



# TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666

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## Memorandum

To: Planning Board

Fr: Carole Ridley

Date: July 15, 2016

Re: Supplemental Information re: 2016-001SPR Winkler Route 6 Trust

The hearing on the above referenced application was opened by the Planning Board on May 3<sup>rd</sup> and continued to July 19<sup>th</sup>. This memo provides information related to the above reference application and hearing that was submitted following the May 3<sup>rd</sup> Board meeting.

- A. Letter from Benjamin Zehnder to Truro Planning Board, dated May 4, 2016, consenting to extending the period of the Board action to 14 days following the July 19<sup>th</sup> continued hearing

No additional staff comment.

- B. Letter from Timothy J. Brady to Carole Ridley, dated May 24, 2016 and recived by the town Clerk on May 25, 2016 Re: 1 Noons Height Road related to information on fuel storage, and with enclosures of color photos and a revised site plan (revised May 24, 2016) showing the location of fuel storage on the site.

The letter refers to conversations about fuels storage with Chief Collins. In a conversation with Chief Collins (July 15, 2015), the Chief noted that fuel storage tanks that have a volume under 10,000 gallons and are located above ground do not require a permit. He also mentioned that Chief Davis had recently inspected the tanks on the property and found them in compliance. He will confirm this information with Chief Davis.

- C. Correspondence with Jonathan Idman, Chief Regulatory Officer for the Cape Cod Commission, pertaining to request for technical assistance for the assessment of groundwater impacts.

The Cape Cod Commission was asked to review the information and revised plan submitted by East Cape Engineering on May 25, 2016. Specifically the Commission was asked to provide “technical assistance in reviewing potential impacts to groundwater resources from the location and use of fuel storage tanks...” on the property. The Commission was also asked to suggest conditions that the Board could consider in a site plan decision regarding protection groundwater resources.

The Commission’s response to this request is in the form of an email from Tom Cambareri dated June 15, 2016. Mr. Cambareri recommends that the Town update its wellhead protection regulations. I spoke with Pat Pajaron about this and an update is actively under discussion with

the Board of Health and Water Resources Oversight Committee. Mr. Cambareri also cited specific performance standards under 310 CMR 22.21(2)b.5.c. He recommends use of double walled tanks or 110% of containment. He also recommends inspection. Information provided by East Cape Engineering indicates that the tanks are double walled. According to Chief Collins, the tanks were recently inspected. Mr. Cambareri also questions the adequacy of onsite sanitary facilities.

Subsequently, Mr. Riemer provided historical information about concerns of leaching from materials stored on the property, namely ABC and pressure treated lumber. A follow up inquiry was sent to the Commission on June 30<sup>th</sup>. A response from Jonathan Idman with comments from Scott Michaud indicates, in part, that covering stored materials may be advantageous, and that additional detail on impacts would depend on the age of materials and site conditions. He notes that nearby roadways may contain the same materials, but may be maintained differently than stored materials.

D. Plan entitled "Site Plan showing Existing Buildings & Site Conditions 1 Noons Heights Road, Truro, MA" prepared for Michael Winkler & GFM Enterprises by East Cape Engineering, dated April 11, 2016 and revised May 24, June 9, June 29 and July 12, 2016, scale 1"=40'

The revised plan was reviewed against the requested revisions documented in my letter to Benjamin Zehnder (Ridley, May 5, 2016, enclosed). Numbering below corresponds with the May 5<sup>th</sup> letter. Note, items in the letter under #1 were addressed in the East Cape Engineering submission described in B above.

- 2.a) Zoning table has not changed from plan revised April 11, 2016
- 2.b) Some missing elements, e.g., fuel tanks, are now shown on plan. Trailers referred to in the May 5<sup>th</sup> letter are not shown on the plan
- 2.c) Zone 2 is noted (the word entirely should be included in the description)
- 2.d) Revised plan shows removal of 3 storage bins, but remaining storage bins still do not meet setback from the property line.
- 2.e) i) natural vegetation line from 2009 is now shown which covers more of the 185 radius to private well. This does not exist on site currently and there is no note to indicate that this vegetation would be restored. ii) no additional information on NHESP filing or compliance has been provided. iii) & iv) no additional features to provide buffer or control erosion are shown on the plan
- 2.f) the plan provides an additional notation that 30 parking spaces are required and these are shown on the plan. One handi-capped space is shown near Building #3. The 30 marked spaces shown on the plan is increased from 9 marked spaces shown on the previous (April 11, 2016) plan
- 2.g) exterior lights are shown on the plan, but there is no information to confirm whether they are dark sky compliant
- 2.h) The proposed new office building has been removed from the plan as requested.
- 2.i) Approximate locations of underground and overhead utilities are shown on the plan as requested.

3. The following requested documentation was not provided:



- a. How compliance with all requirements of MassDEP and Truro Board of Health
  - with respect to Zone 2 and the 185-ft protective radius to the private well has been
  - or will be achieved.
- b. NEHSP determination regarding activities that have occurred within NEHSP PH  15 since the 2009 site plan was approved and whether they are considered a take  of rare species. If considered a take, show how this will be remediated.
- c. Specific steps or measures to protect against encroachment of sand pile near the
  - north property line and 185-foot well protective zone.
- d. Measures the applicant will take to mitigate noise, e.g. noise from trucks and  alarms in early morning hours.

E. Correspondence from Peter Burgess, and Stone's Throw Condominium Association

This comment and information from members of the public is included in the packet.

F. Minutes from Previous Board meetings that Mr. Riemer requested be placed in the packet.

No staff comment.

**Board Action**

Sections 70.3 F & G of the Zoning Bylaw are provided in blue below. The Board should make findings with respect to each condition, finding the application compliant, non-compliant, suggesting conditions to ensure compliance, or designating as not relevant to the case.

Note that no waivers have been requested as part of this application.

F. Review Criteria/Design Guidelines

The Planning Board will review applications and their supporting information based on the following:

1. The proposal is in conformity with all applicable provisions of the Zoning Bylaw.

Note: the use is allowed within the zoning bylaw. Setbacks are not met with respect to the storage bins.

2. The proposal provides for the protection of abutting properties and the surrounding area from detrimental site characteristics and from adverse impact from excessive noise, dust, smoke, or vibration higher than levels previously experienced from permitted uses.

Note: the vegetative buffer within the 185' private well radius should be restored. Erosion impacts to the adjacent property at 6 Noons Heights Road should be resolved. Limitations on the hours of operation for heavy equipment (excluding Sundays, holidays and excessively early or late hours) could be considered.

3. The proposal provides for the protection of adjacent properties and the night sky from intrusive lighting, including parking lot and building exterior lighting. Lighting must be consistent with Chapter IV, Section 6 of the General Bylaws of the Town of Truro.

Note: Compliance with dark sky requirements for outdoor lighting and Chapter IV, Section 6 of the General Bylaws of the Town of Truro should be documented.

4. The proposal provides for the protection of significant or important natural, historic, or scenic features.

Note: Documentation of filing a request for determination from NHESP and of compliance with any requirements of NHESP to avoid a take of rare or endangered species should be provided.

5. The building sites shall minimize obstruction of scenic views from publicly accessible locations; minimize tree, vegetation, and soil removal and grade changes; and maximize open space retention.

6. The proposal adequately provides for refuse disposal.

7. The proposed sewage disposal and water supply systems within and adjacent to the site shall be adequate to serve the proposed use.

Note: The applicant should meet with the Board of Health agent and determine whether sanitary facilities and wastewater treatment on the site are compliant with Town of Truro Regulations.

8. The proposed drainage system within the site shall be adequate to handle the runoff resulting from the development. Drainage run-off from the project shall not: damage any existing wellfield(s) or public water supply; damage adjoining property; overload, silt up or contaminate any marsh, swamp, bog, pond, stream, or other body of water; or interfere with the functioning of any vernal pool.

Note: The applicant should meet all requirements of 310 CMR 22.21(2) and should covering of fuel tanks if required by state and local regulations. Documentation of fuel tank inspections should be provided to the Planning Board, and fuel tanks should be inspected annually.

9. A soil erosion plan shall adequately protect all steep slopes within the site and control runoff to adjacent properties and streets both during and after construction.

Note: Building material, soils or rocks/stones stored or stockpiled on the site should be covered to avoid siltation, or leaching from the rainwater on the materials.

10. The proposal shall provide for structural and/or landscaped screening or buffers for storage areas, loading docks, dumpsters, rooftop or other exposed equipment, parking areas, utility buildings and similar features viewed from street frontages and residentially used or zoned premises.

11. Buildings and structures within the subject site shall relate harmoniously to each other in architectural style, site location, and building exits and entrances. Building scale, massing, materials, and detailing should be compatible with the surrounding area.

Note: the site contains numerous types of structures, some of which are in a dilapidated state.

12. Electric, telephone, cable, and other such utility lines and equipment shall be placed underground.

Note: Some but not all utilities are located underground. The Board could condition any future work on the site to the placement of utilities underground.



13. The project shall not place excessive demands on Town services.

14. The location and number of curb cuts shall be minimized to reduce turning movements and hazardous exits and entrances. Where appropriate and allowable, access to adjoining properties shall be provided. Joint access driveways between adjoining properties shall be encouraged.

Note: existing curb cuts on to Noons Heights Road and Route 6 are shown on the plan and should not be altered without proper permits from the Board of Selectmen and/or MassDOT, and modification of site plan review.

15. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent and other ways serving the project shall be maximized. Traffic patterns for vehicles and pedestrians must show safe and adequate circulation within and access to and from the site.

Note: the uses and activities on the site are not conducive to pedestrian traffic.

16. A bicycle rack(s) shall be provided on the site and shall be located near the entrance to the building(s).

Note: This condition does not appear applicable

#### G. Findings of the Planning Board

The concurring vote of four members of the Planning Board shall approve a Commercial Site Plan in the form submitted or with reasonable conditions, unless it finds that (a) the application for site plan approval is incomplete, or (b) the imposition of reasonable conditions will not ensure that the project will conform to the standards and criteria described herein, or (c) the project does not comply with the requirements of the Zoning By-law.

Accordingly, the Board may wish to make findings with respect to the design criteria, and vote to approve, conditionally approve or deny the application based on specific reasons. The Board may also seek to continue the hearing to obtain additional information. A continuance should be made to a date certain and confirmed in writing by the applicant.

Cc:

Jaime Veara, Esq. (via email)

Rae Ann Palmer (via email)

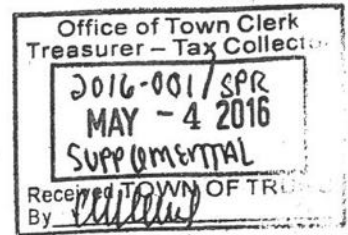
Pat Pajaron (via email)

Russ Braun (via email)

Ben Zehnder, Esq. (via email)

Benjamin E. Zehnder LLC

177 Route 6A  
Orleans, Massachusetts 02653



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Benjamin E. Zehnder, Esq.  
bzehnder@zehnderllc.com

May 4, 2016

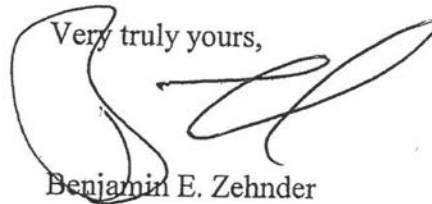
Town of Truro Planning Board  
P.O. Box 2030  
Truro, MA 02666  
Attn: Carole Ridley, Town Planner  
Via email [cr Ridley@truro-ma.gov](mailto:cr Ridley@truro-ma.gov) and first class mail

Re: 1 Noons Heights Road, Truro  
2016-001 Commercial Development Site Plan Review

Dear Ms. Ridley:

This correspondence constitutes my client Michael F. Winkler, Trustee's consent to tolling of the time for the Planning Board to render it's decision until a date 14 days following the July 19, 2016 continued hearing of this matter. I have included herewith a second original copy of this letter for your filing with the Truro Town Clerk.

Thank you for your attention.

Very truly yours,  
  
Benjamin E. Zehnder

cc via email only:  
client  
E. James Veara, Esq.



# *east cape engineering, inc.*

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May 24, 2016

LAND SURVEYING  
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SITE PLANNING  
CERTIFIED PLANS

CIVIL ENGINEERING  
WATER RESOURCES  
ENVIRONMENTAL  
SANITARY  
STRUCTURAL  
WATERFRONT

Ms. Carole Ridley, Planning Consultant  
Town of Truro  
P. O. Box 2030  
Truro, MA 02666

Re: 1 Noons Heights Road, Truro

Dear Ms. Ridley,

Enclosed please find a copy of a site plan for 1 Noons Heights Road in Truro. The plan now shows the location of two 500-gallon fuel oil tanks and one 275-gallon heating oil tank. All of the tanks are double walled UL Listed tanks and sit on concrete slabs. Pictures of each are enclosed. The plan also shows that Building #8 has been relocated to the northwesterly corner of Building #3. The portions of the concrete slab within the 185' protected radius have been removed. The proposed office building shown on earlier plans and related notes have also been removed from the plan.

I have reviewed 310CMR22.21(2)(b)(1-7) and can offer:

1. There is no storage of sludge and septage.
2. There is no storage of sodium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow.
3. There is no storage of commercial fertilizer.
4. There is no storage of animal manures.
5. There are two 500-gallon double walled UL Listed above ground fuel oil tanks. The tank at the southerly side of the property is used by Winkler Crane. This tank is filled as necessary by a fuel oil supplier. Fuel is dispensed from this tank directly to trucks or equipment as necessary. An oil spill kit is available.

The second 500-gallon tank is located at the northeasterly corner of Building #3 and is used by GFM Enterprises. This tank is also filled by a fuel oil supplier and is dispensed directly to trucks or equipment as necessary. An oil spill kit is available for this tank.

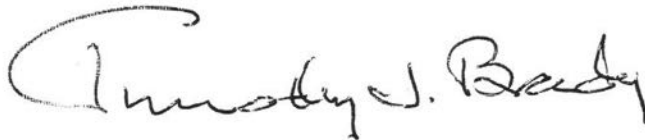
There is a 275-gallon double walled UL Listed heating oil tank at the rear of Building #3. This tank is filled as necessary by a heating oil supplier and is used for heating the building. An oil spill kit is available for this tank.

I have spoken with the Fire Chief. He is familiar with each of the tanks and has no concerns regarding these tanks.

6. No soil has been removed or is proposed to be removed within 4' of historical high groundwater.
7. There is greater than 2500 square feet of impervious surface at the site, however, only approximately 5.5% of the lot area is impervious. Therefore, no artificial recharge of precipitation is required.

I trust that this information is sufficient for review of the petroleum products at the site. I am aware that further information is required regarding other issues at the site. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Timothy J. Brady". The signature is written in a cursive style with a large, looping initial "T".

