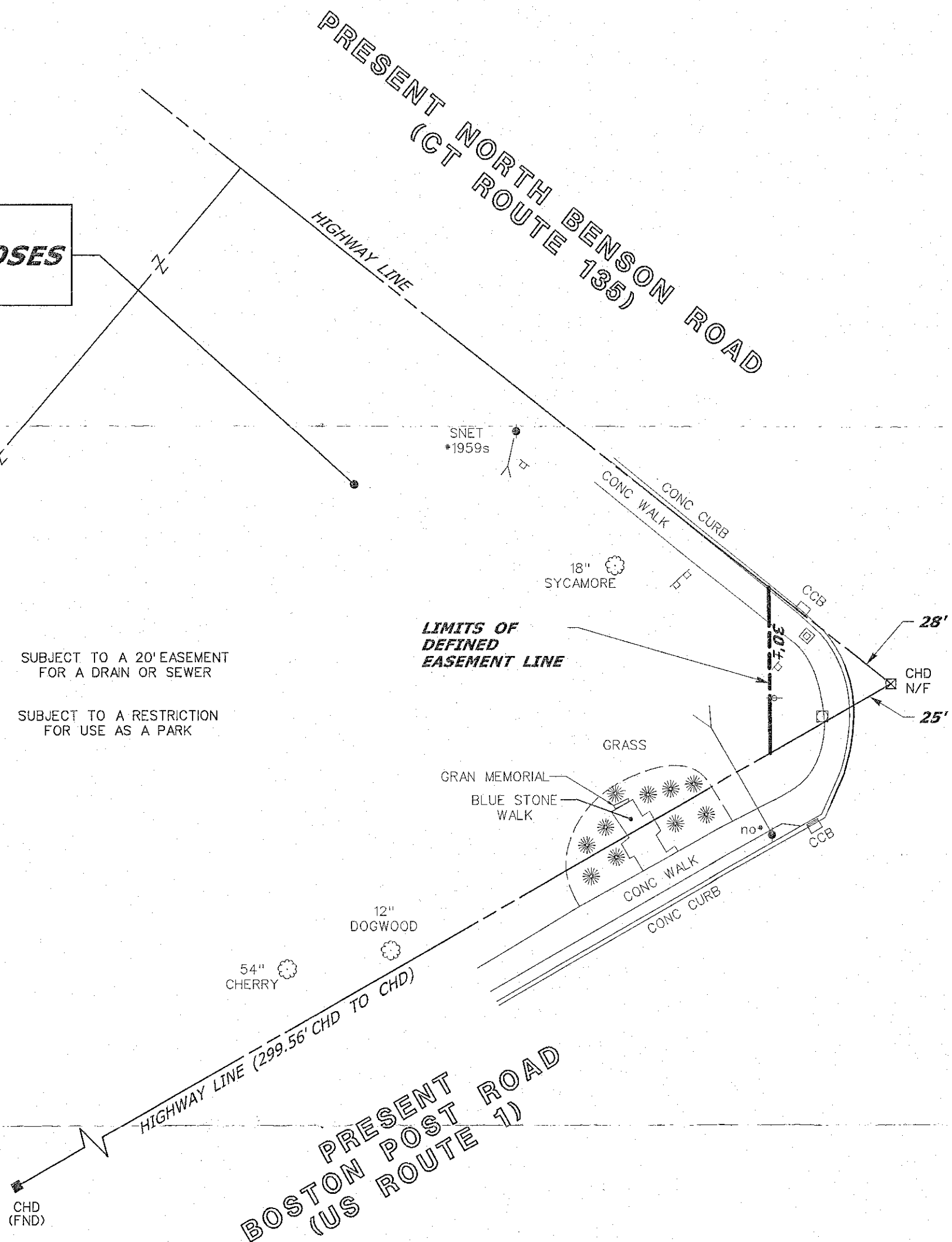
1. GENERAL LOCATION SURVEY PROVIDED BY CONNDOT DISTRICT 3. PROJECT NO. 173-468, CADD FILE: SV-D3-173-468. FAIRFIELD RT1 POST ROAD AT NORTH BENSON ROAD.GRN.DGN
2. CONNDOT CONSTRUCTION PROJECT NO. 173-468 ENTITLED: "U.S. ROUTE 1 (BOSTON POST ROAD) AT ROUTE 135 (NORTH BENSON RD.) & SOUTH BENSON ROAD" (INTERSECTION NUMBER 050-201)
3. CONNDOT RIGHT OF WAY MAP NO. 563, SHEET 3 OF 4 AND MAP NO. 50-17, SHEET 1 OF 2
4. VOL. 177, PG. 345 (Q.C.)
5. VOL. 144, PG. 318 (Q.C.)
6. VOL. 80, PG. 203 (WARR.)
7. CONNDOT BRC FILE 50-MISC-16
8. MAP ENTITLED: "MAP SHOWING LAND WHICH MISS ANNIE BURR JENNINGS PROPOSES TO CONVEY FOR PARK PURPOSES TO THE TOWN OF FAIRFIELD, FAIRFIELD, CONNECTICUT" SCALE 1"=40'; DATED JULY 6, 1931 (MAP NO. 614 F.L.R.)

NOTES:

1. THIS COMPILATION PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES, SECTIONS 20-300B-1 THROUGH 20-300B-20, AND THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1996. IT CONFORMS TO CLASS D ACCURACY AND IS INTENDED TO DEPICT THE LIMITS OF PROPERTY TRANSACTION AS NOTED HEREON. THIS PLAN WAS COMPILED FROM OTHER MAPS, RECORD RESEARCH, AND/OR OTHER SOURCES OF INFORMATION. IT IS NOT TO BE CONSTRUED AS HAVING BEEN NECESSARILY OBTAINED AS THE RESULT OF A FIELD SURVEY AND IS SUBJECT TO SUCH CHANGE AS AN ACCURATE FIELD SURVEY MAY DISCLOSE.
2. THE TOPOGRAPHY AND PROPERTY LINE EVIDENCE DEPICTED ARE BASED UPON THE SURVEY/MAPPING DATA AS REFERENCED. UNLESS OTHERWISE NOTED, THESE PROPERTY/BOUNDARY LINES DO NOT REPRESENT THE PROFESSIONAL OPINION OF THE UNDERSIGNED.

DRAWN BY JMJ  
DATE 11/20/18  
CHECKED BY SAE  
DATE 11/21/18

File: \\DOT-SDCENG07V\CTDOT-Projects\0173-0468\Survey\Property\_Maps\SV-CS-173-468\_004\_PM.dgn



N 114700

TO MY KNOWLEDGE AND BELIEF, THIS MAP IS  
SUBSTANTIALLY CORRECT AS NOTED HEREON.

Digitally  
signed by  
Robert Baron  
Date:  
2018.12.28  
11:56:43-05'00'

PLS #18824

SCALE IN FEET		
20	0	20 40
DATE	REVISION	REQ. BY

VOID WITHOUT LIVE SIGNATURE AND EMBOSSED SEAL

TOWN NO.	50
PROJECT NO.	173-468
SERIAL NO.	4
SHEET	1 OF 1
DATE	

ROBERT J. BARON, P.L.S.  
MANAGER - SURVEY OPERATIONS

000T(085)

COMPILATION PLAN

TOWN OF FAIRFIELD  
MAP SHOWING EASEMENT ACQUIRED FROM  
TOWN OF FAIRFIELD

BY  
THE STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION  
U.S. ROUTE 1 (BOSTON POST ROAD) AT ROUTE  
135 (NORTH BENSON RD.) & SOUTH  
BENSON ROAD

SCALE 1"=20' NOVEMBER 2018  
MARK D. ROLFE, P.E.  
CHIEF ENGINEER - BUREAU OF ENGINEERING AND CONSTRUCTION







October 4, 2018

Town of Fairfield  
Town Plan and Zoning Commission  
725 Old Post Road  
Fairfield, Connecticut 06824

Attention: Jim Wendt  
Planning Director

Reference: Coastal Site Plan Review  
1101 Harbor Road  
Southport, CT 06890  
RACE Project No. 2017085

Dear Mr. Wendt:

**RACE COASTAL ENGINEERING ("RACE")** is submitting the included application to the Town Plan and Zoning Commission for Coastal Site Plan Review for proposed Waterfront Access Improve at 1101 Harbor Road, Southport, Connecticut.

The project is intended to resolve on going trespassing over private property and improve public access to the beach and shorefront to all residents through a gift of private land to the public. Currently an easement exists on the 1101 Harbor Road parcel over an 8-foot-wide area to access public domain space that exists below the Mean High Water Line, beyond the limits of the private property ownership. However, the easement is not well suited for access as most of the easement is located over an area of existing stone revetment, which is not easily or safely traversable. Due to the notable interest by the public in accessing the beach, people have been trespassing over the private property to reach the public domain below Mean High Water and also using the private property of the beach above Mean High Water. The property Owner (1100 Harbor Road LLC) does not wish to restrict access to the shorefront or curtail enjoyment to those interested in using the beach. However, the Owner also does not wish invite the public at large onto private property or to host a public venue in their interest of maintaining their property rights, privacy, and limiting exposure to liability and due to difficulties in finding and maintaining homeowner's insurance under such a scenario.

Therefore, the Owner wishes to gift the waterfront to the Town of Fairfield so that public access is improved and provided in a safer and legal manner. The majority of the waterfront will be deeded to the Town, with an 8-foot-wide portion remaining as private property on the south end of the site. This remaining waterfront private property is located in an area of ledge outcrop and tidal grass, and therefore less easily accessible to trespassers.

The work submitted for this Site Plan Review application consists of stairs to be constructed from the existing seawall along Lower Wharf Park, and replacement of the existing stone revetment with a concrete seawall. A purpose of the seawall in addition to stabilization of shoreline and control of erosion is to provide a clear demarcation between the proposed public and private properties thereby limiting access from the waterfront to the private upland property. The seawall is intended to promote water dependent public access and recreation for the general public. The seawall meets the definition of a flood and erosion control structure, and the seawall is intended as a modification of the already existing flood and erosion control structure, namely the stone

revetment. The proposed seawall is a critical component of improving water-dependent public recreational use and enhances public coastal access, while resolving the current unsatisfactory conflict between public and private water use and access.

We expect that the Town's review and tentative agreement to accept the land donation gift will be finalized pending completion of this Coastal Site Plan review. Final acceptance of the land donation gift is at the discretion of the Town of Fairfield and will require applicable approvals.

Thank you for your time reviewing this application. Should you have any questions on the proposed work or its purpose please feel free to contact us.

Very truly yours,

**RACE COASTAL ENGINEERING**

Christopher Eggers, PE  
Project Manager

Copy: Brian & Karen McMahon, 1100 Harbor Road LLC  
John Fallen, Esq.  
1110 Harbor Road, LLC

Enclosures: CAM Application

X:\PROJECTS\2017\2017085 - 1100 HARBOR ROAD SOUTHPORT\4 REGULATORY\CAM APPLICATION\CAM SUMMARY COVER LETTER.DOCX





# **MEMO**

**TOWN OF FAIRFIELD  
PLAN & ZONING DEPARTMENT  
SULLIVAN INDEPENDENCE HALL  
725 OLD POST ROAD  
FAIRFIELD, CT 06824  
PHONE (203) 256-3050  
E-MAIL: [jwendt@fairfieldct.org](mailto:jwendt@fairfieldct.org)**

**DATE: May 3, 2019**

**TO: Board of Selectmen**

**FROM: Jim Wendt, Planning Director**

**SUBJECT: Offer of Land – 1101 Harbor Road**

A handwritten signature in dark ink, appearing to be "JW", is written over the "FROM" and "SUBJECT" lines of the memo header.

---

On Tuesday, April 23, 2019, the Town Plan and Zoning Commission approved a Coastal Site Plan application for a seawall at 1101 Harbor Road. As part of that application, the applicant proposed to extinguish an existing public access easement in favor of offering the area of property seaward of the proposed wall to the Town. Such proposed land is adjacent to the Town's existing lower wharf parcel.

Pursuant to Section 8-24 of the CT General Statutes, the Commission recommends acceptance of the proposed land subject to either of the following alternatives:

**A. Assign all land water ward of the sea wall to the Town.**

**or**

**B. Assign all land water ward of the sea wall with the exception of the 8 foot wide westerly strip with an easement to allow for public access within the strip with no structures ever to be built.**

**TOWN PLAN AND ZONING COMMISSION  
TOWN OF FAIRFIELD  
MINUTES OF MEETING – APRIL 23, 2019**

The Town Plan and Zoning Commission held a meeting at 7:30 p.m., on Tuesday, April 23, 2019 in McKinley School, 60 Thompson Street, Fairfield, CT.

Members Present: Matt Wagner, Chairman; Mark Corcoran, Vice Chairman; Chris McAleese, Secretary; Steven Levy, Donan Meyer, Tom Noonan

Alternate Member Present: Fredda Gordon

Town Department Members Present: Emmeline Harrigan, Assistant Planning Director  
Matt Decker, Code Enforcement Officer

Ms. Gordon sat in place for Ms. Francis and Mr. Corcoran viewed the tape of the April 9<sup>th</sup> meeting and voted on the following applications.

**Meeting Minutes** Motion was made by Mr. McAleese, seconded by Mr. Corcoran and the members present unanimously **VOTED TO APPROVE** the Meeting Minutes of April 9<sup>th</sup>, 2019.

Mr. DiGiacomo arrived during the following discussion.

**1101 Harbor Road** Motion was made by Mr. Levy, seconded by Mr. McAleese and the members present unanimously **VOTED TO APPROVE** the Coastal Site Plan application of 1100 Harbor Road, LLC pertaining to waterfront improvements subject to the following conditions:

- a.. The proposed seawall shall be revised to eliminate the northeasterly projection and tie into the lower wharf parcel at a point approximately 20 feet westerly (toward Harbor Road) than shown such that the public can traverse to the beach from the Lower Wharf over the existing natural grade without the need for new stairs or a ramp.

**1101 Harbor Road** Motion was made by Mr. McAleese, seconded by Mr. Corcoran and the members present unanimously **VOTED TO RECOMMEND FAVORABLY** to the RTM for the acceptance of the land donation to the Town for enhanced public access.

- a. Assign all land water ward of the sea wall to the Town.

or

- b. Assign all land water ward of the sea wall with the exception of the 8 foot wide westerly strip with an easement to allow for public access within the strip with no structures ever to be built.



Post Road/Grasmere Ave/Riverside Drive Motion was made by Mr. Noonan, seconded by Mr. McAleese and the members present unanimously **VOTED TO APPROVE** the Coastal Site Plan application of the Town of Fairfield pertaining to a sewer line relocation project. Res. B/DCD Zone

### **PUBLIC HEARING**

175 Jefferson Street Special Exception application of Sacred Heart University pertaining to the construction of new student residence halls. R-3 Zone

Atty. William Fitzpatrick presented this application to the Commission.

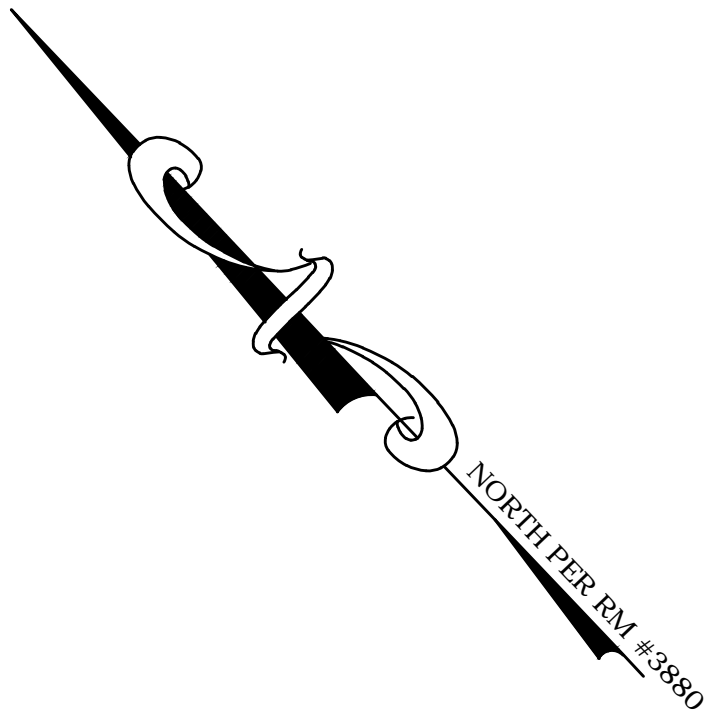
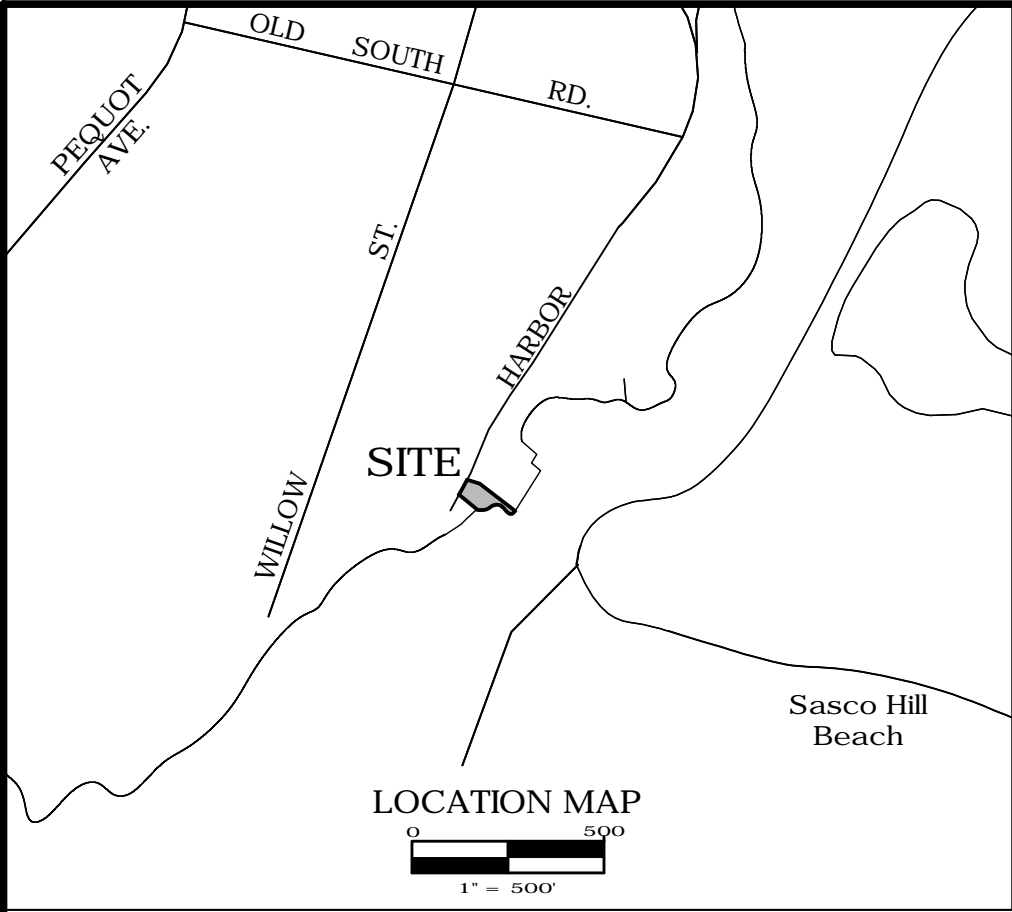
This meeting adjourned at 9:14 p.m.

---

Emmeline Harrigan, AICP, CFM  
Assistant Planning Director

---

Chris McAleese  
Secretary



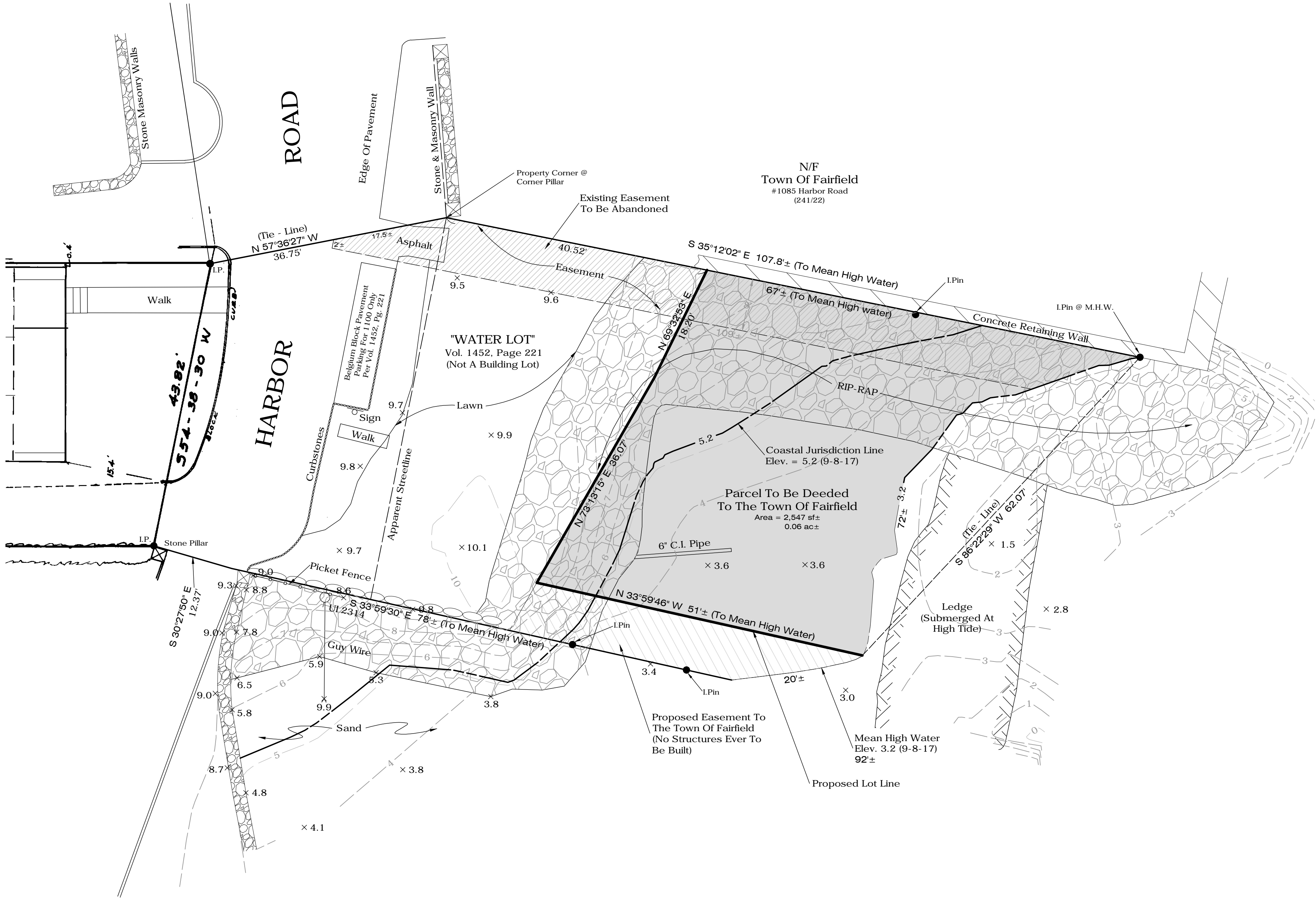
NOTES:

- This survey and map has been prepared in accordance with the Sections 20-300b-1 through 20-300b-20 of the Regulations of Connecticut State Agencies - "Minimum Standards for Survey and Maps in the State of Connecticut" as endorsed by the Connecticut Association of Land Surveyors, Inc. It is a Data Accumulation Plan based upon a Resurvey and conforms to Horizontal Accuracy Class A-2. Topography Depicted Hereon conforms to Topographic Accuracy Class T-2.
- Reference is made to the following maps on file in the Fairfield Town Clerk's Office:
  - RM #3880 - "Map of Property for Willard G. Reynolds and Josephine S. Reynolds, Fairfield, Conn., July 15, 1968" Map prepared by The Huntington Company.
  - RM #6228 - "Map of Property for Robert G. Lee and Jean D. Lee and The Town of Fairfield" dated December 23, 1994. Map prepared by The Huntington Company.
- The underground utilities shown, if any, have been located from visible field survey information. The surveyor makes no guarantees that the underground utilities shown comprise all such utilities in the area either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated. The surveyor has not physically located the underground utilities, unless specifically noted as such. It is the Contractor's responsibility to contact CALL BEFORE YOU DIG (CBYD) prior to commencement of any excavation, Dial 811 or 1-800-922-4455.
- Property is located in FEMA Zone AE(12). Per Flood Insurance Rate Map #09001C0418G, Effective Date: July 8, 2013; Panel 418 of 626.

- Property is served by public water and sanitary sewer.
- Property lies in Zone: Residence R3.
- Reference the following on file in the Fairfield Land Records:
  - Volume 1452 Page 221 - Agreement (Water Lot)
  - Volume 932 Page 203 - Historic Notice
- Vertical Datum: NAVD 88.

RESIDENCE R3 DISTRICT	
Minimum Lot Area	20,000
Minimum Square On Lot	100
Minimum Lot Frontage	20
MINIMUM SETBACK	
Setback From Street Line	40
Setback From Side Property Lines - One Story	30
Setback From Side Property Lines - More Than One Story	30
Setback From One Side Property Lines	15
Setback From Rear Property Lines	30
Setback From Street Line On A Corner Lot - One Story	30
Setback From Street Line On A Corner Lot - More Than One Story	30
MINIMUM FLOOR AREA	
Floor Area - One Story Building	900
Floor Area - Split Level Building	1,200
Floor Area - Two Or More Story Building Total Floor Area	1,200
Floor Area - Two Or More Story Building Ground Floor Area	800
Maximum Height For A Building Or Structure	40
Maximum Number Of Stories Per Building	3
Maximum Building Lot Coverage As A Percentage Of Lot Area	15%
Maximum Building Floor Area As A Percentage Of Lot Area	30%
Minimum First Floor Elevation	12

N/F  
1100 Harbor Road, LLC  
#1100 Harbor Road  
(241/150)



STREET ADDRESS #1101 HARBOR ROAD  
ASSESSORS MAP# 241 PARCEL# 23  
ZONE RESIDENCE R3  
OWNER/APPLICANT 1100 HARBOR ROAD, LLC  
#1100 HARBOR ROAD  
SOUTHPORT, CT 06890  
PROPOSAL PARCEL TO BE DEEDED TO THE TOWN  
OF FAIRFIELD & EASEMENT TO BE  
ABANDONED  
DATE 03.19.2018 SCALE 1"=10'

NOT VALID UNLESS EMBOSSED WITH SEAL OR  
FIXED WITH THE LIVE STAMP OF THE SIGNATORY  
TO MY KNOWLEDGE AND BELIEF, THIS MAP IS  
SUBSTANTIALLY CORRECT AS NOTED HEREON

Jason T. Spath Sr., L.S. #70136

NO.	DATE	DESCRIPTION
3	5-6-19	Revise Per Site Meeting
2	4-15-19	Proposed Lot Line / Area
1	8-21-18	Additional Topo Added
REVISIONS		

DATA ACCUMULATION PLAN  
DEPICTING PARCEL TO BE DEEDED  
TO THE TOWN OF FAIRFIELD  
PREPARED FOR  
1100 HARBOR ROAD, LLC  
#1101 HARBOR ROAD  
SOUTHPORT, CONNECTICUT

1"=10'

DATE: MARCH 19, 2018  
SCALE: 1"=10'  
DRAFTER: D.A.H. / S.J.R.  
JOB NUMBER: 4217  
PROJECT #: 6698X1

THE HUNTINGTON COMPANY, LLC  
Consulting Engineers & Surveyors  
303 Linwood Avenue, Fairfield, CT 06424  
203.259.1091

1/1

AGREEMENT

991066  
Parties. "The Town" is the Town of Fairfield, acting herein by its First Selectman, who is duly authorized so to act. "The Grantors" are Robert G. Lee and Jean D. Lee, the record owners of certain real property by virtue of a deed dated August 18, 1984 and recorded on September 17, 1984 in volume 730, page 874 of the Fairfield Land Records, and their successors in interest as record owners of that property.

Water Lot. "The Water Lot" is a certain piece or parcel of real estate conveyed to the Grantors in the aforementioned deed, bounded and described as follows:

Northwesterly:	, On Harbor Road, so called;
Northeasterly:	On land now or formerly of Christian Trefz, also known as the Lower Wharf or "O.G. Jennings's Dock;
Southeasterly	On Mill River; and
Southwesterly	On Mill River.

Said property is depicted on "The Map", which is a certain map entitled "Map of Property for Robert G. Lee and Jean D. Lee and The Town of Fairfield" dated December 23, 1994 and certified substantially correct by The Huntington Company, Engineers & Surveyors, to be recorded concurrently herewith

in the Fairfield Town Clerk's Office as Map Number 6228.

This agreement is made in consideration of the settlement of a certain action now pending in the Superior Court, entitled Robert G. Lee et al. v. Town of Fairfield, bearing docket number 93-304343, and the mutual exchange of easements and covenants that follows:

1. The Grantors grant to the Town on behalf of its residents a perpetual easement of pedestrian access for recreational fishing and sightseeing only ("the Easement"), from Harbor Road, so called, to the high water mark of Southport Harbor, along the easterly eight (8') feet of the Water Lot, as shown on the Map (the "Easement Area"). Neither the Town nor the Grantors shall construct or install any hedge, fence, chain or other physical demarcation of the Easement Area from the Water Lot. The Grantors agree to install a legible sign locating the easement. The sign shall be headed by the phrase "Public Easement", shall describe the location of the easement, and may contain or refer to such other terms of this agreement as the circumstances may warrant from time to time. It is agreed that if the sign is located on the boundary line between the Easement Area and the remainder of the Water Lot, it may state:

PUBLIC EASEMENT  
An 8 foot strip along the wall to the left of

this sign provides limited access to the shore for recreational fishing and sightseeing.

Nothing in this grant, however, shall authorize:

(a) any paving or other improvement of the Easement Area by either party, except as provided in paragraph 3 hereof;

(b) the use of any wheeled vehicle except wheelchairs and baby carriages;

(c) the transportation of any alcohol, any firearms, or any watercraft including jet skis and sail boards, over or across the Easement Area;

(d) the enjoyment of the Easement by more than six people at one time, or boisterously; or

(e) any littering, any sunbathing, any picnicking, or any activity pther than passage over or across the Easement Area.

2. Except as otherwise set forth in this Agreement, the Town agrees that it shall take no action which shall impair, burden or be inconsistent with the occupation, use, enjoyment or ownership of the Water Lot by the Grantors.

3. The Grantors agree to maintain the Water Lot as they have in the past, and to limit future improvements to the following, none of which (except lawns) shall be located within the Easement Area:

(a) lawns and gardens (including suitable outdoor furniture, which may be permanent);

(b) curbing along Harbor Road, so called, paving of the parking area depicted on the Map, and the reinstallation of a sign designating the parking area "Parking for 1100 Only";

(c) subject to appropriate regulatory approval, and the prior right of the Town as provided in paragraph 4, the repair and maintenance of the existing retaining wall and storm protection, or its replacement to no greater extent than it now exists; and

(d) subject to appropriate regulatory approval, the construction of a roofed, but unwalled, gazebo. The Grantors agree that no residence, no walled structure, and no wall or fence higher than three (3') feet above the level of Harbor Road, so called, shall ever be built on the Water Lot.

4. In lieu of the repair and maintenance of the existing retaining wall and storm protection by the Grantors, the Town may enjoy reasonable access over and across the Easement Area, and so much of the Water Lot as is necessary, to reset, stabilize or replace, but not to remove altogether, the boulders or "rip-rap" existing seaward of the Water Lot, as shown on the Map.

5. The Grantors assume no liability for any injury to persons or property arising out of the enjoyment of the Easement by members of the public or employees or officials of the Town.

6. This agreement inures to the benefit of, and shall be binding upon, the parties and their heirs, successors and assigns. It and the easements contained herein shall not be separately alienable by either party except to the other. This agreement shall run with the land.

7. This agreement has been entered into by the parties in order to resolve disagreements having specific relationship to the parcel of real estate described herein. All parties hereto agree that this agreement shall have no precedential effect with respect to any other property or waterfront lot in which the Town may have or claim an interest.

In witness of this agreement, the parties have set their hands and seals to this instrument this 16 day of January, 1995 in the presence of these witnesses:

THE TOWN OF FAIRFIELD

By

Paul A. Audley  
Paul A. Audley  
First Selectman

Roy W. Moore III  
James H. Lee

Madeline H. Lee

James H. Lee

Madeline H. Lee

James H. Lee

Robert G. Lee  
Robert G. Lee

Jean D. Lee  
Jean D. Lee

State of Connecticut )  
County of Fairfield ) ss. Fairfield January 6 1995

Personally appeared Paul A. Audley, First Selectman of the Town of Fairfield, who acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said Town.

Roy W. Moore III  
Commissioner of the  
Superior Court

1452-226

State of Connecticut )  
County of Fairfield ) ss. Fairfield January 4, 1995

Personally appeared Robert G. Lee and Jean D. Lee, who acknowledged the foregoing instrument to be their free acts and deeds.

RECEIVED FOR RECORD

Jan 6 1995 AT 2:22 P.M.

ATTEST:

Margaret A. Felt  
TOWN CLERK

James H. Lee  
Commissioner of the  
Superior Court



**Town of Fairfield  
Board of Selectmen**

**Applicant:**

1100 Harbor Road, LLC  
c/o Brian & Karen McMahon  
1100 Harbor Road  
Southport, Connecticut 06890

**Project Location:**

1101 Harbor Road  
Southport, Connecticut 06890

***Proposed Land Gift &  
Waterfront Access Improvement***



**May 17, 2019**

**Prepared By:**



611 Access Road  
Stratford, CT 06615  
Tel 203-377-0663  
Fax 203-375-6561  
[www.racecoastal.com](http://www.racecoastal.com)

**Project No. 2017085**

## ***Table of Contents***

<b><u>Section</u></b>	<b><u>Description</u></b>
1.	Summary Letter: Proposed Waterfront Land Gift Acquisition to the Town of Fairfield
2.	Zoning & Plan Commission Approval
3.	Correspondence with Town of Fairfield Harbor Management Commission
4.	Survey Drawings: <ul style="list-style-type: none"><li>• 'Zoning Location Survey Prepared for Brian T. &amp; Karen J. McMahon, #1100 Harbor Road, Southport, Connecticut', by the Huntington Company, LLC Dated Latest revision #8 September 13, 2017.</li><li>• 'Data Accumulation Plan, Depicting Parcel To Be Deeded To The Town Of Fairfield, Prepared For 1100 Harbor Road, LLC, #1101 Harbor Road, Southport, Connecticut' By The Huntington Company, LLC Dated Latest Revision #3 May 6, 2019.</li></ul>
5.	Project Drawings: <ul style="list-style-type: none"><li>• 1101 Harbor Road Access Improvement (7 Sheets)</li></ul>
6.	Review of CAM Policies and Goals, William Kenny Associates, LLC, dated January 18, 2019
7.	Site Photographs
8.	Coordination Letters with Neighbor

## SECTION 1

# Summary Letter



May 17, 2019

Town of Fairfield  
Board of Selectmen  
c/o Office of the First Selectman  
725 Old Post Road  
Fairfield, Connecticut 06824

Attention: Honorable Michael C. Tetreau,  
First Selectman

Reference: Proposed Waterfront Land Gift Acquisition to the Town of Fairfield  
1101 Harbor Road  
Southport, CT 06890  
RACE Project No. 2017085

Dear First Selectman Tetreau:

**RACE COASTAL ENGINEERING ("RACE")** is submitting the included information and proposed plan for a lot to be deeded to the Town of Fairfield as a gift donated by 1100 Harbor Road LLC care of Brian & Karen McMahon. Acceptance of land acquisition requires approval from the Representative Town Commission (RTM). Included are proposed plans, permits and approvals issued to date, and other site information. The project has been revised during the review period and by the conditions of the approval of the Town Plan and Zoning Commission dated May 3, 2019.

The project is intended to resolve on going trespassing over private property and improve public access to the beach and shorefront to all residents through a gift of private land to the public. Currently an easement exists on the 1101 Harbor Road parcel over an 8-foot-wide area to access public domain space that exists below the Mean High Water Line, beyond the limits of the private property ownership. However, the easement is not well suited for access as most of the easement is located over an area of existing stone revetment, which is not easily or safely traversable. Due to the notable interest by the public in accessing the beach, people have been trespassing over the private property to reach the public domain below Mean High Water and also using the private property of the beach above Mean High Water. The property Owner (1100 Harbor Road LLC) does not wish to restrict access to the shorefront or curtail enjoyment to those interested in using the beach. However, the Owner also does not wish invite the public at large onto private property or to host a public venue in their interest of maintaining their property rights, privacy, and limiting exposure to liability and due to difficulties in finding and maintaining homeowner's insurance under such a scenario.

Therefore, the Owner wishes to gift the waterfront to the Town of Fairfield so that public access is improved and provided in a safer and legal manner. The majority of the waterfront will be deeded to the Town, with an 8-foot-wide portion remaining as private property on the south end of the site. An easement will be provided in the Town's favor over this remaining portion of the waterfront site.

The work submitted for this project includes construction of a concrete wall behind the stone revetment. The top of the concrete wall will match the existing grades of the lawn area and the existing seawall at the Lower Wharf. As such the top of the seawall will not extend above existing portions of the Lower Wharf. A purpose

of the seawall in addition to stabilization of shoreline and control of erosion is to provide a clear demarcation between the proposed public and private properties thereby limiting access from the waterfront to the private upland property.

The current plans are attached, in addition to previous background information, and current approvals obtained thus far. The project proposal has been revised and adjusted based on regulatory feedback and input from neighbors. The current plans include: moving the proposed seawall landward, increased square footage of waterfront donation to the Town relative to earlier plan revisions, and removal of the timber fence and inclusion of landscape plantings in place of the fence. For summary reference, the following changes have been made as the process has evolved and been reviewed:

- September 25, 2018: Plans issued for Coastal Area Management Permit Review
- January 9, 2019: Plans revised per CT DEEP comments and reissued for Coastal Area Management Permit Review
- April 29, 2019: Wall location revised as draft to reflect Town Plan and Zoning Commission conditions and other neighbor comments regarding fence and plantings.
- May 16, 2019: Wall location revised per field visit to finalize proposed layout from April 29, 2019 draft.

Final acceptance of the land donation gift is at the discretion of the Town of Fairfield and this information herein provided for your consideration.

Thank you for your time reviewing this proposed land acquisition. Should you have any questions on the proposed work, its purpose, or request other information please feel free to contact us.

Very truly yours,

**RACE COASTAL ENGINEERING**

Christopher Eggers, PE  
Project Manager

Copy: Brian & Karen McMahon, 1100 Harbor Road LLC  
John Fallen, Esq.  
1110 Harbor Road, LLC

Enclosures:

- Zoning & Plan Commission Approval
  - Notice of Decision, Town Plan and Zoning Commission, Dated May 3, 2019
  - Memo subject Offer of Land – 1101 Harbor Road, Town of Fairfield Plan & Zoning Department, Dated May 3, 2019
- Correspondence with Town of Fairfield Harbor Management Commission
  - Letter from Harbor Management Commission to Mr. Matthew Wagner, Chair, Town Plan and Zoning Commission, Dated April 8, 2019, regarding Coastal Site Plan Application by 1101 Harbor Road, LLC pertaining to waterfront improvements and elimination of a public



- access easement with a proposed land donation to the Town for public access to Southport Harbor.
- Letter dated March 15, 2019 from RACE Coastal to Harbor Management Commission, Town of Fairfield Harbor Management Commission, Review and Comments to Coastal Site Plan Application – 1101 Harbor Road, Southport, CT
- Survey Drawings:
  - 'Zoning Location Survey Prepared for Brian T. & Karen J. McMahon, #1100 Harbor Road, Southport, Connecticut', by the Huntington Company, LLC Dated Latest revision #8 September 13, 2017.
  - 'Data Accumulation Plan, Depicting Parcel To Be Deeded To The Town Of Fairfield, Prepared For 1100 Harbor Road, LLC, #1101 Harbor Road, Southport, Connecticut' By The Huntington Company, LLC Dated Latest Revision #3 May 6, 2019.
- Project Drawings: 1101 Harbor Road Access Improvement (7 Sheets)
- 'Review of CAM Policies and Goals, William Kenny Associates, LLC, dated January 18, 2019
- Site Photographs
- Coordination Letter with Neighbor

X:\PROJECTS\2017\2017085 - 1100 HARBOR ROAD SOUTHPORT\4 REGULATORY\CAM APPLICATION\BOS SUMMARY\BOS SUMMARY COVER LETTER.DOCX



## SECTION 2

# **Zoning & Plan Commission Approval**



# TOWN PLAN AND ZONING COMMISSION

## TOWN OF FAIRFIELD

May 3, 2019

### NOTICE OF DECISION

On April 23, 2019, the Town Plan and Zoning Commission voted to approve your application for a Coastal Site Plan pertaining to property located at 1101 Harbor Road as shown on plans entitled: "1101 Harbor Road Waterfront Access Improvement".

**WARNING: THIS APPROVAL IS NOT VALID UNTIL A NOTICE OF FILING IS RECORDED IN THE OFFICE OF THE TOWN CLERK WITHIN 6 MONTHS. The Notice of Filing is available in the Town Plan and Zoning Office, Town Hall, Fairfield, Connecticut. No work can be undertaken until an application for a certificate of zoning compliance and building permit are issued by the Town of Fairfield.**

#### Conditions of Approval:

1. The proposed seawall shall be revised to eliminate the northeasterly projection and tie into the lower wharf parcel at a point approximately 20 feet westerly (toward Harbor Road) than shown such that the public can traverse to the beach from the Lower Wharf over the existing natural grade without the need for new stairs or a ramp.
2. Filing of Notice as stated above.
3. Finalization of permits.

TOWN PLAN AND ZONING COMMISSION

  
Dolores Sansonetti  
Clerk

Certified Mail No. 7017 0530 0000 2818 0505





# **MEMO**

**TOWN OF FAIRFIELD  
PLAN & ZONING DEPARTMENT  
SULLIVAN INDEPENDENCE HALL  
725 OLD POST ROAD  
FAIRFIELD, CT 06824  
PHONE (203) 256-3050  
E-MAIL: [jwendt@fairfieldct.org](mailto:jwendt@fairfieldct.org)**

**DATE: May 3, 2019**

**TO: Board of Selectmen**

**FROM: Jim Wendt, Planning Director**

**SUBJECT: Offer of Land – 1101 Harbor Road**

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On Tuesday, April 23, 2019, the Town Plan and Zoning Commission approved a Coastal Site Plan application for a seawall at 1101 Harbor Road. As part of that application, the applicant proposed to extinguish an existing public access easement in favor of offering the area of property seaward of the proposed wall to the Town. Such proposed land is adjacent to the Town's existing lower wharf parcel.

Pursuant to Section 8-24 of the CT General Statutes, the Commission recommends acceptance of the proposed land subject to either of the following alternatives:

**A. Assign all land water ward of the sea wall to the Town.**

**or**

**B. Assign all land water ward of the sea wall with the exception of the 8 foot wide westerly strip with an easement to allow for public access within the strip with no structures ever to be built.**

## SECTION 3

# **Correspondence with Town of Fairfield Harbor Management Commission**

# **Town of Fairfield**

## **Harbor Management Commission**

Sullivan Independence Hall  
725 Old Post Road  
Fairfield, Connecticut 06824

VIA EMAIL TRANSMISSION AND HAND-DELIVERY

April 8, 2019

Mr. Matthew Wagner, Chair  
Town Plan and Zoning Commission  
Sullivan Independence Hall  
725 Old Post Road  
Fairfield, Connecticut 06824

**Subject: Coastal Site Plan Application by 1101 Harbor Road, LLC pertaining to waterfront improvements and elimination of a public access easement with a proposed land donation to the Town for public access to Southport Harbor.**

Dear Mr. Wendt:

The Harbor Management Commission (HMC) has reviewed the Coastal Area Management Application submitted to the Town Plan and Zoning (TPZ) Commission by 1101 Harbor Road, LLC (the Applicant) involving the Applicant's: 1) request for elimination of an existing public access easement established in a 1995 agreement between the Town and the former property owner in the course of a Superior Court proceeding; 2) proposed transfer of a portion of the Applicant's property to the Town; and 3) proposed construction of a vertical concrete seawall.

The Applicant's 1101 Harbor Road property, locally known as the Water Lot, adjoins the Town-owned property known as the Lower Wharf. The Lower Wharf was acquired by the Town in 1999 to provide public access to Southport Harbor. The HMC provided a significant financial contribution toward purchase of the Lower Wharf with funds from the Town's Harbor Management Account which, pursuant to the General Statutes and Town Code, is used for harbor improvements for the benefit of the public. In addition, the HMC was given responsibilities for management of the Lower Wharf.

Prior to Town acquisition of the Lower Wharf, ownership of the Water Lot was the subject of the above-noted Superior Court proceeding resolved in 1995 involving the Town and the former owner of property at 1100 Harbor Road. That proceeding was settled in accordance with an agreement (Agreement) signed by representatives of the property owner (Grantors), Town, and the Commissioner of the Superior Court. To summarize, it was agreed that the Water Lot was owned by the Grantors who would grant a perpetual easement of pedestrian access along the easterly eight feet of the Water Lot. The Agreement also specified a number of covenants con-

cerning the rights of the Grantors and Town and included a 1994 Survey showing the bounds of the Water Lot and easement. (The Agreement and Survey are attached for your convenience.)

As the Applicant's current proposal affects property on, in, or contiguous to Southport Harbor, it is subject to review by the HMC to determine its consistency with the policies of the Management Plan for Southport Harbor (the Plan), approved by the State of Connecticut and adopted by the Representative Town Meeting. The requirements of this review are specified in Sec. 22a-113p of the Connecticut General Statutes, Sec. 24-14 of the Fairfield Town Code, and the Plan. Pursuant to the General Statutes, Town Code, and Plan, a 2/3 vote of all members of the TPZ Commission is needed to approve a proposal that has not received a favorable recommendation from the HMC.

Among the harbor management policies and provisions relevant to the Applicant's proposal, the Plan supports public access to the harbor and along the shoreline below the mean high water line where feasible and where such access: 1) does not conflict with the rights of waterfront property owners; and 2) is consistent with the capabilities of harbor resources to safely accommodate public access in an environmentally sound manner. In addition, the Plan calls for enhancing water-access right-of-ways where feasible and consistent with traditional neighborhood uses and activities.

Please consider the following sequence of events in our review of the Applicant's proposal.

The HMC first considered the Applicant's proposal in preliminary form during our meeting on June 19, 2018. At that time, the HMC had no objection to the Applicant proceeding with preparation of more detailed plans and necessary applications. In addition, the HMC reserved its right to review those applications, including Coastal Site Plan Review applications, at such time as they are submitted to the appropriate Town agencies, and to provide an opportunity for public comment.

The Applicant then prepared and submitted an application to the TPZ Commission and that application was referred to the HMC pursuant to the above-noted sections of the General Statutes and Town Code for review.

The HMC then considered the Applicant's formal proposal during our meeting on February 19, 2019. Following significant discussion with the Applicant's representative, the HMC tabled discussion of the proposal pending additional information and research. This action was taken with the understanding that the TPZ Commission Public Hearing on this matter would be held at a later date in March, following the HMC's March 19 meeting.

Subsequently, the HMC learned that the anticipated public hearing would be held on March 12, 2019. I then requested, on behalf of the HMC, that the TPZ Commission extend the public comment period a sufficient time to enable the HMC to complete its review of the Applicant's proposal and to allow for some outstanding questions regarding the proposal to be properly addressed by the HMC. That request and those questions were included in my March 2019 letter to you with a copy to the Applicant. (A copy is enclosed for your convenience.)

Following receipt of my letter, the Applicant's attorney requested that the TPZ Public Hearing on this matter be continued to April 9, 2019, thereby allowing the Applicant to respond to the HMC's questions.

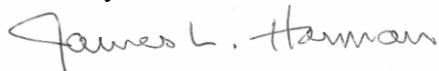
The HMC considered the Applicant's proposal and March 15, 2019 response to our questions during our meeting on March 19, 2019. At that meeting we also heard public comments on the proposal, including questions and concerns not previously discussed by the HMC. For example, commenters asked if compliance with the Americans With Disabilities Act is necessary if the Town accepts the offered property for public access purposes; if an analysis of Town costs for managing the property over time have been assessed; and expressed concern over the potential impact of the Applicant's proposed fence on existing public views of the from the Lower Wharf.

Following discussion of these and other public comments and significant discussion with the Applicant's representative, it was the consensus of the HMC to submit a favorable recommendation concerning the Applicant's proposal provided that (1) all questions raised by the HMC in its March 12, 2019 letter to the Applicant's engineer are addressed to the satisfaction of the Town Attorney, including whether court approval would be required concerning the proposed elimination of the public access easement and whether the shore protection structures proposed to be transferred to the Town as part of the reconfigured property are properly permitted; (2) provisions in Section 3 of the original easement agreement are retained, including but not limited to the provision limiting future structures on the Water Lot; (3) that a smaller wall that does not interfere with public views be considered; (4) that any applicable ADA requirements be met, including requirements relative to the proposed stairs that would provide access to the shore from the Lower Wharf; and (5) that the HMC's role for management of the property, should it be accepted by the Town, be defined. We presume that the HMC will have an opportunity to discuss that role prior to any decision by the Town to accept the property.

Please be advised that the HMC reserves its right to review and provide additional comments at such time as the proposal may be modified or be the subject of another application or additional information is provided.

If you have any questions or require any additional information at this time, please contact me at (203) 339-2327 or [j99harman@gmail.com](mailto:j99harman@gmail.com).

Sincerely,



James Harman  
Chairman

Enclosures

cc:

Mr. Brian Carey Conservation Director, Town of Fairfield  
Mr. Christopher Eggers, RACE Coastal Engineering  
Mr. John Fallon, Attorney for Applicant  
Mr. John Gaucher, CT DEEP

Mr. William Hurley, Engineering Manager  
Mr. Jim Wendt, Planning Director



March 15, 2019

Harbor Management Commission  
725 Old Post Road  
Fairfield, CT 06824

Attention: James Harmon, Chairman  
j99harman@gmail.com

Reference: Town of Fairfield Harbor Management Commission  
Review and Comments to Coastal Site Plan Application – 1101 Harbor Road, Southport, CT  
RACE Project No. 2017085

Dear Mr. Harmon:

**RACE COASTAL ENGINEERING (“RACE”)** on behalf of the Applicant, 1100 Harbor Road, LLC, herein provides the additional information for comments and review identified in your March 12, 2019 letter to Mr. Jim Wendt, Planning Director.

**Overview:**

The project site at 1101 Harbor Road is known as the Water Lot and is referred to as such in the past deed. The adjoining site to the northeast of the Water Lot at 1085 Harbor Road is known as the Lower Wharf.

In addition to responding to the comments from your Commission, we also strive to reinforce the position of the Applicant and the need for this project. As has been noted previously, the purpose of the application is to provide continued access to Southport Harbor and Long Island Sound to Town residents while removing the liability of trespassing on the Applicant’s property.

The proposal in front of your Commission allows the Town to improve passive recreation along the beach and compliment the park use at the existing Lower Wharf. This will allow all Town residents to enjoy the great benefits of Southport Harbor and continue Fairfield’s reputation as a desirable place to live by providing unique and beautiful outdoor recreation areas. This application is consistent with the current use of Lower Wharf park and historic waterfront use. This application is also consistent with The Management Plan for Southport Harbor (Harbor Management Plan), adopted by the Fairfield Representative Town Meeting effective October 9, 1995.

It is stated in the Harbor Management Plan (page 5-2) Chapter 5, Goal 3: *“To maintain and enhance Harbor opportunities for other types of water-based uses and activities, in addition to recreation boating uses and activities.” Within this Goal 3, we point to objective (c) which states “To continue to provide opportunities and facilities for recreational fishing, canoeing, and other water-based activities, and to improve those opportunities and facilities where feasible.”* This project improves waterfront facilities by deeding to the Town additional waterfront land of a desirable parcel. The proposal enhances recreational fishing, and other water-based activities, namely sightseeing and beach walking.

We also point out that the application with proposed land gift is consistent with part 2.0 Water Access Policies, subpart 2.1 Providing for Public Water Access of the Harbor Management Plan (page 5-11 to 5-12). Of this part we emphasize the following:

*“a. Public access to the Harbor and along the waterfront below the mean high water line should be provided where feasible and where such access: 1) does not conflict with the rights of waterfront property owners; and 2) is consistent with capability of Harbor resources to safely accommodate public access in an environmentally sound manner.*

*i. New or increased public access to the Harbor and along the waterfront should not adversely affect the quality of life in waterfront residential areas.”*

Currently, the waterfront access by members of the public is conflicting with the rights of the waterfront property owner (the Applicant). The proposal will provide new and increased public access to the Harbor, while removing the conflict and increase quality of life. The site is capable to support the passive recreational use in an environmentally sound manner, as has been demonstrated by past use and the fact that the proposal does not include expansion of users beyond those already using the Lower Wharf park facilities. And in accordance with item d of subpart 2.1 Providing for Public Water Access:

*“d. The Town should take advantage of any opportunities that may arise to acquire property that should provide public access to the Harbor and along the waterfront.”*

This proposal is an opportunity for the Town.

Likewise, the proposal is consistent with the Harbor Management Plan Recommendations for Water Access of Chapter 6, refer to Chapter 6 parts 1.a., 1.b., 1.c., and 5.d. and 5.e. on pages 6-24 through 6-29.

If the proposed modifications to the property ownership and associated easements are not acted on, the Applicant will be forced into a position to protect his property from the liabilities associated with trespassing and residents will be required to use the current easement. As you are aware, the current easement for access to the water is over the revetment structure at the toe of the seawall and not through the beach area which is on the Applicant's property. This easement is not functionable for access to Southport Harbor and poses a liability concern due to the necessity of residents to traverse jagged and at times slippery rocks to access the water.

The proposal at hand addresses both the ability for the Town to safely access Southport Harbor and the concerns of the Applicant regarding trespassing. The benefits of this proposal are significant.

### **Response to Comments:**

The information requested or comments by the HMC is shown in italics below and the response follows.

*3. The Agreement's covenants appear to have significance when considering the Applicant's current proposal. Among the items of interest to the HMC:*

*a. The location of the Mean High Water (MHW) Line as shown on the 1994 Survey does not match the location of the MHW line shown on the Zoning Location Survey submitted by the Applicant with the current proposal. This inconsistency is not explained in the current proposal. The HMC has provided the two surveys to the Town Engineering Department for review prior to the HMC's March 19, 2019 meeting.*





The current survey (latest revision dated 9/13/2017) shows the Mean High Water (MHW) line from grade as observed on 9/8/2017. The survey plan dated December 23, 1994 shows the MHW line as observed on 11/8/1994. These dates are clearly noted on the relevant surveys for the MHW lines.

The MHW line represents an elevation contour at the relevant MHW elevation. This contour line will change if actual grade onsite changes. This is a change in site conditions and not an inconsistency. The MHW line is applicable to the date indicated only.

A review of the past surveys and historical aerial imagery indicates that the beach changes with time and appears to have evolved waterward from the November 1994 location to the September 2017 location. Historical aerial imagery is attached for reference.

Per the surveyor, Huntington Group, the MHW is at Elevation +3.2' NAVD88 based on data published by Connecticut DEEP.

*3. b. The Agreement does not specify the Grantors' ownership of the Water Lot to the MHW line but states that the Water Lot is bounded southeasterly and southwesterly by the Mill River and is as depicted on the 1994 Survey.*

The property line is MHW as determined by the established elevation and will shift slightly over time due to shifting sands and similar site changes, along a tidal line. Therefore, surveyors will sometimes date when MHW was established on their surveys.

*3.c. The Agreement allows the Grantors, subject to appropriate regulatory approval, to repair and maintain the existing retaining wall and shore protection or replace it to no greater extent than existed at that time. It appears that this is the area where the Applicant now proposes to add a vertical concrete seawall.*

Part 3 (c) of the deed (Volume 1452 Page 223-224) states "3. The Grantors agree to maintain the Water Lot as they have in the past, and to limit future improvements to the following, none of which (except lawns shall be located within the easement area:" .... "c. subject to appropriate regulatory approval, and the prior right of the Town as provided in paragraph 4, the repair and maintenance of the existing retaining wall and storm protection, or its replacement to no greater extent than it now exists;"

Accordingly, all applications will be reviewed by the appropriate regulatory bodies within the Town prior to this project being constructed and the Town will be requested to agree to the project as the Grantee of the easement, as noted below change of the property ownership and easement removal are the crux of this proposal.

Our proposal has been conceptually reviewed by the First Selectmen, the Town Attorney, the Conservation Director and the Planning and Zoning Director; and will of course be reviewed at public hearing by the Planning and Zoning Commission. The proposed easement once approved therefore will document approval of our proposal as consistent with the original agreement.

*d. The Agreement is signed by the Commissioner of the Superior Court, thereby raising the question of whether court approval is needed to eliminate the easement as now proposed by the Applicant.*



The signature of the parties to the original agreement were notarized. In Connecticut such an acknowledgment of a document can be made by either a notary public or a "commissioner of the Superior Court". A commissioner of the Superior Court is simply a lawyer admitted to practice in Connecticut and any lawyer so admitted is in fact a commissioner of the Superior Court and has authority to take an acknowledgment and notarize a document.

The project and modification to the deed and easement will be reviewed by all necessary legal parties prior to any construction or deed changes. We note that part 6 of the deed (Volume 1452 Page 225) states "This agreement inures to the benefit of, and shall be binding upon, the parties and their heirs, successors and assigns. It and the easements contained herein shall not be separately alienable by either party except to the other. This agreement shall run with the land."

Therefore, the benefits of the easement will not be modified without the Town's agreement. We note that the current proposal enhances the benefit of the Town.

Over the course of time, the conditions on the site have changed since the action bearing docket number 93-304343 pending in the Superior Court between Robert G. Lee and the Town of Fairfield was resolved with the 1995 filing of the easement on the Water Lot. The land use issues and conflicts at the site have changed. The Town now owns the Lower Wharf property (noted as acquired in 1999). Robert G. and Jean D. Lee no longer own the Water Lot or 1100 Harbor Road, though the easement and deed restrictions run with the land to the current Owner. The current proposal by the Water Lot Owner (Grantor's successor) seeks to amicably and generously resolve the current land use conflict of trespassing over private property by users of the public park which is maintained, managed, and operated by the Town.

*4. During its February 19, 2019 meeting, HMC members raised several questions and issues concerning the Applicant's proposal with the understanding that additional research on these matters would be conducted prior to the HMC's March 19, 2019 meeting.*

*a. HMC members expressed concern that given the effects of rising sea level and increasing severity of coastal storms, the beach area proposed for transfer to the Town may prove ephemeral in nature.*

Any potential loss of beach from sea level rise or other factors will remain to be a loss to both the Town and the Applicant regardless of the status of this Application.

The proposal provides an immediate beneficial use to the public seeking access to the waterfront. Future planning for affects of sea level rise are beyond the scope of this application. The proposed use of the site is for passive recreation (such as walking, sightseeing, and fishing). This use type is by nature flexible and may adjust to changes in the coastline. The current trespassing problem is immediate and the proposal has the potential to immediately provide years of enjoyable public use prior to any loss of beach from sea level rise.

Erosion of the area will be influenced by the natural and made man features of the site and neighboring site. Particularly, available sediment for erosion and scour as well as beach replenishment is minimized by the ledge outcropping, existing tidal vegetation, and the adjoining seawalls and revetment. These local constraints in conjunction with long term sedimentation within the mouth of the Mill River and regional sand transport will make predictions of future beach conditions on the Water Lot difficult to predict with great precision.



The beach is not a static feature and does vary over time (as indicated in change to MHW contour previously discussed).

The historical aerial imagery and past surveys suggest that the beach has actually grown over the decades. This increase in beach width is consistent with observed sedimentation patterns on the east side of the channel in this immediate location where the shoal is a continual concern for dredging. Therefore, we recommend the management of the beach for future sea level rise be considered within a broader harbor management context and not as an immediate threat of the next few years or a perceived liability.

The existing revetment and proposed wall are currently overtopped and inundated by the Base Flood as mapped by FEMA. Larger storms will continue to overtop the existing revetment. With this application the structures are not intended to be modified to resist overtopping of the Base Flood Elevation with or without sea level rise.

*b. HMC members desired to hear testimony from members of the public who traditionally use the pedestrian easement for access to the Harbor in this location.*

We have not recorded public comments or made a formal poll as people who are currently making use of the beach front land are trespassing on private land and we do not want to have them acknowledge such trespass. However, the proposal has been made to the HMC twice at public meetings, and will be publicly in front of the HMC a third time. The upcoming zoning commission meetings are also open to the public. The meeting agendas are published on the Town's website and those interested may submit comments or attend the hearings.

The site is ideal for passive recreation of walking, beach access, site viewing of the harbor, and fishing. Per the existing deed, the existing easement is for "pedestrian access for recreational fishing and sightseeing only". The proposal is to allow safe and legal access and enhance these passive uses for people that are already making use of the adjacent existing public park areas.

*c. HMC members understand that, should the proposed property transfer be approved by the Town, a specific agency of the Town must be assigned management responsibility for the transferred property. Any additional responsibilities of the HMC in this regard require careful consideration.*

The Applicant must defer to the relevant commissions and Town management on this matter.

It should be noted, that acceptance of this proposal will in all likelihood reduce Town liabilities as non-acceptance will put the Applicant in a position to protect his property from the liabilities associated with trespassing and the residents will be forced to access the water over the jagged revetment stones located in the current easement. Such "careful consideration" of the management of the property should also factor this into consideration.

*d. It is understood by the HMC that the Applicant's proposal would also transfer existing riprap structures along the south edge of the Lower Wharf to the Town. A representative of the Connecticut Department of Energy and Environmental Protection in-forms the HMC that those structures do not appear to be permitted by the State of Connecticut.*

We are not aware of any permits issued by the State of Connecticut Department of Energy and Environmental Protection (DEEP) for 1100 or 1101 Harbor Road. However, CT DEEP



(previously DEP) Permit 199501662-KH was issued for seawall work at 1085 Old Harbor Road (the Lower Wharf property), this permit is attached. Permit 199501662-KH clearly indicates the presence of the existing stone revetment at the Water Lot.

For reference, we have attached email correspondence to Mr. Wendt, Fairfield Planning Director by Mr. John Goucher, CT DEEP Environmental Analyst III, regarding DEEP's comments on this application and the status of past permits.

*5. The HMC recognizes that at the time of the Agreement, the Town had not acquired the Lower Wharf and hence the Water Lot easement was necessary to maintain traditional public access to Southport Harbor from this location on Harbor Road. Today, pedestrian access to this same part of the shoreline is possible through the Lower Wharf without the need to cross the Water Lot.*

The shoreline access provide by the Lower Wharf property is access to the top of the seawall. The Lower Wharf does provide adequate shoreline access for fishing or sightseeing and is rightly an enjoyable park. However, those persons wishing to directly access the beach and waterline still must traverse the easement along with the stone revetment or be content to remain at the top of the Lower Wharf's seawall. Indeed, the Lower Wharf has greatly enhanced public water front access yet a demand for direct beach access still is evident by observation of users. In this light, we feel that the proposed land gift of the Lower Wharf beach to the Town greatly compliments the existing Lower Wharf as a park.

Thank you in advance for your review and we look forward to meeting with the Harbor Management Commission at their March 19, 2019 meeting. Please contact the undersigned with any questions.

Very truly yours,

**RACE COASTAL ENGINEERING**



Christopher Eggers, PE  
Project Manager

Copy: Brian McMahon  
John Fallon, Esq.  
Jim Wendt, Town of Fairfield Planning Director  
Brian Carey, Town of Fairfield Conservation Director

Enclosures:

- Letter dated March 12, 2019 to Mr. Jim Wendt, Planning Director, from Mr. James Harman, Chairman Subject: Coastal Site Plan Application by 1101 Harbor Road, LLC pertaining to waterfront improvements with proposed land donation to the Town for enhanced public access. With attachments.
- Email correspondence to Mr. James Wendt, Fairfield Planning Director by Mr. John Goucher, CT DEEP Environmental Analyst III, regarding 1100 Harbor Road CAM Application. With attachment.
- CT DEEP (previously DEP) Permit 199501662-KH
- Historic Aerial Imagery



## Enclosure 1

**Letter dated March 12, 2019 to Mr. Jim Wendt,  
Planning Director, from Mr. James Harman,  
Chairman Subject: Coastal Site Plan Application  
by 1101 Harbor Road, LLC pertaining to  
waterfront improvements with proposed land  
donation to the Town for enhanced public access.  
With attachments.**

# **Town of Fairfield**

## **Harbor Management Commission**

Sullivan Independence Hall  
725 Old Post Road  
Fairfield, Connecticut 06824

VIA EMAIL TRANSMISSION AND HAND-DELIVERY

March 12, 2019

Mr. Jim Wendt  
Planning Director  
Town Plan and Zoning Department  
Sullivan Independence Hall  
725 Old Post Road  
Fairfield, Connecticut 06824

**Subject: Coastal Site Plan Application by 1101 Harbor Road, LLC pertaining to waterfront improvements with proposed land donation to the Town for enhanced public access.**

Dear Mr. Wendt:

The Fairfield Harbor Management Commission (HMC) is aware that the above-referenced application by 1101 Harbor Road, LLC (the Applicant) is scheduled for a Town Plan and Zoning (TPZ) Commission Public Hearing on March 12, 2019. Among other things, the Applicant requests that an existing public access easement be eliminated and proposes to transfer a privately owned beach area to the Town and construct a vertical concrete seawall.

On behalf of the HMC and for reasons discussed below, I am writing to request that the TPZ Commission extend the public comment period a sufficient time to enable the HMC to complete its review of the Applicant's proposal and to allow for some outstanding questions regarding the proposal to be properly addressed by the HMC.

Our requested extension will provide the HMC with the opportunity to again consider the Applicant's proposal during the HMC's March 19, 2019 meeting, the first regularly scheduled HMC meeting following the Public Hearing. We then will provide written recommendations to the TPZ Commission with respect to the consistency of the Applicant's proposal with the Management Plan for Southport Harbor (the Plan) approved by the State of Connecticut and adopted by the Representative Town Meeting.

As you know, the HMC has a special standing in the coastal permitting process, distinct from the standing of the general public. As the Applicant's proposal would affect property on, in, or contiguous to Southport Harbor, it is subject to review by the HMC to determine its consistency with the policies of the Plan. The requirements of this review are specified in Sec. 22a-113p of the Connecticut General Statutes, Sec. 24-14 of the Fairfield Town Code, and the Plan. Pursuant to the General Statutes, Town Code, and the Plan, a 2/3 vote of all members of the TPZ Commission is needed to approve a proposal that has not received a favorable recommendation from the HMC.

The HMC considered the Applicant's proposal during its meeting on February 19, 2019. Following significant discussion with the Applicant's representative, the HMC tabled discussion of the proposal pending additional information and research. This action was taken with the understanding, based on information provided by the Applicant, that the TPZ Commission Public Hearing on this matter was anticipated at a later date in March, following the HMC's March 19 meeting.

Please consider the following statement of facts as understood by the HMC and questions relevant to the HMC's review of the Applicant's proposal.

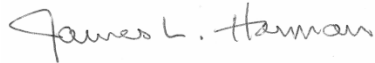
1. The Applicant's 1101 Harbor Road property, locally known as the Water Lot, adjoins the Town-owned property known as the Lower Wharf. The Lower Wharf was acquired by the Town in 1999 to provide access to Southport Harbor. The HMC provided a significant financial contribution toward purchase of this property with funds from the Town's Harbor Management Account which, pursuant to the General Statutes and Town Code, is used for harbor improvements for the benefit of the public. In addition, at the time of purchase, the HMC was given responsibilities for management of the Lower Wharf.
2. Ownership of the Water Lot was the subject of a Superior Court proceeding resolved in 1995 involving the Town and the former owner of property at 1100 Harbor Road. That proceeding was settled in accordance with an agreement (Agreement) signed by representatives of the Town and property owner (Grantors) and the Commissioner of the Superior Court. To summarize, it was agreed that the Water Lot was owned by the Grantors who would grant a perpetual easement of pedestrian access along the easterly eight feet of the Water Lot. The Agreement also specified a number of covenants concerning the rights of the Grantors and Town and included a 1994 Survey showing the Water Lot and easement. A copy of the Agreement and the 1994 Survey are attached for your convenience.
3. The Agreement's covenants appear to have significance when considering the Applicant's current proposal. Among the items of interest to the HMC:
  - a. The location of the Mean High Water (MHW) Line as shown on the 1994 Survey does not match the location of the MHW line shown on the Zoning Location Survey submitted by the Applicant with the current proposal. This inconsistency is not explained in the current proposal. The HMC has provided the two surveys to the Town Engineering Department for review prior to the HMC's March 19, 2019 meeting.

- b. The Agreement does not specify the Grantors' ownership of the Water Lot to the MHW line but states that the Water Lot is bounded southeasterly and southwesterly by the Mill River and is as depicted on the 1994 Survey.
  - c. The Agreement allows the Grantors, subject to appropriate regulatory approval, to repair and maintain the existing retaining wall and shore protection or replace it to no greater extent than existed at that time. It appears that this is the area where the Applicant now proposes to add a vertical concrete seawall.
  - d. The Agreement is signed by the Commissioner of the Superior Court, thereby raising the question of whether court approval is needed to eliminate the easement as now proposed by the Applicant.
4. During its February 19, 2019 meeting, HMC members raised several questions and issues concerning the Applicant's proposal with the understanding that additional research on these matters would be conducted prior to the HMC's March 19, 2019 meeting.
- a. HMC members expressed concern that given the effects of rising sea level and increasing severity of coastal storms, the beach area proposed for transfer to the Town may prove ephemeral in nature.
  - b. HMC members desired to hear testimony from members of the public who traditionally use the pedestrian easement for access to the Harbor in this location.
  - c. HMC members understand that, should the proposed property transfer be approved by the Town, a specific agency of the Town must be assigned management responsibility for the transferred property. Any additional responsibilities of the HMC in this regard require careful consideration.
  - d. It is understood by the HMC that the Applicant's proposal would also transfer existing riprap structures along the south edge of the Lower Wharf to the Town. A representative of the Connecticut Department of Energy and Environmental Protection informs the HMC that those structures do not appear to be permitted by the State of Connecticut.
5. The HMC recognizes that at the time of the Agreement, the Town had not acquired the Lower Wharf and hence the Water Lot easement was necessary to maintain traditional public access to Southport Harbor from this location on Harbor Road. Today, pedestrian access to this same part of the shoreline is possible through the Lower Wharf without the need to cross the Water Lot.



In conclusion, thank you for your attention to this matter and our request. The HMC looks forward to completing the most diligent review of the Applicant's proposal and responding to the TPZ Commission in the most timely manner. If you have any questions or require any additional information at this time, please contact me at (203) 339-2327 or [j99harman@gmail.com](mailto:j99harman@gmail.com).

Sincerely,

A handwritten signature in cursive script that reads "James L. Harman".

James Harman  
Chairman

Enclosures

cc:

Mr. Brian Carey Conservation Director, Town of Fairfield

Mr. Christopher Eggers, RACE Coastal Engineering

Mr. John Gaucher, CT DEEP

Mr. William Hurley, Engineering Manager

Mr. Matthew Wagner, Chair, TPZ Commission

AGREEMENT

000166

Parties. "The Town" is the Town of Fairfield, acting herein by its First Selectman, who is duly authorized so to act. "The Grantors" are Robert G. Lee and Jean D. Lee, the record owners of certain real property by virtue of a deed dated August 18, 1984 and recorded on September 17, 1984 in volume 730, page 874 of the Fairfield Land Records, and their successors in interest as record owners of that property.

Water Lot. "The Water Lot" is a certain piece or parcel of real estate conveyed to the Grantors in the aforementioned deed, bounded and described as follows:

Northwesterly:	, On Harbor Road, so called;
Northeasterly:	On land now or formerly of Christian Trefz, also known as the Lower Wharf or "O.G. Jennings's Dock;
Southeasterly	On Mill River; and
Southwesterly	On Mill River.

Said property is depicted on "The Map", which is a certain map entitled "Map of Property for Robert G. Lee and Jean D. Lee and The Town of Fairfield" dated December 23, 1994 and certified substantially correct by The Huntington Company, Engineers & Surveyors, to be recorded concurrently herewith

in the Fairfield Town Clerk's Office as Map Number 6228.

This agreement is made in consideration of the settlement of a certain action now pending in the Superior Court, entitled Robert G. Lee et al. v. Town of Fairfield, bearing docket number 93-304343, and the mutual exchange of easements and covenants that follows:

1. The Grantors grant to the Town on behalf of its residents a perpetual easement of pedestrian access for recreational fishing and sightseeing only ("the Easement"), from Harbor Road, so called, to the high water mark of Southport Harbor, along the easterly eight (8') feet of the Water Lot, as shown on the Map (the "Easement Area"). Neither the Town nor the Grantors shall construct or install any hedge, fence, chain or other physical demarcation of the Easement Area from the Water Lot. The Grantors agree to install a legible sign locating the easement. The sign shall be headed by the phrase "Public Easement", shall describe the location of the easement, and may contain or refer to such other terms of this agreement as the circumstances may warrant from time to time. It is agreed that if the sign is located on the boundary line between the Easement Area and the remainder of the Water Lot, it may state:

PUBLIC EASEMENT

An 8 foot strip along the wall to the left of

this sign provides limited access to the shore for recreational fishing and sightseeing.

Nothing in this grant, however, shall authorize:

(a) any paving or other improvement of the Easement Area by either party, except as provided in paragraph 3 hereof;

(b) the use of any wheeled vehicle except wheelchairs and baby carriages;

(c) the transportation of any alcohol, any firearms, or any watercraft including jet skis and sail boards, over or across the Easement Area;

(d) the enjoyment of the Easement by more than six people at one time, or boisterously; or

(e) any littering, any sunbathing, any picnicking, or any activity other than passage over or across the Easement Area.

2. Except as otherwise set forth in this Agreement, the Town agrees that it shall take no action which shall impair, burden or be inconsistent with the occupation, use, enjoyment or ownership of the Water Lot by the Grantors.

3. The Grantors agree to maintain the Water Lot as they have in the past, and to limit future improvements to the following, none of which (except lawns) shall be located within the Easement Area:

(a) lawns and gardens (including suitable outdoor furniture, which may be permanent);

(b) curbing along Harbor Road, so called, paving of the parking area depicted on the Map, and the reinstallation of a sign designating the parking area "Parking for 1100 Only";

(c) subject to appropriate regulatory approval, and the prior right of the Town as provided in paragraph 4, the repair and maintenance of the existing retaining wall and storm protection, or its replacement to no greater extent than it now exists; and

(d) subject to appropriate regulatory approval, the construction of a roofed, but unwalled, gazebo. The Grantors agree that no residence, no walled structure, and no wall or fence higher than three (3') feet above the level of Harbor Road, so called, shall ever be built on the Water Lot.

4. In lieu of the repair and maintenance of the existing retaining wall and storm protection by the Grantors, the Town may enjoy reasonable access over and across the Easement Area, and so much of the Water Lot as is necessary, to reset, stabilize or replace, but not to remove altogether, the boulders or "rip-rap" existing seaward of the Water Lot, as shown on the Map.

5. The Grantors assume no liability for any injury to persons or property arising out of the enjoyment of the Easement by members of the public or employees or officials of the Town.

6. This agreement inures to the benefit of, and shall be binding upon, the parties and their heirs, successors and assigns. It and the easements contained herein shall not be separately alienable by either party except to the other. This agreement shall run with the land.

7. This agreement has been entered into by the parties in order to resolve disagreements having specific relationship to the parcel of real estate described herein. All parties hereto agree that this agreement shall have no precedential effect with respect to any other property or waterfront lot in which the Town may have or claim an interest.

In witness of this agreement, the parties have set their hands and seals to this instrument this 6 day of January, 1995 in the presence of these witnesses:

THE TOWN OF FAIRFIELD

By

Paul A. Audley  
First Selectman

Roy W. Moore III

James G. Goble

Maddie H. Lee

James H. Lee

Maddie H. Lee

James H. Lee

Robert G. Lee

Jean D. Lee  
Jean D. Lee

State of Connecticut )  
County of Fairfield ) ss. Fairfield January 6 1995

Personally appeared Paul A. Audley, First Selectman of the Town of Fairfield, who acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said Town.

Roy W. Moore III  
Commissioner of the  
Superior Court

1452-226

State of Connecticut )  
County of Fairfield ) ss. Fairfield January 4, 1995

Personally appeared Robert G. Lee and Jean D. Lee, who acknowledged the foregoing instrument to be their free acts and deeds.

RECEIVED FOR RECORD

JAN 6 1995 AT 2:22 P.M.

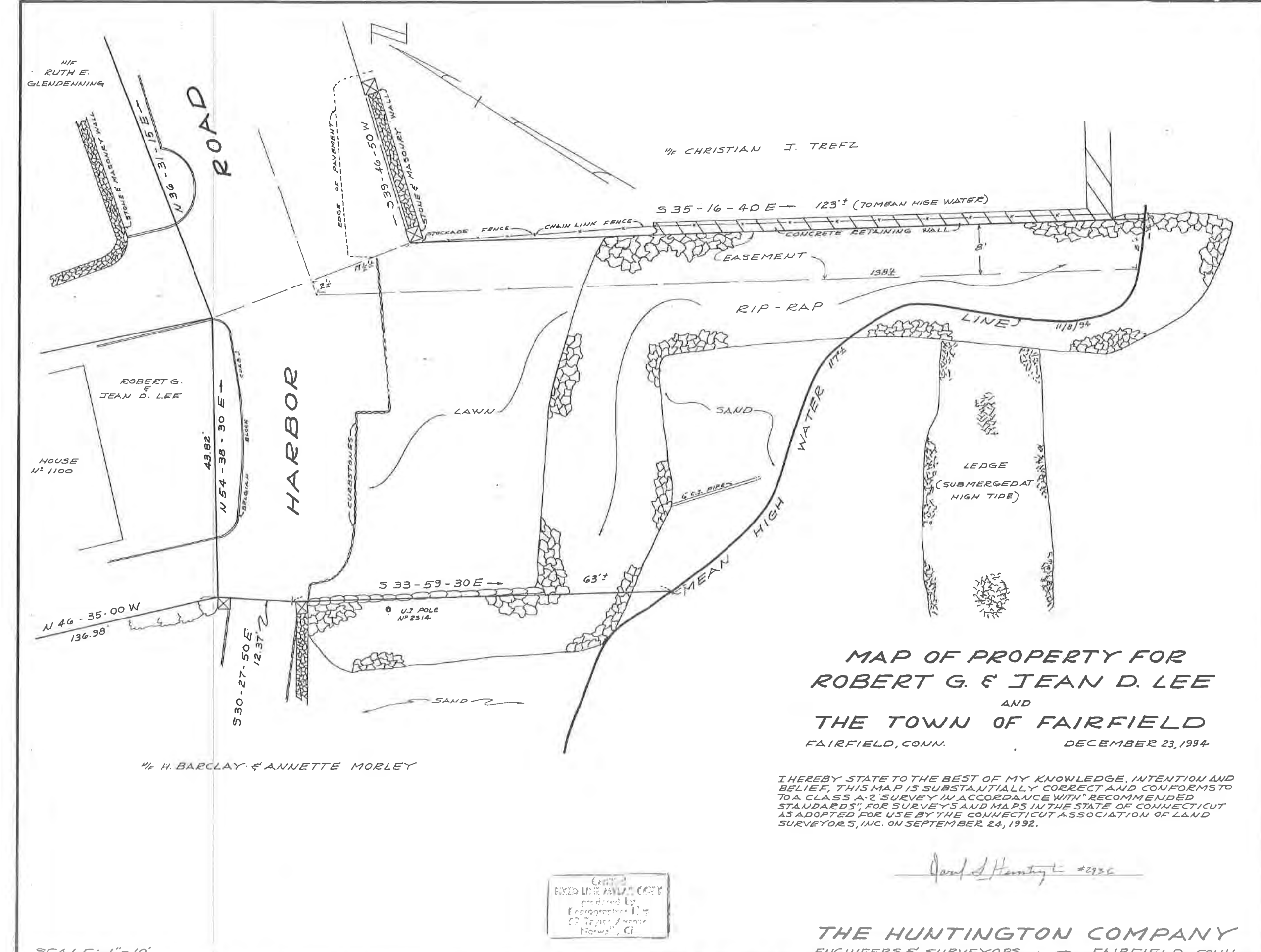
ATTEST:

Margaret A. Lutz  
TOWN CLERK

James H. Lee  
Commissioner of the  
Superior Court

6228

6228



MAP OF PROPERTY FOR  
ROBERT G. & JEAN D. LEE  
AND  
THE TOWN OF FAIRFIELD  
FAIRFIELD, CONN. DECEMBER 23, 1994

THEREBY STATE TO THE BEST OF MY KNOWLEDGE, INTENTION AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AND CONFORMS TO A CLASS A-2 SURVEY IN ACCORDANCE WITH "RECOMMENDED STANDARDS" FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT AS ADOPTED FOR USE BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 24, 1992.

*David J. Huntington #2936*

COPYED  
BY THE HUNTINGTON COMPANY  
produced by  
Engineering Dept.  
of Topical & Marine  
Records, CT

THE HUNTINGTON COMPANY  
ENGINEERS & SURVEYORS FAIRFIELD, CONN.

SCALE: 1"=10'

14-73 14-73A 14-73B

6228 Revisions per File No. January 6, 1995 Airtel: *Amelia* 6228



## Enclosure 2

**Email correspondence to Mr. James Wendt, Fairfield  
Planning Director by Mr. John Goucher, CT DEEP  
Environmental Analyst III, regarding 1100 Harbor Road  
CAM Application. With attachment.**

**From:** [John Fallon](#)  
**To:** [Brian.McMahon@orionworldwide.com](mailto:Brian.McMahon@orionworldwide.com); [Chris Eggers](#); [Devin Santa](#)  
**Subject:** Fwd: 1100 Harbor Road CAM Application  
**Date:** Monday, March 11, 2019 4:53:00 PM  
**Attachments:** [image003.jpg](#)  
[ATT00001.htm](#)  
[image004.jpg](#)  
[ATT00002.htm](#)  
[1100 Harbor Aerial photos.docx](#)  
[ATT00003.htm](#)

---

Jim has been following up with John Gaucher requesting any comments. Note the email just received from Jim. No adverse comments from John so I think our site meeting was definitely worthwhile!

Sent from my iPhone

Begin forwarded message:

**From:** "Wendt, James" <[JWendt@fairfieldct.org](mailto:JWendt@fairfieldct.org)>  
**Date:** March 11, 2019 at 4:34:58 PM EDT  
**To:** "[jffallon@snet.net](mailto:jffallon@snet.net)" <[jffallon@snet.net](mailto:jffallon@snet.net)>  
**Subject:** FW: 1100 Harbor Road CAM Application

---

**From:** Gaucher, John [<mailto:John.Gaucher@ct.gov>]  
**Sent:** Monday, March 11, 2019 4:24 PM  
**To:** Wendt, James  
**Subject:** RE: 1100 Harbor Road CAM Application  
**Importance:** Low

Hi Jim,  
Did the Harbor Management Commission submit comments regarding this application?

The revised plans appear to show that the proposed inner wall is no higher than the adjacent ground grade as discussed during our field meeting. Therefore, we have no additional comments regarding the proposed improvements.

A review of our permit files shows that there have been no authorizations issued to this address or the exiting revetment.

Lastly, a record of some of the historic aerial photographs is attached. It appears to show that the area has transitioned to contain more beach than tidal wetland and rocky shorefront.

Please let me know if you have any questions or if you need any additional information.

John Gaucher  
Environmental Analyst III  
Land & Water Resources Division  
Bureau of Water Protection and Land Reuse  
79 Elm Street  
Hartford, CT 06106

Phone 860.424.3660  
fax 860.424.4054

1100 Harbor Street, Southport

1980 DEEP Aerial Photograph  
CTDEP\_CIR\_12K\_1980\_128

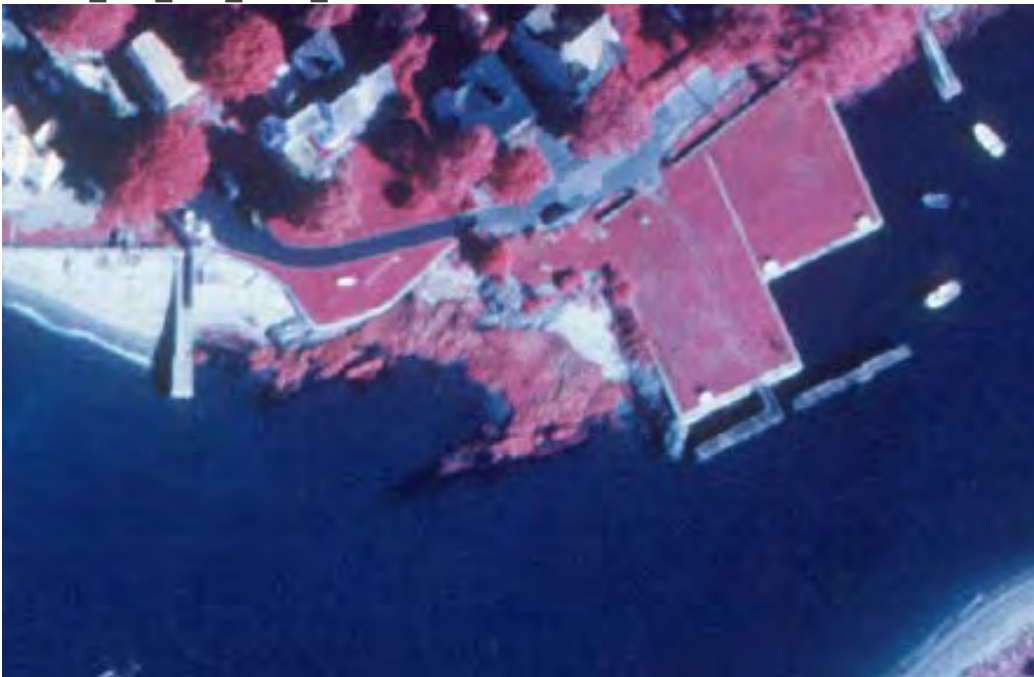


1995 DEEP Uconn/Magic Aerial Photo  
CTDEP\_CIR\_12K\_1995\_0356

gic.lib.uconn.edu/magic\_2/raster/37800/aerial/infrared/1995/PDF/CTDEP\_CIR\_12K\_1995\_0356.pc



2000 DEEP Aerial Photo  
CTDEP\_CIR\_12K\_2000\_579



## Enclosure 3

**CT DEEP (previously DEP) Permit 199501662-KH**

MAILED PM  
MIKE GERTWINSKI  
7-27-20

STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF LONG ISLAND SOUND PROGRAMS



July 17, 1997

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Christian J. Trefz  
21 Burritts Landing South  
Westport, CT 06880

SUBJECT: PERMIT NO. 199501662-KH  
Christian J. Trefz  
Town of Fairfield

Dear Mr. Trefz:

Enclosed is the signed permit which constitutes the approval of your application to conduct regulated activities. Your attention is directed to the conditions of the enclosed permit. Construction or work must conform to that which is authorized.

If you have not already done so, you should contact your local Planning and Zoning Office to determine local permit requirements on your project, if any. Also, your activity may be eligible for General Permit authorization from the U.S. Army Corps of Engineers. The State of Connecticut forwarded a copy of its tentative determination for this activity to the Corps for its determination of General Permit eligibility. You do not need to apply directly to the Corps unless they notify you. If General Permit eligibility has already been determined, an authorization letter will be attached to this permit. Otherwise, authorization will be mailed separately. For more information regarding this new federal process, you may write to the Corps New England Division, Regulatory Branch, 424 Trapelo Road, Waltham, Massachusetts 02254; or, call (617) 647-8332.

If you have any questions concerning your permit, please contact staff of the Permit section at (860)424-3034.

Sincerely,

Kate Hughes  
Environmental Analyst

KH/ja  
encl.

Sent Certified Mail. Return Receipt Requested to: Commissioner of Transportation; Adjacent Property Owners; All Parties; the Mayor, First Selectman or Town Manager; Shellfish Commission; the Planning and Zoning Commissions; and the Harbor Management Commission.

Copies Furnished to:

Conservation Commission  
DEP/Wildlife Division  
DEP/Fisheries Division  
Dept. of Agriculture/Aquaculture Division  
Christopher J. Drake, Drake Associates, Inc.

DEP/Water Mgt. Bureau  
DOT/Bureau of Aeronautics and Ports  
File No. 199501662-KH, Fairfield  
Desk Copy



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PERMIT

Permit No.: 199501662-KH  
Town: Fairfield  
Work Area: Southport Harbor off property located at 1085 Old Harbor Road, Fairfield  
Permittee: Christian J. Trefz  
21 Burritts Landing South  
Westport, CT 06880

Pursuant to sections 22a-359 through 22a-363f of the Connecticut General Statutes, and in accordance with section 22a-98 of the Connecticut General Statutes and the Connecticut Water Quality Standards dated April 1997, a permit is hereby granted by the Commissioner of Environmental Protection (Commissioner) to retain an existing seawall and riprap slope; construct a new seawall cap; remove a chain link fence; replace a section of fixed pier with a ramp and floating dock; and install 6 associated pilings for private recreational use and shoreline stabilization and is more specifically described below in the SCOPE OF AUTHORIZATION, in Southport Harbor off property identified as the "work area" above.

\*\*\*\*\*NOTICE TO PERMITTEES AND CONTRACTORS\*\*\*\*\*

**FAILURE TO CONFORM TO THE TERMS AND CONDITIONS OF THIS PERMIT  
MAY SUBJECT THE PERMITTEE AND ANY CONTRACTOR TO ENFORCEMENT  
ACTIONS, INCLUDING PENALTIES AND INJUNCTIONS, AS PROVIDED BY LAW.**

SCOPE OF AUTHORIZATION

- A. The permittee is hereby authorized to conduct the following work as described in application 199501662-KH, including a location map and 7 sheets of plans submitted by the permittee to the Commissioner and attached hereto, dated February 20, 1997:
1. retain 417 linear feet of existing stone retaining wall;
  2. construct a 1.5 foot cap over the 417 foot length of seawall raising seawall to a height of +12.0 MLW;
  3. remove an existing chain link fence on the western property line;



Permit No. 199501662-KH

Page 2 of 7

4. remove the eastern-most 70' x 6' section of the existing T-head fixed pier;
  5. install a 70' x 6' floating dock in the footprint of the removed T-head pier section described in paragraph A.4., above and install a 4' x 20' aluminum access ramp from the capped seawall;
  6. install 6 associated pilings; and
  7. retain approximately 50 cubic yards of existing riprap adjacent to the seawall identified in paragraph A.1., above.
- B. The permittee may, consistent with all terms and conditions of this permit, conduct routine maintenance, as that term is defined in section 22a-363a of the General Statutes, of the structures authorized herein.

**UPON INITIATION OF ANY WORK AUTHORIZED HEREIN, THE PERMITTEE ACCEPTS AND AGREES TO COMPLY WITH ALL TERMS AND CONDITIONS OF THIS PERMIT.**

**SPECIAL TERMS AND CONDITIONS**

1. The permittee shall establish a minimum of a 10 foot setback from any wetlands or watercourses in and adjacent to the area where work is to be conducted or areas which are to be used for access to the work area. Such setback area(s) shall be flagged so as to be readily identifiable by contractor personnel until the work authorized hereunder is completed.
2. Except as specifically authorized by this permit, no equipment or material including but not limited to, fill, construction materials, excavated material or debris, shall be deposited, placed or stored in any wetland or watercourse on or off-site, or within any delineated setback area, nor shall any wetland, watercourse or delineated setback area be used as a staging area or accessway other than as provided herein.
3. Prior to the commencement of any work authorized herein, the permittee shall remove all portions of the chain link fence extending waterward of the high tide line located on the western property line.
4. All portions of the existing fixed pier and chain link fence to be removed shall be disposed of by the permittee at an upland disposal site landward of the high tide line and outside of any wetlands, approved for the disposal of such waste.
5. The permittee shall remove the ramp and float authorized herein no later than November 15 of any calendar year and shall not install such ramp and float before April 15 of any calendar

Permit No. 199501662-KH

Page 3 of 7

year.

6. Upon removal of the ramp and float authorized herein, the permittee shall store such structures at an upland location, landward of the high tide line and outside of any wetlands.

#### GENERAL TERMS AND CONDITIONS

1. All work authorized by this permit shall be completed within three years from date of issuance of this permit ("work completion date"), except that maintenance as specified in the SCOPE OF AUTHORIZATION may be conducted at any time, in accordance with all conditions of this permit and any other applicable law.
  - a. The permittee may request a one year extension of the work completion date. Such request shall be in writing and shall be submitted to the Commissioner at least 30 days prior to said work completion date. Such request shall describe the work done to date, work which still needs to be completed and the reason for such extension. The Commissioner shall grant or deny such request in his sole discretion.
  - b. Any work authorized herein, other than maintenance authorized herein, conducted after said work completion date or any authorized one year extension thereof is a violation of this permit and may subject the permittee to enforcement action, including penalties, as provided by law.
2. In conducting the work authorized herein, the permittee shall not deviate from the attached plans, as may be modified by this permit. The permittee shall not make de minimis changes from said plans without prior written approval of the Commissioner.
3. The permittee shall, consistent with the SCOPE OF AUTHORIZATION, maintain all structures or other work authorized herein in good condition.
4. Prior to the commencement of any work authorized herein, the permittee shall cause a copy of this permit to be given to any contractor(s) employed to conduct such work. At the work area the permittee shall, whenever work is being performed, make available for inspection a copy of this permit and the final plans for the work authorized herein.
5. Not later than two weeks prior to the commencement of any work authorized herein, the permittee shall submit to the Commissioner, on the form attached hereto as Appendix A, the name(s) and address(es) of any contractor(s) employed to conduct such work and the expected date for commencement and completion of such work.
6. The permittee shall notify the Commissioner in writing of the commencement of any work and completion of all work authorized herein no later than three days prior to the commencement of such work and no later than seven days after the completion of such work.

Permit No. 199501662-KH

Page 4 of 7

7. On or before (a) 90 days after completion of the work authorized herein, or (b) upon expiration of the work completion date or any authorized one year extension thereof, whichever is earlier, the permittee shall submit to the Commissioner "as built" plans prepared and sealed by a licensed engineer, licensed surveyor or licensed architect, as applicable, of the work area showing all contours, bathymetries, tidal datums and structures.
8. All waste material generated by the performance of the work authorized herein shall be disposed of by the permittee at an upland site approved for the disposal of such waste material, as applicable.
9. In undertaking the work authorized hereunder, the permittee shall not cause or allow pollution of wetlands or watercourses, including pollution resulting from sedimentation and erosion. For purposes of this permit, "pollution" means "pollution" as that term is defined by section 22a-423 of the General Statutes.
10. Upon completion of any work authorized herein, the permittee shall restore all areas impacted by construction, or used as a staging area or accessway in connection with such work, to their condition prior to the commencement of such work.
11. Any document required to be submitted to the Commissioner under this permit or any contact required to be made with the Commissioner shall, unless otherwise specified in writing by the Commissioner, be directed to:

Permit Section  
Office of Long Island Sound Programs  
Department of Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127  
(860) 424-3034  
Fax # (860) 424-4054

12. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this permit, the word "day" as used in this permit means calendar day. Any document or action which is required by this permit to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or a Connecticut or federal holiday.
13. The work specified in the SCOPE OF AUTHORIZATION is authorized solely for the

purpose set out in this permit. No change in the purpose or use of the authorized work or facilities as set forth in this permit may occur without the prior written authorization of the Commissioner. The permittee shall, prior to undertaking or allowing any change in use or purpose from that which is authorized by this permit, request authorization from the Commissioner for such change. Said request shall be in writing and shall describe the proposed change and the reason for the change.

14. This permit may be revoked, suspended, or modified in accordance with applicable law.
15. This permit is not transferable without prior written authorization of the Commissioner. A request to transfer a permit shall be submitted in writing and shall describe the proposed transfer and the reason for such transfer. The permittee's obligations under this permit shall not be affected by the passage of title to the work area to any other person or municipality until such time as a transfer is authorized by the Commissioner.
16. The permittee shall allow any representative of the Commissioner to inspect the work authorized herein at reasonable times to ensure that it is being or has been accomplished in accordance with the terms and conditions of this permit.
17. In granting this permit, the Commissioner has relied on representations of the permittee, including information and data provided in support of the permittee's application. Neither the permittee's representations nor the issuance of this permit shall constitute an assurance by the Commissioner as to the structural integrity, the engineering feasibility or the efficacy of such design.
18. In the event that the permittee becomes aware that he did not or may not comply, or did not or may not comply on time, with any provision of this permit or of any document required hereunder, the permittee shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, the permittee shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the permittee shall comply with any dates which may be approved in writing by the Commissioner. Notification by the permittee shall not excuse noncompliance or delay and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically stated by the Commissioner in writing.
19. In evaluating the application for this permit, the Commissioner has relied on information and data provided by the permittee and on the permittee's representations concerning site conditions, design specifications and the purpose of the work authorized herein, including but not limited to representations concerning the commercial, public or private nature of the work or structures authorized herein, the water-dependency of said work or structures, its availability for access by the general public, and the ownership of regulated structures or

Permit No. 199501662-KH

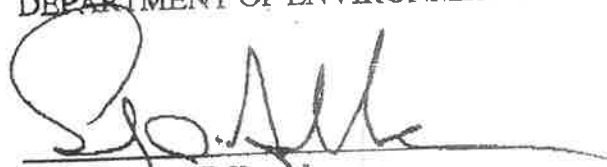
Page 6 of 7

filled areas. If such information proves to be false, deceptive, incomplete or inaccurate, this permit may be modified, suspended or revoked, and the permittee may be subject to enforcement action.

20. The permittee may not conduct any work waterward of the high tide line or in tidal wetlands at this work area other than work authorized herein, unless otherwise authorized by the Commissioner pursuant to section 22a-359 et. seq. and/or section 22a-32 et. seq. of the Connecticut General Statutes.
21. The issuance of this permit does not relieve the permittee of his obligations to obtain any other approvals required by applicable federal, state and local law.
22. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the permittee and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."
23. This permit is subject to and does not derogate any present or future property rights or powers of the state of Connecticut, and conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any federal, state or local laws or regulations pertinent to the property or activity affected hereby.