Timothy J. Brady, PE/PLS  
President

TB/cb  
04-300  
Enclosure(s)

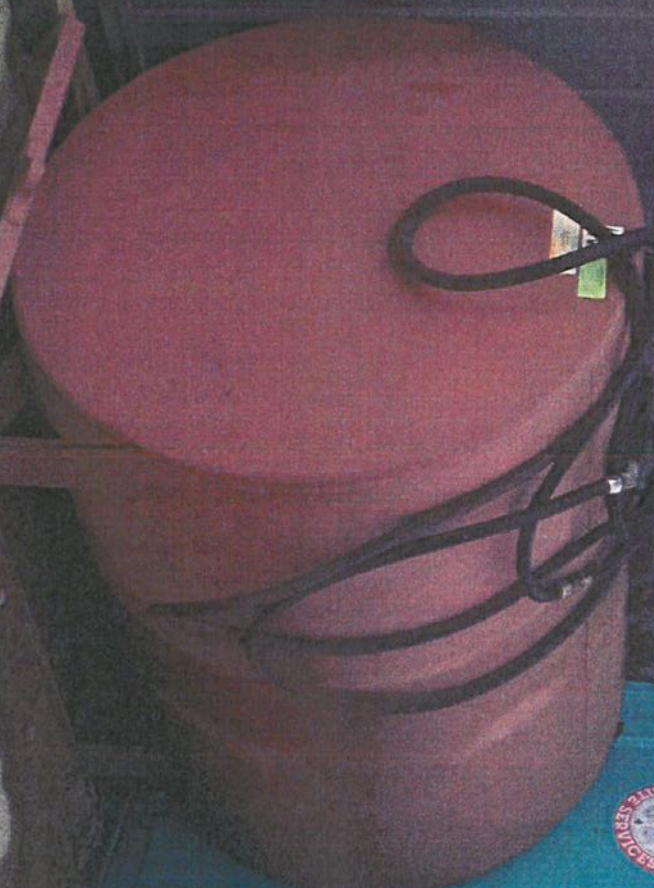




WINKLER  
TANK



G.F.E.M.  
TANK







HEATING  
OIL  
TANK





# TOWN OF TRURO

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Sent Via Email and USMail

May 5, 2016

Winkler Route 6 Trust, Michael F. Winkler  
c/o Mr. Benjamin E. Zehnder  
P.O. Box 2128  
Orleans, MA 0253

Re: 1 Noons Heights Road, Truro  
2016-001SPR Commercial Development Site Plan Review

Dear Mr. Zehnder:

We are in receipt of your letter dated May 4, 2016 which requests an extension of the timeline for the Board's action on this matter to 14 days following the July 19<sup>th</sup> continued public hearing on this matter.

As you know, during the hearing on May 4<sup>th</sup> the Board provided a list of issues that they would like addressed prior to the July 19<sup>th</sup> date of continuance. The purpose of this letter is to summarize the requested items and the timelines for the submission and review of any supplemental information. Please note that all supplemental information should be submitted through the Truro Town Clerk's office to be stamped in and added to the project file with the reference number "2016-001SPR Winkler Route 6 Trust".

The following information is to be provided by the applicant as soon as possible, to allow the Planning Board to seek technical assistance from the Cape Cod Commission regarding water protection issues:

1. Identify on the site plan all locations where petroleum-products or other hazardous materials are stored on the site. Demonstrate compliance with 310 CMR 22.21(2)(b)(1-7) and any applicable requirements of the Truro Fire Department. Provide documentation for each container that describes the type, dimension and volume of container, size and material of pad, material stored, schedule of use and filling of material, whether this is a new, existing or replacement container, and a photo. Describe best management practices for replenishing or drawing from the container, and describe the emergency spill protocol.

This information will be shared with the Cape Cod Commission Water Resources planner for review and comment. You requested to be notified of any report from the Cape Cod Commission within ten days of the continued public hearing, or July 8<sup>th</sup>. In order to meet this

request, please submit the information requested in 1 above no later than May 17 to provide adequate time for review by town staff and the Cape Cod Commission.

The following items are to be addressed and any supplemental information submitted to the Town Clerk no later than close of business on July 8<sup>th</sup>:

2. In lieu of a proposed conditions plan, you propose to provide a single revised site plan with all changes required for zoning compliance and to meet any conditions that may be required by the Planning Board. Further, you propose that those conditions as shown on revised site plan will be in effect prior to any Board action and, if not, a timeline for the changes will be provided. Please include the following information on the revised site plan:
  - a. Address comments on the zoning table provided in letters dated 2/11/16 and 4/22/16.
  - b. Incorporate missing elements, such as the two trailers located on the southeast corner, and fuel tanks (per 1 above)
  - c. Show the Zone 2 on the property
  - d. Show to where and by when the storage bins encroaching on the property boundary will be located.
  - e. Show additional vegetation, berms or other proposed measures to:
    - i. Restore vegetation within the 185-foot protective radius of the well
    - ii. Meet all requirements of NHESP PH 15
    - iii. Provide adequate visual screening and attenuate noise impacts to abutters, and
    - iv. Address run-off concerns along the eastern property boundary (John F, Noons, Inc.)
  - f. Identify parking spaces for commercial structures and indicate where on the site handicap access and parking will be provided. Since material, vehicles and buildings are periodically moved on the site, please indicate only those parking areas that will not be altered by the movement of materials, buildings, or vehicles.
  - g. Show all outdoor lighting on the site and demonstrate compliance with dark sky design features and Chapter 4 Section 6 of the Truro General Bylaws.
  - h. Remove the new office building that you have indicated you do not intend to build.
  - i. Show all utilities on the site, and show the well serving the property.
3. Provide the following documentation
  - a. How compliance with all requirements of MassDEP and Truro Board of Health with respect to Zone 2 and the 185-ft protective radius to the private well has been or will be achieved.
  - b. NEHSP determination regarding activities that have occurred within NEHSP PH 15 since the 2009 site plan was approved and whether they are considered a take of rare species. If considered a take, show how this will be remediated.
  - c. Specific steps or measures to protect against encroachment of sand pile near the north property line and 185-foot well protective zone.
  - d. Measures the applicant will take to mitigate noise, e.g. noise from trucks and alarms in early morning hours.



If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Carole Ridley".

Carole Ridley  
Planning Consultant to the Town

cc:

Jaime Veara, Esq. (via email)

Rae Ann Palmer (via email)

Russ Braun (via email)

Pat Pajaron (via email)



# TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004, Ext. 27  
Fax: (508) 349-5505  
cridley@truro-ma.gov

Sent Via Email and USMail

April 22, 2016

Winkler Route 6 Trust, Michael F. Winkler  
c/o Mr. Benjamin E. Zehnder  
P.O. Box 2128  
Orleans, MA 0253

Re: 1 Noons Heights Road, Truro  
2016-001 Commercial Development Site Plan Review

Dear Mr. Zehnder:

The revised plan and supplemental materials submitted on April 11, 2016 have been reviewed against the requirements of 70.3.D and the items raised in my letter to you dated February 11, 2016. The following required information remains outstanding:

1. *Storage bins encroaching on Route 6 shall be relocated in compliance with zoning setbacks.*

It was requested that the relocated bins be shown on the revised plan. A notation on the revised plan indicates that the bins will be relocated in compliance with zoning, but does not indicate to where on the site they will be relocated, or when this will occur. The new location of the bins should be shown on a proposed conditions plan.

2. *Building 8 and slab shall be removed from the property.*

It was requested that the relocated building and slab be shown on the revised plan. A notation on the revised plan indicates that the building and slab will be relocated in compliance with zoning, but does not indicate to where on the site they will be relocated. The new location of the building and slab should be shown on a proposed conditions plan.

3. *The sand pile on the northern side of the property noted on the plan for removal shall be removed.*  
This item has not been addressed.

4. *The natural vegetation area shown on the northern property boundary shall be accurately represented to reflect recent changes.*

Natural vegetation is labeled but it is not indicated whether it is existing or proposed vegetation.

5. *Building 12 shall be relocated in compliance with zoning setbacks and shown on plan.*

In your letter dated March 29, 2016 you report that "...Building 12 has been relocated as requested and will be shown on the revised plan." Building 12 is not identified on the revised plan.

6. *A vehicle parking area on the northern side of building #3 shall be shown on the plan.*

Parking areas are shown on the revised plan, but it is not clear if these areas will be encroached on by relocated structures and bins.

7. *The applicant also shall provide a letter certifying that buildings #9 and #10 are not occupied for habitation.*

Your letter dated March 29<sup>th</sup> confirms this on Mr. Winkler's behalf.

#### 8. Waiver Requests

The April 11<sup>th</sup> submission includes requests for waiver of several application information requirements. In my opinion, with the exception of 1.e: *3 copies of drainage calculations*, the waiver requests do not meet the standard under §70.3.E of the Truro Zoning Bylaw as follows:

- 3.c: Proposed conditions plan – As stated in my February 11<sup>th</sup> letter, “...*the site plan submitted contains existing and proposed elements (ie, office building). Moreover, you are encouraged to consider additional project elements that could assist the plan in meeting the Site Plan Review criteria and design guidelines outlined in §70.3.F (e.g., additional vegetative screening along the Noons Heights Road and the northern property boundary). For these reasons, a waiver request for §70.3.d.3.c is not advised and a revised submission should include both an existing and proposed conditions plan.*” Differentiation between existing and proposed conditions is difficult on the revised plan and would be more clearly represented on separate existing conditions and proposed conditions plans.
- 3.d: Proposed landscaping plan – This is recommended in order to determine consistency with section 70.3.F.10
- 3.e: Building plans – A new structure (office building) is proposed and a plan for that structure should be provided
- 3.f: Project estimates – An estimate should be provided for relocation of buildings, slabs and bins, and the erection of new structures, and any changes in vegetation.
- 3.b.2: Parking and Walkways – Information on parking and vehicular and pedestrian circulation is needed to demonstrate compliance with section 70.3.F.15
- 3.b.2: Lighting Service Areas – Particularly given the relocation of structures, lighting information is needed to demonstrate compliance with sections 70.3.F.2 and F.3
- 3.b.2: Utilities – Relocation of buildings could necessitate changes to utilities on the site and this information is needed to demonstrate compliance with section 70.3.F.12.

Further comment on the requested waivers is provided in my February 11<sup>th</sup> letter. Notwithstanding the foregoing, any waiver requests are made at the discretion of the Planning Board. Per section §70.3.E, the Board may grant waivers from information required under §70.3.D provided that “in the opinion of the Planning Board such a waiver would not be detrimental to the public interest, cause the town any expense, or be inconsistent with the intent and purpose of the bylaw.” In its consideration of waivers the Board considers the value of each piece of information in relation to informing the Board's ability to evaluate the application against the requirements of the bylaw. Therefore, the Board expects that each individual requested waiver shall be justified with a written explanation that is consistent with the criteria set forth in §70.3.E.

#### 9. 70.3.D.3.a – General Requirements

- 3.a.2 – *The zoning table does not provide information in a manner that allows for easy comparison of existing and proposed conditions with zoning requirements. This information should be provided in a single table with columns for existing, proposed/total and zoning bylaw requirements in like terms. Also, zoning information is needed for parking, setbacks, % lot coverage for parking, walkways and buildings, number of dwelling units (0 if none), and size and location of signs.*

The following information in the zoning table provided on the revised plan requires clarification:



- Proposed conditions in the table appear to relate to building 3, yet lot coverage of 6,480 sf does not match the larger square footage of 6,546, which is the product of 60.5 feet and 108.2 feet. The concrete slab does not appear to be accounted for in lot coverage. These numbers require clarification.
- The disposition of buildings 5, 6, 7, 8 and 11 needs to be clarified. What does temporary mean? If any of these buildings are to be relocated, to where and when, and if they are to be removed, when?
- What uses were used to calculate parking requirements, and how do these related to the uses indicated in the Building Use column of the table. If *Commercial retail sales, retail or wholesale business services, barber shop, small engine repair, trade, repair shop, etc., and other customer services* was used as the basis of calculation, where is the 1,330 sf of retail space located? Alternately, if *Industrial or manufacturing use, including but not limited to landscaping, septic installation, contractor yards* was used as the basis of parking calculations, where is the retail space located, and why is display area not included in the calculation as required for the use category? The location of relocated buildings is important to determine whether the relocations would displace parking spaces.

As you know, this application is scheduled for a public hearing on May 3<sup>rd</sup> at 6 pm. However, the information in the materials submitted to date is incomplete as itemized above. Please let me know how the additional information will be provided in order to ensure that the Board is able to review this application on May 3<sup>rd</sup>.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Carole Ridley  
Planning Consultant to the Town

cc:

Jaime Veara, Esq. (via email)

Rae Ann Palmer (via email)

Russ Braun (via email)

Pat Pajaron (via email)



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Sent Via Email and USMail

February 11, 2016

Winkler Route 6 Trust, Michael F. Winkler  
c/o Mr. Benjamin E. Zehnder  
P.O. Box 2128  
Orleans, MA 0253

Re: 1Noons Heights Road, Truro  
2016-001 Commercial Development Site Plan Review

Dear Mr. Zehnder:

The purpose of this letter is to itemize information requirements necessary to complete the above referenced application submitted on January 13, 2016 so that it may be considered for scheduling of a public hearing by the Planning Board.

As noted in the application, the property is the subject of an active Barnstable County Superior Court Case (Richard Stevens Acting Building Commissioner of the Town of Truro et al v. Michael F. Winkler Trustee et al.). It is my understanding that as part of ongoing discussions between the Town and applicant, several modifications to the current use of the property have been identified as requiring immediate action. Moreover, any application for Site Plan Review must be able to demonstrate compliance with applicable zoning. Therefore, the items listed below must be acted on and reflected on a revised existing conditions plan prior to consideration of this application by the Planning Board.

Changes agreed to at the December 23 site visit:

1. Storage bins encroaching on Route 6 shall be relocated in compliance with zoning setbacks;
2. Building 8 and slab shall be removed from the property;
3. The sand pile on the northern side of the property noted on the plan for removal shall be removed.

Additional modifications to reflect current conditions and demonstrate conformance with zoning:

4. The natural vegetation area shown on the northern property boundary shall be accurately represented to reflect recent changes;
5. Building 12 shall be relocated in compliance with zoning setbacks and shown on plan;
6. A vehicle parking area on the northern side of building #3 shall be shown on the plan.

The applicant also shall provide a letter certifying that buildings #9 and #10 are not occupied for habitation.

In addition, the following comments are provided based on my review of the application and the requirements of §70.3.D of the Truro Zoning Bylaws. The following items were identified for requested waivers:

- 1.e: 3 copies of drainage calculations
- 3.c: Proposed conditions plan
- 3.d: Proposed landscaping plan
- 3.e: Building plans
- 3.f: Project estimates
- 3.b.2: Parking and Walkways
- 3.b.2: Lighting Service Areas
- 3.b.2: Utilities

Per section §70.3.E, the Board may grant waivers from information required under §70.3.D provided that “in the opinion of the Planning Board such a waiver would not be detrimental to the public interest, cause the town any expense, or be inconsistent with the intent and purpose of the bylaw.” In its consideration of waivers the Board considers the value of each piece of information in relation to informing the Board’s ability to evaluate the application against the requirements of the bylaw. Therefore, the Board expects that each individual requested waiver shall be justified with a written explanation that is consistent with the criteria set forth in §70.3.E. The information submitted with the application in support of the does not meet this standard.

It is also noted that the site plan submitted contains existing and proposed elements (ie, office building). Moreover, you are encouraged to consider additional project elements that could assist the plan in meeting the Site Plan Review criteria and design guidelines outlined in §70.3.F (e.g., additional vegetative screening along the Noons Heights Road and the northern property boundary). For these reasons, a waiver request for §70.3.d.3.c is not advised and a revised submission should include both an existing and proposed conditions plan. Additional comments on other waiver requests are referred to in the comments noted below.

### 3.a – General Requirements

- 3.a.2 – The zoning table does not provide information in a manner that allows for easy comparison of existing and proposed conditions with zoning requirements. This information should be provided in a single table with columns for existing, proposed/total and zoning bylaw requirements in like terms. Also, zoning information is needed for parking, setbacks, % lot coverage for parking, walkways and buildings, number of dwelling units (0 if none), and size and location of signs.
- 3.a.6 legend of all symbols is required

### 3.b – Existing - Conditions Plan

- 3.b.1 - Total area and dimensions conforming to Barnstable County Registry of Deeds requirements is required
- 3.b.2 – Location, including property setbacks, is needed for all buildings and elements including parking, driveways, walkways, lighting service areas, utilities, drainage and easements (the latter are described in the application but should be shown on the plan). A table should be provided on the existing conditions plan that lists each building and provides the square footage area by story, height, existing use and proposed use for each building.
- 3.b.4 tree symbols are not indicated by a legend. All wetlands resource areas of jurisdiction, NHESP jurisdiction, or National Flood Insurance Program jurisdiction should be indicated on the plan, even if to indicate non-applicability.
- Any storage of oil, fuel or other hazardous material should be shown in detail on the plan
- Existing signs should be clearly shown on the plan



3.c – Proposed Conditions Plan

Notwithstanding the waiver request, for the reasons cited above, a proposed conditions plan should be provided addressing all elements of 70.3.D.3.c. Please note that drawings, elevations and floor plans for the proposed office building should be provided per 3.c.1.