Permit No. 199501662-KH

Page 7 of 7

Issued on 16 July, 1997.STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Sidney J. Holbrook  
CommissionerPermit Application No. 199501662-KH, Fairfield  
Christian J. Trefz Certified Mail # \_\_\_\_\_

ja

**OFFICE OF LONG ISLAND SOUND PROGRAMS****APPENDIX A**

**TO: Permit Section**  
**Department of Environmental Protection**  
**Office of Long Island Sound Programs**  
**79 Elm Street**  
**Hartford, CT 06106-5127**

**PERMITTEE:** Christian J. Trefz  
21 Burritts Landing South  
Westport, CT 06880

**PERMIT NO:** 199501662-KH, Fairfield

**CONTRACTOR 1:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone #:** \_\_\_\_\_

**CONTRACTOR 2:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone #:** \_\_\_\_\_

**CONTRACTOR 3:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone #:** \_\_\_\_\_

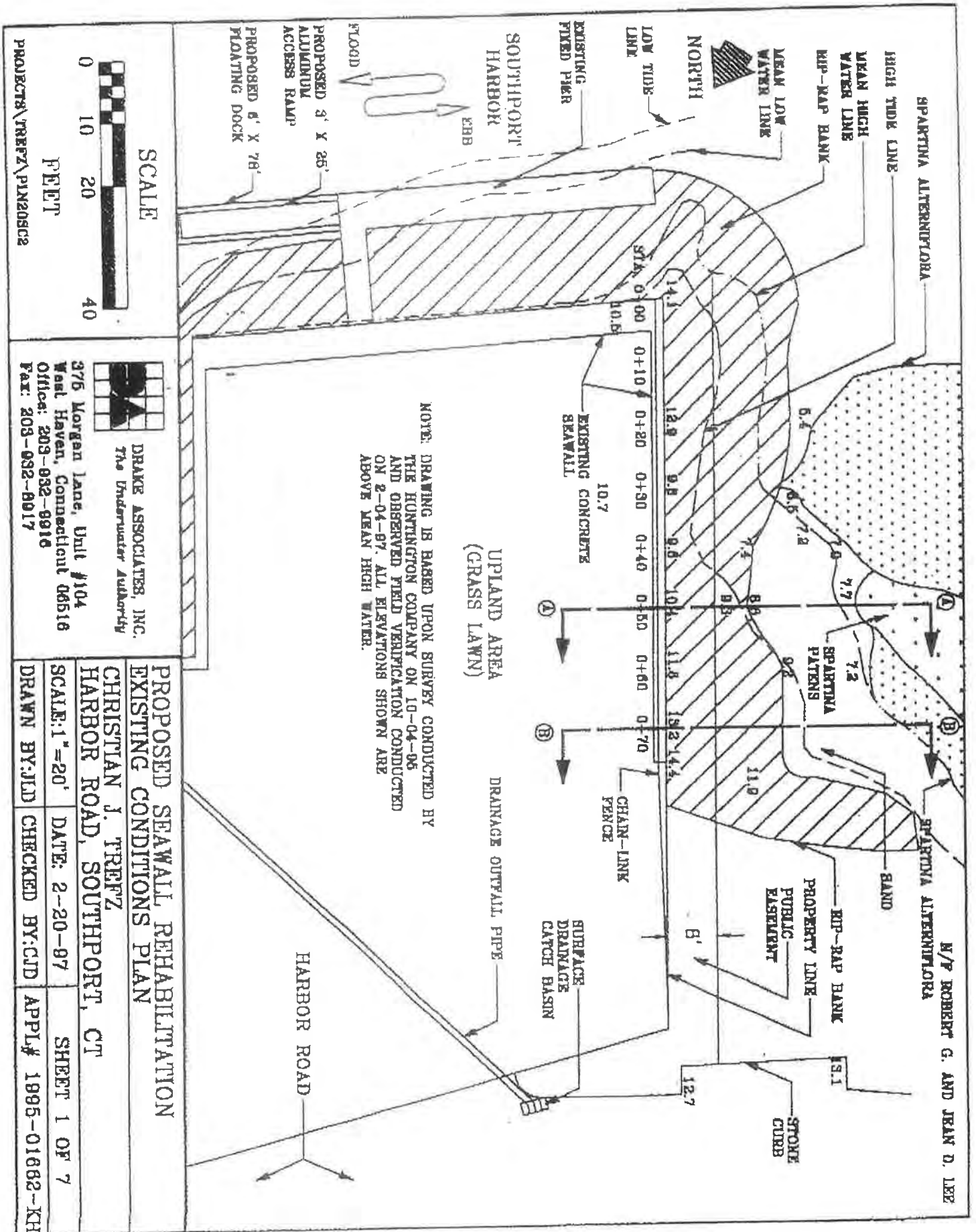
**EXPECTED DATE OF COMMENCEMENT OF WORK:** \_\_\_\_\_

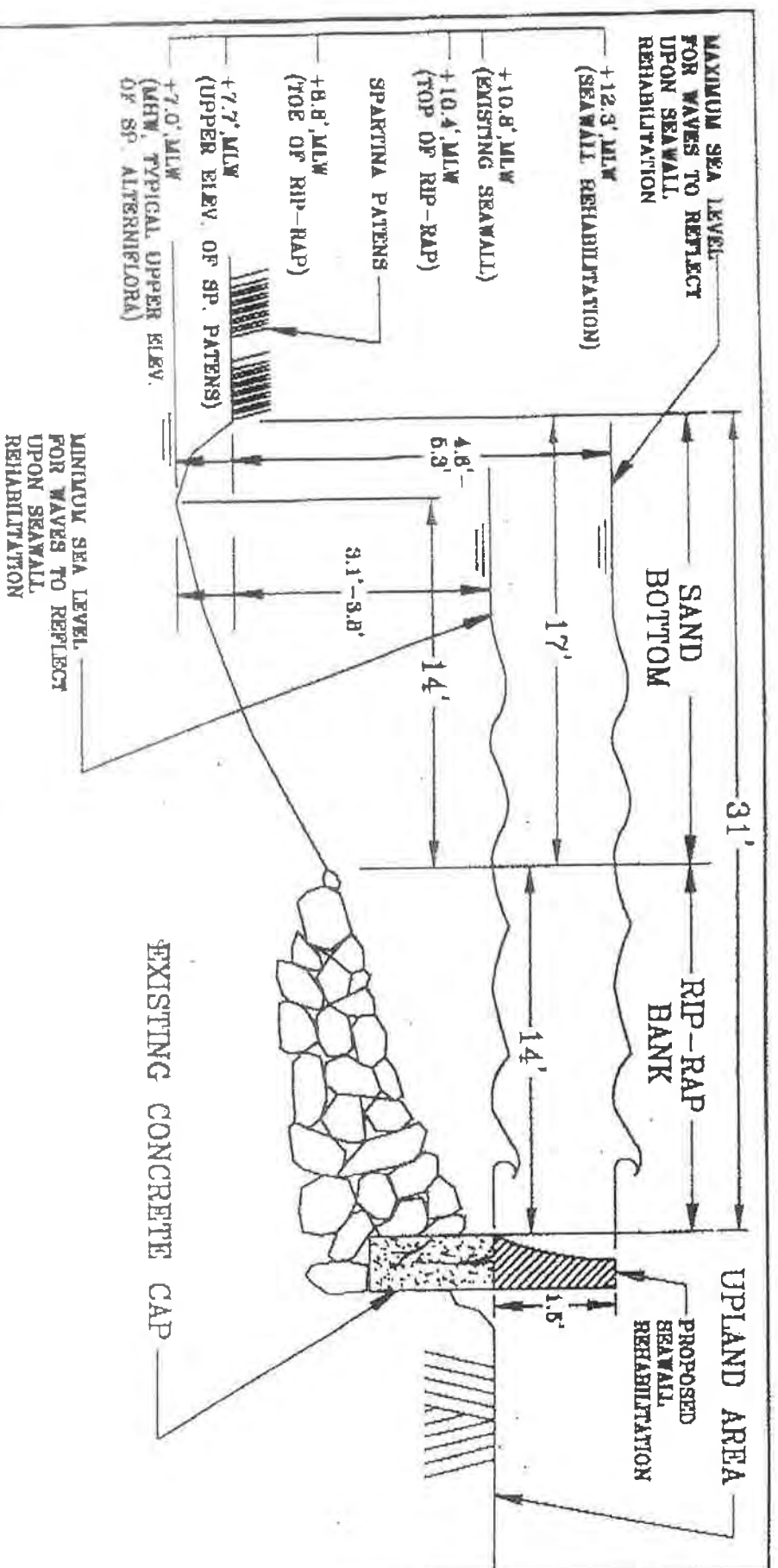
**EXPECTED DATE OF COMPLETION OF WORK:** \_\_\_\_\_

**PERMITTEE:** \_\_\_\_\_  
(signature) (date)





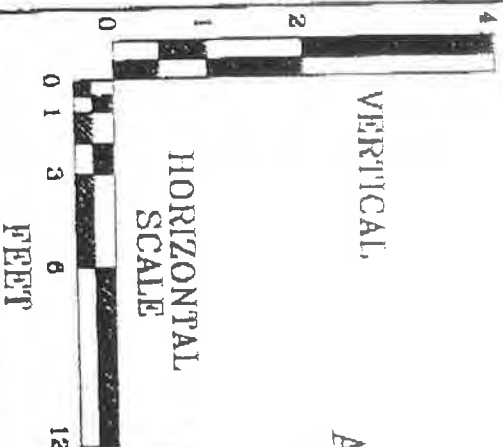




# ELEVATION CROSS-SECTION A-A AT STA. 0+50 OF SOUTH FACING SEAWALL

VERTICAL

HORIZONTAL  
SCALE



BLAKE ASSOCIATES, INC.  
The Underwriter Authority

276 Morgan Lane, Unit #104  
West Haven, Connecticut 06618  
Tel: 203-328-0617

PROPOSED SEAWALL REHABILITATION  
CHRISTIAN J. TREFFZ, HARBOR RD., SOUTHPORT, CT

SCALE: AS SHOWN

DRAWN BY: JLD

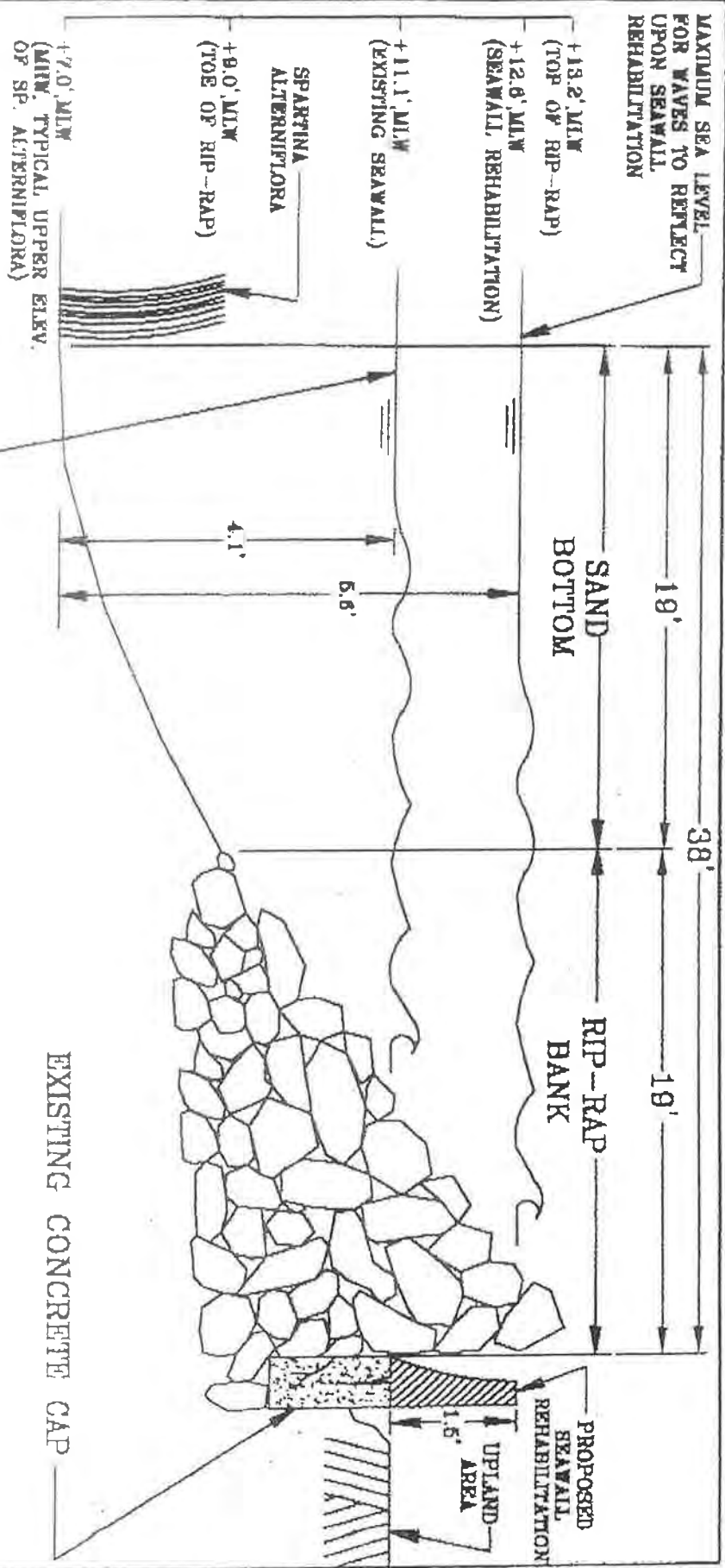
CHECKED BY: CPD

SHEET 2 OF 7

DATE: 2-20-87

APPL # 1085-01662-KH

PROJECT/DATE/STATION



ELEVATION CROSS-SECTION B-B  
AT STA. 0+70 OF SOUTH FACING SEAWALL

HORIZONTAL  
SCALE



VERTICAL



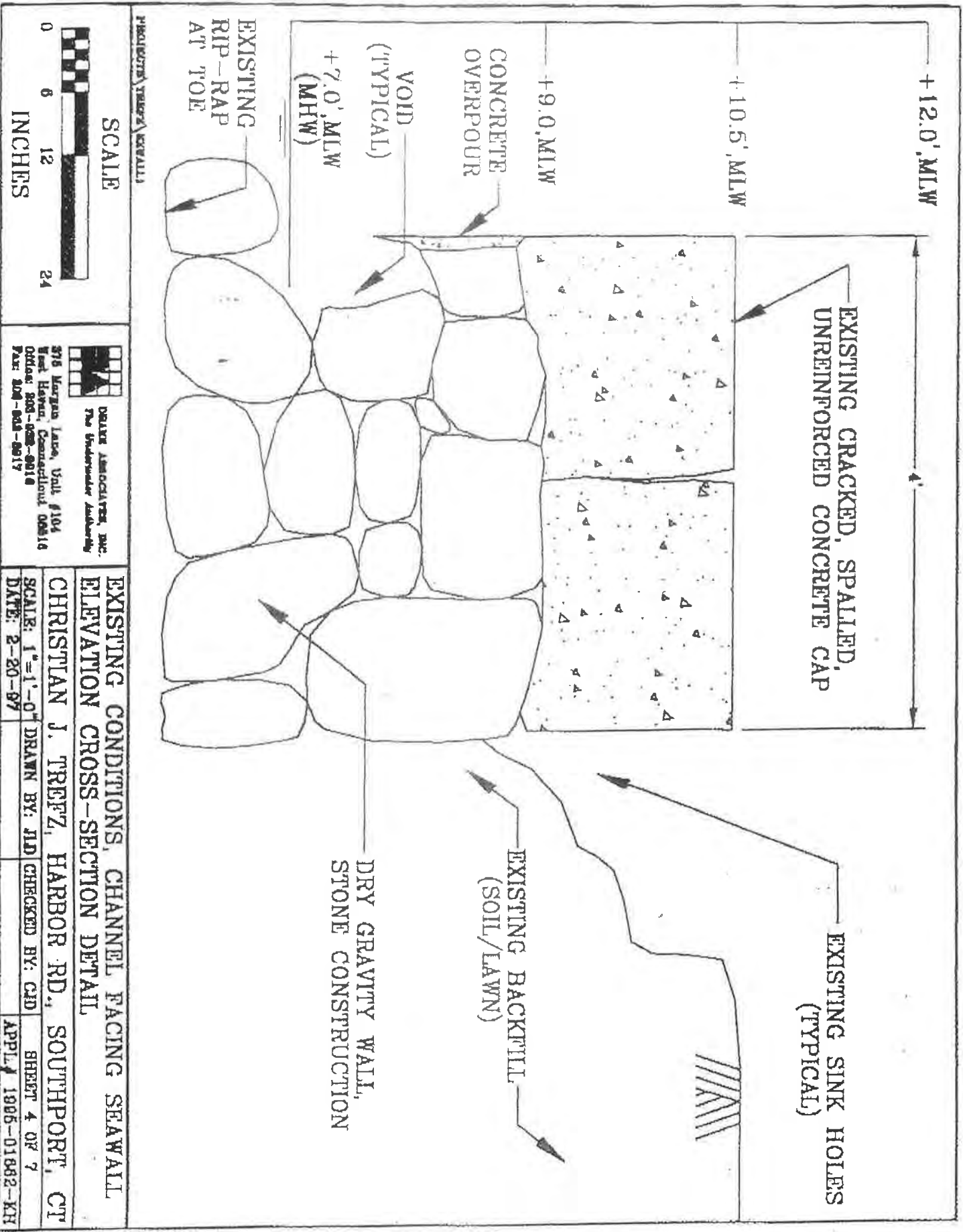
DRAKE ASSOCIATES, INC.  
THE UNDERSEAS AUTHORITY

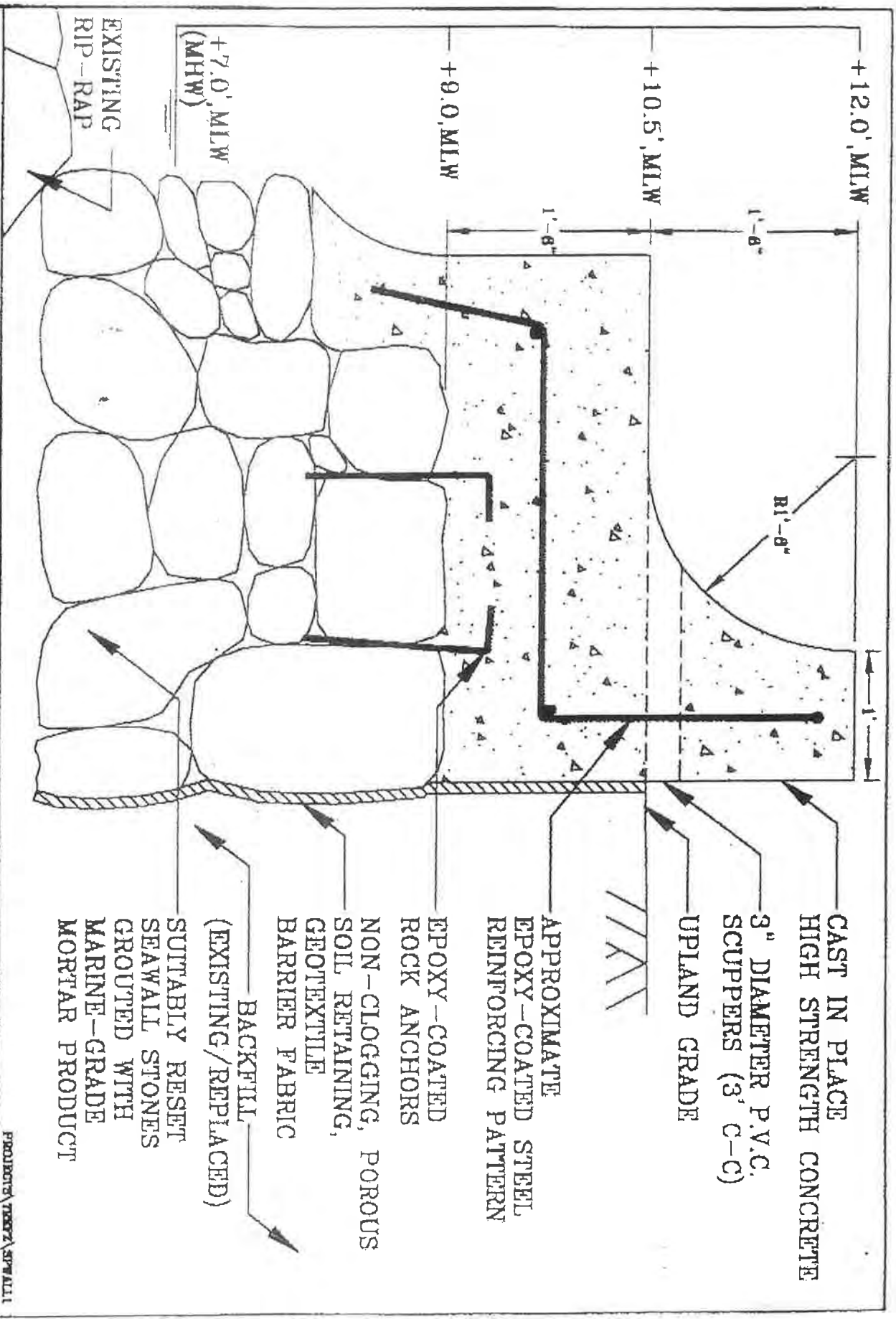
276 Morgan Lane, Unit #104  
East Haven, Connecticut 06616  
Tel: 860-863-0010  
Fax: 860-863-0017

PROPOSED SEAWALL REHABILITATION  
CHRISTIAN J. TREFZ, HARBOR RD., SOUTHPORT, CT

SCALE: AS SHOWN DRAWN BY: JLD CHECKED BY: CJD SHEET 3 OF 7  
DATE: 2-20-97 APPL. # 1006-01602-KH

PRODUCTION/REVISIONS

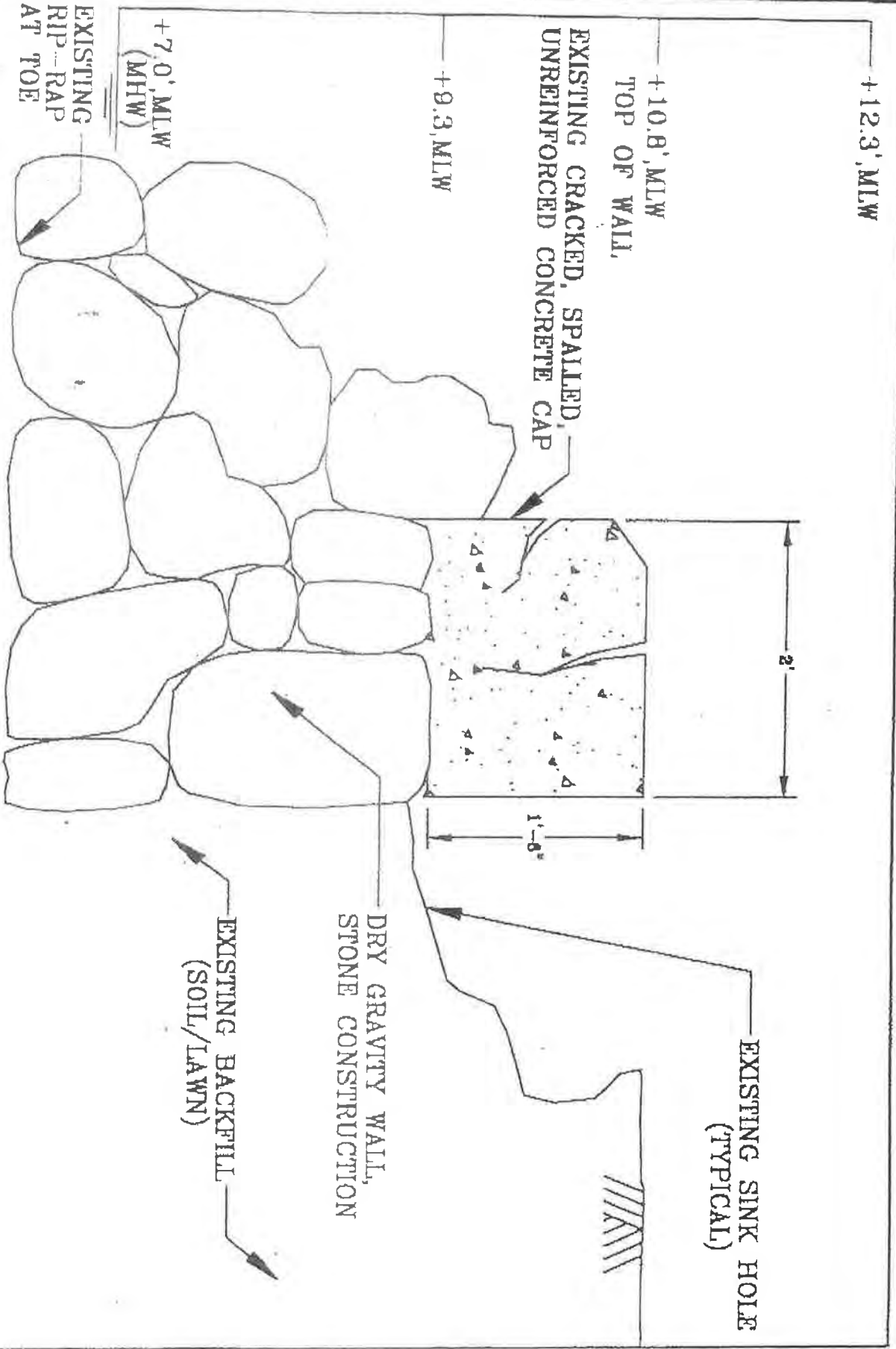




SCALE  
 0 6 12 24  
 INCHES

PROPOSED CONDITIONS, CHANNEL FACING SEAWALL  
 ELEVATION CROSS-SECTION DETAIL  
 CHRISTIAN J. TREFZ, HARBOR RD., SOUTHPORT, CT  
 SCALE: 1"=1'-0" DRAWN BY: JTD CHECKED BY: CJD  
 DATE: 2-20-87 SHEET 5 OF 7  
 APPL. # 1985-01662-KH

DATE ASSOCIATED, INC.  
 THE ENGINEERING FIRM  
 376 Morgan Lane, Unit #104  
 West Haven, Connecticut 06616  
 Phone: 800-632-6317



PROJECTS/TREFF/EXWALLS

SCALE



DEANE ASSOCIATES, INC.  
The Underwater Authority

376 Morgan Lane, Unit #104  
West Haven, Connecticut 06516  
Phone: 803-823-8918  
Fax: 803-823-8917

EXISTING CONDITIONS, SOUTH FACING SEAWALL  
ELEVATION CROSS-SECTION DETAIL

CHRISTIAN J. TREFF, HARBOR RD., SOUTHPORT, CT

SCALE: 1"=1'-0" DRAWN BY: JLD CHECKED BY: CJD SHEET 8 OF 7  
DATE: 2-20-97 APPL # 1986-01682-KH



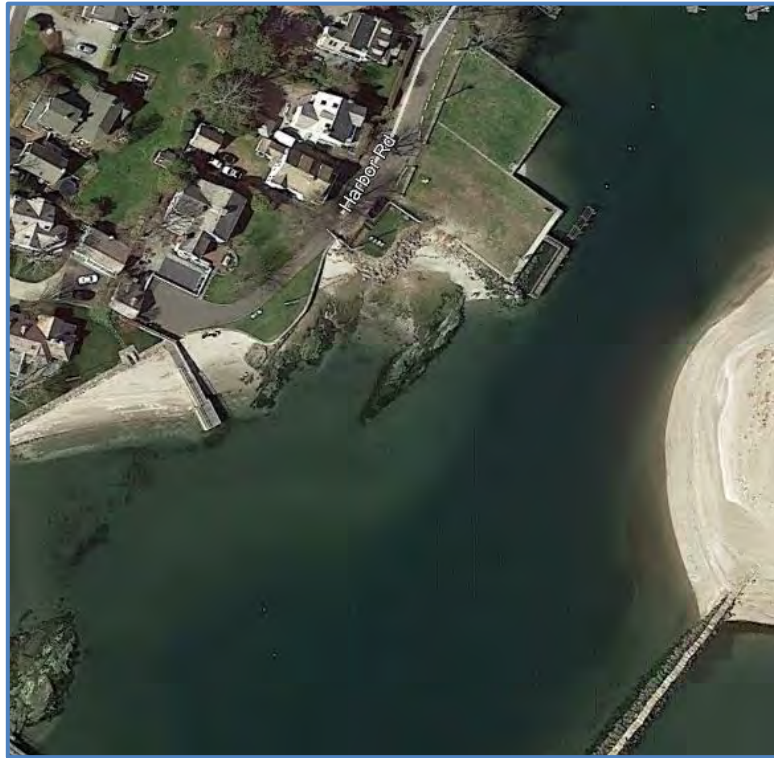


# Enclosure 4

## **Historic Aerial Imagery**



Current Aerial Imagery taken April 22, 2018 from Google Earth.  
Historical Photographs taken from UCONN Magic site. Imagery is not to scale.



Photograph 1 – Site image of the site April 22, 2018



Photograph 2 – Aerial imagery of the site in 1934





Photograph 3 – Aerial imagery of the site in 1951



Photograph 4 –Aerial image of the site in 1965



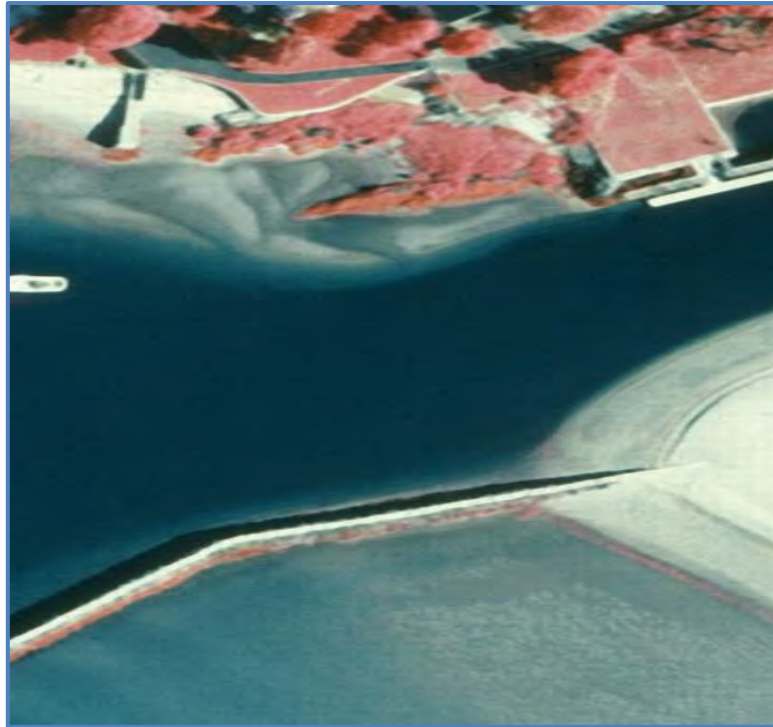


Photograph 5 –Infrared imagery of the site in 1974



Photograph 6– Aerial image of site in 1985





Photograph 7 –Infrared imagery of the site in 1995



Photograph 8 –Aerial image of the site in 2004







Photograph 9 –Infrared imagery of the site in 2012

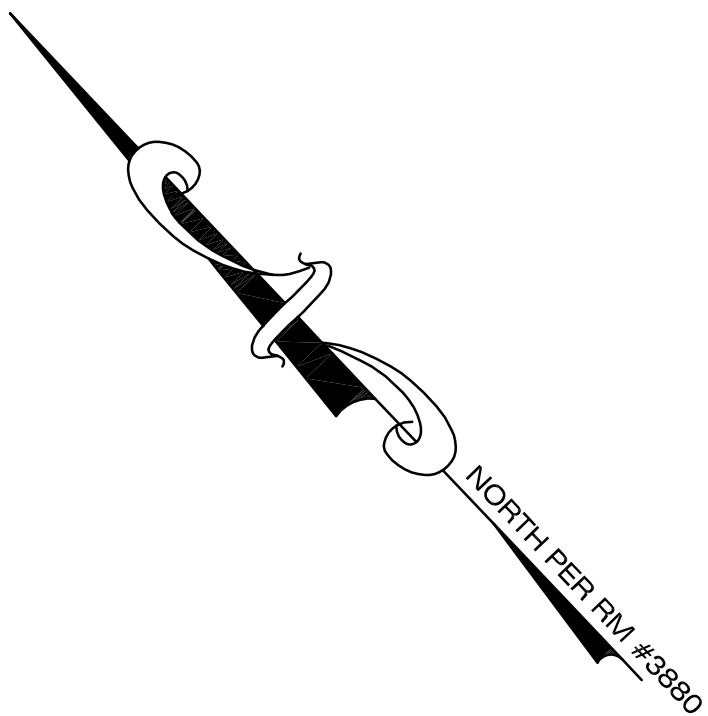
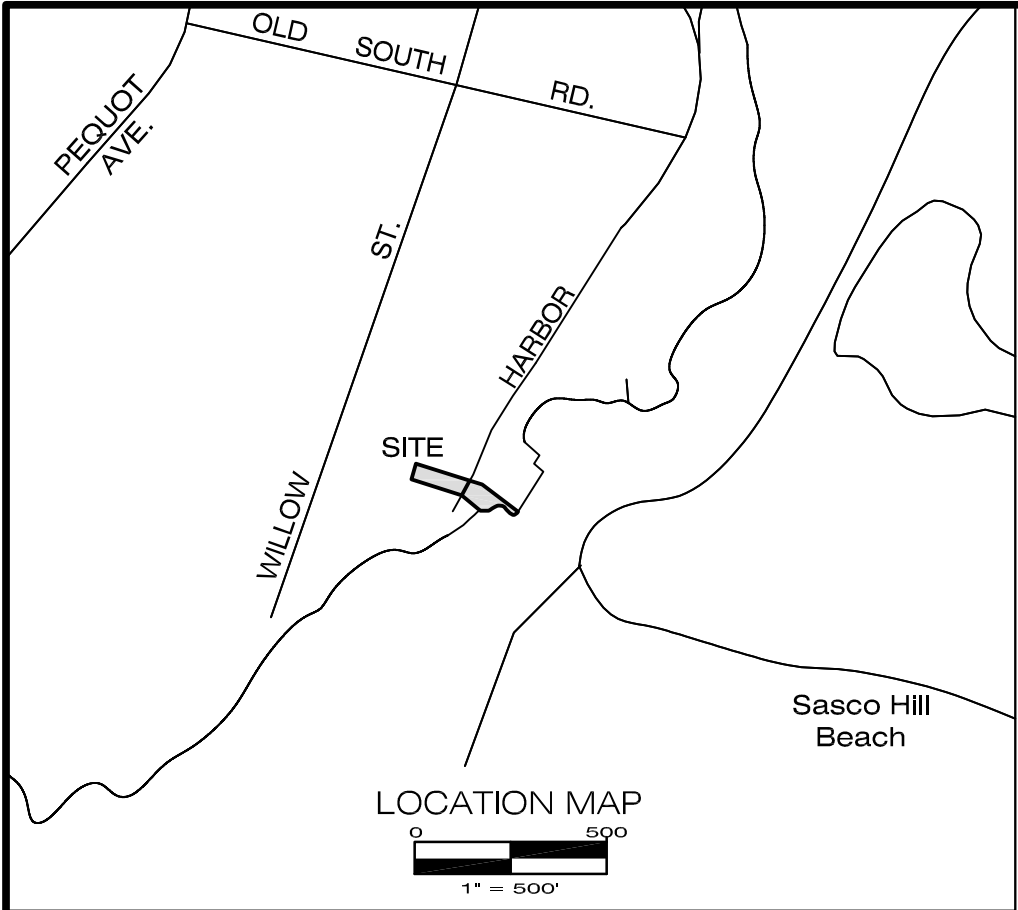


Photograph 10 –Aerial image of the site in 2016



## SECTION 4

# Survey Drawings

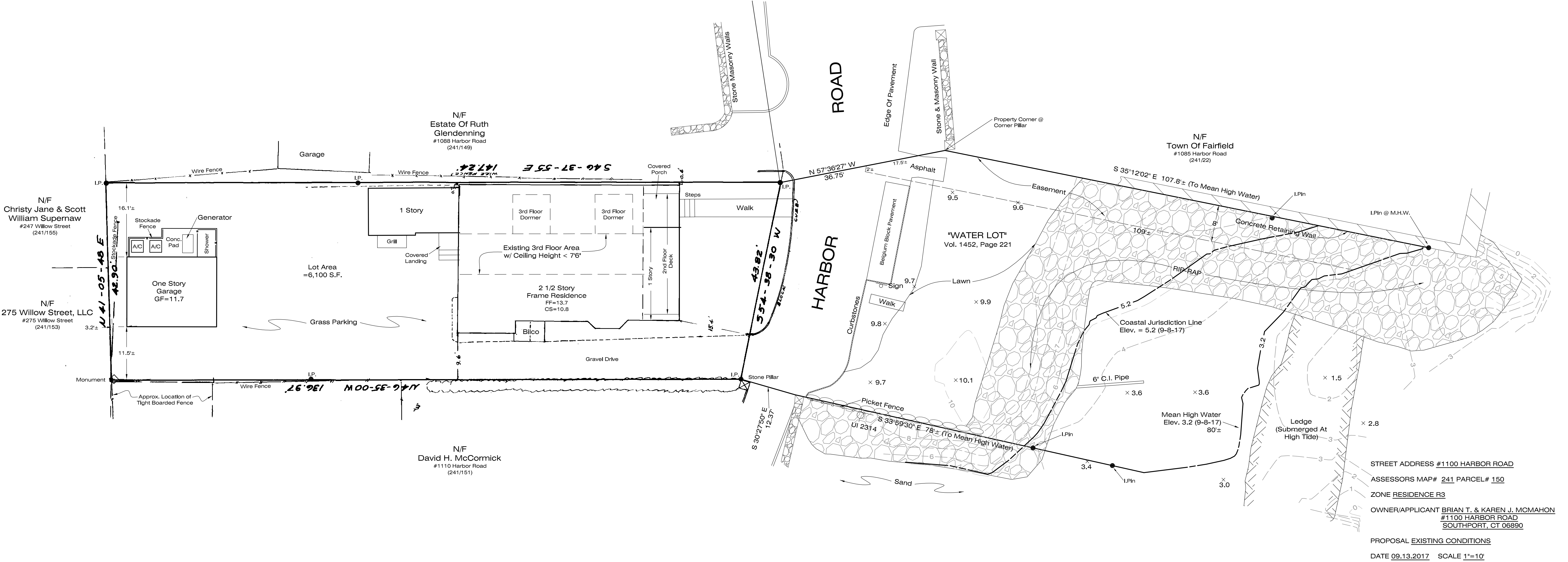


NOTES:

- This survey and map has been prepared in accordance with the Sections 20-300b-1 through 20-300b-20 of the Regulations of Connecticut State Agencies - "Minimum Standards for Survey and Maps in the State of Connecticut" as endorsed by the Connecticut Association of Land Surveyors, Inc. It is an Existing Building Location Survey intended for mortgage purposes only based upon a Dependent Resurvey and conforms to Horizontal Accuracy Class A-2. Topography Depicted Hereon conforms to Topographic Accuracy Class T-2.
- Reference is made to the following maps on file in the Fairfield Town Clerk's Office:
  - RM #3880 - "Map of Property for Willard G. Reynolds and Josephine S. Reynolds, Fairfield, Conn., July 15, 1968" Map prepared by The Huntington Company.
  - RM #6228 - "Map of Property for Robert G. Lee and Jean D. Lee and The Town of Fairfield" dated December 23, 1994. Map prepared by The Huntington Company.
- The underground utilities shown, if any, have been located from visible field survey information. The surveyor makes no guarantees that the underground utilities shown comprise all such utilities in the area either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated. The surveyor has not physically located the underground utilities, unless specifically noted as such. It is the Contractor's responsibility to contact CALL BEFORE YOU DIG (CBYD) prior to commencement of any excavation, Dial 811 or 1-800-922-4455.
- Property is located in FEMA Zone AE(12). Per Flood Insurance Rate Map #09001C0418G, Effective Date: July 8, 2013; Panel 418 of 626.
- Property is served by public water and sanitary sewer.
- Property lies in Zone: Residence R3.
- Reference the following on file in the Fairfield Land Records:
  - Volume 1452 Page 221 - Agreement (Water Lot)
  - Volume 932 Page 203 - Historic Notice
  - Volume 1881 Page 45 - Variance
  - Volume 2057 Page 118 - Deed Restrictions
  - Volume 3986 Page 31 - Variance
  - Volume 3961 Page 181 - Variance
- Reference is hereby made to Connecticut General Statute 8-13a, as amended, with regards to existing structures three or more years old.
- Vertical Datum: NAVD 88.

RESIDENCE R3 DISTRICT	MINIMUM REQUIRED MAXIMUM ALLOWED	EXISTING CONDITIONS	PROPOSED CONDITIONS	AS-BUILT CONDITIONS
Minimum Lot Area	20,000	6,100± *	-	-
Minimum Square On Lot	100	42.8'	-	-
Minimum Lot Frontage	20	43.82'	-	-
MINIMUM SETBACK				
Setback From Street Line	40	15.6'±	-	-
Setback From Side Property Lines - One Story	30	-	-	-
Setback From Side Property Lines - More Than One Story	30	10.0'±	-	-
Setback From One Side Property Lines	15	0.4'±	-	-
Setback From Rear Property Lines	30	3.2'± **	-	-
Setback From Street Line On A Corner Lot - One Story	30	-	-	-
Setback From Street Line On A Corner Lot - More Than One Story	30	-	-	-
MINIMUM FLOOR AREA				
Floor Area - One Story Building	900	-	-	-
Floor Area - Split Level Building	1,200	-	-	-
Floor Area - Two Or More Story Building Total Floor Area	1,200	2,900±	-	-
Floor Area - Two Or More Story Building Ground Floor Area	800	1,661±	-	-
Maximum Height For A Building Or Structure	40	32'±	-	-
Maximum Number Of Stories Per Building	3	2 1/2	-	-
Maximum Building Lot Coverage As A Percentage Of Lot Area	15%	32.5% ±	-	-
Maximum Building Floor Area As A Percentage Of Lot Area	30%	58.1% ±	-	-
Minimum First Floor Elevation	12	13.7	-	-

\* This area does not include the "Water Lot"  
\*\* Garage Setback



STREET ADDRESS #1100 HARBOR ROAD  
ASSESSORS MAP# 241 PARCEL# 150  
ZONE RESIDENCE R3  
OWNER/APPLICANT BRIAN T. & KAREN J. MCMAHON  
#1100 HARBOR ROAD  
SOUTHPORT, CT 06890  
PROPOSAL EXISTING CONDITIONS  
DATE 09.13.2017 SCALE 1"=10'

NOT VALID UNLESS EMBOSSED WITH SEAL OR  
FIXED WITH THE LIVE STAMP OF THE SIGNATORY  
TO MY KNOWLEDGE AND BELIEF, THIS MAP IS  
SUBSTANTIALLY CORRECT AS NOTED HEREON

Jason T. Spath Sr., L.S. #70136

8	9-13-17	Water Lot Topo
7	5-2-17	Property Staking
6	4-1-15	Survey Update
5	6-25-08	Final As-Built
4	4-3-07	Misc
3	3-19-07	Prop. 1 Story Addition
2	2-12-07	Add Spot Elevations
1	9-7-06	Topography
NO.	DATE	DESCRIPTION

ZONING LOCATION SURVEY  
PREPARED FOR  
BRIAN T. & KAREN J. MCMAHON  
#1100 HARBOR ROAD  
SOUTHPORT, CONNECTICUT

100 0 10 20

SCALE: 1"=10'

DRAFTER: D.A.H. / S.J.R.

JOB NUMBER: 4217

PROJECT #: 6698X1

DATE: APRIL 7, 2005

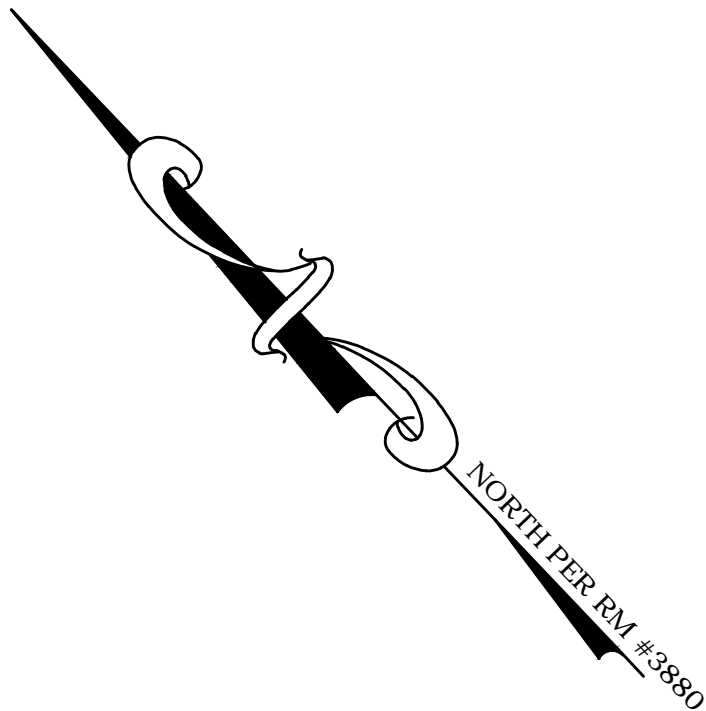
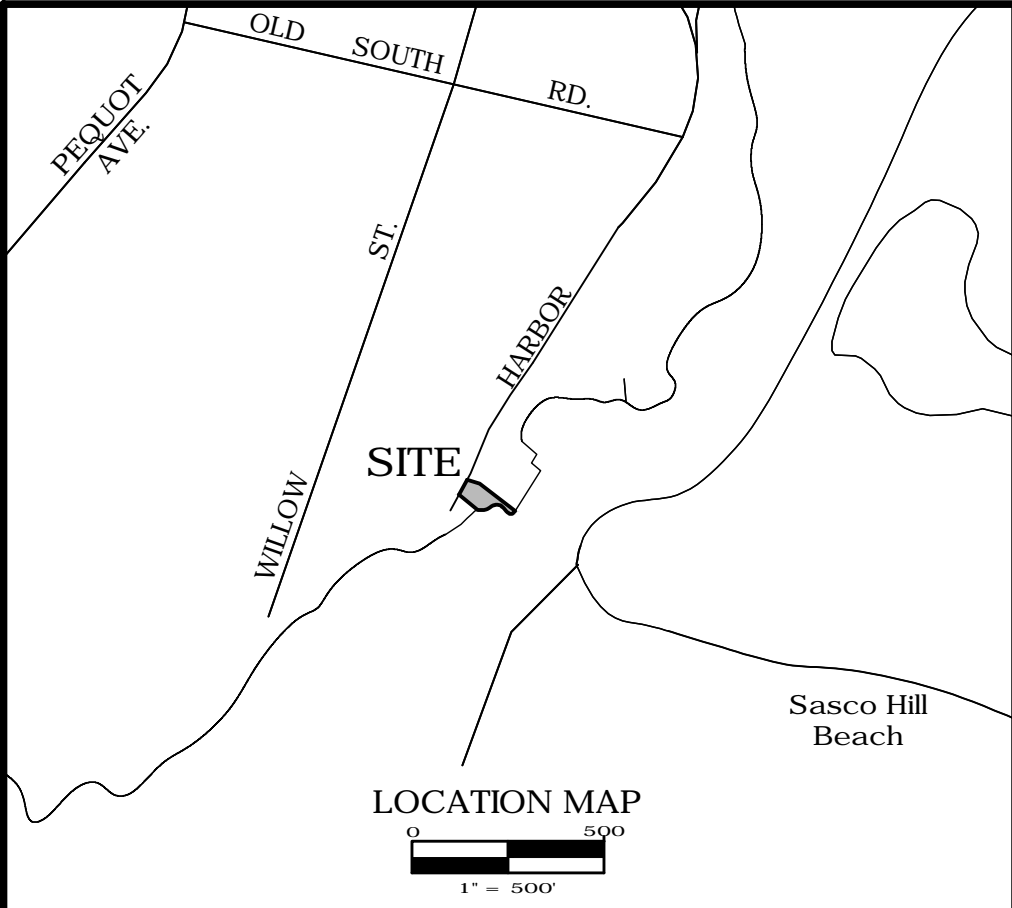
THE HUNTINGTON COMPANY, LLC  
Consulting Engineers & Surveyors  
303 Linwood Avenue, Fairfield, CT  
203.259.1091

1/1

HCO INFO: #12470,103 #37728 #5687 [H-73 [H-73A & B

8-1700

K:\projects\6698x1\DWG\4217 9-13-17.dwg, 9/13/2017 1:50:13 PM, CatePDF Writer



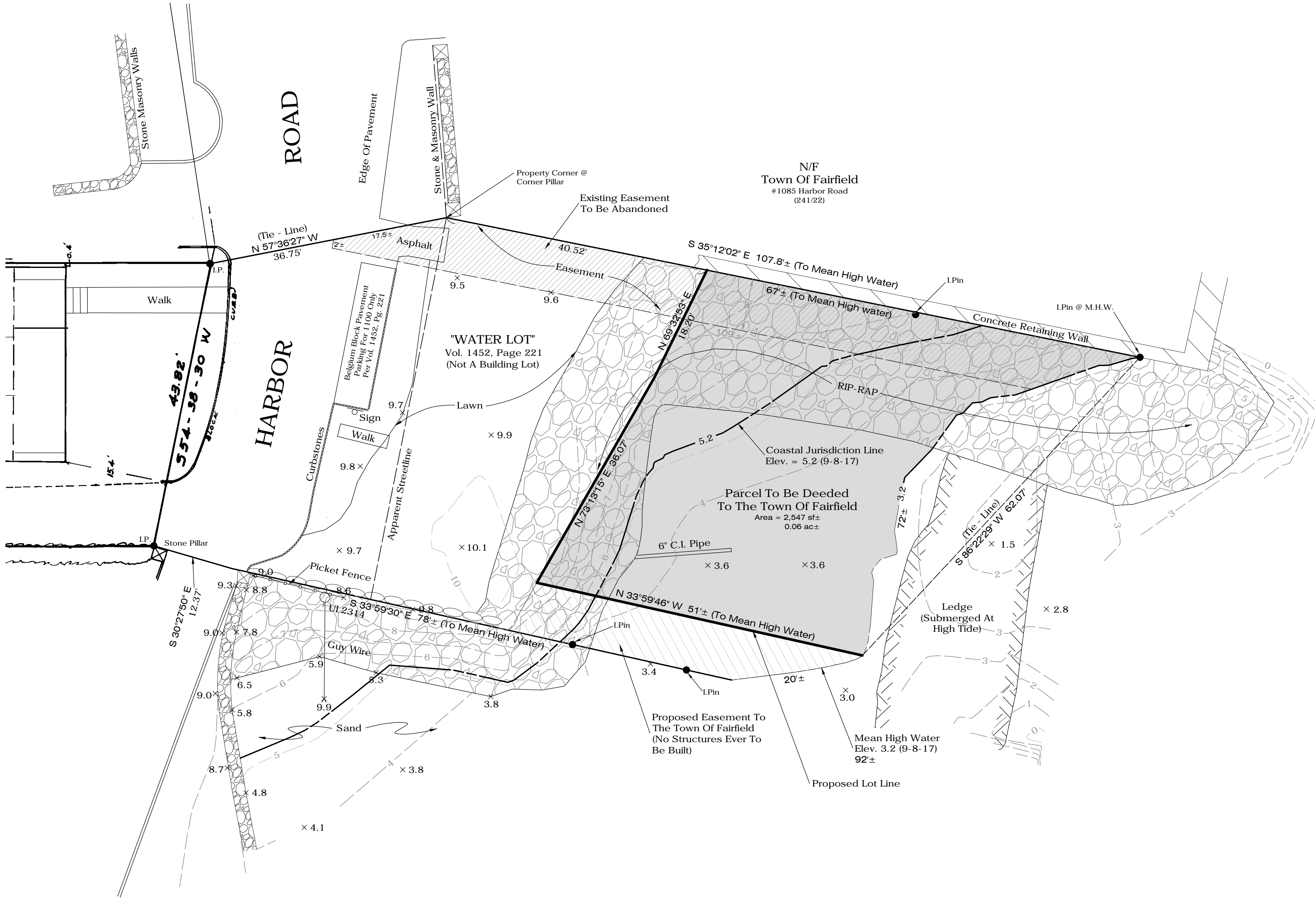
NOTES:

- This survey and map has been prepared in accordance with the Sections 20-300b-1 through 20-300b-20 of the Regulations of Connecticut State Agencies - "Minimum Standards for Survey and Maps in the State of Connecticut" as endorsed by the Connecticut Association of Land Surveyors, Inc. It is a Data Accumulation Plan based upon a Resurvey and conforms to Horizontal Accuracy Class A-2. Topography Depicted Hereon conforms to Topographic Accuracy Class T-2.
- Reference is made to the following maps on file in the Fairfield Town Clerk's Office:
  - RM #3880 - "Map of Property for Willard G. Reynolds and Josephine S. Reynolds, Fairfield, Conn., July 15, 1968" Map prepared by The Huntington Company.
  - RM #6228 - "Map of Property for Robert G. Lee and Jean D. Lee and The Town of Fairfield" dated December 23, 1994. Map prepared by The Huntington Company.
- The underground utilities shown, if any, have been located from visible field survey information. The surveyor makes no guarantees that the underground utilities shown comprise all such utilities in the area either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated. The surveyor has not physically located the underground utilities, unless specifically noted as such. It is the Contractor's responsibility to contact CALL BEFORE YOU DIG (CBYD) prior to commencement of any excavation, Dial 811 or 1-800-922-4455.
- Property is located in FEMA Zone AE(12). Per Flood Insurance Rate Map #09001C0418G, Effective Date: July 8, 2013; Panel 418 of 626.

- Property is served by public water and sanitary sewer.
- Property lies in Zone: Residence R3.
- Reference the following on file in the Fairfield Land Records:
  - Volume 1452 Page 221 - Agreement (Water Lot)
  - Volume 932 Page 203 - Historic Notice
- Vertical Datum: NAVD 88.

RESIDENCE R3 DISTRICT	
Minimum Lot Area	20,000
Minimum Square On Lot	100
Minimum Lot Frontage	20
MINIMUM SETBACK	
Setback From Street Line	40
Setback From Side Property Lines - One Story	30
Setback From Side Property Lines - More Than One Story	30
Setback From One Side Property Lines	15
Setback From Rear Property Lines	30
Setback From Street Line On A Corner Lot - One Story	30
Setback From Street Line On A Corner Lot - More Than One Story	30
MINIMUM FLOOR AREA	
Floor Area - One Story Building	900
Floor Area - Split Level Building	1,200
Floor Area - Two Or More Story Building Total Floor Area	1,200
Floor Area - Two Or More Story Building Ground Floor Area	800
Maximum Height For A Building Or Structure	40
Maximum Number Of Stories Per Building	3
Maximum Building Lot Coverage As A Percentage Of Lot Area	15%
Maximum Building Floor Area As A Percentage Of Lot Area	30%
Minimum First Floor Elevation	12

N/F  
1100 Harbor Road, LLC  
#1100 Harbor Road  
(241/150)



STREET ADDRESS #1101 HARBOR ROAD  
ASSESSORS MAP# 241 PARCEL# 23  
ZONE RESIDENCE R3  
OWNER/APPLICANT 1100 HARBOR ROAD, LLC  
#1100 HARBOR ROAD  
SOUTHPORT, CT 06890  
PROPOSAL PARCEL TO BE DEEDED TO THE TOWN  
OF FAIRFIELD & EASEMENT TO BE  
ABANDONED  
DATE 03.19.2018 SCALE 1"=10'

NOT VALID UNLESS EMBOSSED WITH SEAL OR  
FIXED WITH THE LIVE STAMP OF THE SIGNATORY  
TO MY KNOWLEDGE AND BELIEF, THIS MAP IS  
SUBSTANTIALLY CORRECT AS NOTED HEREON

Jason T. Spath Sr., L.S. #70136

NO.	DATE	DESCRIPTION
3	5-6-19	Revise Per Site Meeting
2	4-15-19	Proposed Lot Line / Area
1	8-21-18	Additional Topo Added

DATA ACCUMULATION PLAN  
DEPICTING PARCEL TO BE DEEDED  
TO THE TOWN OF FAIRFIELD  
PREPARED FOR  
1100 HARBOR ROAD, LLC  
#1101 HARBOR ROAD  
SOUTHPORT, CONNECTICUT

1"=10'

DATE: MARCH 19, 2018  
SCALE: 1"=10'  
DRAFTER: D.A.H. / S.J.R.  
JOB NUMBER: 4217  
PROJECT #: 6698X1

THE HUNTINGTON COMPANY, LLC  
Consulting Engineers & Surveyors  
303 Linwood Avenue, Fairfield, CT 06424  
203.259.1091

1/1



## SECTION 5

# Project Drawings



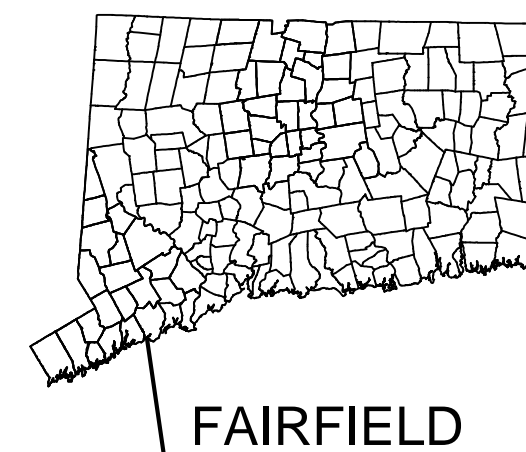
# 1101 HARBOR ROAD WATERFRONT ACCESS IMPROVEMENTS BRIAN & KAREN McMAHON 1100 HARBOR ROAD SOUTHPORT, CT 06890

August 24, 2018



VICINITY MAP

FROM USGS WESTPORT, CT 2018 AND SHERWOOD POINT, CT, NY 2018 QUADRANGLES



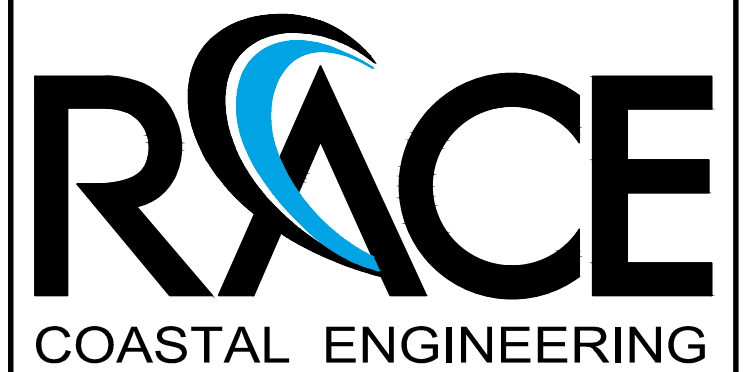
FAIRFIELD



AERIAL PHOTO

## LIST OF DRAWINGS

DRAWING NO.	DRAWING NAME
1	TITLE SHEET, DRAWING LIST & VICINITY MAP
2	PROJECT NOTES
3	AERIAL IMAGE & EXISTING SITE SKETCHES
4	EXISTING SITE AND DEMOLITION PLAN
5	PROPOSED SITE PLAN
6	SECTIONS
7	SECTIONS



611 Access Road Stratford, CT 06615  
Tel: 203-377-0663 www.racecoastal.com

### OWNERSHIP AND CONDITIONS OF USE:

Drawings and Specifications, as instruments of professional service, are and shall remain the property of RACE Coastal Engineering, LLC. Documents are not to be used, in whole or in part, for other projects or purposes or by any other parties than those authorized by contract without the specific written authorization of RACE Coastal Engineering, LLC. The use of this document is contingent upon payment to RACE Coastal Engineering, LLC for services rendered. Non-payment shall give RACE Coastal Engineering, LLC the authority to bar document use by any and all parties.

THIS DRAWING IS COPYRIGHTED

### REVISIONS:

NO.	DESCRIPTION	BY	DATE
#1	ISSUED FOR PERMIT	CCE	09/25/18
#2	WALL LOCATION	CCE	01/09/2019
#3	WALL LOCATION	CCE	4/24/2019
#4	WALL LOCATION, FIELD VISIT REVIEW	CCE	5/16/2019

NOT VALID WITHOUT ENGINEER'S SEAL:

REGULATORY REVIEW ONLY  
NOT FOR CONSTRUCTION

PREPARED FOR:

BRIAN & KAREN McMAHON  
1100 HARBOR ROAD  
SOUTHPORT, CT 06890

PROJECT:

1101 HARBOR ROAD  
WATERFRONT ACCESS  
IMPROVEMENT

DRAWING:

TITLE SHEET,  
DRAWING LIST &  
VICINITY MAP

Designed By:	CCE	Date:	8/24/2018
Drawn By:	CCE	Scale:	As Noted
Checked By:	DJS	Project Number:	2017085
CAD File:	2018-05-16 DWG5 01, 02, 04 - 08.DWG	Drawing No.:	1 of 7



PROJECT NOTES

DESCRIPTION OF WORK:

1. THE PURPOSE OF THESE DRAWINGS IS FOR REGULATORY REVIEW. THE DRAWINGS DEPICT SITE PLAN AND THE GENERAL ARCHITECTURE OF THE PROJECT, AND ARE NOT ISSUED FOR CONSTRUCTION.
2. THE WORK COVERED UNDER THESE DOCUMENTS, INCLUDING THE DRAWINGS, PROJECT NOTES, AND ALL AMENDMENTS, CONSISTS OF PROVIDING ALL PLANT, LABOR, SUPERVISION, EQUIPMENT, APPLIANCES, AND MATERIALS AND IN PERFORMING ALL OPERATIONS IN CONNECTION WITH AT LEAST, BUT NOT NECESSARILY LIMITED TO, THE FOLLOWING ITEMS:

A. CONSTRUCT ACCESS STAIRS

B. CONSTRUCT SEAWALL IN PLACE OF EXISTING REVETMENT

C. INSTALL AND MAINTAIN EROSION AND SEDIMENT CONTROLS, MAINTAIN PROJECT SITE IN NEAT AND ORDERLY MANNER
2. THE CONTRACTOR SHALL PROVIDE ALL ITEMS AND ACCESSORIES REQUIRED TO COMPLETE ALL ASPECTS OF THE WORK NEEDED FOR A COMPLETE AND PROPER INSTALLATION, ALL IN STRICT ACCORDANCE WITH THE CONTRACT DOCUMENTS

GENERAL NOTES:

1. ALL ELEVATIONS ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD), UNLESS NOTED OTHERWISE.
2. PROJECT DESIGN PER 2015 CONNECTICUT STATE BUILDING CODE FOR THE FOLLOWING LOADS:

2.1. LIVE LOAD OF 100 PSF.

2.2. SOILS ARE GRANULAR WITH DESIGN FRICTION ANGLE OF 32° AND MOIST UNIT WEIGHT OF 125 PCF, CONTRACTOR TO NOTIFY ENGINEER IF OTHER CONDITIONS ARE ENCOUNTERED DURING CONSTRUCTION.
3. RETAINING WALL DESIGNED FOR A MAXIMUM SCOUR DEPTH TO EL. +3.0'. IT IS THE OWNERS RESPONSIBILITY TO MAINTAIN THE FINISHED GRADES AT THE BASE OF THE WALL.
4. PROPERTY LINES, EXISTING TOPOGRAPHY, AND STRUCTURES TAKEN FROM A DRAWING TITLED "ZONING LOCATION SURVEY, PREPARED FOR BRIAN T. & KAREN J. MCMAHON, #1100 HARBOR ROAD, SOUTHPORT, CONNECTICUT" PREPARED BY THE HUNTINGTON COMPANY, LLC. AND DATED APRIL 7, 2015, LAST REVISION #8 ON SEPTEMBER 13, 2017.
5. ADDITIONAL SITE INFORMATION OBTAINED BY RACE COASTAL ENGINEERING, LLC ON SEPTEMBER 27, 2017 AND CAN ONLY REPRESENT THE SITE CONDITIONS AT THAT TIME.
6. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO LAYOUT THE PROJECT.
7. ALL WORK SHALL COMPLY WITH FEDERAL, STATE, AND LOCAL LAWS AND STATUTES AND THE REQUIREMENTS AND CONDITIONS OF ALL REGULATORY PERMITS ISSUED FOR THE WORK.
8. THESE DRAWINGS SHALL BE USED IN CONJUNCTION WITH THE PROJECT REGULATORY PERMITS AND ALL CONDITIONS OF THOSE PERMITS. THE CONTRACTOR IS ADVISED THAT THE REGULATORY PERMITS FOR THIS PROJECT MAY CONTAIN ADDITIONAL REQUIREMENTS THAT, AFTER ANY ADDENDUM, SUPERSEDE THE DRAWING NOTES. THE CONTRACTOR IS FURTHER ADVISED THAT IN THE CASE OF ANY DISCREPANCIES WITHIN THE CONTRACT DOCUMENTS FOUND BEFORE CONSTRUCTION, THE FINAL DECISION AS TO WHAT INFORMATION TAKES PRECEDENCE WILL BE MADE BY THE ENGINEER OF RECORD ON THE BASIS OF THAT INTENT.
9. ALL EXISTING CONDITIONS AND DIMENSIONS SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION AND FABRICATION OR ORDERING OF ANY CONSTRUCTION MATERIALS.
10. ALL SECTIONS AND DETAILS APPLY TO SAME AND SIMILAR CONDITIONS UNLESS SPECIFICALLY NOTED OTHERWISE HEREIN.
11. DAMAGE TO ANY PROPERTY, PRIVATE OR OF PUBLIC TRUST, OCCURRING DURING THE CONSTRUCTION BY THE CONTRACTOR, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND SHALL BE REPAIRED TO THE SATISFACTION OF THE OWNER AT THE EXPENSE OF THE CONTRACTOR.
12. THE CONTRACTOR SHALL SAFEGUARD AND PROTECT ALL EXCAVATIONS.
13. THE CONTRACTOR SHALL USE ADEQUATE NUMBERS OF SKILLED WORKMEN WHO ARE THOROUGHLY TRAINED AND EXPERIENCED IN THE NECESSARY CRAFTS AND WHO ARE COMPLETELY FAMILIAR WITH THE SPECIFIED REQUIREMENTS AND METHODS NEEDED FOR PROPER PERFORMANCE OF THE WORK.
14. THE CONTRACTOR SHALL USE EQUIPMENT ADEQUATE IN SIZE, CAPACITY, AND NUMBERS, AND MAINTAINED TO THE REQUIREMENTS OF ALL FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS TO ACCOMPLISH THE WORK.
15. THE CONTRACTOR SHALL PROTECT ALL WETLANDS AND COASTAL RESOURCES FROM INTRUSION BY TURBID WATERS, CONSTRUCTION DEBRIS, CONSTRUCTION EQUIPMENT, OR PERSONNEL DURING ALL WORK ACTIVITIES.
16. THE CONTRACTOR SHALL INCLUDE IN HIS CONTRACT SUM THE COST FOR ALL NECESSARY PERMITS, LICENSES, CERTIFICATES OF INSPECTION, AND ALL LEGAL FEES IN CONNECTION WITH THE WORK OF THIS CONTRACT. THE OWNER HAS OBTAINED NECESSARY REGULATORY PERMITS REQUIRED FOR THE WORK IN REGULATED AREAS. THE CONTRACTOR SHALL REQUEST COPIES OF THOSE REGULATORY PERMITS AND MAKE PROVISION IN THIS WORK AND IN THE COST OF THE WORK FOR ALL APPLICABLE CONDITIONS OF THOSE PERMITS. FAILURE TO CONSIDER ANY CONDITION OF THE REGULATORY PERMITS AS A PART OF THE BID SHALL NOT RELIEVE THE CONTRACTOR FROM HIS RESPONSIBILITY TO APPLY THOSE CONDITIONS TO HIS WORK AT NO ADDITIONAL COST TO THE OWNER.

17. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO LOCATE AND PROTECT FROM DAMAGE ALL UTILITIES, UTILITY STRUCTURES, FUEL LINES & TANKS OR ANY UNKNOWN UTILITIES OR STRUCTURES PRIOR TO ANY WORK.

EARTH WORK:

1. CONTRACTOR TO EXCAVATE TO THE REQUIRED DEPTHS IN ACCORDANCE WITH OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION (OSHA) REGULATIONS.
2. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROTECT NEIGHBORING PROPERTY'S, STRUCTURES, AND VEGETATION FROM DAMAGE DURING CONSTRUCTION.
4. ALL BACKFILL MATERIAL SHALL BE FREE OF ORGANICS, FROZEN SOIL, ICE, WOOD AND OTHER EXTRANEEOUS MATERIAL.
5. MATERIAL REMOVED FROM THE EXCAVATION AND TEMPORARILY STOCKPILED ONSITE MAY BE USED AS BACKFILL PROVIDED IT MEETS THE ABOVE REQUIREMENTS. A SAMPLE AND GRADATION OF MATERIAL PROPOSED AS BACKFILL SHALL BE SUBMITTED TO THE ENGINEER FOR REVIEW AND ACCEPTANCE.
6. CRUSHED STONE SHALL BE CONSISTENT WITH THE MATERIAL REQUIREMENTS OF CONNDOT FORM 816 FOR CRUSHED STONE.
7. BEDDING SAND SHALL BE SHALL BE SAND OR SANDY SOIL, ALL OF WHICH PASSES A 3/8-INCH (9.5-MILLIMETER) SIEVE, AND NOT MORE THAN 10% PASSES A NO. 200 (75-MICRON) SIEVE, AND CONSISTENT WITH THE MATERIAL REQUIREMENTS OF CONNDOT FORM 816.
8. CONTRACTOR WILL BE REQUIRED TO PLACE BACK FILL IN 1 FT LIFTS AND COMPACT TO 95% DRY DENSITY.

8.1. CONTRACTOR SHALL PROTECT PIPES AND OTHER CONSTRUCTION DURING BACKFILL OPERATION, INCLUDING BUT NOT LIMITED TO ADJUSTING BACKFILL AND COMPACTION METHODS. CONTRACTOR SHALL REDUCE SIZE AND ENERGY OF EQUIPMENT WITH CORRESPONDING REDUCTION IN LIFT HEIGHT, UNTIL SUFFICIENT COVER IS IN PLACE TO AVOID DAMAGE DURING BACKFILL AND COMPACTION. CONTRACTOR SHALL USE HAND TOOLS AND REDUCED LIFT HEIGHT AS NEEDED TO PROTECT PIPES AND OTHER CONSTRUCTION.
9. BACK FILL MATERIAL TO CONSIST OF THE FOLLOWING:

SIEVE SIZE	PERCENT PASSING BY WEIGHT
3 1/2"	100
NO. 4	30-65
NO. 10	20-50
NO. 40	5-30
NO. 100	0-10

LANDSCAPING:

1. ALL AREAS DISTURBED SHALL BE RESTORED.
2. CONTRACTOR SHALL PROVIDE SEEDING FOR LAWN AREAS AND PLANT STOCK ACCORDANCE WITH THE DRAWINGS.

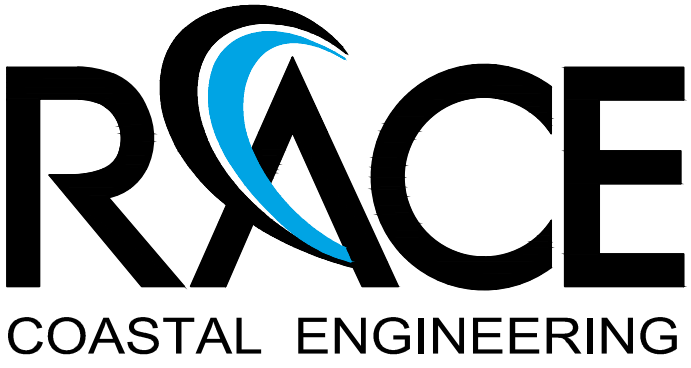
TOPSOIL:

1. PROVIDE NEW TOPSOIL WHICH IS FERTILE, FRIABLE, NATURAL LOAM, SURFACE SOIL, FREE OF SUBSOIL, CLAY LUMPS, BRUSH, WEEDS AND OTHER LITTER, AND FREE OF ROOTS, STUMPS, STONES LARGER THAN 2" IN ANY DIMENSION, AND OTHER EXTRANEEOUS OR TOXIC MATTER HARMFUL TO PLANT GROWTH.
2. OBTAIN TOPSOIL FROM LOCAL SOURCES OR FROM AREAS HAVING SIMILAR SOIL CHARACTERISTICS TO THAT FOUND AT PROJECT SITE. OBTAIN TOPSOIL ONLY FROM NATURALLY, WELL-DRAINED SITES WHERE TOPSOIL OCCURS IN A DEPTH OF NOT LESS THAN 4"; DO NOT OBTAIN FROM BOGS OR MARSHES.
3. CONTRACTOR SHALL SUBMIT A SAMPLE OF PROPOSED TOPSOIL TO THE UNIVERSITY OF CONNECTICUT SOIL NUTRIENT ANALYSIS LABORATORY (LABORATORY) FOR ANALYSIS.
4. IMPROVE TOPSOIL AS RECOMMENDED BY LABORATORY. ADD FERTILIZER, LIME, ORGANIC MATERIAL, SAND AND OTHER MATERIALS RECOMMENDED BY TESTING LABORATORY.
5. SPREAD TOPSOIL TO MINIMUM DEPTH REQUIRED TO MATCH EXISTING LINES, GRADES AFTER LIGHT ROLLING AND NATURAL SETTLEMENT. PROVIDE A MINIMUM OF 1" OF TOPSOIL.
6. ADD LABORATORY-RECOMMENDED SPECIFIED SOIL AMENDMENTS AND MIX THOROUGHLY INTO UPPER 4" OF TOPSOIL.

EROSION & SEDIMENTATION CONTROLS

1. PRIOR TO MOBILIZATION, EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE INSTALLED.
2. EROSION AND SEDIMENT CONTROL MEASURES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS OF THE "CONNECTICUT GUIDELINES FOR SOIL EROSION AND SEDIMENT CONTROL", JANUARY 1985.
3. EROSION AND SEDIMENT CONTROL MEASURES SHALL BE MAINTAINED IN EFFECTIVE CONDITION THROUGHOUT THE CONSTRUCTION PERIOD.
4. ADDITIONAL CONTROL MEASURES SHALL BE INSTALLED DURING THE CONSTRUCTION PERIOD AS NECESSARY AND REQUIRED.

5. THE GENERAL CONTRACTOR SHALL UTILIZE APPROVED METHODS/MATERIALS FOR PREVENTING THE BLOWING AND MOVEMENT OF DUST FROM EXPOSED SOIL SURFACES ONTO ADJACENT PROPERTIES AND SITE AREAS.
6. THE GENERAL CONTRACTOR SHALL MAINTAIN AN ADDITIONAL SUPPLY OF EROSION & SEDIMENTATION CONTROL ON SITE FOR EMERGENCY PURPOSES.
7. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR CONSTRUCTION AND MAINTENANCE OF ALL CONTROL MEASURES THROUGHOUT THE CONSTRUCTION PERIOD.
8. THE GENERAL CONTRACTOR IS ASSIGNED THE RESPONSIBILITY FOR IMPLEMENTING THIS EROSION AND SEDIMENT CONTROL PLAN. THE RESPONSIBILITY INCLUDES SUPERVISING THE INSTALLATION AND MAINTENANCE OF CONTROL MEASURES, INFORMING ALL PARTIES ENGAGED ON THE CONSTRUCTION SITE OF THE REQUIREMENTS AND OBJECTIVES OF THE PLAN, NOTIFYING THE CONSERVATION STAFF PERSON OF ANY TRANSFER OF THIS RESPONSIBILITY AND CONVEYING A COPY OF THE CONTROL PLAN IF THE TITLE TO THE LAND IS TRANSFERRED.



611 Access Road Stratford, CT 06615  
Tel: 203-377-0663 www.racecoastal.com

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#4	WALL LOCATION, FIELD VISIT REVIEW	CGE	5/16/2019

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PREPARED FOR:

BRIAN & KAREN MCMAHON  
1100 HARBOR ROAD  
SOUTHPORT, CT 06890

PROJECT:

1100 HARBOR ROAD  
WATERFRONT ACCESS  
IMPROVEMENT

DRAWING:

PROJECT NOTES

Designed By:	CGE	Date:	8/24/2018
Drawn By:	CGE	Scale:	As Noted
Checked By:	DJS	Project Number:	2017085
CAD File:	2014-05-16 DWG5 01, 02, 04 - 08.DWG	Drawing No.:	2 of 7





### AERIAL IMAGE

SCALE: 1" = 10'-0"

#### EXISTING SITE SKETCH LEGEND

- EXISTING PRIVATE PROPERTY
- EXISTING EASEMENT FOR PUBLIC ACCESS OVER PRIVATE PROPERTY

#### NOTES:

- AERIAL IMAGE FROM CT DEEP 2016 ORTHOIMAGERY.
- PROPERTY LINES FROM SURVEY TITLED 'ZONING LOCATION SURVEY', PREPARED FOR BRIAN T. & KAREN J. MCMAHON, 1100 HARBOR ROAD, SOUTHPORT, CONNECTICUT DATED 04-13-2017 BY THE HUNTINGTON COMPANY, LLC.
- ANNOTATION AND DIMENSIONS ON PHOTO ARE RENDERED FOR GENERAL VISUALIZATION OF CONCEPT AND ARE NOT TO SCALE OR EXACT LEGAL BOUNDARY LINES.



### EASEMENT PHOTO

SCALE: NOT TO SCALE - SEE NOTE 3



### PHOTO

SCALE: NOT TO SCALE



### PHOTO

SCALE: NOT TO SCALE

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#4	WALL LOCATION, FIELD VISIT REVIEW	CGE	5/16/2019

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#### PREPARED FOR:

BRIAN & KAREN MCMAHON  
1100 HARBOR ROAD  
SOUTHPORT, CT 06890

#### PROJECT:

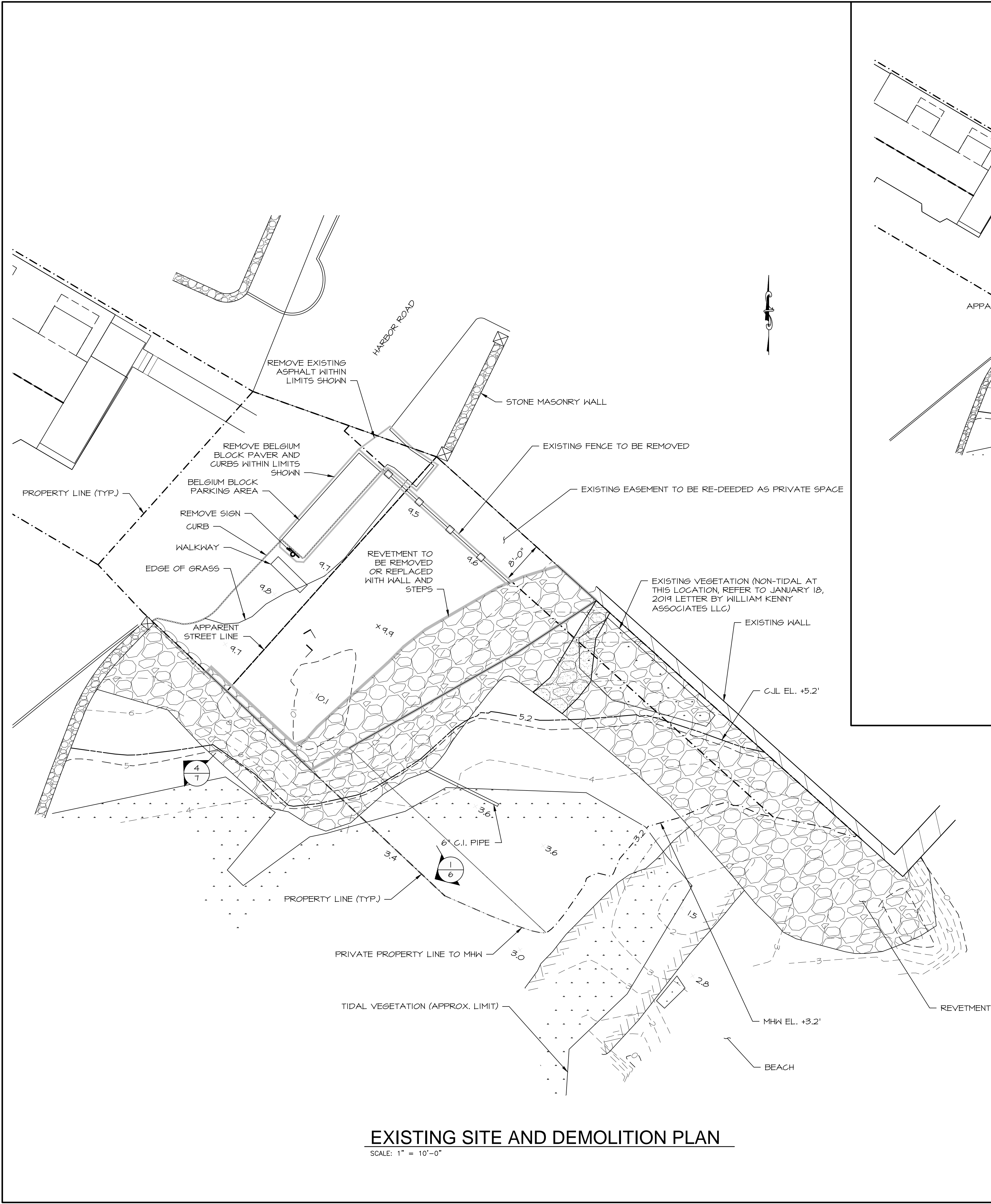
1100 HARBOR ROAD  
WATERFRONT ACCESS  
IMPROVEMENT

#### DRAWING:

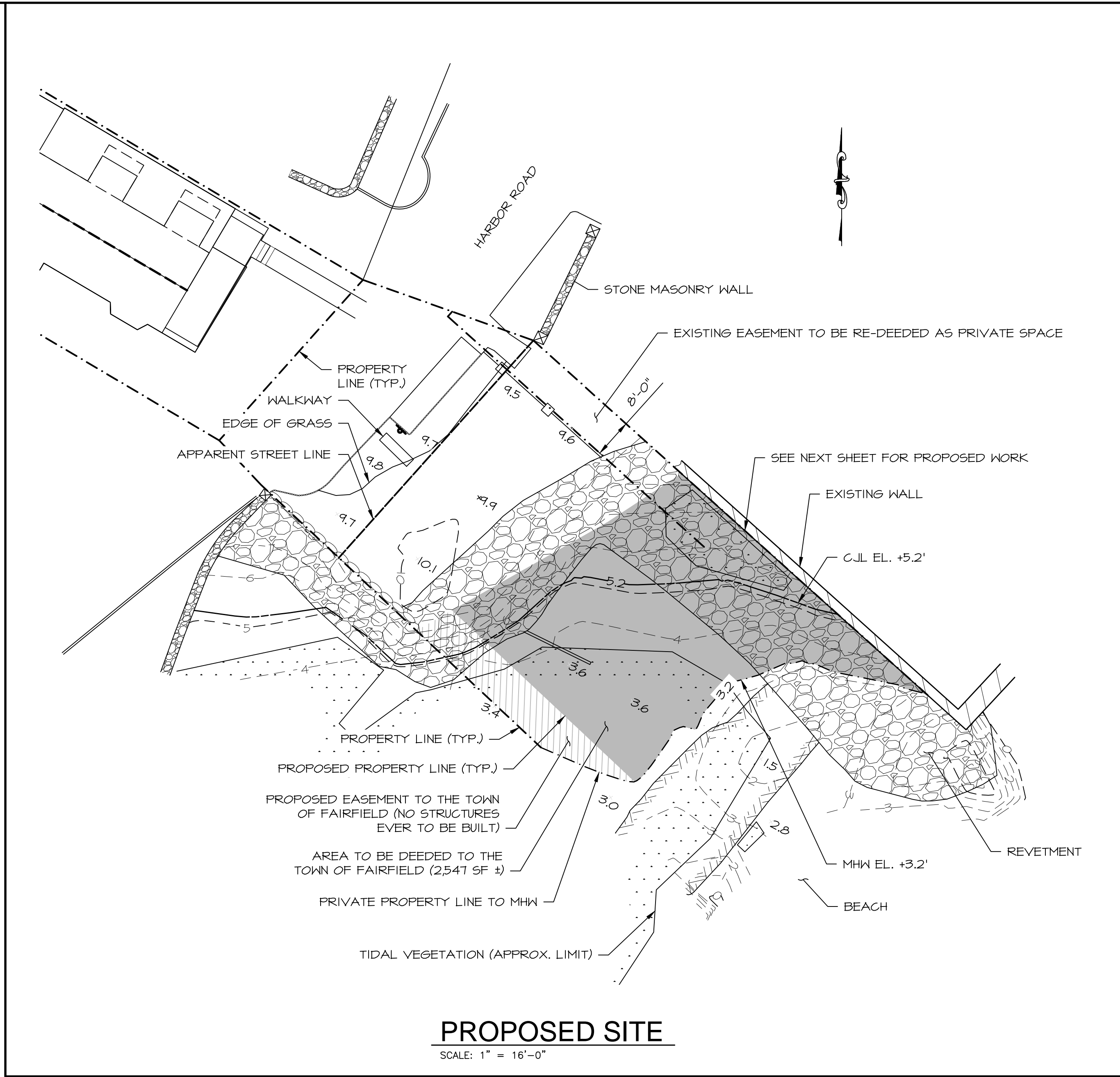
AERIAL IMAGE & EXISTING SITE  
SKETCHES

Designed By:	CGE	Date:	08/24/2017
Drawn By:	CGE	Scale:	As Noted
Checked By:	DJS	Project Number:	2017085
CAD File:	2014-05-20 DWG 03.DWG	Drawing No.:	3 of 8





**EXISTING SITE AND DEMOLITION PLAN**  
SCALE: 1" = 10'-0"



**PROPOSED SITE**  
SCALE: 1" = 16'-0"

**NOTES:**

1. PROPERTY LINES AND EXISTING CONDITIONS FROM SURVEY TITLED 'ZONING LOCATION SURVEY, PREPARED FOR BRIAN T. & KAREN J. MCMAHON, 1100 HARBOR ROAD, SOUTHPORT, CONNECTICUT' DATED 08-21-2018 BY THE HUNTINGTON COMPANY, LLC.
2. AREA TO BE DEEDED TO BE REVIEWED AND APPROVED BY TOWN.
3. REFER TO PLAN TITLED 'DATA ACCUMULATION PLAN, DEPICTING PARCEL TO BE DEEDED TO THE TOWN OF FAIRFIELD, PREPARED FOR 1100 HARBOR ROAD, LLC, #1101 HARBOR ROAD, SOUTHPORT, CONNECTICUT' BY THE HUNTINGTON COMPANY, LLC DATED LATEST REVISION #3 MAY 6, 2019.

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**PREPARED FOR:**

**BRIAN & KAREN MCMAHON**  
1100 HARBOR ROAD  
SOUTHPORT, CT 06890

**PROJECT:**

**1100 HARBOR ROAD  
WATERFRONT ACCESS  
IMPROVEMENT**

**DRAWING:**

**EXISTING SITE AND  
DEMOLITION PLAN**

Designed By:	CGE	Date:	8/24/2018
Drawn By:	CGE	Scale:	As Noted
Checked By:	DJS	Project Number:	2017085
CAD File:	2014-05-16 DWG5 01, 02, 04 - 08.DWG	Drawing No.:	4 of 7



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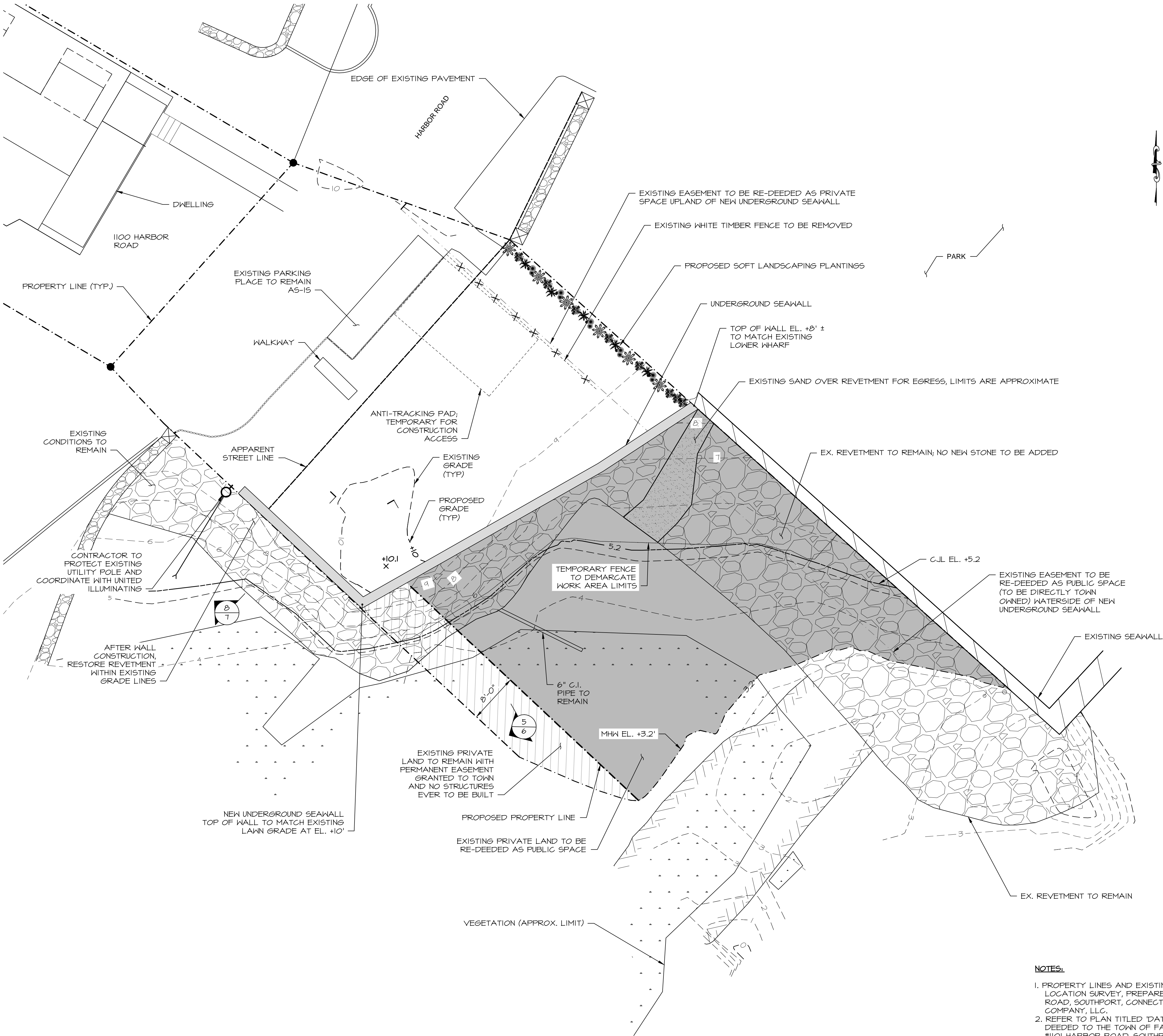
PROJECT:

1100 HARBOR ROAD  
WATERFRONT ACCESS  
IMPROVEMENT

DRAWING:

PROPOSED SITE PLAN

Designed By:	CGE	Date:	8/24/2018
Drawn By:	CGE	Scale:	As Noted
Checked By:	DJS	Project Number:	2017085
CAD File:	2014-05-16 DWG5 01, 02, 04 - 08.DWG	Drawing No.:	5 of 7



PROPOSED SITE PLAN

SCALE: 1" = 8'-0"

NOTES:

- PROPERTY LINES AND EXISTING CONDITIONS FROM SURVEY TITLED 'ZONING LOCATION SURVEY, PREPARED FOR BRIAN T. & KAREN J. MCMAHON, 1100 HARBOR ROAD, SOUTHPORT, CONNECTICUT' DATED 08-21-2018 BY THE HUNTINGTON COMPANY, LLC.
- REFER TO PLAN TITLED 'DATA ACCUMULATION PLAN, DEPICTING PARCEL TO BE DEEDED TO THE TOWN OF FAIRFIELD, PREPARED FOR 1100 HARBOR ROAD, LLC, #1101 HARBOR ROAD, SOUTHPORT, CONNECTICUT' BY THE HUNTINGTON COMPANY, LLC, DATED LATEST REVISION #3 MAY 6, 2019.
- CONTRACTOR SHALL DEMARCATE EXTENT OF WORK LIMITS. CONTRACTOR SHALL SEQUENCE WORK AND SHORE EXCAVATION TO PREVENT DISTURBANCE BELOW COASTAL JURISDICTION LINE (CJL), INCLUDING PREVENTION OF DISTURBANCE OR MODIFICATION TO EXISTING REVETMENT STONE LOCATED BELOW CJL.
- ESTIMATED BACKFILL OF 20 CUBIC YARDS FOR LANDSCAPE GRADING.



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PROJECT:

1100 HARBOR ROAD  
WATERFRONT ACCESS  
IMPROVEMENT

DRAWING:

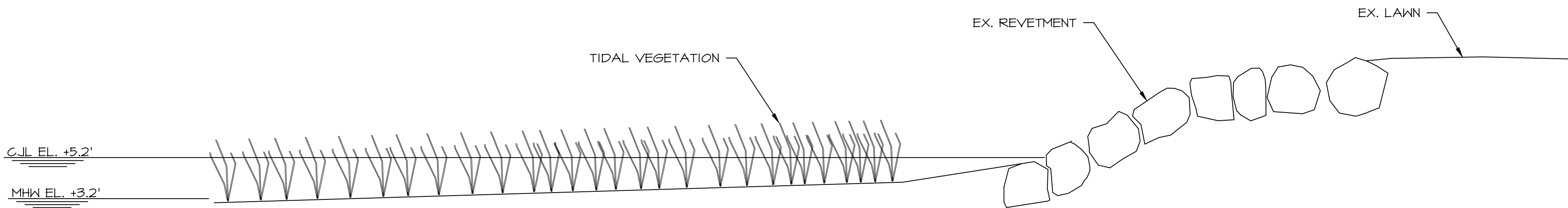
SECTIONS

Designed By: CGE      Date: 8/24/2018

Drawn By: CGE      Scale: As Noted

Checked By: DJS      Project Number: 2017085

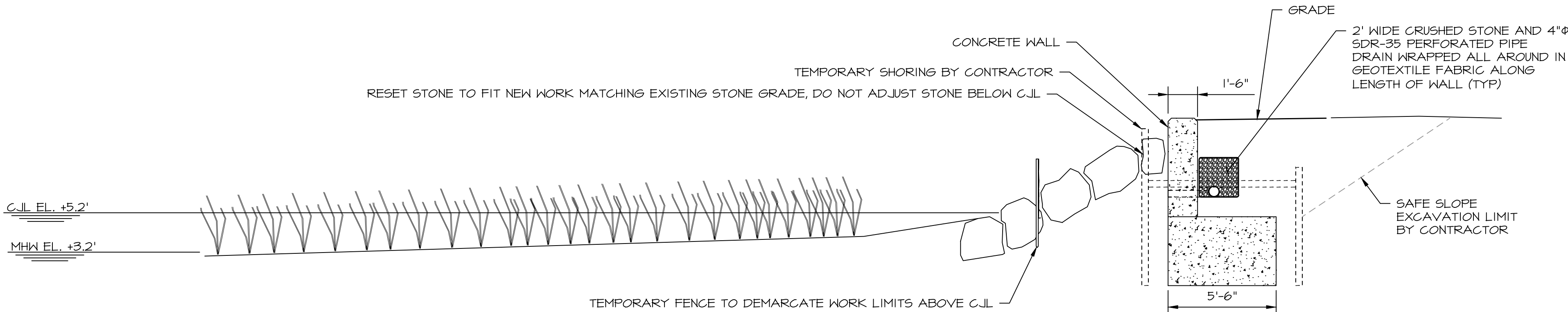
CAD File: 2018-05-16 DWG'S 01, 02, 04 - 08.DWG      Drawing No.: 6 of 7



EXISTING SECTION

SCALE: 1/4" = 1'-0"

1  
4



PROPOSED SECTION

SCALE: 1/4" = 1'-0"

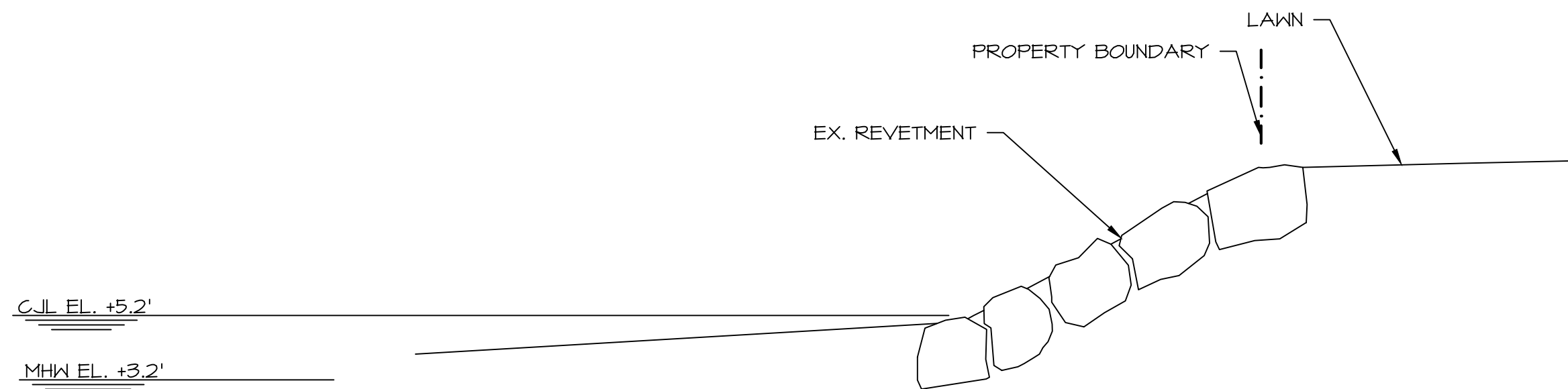
5  
5

NOTE:

1. CONCRETE REINFORCEMENT NOT SHOWN (TYP).

NOTE:

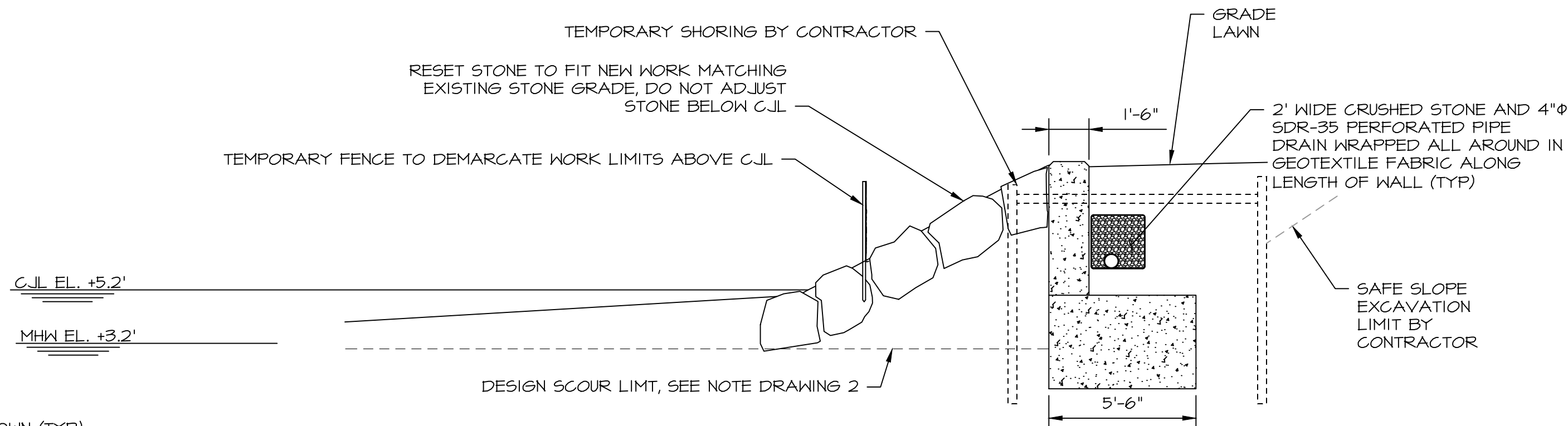
- CONCRETE REINFORCEMENT NOT SHOWN (TYP).
- CONDITIONS BELOW GRADE, INCLUDING REVETMENT NOT EXPLORED (TYP), AND ARE SHOWN BASED ON SURFACE CONDITIONS. REVETMENT STONES ARE SCHEMATIC.



### EXISTING SECTION

SCALE: 1/4" = 1'-0"

4  
4

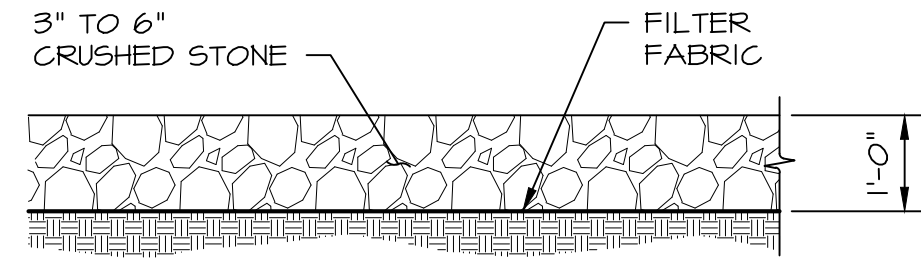


### PROPOSED SECTION

SCALE: 1/4" = 1'-0"

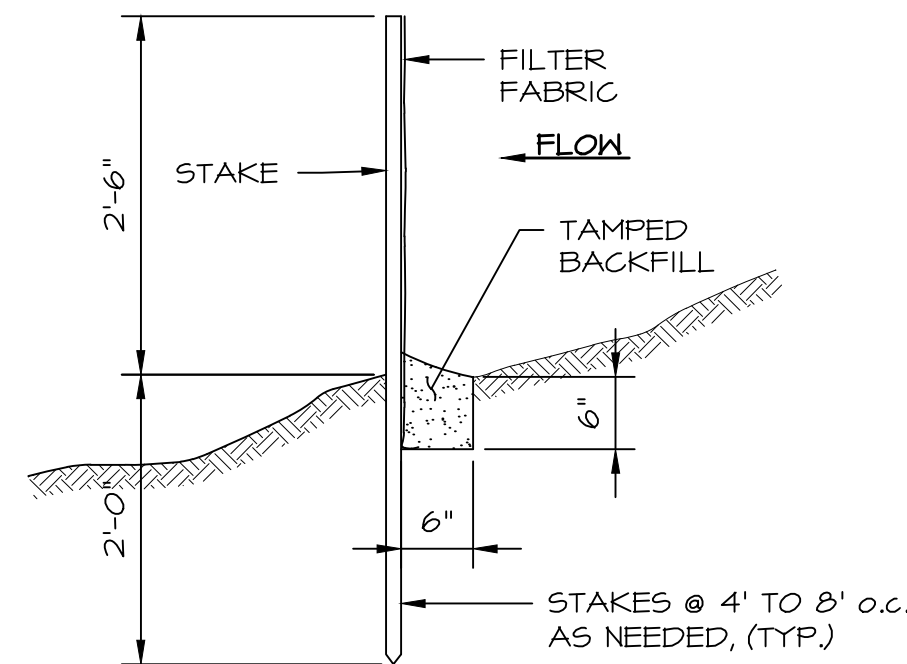
8  
5

- NOTE:**
1. CONCRETE REINFORCEMENT NOT SHOWN (TYP).
  2. CONDITIONS BELOW GRADE, INCLUDING REVETMENT NOT EXPLORED (TYP), AND ARE SHOWN BASED ON SURFACE CONDITIONS. REVETMENT STONES ARE SCHEMATIC.



### ANTI-TRACKING PAD SECTION

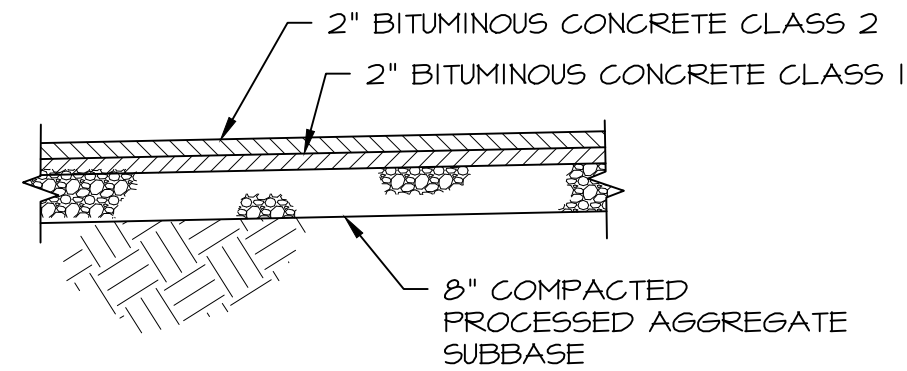
SCALE: 1/2"=1'-0"



- NOTES:**
1. SEE PROJECT NOTES FOR EROSION & SEDIMENT CONTROL REQUIREMENTS

### SILT FENCE DETAIL

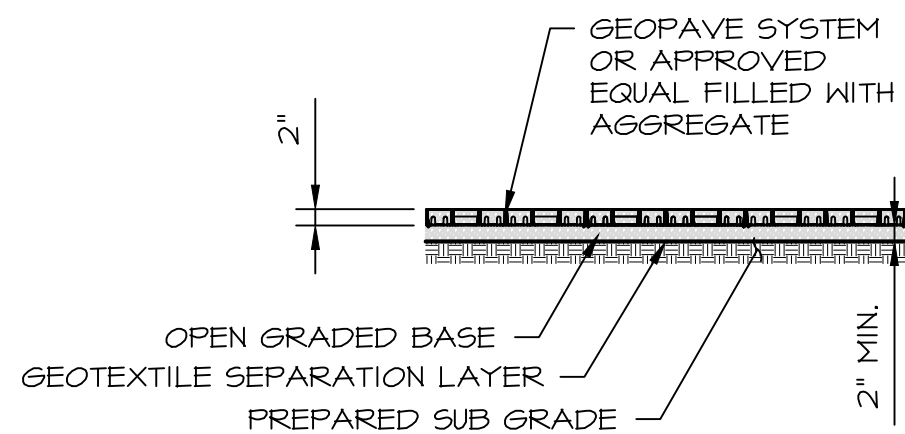
SCALE: 3/4"=1'-0"



- NOTE:**
1. PAVED AREAS DISTURBED DURING CONSTRUCTION SHALL BE REPLACED AS SHOWN. SAW CUT EDGE OF REPAIR AREAS.