3.d – Proposed Landscape Plan

Notwithstanding the waiver request, and in consideration of the potential for additional vegetated screening to ameliorate impacts to adjacent properties along Noons Heights Road and the northern property line, submission of a landscape plan is strongly advised.

3.e – Building Plans

As noted under 3.c above, drawings, elevations and floor plans for the proposed office building should be provided.

3.f – Project Estimate

The applicant should be prepared to address a possible condition under §70.3.I for a performance guaranty of up to 10 percent of project cost.

The applicant is strongly advised to review §70.3.E Review Criteria and Design Standards and be prepared to demonstrate the plan's compliance with each condition set forth in that section, as applicable.

Given the extent of additional information required, the earliest possible date for a hearing on this matter is Tuesday, March 29, 2016 at 6:00pm. In order to meet this hearing date, any new or additional information must be filed with the Town Clerk (with the requisite number of copies) no later than Monday, February 22. Anything filed after that date may delay the scheduling of the public hearing.

Recognizing that March 29<sup>th</sup> falls after the 65-day period of action, please submit a letter requesting an extension for action on this application.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Carole Ridley  
Planning Consultant to the Town

cc:

Jaime Veara, Esq. (via email)  
Rae Ann Palmer (via email)  
Russ Braun (via email)  
Pat Pajaron (via email)



# TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004, Ext. 27 Fax: (508) 349-5505  
criddle@truro-ma.gov

Mr. Jonathan Idman  
Chief Regulatory Officer  
Cape Cod Commission  
3225 Main Street  
PO Box 226  
Barnstable, MA 02630

Re: Town of Truro Planning Board Commercial Site Plan Review for 1 Noons Heights Road,  
Map 39, Parcel 166

Dear Mr. Idman:

I am contacting you on behalf of the Truro Planning Board to request technical assistance in reviewing potential impacts to groundwater resources from the location and use of fuel storage tanks on the above referenced property.

As noted in prior email correspondence, the property is a 4.5 acre site located within the general business district and used as a contractor/material storage site for a crane company, an excavation company and a landscaping company. The owner is in litigation with the Town due to zoning violations and non-compliance with an approved site plan. The Town has agreed to allow the owner to address zoning violations and seek approval from the Planning Board of a site plan that codifies current conditions.

The property is within a Zone 2 and a portion of the property is within a 185-foot protective radius of a private well. There is fuel stored on the site at two locations. At the initial hearing session, Board members expressed concern that the fuel storage on the site may pose dangers to groundwater resources, and directed me to request technical assistance from the Cape Cod Commission. Specifically, the Board requests that Commission staff review the enclosed information and provide an assessment of any potential issues or threats to groundwater resources posed by the location and use of fuel storage tanks. If additional information is needed to make the determination, the Board would like to know that as well. Lastly, the Board would be interested in the Commission's comment or recommendation for any possible conditions that could be incorporated into site plan review.

The enclosed is additional information from the applicant was requested by the Planning Board to locate and describe fuel storage and use on the property.

The hearing on this matter is continued to July 19<sup>th</sup>. It would be most helpful to receive the Commission's input by July 1<sup>st</sup> if possible.



Thank you in advance for your assistance, and please let me know if additional information is required.

Sincerely,

A handwritten signature in black ink that reads "Carole Ridley". The signature is written in a cursive, flowing style.

Carole Ridley  
Planning Consultant

Cc:

Rae Ann Palmer  
Lisa Maria Tobia  
Jamie Veara  
Benjamin Zehnder  
Pat Pajaron

## RE: Truro Site Plan Review

Tom Cambareri

Wed 6/15/2016 12:21 PM

To: Carole Ridley <cr Ridley@truro-ma.gov>;

Cc: Jonathon Idman <jidman@capecodcommission.org>;

📎 2 attachments

Pages from 310cmr22.pdf; regulations\_as\_of\_7-21-2015.pdf;

Hello Carol,

I have reviewed the Town of Truro's request for water resources technical assistance and the application to return the subject site to compliance.

The project is within the Zone II of the South Hollow wellfield which serves Provincetown and Truro. The South Hollow wellfield was previously impacted due to the 1977 gasoline spill from the now abandoned and removed Amoco station at the corner of Route 6 and 6A. The wellfield was closed for decades following the spill as the long term cleanup progressed. At that time, the Amoco spill was the cover story for leaky underground storage tank spills and initiated numerous responses, groundwater protection regulations and a whole new industry of groundwater scientists and engineers.

Wellhead Protection regulations became a significant strategy to protect water supplies.

The Town has not updated their Wellhead Protection regulations to those specified by the DEP under the Water Management Act and their Water Supply Regulations 310 CMR22. It was a recommendation of the Plan for Watershed Management of the Pamet Groundwater Lens, dated 2008, and was likely specified by DEP under their approval of the North Unionfield Wellfield.

See the attached regulations.

There are specific performance standards for the storage of gasoline and other fluids under 310 CMR 22.21(2)b.5.c.

These performance standards would require containment of 110% of the volume of the storage tank(s) for new uses.

I have also reviewed the Town's Board of Health Regulation for fuel storage which was revised in July 2015.

Both the Wellhead Protection and Board of Health regulations require 110% containment of above ground storage tanks. The Truro Regulation allows for double walled tanks in lieu of containment.



The age of the tank(s) and their inspection should be confirmed. The Truro regulation requires inspection after 15 years.

I recommend that the Board require either 110% containment or the use of double walled tanks. The Tanks should be inspected during this site review.

The site is not paved and stormwater from rain likely infiltrates into the ground with little runoff or treatment.

The site plan indicates 19 parking lots are required for 19 employees. There is one septic system on the lot and as indicated in the picture of the fuel tank, there is at least one port-a-potty. Although the volume of wastewater generation is likely within Title 5 requirements of 110 gallons per 10,000 sq ft for Zone II areas, it is not clear if sanitary accommodations are generally available across the site. The septic system appears to be outside the Title 5 minimum setback of 100 feet for private wells.

I also note that there are numerous private wells serving adjacent properties.

Please contact me if you have any questions.

-Tom

**Tom Cambareri**

*Certified Ground Water Professional (NGWA)*

*Licensed Site (Cleanup) Professional (MA)*

**Director of Water Resources**

Cape Cod Commission

3225 Main Street

Barnstable, MA 02630

[www.capecodcommission.org](http://www.capecodcommission.org)

508-362-3828 x 1234

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**From:** Jonathon Idman

**Sent:** Thursday, June 09, 2016 12:56 PM

**To:** Carole Ridley

**Cc:** Tom Cambareri

**Subject:** RE: Truro Site Plan Review

Thank you.

---

**From:** Carole Ridley

**Sent:** Thursday, June 09, 2016 12:56 PM

**To:** Jonathon Idman

**Cc:** Tom Cambareri

**Subject:** Re: Truro Site Plan Review



**TOWN OF TRURO**

**BOARD OF HEALTH**

**REGULATIONS**

**Adopted by the Truro Board of Health  
pursuant to its authority granted by  
Chapter 111, Section 31 of the  
Massachusetts General Laws.**

**With Revisions through *JULY 21, 2015*  
Effective July 22, 2015**



\*\*\*\*\*

**SECTION II -- FUEL STORAGE REGULATIONS**

*Adopted February 7, 1989, Amended December 5, 1994, Amended June 17, 1999*

**Article 1 Purpose and Authority**

Whereas leaking fuel storage tanks pose an immediate and serious threat to Cape Cod's sole source aquifer and,

Whereas the Town of Truro does not have records to locate all such tanks installed within the Town,

Therefore, under Chapter 111, Section 31, of the Massachusetts General Laws, the Truro Board of Health hereby adopts the following regulation to protect the ground and surface waters from contamination with liquid toxic or hazardous materials.

**Article 2 Definitions**

Toxic or hazardous materials shall be defined as (a) all liquid hydrocarbon products, including but not limited to, gasoline, fuel oil and diesel fuel, and (b) any other toxic or corrosive chemicals, radioactive materials or other substances controlled as being toxic or hazardous by the division of hazardous waste of the Commonwealth of Massachusetts, under the provisions of Massachusetts General Laws, Chapter 21C, §1, et seq.

Above ground tank (AGT) shall be defined as any tank located above the ground used to store fuel oil for the purpose of heating.

**Article 3 Applicability**

The following regulations shall apply to all fuel storage tanks containing toxic or hazardous materials as defined above, which are not currently regulated under 527 CMR 9.26 - tank and containers.

**Article 4 Registration of Fuel Storage Tanks**

1. Owners of UNDERGROUND STORAGE TANKS shall file with the Board of Health and the Fire Department the size, composition, age and location of each underground storage tank, and the type of fuel or chemical stored in them. Evidence of dates of purchases and installation, including Fire Department permit, if any, shall be included along with a sketch (map) showing the exact location of such tank(s) on the property. Upon registering the tank with the Board of Health, the tank owner will receive a permanent metal or plastic tag embossed with the registration number for that tank. This registration tag must be affixed to the fill pipe in such a location as to be visible to any distributor when filling the tank and to any inspector authorized by the Town.

If the installation date is unknown, it shall be assumed that the installation date is prior to January 1, 1980, and the tank in question MUST be removed as soon as possible.

- 2. Every petroleum and chemical distributor, when filling an underground storage tank within the Town of Truro, MUST notify the Board of Health and the Truro Fire Department within five (5) working days after the distributor discovers an unregistered and untagged underground storage tank.
- 3. All replacement AGTs and new construction AGTs are required to be registered and tagged at the time of installation.
- 4. At time of property transfer, all AGTs shall be required to provide 110% containment capacity, and must be registered and tagged. The fuel oil storage tank or containment device must be approved by the Fire Department before installation occurs.

### **Article 5 Prohibition of Underground Storage Tanks**

Following the effective date of this regulation the installation of all underground fuel oil storage tanks shall be prohibited in the Town of Truro.

### **Article 6 Installation/Maintenance of Fuel Storage Tanks**

1. Copper fuel lines of all fuel oil storage tanks, both above ground and under ground, shall be encased in 20 gauge POLYVINYLCHLORIDE piping.
2. All new construction where above ground fuel oil storage tanks (inside or outside) are installed shall be required to provide 110% containment capacity to prevent contamination from leaks that may occur. Exterior fuel oil storage tanks must be covered to prevent water accumulation within containment in such a way that it satisfies the Board of Health and the Fire Department. The area beneath the exterior shall be 4 inch thick continuous concrete slab. Double walled fuel oil storage tanks may be substituted for containment devices. The fuel oil storage tank or containment device must be approved by the Health Department before installation occurs.
3. When an AGT reaches fifteen years of age, an inspection by the oil service provider is required.
4. The Fire Chief of the Town of Truro shall oversee the installation, containment and removal of all storage tanks within the Town of Truro.

### **Article 7 Underground Tank Removals**

1. Underground fuel oil tanks must be removed and properly disposed of whenever one or more of the following criteria apply:
  - a. Prior to the issuance of any building permit for any construction on a lot where an underground storage tank exists.
  - b. Prior to the issuance of any septic system installation permit on a lot where an underground storage tank exists.
  - c. Prior to the transfer of title of land where an underground storage tank exists.
  - d. All underground storage tanks which reach the age of fifteen (15) years, or whose "age" cannot be documented to be less than fifteen (15) years, shall be considered an imminent danger to public health and safety, shall be termed "FAILED," and shall be removed within six (6) months after notification by the Board of Health that the tank is condemned.
2. No underground storage tank shall be removed without there first being an application made to the Truro Fire Department.
3. The removal application shall include the following:
  - a. Location of property (street & number)
  - b. Owner of record of property
  - c. Name of competent contractor
  - d. Date & time of proposed removal .



### **Article 8 Report of Leaks or Spills from Fuel Storage Tanks**

Any person who is aware of a spill, loss of product, or unaccounted increase in consumption which may indicate a leak shall report such spill, loss or increase IMMEDIATELY to the Chief of the Truro Fire Department, to the Board of Health and to the owner of the tank.

### **Article 9 Costs**

In every case, the owner shall assume the responsibility for costs incurred necessary to comply with these regulations.

### **Article 10 Enforcement**

The Board shall have the authority to enforce these regulations and permits issued there under via all procedures outlined in Section I of these Board of Health Regulations. Any owner or operator who violates any provisions of this regulation shall be subject to all statutory penalties set forth in Massachusetts General Laws, Chapter 21C, §1, et seq. Each day during which such violation continues shall constitute a separate offense. Violations may also be sanctioned by the suspension or revocation of fuel storage permits held by the violator.

## RE: Truro Site Plan Review

Jonathon Idman

Wed 7/13/2016 9:52 AM

To: Carole Ridley <cridley@truro-ma.gov>;

Cc: Scott Michaud <smichaud@capecodcommission.org>;

Carole- Tom is out of the office and is scheduled to return Monday 7/18. In his absence, I asked Scott Michaud about the questions in your email. He suggested that your questions really turn on the specific site conditions, and age and condition of the materials stored, though covering such materials is not bad practice. He does note that roadways and other structures in situ are often constructed of these materials, and are left uncovered, though such roadways and structures are maintained in such a way that debris piles might not be.

Jon

Jonathon D. Idman  
Chief Regulatory Officer  
Cape Cod Commission  
3225 Main Street, P.O. Box 226  
Barnstable, Mass. 02630  
508/744-1260

---

**From:** Carole Ridley  
**Sent:** Monday, July 11, 2016 9:55 AM  
**To:** Tom Cambareri  
**Cc:** Jonathon Idman  
**Subject:** Re: Truro Site Plan Review

Good Morning Tom-

I hope your summer is going well.

I wanted to check in with you on the additional question noted below regarding the Truro site plan review. Later this week I will be preparing the staff report for the 7/19 hearing continuance and would want to include any additional input you may have.

If it would be easier to discuss by phone, please give me a call at 508-221-8941.

Thanks,  
Carole



---

**From:** Carole Ridley  
**Sent:** Thursday, June 30, 2016 2:01 PM  
**To:** Tom Cambareri  
**Cc:** Jonathon Idman  
**Subject:** Re: Truro Site Plan Review

Tom-

I have received some comment from the Planning Board in response to your report, with a request to seek additional information from you.

In the past Asphalt, Brick and Concrete (ABC) have been stored on the site, as well as pressure treated wood. In your opinion, would rainfall onto these materials if left uncovered on the site, pose an issue or threat to groundwater given the site's location in a Zone II. If so, are there performance standards or conditions to the storage of these materials that you would recommend.

For background purposes, I have attached a memo from the Health Department and monitoring protocol related to past storage of ABC on the site.

Thank you in advance for your additional assistance in this matter.

-Carole

---

**From:** Tom Cambareri  
**Sent:** Wednesday, June 15, 2016 12:21 PM  
**To:** Carole Ridley  
**Cc:** Jonathon Idman  
**Subject:** RE: Truro Site Plan Review

Hello Carol,

I have reviewed the Town of Truro's request for water resources technical assistance and the application to return the subject site to compliance.

The project is within the Zone II of the South Hollow wellfield which serves Provincetown and Truro. The South Hollow wellfield was previously impacted due the 1977 gasoline spill from the now abandoned and removed Amoco station at the corner of Route 6 and 6A. The wellfield was closed for decades following the spill as the long term cleanup progressed. At that time, the Amoco spill was the cover story for leaky underground storage tank spills and initiated numerous responses, groundwater protection regulations and a whole new industry of groundwater scientists and engineers.

Wellhead Protection regulations became a significant strategy to protect water supplies.

The Town has not updated their Wellhead Protection regulations to those specified by the DEP under the Water Management Act and their Water Supply Regulations 310 CMR22. It was a recommendation of

**Health/Conservation Agent  
Town of Truro**

**Phone: (508) 349-7004 ext. 32**

**Fax: (508) 349-5850**

# MEMO

**To:** Charleen Greenhalgh, Acting Town Administrator  
**From:** Patricia Pajaron  
**CC:** Robert Lawton, Acting Town Administrator  
**Date:** July 7, 2014  
**Re:** **1 Noons Heights Rd**

---

As requested, I am providing you with an update on the status of the removal of the ABC pile at 1 Noons Heights Road. On June 18<sup>th</sup>, I met with Gordon Peabody of Safe Harbor Environmental to review the removal protocol and sample results for Asbestos, Cd and lead. Sample #7 shows a lead level of 470ppm and 15% asbestos and sample #8 containing 15% asbestos. On page 4 of removal protocol, 20 cubic yards of material will be removed from sample locations #7 and #8 to be disposed of at the Bourne Landfill.