### ASPHALT PAVEMENT DETAIL

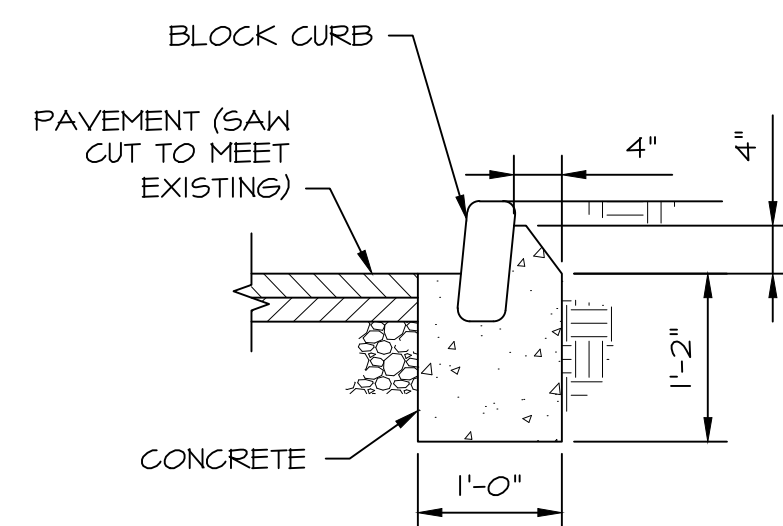
SCALE: 1/2"=1'-0"



- NOTES:**
1. AGGREGATE INFILL SHALL BE 0.375" TO 0.5" CRUSHED MATERIAL WITH FINE CONTENT LESS THAN 5%.
  2. A MINIMUM 2" OF AGGREGATE SHOULD BE PLACED BELOW THE UNITS TO ACT AS DRAINAGE LAYER AND INFILTRATION AREA.
  3. ADJOINING GEOPAVE UNITS SHALL BE SECURED TOGETHER USING U-CLIP CONNECTION DEVICE OR APPROVED EQUAL.

### PEA GRAVEL PARKING AREA DETAIL

SCALE: 1/2"=1'-0"



### BLOCK CURB DETAIL

SCALE: 3/4"=1'-0"

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PREPARED FOR:

BRIAN & KAREN MCMAHON  
1100 HARBOR ROAD  
SOUTHPORT, CT 06890

PROJECT:

1100 HARBOR ROAD  
WATERFRONT ACCESS  
IMPROVEMENT

DRAWING:

#### SECTIONS

Designed By:	CGE	Date:	8/24/2018
Drawn By:	CGE	Scale:	As Noted
Checked By:	DJS	Project Number:	2017085
CAD File:	2018-05-16 DWG05 01, 02, 04 - 08.DWG	Drawing No.:	7 of 7



## SECTION 6

# Report

January 18, 2019

Mr. Brian McMahon  
1100 Harbor Road  
Southport, CT 06890

Re: Review of CAM Policies and Goals  
Proposed Waterfront Access Improvement  
1101 Harbor Road, Fairfield, CT

Dear Mr. McMahon:

William Kenny Associates LLC (WKA) investigated the referenced property and reviewed project documentation to complete an inventory and assessment of existing and proposed site conditions as they relate to the Coastal Area Management Application to the Town of Fairfield Plan and Zoning Commission. This letter includes the methods and results of our work. In summary, we found that the proposed property activities are consistent with all applicable resource and use policies of the Connecticut Coastal Management Act [Connecticut General Statutes (CGS) sections 22a-90 through 22a-112, inclusive (CAM)]. As part of our evaluation we reviewed the following documents:

- The *Zoning Location Survey* prepared by The Huntington Company, LLC and last revised September 13, 2017.
- The *1101 Harbor Road Waterfront Access Improvements* plan set prepared by RACE Coastal Engineering, LLC and last revised January 9, 2019.

***Proposed Site Improvement Activities***

According to the *Improvements* plan set, the proposed project includes the establishment of deeded public open space, the construction of a seawall, public access easement, the installation of concrete steps and the modification of an existing fence. Site grading will be performed as part of the seawall construction. The property is mostly undeveloped with the exception of a boulder revetment, a low, concrete wall along the northeastern property boundary and a stone-paver parking area along the northwestern property boundary. Vegetation within the area of the proposed seawall, concrete steps and land grading is a mix of invasive and native vegetation, including tree of heaven, staghorn sumac, cherry, *Rosa rugosa*, common reed, porcelainberry, oriental bittersweet, poison ivy, cocklebur and mugwort. No threatened or endangered species listed by the state or federal governments were found within this area. The seawall and concrete

steps will be located in the central, northwestern and northeastern portions of the property, respectively. Site grading will be performed immediately north of the proposed seawall. The stone reventment will be restored following construction of the seawall. Harbor Road borders the northwestern property boundary. Southport Harbor borders the southeastern portion of the property and Long Island Sound is located approximately 700 feet south of the property.

No activities are proposed within critical coastal resources. All proposed improvements are located above the Coastal Jurisdiction Line, above Elevations 5.2. Below the Coastal Jurisdiction line, all land will be deeded to the Town of Fairfield as public open space. Though no erosion and sediment control measures are currently proposed since the proposed project design is preliminary, according to the project engineer, erosion and sediment control measures will be installed and maintained during construction to minimize the transport of eroded soils from the site. Construction sequencing will also be implemented to further mitigate impacts. Because the project does not include the addition of new impervious coverage and there will be no measurable changes in stormwater runoff volumes or rates, stormwater management measures are not proposed or warranted.

### ***Identification of Applicable Coastal Resources and Coastal Resource Policies***

The following table provides a list of CAM resources and policies. A check mark is placed adjacent to the resources and policies that are applicable to the project.

Coastal Resources	On-site	Adjacent	Off-site but within the influence of project	Not Applicable
General Coastal Resources - Definition: CGS § 22a-93(7); Policy: CGS Section 22a-92(a)(2)	✓	✓	✓	
Beaches & Dunes - Definition: CGS § 22a-93(7)(C); Policies: CGS §§ 22a-92-(b)(2)(C) and 22a-92(c)(1)(K)	✓	✓	✓	
Bluffs & Escarpments - Definition: CGS § 22a-93(7)(A); Policy: CGS Section 22a-92(b)(2)(A)				✓
Coastal Hazard Area - Definition: CGS § 22a-93(7)(H); Policies: CGS Sections 22a-92(a)(2), 22a-92(a)(5), 22a-92(b)(2)(F), 22a-92(b)(2)(J), and 22a-92(c)(2)(B)	✓	✓	✓	
Coastal Waters, Estuarine Embayments, Nearshore Waters, Offshore Waters - Definition: CGS § 22a-93(5), 22a-93(7)(G), and 22a-93(7)(K), and 22a-93(7)(L) respectively; Policies: CGS § 22a-92(a)(2) and 22a-92(c)(2)(A)	✓	✓	✓	
Developed Shorefront - Definition: CGS § 22a-93(7)(I); Policy: 22a-92(b)(2)(G)	✓	✓	✓	
Freshwater Wetlands and Watercourses - Definition: CGS § 22a-93(7)(F); Policy: CGS Section 22a-92(a)(2)				✓
Intertidal Flats - Definition: CGS § 22a-93(7)(D); Policies: 22a-92(b)(2)(D) and 22a-92(c)(1)(K)		✓	✓	

Coastal Resources	On-site	Adjacent	Off-site but within the influence of project	Not Applicable
Islands - Definition: CGS § 22a-93(7)(J); Policy: CGS § 22a-92(b)(2)(H)				✓
Rocky Shorefront - Definition: CGS § 22a-93(7)(B); Policy: CGS § 22a-92(b)(2)(B)	✓	✓	✓	
Shellfish Concentration Areas - Definition: CGS § 22a-93(7)(N); Policy: CGS § 22a-92(c)(1)(I)	✓	✓	✓	
Shorelands - Definition: CGS § 22a-93(7)(M); Policy: CGS § 22a-92(b)(2)(I)				✓
Tidal Wetlands - Definition: CGS § 22a-93(7)(E); Policies: CGS §§ 22a-92(a)(2), 22a-92(b)(2)(E), and 22a-92(c)(1)(B)	✓	✓	✓	

### ***Coastal Resources Location and Condition***

The location and condition of the coastal resources, which were noted in preceding table, are as follows:

- **Beaches & Dunes**: A beach is located in the southern portion of the property. The beach is approximately 1,200 square feet in size and is bordered by a low, concrete wall and stone revetment to the northeast and tidal wetland to the southwest.
- **Coastal Hazard Area**: The entire subject property falls within the Coastal Hazard Area, which at this property is Zone AE (12) as defined by the Federal Emergency Management Agency (FEMA).
- **Coastal Waters (Estuarine Embayments, Nearshore Waters, Offshore Waters)**: Long Island Sound is located south of the property and Southport Harbor abuts the property to the southeast. Long Island Sound includes Nearshore and Offshore Waters and Southport Harbor is both a Nearshore Water and an Estuarine Embayment.
- **Developed Shorefront**: The shore of the property to the northeast is developed with a stone revetment and a concrete seawall.
- **Intertidal Flats**: A narrow strip of Intertidal Flats are located southeast of the property along the shore of Southport Harbor.
- **Rocky Shorefront**: Exposed bedrock is present in the southern portion of the property within the tidal wetland as well as on the adjacent property to the southwest.
- **Shellfish Concentration Areas**: The Intertidal Flats and Tidal Wetlands provide habitat for shellfish such as ribbed mussels and eastern oysters. Because the shore is protected from more intense storm currents and waves due being within the mouth of Southport Harbor, the shellfish habitat is more vibrant than it would be along the open coast of Long Island Sound.
- **Estuarine Embayment**: Southport Harbor, a tidal watercourse, borders the southeastern property boundary.
- **Tidal Wetlands**: A low-marsh Tidal Wetland dominated by *Spartina alterniflora* is located in the central and southern portions of the property.

***Identification of Applicable Coastal Use and Activity Policies and Standards***

The following identify all coastal policies and standards in or referenced by CGS § 22a-92 applicable to the proposed project or activity:

Coastal Use Activity Policy and Standard	Applicable
General Development - CGS § 22a-92(a)(1), 22a-92(a)(2), and 22a-92(a)(9)	✓
Water-Dependent Uses - CGS § 22a-92(a)(3) and 22a-92(b)(1)(A); definition CGS § 22a-93(16)	✓
Ports and Harbors - CGS § 22a-92(b)(1)(C)	
Coastal Structures and Filling - CGS § 22a-92(b)(1)(D)	✓
Dredging and Navigation - CGS § 22a-92(c)(1)(C) and 22a-92(c)(1)(D)	
Boating - CGS § 22a-92(b)(1)(G)	✓
Fisheries - CGS Section 22a-92(c)(1)(I)	✓
Coastal Recreation and Access - CGS § 22a-92(a)(6), 22a-92(c)(1)(j) and 22a-92(c)(1)(K)	✓
Sewer and Water Lines - CGS § 22a-92(b)(1)(B)	
Fuel, Chemicals and Hazardous Materials - CGS § 22a-92(b)(1)(C), 22a-92(b)(1)(E) and 22a-92(c)(1)(A)	
Transportation - CGS § 22a-92(b)(1)(F), 22a-92(c)(1)(F), 22a-92(c)(1)(G), and 22a-92(c)(1)(H)	
Solid Waste - CGS § 22a-92(a)(2)	
Dams, Dikes and Reservoirs - CGS § 22a-92(a)(2)	
Cultural Resources - CGS § 22a-92(b)(1)(J)	
Open Space and Agricultural Lands - CGS § 22a-92(a)(2)	

***Consistency with Applicable Coastal Use Policies and Standards***

The proposed project is consistent with the applicable coastal use and activity policies and standards identified in the preceding table.

- **General Development**: In accordance with this policy and standard, the project is proposed in a manner that is consistent with the capability of the land and water resources to support development, preservation and use without significantly disrupting the natural environment or sound economic growth.
- **Water Dependent Uses**: In accordance with this policy and standard, the project is proposed in a manner that manages uses in the coastal boundary through existing municipal planning, zoning and other regulatory authorities. The property is currently, and will remain, undeveloped. Also, the project includes the expansion of public access through the creation of deeded public open space between the Coastal Jurisdiction Line and the Mean High Water mark.
- **Boating**: In accordance with this policy and standard, the project will protect recreational boating. The project will maintain opportunities for public recreational boating from the property in accordance with applicable laws as none of the proposed project activities will obstruct access to relevant coastal resources.
- **Fisheries**: In accordance with this policy and standard, the project will protect recreational fisheries. The project will maintain opportunities for public recreational fishing from the

property in accordance with applicable laws, as none of the proposed project activities will obstruct access to relevant coastal resources.

- Coastal Recreation and Access: In accordance with this policy and standard, the project will protect access to the coastal resources below the mean high water mark. This project will expand opportunities for coastal access and recreation in accordance with applicable laws, as existing private land south of the proposed seawall will be deeded public open space.

### ***Identification of Potential Adverse Impacts on Coastal Resources***

The following table provides a list of potential adverse impacts on coastal resources as defined in CGS § 22a-93(15). A check mark is placed adjacent to the potential impacts that are applicable to the project.

Potential Adverse Impacts on Coastal Resources	Applicable	Not Applicable
Degrading tidal wetlands, beaches and dunes, rocky shorefronts, and bluffs and escarpments through significant alteration of their natural characteristics or functions - CGS Section 22a-93(15)(H)		✓
Increasing the hazard of coastal flooding through significant alteration of shoreline configurations or bathymetry, particularly within high velocity flood zones - CGS Section 22a-93(15)(E)		✓
Degrading existing circulation patterns of coastal water through the significant alteration of patterns of tidal exchange or flushing rates, freshwater input, or existing basin characteristics and channel contours - CGS Section 22a-93(15)(B)		✓
Degrading natural or existing drainage patterns through the significant alteration of groundwater flow and recharge and volume of runoff - CGS Section 22a-93(15)(D)		✓
Degrading natural erosion patterns through the significant alteration of littoral transport of sediments in terms of deposition or source reduction - CGS Section 22a-93(15)(C)		✓
Degrading visual quality through significant alteration of the natural features of vistas and view points - CGS Section 22a-93(15)(F)		✓
Degrading water quality through the significant introduction into either coastal waters or groundwater supplies of suspended solids, nutrients, toxics, heavy metals or pathogens, or through the significant alteration of temperature, pH, dissolved oxygen or salinity - CGS Section 22a-93(15)(A)		✓

No project activities are proposed within coastal resources. Furthermore, according to the project engineer, because only the landward portion of the stone revetment will be removed to construct the proposed seawall, natural erosion patterns will not be significantly impacted. The proposed steps and other onsite coastal resources (approximately 0.05 acres) south of the waterside face of the proposed retaining wall will be deeded to the Town of Fairfield as public open space. Because the subject parcel is very small, gently sloped and the proposed site disturbance is very limited (approximately 0.03 acre), there is very little potential for short-term impacts to coastal resources during construction from soil erosion and sedimentation. Erosion and sedimentation control measures, in accordance with the 2002 *CT DEEP Soil Erosion and Sediment Control Manual*, will be installed prior to construction, which includes silt fencing and

an anti-tracking pad. Moreover, temporary shoring will be used to prevent excavation activities from extending below the coastal jurisdiction line. Construction sequencing will also be utilized; the retaining wall will be constructed first and then the adjacent land backfilled. These measures will ensure that adverse short-term impacts are prevented to the maximum extent possible. Lastly, the project is consistent with the Coastal Hazards Area Provision, as the project will not exacerbate flooding conditions and will not cause water quality impacts to coastal resources. As such, the proposed project will not result in significant adverse impacts to coastal resources.

### ***Identification of Potential Adverse Impacts on Water-Dependent Uses***

The following table provides a list of potential adverse impacts on coastal resources as defined in CGS § 22a-93(17). A check mark is placed adjacent to the potential impacts that are applicable to the project.

Potential Adverse Impacts on Future Water-dependent Development Opportunities and Activities	Applicable	Not Applicable
Locating a non-water-dependent use at a site physically suited for or planned for location of a water-dependent use - CGS Section 22a-93(17)		✓
Replacing an existing water-dependent use with a non-water-dependent use - CGS Section 22a-93(17)		✓
Siting a non-water-dependent use which would substantially reduce or inhibit existing public access to marine or tidal waters - CGS Section 22a-93(17)		✓

### ***Mitigation of Potential Adverse Impacts***

No activities are proposed within coastal resources and the project will install and maintain erosion and sediment controls in accordance with the *2002 CT DEEP Soil Erosion and Sediment Control Manual* to mitigate short-term adverse impacts. Furthermore, approximately 0.05 acres of private land, proposed steps and associated coastal resources south of the waterside face of the proposed retaining wall will be deeded to the Town of Fairfield as public open space, thus allowing for the preservation of and public access to this important coastal habitat. As such, no potential adverse impacts on coastal resources and/or future water-dependent development are anticipated.

### ***Remaining Adverse Impacts***

No remaining potential adverse impacts on coastal resources and/or future water-dependent development are anticipated.

Mr. Brian McMahon  
Re: Proposed Waterfront Access Improvement  
1101 Harbor Road, Fairfield, Connecticut

January 18, 2019  
Page 7

***Conclusions***

WKA completed a consistency review regarding the proposed waterfront access improvement at 1101 Harbor Road and the CAM and found the proposed project and CAM to be consistent. If you should have any questions or comments regarding this review or our conclusions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Kenny". The signature is fluid and cursive, with a large, stylized "W" and "K".

William L. Kenny, PWS, PLA  
Principal

*Ref. No.: 3776*



## SECTION 7

# Site Photographs

## Site Photographs

Site Photographs taken on September 27, 2017



Photograph 1: Project Site, Google Earth (04/22/2018)



Photograph 2: Project Site Viewed from Beach, Lower Wharf Park on Right



Photograph 3: Site Along Harbor Road



Photograph 4: Existing Beach and Stone Revetment Along Seawall







Photograph 5: Existing Revetment at Edge of Beach



Photograph 6: Existing Beach, Revetment, and Seawall





Photograph 7: Existing Revetment and Tidal Grass



Photograph 8: Existing Tidal Grass, Revetment and Dwelling in Background

## SECTION 8

# Coordination Letter

To Whom It May Concern,

We, 1110 Harbor Road, LLC, have been notified of the proposed improvements for public access including, reconstruction of the revetment into a wall at our neighbors' property to the north-east, located at 1101 Harbor Road, Southport, CT. The modifications to the existing revetment include reducing the amount of revetment stone and replacing the stone with a similar wall structure near and along our beach property and our existing wall.

We hereby support 1100 Harbor Road LLC's application for the proposed work depicted on drawings titled *1101 Harbor Road Waterfront Access Improvements* plan set prepared by RACE Coastal Engineering, LLC and dated August 24, 2018.

Sincerely,

By:  9/18/18  
Manager of Field DE Holdings I, LLC acting as  
Managing Member of 1110 Harbor Road, LLC

**SASQUANAUG**  
SOUTHPORT

• 1887 •

• *Connecting the Past with our Future* •

To: Fairfield Board of Selectmen

From: Jack Ijams, President of Sasquanaug

Subject: Proposed Land Donation and Seawall Construction at 1101 Harbor Road

Date: 5/21/19

Sasquanaug has been working with Mr. McMahon and concerned neighbors concerning this project. We have seen modifications to the plan and received representations from Mr. McMahon that lead us to offer qualified support for the proposed transaction **under the following conditions which we recommend to the Board be the conditions of any approvals you might make going forward:**

1. That the proposed new reinforced seawall meets Mr. McMahon's written representations to us and the community, specifically that:
  - a. the seawall is to be put in place under the existing ground and below grade.
  - b. the seawall will not be visible and not extend any higher than his current terrace,
  - c. the rip-rap now supporting his terrace will be put back in place to cover the new reinforced wall such that the reinforced seawall is not visible, and
  - d. the rip-rap will not extend towards the beach any further than it does at present.
2. Given that there is no drawing at present clearly reflecting Mr. McMahon's verbal and written representations to the neighbors as to the intended placement of the new sea wall, **a new drawing be created and approved by the Town and Sasquanaug showing the location of**



**the wall and the rip-rap plan that conforms to paragraphs 1(a) through 1(d) above.**

3. That the parcel being donated to the Town be subject to the same deed restrictions as presently in place for the adjacent Lower Wharf park.
4. That the deed restrictions from the existing 1995 easement agreement between the Lee family and the Town pertaining to the owner's use of his parcel be confirmed on the land records to continue on the portion of the land retained by Mr. McMahon, to be permanent and with Sasquanaug having standing to seek compliance if necessary.

The drawing produced by RACE after the TPZ hearing showing the wall on the new boundary with the Town does not reflect Mr. McMahon's representations which the neighbors have agreed to support, but rather extends the existing terrace seaward significantly and will end up occupying more of the existing beachfront and the proposed Town property.

The drawing by Huntington (in the Selectmen's Package) showing the proposed boundary line also shows the existing terrace, under the edge of which the wall should be placed.

Attached are emails from Mr. McMahon containing some of his representations to the community concerning these matters.

**With the conditions above met**, Mr. McMahon will be making a generous and important donation of property to the Town which should ensure public access to this small but wonderful strip of waterfront and the water beyond for generations to come.

Sincerely,

*Jack Ijams*

Jack Ijams

President

The Sasquanaug Association for Southport Improvement, Inc.

# Memorandum

**To:** Representative Town Meeting  
**From:** Mark Barnhart, Director of Community & Economic Development  
**Date:** 6/7/2019  
**Re:** Fairfield Community Theater

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I am presenting herein for your consideration an agreement to fix the assessment of the property at 1410 Post Road for a period of ten years in order to facilitate the redevelopment of the Fairfield Community Theater.

The Fairfield Community Theater has a long and storied history. The theater opened around 1920, first as a vaudeville stage and later as a cinema house. The theater saw extensive renovations in 1933 which added a balcony as well as the iconic art-deco marquee, and again in 1979 to add a second screen. It was last operated commercially by Loew's Cinemas, which ceased operations in May of 2001. The theater re-opened later that same year as an independent movie house run by a community non-profit. The theater showed primarily second-run films as well as limited distribution independent and classic films until its closure in September 2011. It has sat vacant ever since, despite repeated attempts to find a successor operator and/or purchaser of the property.

Kleban Properties has recently entered into an agreement to purchase the property and has further agreed to renovate the theater as a premiere performing arts, entertainment and educational venue to be leased to, and operated by Sacred Heart University (SHU). Kleban Properties has committed to investing at least \$4 million in renovating the theater and other space within the building, which does not include an additional sum that SHU is prepared to invest in leasehold improvements. In order to execute this plan, Kleban (doing business as the Fairfield Community Theater, LLC) has requested Town assistance in the form of a tax abatement. Additionally, Kleban hopes to raise an additional \$1 million through private fund-raising to defray other costs associated with the project. Kleban Properties expects to close on or before July 24, 2019, pursuant to the terms of the purchase and sale agreement.

Connecticut General Statutes 12-65b enables municipalities, through an affirmative vote by its legislative body, to enter into an agreement to fix the assessment of real property for a period of not more than ten years in order to incentivize private investment and redevelopment activities. This office has conferred with legal counsel, and the proposed use fits squarely within the Statute's expressed purpose. Under the terms of the proposed agreement, the Town would agree to fix the assessment for the first four years of the agreement, beginning with the October 1, 2019 grand list year, to zero dollars, and for the six years thereafter at the current assessment of \$1,821,820.

This office has consulted with the Tax Assessor regarding the fiscal impact of the proposed plan. Based on the current assessment of \$1,821,820, the property generated this past year roughly \$48,000 in taxes. The anticipated revenue loss associated with the proposed abatement over the ten year term is projected at \$420,765 compared to the status quo. Upon cessation of the tax abatement agreement, the Tax Assessor estimates that the property would generate approximately \$165,000 in annual taxes, based on an asset valuation of \$7 million, as improved. This represents a more than three-fold increase in annual tax revenues.

Additionally, Kleban Properties is asking to assume the lease for the outdoor dining area adjacent to the Old Post Tavern and for permission to make other improvements to Town property in front of the theater. The lease would offer the same general terms and conditions as is provided to the current operator to be revenue neutral to the Town. The proposed lease would also provide a three percent (3%) per year escalator. Regarding the town-owned property in front of the Theater itself, Kleban is requesting permission to install engraved brick pavers, to upgrade and/or replace the existing benches and to make other landscaped improvements to the area. Kleban would be required to secure all necessary permits and approvals to perform this work and provide evidence of insurance in accordance with Town requirements.

Since it closed nearly a decade ago, this office has met with countless theater operators, developers and civic-minded individuals in an effort to find a viable path forward to reopen this much-beloved theater. The anticipated acquisition and extensive renovation costs have proven to be a formidable barrier, especially when considering a theater or performance space end use. Renovation estimates have generally ranged from \$2.5-\$5 million. Meanwhile, the theater continues to deteriorate and weigh heavily on the community's psyche. Nevertheless, the theater continues to kindle interest and warm feelings from the community. A 2017 petition drive has generated over 7,000 signatures in support, and an earlier survey found strong support for preserving the space as a theater. The present proposal seemingly represents the best opportunity to restore the theater as a performing arts venue.

Some fifteen years ago, Town leaders had the foresight and vision to lease a vacant and under-utilized industrial building that the Town owned in the heart of the downtown to a nascent theater organization. There was considerable debate at the time regarding the best use of the property, but in the end the Town entered into a long-term lease arrangement with this group that was based more on a shared vision than a financial return. From this inauspicious start, the Fairfield Theater Company has evolved into one of the region's most energetic and productive performing arts venues, attracting fans from all over the East Coast and generating an economic impact that has been conservatively estimated at more than \$5 million annually. The Fairfield Community Theater has the potential to do likewise, further enhancing Fairfield's reputation as an arts and cultural hub.

## Information and Justification Regarding the Proposed Abatement Agreement

1. **BACKGROUND:** Kleban Properties has recently entered into an agreement to purchase the property at 1410 Post Road, which houses the former Fairfield Community Theater, as well as the Old Post Tavern and other retail and office space. Kleban has further agreed to renovate the long-shuttered theater as a premiere performing arts, entertainment and educational venue to be leased to, and operated by Sacred Heart University (SHU). Kleban Properties has committed to investing at least \$4 million in renovating the theater and other space within the building. Kleban (doing business as the Fairfield Community Theater, LLC) has requested Town assistance in the form of a tax abatement. Connecticut General Statutes 12-65b authorizes municipalities, through an affirmative vote by its legislative body, to enter into an agreement to fix the assessment of real property for a period of not more than ten years in order to incentivize private investment and redevelopment activities

2. **PURPOSE AND JUSTIFICATION:** The Community Theater has been vacant since 2011, and despite numerous inquiries, efforts to identify a successor operator, tenant and/or purchaser have proven unsuccessful thus far. The building requires extensive renovations given its age and overall condition. These expected renovation costs, as well as high purchase price, continue to pose a barrier to redevelopment. The proposed abatement is necessary to incentivize redevelopment of this cornerstone property in the heart of downtown Fairfield. The establishment of a new performing arts and entertainment venue at this location would be a boost to the downtown and provide a positive economic impact to Fairfield.

3. **DETAILED DESCRIPTION OF PROPOSAL:** Kleban Properties (doing business as The Fairfield Community Theater, LLC) is requesting that the Town: (a) fix the assessment of the property in accordance with CGS 12-65b, as further described in the draft abatement agreement; (b) lease the patio adjacent to the Old Post Tavern, which is presently leased to the restaurant for outdoor seasonal dining; and (c) grant permission to make certain limited improvements to town-owned property in front of the theater as defined in a license agreement. All future work would be subject to local approvals and permits.

4. **RELIABILITY OF ESTIMATED COSTS:** At present, the property generates approximately \$48,000 in annual real estate taxes based on the current assessment of \$1,821,820. The Tax Assessor has calculated the estimated revenue loss over the term of the agreement at \$420,765 as compared to the status quo.

5. **PAYBACK PERIOD:** Upon cessation of the tax abatement agreement, the Tax Assessor estimates that the property will generate approximately \$165,000 in annual taxes, based on an asset valuation of \$7 million, as improved. Based upon the net



increase in taxes, post-improvement, as compared to the existing condition, the Town would be able to recoup its investment within six years of the conclusion of the abatement term.

6. ADDITIONAL LONG RANGE COSTS: None anticipated.

7. ADDITIONAL USE OR DEMAND ON EXISTING FACILITIES: SHU has requested that the Town provide up to twenty parking spaces for its employees. The Town has a program that allows downtown businesses to purchase parking permits that enable the permit holder to park at designated parking lots during the work day, without time restriction, on a first-come, first served basis. The Town has agreed to make available parking permits to SHU employees just as it would any other downtown business.

8. ALTERNATES TO THIS REQUEST: The Town examined other means by which to incentivize redevelopment and provide tax relief as permitted by State law, but determined that the authority granted under CGS 12-65b most closely aligned with the purpose and intent of this project. See attached memorandum of law. The agreement is at the discretion of the Town, however. The Town could opt to continue its current approach in hopes that another purchaser/developer might be identified with a financially feasible plan that would not require Town assistance. Based on prior discussions, there is no guarantee that any such a plan would include preservation of the theater or other features of the building.

9. SAFETY AND LOSS CONTROL: Not Applicable

10. ENVIRONMENTAL CONSIDERATIONS: Not Applicable. The developer will remediate the building as part of the overall redevelopment project.

11. INSURANCE: Not Applicable. The Fairfield Community Theater, LLC will provide standard insurance and indemnification language in accordance with Town requirements.

12. FINANCING: Not Applicable. The agreement does not require an appropriation of Town funds.

13. OTHER CONSIDERATIONS: Not Applicable

14. OTHER APPROVALS: The Board of Selectmen reviewed and unanimously endorsed the plan at its meetings of 5/29 and 6/5. The proposed lease would be subject to a CGS 8-24 review by TPZ. The RTM must approve an agreement to fix the assessment on real property pursuant to CGS 12-65b.



**BERCHEM MOSES.COM**

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1221 POST ROAD EAST, SUITE 301  
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**MEMORANDUM OF LAW**

TO: Robert Mayer, CFO

CC: First Selectman Michael Tetreau  
Mark Barhhart, Director of Economic Development  
Stanton Lesser, Town Attorney

FROM: Mario Coppola, Esq.

RE: Potential Tax Abatement For New Development At Fairfield Community Theatre

DATE: May 23, 2019

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**I. ISSUE**

Is the Town of Fairfield authorized to provide property tax relief to a prospective purchaser of the Fairfield Community Theater (i.e. 1410 Post Road, Fairfield, CT) in order to facilitate the redevelopment of the long dormant property? If so, what would be the most practical form of tax abatement provided by Connecticut law?

**II. SHORT ANSWER**

State law gives municipalities the option of offering property tax exemptions, abatements, or fixed assessments for several specified reasons, including many business-related purposes. Presently, there are over twenty codified economic development tax incentives. The majority of

which, however, would not be applicable to the purchase, redevelopment and/or restoration of the Fairfield Community Theater.<sup>1</sup>

For the Town's purpose of facilitating a purchase, restoration and redevelopment of the Fairfield Community Theater, the most practical option would be entering into an agreement to fix the assessment of the subject property for a period of up to ten (10) years, as permitted under C.G.S. § 12-65b.

### **III. FACTUAL BACKGROUND**

The Fairfield Community Theater, located at 1410 Post Road, Fairfield, Connecticut, closed in 2011 and, to date, remains vacant. In addition to the vacant theater, the property contains retail and office space and a restaurant, the Old Post Tavern.

The Fairfield Community Theater was opened in the early 1920s as a vaudeville house. In 1929, the theater changed to an all film format. The theater was renovated in 1933 to include a balcony and a neon tubed Art Deco marquee. The theater is Fairfield's oldest extant movie theater and its design is typical of colonial revival theaters in Fairfield County, bearing resemblance to the New Canaan and Darien Playhouses.

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<sup>1</sup> C.G.S. § 12-127a provides that a Town may adopt an ordinance that provides for the abatement in whole or in part of taxes for structures of historical or architectural merit. Fairfield does not have an ordinance providing for such abatement. Even if Fairfield did adopt a narrowly tailored ordinance for the preservation of structures of historical and architectural significance, it is questionable whether the Fairfield Community Theatre would be able to qualify for such an abatement based upon the requirements set forth in C.G.S. § 12-127 (i.e., "it can be shown to the satisfaction of the municipality that the current level of taxation is a material factor which threatens the continued existence of the structure, necessitating either its demolition or remodeling in a manner which destroys the historical or architectural value...").

Connecticut law enables certain municipalities to establish business incentive zones, including *inter alia* enterprise zones and entertainment districts. However, the Town of Fairfield does not meet the narrow statutory criteria required to establish any of the nine business incentive zones authorized by Connecticut law. For example, to be eligible to establish an Enterprise Zone, a community must meet certain criteria related to social and economic conditions, including poverty rate (primary census tracts – at least 25%, secondary census tracts –at least 15%), unemployment rate (primary census tracts—2x the state average, secondary census tracts—at least 1.5x the state average) and population on public assistance (primary census tracts- at least 25%, secondary census tracts—at least 15%).

It is my understanding that the Town has investigated the condition of the Fairfield Community Theatre, reviewed and analyzed various options for its redevelopment and determined that it is only reasonable to assume that the Fairfield Community Theatre can be redeveloped for a continued theatre use that would be beneficial to the community if the Town was able to provide some reasonable amount of financial assistance such as the proposed tax abatement. It is anticipated that, post-development, the property would contain approximately 11,450 square feet of theater space, 4,279 square feet of rentable restaurant space, 1,085 square feet of retail space and 4,300 square feet of office space.

#### **IV. AGREEMENT TO FIX THE ASSESSMENT PURSUANT TO C.G.S. § 12-65b**

C.G.S. § 12-65b gives the Town the power to enter into a written agreement with any party owning or proposing to acquire an interest in real property in the Town. A copy of C.G.S. § 12-65b is attached hereto as **Exhibit A**. The property, all improvements on or in the property, and those improvements to be constructed on or in the property,<sup>2</sup> must be assessed pursuant to C.G.S. § 12-64. An agreement pursuant to C.G.S. § 12-65b must have the following components:

1. Written agreement between town and property owner/party acquiring an interest in property or lessee/proposed lessee.
2. Improvements on property must be for at least one of the following uses: (1) office; (2) retail; (3) permanent residential; (4) transient residential; (5) manufacturing; (6) warehouse, storage or distribution; (7) structured multilevel parking necessary in connection with a mass transit system; (8) information technology; (9) recreation facilities; (10) transportation facilities; or (11) mixed-use development, as defined in

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<sup>2</sup> For purposes of this section, “improvements to be constructed” includes the rehabilitation of existing structures for retail business use.

section 8-13m;<sup>3</sup> or (12) use by or on behalf of a health system, as defined in section 19-508c.

3. Maximum term of fixed assessment is 10 years.
4. Legislative body approval necessary.

I believe that the proposed uses for the Fairfield Community Theatre property should be eligible for an agreement to fix the assessment under C.G.S. § 12-65b. Office and retail uses are specifically stated as eligible uses under subsection (b) of § 12-65b. Subsection (b) of § 12-65b also states that a “recreational use” is eligible and a theatre use would qualify as a recreational use. Title 12 of the General Statutes does not define “recreation facilities.”<sup>4</sup> While the term “recreation facilities” is undefined by 12-65b, the term “*recreation project*” is clearly defined elsewhere in the Connecticut General Statutes (in Title 32 under “Commerce and Economic and Community Development”) to include a “theatre.” Specifically, C.G.S. § 32-23d defines “recreation project” as “any project which is to be primarily available for the use of the general public including without limitation stadiums, sports complexes, amusement parks, museums, *theaters*, civic, concert, cultural and exhibition centers, centers for the visual and performing arts, hotels, motels, resorts, inns and other public lodging accommodations....” C.G.S. § 32-23d(x) (emphasis added). In addition to the fact that the definition of “recreation project” elsewhere in the Connecticut General Statutes includes a theatre use, we should take a common

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<sup>3</sup> C.G.S. § 8-13m defines “mixed-use development” as “a development containing one or more multifamily or single-family dwelling units and one or more commercial, public, institutional, retail, office or industrial uses. Conn. Gen. Stat. § 8-13m (13). The redevelopment of 1410 Post Road, Fairfield, CT would not qualify as a “mixed-use development” due to the lack of residential dwelling units.

<sup>4</sup> The term “recreation facilities” was added to C.G.S. § 12-65b by PA 98-207. PA 98-207 was introduced at the request of the Town of West Haven which sought to make improvements to the stadium that housed the West Haven Ravens.



sense approach and assume that most people would consider a theatre use (whether performing or attending a performance) to be a recreational use.

The proposed agreement to fix the assessment for the Fairfield Community Theatre must be approved by the Town's legislative body (i.e. the RTM). I suggest that the Board of Selectman also considers the agreement.

# EXHIBIT A

Connecticut General Statutes Annotated  
Title 12. Taxation (Refs & Annos)  
Chapter 203. Property Tax Assessment (Refs & Annos)

C.G.S.A. § 12-65b

§ 12-65b. Agreements between municipality and owner or lessee of real property or air space fixing the assessment of such property or air space

Effective: October 1, 2016

[Currentness](#)

(a) Any municipality may, by affirmative vote of its legislative body, enter into a written agreement, for a period of not more than ten years, with any party owning or proposing to acquire an interest in real property in such municipality, or with any party owning or proposing to acquire an interest in air space in such municipality, or with any party who is the lessee of, or who proposes to be the lessee of, air space in such municipality in such a manner that the air space leased or proposed to be leased shall be assessed to the lessee pursuant to [section 12-64](#), fixing the assessment of the real property or air space which is the subject of the agreement, and all improvements thereon or therein and to be constructed thereon or therein, subject to the provisions of subsection (b) of this section. For purposes of this section, "improvements to be constructed" includes the rehabilitation of existing structures for retail business use.

(b) The provisions of subsection (a) of this section shall only apply if the improvements are for at least one of the following: (1) Office use; (2) retail use; (3) permanent residential use in connection with a residential property consisting of four or more dwelling units; (4) transient residential use in connection with a residential property consisting of four or more dwelling units; (5) manufacturing use; (6) warehouse, storage or distribution use; (7) structured multilevel parking use necessary in connection with a mass transit system; (8) information technology; (9) recreation facilities; (10) transportation facilities; (11) mixed-use development, as defined in [section 8-13m](#); or (12) use by or on behalf of a health system, as defined in [section 19a-508c](#).

**Credits**

(1971, P.A. 471, §§ 1, 2; 1973, P.A. 73-477; 1975, P.A. 75-575, § 1, eff. July 7, 1975; 1977 P.A. 77-138, § 1, eff. May 12, 1977; 1977 P.A. 77-586, § 2, eff. July 5, 1977; 1979, P.A. 79-78, § 1, eff. May 3, 1979; 1982, P.A. 82-414, § 1, eff. June 7, 1982; 1985, P.A. 85-573, § 1; 1990, P.A. 90-219, § 13; 1992, May Sp.Sess., P.A. 92-15, § 4; 1994, P.A. 94-157, § 3; 1997, P.A. 97-235, § 1, eff. June 24, 1997; 1998, P.A. 98-207; 2001, P.A. 01-125, § 1; 2003, P.A. 03-19, § 25, eff. May 12, 2003; 2013, P.A. 13-246, § 1; 2014, P.A. 14-174, § 5; 2015, June Sp.Sess., P.A. 15-5, § 240, eff. June 30, 2015; 2016, May Sp.Sess., P.A. 16-3, § 32.)

C. G. S. A. § 12-65b, CT ST § 12-65b

The statutes and Constitution are current through General Statutes of Connecticut, Revision of 1958, Revised to January 1, 2019.

## **TAX ABATEMENT AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of June, 2019, by and between **FAIRFIELD COMMUNITY THEATER, LLC**, a Connecticut limited liability company having an address of 1189 Post Road, Fairfield, Connecticut 06824 (hereinafter, "**FCT, LLC**"), and the **TOWN OF FAIRFIELD** (hereinafter, the "**Town**"), a municipal corporation duly established under the laws of the State of Connecticut and located in the County of Fairfield, acting herein by MICHAEL C. TETREAU, its First Selectman, duly authorized.

### **RECITALS**

WHEREAS, Section 12-65b, as amended, of the Connecticut General Statutes ("**C.G.S.**") provides, inter alia, that any municipality may enter into written agreements fixing the assessment of real property with any party proposing to acquire an interest in such real property and all improvements thereon, and to be constructed thereon, and which are constructed for certain uses which include office, retail and recreation facilities; and

WHEREAS, David D. Pollack Associates, LLC ("**Pollack**") is the owner of that certain land and all improvements thereon situated in the Town of Fairfield, County of Fairfield and State of Connecticut, known as **1410 Post Road** and more particularly described in **Schedule A** attached hereto and made a part hereof (the "**Property**"); and

WHEREAS, the Property is comprised of office, retail and restaurant space and contains a vacant 11,450 square foot movie theatre known as the Fairfield Community Theatre (the "**Theatre**"); and

WHEREAS, FCT, LLC has agreed to purchase the Property from Pollack and to rehabilitate, renovate and redevelop the Property to include, amongst other improvements, upgraded retail, office and restaurant space and a premier arts and education facility to be leased to Sacred Heart University (the "**Redevelopment Project**"); and

WHEREAS, Pollack and FCT, LLC have entered into that certain Purchase and Sales Agreement dated April 25, 2019 (the "**Purchase Agreement**") setting forth the terms upon which said Property will be sold and conveyed by Pollack to FCT, LLC; and

WHEREAS, the Redevelopment Project will be beneficial to the Town and the adaptive reuse of the Theatre is desirable; and

WHEREAS, FCT, LLC intends to, and shall, invest not less than Four Million Dollars (\$4,000,000.00) in the Redevelopment Project; and

WHEREAS, the use of the Property for office, retail and recreation facilities will comply with the requirements of C.G.S. § 12-65b for providing the tax abatement set forth herein, as amended; and

WHEREAS, the Town reviewed certain records and documentation provided by FCT, LLC, which demonstrated that it is necessary for the Town to enter this Agreement fixing the assessment of the Premises in such amount and for the period described in more detail in Section 1 of this Agreement (the “Tax Abatement”) in order to induce FCT, LLC to make the significant investment to purchase the Property and fund the necessary costs to renovate, rehabilitate and redevelop the Property as proposed.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. FIXED ASSESSMENT PERIOD:

Subject to the terms and conditions set forth below, FCT, LLC shall receive a partial tax abatement for real property taxes with respect to the Property for period that shall cover ten (10) consecutive fiscal years commencing with the fiscal year of the Town for the Grand List of October 1, 2019 and continuing through and including the fiscal year of the Town for the Grand List of October 1, 2028 (the “Fixed Assessment Period”).

2. THE FIXED ASSESSMENT AND TAX ABATEMENT:

The real property tax assessment on the Property shall be determined in the following manner:

- A. The assessment of the Property on the **October 1, 2019, October 1, 2020, October 1, 2021 and October 1, 2022** Grand List years during the Fixed Assessment Period shall be set and fixed in such an amount and in such a manner so that the Property shall be liable for taxation at the fixed assessment of **Zero Dollars (\$0.00)**.
- B. The assessment of the Property on the **October 1, 2023, October 1, 2024, October 1, 2025, October 1, 2026, October 1, 2027 and October 1, 2028** Grand List years during the Fixed Assessment Period shall be set and fixed in such an amount and in such a manner so that the Property shall be liable for taxation at the fixed assessment of **One Million Eight Hundred Twenty-One Thousand Eight Hundred Twenty and 00/100 Dollars (\$1,821,820.00)** (based upon a fair market valuation of \$2,602,600.00).
- C. The fixed assessments for the Property on the October 1, 2019 to October 1, 2028 Grand List years as set forth above in Section 1(A)(B) shall not be increased based upon any new construction completed during the Fixed Assessment Period which would otherwise be further assessed in accordance with C.G.S. § 12-53a.

3. FIXED ASSESSMENT FOR REAL PROPERTY ONLY

FCT, LLC and the Town agree that this Agreement shall cover only the real property tax assessment of the Property during the Fixed Assessment Period and shall not affect any other assessment, including, but not limited to, the assessment of personal property, sewer assessment



and sewer use fees or any other municipal tax, fees, assessments, levies or other charges whatsoever that may apply to the Property or to the Redevelopment Project.

4. CONDEMNATION:

In the event the Property, or any part thereof, or any estate therein, is taken by condemnation or eminent domain during the Fixed Assessment Period, the applicable fixed assessment specified in Section 1 shall be adjusted to reflect the diminution of value arising out of said taking in the manner provided by state and local laws and ordinances.

5. FIRE OR OTHER CASUALTY:

In the event the Property, or any part thereof, or any estate therein, is damaged or destroyed by fire or other casualty during said Fixed Assessment Period, the applicable fixed assessment shall be adjusted to reflect the diminution of value arising out of said fire or other casualty in the manner provided by state and local laws and ordinances.

6. VALUATION:

As a further consideration and inducement for the Town to enter into this Agreement, FCT, LLC agrees to accept as correct the Fixed Assessment value placed upon the Property by the Town's Tax Assessor and waives the right to appeal the valuation by the Town's Tax Assessor pursuant to the C.G.S. §§ 12-117a and/or 12-119 for the Fixed Assessment Period. This acceptance and waiver shall cease upon the expiration of this Agreement.

7. FAILURE TO PAY TAXES:

If FCT, LLC fails to make the required real estate tax payment to the Town on or before the last day of the month in which such real estate taxes are due, and such failure shall continue for more than ten (10) business days following written notice delivered to FCT, LLC by the Town referencing this Agreement, then the Town may terminate this Agreement upon delivery of written notice and, upon FCT, LLC's receipt of notice, the full amount of the tax, including accrued interest, that would otherwise be due shall immediately become due and payable.

8. FCT, LLC's PERFORMANCE OBLIGATIONS

FCT, LLC acknowledges that the Town was induced into providing FCT, LLC with the Tax Abatement to make the significant investment to purchase the Property and fund the necessary costs to renovate, rehabilitate and redevelop the Property as proposed. FCT, LLC agrees that in consideration for the Tax Abatement, FCT, LLC is obligated to: (i) spend at least a total of four million dollars (\$4,000,000) in soft and hard costs to complete the Redevelopment Project, not including any costs to acquire the Property; and (ii) the Property must be developed pursuant to the above definition of the Redevelopment Project, which provides that it must include an upgraded retail, office and restaurant space and a premier arts and education facility to be leased to Sacred Heart University. Within thirty (30) days after FCT, LLC obtains its certificate(s) of occupancy for the Redevelopment Project, FCT, LLC must provide the Town

with written evidence of the funds that it expended to complete the Redevelopment Project, which should include a detailed financial report and receipts for payments. At any other time during the Fixed Assessment Period before the Redevelopment Project is completed, the Town shall have the right to make written request to FCT, LLC for an update as to the funds that it has expended to date for the Redevelopment Project, and FCT, LLC shall be obligated to provide the Town with a written response within no less than fifteen (15) days from the date of its receipt of the Town's request.

9. TERMINATION:

This Agreement shall terminate automatically and immediately without any further action by either party upon the end of the Fixed Assessment Period or earlier in the event any one or more of the following occurs without the prior written approval of the Town: 1) the Property or any portion thereof is transferred without the Town's prior written consent; 2) FCT, LLC is found to be in breach hereunder after failure to cure within the applicable notice time permitted herein; 3) the Property is utilized for any use other than as contemplated by the Redevelopment Project as described above; or 4) FCT, LLC has completed the Redevelopment Project and it expended less than four million dollars (\$4,000,000) to complete the Redevelopment Project. In the event of the termination of this Agreement pursuant to this section, the Fixed Assessment shall be null and void and any resulting taxes which otherwise would have been due and payable on any, and all, Grand List years, commencing with the Grand List of October 1, 2019, shall be due and payable within thirty (30) days.

10. ASSIGNABILITY; BINDING EFFECT:

FCT, LLC may not assign this Agreement without the prior written consent of the Town, which consent shall be a condition precedent to the continuation of the remainder of the Fixed Assessment, if any, and the waiver of Paragraph 8 of the Agreement. In the event it is so assigned, this Agreement shall inure to the benefit of and bind the parties hereto and their respective successors and assigns. FCT, LLC recognizes and agrees that if the Property is transferred without the Town's prior written consent, this Agreement shall terminate automatically and immediately without any further action by either party.

11. DOCUMENTS:

The parties agree that such documents consistent with the terms of this Agreement which may be necessary and appropriate to execute the terms of this Agreement shall be provided upon written request of the other party and within a reasonable time, but in no event shall the operation of this provision impose any additional obligation upon any party other than those provided for in this Agreement.

12. DULY AUTHORIZED:

This Agreement shall be approved by an affirmative vote of the legislative body of the Town in accordance with C.G.S. § 12-65b, as amended, and by the duly authorized managing member(s) or manager(s) of FCT, LLC; and resolutions evidencing said approvals, certified by

the Town Clerk of the Town and by the managing member(s) or manager(s) of FCT, LLC, shall be provided at the time of delivery of executed originals of this Agreement.

13. AMENDMENTS:

This Agreement may not be modified or amended except by a writing signed by both parties.

14. PARAGRAPH HEADINGS:

The paragraph headings in this Agreement are for convenience and for reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

15. SEVERABILITY:

A ruling by any court or administrative body that a portion of this Agreement is invalid or unconstitutional shall have no effect on the other terms hereof which shall remain in full force and effect and binding on the parties.

16. APPLICABLE LAW:

This Agreement shall be interpreted and enforced in accordance with the laws of the State of Connecticut.

*{This space intentionally left blank. The next page is the signature page.}*

IN WITNESS WHEREOF, the parties have executed this Agreement and affixed their seals hereto, as of the day first above mentioned.

TOWN OF FAIRFIELD

By: \_\_\_\_\_

Hon. Michael C. Tetreau

Its: First Selectman

FAIRFIELD COMMUNITY THEATER, LLC

By: \_\_\_\_\_

Name: Kenneth Kleban

Its:

**SCHEDULE A**  
**PROPERTY DESCRIPTION**

All that certain piece or parcel of land, together with the buildings and improvements located thereon, situated in the Town and County of Fairfield and State of Connecticut, being shown on a certain map entitled "Property of Fishman Theatres Inc., Fairfield, Connecticut", dated May 1, 1936 and on file in the Fairfield Town Clerk's Office as Map No. 736, to which map reference is hereby made, said premises being bounded and described as follows:

- NORTHERLY: by land now or formerly of Annie L. Saum, as shown on said map, 201.45 feet, more or less;
- EASTERLY: by Unquowa Road, as shown on said map, 116.05 feet, more or less;
- SOUTHERLY: by the Boston Post Road, as shown on said map, 116.82 feet, more or less;
- WESTERLY: by land now or formerly of Claire A. Dietrich, as shown on said map 104.33 feet;
- SOUTHERLY  
AGAIN: by land now or formerly of Claire A. Dietrich, as shown on said map, 28.22 feet;
- WESTERLY  
AGAIN: by Sanford Avenue, as shown on said map, 32.30 feet.

Excepting therefrom, however, such portions of said premises as may have been taken for the improvements of the Boston Post Road and Unquowa Road and shown on Map No. 459-2, 3308-1 and Map No. 3940, and set forth in Notice of Taking recorded in Volume 456, page 357, and Notice of Modification of Unquowa Road Lay-out as recorded in Volume 539, page 367.



## Projected Fixed Assessment Tax Loss 1410 Post Road

### As is with Projected change after 2020 revaluation

Year	GL Year	Assessment	Taxes	
1	2019	1,821,820	48,806.56	
<b>2</b>	<b>2020</b>	<b>2,646,000</b>	<b>72,304.07</b>	Revaluation
3	2021	2,646,000	73,750.15	
4	2022	2,646,000	75,225.15	
5	2023	2,646,000	76,729.65	
6	2024	2,646,000	78,264.25	
<b>7</b>	<b>2025</b>	<b>2,698,920</b>	<b>81,426.12</b>	Revaluation
8	2026	2,698,920	83,054.65	
9	2027	2,698,920	84,715.74	
10	2028	2,698,920	86,410.05	

**10 Year Total            760,686.38**

### Projected Taxes with Fixed Assessment for 10 Years

Year	GL Year	Assessment	Taxes	
1	2019	1,821,820		
<b>2</b>	<b>2020</b>	<b>2,646,000</b>		Revaluation
3	2021	2,646,000		
4	2022	2,646,000		
5	2023	1,821,820	53,886.38	
6	2024	1,821,820	54,964.11	
<b>7</b>	<b>2025</b>	<b>1,821,820</b>	<b>56,063.39</b>	Revaluation
8	2026	1,821,820	57,184.66	
9	2027	1,821,820	58,328.35	
10	2028	1,821,820	59,494.92	

**10 Year Total            339,921.83**

## Projected Fixed Assessment Tax Loss 1410 Post Road

### Projected Taxes with Proposed Improvements

Year	GL Year	Assessment	Taxes	
1	2019	1,821,820	49,782.69	
2	2020	4,900,000	136,574.35	Revaluation
3	2021	4,900,000	139,305.84	
4	2022	4,900,000	142,091.95	
5	2023	4,900,000	144,933.79	
6	2024	4,900,000	147,832.47	
7	2025	4,998,000	153,804.90	Revaluation
8	2026	4,998,000	156,881.00	
9	2027	4,998,000	160,018.62	
10	2028	4,998,000	163,218.99	
11	2029	4,998,000	166,483.37	

### Summary

10 year taxes As-Is	760,686
10 year taxes proposed	339,922
Cost - As-Is less Fixed Assessment	420,765

Projected As-Is Year 11 taxes	88,138
Projected Year 11 Taxes	166,483
Potential gain in Taxes Year 11	78,345

#### Comments:

This estimation relies on data from the developer to develop the future estimate of value. It should be understood that estimating the value and taxes through 2 revaluations 10 budget cycles can not be considered highly accurate.

#### Assumptions:

2020 Value is based on 2017 Income and Expense Data, Market Data and Developer supplied projections.

Tax increase 2% per year.

2025 Revaluation increase to value of 2%.

# LEASE

This Agreement made as of the       day of June, 2019, by and between THE TOWN OF FAIRFIELD, care of Accounting Department, Independence Hall, Fairfield, Connecticut 06824 (hereinafter called "Lessor"), and FAIRFIELD COMMUNITY THEATER, LLC, a Connecticut limited liability company with an office at 1418 Post Road, Fairfield, CT 06824 (hereinafter called "Lessee").

WITNESSETH:

## 1. Grant and Term, Rent.

A. Grant. Lessor, for and in consideration of the covenants and agreements hereinafter set forth and the rent hereinafter reserved, has, and does hereby lease, unto the Lessee, the space located in the northwest corner of the Post Road and Unquowa Road owned by the Town of Fairfield comprising approximately 560 square feet and abutting the property known as 1418 Post Road, Fairfield, Connecticut, as shown on Exhibit "A" attached hereto and made a part hereof (hereinafter the "Demised Premises").

## B. Term. Options to Renew.

(1) The Initial Term of this lease shall commence July 1, 2019 and shall end June 30, 2039. all commencement and ending dates inclusive.

(2) At the end of the initial term of this lease, and at the end of each succeeding Option Term, provided that Lessee is not in material default of any of the terms contained herein, this Lease shall automatically be renewed for three (3) successive ten (10) year terms. Said renewals shall be upon the same terms and conditions contained herein, and shall be upon the rent as hereinbelow provided. In the event Lessee does not wish to exercise any option term, Lessee shall give written notice of intent not to extend to Lessor at the address herein provided, not later than six (6) months prior to the expiration of a given term. In the event Lessee elects not to extend for a particular term, the lease shall expire at the end of said term, Lessee shall vacate the premises as provided herein, and Lessee shall have no further rights to this Lease, or to the Premises.

C. Rent. The rent for said premises shall be, for the months May through October, 2019 ("Summer Term"), Two Thousand (\$2,000.00) Dollars per month and for the months November, 2019 through April, 2020 ("Winter Term"), Two hundred fifty (\$250.00) Dollars per month, without demand, setoff or deductions of any kind payable in advance on the first day of each month during the Term, to and at the office of the Accounting Department, Independence Hall, Fairfield, Connecticut 06824 or at such other place or to such other person, firm or

corporation as Lessor may from time to time designate in writing. Any rent payment that is not received within 10 days of the date it is due shall incur a late fee of \$25 per month for each month it remains unpaid in whole or in part. Notwithstanding anything to the contrary contained in this lease, the rent for each year after the first year, including the rent for all option terms, shall be increased by Three (3%) percent over the rent for the preceeding years.

## 2. Purpose.

Lessee shall occupy the Premises during the Summer Term for seasonal outdoor dining during regular business hours in connection with a Restaurant which the Premises abuts. During the Winter Term there shall be no tables, chairs, heaters, or any other amenities, except that ashtrays may be provided. In addition, no food or drink may be consumed on the Demised premises during the Winter Term. The foregoing notwithstanding, in the event Lessee obtains all necessary approvals from the Town of Fairfield, including but not limited to Zoning, Building Department and Health Department permits, Lessee may enclose the premises during the Winter Term for use as additional dining area.

## 3. Care of the Premises.

(a) Lessee has examined the Demised Premises, and accepts them in their present condition and without any representations on the part of the Lessor or its agents as to the present or future condition of the Demised Premises. Lessee shall keep the Demised Premises in good condition and repair.

(b) Lessee shall quit and surrender the Demised Premises at the end of the Term in as good condition as the reasonable use thereof will permit. Lessee further agrees to keep the Demised Premises, as well as the sidewalks surrounding the Demised Premises, in a clean and sanitary condition and free from trash, inflammable material and other objectionable matter.

## 4. Negative Covenants.

A. Lessee shall not make any alterations, installations, changes, replacements, additions, or improvements, structural or otherwise, in or to the Demised Premises or any part thereof, except as otherwise provided herein, without the prior written consent of Lessor, which consent shall not be unreasonably withheld. Any alterations, installations, changes, replacements, additions, or improvements, structural or otherwise shall be in conformance with all statutes, rules and regulations of any Federal, State and municipal government or authority and any permits, licenses or other approvals required in connection therewith shall be obtained at the sole cost and expense of Lessee.

(b) Lessee shall not install or operate on the Demised Premises any electrically operated equipment or other machinery, in violation of any applicable building code, fire code or other applicable law, if any.

5. Mechanic's Liens. In the event that any mechanics' lien for materials or labor is filed against the Demised Premises as a result of any alterations, installations, changes, replacements, additions or improvements made by Lessee, Lessee shall within thirty (30) days after notice from Lessor discharge said lien. If Lessee fails to discharge said lien within said thirty (30) day period, Lessor, at its option, may terminate this Lease and/or pay the said lien, without inquiring into the validity thereof, and Lessee shall forthwith reimburse Lessor the total expense incurred by Lessor in discharging the lien.

6. Right of Inspection and Repair. Lessee shall allow Lessor, upon twenty-four (24) hours notice, except in the case of emergency, to examine or inspect the Demised Premises or to protect the same or prevent damage or injury to the same.

7. Liability. All personal property of Lessee on the Demised Premises shall be at the sole risk of Lessee. Lessor shall not be responsible for the loss of or damage to property, or injury to persons, occurring on the Demised Premises, by reason of any existing or future condition, defect, matter or thing on the Demised Premises, or for the acts, omissions or negligence of other persons on the Demised Premises. Lessee shall indemnify and save Lessor harmless from all claims and liability for losses or damage to property, or injuries to persons occurring on the Demised Premises including reasonable attorney's fees.

8. Remedies. Except as otherwise provided herein, if Lessee shall fail to pay the Rent or any installment thereof as aforesaid at the time the same shall become due and payable, and if the same shall remain in default for ten (10) days after due; or if Lessee shall violate or fail or neglect to keep and perform any of the covenants, conditions, and agreements contained in this Lease on the part of Lessee to be kept and performed, then, and upon each and every such event and at all times thereafter, at option of Lessor, Lessee's right of possession shall thereupon cease and terminate and Lessor shall be entitled to possession of Demised Premises and to reenter the same without notice to quit or demand of rent or demand of possession, and Lessor or its agents shall have the right to and may enter the Demised Premises as the agent of Lessee, either by force or otherwise, without being liable for any prosecution or damages therefor, and all rights of Lessee to repossess the Demised Premises under this Lease shall be forfeited. Such reentry by Lessor shall not operate to release Lessee from any rent to be paid or covenant to be performed hereunder during the Term of the Lease. Lessee agrees to pay, as additional rent, reasonable attorneys' fees and other reasonable expenses incurred by Lessor in enforcing any of the obligations under this Lease. No provision of this Lease shall be deemed to have been waived by Lessor unless such waiver shall be in writing signed by Lessor. No payment by Lessee or receipt by Lessor of a lesser amount than the monthly installments of Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to



Lessor's right to recover the balance of such Rent or pursue any other remedy in this Lease provided.

9. Damage or Destruction.

(a) In the event of the destruction of the Demised Premises or the Restaurant by fire, explosion, the elements or otherwise during the Term, or previous thereto, or such partial destruction of the Demised Premises or the Restaurant as to render the Demised Premises or the Restaurant wholly untenable or unfit for occupancy, or should the Demised Premises or the be so badly injured that the same cannot be repaired within ninety (90) days from the happening of such injury, then, in any such case, the Term hereby created shall cease and become null and void from the date of such damage and destruction, and the Lessee shall immediately surrender the Demised Premises and all Lessee's interest therein to Lessor, and shall pay Rent only to the time of such surrender, in which event Lessor may reenter and repossess the Demised Premises thus discharged from this Lease.

(b) If the Demised Premises or the are rendered untenable and unfit for occupancy but are repairable within ninety (90) days from the happening of said injury, Lessee may elect to repair the same with reasonable speed, and the Rent shall not accrue after said injury or while repairs are being made, but shall recommence immediately after said repairs shall be completed. In the event Lessee does not elect to repair the Demised Premises or the pursuant to this Paragraph 9(b), this Lease shall terminate pursuant to Paragraph 9(a) above.

(c) Lessee shall immediately notify Lessor in case of fire or other damage to the Demised Premises or the Restaurant . No compensation, or claim, or diminution of Rent will be allowed or paid by Lessee by reason of inconvenience, annoyance or injury to business arising from the necessity of repairing the Demised Premises or the Restaurant.

10. Condemnation.

(a) Lessee agrees that if the whole Demised Premises or any part or all of the Restaurant, or any substantial portion thereof which renders the Demised Premises untenable shall be taken or condemned for public or quasi public use or purpose by any competent authority, then at the option of either party, this Lease shall terminate from date of such taking or condemnation, and Lessee shall have no claim against Lessor for the value of any unexpired term of this Lease. In the event of a taking, Lessee shall not have any claim or rights to any portion of the amount that may be awarded as damages or paid as a result of any condemnation of the Demised Premises other than Lessee's right to recover moving expenses and an award for Lessee's business fixtures from the condemning authority (or Lessor if same be awarded Lessor) and all other rights of Lessee to damages, if any, are hereby assigned by Lessee to Lessor.

(b) If only a portion of the Demised Premises or the Restaurant is taken by condemnation, and neither party has given notice that this Lease is terminated, then this Lease shall remain in full force and effect except that on the date such condemnation or taking is effected the Rent set forth in Paragraph 1 above shall be reduced by an amount that is in the same ratio to the Rent as the total number of square feet in the Demised Premises taken bears to the total number of square feet in the Demised Premises immediately prior to the Taking.

11. Notices. Any notice which under the terms of this Lease or under any statute must or may be given shall be in writing and shall be deemed to have been given when deposited in the United States mails and sent registered mail, return receipt requested, postage prepaid, addressed to the respective addresses of the parties hereinafter given. Either party may designate by notice in writing a new or other address to which such notice or demand shall be given. Said notices shall be addressed as follows until otherwise designated in writing:

As to Lessor:

Accounting Department  
Independence Hall  
Fairfield, Connecticut 06824

With a copy to:

Stanton H. Lesser, Esq.  
Town Attorney  
One Eliot Place  
Fairfield, CT 06824

As to Lessee:

Fairfield Community Theater, LLC  
1189 Post Road  
Fairfield, CT 06824

With a copy to:

12. Quiet Enjoyment. Upon Lessee paying the rent and observing and performing all the terms, covenants and conditions on Lessee's part to be observed and performed, Lessee may peaceably and quietly enjoy the Demised Premises free from any interference, molestation

or acts of Lessor, or of anyone claiming by, through or under Lessor, subject, nevertheless, to the terms and conditions of this Lease and to any ground lease, underlying lease and mortgages.

13. Force Majeure. Neither party shall be liable or in default hereunder if such party is unable or fails to fulfill or is delayed in fulfilling any of its obligations hereunder, including, without limitation, any obligations hereunder, but excluding Lessee's obligations to pay Rent, by reason of fire or other casualty, strikes or labor troubles, governmental pre-emption in connection with a national emergency, shortage of supplies or materials, or by reason of any rule, order or regulation of any governmental authority, or by reason of the condition of supply and demand affected by war or other emergency, or any other cause beyond its control. Such inability or delay by either party in fulfilling any of its obligations hereunder shall not affect, impair or excuse the other party hereto from the performance of any of the terms, covenants, conditions, limitations, provisions or agreements hereunder on its part to be performed, nor result in any abatement of rents payable hereunder.

14. Indemnity and Insurance.

(a) Disclaimer of Liability: Lessor shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Lessee's construction, maintenance, repair, use, operation, condition or dismantling of the Premises.

(b) Indemnification: Lessee shall, at its sole cost and expense, indemnify and hold harmless Lessor and all associated, affiliated, allied and subsidiary entities of Lessor, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as "Indemnitees"), from and against:

i. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of Lessee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Premises or the Lessee's failure to comply with any federal, state or local statute, ordinance or regulation.

ii. Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or

asserted against the Indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to Lessee, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Premises, and, upon the written request of Lessor, Lessee shall cause such claim or lien covering Lessor's property to be discharged or bonded within thirty (30) days following such request.

iii. Lessee's obligation to indemnify Indemnitees under this Lease shall extend to claims, losses, and other matters covered hereunder that are caused or contributed to by the negligence of one or more Indemnitees.

(c) Assumption of Risk: Lessee undertakes and assumes for its officers, agents, affiliates, contractors and subcontractors and employees (collectively "Lessee" for the purpose of this section), all risk of dangerous conditions, if any, on or about the Owned Premises, and Lessee hereby agrees to indemnify and hold harmless the Indemnitees against and from any claim asserted or liability imposed upon the Indemnitees for personal injury or property damage to any person (other than from Indemnitee's, gross negligence) arising out of the Lessee's installation, operation, maintenance, condition or use of the Premises or Lessee's failure to comply with any federal, state or local statute, ordinance or regulation.

(d) Defense of Indemnitees: In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, Lessee shall, upon notice from any of the Indemnitees, at Lessee's sole cost and expense, resist and defend the same with legal counsel mutually selected by Lessee and Lessor; provided however, that Lessee shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of Lessor and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Lessee.

(e) Notice, Cooperation and Expenses: Lessor shall give Lessee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this paragraph. Nothing herein shall be deemed to prevent Lessor from cooperating with Lessee and participating in the defense of any litigation by Lessor's own counsel. Lessee shall pay all expenses incurred by Lessor in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by the Lessor's attorney, and the actual expenses of Lessor's agents, employees or expert witnesses, and disbursements and liabilities assumed by Lessor in connection with such suits, actions or proceedings but shall not include attorneys' fees for services that are unnecessarily duplicative of services provided Lessor by Lessee.

If Lessee requests Lessor to assist it in such defense then Lessee shall pay all expenses incurred by Lessor in response thereto, including defending itself with regard to any

such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the costs of any services rendered by the Lessor's attorney, and the actual expenses of Lessor's agents, employees or expert witnesses, and disbursements and liabilities assumed by Lessor in connection with such suits, actions or proceedings.

(f) Insurance: During the term of the Lease, Lessee shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance:

i. Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of One Hundred Thousand Dollars (\$100,000) for each accident.

ii. Comprehensive commercial general liability insurance with minimum limits of One Million Dollars (\$1,000,000) as the combined single limit for each occurrence of bodily injury, personal injury and property damage and Two Million Dollars (\$2,000,000) in the aggregate.

iii. All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claims made basis.

iv. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

(g) Named Insureds: All policies, except for worker's compensation policies, shall name Lessor and all associated, affiliated, allied and subsidiary entities of Lessor, now existing or hereafter created, and their respective officers, boards, commissions, employees, agents and contractors, as their respective interests may appear as additional insureds (herein referred to as the "Additional Insureds"). Each policy which is to be endorsed to add Additional Insureds hereunder, shall contain cross-liability wording, as follows:

"In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder."

(h) Evidence of Insurance: Certificates of insurance for each insurance policy required to be obtained by Lessee in compliance with this paragraph, along with written evidence of payment of required premiums shall be filed and maintained with Lessor annually



during the term of the Lease. Lessee shall immediately advise Lessor of any claim or litigation that may result in liability to Lessor.

(i) Cancellation of Policies of Insurance: All insurance policies maintained pursuant to this Lease shall contain the following endorsement:

“At least sixty (60) days prior written notice shall be given to Lessor by the insurer of any intention not to renew such policy or to cancel, replace or materially alter same, such notice to be given by registered mail to the parties named in this paragraph of the Lease.”

(j) Insurance Companies: All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Connecticut or surplus line carriers on the State of Connecticut Insurance Commissioner’s approved list of companies qualified to do business in State of Connecticut. All insurance carriers and surplus line carriers shall be rated A+ or better by A.M. Best Company.

(k) Deductibles: All insurance policies may be written with deductibles, not to exceed \$50,000 unless approved in advance by Lessor. Lessee agrees to indemnify and save harmless Lessor, the Indemnitees and Additional Insureds from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Lease.

15. Assignment and Subletting. Lessee shall not voluntarily, involuntarily or by operation of law, assign, transfer, mortgage or otherwise encumber all or any part of Lessee's interest in this Lease or in the Demised Premises or sublet the whole or any part of the Demised Premises without first obtaining in each and every instance the prior written consent of Lessor, and provided that in the event of any assignment or subletting, the assignee or sublettee shall also succeed to the possession and occupancy of the and provided said assignment or subletting is not in violation of any permit or approval required by federal, state or municipal law for the operation of the Demised Premises for the purpose set forth in Paragraph 3 above. The consent by Lessor to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. Payment of rentals due hereunder by any party other than the Lessee named herein shall not be deemed to act as a consent to the assignment of this Lease or the subletting of the whole or any part of the Demised Premises to such party nor relieve Lessee of its obligations to pay the rent provided for in this Lease. In the event Lessor consents to an assignment of the Lease, Lessee agrees to continue at all times to be bound by the provisions and responsible for the faithful performance of all terms contained in this Lease. Notwithstanding anything to the contrary contained herein, Lessor reserves the right, in Lessor’s absolute discretion, to withhold consent to an assignment where the assignee intends to use the Premises for any purpose other than dining area in conjunction with the abutting restaurant.

16. Successors and Assigns. All rights, obligations and liabilities herein given to or imposed upon the respective parties hereto shall extend to and bind the several and respective heirs, executors, administrators, successors and assigns of said parties.

17. Miscellaneous Provisions.

(a) The captions of the paragraphs of this Lease are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

(b) Printed parts of this Lease shall be as binding upon the parties hereto as the other parts hereof. Parts of this Lease which are written or typewritten shall have no greater force or effect than and shall control parts which are printed, but all parts shall be given equal effect.

(c) Any provision or provisions of this Lease which shall prove to be invalid, void or illegal shall in no way effect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

d) This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

(d) This Lease shall not be effective nor binding upon Lessor until it has been approved by the Fairfield Board of Selectmen and Representative Town Meeting.

IN WITNESS WHEREOF, the parties have herunto set their hands and seals, as of the Day of April , 2015.

THE TOWN OF FAIRFIELD

By: \_\_\_\_\_  
Its First Selectman

Lessor

FAIRFIELD COMMUNITY THEATER, LLC

By: \_\_\_\_\_  
Its

Lessee

## LICENSE AND ACCESS AGREEMENT

THIS LICENSE AND ACCESS AGREEMENT (this “License”) is made and entered into as of the \_\_\_ day of \_\_\_\_\_ 2019, by and between the TOWN OF FAIRFIELD, a Connecticut municipality, with a mailing address at 725 Old Post Road, Fairfield, CT 06824 (“Licensor”), and FAIRFIELD COMMUNITY THEATER, LLC, a Connecticut limited liability Licensee having an address at 1189 Post Road, Fairfield, CT 06824 (the “Licensee” and/or the “Licensee”).

WHEREAS, Licensee is or will be the owner of a certain parcel of land, with the buildings and improvements thereon, known as 1410 Post Road, Fairfield, Connecticut, which building is situated on the corner of The Post Road (U.S. Route 1) and Unquowa Road; and

WHEREAS, Licensor is the owner of a certain parcel of land abutting Licensee’s building along Unquowa Road, which parcel is shown and designated on a certain Map entitled, ... which map is attached hereto as “Exhibit A” and made a part hereof (the “Property”); and

WHEREAS, Licensee desires to obtain a license from Licensor to utilize the Property for the uses and purposes set forth in this agreement (the “Activities”); and

WHEREAS, Licensor deems it in its best interest to grant said License, and is willing to grant such License, provided the parameters and conditions for performance of the Activities shall be in accordance with the provisions hereof.

NOW, THEREFORE, in consideration of the above-stated premises, the mutual promises and covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Licensor hereby grants to Licensee this License to enter upon the Property for the purpose of performing the Activities on the following terms and conditions:

1. This License shall take effect as of the date Licensee takes title to 1410 Post Road, Fairfield, Connecticut (the “Effective Date”) and shall continue until a date which is fifty (50) years from the Effective Date, (the “Termination Date”), unless sooner terminated in accordance with the provisions contained in this License. At all times Licensee (and its contractors, consultants, agents, employees and authorized representatives) shall have unrestricted access to and across the Property and Licensee’s use of the Property pursuant to this License shall be allowed twenty-four (24) hours per day each day, so long as this License remains in effect.

The following Activities shall be permitted on the Property:

- a. Creation by Licensee of a garden area.
- b. Installation of sidewalk paving stones inscribed with the names of donors.
- c. Installation of outdoor lighting fixtures.

Prior to performing any work on the Property, Licensee shall obtain, at Licensee's expense, all permits and approvals required by such governmental bodies having jurisdiction over the Property and the work to be performed thereon. Licensor shall cooperate with Licensee in filing applications for all required permits. All work performed on the Property, and the use of the Property by Licensee, shall be in compliance with all applicable Federal, State of Connecticut and Town of Fairfield laws, codes, and other requirements.

2. Licensee shall be responsible, at Licensees sole cost and expense for all upkeep and maintenance of the Property, including, but not limited to, snow and ice removal. Licensee agrees that with regard to the Property, it shall comply with the provisions of, and be responsible for, breaches of any and all obligations imposed upon property owners by the provisions of Section 91-2 of the Code of Ordinances of the Town of Fairfield, as the same may be amended from time to time.

3. Except as otherwise provided in this License, Licensee accepts the condition of the Property on an "AS IS" basis without any obligation on the part of Licensor to prepare the Property prior to Licensee's entering and performing the Activities as permitted hereunder. It is expressly understood that no representations have been made by Licensor as to the safety of the Property and that Licensee agrees and, except as otherwise provided herein, hereby does accept all risk of loss, damage, or injury to persons or property which is caused by Licensee's entry and use of the Property pursuant to this License.

4. Licensor represents that it has the full right and authority to grant this License to Licensee in accordance with the terms hereof; all action necessary to authorize the execution of this License has been taken; the individual executing and delivering this License on behalf of the Licensor has been authorized to do so; and such execution and delivery shall bind the Licensor. Licensee shall be responsible to obtain all required approvals and permits in connection with the Activities.

5. Without limiting its liability under this license, Licensee shall provide and maintain in full force and effect at all times during the term of this license, minimum scope and limits of insurance coverage as specified in Exhibit B: Town of Fairfield Insurance Requirements. Licensee shall provide to Licensor such documentation of insurance coverage as Licensor may reasonably require. Notices are to be delivered in accordance to each policy provisions.

6. Licensee acknowledges and agrees that Licensor, its employees and contractors, and members of the public shall have the right to enter upon the Property at all times during the term of this License, provided that such access shall in no event interfere with Licensee's use and enjoyment of the rights and privileges granted herein.

7. Licensee agrees to and does hereby indemnify and hold Licensor harmless from and against any and all third-party claims, demands, suits, losses or liabilities (including

reasonable attorneys' fees and costs of defense) arising from injuries to person or damage to property to the extent the same are proximately caused by the Activities performed by Licensee and/or Licensee's presence upon the Property pursuant to this License.

8. Notices and communications regarding this License shall be addressed and delivered as set forth below. In order to facilitate communications, the Licensor and the Licensee each appoint a representative to be the person to whom all and concerns regarding this License shall be directed. If a party elects to replace its representative, such change shall be communicated and confirmed in writing.

Representative for the Licensor:

First Selectman  
Town of Fairfield  
Sullivan Independence Hall  
725 Old Post Road  
Fairfield, CT 06824  
203-256-3030  
[m.tetreau@fairfieldct.org](mailto:m.tetreau@fairfieldct.org)

Representative for the Licensee:

Fairfield Community Theater, LLC  
1189 Post Road  
Fairfield, CT 06824

9. This License shall be governed by and construed in accordance with the internal laws of the State of Connecticut.

10. No terms, conditions, prior courses of dealing, courses of performance, usages of trade, understandings, agreements or other documents purporting to modify, vary, supplement or explain any provision of this License shall be effective and none shall be binding unless in writing, signed by duly authorized representatives of both parties, and specifically stating that such writing is intended to modify this License.

11. In the event Licensor determines that it needs to widen Unquowa Road, and thereby reduce the area of the Property, Licensee hereby relinquishes any and all claims it may have against Licensor for damages resulting from any diminishment in the area of the Property.

12. This License may be executed by each of the parties hereto in separate counterparts, each of which, when taken together, shall constitute one and the same License. Facsimile or scanned transmission of any signed original document, and retransmission of any signed facsimile or scanned transmission, shall be the same as delivery of an original. At the request of any party, the parties shall confirm facsimile or scan transmitted signatures by signing an original document.

13. In the event the Licensee determines in its good faith discretion that this License is no longer necessary or desirable, the Licensee shall have the right to terminate this License upon thirty (30) days' written notice to Licensor. In such event Licensee shall, at the discretion of Licensor, remove all items installed by Licensee and restore the premises to the condition prior to the granting of this license.

14. This License shall be binding upon the parties hereto, and the respective successors, assigns, heirs, and legal representatives of the parties hereto. Prior to any transfer, sale, or lease of the Building abutting the Property by the Licensee to any other party, Licensee shall notify Licensor to ensure that such transferee, buyer or lessee acknowledges and accepts an assignment of this License.

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective hands and seals as of the Effective Date.

LICENSOR:

\_\_\_\_\_

LICENSEE:

FAIRFIELD COMMUNITY THEATER LLC

By: \_\_\_\_\_

Name:

Title:

Hereunto Duly Authorized

By: \_\_\_\_\_

Name:

Title:



## Exhibit: Town of Fairfield Insurance Requirements

Without limiting its liability under this License, the Company shall provide and maintain in full force and effect at all times during the term of this License, minimum scope and limits of insurance coverage as follows:

### **Worker's Compensation Insurance:**

- In accordance with the requirements of the laws of the State of Connecticut.
- Five hundred thousand dollars (\$500,000) Employer Liability each accident
- Five hundred thousand dollars (\$500,000) Employer Liability each employee by disease
- Five hundred thousand dollars (\$500,000) Employer Liability policy limit coverage for disease

### **Commercial General Liability:**

- Bodily Injury, Personal Injury, Property Damage, one million dollars (\$1,000,000) each occurrence, two million dollars (\$2,000,000) aggregate.

### **Automobile Liability:**

- A combined single limit of one million dollars (\$1,000,000), including owned, hired and non-owned coverage and rider CA9948 or equivalent.

### **Excess Liability Insurance**

- Five million dollars (\$5,000,000) each occurrence, five million dollars (\$5,000,000) aggregate. Such coverage must be follow form over Worker's Compensation, Commercial General Liability and Automobile Liability.

### **Pollution Liability:**

- One million dollars (\$1,000,000) each occurrence, one million dollars (\$1,000,000) aggregate.

**Acceptability of Insurers:** The Company's policies shall be written by insurance companies licensed to do business in the State of Connecticut, with a A.M. Best rating of A- VIII or otherwise acceptable by the Licensor's Risk Manager.

**Subcontractors:** The Company shall require subcontractors to provide the same "minimum scope and limits of insurance" as required herein.

**Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention must be declared to, and approved by, the Licensor. All deductibles or self-insured retentions are the sole responsibility of the Company to pay and/or to indemnify. Under no circumstances will the Licensor be responsible for paying any deductible or self-insured retentions related to this License.

**Notice of Cancellation or Non-renewal:** Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after 30 days prior written notice by certified mail, return receipt requested, has been given to the Licensor, (provided ten (10) days' prior written notice shall be sufficient in the case of termination for nonpayment).

**Waiver of Subrogation:** A waiver of subrogation in favor of the Licensor is required on all policies.

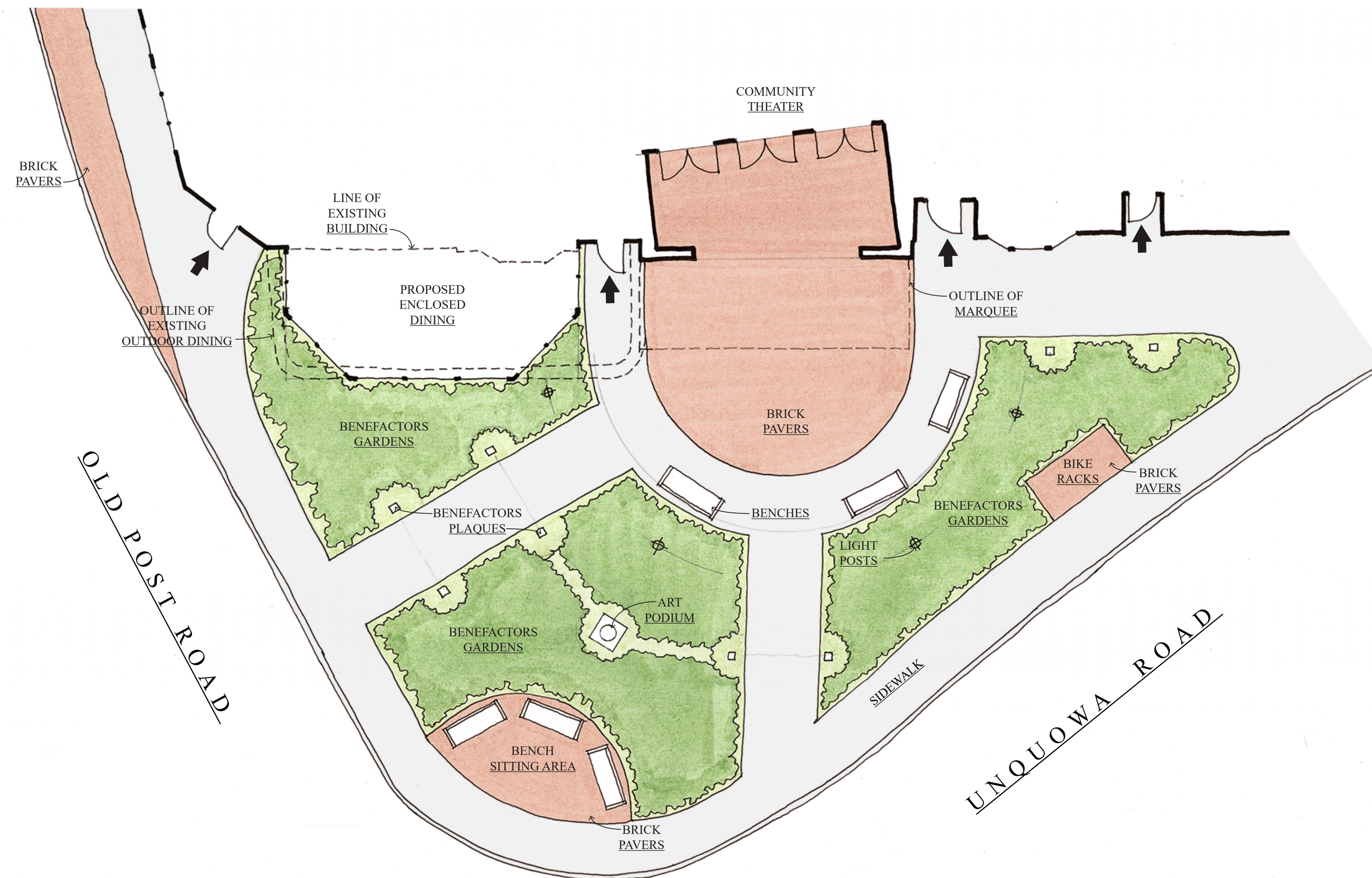
**Waiver/Estoppel:** Neither approval by the Licensor nor failure to disapprove the insurance furnished by the Company shall relieve the Company of the Company's full responsibility to provide insurance as required under this License.

**Company's Insurance Additional Remedy:** Compliance with the insurance requirements of this License shall not limit the liability of the Company or its Sub-Contractors/Firms, employees or agents to the Licensor or others. Any remedy provided to the Licensor shall be in addition to, and not in lieu of, any other remedy available under this License or otherwise.

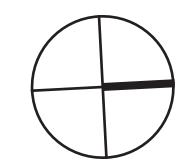
**Certificate of Insurance:** As evidence of the insurance coverage required by this License, the Company shall furnish Certificate(s) of Insurance to the Licensor's Risk Manager prior to the Company's use or access granted under this License. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insured (or Loss Payees). The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. Renewals of expiring certificates shall be filed thirty (30) days prior to expiration.

All insurance documents required should be mailed to Town of Fairfield, Chief Financial Officer, 725 Old Post Road, Fairfield, CT 06824 and Town of Fairfield, Risk Manager, 725 Old Post Road, Fairfield, CT 06824.





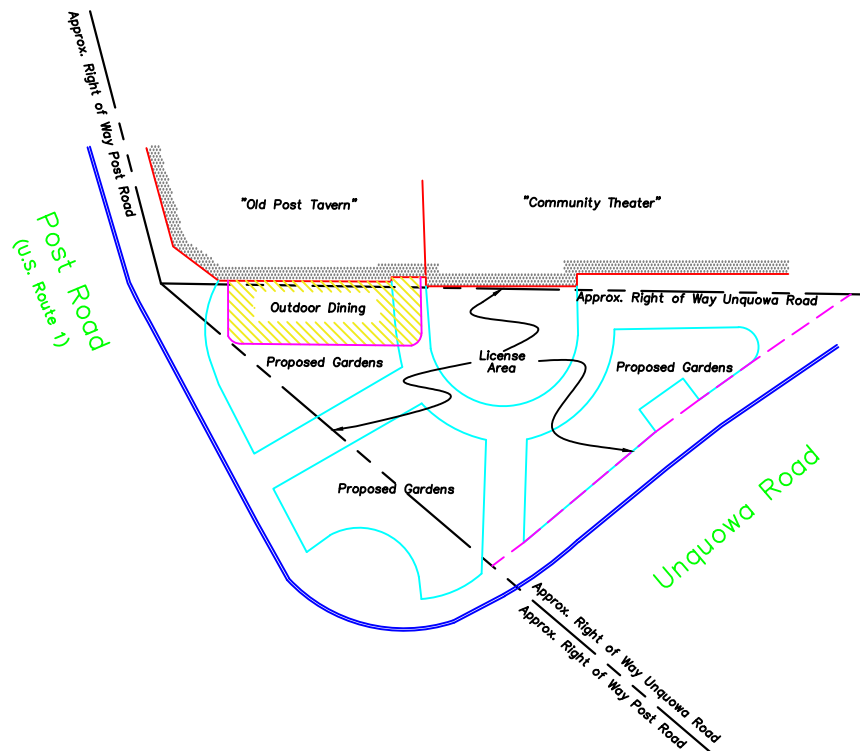
COMMUNITY THEATER PLAZA PLAN  
SCALE: 1/8" = 1'-0"



DESIGN 1

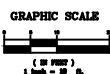
NOTE: this drawing is the property of the architect and has been prepared specifically for the owner for this project at this site and is not to be used for any other purpose, location or owner without the written consent of the architect.	
PROPOSED RENOVATIONS FOR: COMMUNITY THEATER FAIRFIELD CENTER, FAIRFIELD, CT	
MARK P. FINLAY ARCHITECTS, AIA	DRAWN BY: MF JV
	DATE: 05/24/19
96 OLD POST ROAD, SOUTHPORT, CT 06890 203-254-2388	JOB NO.: 1911
COMMUNITY THEATER PLAZA PLAN	DRG NO.: 1





## NOTES

1. A) THIS MAP HAS BEEN PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES, SECTIONS 20-300b-2 THROUGH 20-300b-20 AND THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 28, 1996.
- B) THE TYPE OF SURVEY PERFORMED IS A COMPILATION PLAN AND IS INTENDED TO REFLECT THE LICENSE AGREEMENT AND THE OUTDOOR DINING AREA LOCATED AT 1410 POST ROAD FAIRFIELD, CT AS THEY RELATE TO EXISTING BUILDINGS AND THE APPROXIMATE RIGHT OF WAYS OF POST ROAD AND UNQUOWA ROAD.
- C) THE SURVEY CONFORMS TO HORIZONTAL ACCURACY CLASS D AND DOES NOT PRESENT A PROPERTY BOUNDARY OPINION.
- D) NORTH ARROW DEPICTED HEREON IS APPROXIMATE.
2. REFERENCE IS MADE TO THE FOLLOWING MAPS:  
"STATE OF CONNECTICUT RIGHT OF WAY MAP, TOWN OF FAIRFIELD, BOSTON POST ROAD" PROJECT NUMBER 563-A, SHEET 2A OF 4, SCALE 1"=40' AND APPROVED DECEMBER 27, 1996.  
"TOWN OF FAIRFIELD DEPARTMENT OF PUBLIC WORKS, LAYOUT OF UNQUOWA ROAD, POST ROAD TO RAILROAD BRIDGE" PROJECT NUMBER 13-594, SHEET 1 OF 1, SCALE 1"=40' AND DATED FEBRUARY 26, 1989.  
"COMMUNITY THEATER PLAZA PLAN" JOB NUMBER 1011, DRAWING NUMBER 1, DATED MAY 24, 2019, SCALE 1/8" = 1' AND PREPARED BY MARK P. FINLAY ARCHITECTS, AIA.



To my knowledge and belief, this map is substantially correct as noted hereon

Scott R. Leamon LS #70252

Town of Fairfield Dept. of Public Works	
Map Showing License Agreement & Outdoor Dining Areas 1410 Post Rd Fairfield, CT	
Drawn BY: S.L. Date: 6/10/2019 Scale: 1"=10'	CWD BY: File No: 3483 Map No: 1 OF 1

# Memorandum

**To:** Board of Selectmen

**From:** Mark S. Barnhart, Director of Community & Economic Development

**Date:** May 30, 2019

**Re:** 2019 Neighborhood Assistance Act Program

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As you know, the Town has solicited program proposals from municipal agencies and community non-profit organizations for funding consideration under the Neighborhood Assistance Act (NAA) program.

This program allows businesses to claim a State tax credit for cash contributions made to qualifying community programs conducted by tax exempt or municipal agencies. The types of community programs that qualify for the NAA tax credit program include, but are not necessarily limited to: energy conservation; employment and training; child care services; neighborhood assistance; substance abuse; open space acquisition; crime prevention programs and affordable housing development. The minimum contribution on which a tax credit may be granted is \$250, and the maximum contribution that any non-profit or municipal entity can receive under this program is \$150,000. There are no Town funds involved in this program.

In order to be considered, applications must be completed in full, approved locally following a public hearing, and submitted to the Department of Revenue Services (DRS) no later than July 1, 2019. Attached for your consideration is a summary of the applications that were received by the April 22, 2019 deadline.

In order to meet the aforementioned submission deadline, I would request that you consider this matter at your next regularly scheduled Board meeting, which I understand to be June 5, 2019.

## **Information and Justification Regarding the Neighborhood Assistance Act Program**

1. *BACKGROUND*: The Neighborhood Assistance Act (NAA) program is a State program administered by the Department of Revenue Services that allows eligible businesses to apply for and receive a State tax credit for cash contributions made to qualifying community programs conducted by tax exempt or municipal agencies. More information can be found on the DRS website at [www.ct.gov/drs](http://www.ct.gov/drs).
2. *PURPOSE AND JUSTIFICATION*: The program is designed to provide funding to municipal and tax-exempt entities by incentivizing donations made by private companies owing a State corporate tax liability. The Town's role is limited to designating a municipal liaison to work with DRS, conducting a public hearing and soliciting applications from eligible municipal and non-profit entities, which activities must be approved by the Town's legislative body prior to their being submitted to DRS by the July 1<sup>st</sup> deadline.
3. *DETAILED DESCRIPTION OF PROPOSAL*: See attached summary of applications received.
4. *RELIABILITY OF ESTIMATED COSTS*: There are no Town funds involved. The applicants are responsible for all project cost estimates, and administering any funds received through donations.
5. *PAYBACK PERIOD*: Not Applicable. There are no Town funds involved.
6. *ADDITIONAL LONG RANGE COSTS*: Not Applicable. There are no Town funds involved.
7. *ADDITIONAL USE OR DEMAND ON EXISTING FACILITIES*: Not Applicable
8. *ALTERNATES TO THIS REQUEST*: Participation in the NAA program is optional. Towns may decide not to participate in the NAA program. As of last year, seventy-seven communities had designated a municipal liaison and were participating in the NAA program.
9. *SAFETY AND LOSS CONTROL*: Not Applicable
10. *ENVIRONMENTAL CONSIDERATIONS*: Not Applicable
11. *INSURANCE*: Not Applicable
12. *FINANCING*: Not Applicable



*13. OTHER CONSIDERATIONS:* Not Applicable

*14. OTHER APPROVALS:* Board of Selectmen (6/5) Public Hearing (tentatively scheduled for 6/12), and RTM approval prior to submission to DRS by July 1<sup>st</sup> deadline.

**2019**  
**Neighborhood Assistance Act Applicants**

Program	Agency Sponsor	Agency Address	Funds Requested	Other Funds	Tax Credit	Program Category
FTC Stage One Replacement Seating	Fairfield Theatre Company	70 Sanford Street, Fairfield	\$ 45,000	\$ 10,000	60%	Other: Community Arts Programming
FTC Lighting Upgrades to Stage One	Fairfield Theatre Company	70 Sanford Street, Fairfield	\$ 60,000	\$ 20,000	100%	Energy Conservation
Financial Literacy for Youth	Jr. Achievement of Western CT	835 Main Street, Bridgeport	\$ 5,000	\$ -	60%	Other: Economic Education for Youth
Energy Efficient HVAC and roofs for affordable housing units	Operation Hope of Fairfield	636 Old Post Road, Fairfield	\$ 60,000		100%	Energy Conservation
Community Hunger & Homelessness Services	Operation Hope of Fairfield	636 Old Post Road, Fairfield	\$ 90,000	\$ 2,497,155	60%	Program serving Low Income Populations
Mission Training Center	Connecticut Challenge dba "Mission" and the "Mission Training Center"	250 Pequot Ave, Southport	\$ 150,000	\$ 408,000	60%	Other: Programs for Cancer Survivors
Roof Replacement	Pequot Library Association	720 Pequot Ave, Southport	\$ 15,000	\$ 136,680	60%	Other: Roof Replacement
Upgrade to and Converting to Energy Efficient Lighting	Connecticut Audubon Society	2325 Burr Street, Fairfield	\$ 18,902	\$ 3,989	100%	Energy Conservation
Community Organization and Information Delivery to At-Risk Residents	Connecticut Against Gun Violence Education Fund, Inc.	739 Old Post Road	\$ 150,000	\$ 50,000	60%	Community Organization and Information Delivery to At-Risk Residents
ENERGY - To Prevent Gun Violence	Connecticut Against Gun Violence Education Fund, Inc.	739 Old Post Road	\$ 150,000	\$ 50,000	100%	Energy Conservation

**2019**  
**Neighborhood Assistance Act Applicants**

Program	Agency Sponsor	Agency Address	Funds Requested	Other Funds	Tax Credit	Program Category
Audio Access for People who are Blind or Print Challenged	Connecticut Radio Information System	315 Windsor Avenue, Windsor, CT 06095	\$ 10,000	\$ 5,000	60%	Other: Providing audio versions of printed material for people who are print challenged
Woman to Woman Outreach & Screening Program	Norma Pfriem Breast Center/Bridgeport Hospital Foundation	111 Beach Road	\$ 25,000	\$ 25,000	60%	Program serving low-income persons

# Memorandum

**To:** Board of Selectmen

**From:** Mark S. Barnhart, Director of Community & Economic Development

**Date:** May 30, 2019

**Re:** Program Year 45 Annual Plan, Community Development Block Grant

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The proposed Program Year 45 (October 1, 2019–September 30, 2020) Community Development Block Grant (CDBG) activities are herein submitted for your approval.

The Community Development Block Grant (CDBG) Program is authorized under Title I of the Housing and Community Development Act of 1974, and is administered by the U.S. Department of Housing and Urban Development (HUD) through its Office of Community Planning and Development. The primary objective of this program is the development of viable communities by providing decent housing, a suitable living environment and expanded economic opportunities, principally for persons of low and moderate income. As a municipality with a population of more than 50,000 persons, the Town of Fairfield qualifies as an entitlement community, meaning that it receives an annual allocation of CDBG funds.

Each year, the Town must prepare an Annual Action Plan that identifies those projects and activities that it proposes to fund through CDBG for the upcoming year. The Town is required to develop and adhere to a citizen participation process that includes the community in the development of its Annual Action Plan. In accordance with its citizen participation plan, the Town conducted the first of two scheduled public hearings to solicit comments on housing and community development needs on February 27, 2019. A second public hearing was held regarding the proposed allocation priorities on May 7, 2019.

The Town of Fairfield has been advised by HUD that it can expect to receive \$494,420 in CDBG funds for the upcoming PY45 program year. Please note that the proposed budget presented hereto includes \$27,080 in estimated program income, for a total combined budget of \$521,500. Please also keep in mind that the Town may allocate not more than fifteen percent (15%) of its entitlement to public service category activities and that general administrative costs cannot exceed twenty percent (20%) of the allocation.

5/15/19

I respectfully request your timely and favorable consideration of the proposed PY 45 CDBG activities at your June 5, 2019, meeting so that we might present our proposed allocation plan to the Representative Town Meeting at its June meeting, and prepare and submit our Annual Action Plan to HUD. Please do not hesitate to contact me in the event that you have any questions.

Thank you for your consideration.

### **Information and Justification Regarding the Community Development Block Grant**

1. *BACKGROUND*: HUD designates Fairfield as an entitlement community for its CDBG program. As an entitlement community, the Town receives grant funds in an amount established by HUD for each fiscal year to be used for various HUD eligible activities.
2. *PURPOSE AND JUSTIFICATION*: The objective of this program is to develop viable communities by providing decent housing, a suitable living environment and expanded economic opportunities, principally for persons of low and moderate income.
3. *DETAILED DESCRIPTION OF PROPOSAL*: See attached program description.
4. *RELIABILITY OF ESTIMATED COSTS*: The grant funds are a fixed amount established annually by HUD.
5. *PAYBACK PERIOD*: Not Applicable
6. *ADDITIONAL LONG RANGE COSTS*: Not Applicable
7. *ADDITIONAL USE OR DEMAND ON EXISTING FACILITIES*: Not Applicable
8. *ALTERNATES TO THIS REQUEST*: Not Applicable
9. *SAFETY AND LOSS CONTROL*: Not Applicable
10. *ENVIRONMENTAL CONSIDERATIONS*: HUD requires that all recipients of CDBG funds follow Federal regulations as contained in 25 CFR Part 58, thereby furthering the purposes of the National Environmental Policy Act of 1969.
11. *INSURANCE*: Not Applicable
12. *FINANCING*: Not Applicable
13. *OTHER CONSIDERATIONS*: Not Applicable
14. *OTHER APPROVALS*: Public Hearings (conducted on 2/27 and 5/7), Board of Selectmen, RTM, and 30 Day Public Comment Period prior to submission to HUD.



**Town of Fairfield**  
**Office of Community and Economic Development**  
**PY 45 Annual Allocation Plan**  
**Community Development Block Grant Program**

**Public Service Activities (15%)**

Operation Hope Case/Property Management	\$	20,000
Center for Family Justice Advocacy/Support	\$	8,000
Lifefridge Mental Health/Counseling Services	\$	10,000
JSS/Grasmere on Park Social Worker	\$	5,000
BOE Special Education Vocational Training	\$	4,000
Connecticut Legal Services	\$	4,000
Jewish Senior Services Elder Abuse Prevention	\$	4,000
Fairfield History Museum Educational Enrichment	\$	3,000
Fairfield Human Services Senior Outreach	\$	9,000
Bridge House – Life Skills Development/Support	\$	4,500
Pilot House Program/Developmentally Disabled Adults	\$	4,000
Woofgang Volunteer Coordinator	\$	4,000
Subtotal	\$	79,500

**Public Facilities and Non-Housing Needs**

Connecticut Audubon Society	\$	15,000
Fairfield Woods Library ADA Upgrades	\$	15,000
DPW Street/Sidewalk Improvements	\$	50,000
Micro-Enterprise Assistance	\$	10,000
Subtotal	\$	90,000

**Affordable Housing Activities**

Multi-Family Rehab Program	\$	50,000
Single-Family Rehab Program	\$	75,000
Handyman	\$	16,000
Sullivan-McKinney Elder Housing	\$	15,000
Homeownership Assistance	\$	75,000
Parish Court Life Safety Enhancements	\$	15,000
Subtotal	\$	246,000

**Program Administration (20%)**

Administration	\$	106,000
Subtotal	\$	106,000

**CDBG PROGRAM YEAR 45 SUMMARY****USES:**

Public Service Activities (<15%)	\$ 79,500
Public Facilities and Non-Housing Needs	\$ 90,000
Affordable Housing Activities	\$ 246,000
Program Administration (<20%)	<u>\$ 106,000</u>

TOTAL USES	<u><u>\$ 521,500</u></u>
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**SOURCES:**

CDBG Entitlement	\$ 494,420
Program Income (Estimated)	<u>\$ 27,080</u>

TOTAL SOURCES	<u><u>\$ 521,500</u></u>
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**A RESOLUTION APPROPRIATING \$2,897,276.45 FOR THE COSTS ASSOCIATED WITH ESTABLISHMENT AND OPERATION OF A FAIRFIELD-WESTPORT MULTI-TOWN EMERGENCY COMMUNICATIONS CENTER WITH TOWN OF WESTPORT AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION.**

-----

**Background:**

The Town of Fairfield (the “Town”) is presently negotiating with the Town of Westport for establishment and operation of the Fairfield-Westport Multi-town Emergency Communications Center (the “Center”). The Center shall be located at premises leased by the Town from Sacred Heart University and located at its campus in Fairfield. Under such agreement, the Town will be obligated to establish and equip the Center and Town of Westport shall be obligated to contribute one-half of such costs to the Town. [Each Town shall be responsible for the costs of upgrading their CAD system.] Further, the Town anticipates receiving from the State of Connecticut a grant of \$250,000 for its share of the costs of establishing the Center.

**Resolved:**

1. As recommended by the Board of Selectmen and Board of Finance, the Town of Fairfield (the “Town”) appropriates Two Million Eight Hundred Ninety-seven Thousand Two Hundred Seventy-six and 45/100 Dollars (\$2,897,276.45) for costs associated with the establishment of the Fairfield-Westport Multi-Town Emergency Communications Center (the “Center”) including but not limited to costs of upgrading premises in which Center is located, communication and information equipment, computers, battery back-up systems, and software, work stations, furniture, equipment, testing, design costs, oversight, financing, administrative and other costs related to the foregoing (the “Project”) provided that this appropriation shall not become effective until a definitive agreement (the “Definitive Agreement”) as to the establishment and operation of the Center with the Town of Westport has been approved by the Board of Selectmen, Board of Finance and Representative Town Meeting.
2. To finance such appropriation, the Town shall borrow a sum not to exceed Two Million Eight Hundred Ninety-seven Thousand Two Hundred Seventy-six and 45/100 Dollars (\$2,897,276.45) and issue its bonds for such indebtedness under its corporate name and seal and upon its full faith and credit of the Town so much as may be necessary provided that no funds shall be borrowed until the Definitive Agreement has been approved by the Board of Selectmen, Board of Finance and Representative Town Meeting.
3. The First Selectman and other Town officials are authorized to seek grants for the costs of the Project. Any such grants and contributions made by Town of Westport under the Definitive Agreement received prior to the issuance of the Bonds authorized herein shall

be applied to the costs of the Project or to pay at maturity the principal of any outstanding bond anticipation notes issued pursuant this resolutions and shall reduce the amount of the Bonds that can be issued pursuant to this Resolution. If such grants and contributions are received after the issuance of the Bonds, they shall be applied to pay the Bonds or as otherwise authorized by the Board of Selectmen, Board of Finance and Representative Town Meeting provided such application does not adversely affect the tax exempt status of the Bonds.