The pile will be separated into clean materials and painted/coated materials. Only the painted/coated materials and the 20 cubic yards of material in the #7 and #8 sample location will be going to the Bourne Landfill. The separating of materials will be supervised by either Gordon or his senior staff member from Safe Harbor.

I contacted Gordon today regarding the start-up of activity for the materials translocation of the rubble pile at 1 Noon's Height. The clean materials will not be going to JF Noons as stated in the protocol, but to another ABC recycler located out of Town that will accept the clean materials. Gordon and his clients are currently working out the details with the operator.

They have also been working with Mr. Barry Tendler at Cape View Motel on an agreed upon date and time to begin the removal. Once the details are finalized with the operator and the start-up activity time and date is agreed upon, then the removal activity can commence. I will forward any communication from Safe Harbor regarding the start-up activity for the materials. Attached is the sampling/removal protocol from Safe Harbor.

Please feel free to contact me with any questions you may have.



# SAFE HARBOR

ENVIRONMENTAL MANAGEMENT  
HABITAT RESTORATION



Date: May 28, 2014  
To: Ethan Poulin Landscaping  
P.O. Box 263, North Truro, MA 02652  
Attn: Greg Morris  
Cc: Town of Truro Health Agent  
From: Gordon Peabody, Director, Safe Harbor Environmental  
Office: 95 Commercial Street, Room 209, Wellfleet, MA, 02667  
Mail: Post Office Box 880, Wellfleet, MA 02667  
Email: [gordonpeabody@gmail.com](mailto:gordonpeabody@gmail.com)  
Phone: 508-237-3724  
FAX: 508-214-3292  
Re: **1 Noons Heights Protocols**

## Index

I. Site Description and Scope	_____	page 1
II. Sample Selection Protocol	_____	page 2
III. Sample Collection Protocol	_____	page 2
IV. Testing and Reporting Protocol	_____	page 3
V. Materials Removal Protocol	_____	page 3

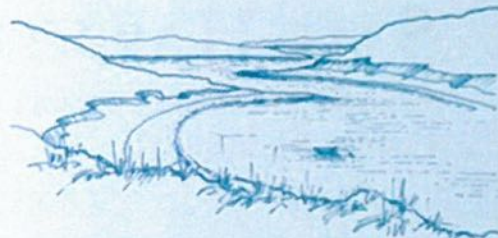
### I. Site Description

This polyethylene covered mound of mixed rubble measures approximately 80 feet in diameter, 240 feet in circumference and 37 feet high. The rubble mix contains approximately 15% sand; 4% loam; 45% concrete; 24% asphalt; 10% brick and 2% metal.

**Scope:** Determine if lead, cadmium or asbestos contaminants are present in materials.

# SAFE HARBOR

ENVIRONMENTAL MANAGEMENT  
HABITAT RESTORATION



## II. Sample Selection Protocol

1. Sample selection is based on discussions with the owner of materials, Health Agent and comments from DEP.
2. Sample areas shall include surface samples, 3-4 foot depth samples and 6-10 foot depth samples.
3. Three samples shall be taken on the surface; three samples shall be taken from the 3-4 foot depth and two samples shall be taken from the 6-10 foot depth.
4. Sample locations shall be identified with numbered wooden stakes and green flags.

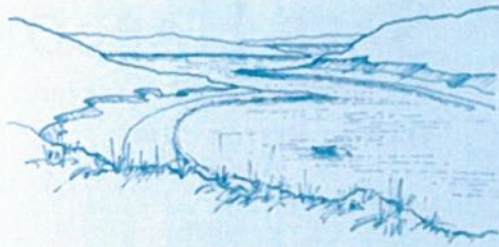
## III. Sample Collection Protocol

1. Notify all parties that samples will be collected from materials area for chemical testing.
2. Open chain of custody log, maintain log throughout sampling.
3. Photo document all activity.
4. Locate and confirm identity of 3 surface sample locations.
5. Place clear identification on clean sample container.
6. Using new pair of latex gloves, place surface sample into container.
7. Sample container shall be placed in a second, clean container.
8. Second container shall be stored in a box clearly marked "1 Noons Heights Chemical Testing Samples".
9. Storage container shall be maintained in a controlled access area pending completion of sampling.
10. Dispose of gloves in an approved container.
11. Repeat steps 4 through 9 for second and third surface sample.
12. Locate and confirm identity of three 3-4 foot depth sample locations and two 6-10 foot depth sample locations.
13. Place clear identification on clean sample container.
14. Using a soil-coring tool with extensions, remove core sample from proper depth in materials pile.



# SAFE HARBOR

ENVIRONMENTAL MANAGEMENT  
HABITAT RESTORATION



15. Use a new pair of latex gloves to handle sample container as sample material is removed from core tool.
16. Sample container shall be placed in a second, clean container.
17. Second container shall be stored in the previously described box clearly marked "1 Noons Heights Chemical Testing Samples".
18. Dispose of gloves in an approved container.
19. Repeat steps 13 through 18 for remaining core samples.

## **IV. Testing and Reporting Protocol**

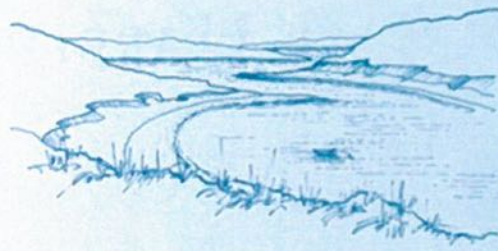
1. Boxed containers of testing samples will be properly documented and shipped to Materials Analytical Services, 3945 Lakefield Court, Suwanee, GA, 30024.
2. Records of mailing and confirmation of delivery shall be maintained by Safe Harbor Environmental.
3. MAS will test all samples for lead, cadmium and asbestos.
4. MAS will send sample testing report to Safe Harbor Environmental, PO Box 880, Wellfleet, MA 02667.
5. Safe Harbor shall submit this report with proposed removal protocol to the Health agent and make this report available for all parties.

## **V. Materials Removal Protocol**

1. One week prior to proposed startup date of rubble removal, *interested parties of record* shall be notified by Safe Harbor Environmental and have the option of meeting with Safe Harbor Environmental Director to review and discuss details of: proposed removal dates; times of activity; timeline; contact and communications protocol.
2. Materials removal activity will begin on an agreed upon date, during agreed upon times.

# SAFE HARBOR

ENVIRONMENTAL MANAGEMENT  
HABITAT RESTORATION



3. Overall timeline for complete removal of the rubble pile is determined by final destination. One week of activity is probable.
4. Equipment requirements for rubble removal will be
  - a. Three Excavators
    - i. 2 Loading
    - ii. 1 Picking
  - b. Trucks
    - i. 3-6 ten and twenty cubic yard capacity trucks
5. Safe Harbor Environmental Services shall provide a **Compliance Monitor** to inspect and photo document removal activity.
6. ***No activity shall take place on site without Compliance Monitor present.***
7. ***No materials shall be loaded into any vehicles without conformation of materials by Compliance Monitor.***
8. **Compliance Monitor** shall identify materials having any signs of paint or coatings which shall be placed in waiting truck for landfill in Bourne.
9. **Compliance Monitor** shall identify materials having no signs of paint or coatings which shall be placed in waiting truck for recycling at John F Noons.
10. Materials removal shall begin with 20 cubic yards removed from sample locations 7 and 8 for Bourne landfill.
11. Removal equipment shall operate from from bottom of pile, allowing loose rubble to be fully inspected by **Compliance Monitor**, as it falls downwards.
12. Safe Harbor shall provide daily Progress Log to Town of Truro Health Agent. Log shall include: start and finish times for activity; size and number of truck departures; destinations of trucks; receipts for landfill charges.
13. Safe Harbor shall provide materials removal Completion Report.



RECEIVED  
MAY 18 2016

PETER BURGESS, PHD  
1 FRIENDSHIP WAY  
NORTH TRURO, MA

BY:.....

Ms. Carol Ridley  
Consulting Town Planner  
Town of Truro

May 16, 2016

Dear Ms. Ridley,

I attended the last meeting of the Planning Board (Tuesday, May 03) when the Winkler property was being discussed. I observed that the Board members did not appear to have the original site plan (10/2009) for #1 Noons Heights Road, and in consequence, could not evaluate some statements and assertions being made to them without being able to refer to this document. I requested and received a copy of this plan from the Building Department three years ago (2013), and reproduced it by folding it into four 8.5" x 11" sections which I have now reconstituted.

I am enclosing four types of documents and images with this letter. As I am not sure how (to whom) to submit this information for distribution, I am submitting it to you, with the request that you distribute this information, as well as a copy of this letter, to the members of the Planning Board. I am providing eight copies of these documents for your convenience.

1) The 10/2009 site plan for #1 Noons Heights Road does not appear to be in the Truro Building Department's files. Since this is an important document, I have re-assembled the four sections into one document.

2) I have documented the environmental changes in the appearance of the property at #1 Noons Heights Road (via Google Earth's History feature) with aerial images for the years 2007, 2010, 2014, and 2015.



3) I have documented the portion of #1 Noons Heights Road which lies under the jurisdiction of the National Heritage Endangered Species Program also with an aerial image obtained from their website.

4) Last, I have copied Mr. Barry Tandler's August, 2013 complaint to the Building Inspector (Wingard), the Cease and Desist Order of November, 2013 (Ulshoeffler), and attorney Snow's January, 2014 Enforcement Request to him. These documents provide an overview of the nature and extent of the activities at #1 Noons Heights Road, and their impact on the adjoining residences and environment.

I have anticipated there may be an objection that my relationship with Selectman Burgess might be construed as a conflict of interest for either her or myself. With this in mind, she consulted David Wilson, an attorney with the Massachusetts State Ethics Board; who assured her ("no conflict of interest violation. Absolutely not!") that my submitting this information to the Planning Board is no conflict of interest violation. Furthermore, the fact that she is the spouse of the person submitting this information constitutes no conflict of interest violation for her, either. Mr. Wilson has said he is available to reiterate this fact by phone for any concerned person.

I have made packets of the documents described above for the convenience of the Planning Board. I am submitting this information because I observed statements and assertions being made that appeared to conflict with this information.

I strongly believe in the power of verifiable fact and evidence to inform important decisions; unsupported assertions, no matter how often stated, are invalid because they are unreliable matters of opinion and belief. I believe that the information I am providing the Planning Board is critical for its members to have to assist them with making fair and informed decisions in the matter of #1 Noons Heights Road.

Sincerely Yours,

*Peter Burgess*

TOWN OF TRURO  
Truro Building Department  
P.O. Box 2030  
Truro, MA 02666

**CONFIDENTIAL COMPLAINT FORM**

Date: 8/5/13

This is a formal request for enforcement of an alleged violation of Truro's Zoning By-Laws in reference to Chapter 40 A § 7 M.G.L. Please notify me of any action or refusal to act in writing. The following are the facts in the case:

Property address of alleged violation: 1 NOONS HEIGHTS RD  
Street (Map & Parcel)

Property owner's name(s): WINKLER 6 TRUST

Property owner's mailing address: \_\_\_\_\_

Date(s) of alleged violation(s): SEPT. 2012 TO THE PRESENT

Nature and details of alleged violation(s): Apparently there has been a change of use on the Winkler property that is definitely harming my business. There has been some extremely loud noise activity early in the AM, as early as 7 AM there has been loud banging and beeping. So loud that it has been waking up my guest, causing them to be very angry and promising to never come back & to tell all their friends. In addition, the forest removal and excavation right up to the back of my property is creating tremendous erosion caused by steep banks made on the south side of my boundary lines. All the animals formerly living there have been made to be disoriented and are wandering thru my motel, etc. Has there ever been a review or permission from MESA? (mass. Endangered species act.) The extreme nuisance has definitely affected the value of my property, making it much harder to sell. I have enjoyed peace & quiet here for 22 years & suddenly in less than a year they have destroyed all that.

Alleged violation relates to the Code of the Town of Truro, Section: 30.2

Name(s) of person(s) filing complaint: BARRY & JOEL TENDLER

Mailing address of complainant(s): P.O. BOX 114, N. TRURO, MA 02652

Local address of complainant, if different than above: \_\_\_\_\_

Home phone #: \_\_\_\_\_ Work phone #: (508) 487-9411

I qualify as an "aggrieved party" and do believe that the above facts are true. I understand that if it is necessary for the Town of Truro to institute a legal action in the courts, I hereby agree to testify as a witness on behalf of the Town of Truro. Until then I desire this information to be confidential.

Signature of complainant(s): Barry Tandler

Date: 8/5/13

#1/12 please refer to 10/2009 site plan enclosed with packet  
p95. ①

In addition, I have fears that the change of use is or will affect the integrity of my drinking water well. There are workmen on the site generating waste, I wonder if there now is any illegal septic systems so close to my well. It seems certain there are illegal dwellings now on their property. There is definitely toxic liquids (grease, oil & gasoline) leaking into the ground from the many Trucks & excavation equipment parked and moving constantly over the bare earth on their property. At any given time you can see all kinds of heavy machinery just parked and leaking fluid into the ground adjacent to my well.

There is no doubt that all this activity and forest removal is having a negative impact on the environment, to say nothing of the negative impact on my income. There is no question it will be a lot worse in the future just from word of mouth alone. It really is a shame that I have spent the last 22 years building up a business, only to have it destroyed by these activities that shouldn't even be there.

Yours truly,

Barry Tandler

BARRY TANDLER, CAPE VIEW MOTEL.



G-10  
"First-Class" & Fees



# TOWN OF TRURO

## Building Department

24 Town Hall Rd  
Truro, MA 02666

**Telephone: (508) 349-7004 x 31** **Fax: (508) 349-5508**

Certified Mailing # 7012 0470 0001 2357 9178 (GFM) and 7012 0470 0001 2357 9185 (Winkler)

### NOTICE OF ZONING BY-LAWS VIOLATION

#### Notice of Zoning Bylaws Violation(s) and Order to Cease, Desist and Abate:

GFM Enterprises, Inc. Attn: Gregory F. Morris, PO Box 1061, Truro, MA 02666, and Michael Winkler/Winkler Crane, PO Box 1110, Truro, MA 02666, and all persons having notice of this order.

As owner of the property, located at 1 Noons Dr, Truro, Assessor's Map 39, Parcel 166, and known as General Business - Route 6, you are hereby notified that you are in violation of the Town of Truro Zoning By-law(s) Section 30.1 Site Work, Section 30.2 Use Table-Industrial or manufacturing subject to note (5), and Section 70.3 Site work prior to approval, and are **ORDERED** this date, November 18, 2013 to: **CEASE AND DESIST IMMEDIATELY**, all functions connected with this violation, on or at the above mentioned premises.

#### Summary of Violation:

Stock piling, sorting & processing of materials i.e. sand, gravel, loam, rock, concrete asphalt, trees, brush and other material at the above site, in violation of the above mentioned sections of the Zoning By-law.

#### Summary of Action to Abate:

Commence **IMMEDIATELY** upon receipt of this notice, action to abate this violation by:

- 1.) Ceasing immediately all functions related to and/or connected with the above use and violation.
- And,
- 2.) Make application to ZBA under Section 30.2 Use Table industrial uses and Planning Board Site Plan approval pursuant to Section 70.2 A&B.

And, if aggrieved by this notice and order; to show cause as to why you should not be required to do so, by filing a Notice of Appeal (specifying the grounds thereof) with the Truro Zoning Board of Appeals, within thirty (30) days of the receipt of this order and in accordance with MGL 40A Section 8. If, at the expiration of the time allowed, action to abate this violation has not commenced, further action as the law requires may be taken. If further action results in fines, each day shall constitute a separate offence.