4. The Board of Selectmen, the Treasurer and the Fiscal Officer of the Town are hereby appointed a committee (the "Committee") with full power and authority to cause said bonds to be sold, issued and delivered; to determine their form and terms, including provision for redemption prior to maturity; to determine the aggregate principal amount thereof within the amount hereby authorized and the denominations and maturities thereof; to fix the time of issue of each series thereof and the rate or rates of interest thereon as herein provided; to determine whether the interest rate on any series will be fixed or variable and to determine the method by which the variable rate will be determined, the terms of conversion, if any, from one mode to another or from fixed to variable; to set whatever other terms of the bonds they deem necessary, desirable or appropriate; to designate the bank or trust company to certify the issuance thereof and to act as transfer agent, paying agent and as registrar for the bonds, and to designate bond counsel. The Committee shall have all appropriate powers under the Connecticut General Statutes, including Chapter 748 (Registered Public Obligations Act) and Chapter 109 (Municipal Bond Issues) to issue, sell and deliver the bonds and, further, shall have full power and authority to do all that is required under the Internal Revenue Code of 1986, as amended, and under rules of the Securities and Exchange Commission, and other applicable laws and regulations of the United States, to provide for issuance of the bonds in tax exempt form and to meet all requirements which are or may become necessary in and subsequent to the issuance and delivery of the bonds in order that the interest on the bonds be and remain exempt from Federal income taxes, including, without limitation, to covenant and agree to restriction on investment yield of bond proceeds, rebate of arbitrage earnings, expenditure of proceeds within required time limitations, the filing of information reports as and when required, and the execution of Continuing Disclosure Agreements for the benefit of the holders of the bonds and notes.
5. The First Selectman and Treasurer or Fiscal Officer, on behalf of the Town, shall execute and deliver such bond purchase agreements, reimbursement agreements, line of credit agreement, credit facilities, remarketing, standby marketing agreements, standby bond purchase agreements, and any other commercially necessary or appropriate agreements which the Committee determines are necessary, appropriate or desirable in connection with or incidental to the sale and issuance of bonds, and if the Committee determines that it is necessary, appropriate, or desirable, the obligations under such agreements shall be secured by the Town's full faith and credit.
6. The bonds may be designated "Public Improvement Bonds or School Bonds of the Town of Fairfield", series of the year of their issuance and may be issued in one or more series,

and may be consolidated as part of the same issue with other bonds of the Town. The bonds shall be issued in serial form maturing in not more than twenty (20) annual installments of principal, the first installment to mature not later than three (3) years from the date of issuance and the last installment to mature not later than twenty (20) years from the date of issuance. The bonds may be sold at an aggregate sales price of not less than par and accrued interest at public sale upon invitation for bids to the responsible bidder submitting the bid resulting in the lowest true interest cost to the Town, provided that nothing herein shall prevent the Town from rejecting all bids submitted in response to any one invitation for bids and the right to so reject all bids is hereby reserved, and further provided that the Committee may sell the bonds on a negotiated basis, as provided by statute. Interest on the bonds shall be payable semi-annually or annually. The bonds shall be signed on behalf of the Town by at least a majority of the Board of Selectmen and the Treasurer, and shall bear the seal of the Town. The signing, sealing and certification of the bonds may be by facsimile as provided by statute.

7. The Committee is further authorized to make temporary borrowings as authorized by the General Statutes and to issue temporary notes of the Town in anticipation of the receipt of proceeds from the sale of the bonds to be issued pursuant to this resolution. Such notes shall be issued and renewed at such time and with such maturities, requirements and limitations as provided by the Connecticut General Statutes. Notes evidencing such borrowings shall be signed by the First Selectman and Treasurer or Fiscal Officer, have the seal of the Town affixed, which signing and sealing may be by facsimile as provided by statute, be certified by and payable at a bank or trust company incorporated under the laws of this or any other state, or of the United States, be approved as to their legality by bond counsel, and may be consolidated with the issuance of other Town bond anticipation notes. The Committee shall determine the date, maturity, interest rates, form and manner of sale, including negotiated sale, and other details of said notes consistent with the provisions of this resolution and the Connecticut General Statutes and shall have all powers and authority as set forth above in connection with the issuance of bonds and especially with respect to compliance with the requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder in order to obtain and maintain issuance of the notes in tax exempt form.
8. Pursuant to Section 1.150-2, as amended, of the Federal Income Tax Regulations the Town hereby declares its official intent to reimburse expenditures (if any) paid for the Project from its General or Capital Funds, such reimbursement to be made from the proceeds of the sale of bonds and notes authorized herein and in accordance with the time limitations and other requirements of said regulations.
9. The First Selectman, Director of Finance and Town Treasurer are hereby authorized, on behalf of the Town, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to the Municipal Securities Rulemaking Board (the "MSRB") and to provide notices to the MSRB of material events as enumerated in Securities and Exchange Commission Exchange Act

Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.

10. The Committee is hereby authorized to take all action necessary and proper for the sale, issuance and delivery of the bonds and notes in accordance with the provisions of the Connecticut General Statutes and the laws of the United States.





## Town of Fairfield

Sullivan Independence Hall  
725 Old Post Road

Office of the First Selectman  
Fairfield, Connecticut 06824

(203) 256-3030  
FAX (203) 256-3008

May 21, 2019

Hon. James Marpe  
First Selectman, Town of Westport  
Town Hall  
Westport, CT 06880

### **RE: Fairfield-Westport Combined Emergency Communications Center**

Dear First Selectman Marpe:

Please accept this letter as evidence of the intent of the Town of Fairfield ("Fairfield") to enter into an agreement with the Town of Westport ("Westport") covering the operation of a Joint Multi-town 911 Emergency Communications Center ("ECC"), said center to be operated in premises to be leased from Sacred Heart University and located on the Sacred Heart University campus in Fairfield.

It is the intention of Fairfield to enter into a formal Agreement with Westport covering the operation of the ECC.

Included in the Agreement will be, at minimum, the following provisions:

1. Creation and purpose of the ECC
2. Location of the ECC; lease of premises for the ECC
3. Term of the Agreement
4. Initial set-up costs
5. Operating costs
6. Administrative Control; administrative positions
7. Center Supervisor
8. Responsibility for staffing the ECC
9. Operational control of the ECC; operational control board
10. Obligations of the respective towns
11. Financial obligations; formula for sharing of expenses
10. Member liability; indemnification
11. Equipment and property ownership and use
12. Insurance
13. Amendments to Agreement
14. Dissolution
15. Such other and further provisions as the respective Town Counsel deem appropriate and advisable

Included in said Agreement, and as previously discussed and agreed upon by the parties, shall be the following provisions:

- A. The ECC shall be under the operational control of the Town of Fairfield
- B. Initial funding for the construction of the ECC shall be as follows: \$500,000.00 shall be provided by the State of Connecticut. The balance of the required funds shall be shared equally between the Towns of Fairfield and Westport after adjustment for CAD system upgrades and updates
- C. The operational costs of the ECC shall initially be paid 67% by Fairfield and 33% by Westport, and shall be based upon the population and call volumes of the respective towns. Said formula shall be adjusted periodically as agreed upon by the parties
- D. The Chief Operational Officer of the ECC shall be a Fairfield Police Captain

Please be advised that although this Letter of Intent has been authorized by the Fairfield Board of Selectmen, the full agreement must be approved by the Board of Selectmen, Board of Finance and Representative Town Meeting.

It is the understanding of the undersigned that the Town of Westport is currently a party to an Interlocal Agreement with the Town of New Canaan covering fire dispatch services. This agreement will have to be incorporated in the Fairfield-Westport Agreement.

Fairfield, Westport and Sacred Heart University have previously drafted a lease agreement covering the premises in which the ECC will be located. Fairfield is in the process of approving said lease.

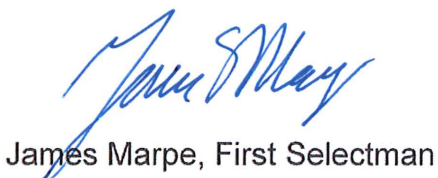
If the foregoing Letter of Intent is acceptable to you, kindly have your Town Attorney Contact the Fairfield Town Attorney to draft said agreement.

With regards, I am Very Truly yours,



Michael C. Tetreau, First Selectman

Accepted and agreed this 21<sup>ST</sup> day of May, 2019



James Marpe, First Selectman

Accepted and agreed this 21<sup>ST</sup> day of May, 2019

**FAIRFIELD – WESTPORT  
MULTI-TOWN EMERGENCY  
COMMUNICATIONS CENTER**

**PROPOSED CAPITAL BUDGET**

Proposed Capital Build Budget  
Budget Schedules

**MULTI-TOWN EMERGENCY COMMUNICATIONS CENTER  
CAPITAL COST BREAKDOWN**

<b>INFORMATION TECHNOLOGY</b>		<b>\$ 1,603,013.23</b>
A	Fiber	\$ 50,000.00
B	Voice Recorder	\$ 115,000.00
C	Battery Back-up	\$ 100,000.00
D	Camera System/Door Access	\$ 40,000.00
E	CCTV Monitors	\$ 14,400.00
F	Cable TV	\$ 5,000.00
G	Telephone Systems	\$ 60,000.00
H	Computer Equipment	\$ 28,000.00
I	Software Licensing	\$ 50,000.00
J	Fire Station Alerting System	\$ 259,125.23
K	Consoles	\$ 800,000.00
L	Remote PC Equipment	\$ 75,488.00
M	Scheduling Software	\$ 6,000.00
		<b>\$ 1,603,013.23</b>
<b>RENOVATIONS</b>		<b>\$ 386,920.00</b>
N	Painting	\$ 23,000.00
O	Lighting	\$ 27,500.00
P	HVAC Server Room	\$ 120,000.00
Q	Electrical	\$ 100,000.00
R	Doors	\$ 15,000.00
S	Ballistic Reinforcement	\$ 70,000.00
T	Parking Barricades	\$ 13,520.00
U	Humidifier	\$ 17,900.00
		<b>\$ 386,920.00</b>
<b>OUTFITTING</b>		<b>\$ 283,600.00</b>
V	Workstations	\$ 216,000.00
W	Furniture /File Cabinets	\$ 64,600.00
X	Appliances	\$ 3,000.00
		<b>\$ 283,600.00</b>
<b>OTHER</b>		<b>\$ 359,409.00</b>
Y	Signs	\$ 800.00
Z	Advertising and Bids	\$ 3,000.00
AA	Haz-Mat Testing	\$ 12,000.00
AB	EMD/EPD/EFD	\$ 93,609.00
AC	Design	\$ 50,000.00

AD	Construction	\$ 100,000.00
AE	Construction Manager	\$ 100,000.00
		<u>\$ 359,409.00</u>

<b>CONTINGENCY</b>		<b>\$ 264,334.22</b>
AF	Contingency	\$ 264,334.22
		<u>\$ 264,334.22</u>

**PROJECT TOTAL** **\$ 2,897,276.45**

#### **TOWN COST SHARE BREAKDOWN**

##### **FAIRFIELD**

50% Total Cost	\$ 1,448,638.23
CAD Update	\$ 27,500.00
State Grant	\$ (250,000.00)
	<u>\$ 1,226,138.23</u>

##### **WESTPORT**

50% Total Cost	\$ 1,448,638.23
CAD Upgrade	\$ 225,000.00
State Grant	\$ (250,000.00)
	<u>\$ 1,423,638.23</u>

#### **Schedule A: Fiber**

The new center is required to establish connection with The State of Connecticut fiber system for accessing COLLECT and other state and federal systems. The fiber line runs on Easton Turnpike, but the center is required to pay for connecting from the center to Easton Turnpike. This is an estimated cost provided by the Division of Statewide Emergency Communications (DSET.)

**Total Fiber: \$50,000**

#### **Schedule B: Voice Recorder**

The center is required to have a recording system to record all emergency and most non-emergency lines running into the center. Additionally, all radio systems must be recorded.

The existing recording systems must remain with the current agencies to record selected phone lines within each department.

This is an estimated cost based on current systems and total lines anticipated in the new center.

**Total Voice Recorder: \$115,000.00**

#### **Schedule C: Battery Back-up System**

The center is required to have a battery back-up system that will provide power to the center in the event of external power. The system needs to ensure uninterrupted service until the back-up power source starts to provide electricity. In the event of a failure to the generator, the system must be capable of running the center for a minimum of 45 minutes. This time will allow time for a secondary generator to be hooked up or for the communications center operations to be transferred to the back-up location. This is an estimated cost.

**Total Battery Back-up System: \$100,000.00**

#### **Schedule D: Camera System and Door Access Controls**

Part of the security plan for the center is to have camera systems that cover the exterior of the center that can be monitored from both within the center and both police departments. Additionally, there will be cameras inside the center being monitored from both police departments. The purpose is to alert police if there is an issue within the center. The cameras will be recorded.

The center will also have a card key access system to limit access to the center.

This price is a quote from a known vendor.

**Total Camera / Access System: \$40,000**



#### **Schedule E: CCTV Monitors**

Both Fairfield PD and Westport PD are required to monitor several camera system (holding cells, police facilities, school surveillance systems, etc.) These are large monitors that will be mounted on walls for easy of viewing.

**Total CCTV Monitors: \$14,400**

#### **Schedule F: Cable TV**

Each work station will have a monitor designated for cable access. This allows dispatchers to monitor weather and news reports from their station.

**Total Cable: \$5,000**

#### **Schedule G: Telephone Systems**

Telephone systems for the center and to receive and transfer calls to the participating agencies. Each agency will have to be connected to the center.

These costs are based on another ECC renovation several years prior.

**Total Telephone System: \$60,000.00**

#### **Schedule H: Computer Equipment**

The new center will require a minimum of 3 computers and 6 monitors at each workstation to run programs such as LEAS, CAD, camera systems, in-house computer systems, etc.

**Total Computer Equipment: \$28,000.00**

#### **Schedule I: Software Licensing**

This is an estimated cost for software licensing, such as scheduling software, Office programs, other software needed.

**Total Software Licensing: \$50,000.00**

#### **Schedule J: Fire Station Alerting**

Both Westport and Fairfield fire departments utilize a fire station alerting system. The current systems are reaching end of life and need updating. Additionally, it will be more efficient to use one integrated system for the new center with the capability to expand if required. This amount is from a vendor quote.

**Total Fire Station Alerting: \$259,125.23**

#### **Schedule K: Consoles**

This equipment is for connection to and control of the required radio systems. This is an estimate. There needs to be one unit per workstation. Initial plan is for 8 workstations.

**Total Consoles: \$800,000.00**

#### **Schedule L: Remote PC Equipment**

In an effort to reduce clutter, having PCs under desks collecting dust and can be difficult to access, the center will have a remote PC system that will allow individual PCs to be stored in the server room with the other electronic equipment. This is from a vendor quote.

**Total Remote PC Equipment: \$75,488.00**

#### **Schedule M: Scheduling Software**

The center will utilize an electronic scheduling system that can integrate with MUNIS for time and attendance and payroll. This will allow remote access to the schedule from participating agencies and streamline payroll processing. This cost is an estimate:

**Total Scheduling Software: \$6,000.00**

#### **Schedule N: Painting**

This cost was based on a spec for painting another dispatch center. The estimate is \$8.00 per square foot.

**Total Painting: \$23,000.00**

#### **Schedule O: Lighting**

The plan calls for replacing the current lighting with LED lights that save electric costs and allow for more daylight style lighting. The lighting would be dimmable to allow telecommunicators to adjust lighting as appropriate. Price is based on internet pricing of \$350.00 per unit at 60 units, \$21,000.00. This also includes emergency lighting in the event of a complete power loss (5 units at \$300.00 each), \$1,500.00 and installation at \$5,000.00.

**Total Lighting: \$27,500.00**

#### **Schedule P: HVAC System**

Current NFPA standard require a stand-alone HVAC system for the center. This cost was based on a build of another dispatch center at \$45.00 per square foot and an additional unit for the server room.

**Total HVAC: \$120,000.**

#### **Schedule Q: Electrical**

The center will be required to install its own electrical meter and run electric and data cables to the new workstations and equipment. The estimate is based on another communications center renovation at \$45.00 per square foot.

**Total Electrical: \$100,000.00**

#### **Schedule R: Doors**

As part of the security plan, three ballistic doors will be installed. The cost was from an online source at \$4,000.00 each. Installation estimated at \$3,000.00

**Total Doors: \$15,000.00**

#### **Schedule S: Ballistic Reinforcement**

Because the center is located in an area accessible to the public, ballistic paneling will be installed on exterior walls. Price is from an online source.

**Total Ballistic Reinforcement: \$70,000.00**

#### **Schedule T: Parking Barricades**

One of the exterior walls borders the parking lot. To eliminate the risk of a vehicle accidentally or intentionally striking the wall, barriers will be placed along that section of wall. Plans could include Jersey style barriers or bollards. Pricing is from online source. 12' length \$1,352. 12 parking spaces at 10 foot wide each=120 feet.

**Total Parking Barricades: \$13,500.00**

#### **Schedule U: Humidifier**

The current center utilizes a humidifier to maintain comfort and eliminate possibility of static effecting electronic equipment. Price is a quote from a vendor. The humidifier is commercial grade.

**Total Humidifier: \$17,900**

#### **Schedule V: Workstations**

The current workstations are end of life and need replacement. Additionally, the current centers must remain operational until we go live. The workstations will allow different heights to accommodate all employees. They are specifically designed for dispatch centers and recognizing that telecommunicators may be at the station for 8 to 16 hours. The cost is a vendor quote. \$27,000.00 per station. The center will have 8 workstations.

**Total Workstations: \$216,000.00**

#### **Schedule W: Furniture/File Cabinets**

The center will need office furniture, file cabinets and other equipment.

**Total Furniture Costs: \$64,600.00**

#### **Schedule X: Appliances**

The center has a breakroom. Appliances will require replacement. Cost is an estimate.

**Total Appliances: \$3,000.00**

#### **Schedule Y: Signs**

Signs for new center: Cost is an estimate.

**Total Signs: \$800.00**

#### **Schedule Z: Advertising and Bids**

It will be necessary to advertise bids for equipment and labor. Cost is an estimate.

**Total Advertising and Bids: \$3,000.00**

#### **Schedule AA: Haz-Mat testing**

The space may need to have testing prior to renovations. This cost is an estimate based on another center renovation.

**Total Haz-Mat Testing: \$12,000.00**

#### **Schedule AB: EMD/EPD/EFD**

This is an electronic system used by telecommunicators to standardize caller interrogation, unit assignments, and quality assurance. With multiple agencies not involved it is important to assist telecommunicators in providing consistent service. This cost is a vendor quote.

**Total EMD/EPD/EFD: \$93,609.00**

#### **Schedule AC: Design**

It is anticipated a designer will have to be utilized to plan the layout of the center as well as electrical/data cable runs and needs. This cost is an estimate.

**Total design: \$50,000.00**

#### **Schedule AD: Construction**

There are several areas in the center that will need construction performed. This includes removal of one wall, upgrades, installation of equipment, etc. This cost is an estimate.

**Total Construction: \$100,000.00**

#### **Schedule AE: Construction Manager**

Due to the size and scope of the project it may be necessary to hire a construction manager with expertise in building and outfitting a 911 communications center. This amount is an estimate.

**Total Construction Manager: \$100,000**

#### **Schedule AF: Contingency**

In order to be prepared for unanticipated costs, a 10% contingency amount is being added to the overall budget.

**Total Contingency: \$264,334.22**

**A RESOLUTION APPROPRIATING \$2,897,276.45 FOR THE COSTS ASSOCIATED WITH ESTABLISHMENT AND OPERATION OF A FAIRFIELD-WESTPORT MULTI-TOWN EMERGENCY COMMUNICATIONS CENTER WITH TOWN OF WESTPORT AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION.**

-----

**Background:**

The Town of Fairfield (the “Town”) is presently negotiating with the Town of Westport for establishment and operation of the Fairfield-Westport Multi-town Emergency Communications Center (the “Center”). The Center shall be located at premises leased by the Town from Sacred Heart University and located at its campus in Fairfield. Under such agreement, the Town will be obligated to establish and equip the Center and Town of Westport shall be obligated to contribute one-half of such costs to the Town. [Each Town shall be responsible for the costs of upgrading their CAD system.] Further, the Town anticipates receiving from the State of Connecticut a grant of \$250,000 for its share of the costs of establishing the Center.

**Resolved:**

1. As recommended by the Board of Selectmen and Board of Finance, the Town of Fairfield (the “Town”) appropriates Two Million Eight Hundred Ninety-seven Thousand Two Hundred Seventy-six and 45/100 Dollars (\$2,897,276.45) for costs associated with the establishment of the Fairfield-Westport Multi-Town Emergency Communications Center (the “Center”) including but not limited to costs of upgrading premises in which Center is located, communication and information equipment, computers, battery back-up systems, and software, work stations, furniture, equipment, testing, design costs, oversight, financing, administrative and other costs related to the foregoing (the “Project”) provided that this appropriation shall not become effective until a definitive agreement (the “Definitive Agreement”) as to the establishment and operation of the Center with the Town of Westport has been approved by the Board of Selectmen, Board of Finance and Representative Town Meeting.
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3. The First Selectman and other Town officials are authorized to seek grants for the costs of the Project. Any such grants and contributions made by Town of Westport under the Definitive Agreement received prior to the issuance of the Bonds authorized herein shall



be applied to the costs of the Project or to pay at maturity the principal of any outstanding bond anticipation notes issued pursuant this resolutions and shall reduce the amount of the Bonds that can be issued pursuant to this Resolution. If such grants and contributions are received after the issuance of the Bonds, they shall be applied to pay the Bonds or as otherwise authorized by the Board of Selectmen, Board of Finance and Representative Town Meeting provided such application does not adversely affect the tax exempt status of the Bonds.

4. The Board of Selectmen, the Treasurer and the Fiscal Officer of the Town are hereby appointed a committee (the "Committee") with full power and authority to cause said bonds to be sold, issued and delivered; to determine their form and terms, including provision for redemption prior to maturity; to determine the aggregate principal amount thereof within the amount hereby authorized and the denominations and maturities thereof; to fix the time of issue of each series thereof and the rate or rates of interest thereon as herein provided; to determine whether the interest rate on any series will be fixed or variable and to determine the method by which the variable rate will be determined, the terms of conversion, if any, from one mode to another or from fixed to variable; to set whatever other terms of the bonds they deem necessary, desirable or appropriate; to designate the bank or trust company to certify the issuance thereof and to act as transfer agent, paying agent and as registrar for the bonds, and to designate bond counsel. The Committee shall have all appropriate powers under the Connecticut General Statutes, including Chapter 748 (Registered Public Obligations Act) and Chapter 109 (Municipal Bond Issues) to issue, sell and deliver the bonds and, further, shall have full power and authority to do all that is required under the Internal Revenue Code of 1986, as amended, and under rules of the Securities and Exchange Commission, and other applicable laws and regulations of the United States, to provide for issuance of the bonds in tax exempt form and to meet all requirements which are or may become necessary in and subsequent to the issuance and delivery of the bonds in order that the interest on the bonds be and remain exempt from Federal income taxes, including, without limitation, to covenant and agree to restriction on investment yield of bond proceeds, rebate of arbitrage earnings, expenditure of proceeds within required time limitations, the filing of information reports as and when required, and the execution of Continuing Disclosure Agreements for the benefit of the holders of the bonds and notes.
5. The First Selectman and Treasurer or Fiscal Officer, on behalf of the Town, shall execute and deliver such bond purchase agreements, reimbursement agreements, line of credit agreement, credit facilities, remarketing, standby marketing agreements, standby bond purchase agreements, and any other commercially necessary or appropriate agreements which the Committee determines are necessary, appropriate or desirable in connection with or incidental to the sale and issuance of bonds, and if the Committee determines that it is necessary, appropriate, or desirable, the obligations under such agreements shall be secured by the Town's full faith and credit.
6. The bonds may be designated "Public Improvement Bonds or School Bonds of the Town of Fairfield", series of the year of their issuance and may be issued in one or more series,

and may be consolidated as part of the same issue with other bonds of the Town. The bonds shall be issued in serial form maturing in not more than twenty (20) annual installments of principal, the first installment to mature not later than three (3) years from the date of issuance and the last installment to mature not later than twenty (20) years from the date of issuance. The bonds may be sold at an aggregate sales price of not less than par and accrued interest at public sale upon invitation for bids to the responsible bidder submitting the bid resulting in the lowest true interest cost to the Town, provided that nothing herein shall prevent the Town from rejecting all bids submitted in response to any one invitation for bids and the right to so reject all bids is hereby reserved, and further provided that the Committee may sell the bonds on a negotiated basis, as provided by statute. Interest on the bonds shall be payable semi-annually or annually. The bonds shall be signed on behalf of the Town by at least a majority of the Board of Selectmen and the Treasurer, and shall bear the seal of the Town. The signing, sealing and certification of the bonds may be by facsimile as provided by statute.

7. The Committee is further authorized to make temporary borrowings as authorized by the General Statutes and to issue temporary notes of the Town in anticipation of the receipt of proceeds from the sale of the bonds to be issued pursuant to this resolution. Such notes shall be issued and renewed at such time and with such maturities, requirements and limitations as provided by the Connecticut General Statutes. Notes evidencing such borrowings shall be signed by the First Selectman and Treasurer or Fiscal Officer, have the seal of the Town affixed, which signing and sealing may be by facsimile as provided by statute, be certified by and payable at a bank or trust company incorporated under the laws of this or any other state, or of the United States, be approved as to their legality by bond counsel, and may be consolidated with the issuance of other Town bond anticipation notes. The Committee shall determine the date, maturity, interest rates, form and manner of sale, including negotiated sale, and other details of said notes consistent with the provisions of this resolution and the Connecticut General Statutes and shall have all powers and authority as set forth above in connection with the issuance of bonds and especially with respect to compliance with the requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder in order to obtain and maintain issuance of the notes in tax exempt form.
8. Pursuant to Section 1.150-2, as amended, of the Federal Income Tax Regulations the Town hereby declares its official intent to reimburse expenditures (if any) paid for the Project from its General or Capital Funds, such reimbursement to be made from the proceeds of the sale of bonds and notes authorized herein and in accordance with the time limitations and other requirements of said regulations.
9. The First Selectman, Director of Finance and Town Treasurer are hereby authorized, on behalf of the Town, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to the Municipal Securities Rulemaking Board (the "MSRB") and to provide notices to the MSRB of material events as enumerated in Securities and Exchange Commission Exchange Act

Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.

10. The Committee is hereby authorized to take all action necessary and proper for the sale, issuance and delivery of the bonds and notes in accordance with the provisions of the Connecticut General Statutes and the laws of the United States.



**A RESOLUTION APPROPRIATING \$\_\_\_\_\_ FOR THE COSTS ASSOCIATED WITH THE RENOVATION AND EXPANSION OF MILL HILL ELEMENTARY SCHOOL AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION.**

-----  
**Resolved:**

1. As recommended by the Board of Finance and the Board of Selectmen, the Town of Fairfield (the "Town") hereby appropriates the sum of \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_) for the costs associated with the renovation and expansion of Mill Hill Elementary School [for a school with a capacity of \_\_\_\_\_ students], which costs include but are not limited to costs of materials, construction, equipment, site work, fixtures, furniture, design, architectural engineering, specialty consultants, environmental, oversight, finance and other costs and expenses that are related thereto (the "Project").
2. To finance such appropriation and as recommended by the Board of Finance and the Board of Selectmen, the Town may borrow a sum not to exceed \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_) and issue its bonds for such indebtedness under its corporate name and seal and upon the full faith and credit of the Town in an amount not to exceed said sum for the purpose of financing such appropriation.
3. The Board of Selectmen, the Treasurer and the Fiscal Officer of the Town are hereby appointed a committee (the "Committee") with full power and authority to cause said bonds to be sold, issued and delivered; to determine their form and terms, including provision for redemption prior to maturity; to determine the aggregate principal amount thereof within the amount hereby authorized and the denominations and maturities thereof; to fix the time of issue of each series thereof and the rate or rates of interest thereon as herein provided; to determine whether the interest rate on any series will be fixed or variable and to determine the method by which the variable rate will be determined, the terms of conversion, if any, from one interest rate mode to another or from fixed to variable; to set whatever other terms of the bonds they deem necessary, desirable or appropriate; to designate the bank or trust company to certify the issuance thereof and to act as transfer agent, paying agent and as registrar for the bonds, and to designate bond counsel. The Committee shall have all appropriate powers under the Connecticut General Statutes to issue, sell and deliver the bonds and, further, shall have full power and authority to do all that is required under the Internal Revenue Code of 1986, as amended, and under rules of the Securities and Exchange Commission, and other applicable laws and regulations of the United States, to provide for issuance of the bonds in tax exempt form and to meet all

requirements which are or may become necessary in and subsequent to the issuance and delivery of the bonds in order that the interest on the bonds be and remain exempt from Federal income taxes, including, without limitation, to covenant and agree to restriction on investment yield of bond proceeds, rebate of arbitrage earnings, expenditure of proceeds within required time limitations, the filing of information reports as and when required, and the execution of Continuing Disclosure Agreements for the benefit of the holders of the bonds and notes.

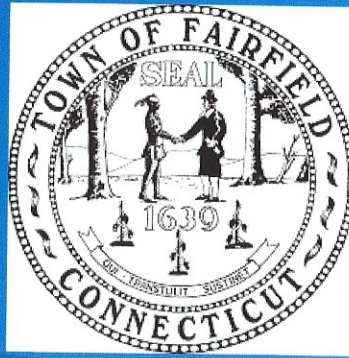
4. The First Selectman and Treasurer or Fiscal Officer, on behalf of the Town, shall execute and deliver such bond purchase agreements, reimbursement agreements, line of credit agreement, credit facilities, remarketing agreement, standby marketing agreements, bond purchase agreement, standby bond purchase agreements, and any other commercially necessary or appropriate agreements which the Committee determines are necessary, appropriate or desirable in connection with or incidental to the sale and issuance of bonds, and if the Committee determines that it is necessary, appropriate, or desirable, the obligations under such agreements shall be secured by the Town's full faith and credit.
5. The bonds may be designated "Public Improvement Bonds of the Town of Fairfield", series of the year of their issuance and may be issued in one or more series, and may be consolidated as part of the same issue with other bonds of the Town; shall be in serial form maturing in not more than twenty (20) annual installments of principal, the first installment to mature not later than three (3) years from the date of issue and the last installment to mature not later than twenty (20) years from the date of issue. The bonds may be sold at an aggregate sales price of not less than par and accrued interest at public sale upon invitation for bids to the responsible bidder submitting the bid resulting in the lowest true interest cost to the Town, provided that nothing herein shall prevent the Town from rejecting all bids submitted in response to any one invitation for bids and the right to so reject all bids is hereby reserved, and further provided that the Committee may sell the bonds on a negotiated basis, as provided by statute. Interest on the bonds shall be payable semi-annually or annually. The bonds shall be signed on behalf of the Town by at least a majority of the Board of Selectmen and the Treasurer, and shall bear the seal of the Town. The signing, sealing and certification of the bonds may be by facsimile as provided by statute.
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of this or any other state, or of the United States, be approved as to their legality by bond counsel, and may be consolidated with the issuance of other Town bond anticipation notes. The Committee shall determine the date, maturity, interest rates, form and manner of sale, including negotiated sale, and other details of said notes consistent with the provisions of this resolution and the Connecticut General Statutes and shall have all powers and authority as set forth above in connection with the issuance of bonds and especially with respect to compliance with the requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder in order to obtain and maintain issuance of the notes in tax exempt form.

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8. The First Selectman, Fiscal Officer and Town Treasurer are hereby authorized, on behalf of the Town, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to the Municipal Securities Rulemaking Board (the "MSRB") and to provide notices to the MSRB of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.
9. The Committee is hereby authorized to take all action necessary and proper for the sale, issuance and delivery of the bonds and notes in accordance with the provisions of the Connecticut General Statutes and the laws of the United States.
10. The First Selectman or other proper Town official is hereby authorized to apply for and accept any available State or Federal grant in aid funding the Project, and to take all action necessary and proper in connection therewith.
11. After the appointment of the Building Committee and the election of a Building Committee chairperson, the Board of Finance requests the attendance of such chairperson at the next scheduled Board of Finance meeting to discuss the Project.

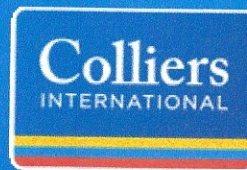




# Mill Hill Elementary School – Schematic Design

Presentation to Board of Selectmen

May 22, 2019

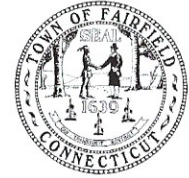


SILVER/PETRUCELLI + ASSOCIATES  
*Architects / Engineers / Interior Designers*

3190 Whitney Avenue, Hamden, CT 06518  
One Post Hill Place, New London, CT 06320  
Tel: 203 230 9007 Fax: 203 230 8247  
[www.silverpetrucelli.com](http://www.silverpetrucelli.com)



# Agenda



1. Address BOS Questions from 5/1/19
2. Existing Site vs Proposed Site
3. Floor Plans (378 vs 441 vs 504)
4. Project Estimates
5. Questions and Answers



## BOS Questions from May 1, 2019 Meeting



1.A - Impact of parent drop-off and pick-up due to increased enrollment

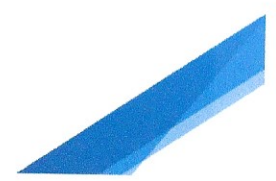
1.B - Vehicular Impact – Impact of increasing enrollment, effect on local streets

1.C - Recommended improvements by traffic consultant

1.D - Existing Resource Rooms vs Proposed (to be highlighted under Agenda Item 3, Floor Plans)

1.E - Serving Lines

1.F - Enrollment Projections (BOE)



## 1.A - Impact of Parent Drop-Off and Pick-Up (441)



LAND USE	INTENSITY	TRAFFIC DIRECTION	VEHICLE TRIP ENDS			
			Weekday Morning Arrivals		Weekday Afternoon Departures	
			Vehicle Trips	Trip Rates	Vehicle Trips	Trip Rates
Existing Elementary School (2/5/19)	313 Students	Enter	105	0.34	65	0.21
		Exit	<u>76</u>	<u>0.24</u>	<u>65</u>	<u>0.21</u>
		Total	181	0.58	130	0.42
Existing Elementary School (2/11/19)	320 Students	Enter	106	0.33	68	0.21
		Exit	<u>81</u>	<u>0.25</u>	<u>71</u>	<u>0.22</u>
		Total	187	0.58	139	0.43
Proposed Elementary School	441 Students	Enter	146	0.33	93	0.21
		Exit	<u>110</u>	<u>0.25</u>	<u>97</u>	<u>0.22</u>
		Total	256	0.58	190	0.43
Net Increase	95 Students	Enter	40	--	25	--
		Exit	<u>29</u>	--	<u>26</u>	--
		Total	69	--	51	--

Table 3B from Frederick P. Clark Traffic Study



## 1.A - Impact of Parent Drop-Off and Pick-Up (504)



LAND USE	INTENSITY	TRAFFIC DIRECTION	VEHICLE TRIP ENDS			
			Weekday Morning Arrivals		Weekday Afternoon Departures	
			Vehicle Trips	Trip Rates	Vehicle Trips	Trip Rates
Existing Elementary School (2/5/19)	313 Students	Enter	105	0.34	65	0.21
		Exit	<u>76</u>	<u>0.24</u>	<u>65</u>	<u>0.21</u>
		Total	181	0.58	130	0.42
Existing Elementary School (2/11/19)	320 Students	Enter	106	0.33	68	0.21
		Exit	<u>81</u>	<u>0.25</u>	<u>71</u>	<u>0.22</u>
		Total	187	0.58	139	0.43
Proposed Elementary School	504 Students	Enter	166	0.33	106	0.21
		Exit	<u>126</u>	<u>0.25</u>	<u>111</u>	<u>0.22</u>
		Total	292	0.58	217	0.43
Net Increase	158 Students	Enter	60	--	38	--
		Exit	<u>45</u>	--	<u>40</u>	--
		Total	105	--	78	--

Table 3C from Frederick P. Clark Traffic Study

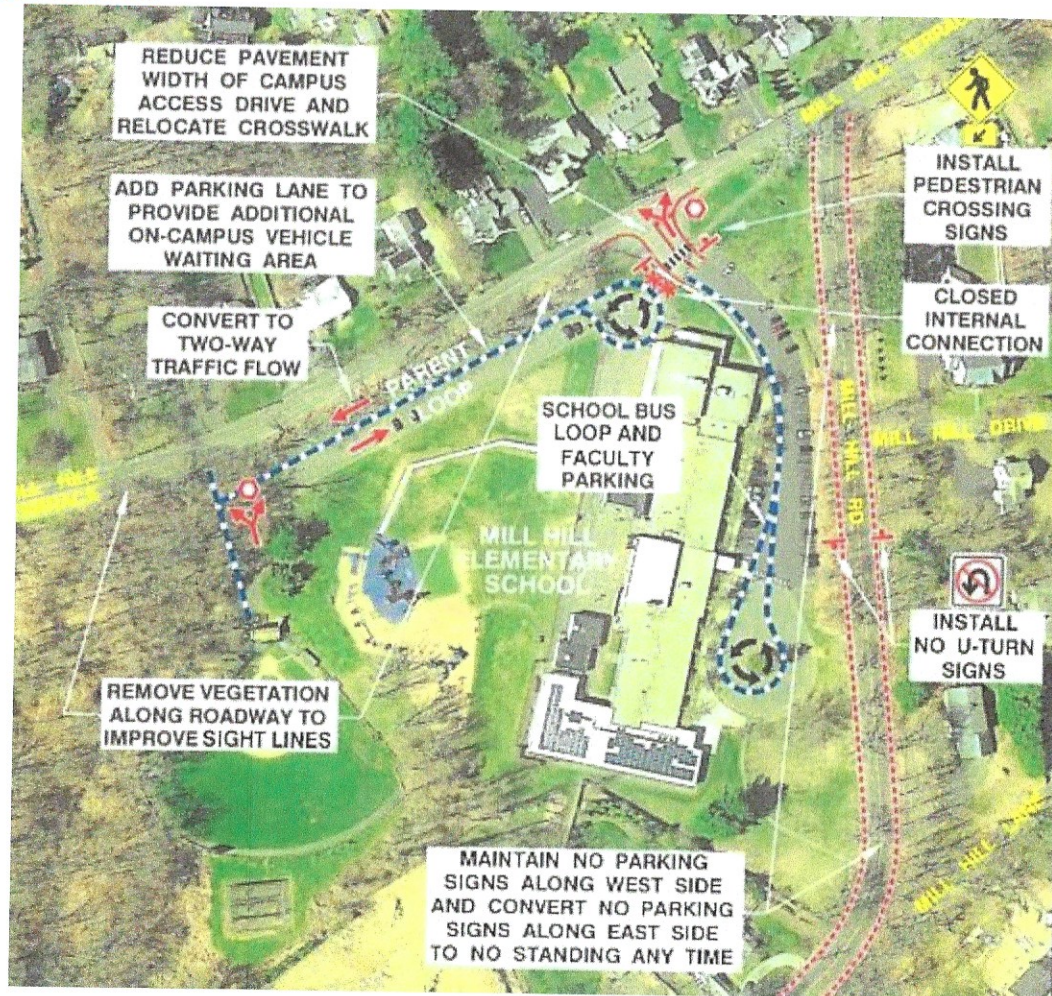




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Confidential – Colliers International 2019

## 1.C - Recommended improvements by traffic consultant



Extracted from Figure 11 from Frederick P. Clark Traffic Study



## BOS Questions from May 1, 2019 Meeting



1.A - Impact of parent drop-off and pick-up due to increased enrollment

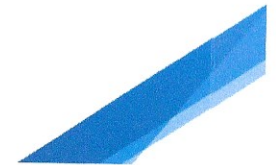
1.B - Traffic Impact – Impact of increasing enrollment, effect on local streets