By order,  
  
Elbert Ulshoeffer  
Building Commissioner

cc: Town Administrator, Assistant Town Administrator, Health Department, Police Department

January 8, 2014

**ENFORCEMENT REQUEST – G.L. c.40A §7**

**Via Hand Delivery**

Elbert Ulshoeffter, Interim Building Commissioner  
Town of Truro  
Truro Town Hall  
P.O. Box 2030  
Truro, Massachusetts 02666-2030

**Re: Winkler Route Six Trust/GFM Enterprises, Inc.  
1 Noons Heights Road. Truro**

Dear Interim Building Commissioner Ulshoeffter:

Please be advised that this office represents Mr. Barry Tendler of Cape View Enterprises, Inc., record owner of 364 Route 6, Truro and Dr. Peter Burgess and Maureen Burgess of 1 Friendship Way, Truro who are seriously aggrieved by continuing violations of an approved Site Plan for property located at 1 Noons Heights Road, Truro, owned by Winkler Route Six Trust and leased to GFM Enterprises, Inc.. The Trust and its lessee are also in violation of §70.3.A. of the Truro Zoning By-Law. We are writing pursuant to the provisions of G.L. c.40A §7 to request enforcement by your office of the previously approved Site Plan and Truro Zoning By-Law §70.3.A.

As you will recall, your predecessor, Thomas Wingard, issued a Cease and Desist Order dated August 21, 2013 against the subject property and its owner as “industrial/manufacturing operations” were illegally occurring at the property in the absence of zoning relief from the Truro Board of Appeals and an approved site plan from the Truro Planning Board.

On June 9, 2009, the Truro Planning Board voted to endorse a Site Plan entitled “Site Plan Showing Proposed Storage Building, 1 Noons Heights Road, Truro, MA prepared for Michael Winkler, dated December 1, 2008, revised March 30, 2009 and revised May 27, 2009, at 1” = 40’ by East Cape Engineering”. The endorsed Site Plan clearly states that the use of the property is “Equipment Service, Repair and Storage” pursuant to Section 30.2 of the Truro Zoning By-Law. Additionally, the Site Plan indicated “No Changes In Landscaping Proposed. Existing Vegetation At Route 6 And Noons Heights Road To Remain”.

Elbert Ulshoeffter, Interim Building Commissioner

Town of Truro

January 8, 2014

Page 2

Contrary to the approved Site Plan, the owner of 1 Noons Heights Road and its lessee, GFM Enterprises, Inc., have been engaging in retail business activities at the premises in violation of the Site Plan creating continuous obnoxious noise for the neighborhood resulting in a nuisance. This noise is generated by industrial commercial equipment on the property engaging in commercial retail activities such as placing, moving and loading construction/landscaping materials onto trucks at the property for movement on and off site. The illegal retail business activity at the property produces extremely loud, obnoxious noise and is a nuisance to the entire neighborhood. Roaring conveyor belts move materials to various locations on the property and excavators, front end loaders and mechanical shovels continuously emit a loud beeping sound which often commences prior to 7:00 a.m. seven days a week, including New Year's Day, occasionally well into the evening.

A majority of the forested property located behind the large steel building on the property to and along the shared boundary with Mr. Tendler's motel, the Cape View Motel, has been recklessly stripped and denuded of trees and natural vegetation. This area has been excavated into a deep, wide pit despite the fact that the November, 2009 Site Plan clearly states that this area was to remain a "Natural Vegetation Area". The pine forest which provided a natural privacy barrier between Mr. Tendler's property and the subject premises has been destroyed and trucks and huge piles of stumps are now located in this once pristine area. The excavated pit contains huge piles of earth, topsoil, sand, asphalt, blacktop, stones, boulders and concrete block and slab waste trucked onto the property from other locations.

Mr. Tendler, the long-time owner of the Cape View Motel lost a significant amount of business this season due to the retail business activities at the subject property in violation of the Site Plan. Motel guests bitterly complained that they were unceremoniously awoken at or before 7:00 a.m. and disturbed throughout the day due to the noise, fumes and activities emanating from 1 Noons Heights Road. Several guests threatened to use social media to warn potential customers to avoid the Cape View Motel due to the noxious activities at the abutting property. Many long-time customers of the hotel lamented the atmosphere change at the motel due to the noise and "awful stench" coming from 1 Noons Heights Road. These frequent guests compared sitting by the pool to "sitting in a porta potty in the middle of a construction zone". If the unpermitted retail activity engaged in by the applicant continues, Mr. Tendler's long-standing business will suffer great and permanent financial harm resulting in decreased room revenue and property taxes for the Town as the value of the motel property will unquestionably be reduced by this nuisance.

5



Elbert Ulshoeffter, Interim Building Commissioner  
Town of Truro  
January 8, 2014  
Page 3

Furthermore, although Dr. and Mrs. Burgess reside at 1 Friendship Way, the noise from the unpermitted activities at the subject property carried over Route 6 to homes on Aldrich Road, Kyle Way and Friendship Way interfering with the quiet enjoyment of their property which the Burgesses have enjoyed uninterrupted since 1959. Additionally, the retail activities, if allowed to continue unabated, will result in markedly decreased property values for both the commercial and residential properties in the neighborhood serving to erode Truro's tax base. Allowing these nuisances to continue will set a precedent allowing other similar uses within this zoning district to emerge threatening the most attractive characteristics of the Town -- peace, quiet and solitude.

In addition to violations of the 2009 approved Site Plan, Winkler Route Six Trust and GFM Enterprises, Inc. are also in violation of §70.3.A. of the Truro Zoning By-Law. Section 70.3.A. of the By-Law states that:

No building permit, **site clearing, filling, grading, material deliveries** or construction shall be initiated on any site to which this section applies until any required Site Plan endorsement is obtained from the Planning Board. (emphasis added).

A site visit will unquestionably show that both the illegal manufacturing/industrial use at the property that was the subject of the Cease and Desist Order issued by Mr. Wingard and the continuing retail activities that violate the approved 2009 Site Plan resulted in "site clearing, filling, grading and material deliveries" at the property without the required Site Plan endorsement of the Truro Planning Board.

Accordingly, based upon the above, our clients respectfully request enforcement of the 2009 approved Site Plan as well as §70.3.A. of the Truro Zoning By-Law. Thank you for your attention to this matter and anticipated enforcement action against 1 Noons Heights Road, its owner, Winkler Route Six Trust and lessee GFM Enterprises, Inc.

Very truly yours,

Christopher J. Snow

CJS:r  
cc: Charleen Greenhalgh, Assistant Town Manager & Town Planner  
Dr. and Mrs. Peter Burgess  
Cape View Enterprises, Inc.,

6



# Energy and Environmental Affairs

EEA Home > Agencies > Department of Fish & Game > Fisheries & Wildlife > Natural Heritage & Endangered Species > Regulatory Review > Habitat Assessments & Protocols

## Habitat Assessments & Protocols



Habitat in Housatonic River floodplain. Photo by Mike Nelson.

Under certain circumstances, in association with regulatory review of a proposed project in Priority or Estimated Habitat, a habitat assessment or targeted survey may be necessary. The following protocols are intended as guidelines to assist in these efforts in order to help protect rare species populations and their habitats.

These protocols should lead to a more successful survey and final report for consideration by the Massachusetts Division of Fisheries and Wildlife's Natural Heritage & Endangered Species Program (NHESP), which oversees review activities relating to the Massachusetts Endangered Species Act (MGL Ch. 131A) and its implementing regulations (321 CMR 10.00). Implementing these guidelines will also help property owners and land managers avoid potential violations of the Massachusetts Endangered Species Act (MGL c. 131A) and its implementing

regulations (321 CMR 10.00).

These protocols are intended to complement existing regulatory review processes by providing scientifically-based survey recommendations. **Please note: Biologists conducting surveys for project proponents must be in possession of a valid Commercial Scientific Collection Permit Application** for the project site in order to legally handle any state-listed species or collect samples of plants.

Habitat Assessment Guidelines:

- [State-Listed Species Habitat Assessment Guidelines: Wildlife](#)
- [State-Listed Species Habitat Assessment and Survey Guidelines: Plants](#)

Guidelines for Rare Mussel Surveys, Habitat Assessments and Translocation (permit required):

*These guidelines are currently being revised. Please contact Dr. Peter Hazelton at 508-389-6389.*

Additional Guidelines for Rare Plant Collecting:

- [Guidelines for Collecting Rare Plants](#)
- [Guidelines for Ethical Field Research on Rare Plant Species](#)

Did you find the information you were looking for on this page? \*

Yes

No



### Regulatory Review Contact Information

### Regulatory Review Resources

- Regulatory Review
- Regulatory Review Forms
- Regulatory Review Fact Sheet
- Regulatory Review FAQs
- Endangered Species and the Wetlands Protection Act



### Division of Fisheries & Wildlife

1 Rabbit Hill Road  
Westborough, MA 01581  
(508) 389-6300  
[mass.wildlife@state.ma.us](mailto:mass.wildlife@state.ma.us)  
Contact ALL DFW Offices

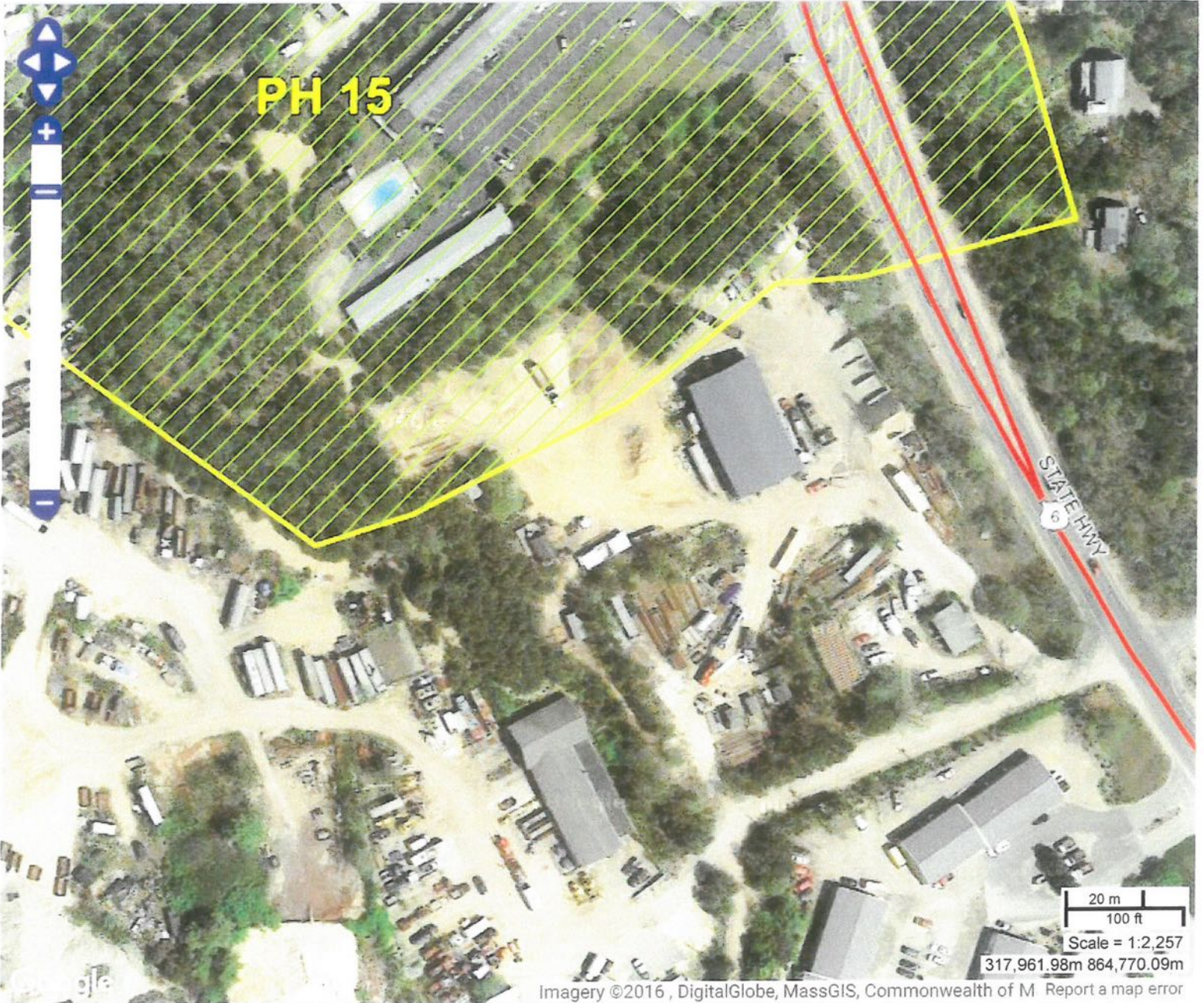
Questions? Email Us

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Zoom to a town



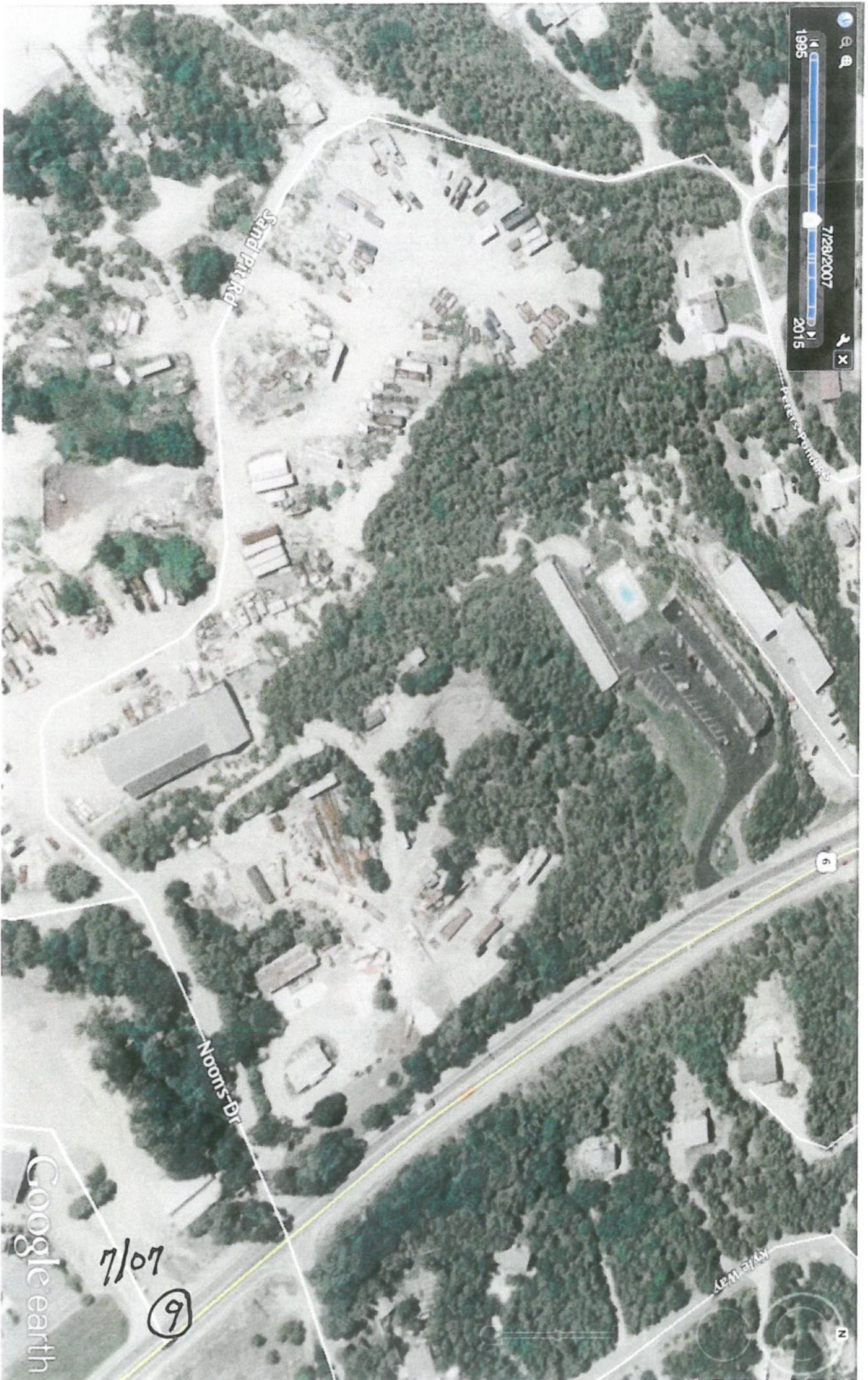
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Basemaps



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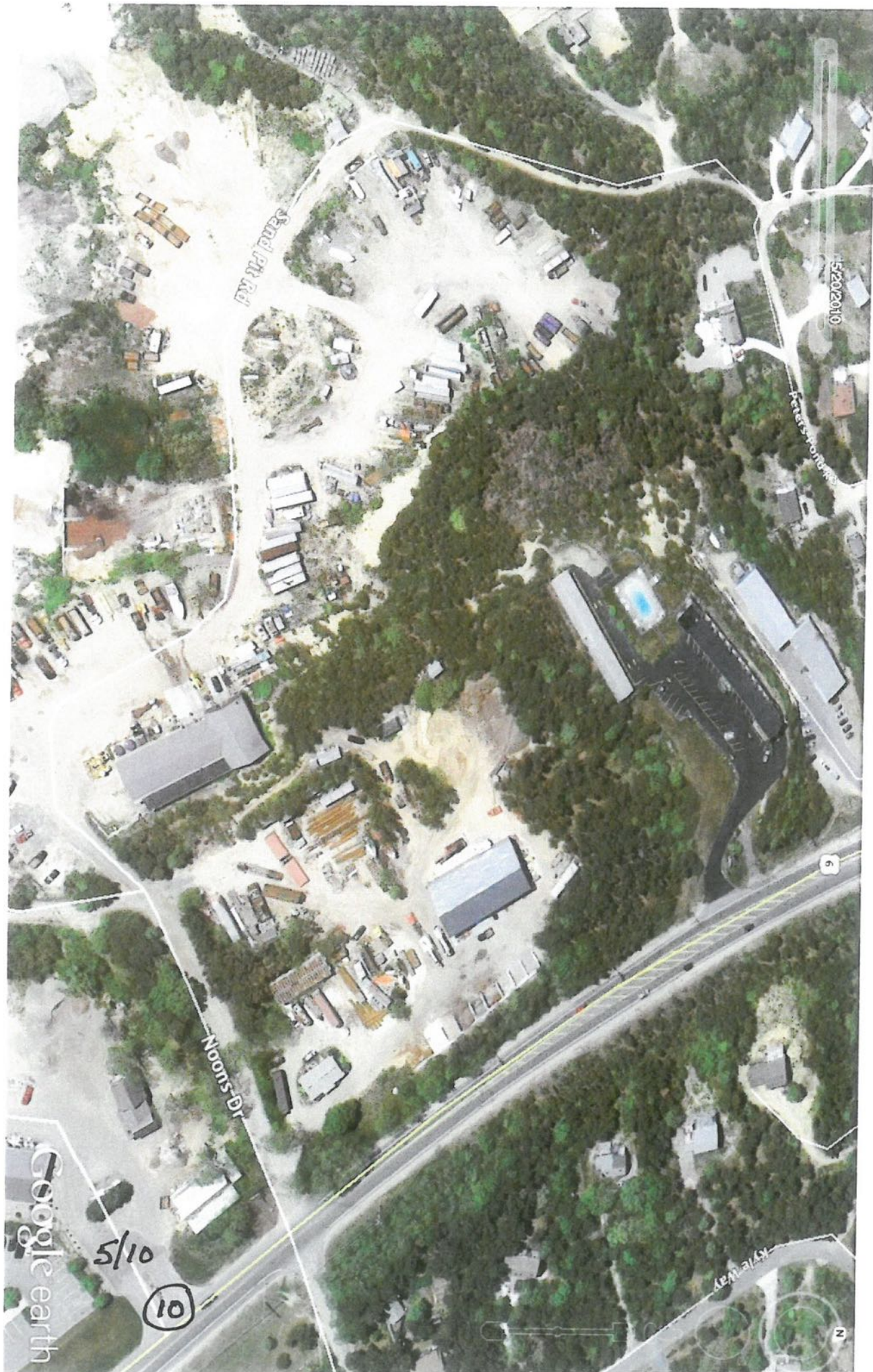
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RECEIVED  
JUL 05 2016

STONE'S THROW AT TRURO CONDOMINIUMS  
6 SHORE ROAD  
TRURO, MA 02666

BY: .....

June 27, 2016

Lisa Maria Tobia, Chair  
Truro Planning Board  
P.O. Box 2030  
Truro, MA 02666

Re: Site Plan: 20016-001SPR Winkler Route 6 Trust, Michael F. Winkler Trustee

Dear Ms. Tobia:

The Stone's Throw Condominium would like to register our concern about the proposed Site Plan of the Winkler Route 6 Trust, introduced at the May 3, 2016 Planning Board public hearing, and attended by one of our condo owners, Glenn Pasanen, who testified during the meeting. As the Board itself and the background packet provided by the Board's consultant made clear, the site plan raises a number of questions – particularly for us its environmental impact.

Our condominium is in one of the most concentrated residential neighborhoods in Truro, abutting the north end of the North Truro Route 6 general business district. Our unit owners represent 28 of the 42 private homes that lie within 500-feet of the Winkler site, as shown in a 500-foot Assessors Office Abutters List. We have our own two private wells, so we naturally worry about any danger to our water supply. In addition, the hearing made it clear that the site falls within a zone that is central to the Town's (and Provincetown's) public water supply.

Also, according to the background packet, the Town filed a complaint against Mr. Winkler, Gregory F. Morris, GFM Enterprises, Inc. and Ethan Poulin on February 28, 2014, that "alleged that the defendants were conducting without authorization manufacturing processing at 1 Noons Heights Road and that the uses and physical state of the lot had changed impermissibly from what the Truro Planning Board has approved," a case that remains unresolved more than two years later in Barnstable Superior Court.

Subsequent to the filing of the 2014 complaint, a proposed Winkler site plan was denied by the Planning Board (4-2vote) on May 6, 2014, in part because the plan "does not propose to address the potential of protecting the groundwater or the surrounding area." Neither does the new 2016 plan.

The fundamental issue here seems to be whether the current and proposed uses of the Winkler site meet the Truro zoning bylaw criteria for "commercial use" permitted in this Route 6 general commercial district. It thus seems reasonable to ask that the several specific legal and environmental questions raised by the Town and the Planning Board be resolved before the Board takes any final action. In addition, the wording on the permit regarding "other commercial uses" is of concern to us and our belief is that Board oversight is also necessary for any new or existing unpermitted uses and abutters and impacted other parties should have the opportunity to respond.

We are pleased that the Planning Board moved further consideration of this proposed site plan to a July meeting. We thank you for your attention to all this and stand ready to help you and the Board wherever it would be useful.

On May 21, 2016, this matter was discussed by 20 owners in our Annual Association meeting. The vote to send this letter of concern was voted, with 17 in support, 2 opposed, and 1 abstention. All of the following Trustees voted to issue this letter, due to concerns voiced in the text.

Sincerely,

Stone's Throw at Truro Condominium, Board of Trustees

Theresa Moran, Chairperson

James Landry

Mary Beth Murphy

James Sovik

*James Sovik for the Trustees*

Cc: Rae Ann Palmer, Town Manager

P.O. Box 2030

Truro, MA 02666

Jay Coburn, Selectman

P.O. Box 2030

Truro, MA 02666



Truro Planning Board  
Meeting Minutes  
Friday, November 20, 2009  
Truro Town Hall

Members Present: Ansel Chaplin, Bob Weinstein (Chair), Nick Brown, Karen Snow, Stephen Williams, Bill Golden and Bill Worthington

Others Present: Charleen Greenhalgh ATA/Planner; Chet Lay and David Drinkwater

The Chair called the meeting to order at 9:30 am.

**2005-012 David and Mary Ellen Drinkwater – Release of Covenant for Maria Rose Path**

Representatives: Chet Lay, Slade Associates, Inc. and David Drinkwater

This is a continuation of this request from November 17, 2009. Messrs Chaplin, Worthington and Brown stepped down. Mr. Lay thanked the Board for having this meeting. He explained that the road is in and the only thing remaining is the planting of the perennial grasses. It was too late in the season to plant that, so winter rye has been put down to for growth. It has germinated and is doing well. The contractor has submitted an estimate for this work and with the 150% contingency add on the total comes to \$790.00, which Mr. Drinkwater is ready to submit. Mr. Weinstein commented that the road looks good. Mr. Chaplin, speaking as a citizen, stated that he is concerned that the catch basins are getting clogged with leaves and pine needles. Mr. Lay, explained that at this time of the year that is difficult to avoid at this time of the year; however that is one of the purposes of the Homeowners Association, which has been submitted.

Mr. Weinstein made a motion to approved the release of covenant for Maria Rose Path, seconded by Mr. Golden. Discussion – Ms. Snow asked in the motion should be amended to also accept the \$790.00 for escrow from Mr. Drinkwater for the completion of the grass planting. It was agreed that it should and Mr. Weinstein amended his motion to included this and Mr. Golden seconded the amended motion. The Boards vote was 4 – 0. Mr. Drinkwater submitted a check for \$790.00 to Mrs. Greenhalgh.

Messrs Brown, Chaplin and Worthington returned to the Board.

**Michael Winkler – Waiver of Site Plan Review – 1 Noons Heights Road**

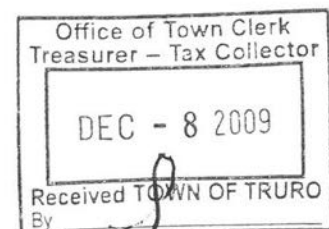
This was a continuation of this matter from November 17, 2009. Mr. Winkler was not in attendance. Mrs. Greenhalgh suggested that the Board continue this to December 1, 2009. Mr. Brown made that motion, seconded by Ms. Snow. So voted unanimously.

Next meeting for a work session was scheduled for Monday, November 30, 2009 at 9:30 am here at the Truro Town Hall.

Motion to adjourn by Mr. Williams, seconded by Mr. Brown. So voted. The meeting adjourned at 9:45 am.

Respectfully submitted,

Charleen L. Greenhalgh



**Truro Planning Board  
Minutes of meeting – 27 October 2009  
Truro Public Library**

Members present: Nicholas Brown, William Golden, Karen Snow, Robert Weinstein (chair), William Worthington.

Members absent: Ansel Chaplin, Stephen Williams

Others present: Charleen Greenhalgh, Assistant Town Administrator/Planner; Donald Horton, applicant; Richard Lay, Slade Associates; Chris Lucy, liaison from the Board of Selectmen; Fred Sateriale; Michael Winkler, applicant

Mr. Weinstein called the meeting to order at 7:03 pm. The Board unanimously passed a motion to change the order of the agenda and defer review of minutes to the end of the meeting.

**2009-016 Wedoho, LLC – 5-Lot Preliminary Subdivision, 105 Shore Road and 5 Bay Village Road**  
Representative: Richard Lay, Slade Associates

Mr. Lay reviewed the plan in detail, noting that the property is comprised of two parcels and the plan calls for the creation of five lots. He also noted that all lots have sufficient frontage and lot area to meet the Zoning Bylaw. He reminded the Board that the Building Commissioner on a previous similar matter determined that Zoning Bylaw relief was needed, but the Zoning Board of Appeals (ZBA) said that it was not. He will be following the same process in the current matter. He noted that the MESA review has been completed and there are no issues to be addressed regarding that review. Mrs. Greenhalgh asked Mr. Lay for copies of the MESA plan and MESA letter. Mr. Lay then reviewed the MESA plan with the Board.

Ms. Snow asked several questions to which Mr. Lay responded. To her question about the number of bedrooms in the cottages, Mr. Lay stated there are seven, and he will be dealing with the Board of Health on this. Ms. Snow commented that the cottages seem to be 20 to 25 ft. apart; Mr. Lay gave the exact measurements. Ms. Snow asked Mrs. Greenhalgh what the procedure is if the property is non-conforming with zoning violations, including the distances between the cottages. Mrs. Greenhalgh stated this would need zoning relief as the lot for a lawfully pre-existing cottage colony would be changing. Mrs. Greenhalgh responded that she agrees with the Building Commissioner that the applicant needs to go to the ZBA for zoning relief, assuming the cottages are lawful pre-existing non-conforming. She added that she and the Building Commissioner believe this matter is not the same as the previous case, MBO-JGO where the ZBA said zoning relief was not required.

Mr. Worthington and Mr. Brown asked questions about the review by and comments from the Board of Health. To Mr. Weinstein's question regarding drainage, Mr. Lay responded that the definitive plan will show details. Questions were raised regarding access to Bay Village Road. Mr. Lay responded that these access points will be eliminated, and Ms. Snow urged that these access points not be included on the definitive plan.

Fred Sateriale, an abutter, stated that he owns the Prince of Whales cottages and the next lots at 6 and 8 Windigo Lane, and he has lived there for over twenty-five years. He expressed his support for the subdivision, commenting that it is good for the neighborhood.

Mr. Weinstein moved that the Planning Board approve the Preliminary Plan for Wedoho, LLC, as submitted, pursuant to MGL: c. 41, Section 81-S and Section 2.4 of the Town of Truro Rules and Regulations Governing the Subdivision of Land (September 10, 2007), with the following conditions:



access from Bay Village Road for Lots 1 and 2 be eliminated; compliance with all rules and regulations of the Board of Health; second by Mr. Brown.

Donald Horton, the applicant, asked a question regarding access from Lot 2 to Bay Village Road: Could a future owner have access if they wanted it? Mrs. Greenhalgh responded that the owner would need to come back to the Planning Board to request approval of a change to the definitive plan. Ms. Snow expressed concern with safety and access, and there was further discussion regarding this with reference to the Subdivision Rules and regulations. The Board's vote on the motion was: 5-0-0

**Michael Winkler – Waiver of Site Plan Review, Route 6 at 1 Noons Heights Road**

Mr. Winkler stated that he is recycling a building he saved from Coast Guard Beach several years ago, noting that the septic system is adequate per the Truro Health Agent and that he will not be using Town water as he has a well. Mrs. Greenhalgh informed the Board that the filing fee has been paid.

To Ms. Snow's question asking the size of the building, he responded that it is 20 ft. X 20 ft. with a small deck. Ms. Snow stated that she would like to have the official plan of the building showing size, height, number of stories, etc. included with the application. In response to Mr. Worthington's question about the foundation, Mr. Winkler responded that it will have a full foundation and utilities for the other new building on the site will be in this one.

Ms. Snow stated that she would like to see a note added to the plan indicating that the building is to be used as an office or that this be made a condition of the Board's approval to waive site plan review. Ms. Snow then asked a question about parking for the new building, noting that it is not shown on the plan. Mr. Winkler agreed to add a parking space to the plan. Mr. Brown and Mr. Weinstein noted that three parking spaces are needed, not one.

Mrs. Greenhalgh commented that a continuance to 17 November seemed to be in order so that the plan can be revised. Mr. Brown moved that the matter be continued to 17 November; second by Mr. Weinstein. Vote: 5-0-0

**Minutes**

Minutes of the meeting on 13 October were reviewed and amended. Mr. Brown moved that they be approved as amended; second by Mr. Weinstein. Vote: 5-0-0

**Other Business**

Mrs. Greenhalgh distributed a revised draft of the document entitled Maximum Building Net Area noting that it should probably be considered at a work session after all Planning Board members have a chance to review it. The Board agreed to meet in a work session on Friday, 6 November, 1:00 pm to 3:00 pm at Town Hall.