1.C - Recommended improvements by traffic consultant

**1.D - Existing Resource Rooms vs Proposed (to be highlighted under Agenda Item 3, Floor Plans)**

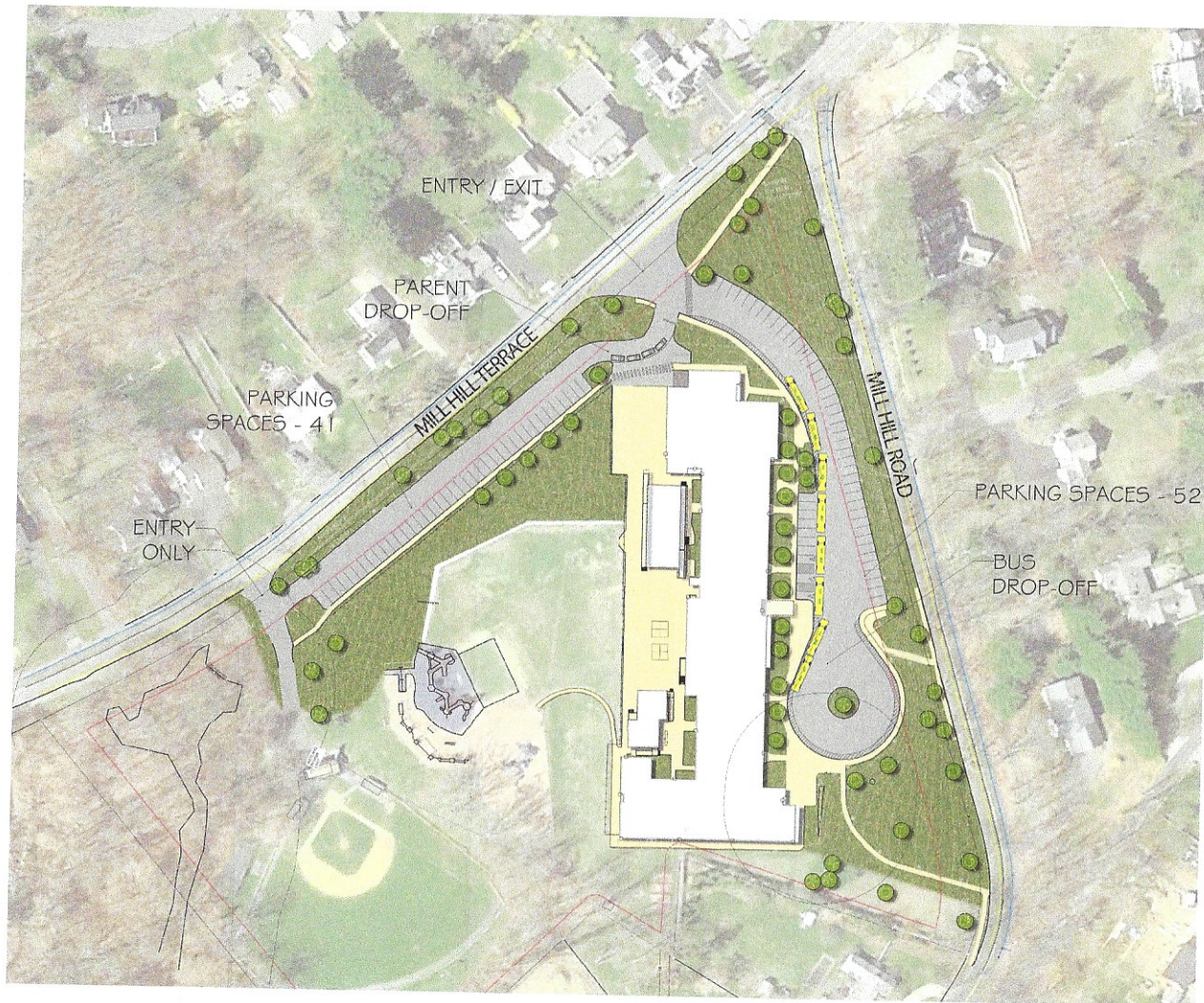
1.E - Serving Lines

**1.F - Enrollment Projections (BOE)**



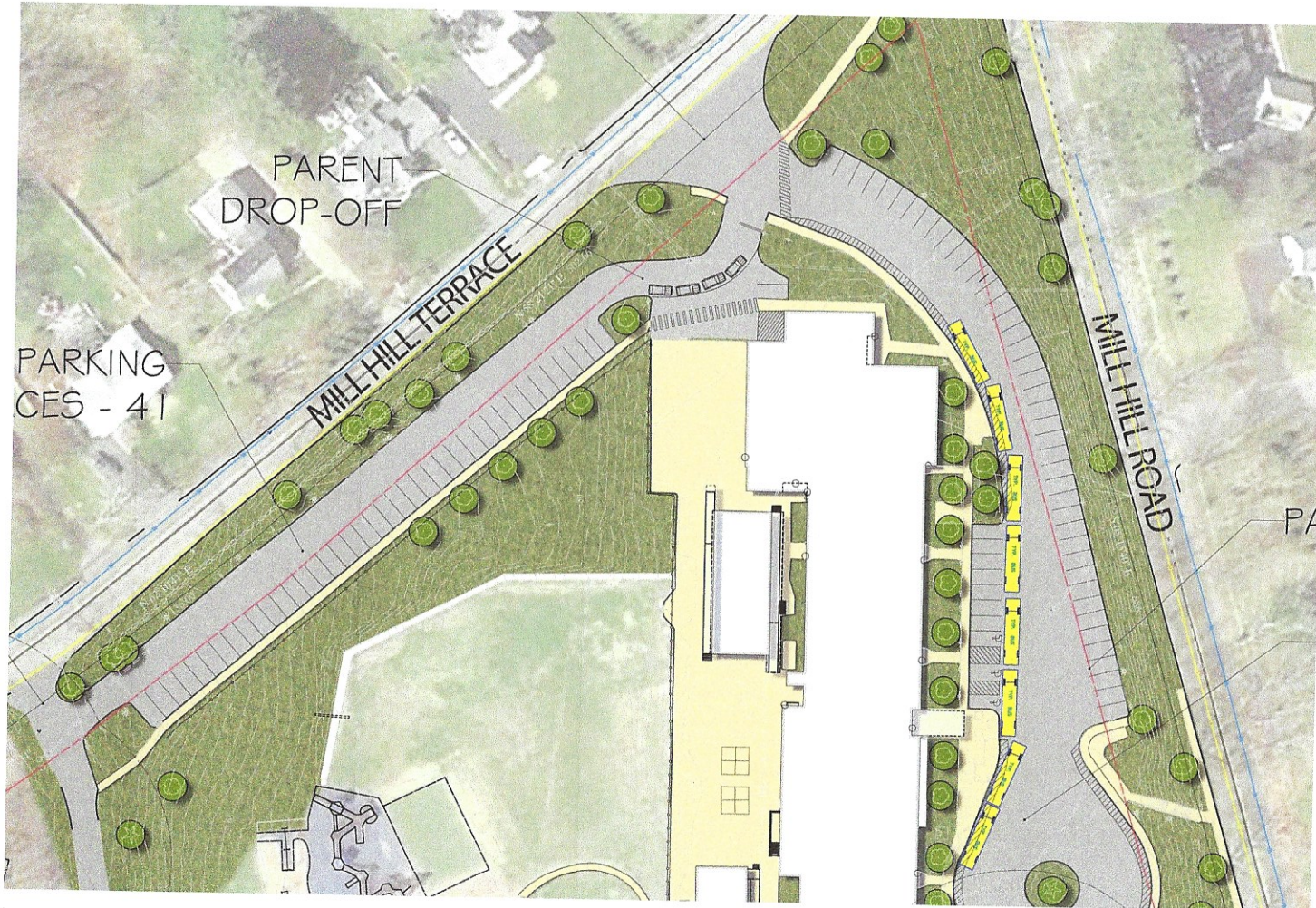


## 2. Existing Site - Overall



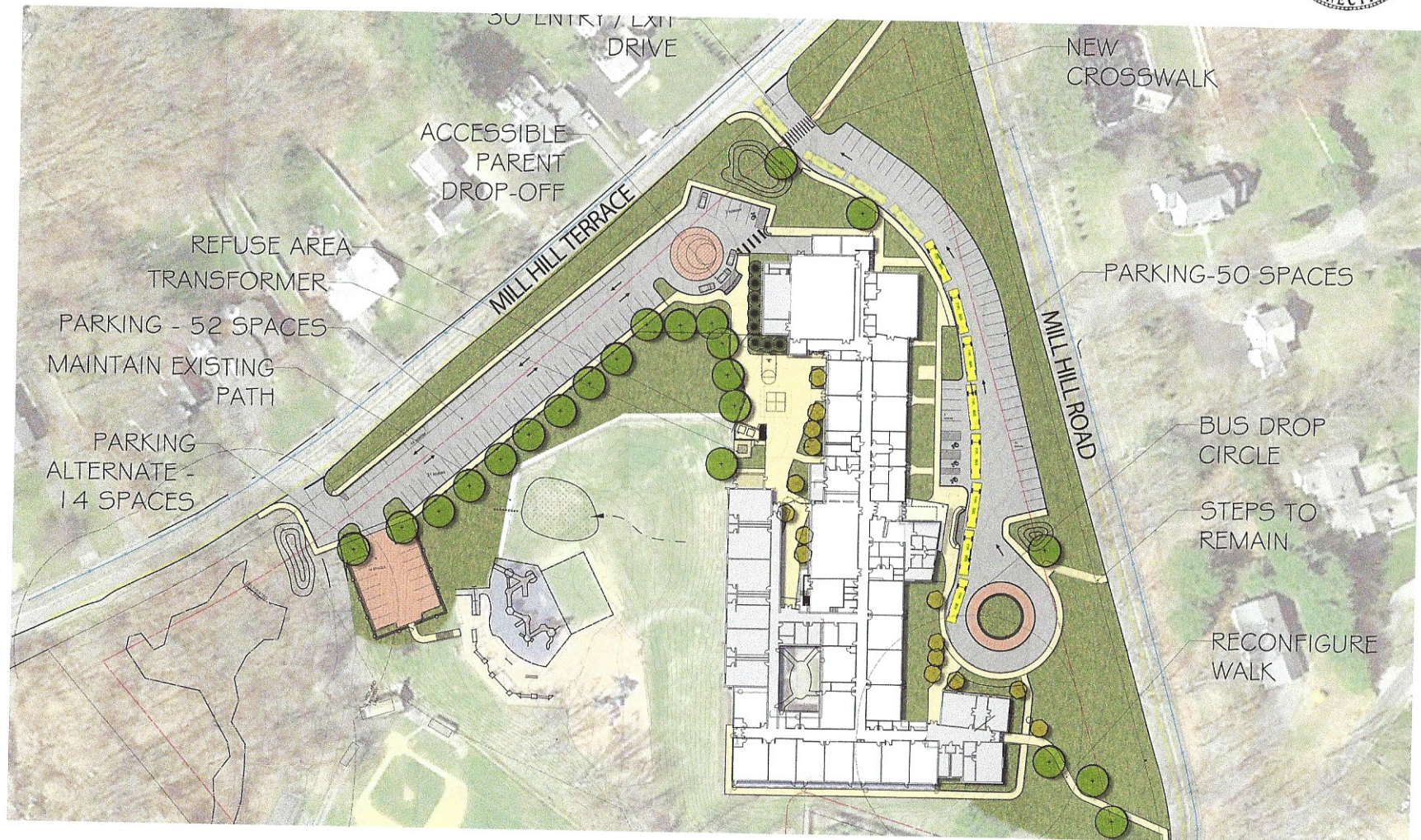


## 2. Existing Site – Parent and Bus Drop-Off



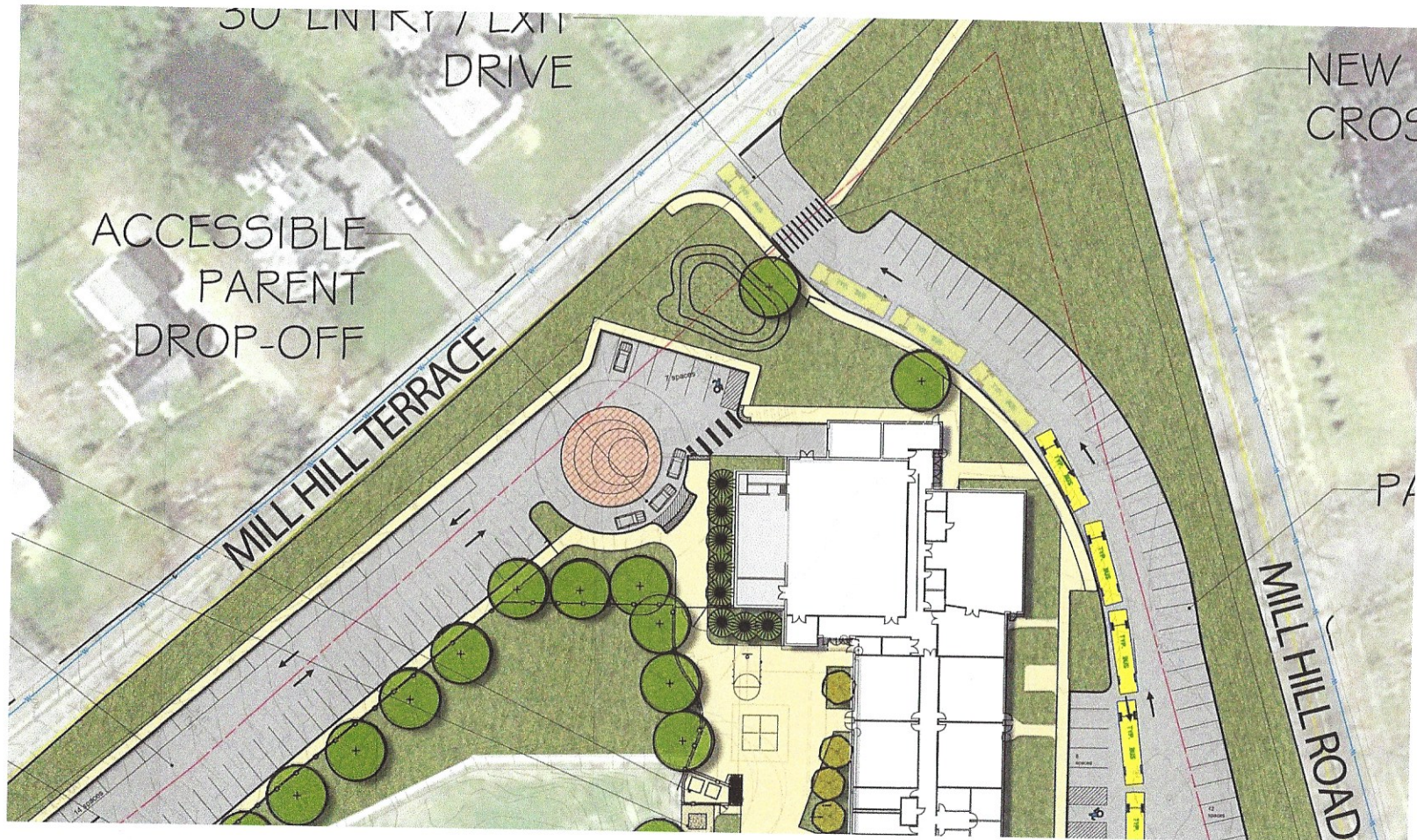


## 2. Proposed Site





## 2. Proposed Site – Parent Drop-Off

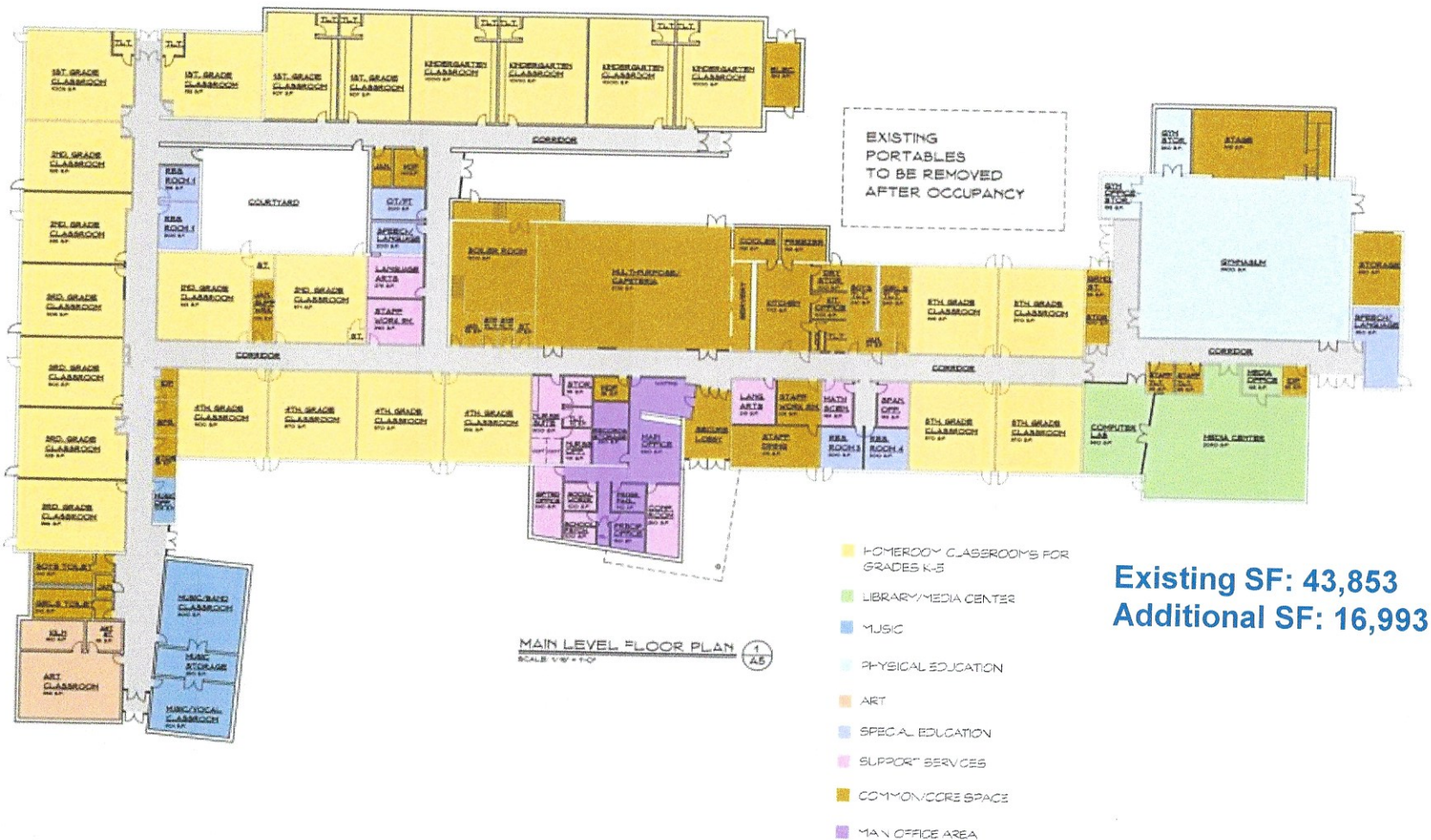




### 3. Existing Floor Plan



### 3. Proposed 504 Plan



Existing SF: 43,853  
Additional SF: 16,993



### 3. Proposed 441 Plan



Existing SF: 43,853  
Additional SF: 14,642

### 3. Proposed 378 Plan



**Existing SF: 43,853**  
**Additional SF: 10,891**



## 4. Project Costs



	378	441	504
Construction (incl. escalation)	\$16,570,000	\$17,623,400	\$18,576,700
FF&E	\$190,000	\$220,000	\$250,000
Fees & Expenses	\$2,309,500	\$2,392,300	\$2,467,700
Owner's Contingency (6.5%)	\$1,145,900*	\$1,264,900*	\$1,369,200*
<b>Total Project Cost</b>	<b>\$20,215,400</b>	<b>\$21,500,600</b>	<b>\$22,663,600</b>

\* Does not include additional contingency for hazardous materials



5/6/2019

Mill Hill Elementary School - 378  
SD Estimate - Reconciled

CSI List	Description	Takeoff Quantity	Total Cost/Unit	Total Amount
01000 Site Services		56,375.00 sf	8.60 /sf	484,577
01500 Demolition		56,375.00 sf	8.04 /sf	453,343
02000 Site Construction		56,375.00 sf	36.01 /sf	2,030,163
03001 Concrete Foundations		56,375.00 sf	3.70 /sf	208,700
03002 Concrete Slab on Grade		56,375.00 sf	2.41 /sf	135,620
04000 Masonry		56,375.00 sf	4.56 /sf	257,233
05000 Structural Steel		56,375.00 sf	6.73 /sf	379,292
05001 Miscellaneous Metals		56,375.00 sf	0.59 /sf	33,100
06000 Carpentry		56,375.00 sf	1.86 /sf	104,683
07000 Thermal and Moisture Protection		56,375.00 sf	18.91 /sf	1,065,899
08000 Doors and Windows		56,375.00 sf	10.14 /sf	571,686
09000 Finishes		56,375.00 sf	18.05 /sf	1,017,353
10000 Specialities		56,375.00 sf	2.61 /sf	147,020
11000 Equipment		56,375.00 sf	3.10 /sf	175,000
12000 Furnishings		56,375.00 sf	0.24 /sf	13,285
15300 Fire Protection		56,375.00 sf	4.60 /sf	259,366
15400 Plumbing		56,375.00 sf	10.80 /sf	609,031
15500 HVAC		56,375.00 sf	56.46 /sf	3,183,123
16000 Electrical		56,375.00 sf	23.81 /sf	1,342,468

Estimate Totals

Description	Amount	Totals	Cost per Unit
	12,470,942	12,470,942	221.214 /SF
Design Contingency (5%)	623,547		
CM Contingency (3%)	392,835		
Escal 22mos mp = 3/2021 @ 3.25%/yr	810,611		
	1,826,993	14,297,935	
P/P Bond .06%	9,942		
	9,942	14,307,877	
CM Precon per Contract	147,440		
CM GR's per Contract	1,574,909		
CM Fee 2.4%	397,680		
CM Gen'l Liab Insur \$8.65/\$1,000	142,101		
Builders Risk Insur - Excluded			
Building Permit - Excluded			
	2,262,130	16,570,007	
378 Constr.Total		16,570,007	293.925 /SF



School Expansion Options

<b>Pop 441 +3,890sf +3 classrooms</b>				
Site Services				
Temp Swing Space Not Required	(5) rms	60,000.00	(300,000)	-
Sitework				
Bldg Pad Gravel Base	125 cy	41.20	5,170	-
Fnd Excavation	3 crdy	5,198.00	15,594	-
Increase size of Retention System	278 sf	35.00	9,730	-
Foundations				
Slab on Grade	62 cy	1,100.00	67,925	-
Structural Steel	3,890 sf	8.00	31,120	-
Roof Deck	27 tons	3,950.00	107,559	-
	3,890 sf	3.90	15,171	-
Ro.Carp				
Finish Carp	3,890 sf	1.25	4,863	-
	3 classrms	4,000.00	12,000	-
Exterior Wall				
Backup	3,458 sf	18.25	63,109	-
Brick	1,037 sf	38.00	39,421	-
Window	692 sf	110.00	76,076	-
PreCast	1,729 sf	35.00	60,515	-
AVB	3,458 sf	6.50	22,477	-
Roofing				
	3,890 sf	21.50	83,635	-
Partitions, Room Finishes and Specialties				
	3,890 sf	19.00	73,910	-
Fire Protection				
	1 ls	19,450.00	19,450	-
Plumbing				
	1 ls	104,472.00	104,472	-
HVAC				
	1 ls	170,373.00	170,373	-
Electrical				
	1 ls	116,690.00	116,690	-
			799,259	-
Contingencies			119,889	-
CM Expenses			134,275	-
<b>Total Add</b>			<b>1,053,423</b>	-

Pop 504 + 6,328sf +5 classrooms			-
Site Services			-
Temp Swing Space Req'd 1 Classrm	(4) rms	60,000.00	(240,000)
Sitework			-
Bldg Pad Gravel Base	204 cy	41.20	8,410
Fnd Excavation	4 crdy	5,198.00	20,792
Increase size of Retention System	584 sf	35.00	20,440
Foundations	87 cy	1,100.00	95,975
Slab on Grade	6,328 sf	8.00	50,624
Structural Steel	44 tons	3,950.00	174,969
Roof Deck	6,328 sf	3.90	24,679
Ro.Carp	6,328 sf	1.25	7,910
Finish Carp	5 classrms	4,000.00	20,000
Exterior Wall			-
Backup	4,886 sf	18.25	89,170
Brick	1,466 sf	38.00	55,700
Window	977 sf	110.00	107,492
PreCast	2,443 sf	35.00	85,505
AVB	4,886 sf	6.50	31,759
Roofing	6,328 sf	21.50	136,052
Partitions, Room Finishes and Specialties	6,328 sf	19.00	120,232
Fire Protection	1 ls	31,640.00	31,640
Plumbing	1 ls	155,433.00	155,433
HVAC	1 ls	335,885.00	335,885
Electrical	1 ls	189,824.00	189,824
			1,522,492
	Contingencies		228,374
	CM Expenses		255,779
	Total Add		2,006,644



Mill Hill Elementary School  
29 April 19



Schematic Design Estimate Values

	<u>Const Cost</u>	<u>Total Proj Cost</u>	<u>Delta</u>
Mill Hill ES Total 378	16,570,019	20,215,423	
Mill Hill ES Total 441	17,623,442	21,500,599	6%
Mill Hill ES Total 504	18,576,663	22,663,529	5%
*Holland Hill Escalated	16,221,622	20,655,000	

\* Holland Hill 2018 Actual Proj Cost = \$18,000,000

Comparison to Holland Hill

Sitework	1,077,732
Roofing	599,855
	1,677,587
Mill Hill Adj to remove Roof/Site Prem	20,985,942



**From:** Lyddy, Chris <[CLyddy@fairfieldct.org](mailto:CLyddy@fairfieldct.org)>  
**Sent:** Tuesday, May 14, 2019 10:10 PM  
**To:** Tetreau, Mike <[MTETREAU@fairfieldct.org](mailto:MTETREAU@fairfieldct.org)>  
**Subject:** Mill Hill

Mike:

Michael Galante underwent some minor surgery and is out this week. He is seeing a doctor Friday morning and might be able to speak with us on Friday afternoon.

I posed a few questions based on our conversations and have included his response. I do not believe these responses were given with his ability to access his data, so please take that in consideration:

1. What's the width of the parent drop off? **32 feet**
2. How many vehicles can queue in the parent drop off? **Need to measure**
3. **Given the parking in the parent drop off, do students need to access in between parked cars? No. parents waiting in the queue must drop off in the circle. Parents waiting beyond the circle will have a sidewalk to access to walk back to the school. Others will park in perpendicular spaces. I question how this will work and need much more information. Drop off is a reasonable explanation, pick up is not addressed and I do not believe pickup/and drop off can be viewed as similar.**
4. Our estimate is that 20.23% of the student population is likely to be a parent drop off on a rain day...do you concur? **We need to calculate the students on buses, walkers (0) on rainy day and drop off.**
5. How many busses can fit in the bus loop? **Seven**

Conclusion: The Police Department has incomplete data to make conclusive recommendations or render safety decisions. The draft traffic study, as submitted, does not provide critical data to make recommendations. We may have an opportunity to meet or talk with Michael Galante on Friday, but I am not able to confirm at this point.

Respectfully,  
Chris  
Chris Lyddy, Chief of Police

**A RESOLUTION APPROPRIATING \$\_\_\_\_\_ FOR THE COSTS ASSOCIATED WITH THE RENOVATION AND EXPANSION OF MILL HILL ELEMENTARY SCHOOL AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION.**

-----  
**Resolved:**

1. As recommended by the Board of Finance and the Board of Selectmen, the Town of Fairfield (the "Town") hereby appropriates the sum of \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_) for the costs associated with the renovation and expansion of Mill Hill Elementary School [for a school with a capacity of \_\_\_\_\_ students], which costs include but are not limited to costs of materials, construction, equipment, site work, fixtures, furniture, design, architectural engineering, specialty consultants, environmental, oversight, finance and other costs and expenses that are related thereto (the "Project").
2. To finance such appropriation and as recommended by the Board of Finance and the Board of Selectmen, the Town may borrow a sum not to exceed \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_) and issue its bonds for such indebtedness under its corporate name and seal and upon the full faith and credit of the Town in an amount not to exceed said sum for the purpose of financing such appropriation.
3. The Board of Selectmen, the Treasurer and the Fiscal Officer of the Town are hereby appointed a committee (the "Committee") with full power and authority to cause said bonds to be sold, issued and delivered; to determine their form and terms, including provision for redemption prior to maturity; to determine the aggregate principal amount thereof within the amount hereby authorized and the denominations and maturities thereof; to fix the time of issue of each series thereof and the rate or rates of interest thereon as herein provided; to determine whether the interest rate on any series will be fixed or variable and to determine the method by which the variable rate will be determined, the terms of conversion, if any, from one interest rate mode to another or from fixed to variable; to set whatever other terms of the bonds they deem necessary, desirable or appropriate; to designate the bank or trust company to certify the issuance thereof and to act as transfer agent, paying agent and as registrar for the bonds, and to designate bond counsel. The Committee shall have all appropriate powers under the Connecticut General Statutes to issue, sell and deliver the bonds and, further, shall have full power and authority to do all that is required under the Internal Revenue Code of 1986, as amended, and under rules of the Securities and Exchange Commission, and other applicable laws and regulations of the United States, to provide for issuance of the bonds in tax exempt form and to meet all

requirements which are or may become necessary in and subsequent to the issuance and delivery of the bonds in order that the interest on the bonds be and remain exempt from Federal income taxes, including, without limitation, to covenant and agree to restriction on investment yield of bond proceeds, rebate of arbitrage earnings, expenditure of proceeds within required time limitations, the filing of information reports as and when required, and the execution of Continuing Disclosure Agreements for the benefit of the holders of the bonds and notes.

4. The First Selectman and Treasurer or Fiscal Officer, on behalf of the Town, shall execute and deliver such bond purchase agreements, reimbursement agreements, line of credit agreement, credit facilities, remarketing agreement, standby marketing agreements, bond purchase agreement, standby bond purchase agreements, and any other commercially necessary or appropriate agreements which the Committee determines are necessary, appropriate or desirable in connection with or incidental to the sale and issuance of bonds, and if the Committee determines that it is necessary, appropriate, or desirable, the obligations under such agreements shall be secured by the Town's full faith and credit.
5. The bonds may be designated "Public Improvement Bonds of the Town of Fairfield", series of the year of their issuance and may be issued in one or more series, and may be consolidated as part of the same issue with other bonds of the Town; shall be in serial form maturing in not more than twenty (20) annual installments of principal, the first installment to mature not later than three (3) years from the date of issue and the last installment to mature not later than twenty (20) years from the date of issue. The bonds may be sold at an aggregate sales price of not less than par and accrued interest at public sale upon invitation for bids to the responsible bidder submitting the bid resulting in the lowest true interest cost to the Town, provided that nothing herein shall prevent the Town from rejecting all bids submitted in response to any one invitation for bids and the right to so reject all bids is hereby reserved, and further provided that the Committee may sell the bonds on a negotiated basis, as provided by statute. Interest on the bonds shall be payable semi-annually or annually. The bonds shall be signed on behalf of the Town by at least a majority of the Board of Selectmen and the Treasurer, and shall bear the seal of the Town. The signing, sealing and certification of the bonds may be by facsimile as provided by statute.
6. The Committee is further authorized to make temporary borrowings as authorized by the General Statutes and to issue temporary notes of the Town in anticipation of the receipt of proceeds from the sale of the bonds to be issued pursuant to this resolution. Such notes shall be issued and renewed at such time and with such maturities, requirements and limitations as provided by the Connecticut General Statutes. Notes evidencing such borrowings shall be signed by the First Selectman and Treasurer or Fiscal Officer, have the seal of the Town affixed, which signing and sealing may be by facsimile as provided by statute, be certified by and payable at a bank or trust company incorporated under the laws

of this or any other state, or of the United States, be approved as to their legality by bond counsel, and may be consolidated with the issuance of other Town bond anticipation notes. The Committee shall determine the date, maturity, interest rates, form and manner of sale, including negotiated sale, and other details of said notes consistent with the provisions of this resolution and the Connecticut General Statutes and shall have all powers and authority as set forth above in connection with the issuance of bonds and especially with respect to compliance with the requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder in order to obtain and maintain issuance of the notes in tax exempt form.

7. Pursuant to Section 1.150-2, as amended, of the Federal Income Tax Regulations the Town hereby declares its official intent to reimburse expenditures (if any) paid for the Project from its General or Capital Funds, such reimbursement to be made from the proceeds of the sale of bonds and notes authorized herein and in accordance with the time limitations and other requirements of said regulations.
8. The First Selectman, Fiscal Officer and Town Treasurer are hereby authorized, on behalf of the Town, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to the Municipal Securities Rulemaking Board (the "MSRB") and to provide notices to the MSRB of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.
9. The Committee is hereby authorized to take all action necessary and proper for the sale, issuance and delivery of the bonds and notes in accordance with the provisions of the Connecticut General Statutes and the laws of the United States.
10. The First Selectman or other proper Town official is hereby authorized to apply for and accept any available State or Federal grant in aid funding the Project, and to take all action necessary and proper in connection therewith.
11. After the appointment of the Building Committee and the election of a Building Committee chairperson, the Board of Finance requests the attendance of such chairperson at the next scheduled Board of Finance meeting to discuss the Project.



# Mill Hill Elementary School – Schematic Design

Presentation to RTM

June 2019



**SILVER/PETRUCELLI + ASSOCIATES**  
*Architects / Engineers / Interior Designers*

3190 Whitney Avenue | Hamden, CT 06518  
One Post Hill Place | New London, CT 06320  
Tel: 203 230 9007 Fax: 203 230 8247  
[www.silverpetrucci.com](http://www.silverpetrucci.com)





# Agenda

1. Recommended Traffic Improvements
2. Site Improvements
3. Floor Plans
4. Project Estimates
5. Questions and Answers

# 1. - Recommended improvements by traffic consultant



Extracted from Figure 11 from Frederick P. Clark Traffic Study



## 2. Existing Site - Overall





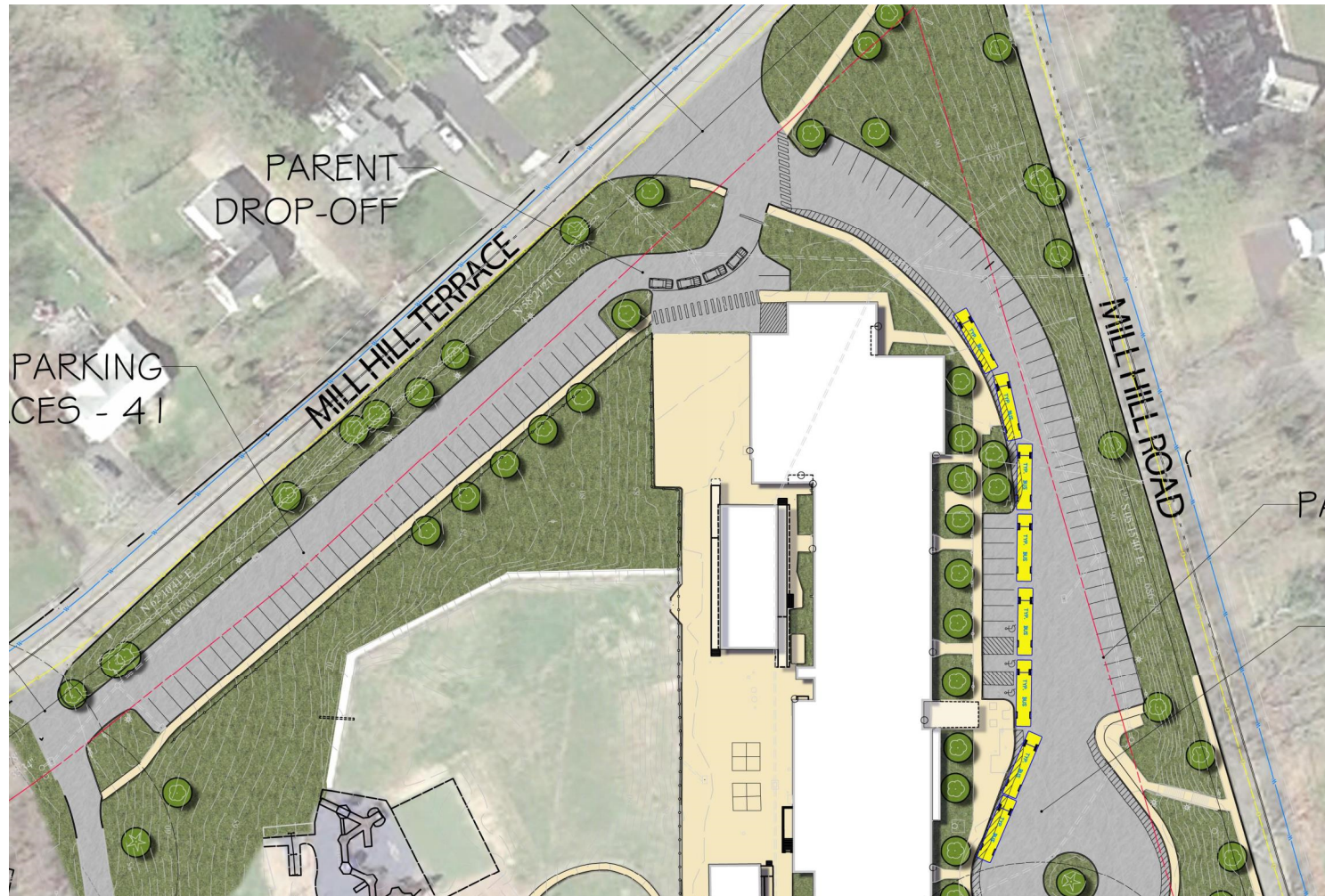
## 2. Proposed Site







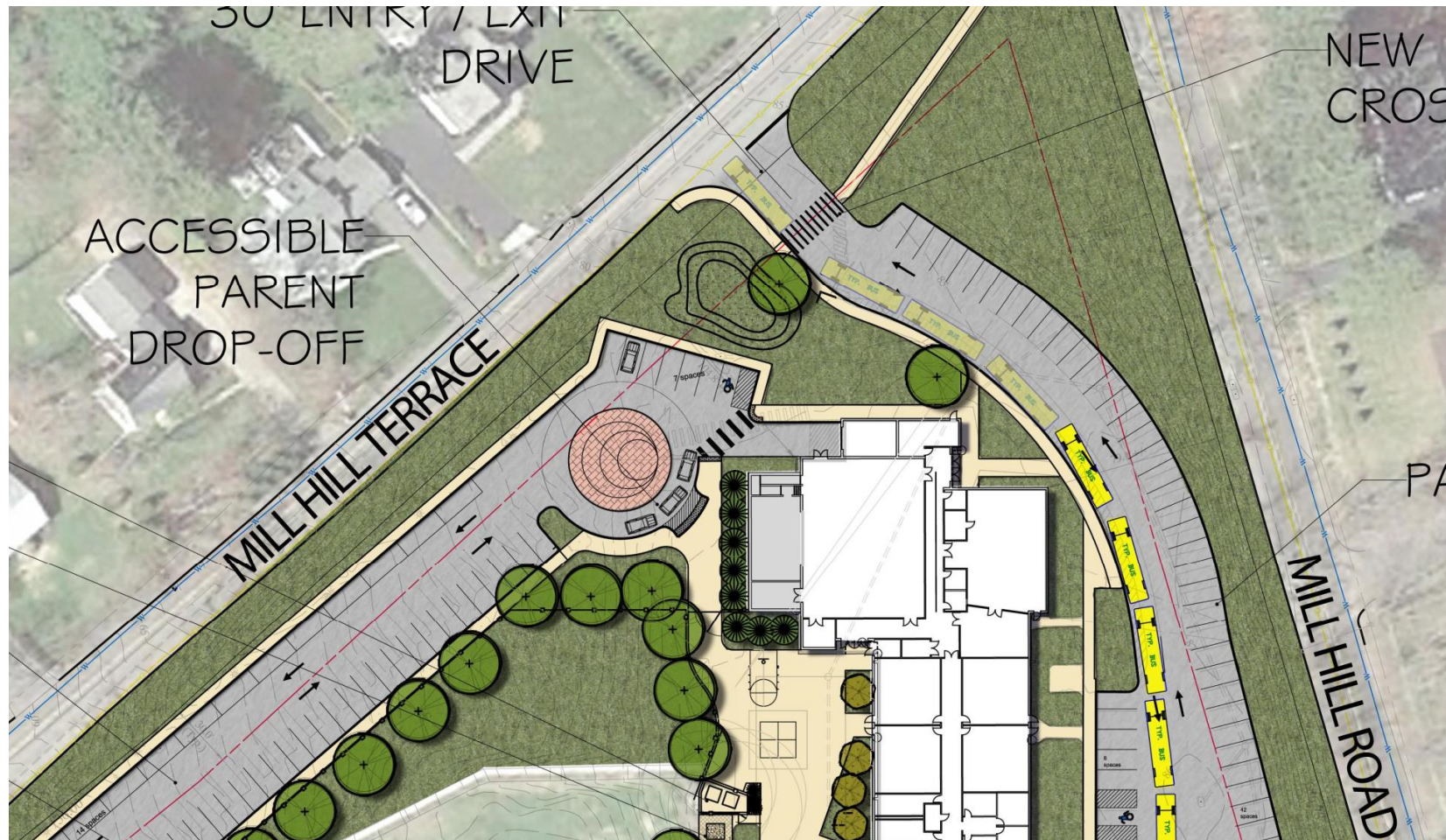
## 2. Existing Site – Parent and Bus Drop-Off







## 2. Proposed Site – Parent Drop-Off



### 3. Existing Floor Plan







### 3. Proposed 441 Plan





## 4. Project Costs

	Holland Hill	Mill Hill - 441
Construction (incl. escalation)	\$14,273,300	\$17,623,400
FF&E	\$335,000	\$220,000
Fees & Expenses	\$2,489,500	\$2,392,300
Owner's Contingency (6.5%)	\$942,700*	\$1,264,900*
<b>Total Project Cost</b>	<b>\$18,040,500</b>	<b>\$21,500,600</b>

\* Does not include additional contingency for hazardous materials





Accelerating success.



## Chapter 26

### HISTORIC DISTRICTS

#### GENERAL REFERENCES

Historic District Commission — See Charter, § 10.14. Harbor Management Area — See Ch. 24, § 24-14B.

Real property management — See Ch. 35.

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#### **§ 26-1. Old Post Road Historic District.**

An historic district is hereby established in the Town, the boundaries of which are shown on the map entitled "Historic District, Fairfield, Connecticut," which map is filed in the office of the Town Clerk, and which district is more particularly bounded and described as follows:

- A. Beginning at a point of intersection of the center line of Turney Creek and the southerly street line of the Old Post Road; thence southerly along the center line of Turney Creek for a distance of one hundred forty feet, more or less, to a point of intersection with a line which is parallel to and one hundred twenty-five feet southerly of the southerly street line of the Old Post Road; thence westerly along a line which is parallel to and one hundred twenty-five feet southerly of the southerly street line of the Old Post Road for a distance of four hundred ten feet, more or less, to a point of intersection with the westerly property line of land now or formerly of David and Jean H. Whitney; thence southerly along the westerly property line of land now or formerly of David and Jean H. Whitney for a distance of seventy-five feet, more or less, to a point of intersection with a line which is parallel to and two hundred feet southerly of the southerly street line of the Old Post Road; thence westerly along a line which is parallel to and two hundred feet southerly of the southerly street line of the Old Post Road for a distance of one hundred feet, more or less, to a point of intersection with the easterly property line of land now or formerly of Lawrence and Doris N. Hemmendinger; thence northerly along the westerly property line of land now or formerly of Lawrence and Doris N. Hemmendinger and Ernest M. and Hedwig D. Rappolt for a distance of seventy-five feet, more or less, to a point of intersection with a line which is parallel to and one hundred twenty-five feet southerly of the southerly street line of the Old Post Road; thence westerly along a line which is parallel to and one hundred twenty-five feet southerly of the southerly street line of the Old Post Road for a distance of one thousand sixty feet, more or less, to a point of intersection with the westerly street line of South Benson Road; thence southerly along the westerly street line of South Benson Road for a distance of twenty-five feet, more or less, to a point of intersection with a line which is parallel to and two hundred feet southerly of the southerly street line of the Old Post Road; thence

westerly along a line which is parallel to and two hundred feet southerly of the southerly street line of the Old Post Road for a distance of one hundred thirty feet, more or less, to a point of intersection with the easterly property line of land now or formerly of Robert G. and Jean D. Lee; thence southerly along the easterly property line of land now or formerly of Robert G. and Jean D. Lee for a distance of fifty feet, more or less, to a point of intersection with a line which is parallel to and two hundred fifty feet southerly of the southerly street line of the Old Post Road; thence westerly along a line which is parallel to and two hundred fifty feet southerly of the southerly street line of the Old Post Road for a distance of three hundred feet, more or less, to a point of intersection with the easterly property line of land now or formerly of Joseph A. and Susan G. Racioppi; thence northerly along the easterly property line of land now or formerly of Joseph A. and Susan G. Racioppi and Agnes G. Fairfield for a distance of fifty feet, more or less, to a point of intersection with a line which is parallel to and two hundred feet southerly of the southerly street line of the Old Post Road; thence westerly along a line which is parallel to and two hundred feet southerly of the southerly street line of the Old Post Road for a distance of four hundred seventy feet, more or less, to a point of intersection with a line which is parallel to and two hundred feet easterly of the easterly street line of Beach Road; thence southerly along a line which is parallel to and two hundred feet easterly of the easterly street line of Beach Road for a distance of six hundred fifty feet, more or less, to a point of intersection with the northerly street line of Sunnieholm Drive; thence westerly along the northerly street line of Sunnieholm Drive for a distance of two hundred seventy feet, more or less, and extending to a point of intersection with the westerly street line of Beach Road; thence southerly along the westerly street line of Beach Road for a distance of four hundred seventy feet, more or less, to a point of intersection with the northerly property line of land now or formerly of Edward A. Wenzel; thence westerly along the northerly property line of land now or formerly of Edward A. Wenzel, Town of Fairfield and Sybil B. McLaughlin, for a distance of one thousand one hundred seventy feet, more or less, to a point of intersection with the easterly street line of Penfield Road; thence northerly along the easterly street line of Penfield Road for a distance of eight hundred ten feet, more or less, to a point of intersection with a line which is parallel to and two hundred feet southerly of the southerly street line of the Old Post Road; thence westerly along a line which is parallel to and two hundred feet southerly of the southerly street line of the Old Post Road for a distance of six hundred seventy feet, more or less, to a point of intersection with the easterly property line of land now or formerly of Donal M. and Eleanor D. Collimore; thence northerly along the easterly property line of land now or formerly of Donal M. and Eleanor D. Collimore for a distance of two hundred seventy feet, more or less, and extending to a point of intersection with the northerly street line of the Old Post Road; thence westerly along the northerly street line of the Old Post Road for a distance of one hundred ninety feet, more or

less, to a point of intersection with a line which is parallel to and two hundred feet westerly of the easterly street line of the Old Post Road; thence northerly along a line which is parallel to and two hundred feet westerly of the easterly street line of the Old Post Road for a distance of eight hundred thirty feet, more or less, to a point of intersection with the westerly extension of the southerly property line of land now or formerly of the City Trust Company; thence easterly along the extension of and the southerly property line of land now or formerly of the City Trust Company for a distance of two hundred feet, more or less, to a point of intersection with the westerly street line of the Old Post Road; thence southerly along the westerly street line of the Old Post Road for a distance of sixty feet, more or less, to a point of intersection with the westerly extension of the southerly property line of land of the Town; thence easterly along the extension of and the southerly property line of land of the Town for a distance of two hundred seventy feet, more or less, to a point of intersection with a line which is parallel to and two hundred feet easterly of the easterly street line of the Old Post Road; thence southerly along a line which is parallel to and two hundred feet easterly of the Old Post Road for a distance of five hundred seventy feet, more or less, to a point of intersection with a line which is parallel to and two hundred feet northerly of the northerly street line of the Old Post Road; thence easterly along a line which is parallel to and two hundred feet northerly of the northerly street line of the Old Post Road for a distance of one thousand one hundred fifty feet, more or less, to a point of intersection with the westerly property line of land now or formerly of the First Church Congregational in Fairfield; thence southerly along the westerly property line of land now or formerly of the First Church Congregational in Fairfield for a distance of fifty feet, more or less, to a point of intersection with a line which is parallel to and one hundred fifty feet northerly of the northerly street line of the Old Post Road; thence easterly along a line which is parallel to and one hundred fifty feet northerly of the northerly street line of the Old Post Road for a distance of two hundred forty feet, more or less, to a point of intersection with the easterly street line of Beach Road; thence northerly along the easterly street line of Beach Road for a distance of fifty feet, more or less, to a point of intersection with a line which is parallel to and two hundred feet northerly of the northerly street line of the Old Post Road; thence easterly along a line which is parallel to and two hundred feet northerly of the northerly street line of the Old Post Road for a distance of one thousand one hundred feet, more or less, to a point of intersection with the westerly street line of South Benson Road; thence southerly along the westerly street line of South Benson Road for a distance of one hundred ten feet; more or less, to a point of intersection with a line which is parallel to and one hundred twenty-five feet northerly of the northerly street line of the Old Post Road; thence easterly along a line which is parallel to and one hundred twenty-five feet northerly of the northerly street line of the Old Post Road for a distance of one thousand three hundred twenty feet, more or less, to a point of intersection with the westerly street line of the Post Road (U.S.

Route No. 1); thence southerly along the westerly street line of the Post Road (U.S. Route No. 1) for a distance of one hundred ninety feet, more or less, and extending to the point of beginning.

### **§ 26-2. Greenfield Hill Historic District.**

An historic district is hereby established in Greenfield Hill to be known as the "Greenfield Hill Historic District," the boundaries of which are shown on a map entitled, "Historic District, Greenfield Hill, Town of Fairfield," and which map is filed in the office of the Town Clerk. Such district being more particularly bounded and described as follows:

- A. The village green and the adjacent properties on Meeting House Lane, Hillside Road and Old Academy Road, the Greenfield Hill Congregational Church and Church House, and extending southerly along both sides of Bronson Road to and including the old cemetery, and southerly along both sides of Hillside Road to a point below Verna Hill Road, including therein the following parcels of property as recorded in the Town Assessor's office:

<b>Map No.</b>	<b>Parcel No.</b>
171	28-32, inclusive
173	17-19, inclusive
173	28, 29
173	35-37, inclusive
173	43, 44
173	54-56, inclusive
173	60-85, inclusive
223	1, 10, 11

### **§ 26-3. Southport Historic District. [Amended 1-23-1995]**

- A. An historic district is hereby established in Southport to be known as the "Southport Historic District," the boundaries of which are shown on a map entitled, "Southport Historic District, Town of Fairfield," which map is filed in the office of the Town Clerk. Such district being more particularly bounded and described as follows:

- (1) The Southport Historic District is generally bounded on the north by the southerly line of the New York, New Haven & Hartford Railroad Company, on the south by the Mill River and Southport Harbor, on the west by Old South Road, including both sides, and on the east by Rose Hill Road, including both sides, Church Street and the west side of Prospect Lane. The east extension boundary crosses Prospect Lane in a northerly direction to the northwest corner of Lot 55 (Map 241). At said point the boundary runs around the north, east and south property lines of said lot and returns across Prospect Lane to the existing Southport Historic District

boundary, then returns along said boundary in a northwesterly direction to the point of beginning. Said district includes therein the following parcels of property as recorded in the Town Assessor's office:

<b>Map No.</b>	<b>Tax Parcel No.</b>
241	1-27, inclusive
241	34-53, inclusive
241	55
241	72-76, inclusive
241	79-87, inclusive
241	93, except that portion thereof used for commercial purposes
241	94-151
241	156-157
241	165-168, inclusive
241	186-201, inclusive
241	201A-202A
241	202-205, inclusive
241	210-213, inclusive
241	214, that portion fronting on Pequot Avenue to a depth of 200 feet
231	418-427, inclusive
231	441
231	453-455, inclusive

B. Spruce Street Extension. The existing Southport Historic District established in Southport, known as the "Southport Historic District," the boundaries of which are shown on a map entitled, "Southport Historic District, Town of Fairfield," shall be amended to include an extension. Upon adoption of this ordinance, a map entitled "Southport Historic District, Town of Fairfield, Amended 2007," shall be filed in the office of the Fairfield Town Clerk, which will include the extension bounded and described as follows: **[Added 10-22-2007]**

- (1) The existing northern boundary of the Southport Historic District shall be amended and generally bounded to include both sides of Spruce Street, to No. 100 on the east side and to Rennell Drive on the west and that portion of the railroad easement that connects with the existing historic district and includes the railroad stations on both sides of the tracks.
- (2) Said extension includes therein the following parcels of property as recorded in the Assessor's Office:



Map No.	Tax Parcel No.
241	181
241	221-226, inclusive
243	25-27, inclusive
243	39-41, inclusive

#### **§ 26-4. (Reserved)<sup>1</sup>**

#### **§ 26-5. (Reserved)**

#### **§ 26-6. (Reserved)**

#### **§ 26-7. Adoption of rules and regulations.**

The Historic District Commission shall adopt regulations and rules of procedure and shall be subject to all of the requirements imposed by the state statutes and the Charter regarding the administration and operation of the Commission.

##### **§ 26-7.1. Historic properties designation. [Added 7-26-1999]**

The Historic District Commission is authorized to study and make recommendations to the Representative Town Meeting to establish additional historic properties from time to time as the Historic District Commission sees fit to make such studies and recommendations. Only those properties authorized in writing by the owner or owners of record shall be recommended by the Historic District Commission and designated by the Representative Town Meeting as historic properties.

##### **§ 26-7.2. Designated historic properties.**

The following properties have been designated as historic properties by the Representative Town Meeting: 1520 Bronson Road, 506 Jennings Road, 5210 Congress Street, 230 Unquowa Road, 449 Mill Plain Road, 1135 Mill Hill Road, 170 Pequot Avenue, 375 Warner Hill Road, 12 Ermine Street, and 554 Tunxis Hill Road.

#### **§ 26-8. Construal.**

Nothing contained in this chapter shall relieve any property owner of complying with the requirements of any other state statutes, this Code or municipal ordinances or regulations affecting the uses of land within the Town.

1. Editor's Note: Former §§ 26-4 through 26-6, concerning the Historic Commission, were repealed 9-28-1998. See § 10.14 of the Charter.

26:6

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**TOWN SENIOR/DISABLED TAX RELIEF PROGRAM FOR FISCAL YEAR 2020**

**ASSESSOR'S REPORT TO THE RTM PER Chapter 95, Article III, Section 15.1**

	FY 2020		JUNE, 2019	FY 2019		CHANGE FY19 to FY20		
	# of Accounts	Amount		# of Accounts	Amount	# of Accounts	Amount	% Change
<u>SENIOR/DISABLED TAX RELIEF PROGRAM</u>								
Credit Program (non-reimbursable, no lien)	1306	\$3,300,036		1336	\$3,381,880	-30	\$ (81,845)	-2.48%
Freeze Program (non-reimbursable, no lien)	0	\$0		0	\$0	0	\$ -	#DIV/0!
Deferral Program (reimbursable, lien)	5	\$22,964		7	\$29,819	-2	\$ (6,855)	-29.85%
Summary - total number of accounts and total tax loss	1311	\$3,323,000		1343	\$3,411,700	-32	-\$88,700	-2.67%

**SCHEDULE OF APPLICATION ACTIVITY**

	Credit	Freeze	Deferral	Totals			
Total accounts-previous fiscal year	1336	0	7	1343	1438	-95	-7.07%
New applications received	157	0	0	157	94	63	40.13%
<b>Total added</b>	<b>157</b>	<b>0</b>	<b>0</b>	<b>157</b>	<b>94</b>	<b>63</b>	<b>40.13%</b>
Disallowed (Excess Income)	-53	0	0	-53	-53	0	0.00%
Disallowed (Excess Assets)	-14	0	0	-14	-4	10	-71.43%
Disallowed (Non CT residents)	0	0	0	0	0	0	#DIV/0!
Disallowed (Delinquent Tax)	0	0	0	0	0	0	#DIV/0!
Removed (deceased)	-46	0	-1	-47	-62	-15	31.91%
Removed (sold)	-36	0	-1	-37	-55	-18	48.65%
Removed (Not Living in Home)	-3	0	0	-3	-3	0	0.00%
Removed (failed to refile)	-35	0	0	-35	-10	25	-71.43%
Missing Data	0	0	0	0	-2	-2	#DIV/0!
<b>Total Removed</b>	<b>-187</b>	<b>0</b>	<b>-2</b>	<b>-189</b>	<b>-189</b>	<b>0</b>	<b>0.00%</b>
<b>Net Change</b>	<b>-30</b>	<b>0</b>	<b>-2</b>	<b>-32</b>	<b>-95</b>		
<b>Summary - total number of accounts</b>	<b>1306</b>	<b>0</b>	<b>5</b>	<b>1311</b>	<b>1343</b>	<b>-37</b>	<b>2.83%</b>

**SCHEDULE OF INCOME RANGES**

	Credit			Disabled		Deferral		Grand Total
	Married	Single	Totals	Married	Single	Married	Single	
\$0-\$17,600	12	88	100	0	7	0	0	107
\$17,601-\$25,100	18	171	189	1	4	0	1	195
\$25,101-\$31,000	19	142	161	3	2	0	1	167
\$31,001-\$37,100	33	130	163	1	2	0	0	166
\$37,101-\$45,600	57	152	209	3	2	0	0	214
\$45,601-\$53,200	56	83	139	1	1	0	0	141
\$53,201-\$73,500	151	153	304	4	1	1	2	312
\$73,501-\$84,000	6	3	9	0	0	0	0	9
<b>Totals</b>	<b>352</b>	<b>922</b>	<b>1274</b>	<b>13</b>	<b>19</b>	<b>1</b>	<b>4</b>	<b>1311</b>

**SCHEDULE OF ASSESSMENT RANGES (Quartiles)**

Assessment Range	# of Accounts	% of Total Accts.
\$0-\$235,410	328	25.02%
\$235,410-\$282,380	328	25.02%
\$282,380-\$338,380	327	24.94%
\$338,380-\$953,050	328	25.02%
Over \$953,050	0	0.00%

**SCHEDULE OF AGE RANGES FY 2020**

<65	34	2.59% Disabled or Surviving Spouse(1)
65-74	384	29.29%
75-84	456	34.78%
85-94	389	29.67%
>95	48	3.66%

<b>Totals</b>	<b>1311</b>	<b>1311</b>
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**AVERAGE TAX RELIEF RECIPIENT ASSESSMENT**

Average Tax Relief Recipient Assessment-FY 2020	\$291,575
Average Tax Relief Recipient Assessment-FY 2019	\$294,949

**NOTES**

**TOWN TAX RELIEF-5 YEAR HISTORY**

	<b>FY 2020</b>		<b>FY 2019</b>		<b>FY 2018</b>		<b>FY 2017</b>		<b>FY 2016</b>	
	<b># of Apps</b>	<b>TAX LOSS</b>	<b># of Apps</b>	<b>TAX LOSS</b>	<b># of Apps</b>	<b>TAX LOSS</b>	<b># of Apps</b>	<b>TAX LOSS</b>	<b># of Apps</b>	<b>TAX LOSS</b>
TOTAL CREDIT APPS	1306	3,300,036	1336	3,381,880	1428	\$3,598,903	1462	\$3,667,929	1525	\$3,786,940
TOTAL FREEZE APPS	0	-	0	-	0	\$0	4	\$12,544	5	\$17,654
TOTAL DEFERRAL APPS	5	22,964	7	29,819	10	<u>\$39,099</u>	9	<u>\$32,080</u>	<u>12</u>	<u>\$44,781</u>
TOTALS	1311	3,323,000	1343	3,411,700	1438	\$3,638,002	1475	\$3,712,553	1542	\$3,849,375
TOTAL \$ CHANGE FROM PRIOR YEAR	-\$88,700		-\$226,302		-\$74,551		-\$136,822		-\$141,032	
TOTAL % CHANGE FROM PRIOR YEAR (\$)	-2.60%		-6.22%		-2.01%		-3.55%		-3.53%	
TOTAL CREDIT APP# NET CHG FROM PRIOR YEAR	-30		-92		-34		-63		-69	
TOTAL FREEZE APP# NET CHG FROM PRIOR YEAR	0		0		-4		-1		0	
TOTAL DEFERRAL APP# NET CHG FROM PRIOR YR	-2		-3		1		-3		-1	

NEW APPLICATIONS RECEIVED	157	94	115	119	101
DISALLOWED (OVER INCOME, ALL PROGRAMS)	53	53	17	23	32
REMOVED (SOLD,DECEASED,MOVED, NON-RESIDENT)	87	120	97	123	88
REMOVED (FAILED TO REFILE,NON-CT RESIDENTS, OVER ASSET CAP, DQ TAX, INCOMPLETE)	49	16	38	40	51

	<b>GL 2018</b>		<b>GL 2017</b>		<b>GL 2016</b>		<b>GL 2015</b>		<b>GL 2014</b>	
	<b># of Apps</b>	<b>Tot Benefit</b>	<b># of Apps</b>	<b>Tot Benefit</b>	<b># of Apps</b>	<b>Tot Benefit</b>	<b># of Apps</b>	<b>Tot Benefit</b>	<b># of Apps</b>	<b>Tot Benefit</b>
State Credit Program										
NUMBER OF PARTICIPANTS/TOTAL BENEFIT INITIAL (M35B)	638	\$ 358,510.54	660	\$ 374,397.86	715	\$ 414,037.80	744	\$ 430,622.46	796	\$ 466,931.52
NUMBER OF PARTICIPANTS/TOTAL BENEFIT FINAL (M35P)			-10	\$ (2,916.25)	-14	\$ (2,395.25)	-12	\$ (2,852.50)	-13	\$ (3,743.67)
NET	638	\$ 358,510.54	650	\$ 371,481.61	701	\$ 411,642.55	732	\$ 427,769.96	783	\$ 463,187.85
TOTAL CHANGE FROM PRIOR YEAR	-12.00	-12,971.07	-701.00	-411,642.55	-31.00	-16,127.41	-51.00	-35,417.89	-49.00	-27,368.52
TOTAL % CHANGE FROM PRIOR YEAR (\$)	-1.82%	-3.46%	-98.04%	-99.42%	-4.17%	-3.77%	-6.41%	-7.59%	-5.83%	-5.55%