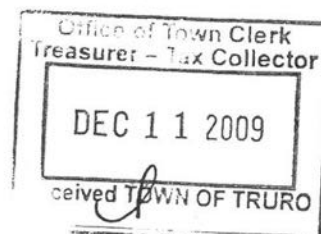
Mrs. Greenhalgh reviewed the Planning Board budget document which is due by 13 November and suggested adjusting the Supplies line to \$250 and the Other Charges and Expenses line to \$300. Board members agreed the changes are appropriate.

Mrs. Greenhalgh informed the Board that she will return the "Personal and Confidential" letters not accepted by Board members to the sender.

Mr. Brown moved to adjourn; second by Mr. Weinstein. Vote: 5-0-0. Meeting adjourned at 8:15 pm.

Respectfully submitted,

  
Sharon A. Sullivan, Secretary



**Truro Planning Board**  
**Minutes of meeting – 1 December 2009**  
**Truro Public Library**

Members present: Nicholas Brown, Ansel Chaplin, William Golden, Karen Snow, Stephen Williams, Robert Weinstein (chair), William Worthington

Others present: Charleen Greenhalgh, Assistant Town Administrator/Planner; Bruce Decker; John McElwee, Felco, Inc.; Richard Lay, Slade Associates; Chris Lucy, liaison from the Board of Selectmen; Margaret Mac Neil; Malcolm Meldahl; Lester J. Murphy, Attorney; John O'Reilly, J.M. O'Reilly & Associates; Katherine Winkler

Mr. Weinstein called the meeting to order at 7:00 pm.

**Minutes**

Minutes of the meeting on 27 October were reviewed. Mr. Worthington moved they be accepted as presented; second by Mr. Brown. Vote: 5-0-2 (Messrs. Chaplin and Williams abstained as they were absent.)

Minutes of the meeting on 17 November were reviewed. Ms. Snow moved they be accepted as presented; second by Mr. Golden. Vote: 5-0-2 (Messrs. Weinstein and Worthington abstained as they were absent.)

Minutes of the work session on 20 November were reviewed. Mr. Worthington moved they be accepted as presented; second by Ms. Snow. Vote: 7-0-0

Mrs. Greenhalgh reported that George Price and Lauren McKean of the Cape Cod National Seashore (CCNS) will meet with the Planning Board on 7 December at 1 pm at Town Hall. Gary Palmer, chair of the Board of Selectmen, agrees that the meeting of the Board of Selectmen on 15 December is a good time for that Board to meet with the Planning Board regarding the Zoning Bylaw.

**2009-018 Margaret Mac Neil – 2-Lot Preliminary Subdivision, 4 Gray's Lane**

Representative: John McElwee, Felco, Inc. and Lester J. Murphy, attorney

Mr. Murphy reviewed the plan and pointed out that it includes a Rural Road Alternative that is more driveway than road; two other properties already access Gray's Lane; and most of the waivers sought would be related to road construction. Mr. McElwee noted that the plan shows the road as 12 ft. wide; it should be 14 ft., and there is enough room to make it 14 ft. He stated that one of the waivers to be requested will be related to the grade of the road at 14% and added that the driveway for the existing house on the property is circular and would be moved or connected to the existing road. He noted there are no major trees on the property.

In response to a question from Mr. Worthington regarding road surface, Mr. McElwee stated that it would be gravel. Mr. Worthington stated that it would be quite steep for gravel; Mr. McElwee responded that it will need time to stabilize and should be workable. Mr. Brown asked for background on Gray's Lane – its age and history – and noted that it is substandard. Mr. Murphy stated that the only history is that contained in deeds, adding that there are plans going back to the 1940's and 1950's, and he can provide earlier ones if needed. He noted that the present house has existed there since the late 1700's, and Ms. Mac Neil stated since 1778. Mr. Brown commented that it is not a Town road; Mr. Murphy stated it is a private way, and the applicant is willing to make improvements to it. Mr. Golden commented that he has been on the property, and the existing road is not really a road and would need substantial improvements.

Mr. Williams stated that the plan appears to be a "cutoff" subdivision, which the Planning Board stopped approving in the mid-1970's, adding that it appears similar to Stephens Way. Mr. Brown noted that the Town went to court over Stephens Way; he suggested seeking an opinion from Town Counsel. Mr.

Weinstein stated that it is not appropriate to engage Town Counsel at this point. Mrs. Greenhalgh advised the Board to ask the applicant to do the necessary research, not Town Counsel. In response to Mr. Williams' question about the ownership of Lot 2, Mr. Murphy stated it was recently purchased by his client. Mr. Lucy arrived at this point.

Mr. Murphy noted that in order for the Planning Board to approve the proposed subdivision, it needs to determine whether Gray's Lane is adequate, adding that the plan calls for one additional lot, and the road can be widened where his clients own it but not elsewhere. Mr. Brown stated that Gray's Lane does not provide adequate access for further subdivision, noting that Stephens Way is a perfect example of this problem. Mr. Chaplin and Mr. Williams expressed agreement with Mr. Brown. Mr. Williams commented that approval would open the whole issue of going back to a much more lenient time and standard. Mr. Weinstein stated that he also sees the matter as problematic and agrees with Mr. Williams, adding he could not look favorably on approving it.

Mr. Murphy requested to withdraw the application in light of the concerns raised by the Planning Board. Mr. Brown moved that the Planning Board approve withdrawal of the application without prejudice; second by Ms. Snow. Vote: 7-0-0

**2009-09 Bruce H. Decker – 2-Lot Definitive Subdivision, 7 Depot Road**

Representatives: Richard Lay, Slade Associates; Lester J. Murphy, attorney

This is a continuation of a public hearing from 20 November 2009. Mr. Chaplin stated that he was stepping down. Mr. Williams asked if it was because of a conflict of interest, and Mr. Chaplin responded in the affirmative. Mr. Williams asked if he could know the nature of the conflict; Mr. Chaplin responded, "No."

Mr. Murphy stated that in light of the concerns raised at previous meetings regarding sight line and sight distance, the plan has been modified in the hope that the revised plan will gain enough votes for approval. Mr. Lay then explained the modifications. Mr. Murphy noted that the Board of Health has reviewed the revised plan and approved it, and Mr. Lay added that the revised plan also has MESA approval. In response to a question from Mr. Worthington, Mr. Lay stated that the plan will be brought to the Conservation Commission if approved by the Planning Board.

Mr. Brown commented that as a previous "no" vote, he sees this as a suitable compromise, noting that the modified plan provides added safety and shows the applicant's willingness to meet the Board half way or more than half way. Mr. Weinstein enumerated the conditions of the covenant that had been discussed previously and asked if there were other conditions that needed to be added; none were raised.

Mr. Weinstein moved that the Planning Board approve the Definitive Plan for Bruce H. Decker, as Trustee of the Bruce H. Decker Revocable Trust, as submitted pursuant to MGL c.41, Sections 81-T and 81-U and Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land (September 10, 2007), with the following conditions:

- a) The applicant shall work with the Truro Department of Public Works to clear vegetation to assist with the line of sight east of the new curb cut
- b) No development shall be started until signage is installed at the agreement of the Truro Department of Public Works and the Truro Board of Selectmen, in both the east- and westbound approaches to the new proposed road. Such signage should indicate the approaching side roads in a visual manner.
- c) A standard road covenant shall be executed, including but not limited to:
  - An as-built plan showing the bounds shall be submitted
  - Permanent Bounds shall be set at all road points and lot corners, as appropriate.



- The developer shall present to the Planning Board for its approval a declaration of trust creating a Homeowners' Association per Section 2.5.9 of Truro Rules and Regulations Governing the Subdivision of Land (Sept. 10, 2007), and proof of recording of said document prior to release of the covenant.

Mr. Brown seconded the motion. Vote: 4-0-2 (Mr. Golden and Ms. Snow abstained.)

As Mr. Winkler was not present, Mrs. Greenhalgh suggested the Board move on to other agenda items.

**2009-006 MBO-JGO, LLC "Sunset Acres" – Endorsement Definitive Subdivision - 40 Great Hollow Road and 5 Old Colony Way**

Representative: Richard Lay, Slade Associates

Mr. Brown stepped down with a conflict: Mr. Obert is a client. Mr. Lay distributed mylar copies of the plan and the proposed covenant and then reviewed the details of the plan, revisions made, and read the language of the covenant. He also distributed copies of the document related to the Homeowners' Association. Ms. Snow raised a question about the easement and asked Mrs. Greenhalgh if it should be part of the covenant and/or a note on the plan. Mrs. Greenhalgh responded that it is not necessary as part of the covenant as once the covenant is released, it is not referred to again; it carries more weight as a note on the plan. Ms. Snow stated that she is not happy with leaving the existing right of way, and Mrs. Greenhalgh reminded her that the Planning Board already approved the plan on 8 September and that they are here for the endorsement of the plan following the expiration of the appeal period.

Mr. Chaplin commented that he is troubled by being presented a 9-page legal document on the Homeowners' Association without having time to review it. Mrs. Greenhalgh reminded him that the applicant did not have to present the document at this time and the Planning Board has until it considers release of the covenant to approve it. Mr. Worthington asked if the document could be placed on a future agenda for review at a later date. Mr. Chaplin stated that he is concerned that the document will be lost in the file and never read. The Homeowners' Association document will be put on a future agenda.

Mr. Williams moved that the Planning Board endorse the Definitive Subdivision plan and the covenant as submitted; second by Mr. Weinstein. Vote: 6-0-0

**Katherine Baker and Peter Titelman – Revision to Waiver of Site Plan Review – 8 Yellow Brick Rd**

Representative: Malcolm Meldahl

Mr. Brown stepped down. Mr. Meldahl explained that due to a small phrase in the covenant, the original owners of the property did not approve the building plans. They are therefore back before the Planning Board to request a slight change the plans. The pitch of the roof has been revised from a shed roof to a gable and the building itself is four feet shorter on each end, but four feet wider; otherwise the plan is unchanged. Ms. Snow moved that the Planning Board approve the minor revisions to the previously approved Waiver of Site Plan Review for a single family dwelling on property located at 8 Yellow Brick Road, Atlas Map 36, Parcel 231; second by Mr. Weinstein. Vote: 6-0-0

**Michael Winkler – Waiver of Site Plan Review – 1 Noons Heights Road**

Representative: Katherine Winkler

Mrs. Winkler was present to represent her husband who was not available for the meeting. Mrs. Greenhalgh reminded the Board that Mr. Williams and Mr. Golden cannot vote on the matter and stated that changes to the plan requested by the Planning Board have been made. Ms. Snow said that she wanted to make a statement for the record and the applicant's benefit. She stated that the applicant was asked to include building elevation plans, including height, and these have still not been provided. She added this is typical of plans presented by this applicant; he needs to read the regulations and take more

time in preparing documents which will save both him and the Planning Board time. She noted this will not change the way she votes on this matter, but she will not be so lenient in the future.

Mr. Brown moved that the Planning Board approve the request of Michael Winkler for a Waiver of Site Plan Review pursuant to Section 70.2 (B) of the Truro Zoning Bylaw for the property located at 1 Noons Height Road, Truro for the construction of an office building. This is based on the fact that the proposal does not substantially change the relationship of the structure to the site or to abutting properties and/or structures. Mr. Weinstein seconded the motion. Vote: 5-0-2 (Mr. Golden and Mr. Williams abstained.)

**Steven Garvan – 2 Lot Approval Not Required Plan – 270 Route 6**

Representative: John McElwee, Felco, Inc.

Mr. Brown stepped down. Mr. McElwee reviewed the details of the plan, and Mrs. Greenhalgh noted that a copy has been sent to the Board of Health. Ms. Snow and Mr. Worthington asked several questions. Mr. Williams asked questions regarding the owner of Lot 1 and the curb cut. Mr. Weinstein stated his understanding that curb cuts are not part of the Board's consideration of an ANR, and Mrs. Greenhalgh confirmed this.

Mr. Weinstein moved that the Planning Board endorse the Plan of Land in Truro, MA prepared for Steven Garvan, dated November 16, 2009, at 1 inch = 50 ft. by Felco, Inc. (Job #09096), as Approval Not Required, and to file said decision with the Town Clerk; second by Mr. Worthington. Vote: 6-0-0

**Wallace A. Kelley – 2 Lot Approval Not Required Plan – 40 South Highland Road**

Representative: John O'Reilly, J.M. O'Reilly & Associates

Mr. O'Reilly explained that he is present to correct an error regarding the CCNS boundary line on a previously endorsed 2-Lot ANR. Mr. Worthington asked if the change makes both lots a bit smaller, and Mr. O'Reilly responded in the affirmative. Mrs. Greenhalgh pointed out an error on the locus on the plan regarding the name of the road: it is South Hollow Road, not South Highland.

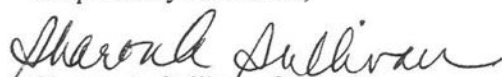
Mr. Brown moved that the Planning Board endorse the Plan of Land in Truro, MA prepared for Wallace A. Kelley, dated November 18, 2009, at 1 inch = 50 ft. by J.M. O'Reilly & Associates, Inc. (JMO-6156), as Approval Not Required, and to file said decision with the Town Clerk; second by Ms. Snow. Vote: 7-0-0. Mr. O'Reilly will make the correction to the Locus and will provide three copies of the plan.

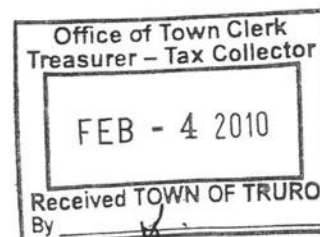
**Other Business:** Mrs. Greenhalgh reminded the Board of upcoming meetings: 15 December with the Board of Selectmen regarding the Zoning Bylaw and the work session with George Price and Lauren McKean of CCNS on Monday, 7 December 1 at 10 am at Town Hall.

At the request of Mr. Williams, Mrs. Greenhalgh reviewed the document, "Form 7" that she distributed earlier in the meeting. It is a quick checklist that the Mass. Attorney General uses for the zoning amendment process. Mr. Worthington asked Mrs. Greenhalgh to send a copy to Buddy Perkel, and she agreed to do so.

Mr. Chaplin moved to adjourn; second by Mr. Weinstein. Vote: 7-0-0. Adjournment at 8:40 pm.

Respectfully submitted,

  
Sharon A. Sullivan, Secretary



**Truro Planning Board  
Minutes of meeting – 17 November 2009  
Truro Public Library**

Members present: Nicholas Brown (acting chair), Ansel Chaplin, William Golden, Karen Snow, Stephen Williams

Members absent: Robert Weinstein, William Worthington

Others present: Nancy Correira, attorney; John McElwee, Felco, Inc.; Charleen Greenhalgh, Assistant Town Administrator/Planner; Michael Winkler, applicant

Mr. Brown called the meeting to order at 7:00 pm.

**Minutes**

Minutes of the meeting on 27 October were reviewed and changes made. As a quorum of those attending that meeting was not present, the revised minutes will be voted on at the next meeting (1 December).

Minutes of the work session on 6 November were reviewed. Mr. Chaplin moved they be accepted as written; second by Ms. Snow. Vote: 5-0-0

**2009-009 Bruce H. Decker – 2-Lot Definitive Subdivision (7 Depot Road, Atlas Map 50, Parcel 169)**

Mrs. Greenhalgh informed the Board that because Mr. Weinstein and Mr. Worthington are not present, and Mr. Chaplin and Mr. Golden cannot vote (they were absent from an earlier meeting at which the matter was considered), the matter cannot be voted on at this meeting. She contacted Attorney Lester J. Murphy and Mr. Decker, who requested a continuance to 1 December and an extension of the time limit.

Mr. Golden moved to continue the matter to 1 December and extend the time limit to 11 December; second by Mr. Williams. Vote: 5-0-0

**Michael Winkler – Waiver of Site Plan Review, Route 6 at 1 Noons Heights Road**

Mr. Winkler stated that the plan has been revised to add three parking spaces, building elevation plans, and a note that the building is for Winkler use only. Mr. Williams asked several questions and asked Mr. Winkler if he has an overall plan for the property. Mr. Winkler responded that plans he has recently presented will go a long way to bringing equipment and vehicles under cover. Referencing a discussion regarding the adjacent Tri-S property at a previous meeting, Mr. Williams asked Mr. Winkler if he is storing a large amount of petrochemicals on the property. Mr. Winkler responded that he is not; he does have a barrel of oil but is storing it at his home.

Mr. Chaplin asked if there were enough members present to vote on the matter. Mrs. Greenhalgh responded that there were not because Mr. Williams and Mr. Chaplin cannot vote as they were absent when it was considered on 27 October. Mr. Williams asked Mrs. Greenhalgh some procedural questions regarding instances when there are not enough Board members present to vote on a matter. Mrs. Greenhalgh responded and also informed the Board that Mr. Drinkwater has asked if the Board can meet next Monday or Tuesday to consider his application, adding that the Board could also consider the Winkler application at that meeting. Board members agreed to meet on Friday, 20 November. Mr. Golden moved to continue the Winkler matter to Friday, 20 November at 9:30 am at Town Hall; second by Ms. Snow. Vote: 5-0-0

Mrs. Greenhalgh asked if the Board would also want to consider the Decker application at that meeting. Members present agreed not to do so in order to keep the meeting short.



**Nearen and Cubberley Nominee Trust, Sunnyside Cottages – Informal Discussion**

Representative: Nancy C. Correia, attorney

Mr. Brown stated that he has a professional relationship with Ms. Correia, has represented the applicant on other matters, and would step down if anyone feels there is a conflict of interest; no one expressed concern.

Ms. Correia reviewed the history of the matter and issues that have been raised, including the discovery that the Special Permit approved in \_\_\_\_ was never filed so the property is not a legal condominium. To address the Planning Board's concern that 11 units requiring 22 parking spaces was too congested, she stated that the applicants are planning to eliminate Unit 8 by converting it to a laundry facility and to move several parking spaces. She noted that she wanted to come to the Board informally to see if the changes address the Board's concerns before Mr. Lay (Slade Associates) redraws the plan.

Mr. Chaplin asked if it were possible to have a sketch showing new locations of parking spaces as he was finding it hard to follow on the diagram included in the meeting packet. Ms. Correia explained the location of parking spaces to Mr. Chaplin, referencing the diagram. Mr. Williams asked several questions about process in regard to the conversion to condominiums and then expressed concerns about the parking, noting that fire vehicles would be able to get into the property but not out, adding that he doesn't think there can be this many buildings on this amount of land and meet design requirements.

Ms. Snow stated that the plans don't accurately reflect what's present on the site: there is a hatch off building no. 11 where parking space no. 20 would be and there are a lot of protruding stoops, propane tanks and electric meters which reduce the size of spaces shown on the plan. Ms. Correia responded that the applicants are willing to do what is necessary to make the plan acceptable; she doesn't want her clients to spend a lot of money for changes and still be turned down so she is here to learn what the Planning Board would find acceptable. Mr. Chaplin responded to Ms. Correia by stating it is not the Planning Board's job to tell the applicant how to configure the property; it is up to the applicant to create a design and bring it to the Planning Board for review.

Ms. Snow noted that there isn't the 14 ft. needed for rescue vehicles to maneuver and added that she sees parking as a major problem now that she has been on the site and measured distances. Mr. Williams commented that his guess is that a plan that meets parking requirements will have to eliminate Units 4, 8, 9 and 10 at a minimum. Mr. Brown asked if there is any other property across the street or nearby owned by her clients that could be used for parking. Ms. Correia responded that there is but it goes with the residence there. Ms. Snow commented that she had considered eliminating Units 9 and 10 which would allow reconfiguring of parking. Ms. Correia said she would take the Board's suggestions to her clients and see what they want to do.

**The Estate of Charles F. Francis – Approval Not Required for 2-Lot Plan, 271 Route 6, Map 43, Parcel 99**

Representative: John McElwee, Felco, Inc.

Mr. McElwee reviewed the plan in detail, noting there are no wetlands on the site. Mr. Chaplin asked Mr. McElwee about access to Lot 2 and if he is willing to add a note to the plan that the dirt road for access to Lot 1 will not be used for access to Lot 2. Mrs. Greenhalgh and Ms. Snow stated that the Planning Board does not have the authority to ask for such a note on an ANR plan.

Ms. Snow asked how many bedrooms are in the existing building; Mr. McElwee responded there are two. Mr. Brown commented that the Planning Board typically asks the Board of Health to determine the number of bedrooms and this is not needed for an ANR.

Ms. Snow moved that the Planning Board endorse the Plan of Land in Truro, MA prepared for The Estate of Charles F. Francis, Jr., dated October 29, 2009, at 1 inch = 50 ft. by Felco, Inc. (Job #09084), as Approval Not Required, and to file said decision with the Town Clerk; second by Mr. Williams. Vote: 5-0-0

**David Drinkwater – Request for Release from Covenant/Acceptance of As-built**

On behalf of the applicant, Mrs. Greenhalgh requested a continuance to Friday, 20 November at 9:30 am. Mr. Golden made a motion to that effect; second by Mr. Williams. Vote: 5-0-0

**Other Business**

Mrs. Greenhalgh asked that at the meeting on 20 November the Board look at schedules in order to schedule a work session with the Cape Cod National Seashore (CCNS) on proposed changes to the Zoning Bylaw. In response to a request from Mr. Williams, Mrs. Greenhalgh reported briefly on her recent meeting with CCNS.

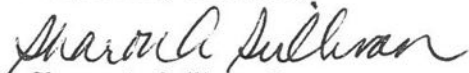
Ms. Snow stated she will be away from 6 to 20 December; Mr. Williams noted he will be away from 2 December, back by 19 December.

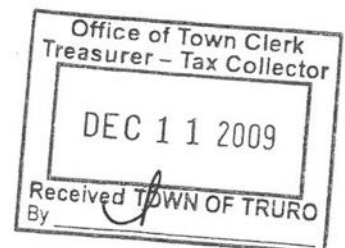
Mr. Chaplin asked if he could have no more than a show of hands regarding his concern about the 4,000 sq. ft. maximum house size being considered for the revised Zoning Bylaw, commenting that it seems excessive to him unless the applicant is willing to make concessions to “earn” a house that large. Mr. Brown responded that he still believes the “neighborhood” concept is the important issue and the proposed Bylaw not automatically giving anyone 4,000 sq. ft.; it is just saying there will never be a house larger than 4,000 sq. ft. in Truro. He added that if the Board sets a maximum, the door is closed on the possibility of anything larger. Mr. Williams expressed agreement with Mr. Brown and asked if the Board is ready to seek an opinion from Town Counsel. Mrs. Greenhalgh responded that is why the Board needs to talk at the meeting on Friday about scheduling a work session.

Mr. Chaplin moved to adjourn; second by Mr. Golden. Vote: 5-0-0

The meeting adjourned at 8:10 pm.

Respectfully submitted,

  
Sharon A. Sullivan, Secretary



**Truro Planning Board  
Minutes of meeting on 19 May 2009  
Truro Public Library**

Members present: Nicholas Brown, Ansel Chaplin, William Golden, Karen Snow, Robert Weinstein (chair), Stephen Williams, William Worthington

Others present: Tim Brady, East Cape Engineering; Peter Freeman, attorney; Chet Lay, Slade Associates; Chris Lucy, liaison from the Board of Selectmen; Nate McKean; Ted Malone, Community Housing Resource, Inc.; Matt Farrell, J.M. O'Reilly & Associates, Inc.; Michael Winkler

Mr. Weinstein called the meeting to order at 7:00 pm.

**Minutes**

Mr. Brown made a motion to consider minutes at the end of the meeting; second by Ms. Snow. Vote: 7-0-0

**Community Housing Resource, Inc. and CHR Truro Houses, Inc. – 7 Standish Way – Site Plan Review**

Representatives: Tim Brady, East Cape Engineering; Peter Freeman, Attorney; Ted Malone, CHR

This is a continuation of a public hearing from May 5, 2009. Atty. Freeman said that he would ask Mr. Brady to explain the new plan with revised parking. He noted that he had drafted a detailed decision, included in Board members' packets for this meeting and had also submitted a copy of the original Site development Plan from 5-6 years ago for the record.

Mr. Brady explained that parking spaces have been turned so they are no longer parallel; there are now six spaces adjacent to the leach field. Total number of parking spaces on the site is forty; some are still tandem but these have worked well in other CHR developments. He noted that additional detailed information on the road has been added to the Plan, and a note has been added to the landscaping plan specifying only low shrubs at the entrance to maintain sight lines.

Ms. Snow stated her appreciation for changes made to the parking, adding that it seems safer. She then expressed concern about how steep some sections of the site are, noting that there will be a lot of earth removal. She expressed her opinion that it is remiss of the Board not to do a site visit with all members present; this project has a major impact on the site and a visit will help visualize placement on the site. She added that she thinks 16 units overburdens the site. Mr. Freeman expressed his understanding of how a site visit would help and his wish that it had come up earlier, noting that he and his client were at the Board meeting two weeks ago. He said that they are now ready to go to the Zoning Board of Appeals (ZBA) and would like to have the Planning Board's approval in hand for that meeting.

Mr. Brown commented that a flat surface would be preferable, but that's not how it works; you take what you get, noting that the Library and the Community Center got the better sites on the property. He stated that he finds it inconceivable to delay this project further, adding that he is not applying any different criteria to this project than to any other, and this project provides the chance to treble the number of affordable housing units in Truro. He stated that he is adamantly opposed to postponing the Board's decision any further, and he thinks that deep down there is a discomfort with affordable housing.

Ms. Snow stated that she has no problem with affordable housing; the first opportunity to possibly request a site visit was two weeks ago when the Board first saw the plan. She noted that the ZBA earlier approved 12 units, with potential for expansion to 16. She commented that the Board has always done a



site visit, noting that this is not a non-profit project, and the placement of the road and structures, etc. is to maximize profit.

Mr. Freeman expressed surprise that Board members did not realize the steepness of the site, noting that other Town departments who have reviewed the Plan have OK'd it and found no problems with safety or drainage. He said that candidly, he takes great exception to the statements that 16 units is too many and that this is a greedy developer; the density is needed to make the project work financially. He stated that it would be arbitrary and capricious for the Planning Board to decide the site is unsuitable for 16 units.

Mr. Chaplin spoke in agreement with Ms. Snow that the Planning Board would be remiss in not conducting a site visit, adding that usually the developer offers a site visit at the start of the process. Mr. Williams asked why the Planning Board didn't receive the Plan six months ago and why is the Board receiving it now when there is a rush to meet the ZBA schedule. He stated his agreement with Ms. Snow that it is the Planning Board's responsibility to go through the exercise of a site visit, adding, "If we're going to do it, let's do it right."

Mr. Worthington remarked that he is not at all sure that walking over the hills and through the underbrush adds any capability to envision the Plan. Mr. Golden addressed Mrs. Greenhalgh and asked about the time frame for the process. Mrs. Greenhalgh responded that Friday afternoon was the earliest possible time for a site visit as there is a 48-hour posting deadline. The filing deadline for the next Board of Appeals meeting in June is noon tomorrow, May 20, 2009.

Mr. Freeman stated that he and his client are in no way afraid of a site visit, and he did not mean to imply that the Planning Board would cause a delay. Having heard three members of the Board express concern and the need for a site visit, he said that he would prefer to do it, even if a minority of Board members want it. In response to Mr. Golden's question, she explained that if the site visit is on Friday, May 22 or Tuesday, May 26 (Monday being a holiday), that should not jeopardize the Board of Appeals scheduling. She suggested the site visit be followed immediately by a meeting of the Planning Board to further deliberate and make its decision.

Mr. Malone expressed his wish that the request for a site visit had come two weeks ago. He noted that June 25 is the date of the State's annual rental funding round. He stated that the amount of time and money spent reworking the site has been enormous. A way has been found to rework the site to a 12% grade, and there aren't many choices of how to create an entrance to the site. The level of density is not unusual for Truro; it is a 10-acre site comprising the Library, the Community Center, and 16 units, and the site was chosen by the Selectmen for development. He added that he has stayed with the project through a law suit and objects to the implication that a profit motive is driving the Plan. Mr. Brown remarked that the Board can learn more from the Plan than from walking the site.

Nat McKean, an abutter to the site spoke, stating that he has done some work for Ted Malone in the past, and Mr. Malone's team comes up with a really good design that works and does the least harm to an area and with great attention to detail. He noted that thirty-two years ago his family had the first affordable housing in Truro, which allowed them to continue to live here.

Mr. Weinstein expressed his desire to re-focus on the question of a site visit. He stated that he had walked the site on Sunday, and the Board would not be remiss in using the information it has at hand; walking the site cannot provide a full picture. He added that he was getting more education from this discussion than from walking the site.

Mr. Lucy addressed a question about the grade to Mr. Brady. He then asked if anyone on the Planning Board knows a road with a 10% or 12% grade and what they don't like about it and offered several

examples. He stated that the steepness of the road on the CHR project is not a bad problem, and the road doesn't extend very far, adding that he can't see what a site visit will change in terms of understanding. Ms. Snow countered saying it's not a question of understanding; just because a plan is presented doesn't mean it's the best plan, and a site visit would provide the opportunity to suggest alternatives. Mr. Weinstein remarked that the Plan presented two weeks ago was the same except for the parking changes, and there was very little if any discussion then about density and where buildings are sited. He noted that the other focus of discussion two weeks ago was lighting, and safety issues were also addressed at that meeting. He stated that he, personally, is uncomfortable with trying to redesign the site.

Ms. Snow made a motion that the Planning Board request a site visit; second by Mr. Chaplin. Mr. Golden asked if it were possible to find a compromise to have a site visit and also meet the ZBA schedule. Vote: 5-2-0 (Mr. Brown and Mr. Worthington voting no)

Discussion on the date and time of the site visit followed. Mr. Brown moved that the Planning Board meet on Tuesday, 26 May at 3:00 pm. at the Library; second by Mr. Weinstein. Vote: 7-0-0

Discussion then turned to lighting on the site. Mr. Weinstein asked Mr. Malone to walk the Board through the lighting plan. Mr. Malone pointed out the placement of lighting on the Plan. In response to Ms. Snow's question, Mr. Malone stated that the light posts will be 4 to 6 ft. tall. Mr. Weinstein asked for additional questions on lighting; there were none. He then asked Ms. Snow if her questions on lighting have been adequately addressed, and she responded in the affirmative. Mrs. Greenhalgh noted that the Plan does not trigger the lighting bylaw as lighting must be 70 watts or over to do so.

Mr. Worthington asked if the Board was going to review the draft decision prepared by Mr. Freeman now or at the meeting on Tuesday. Mrs. Greenhalgh explained her review of the draft decision, noting that the changes she suggested have been made, and there is only one item, no. 35, that she doesn't know whether the Planning Board wishes to include. Mr. Worthington asked why the endorsement in the draft is conditional, and Mr. Freeman explained, referencing Section 70.7 A of the Zoning Bylaw and noting that a Special Permit from the ZBA is required in order to expand from 12 to 16 units, adding that he also wants to be conscious of what the judge said in the court decision.

Mr. Brady responded to a question from Ms. Snow about the covenant for the conservation restriction. The draft decision was then reviewed and some revisions made. Mr. Freeman said that he will revise the draft accordingly. Mr. Worthington made a motion to continue the matter of Community Housing resource, Inc. and CHR Truro Homes, Inc. to Tuesday, 26 May at 3:00 pm at the Truro Public Library following the site visit; second by Mr. Weinstein. Vote: 7-0-0

#### **Michael Winkler – 1 Noons Heights Road – Site Plan Review**

Representatives: Tim Brady, Cape East Engineering; Michael Winkler

Mr. Brady stated that the applicant has filed a Site Plan for a storage building, with no water and no sewer; it is a typical steel frame building. Parking for the existing retail buildings on the site is included on the Plan; there is no increase in parking due to the storage building. He noted there is not a lot of detail on landscaping in the Plan; if the Board wants more detail on anything in particular regarding landscaping, he can provide it.

Mr. Weinstein stated that Mrs. Greenhalgh has indicated the Plan submitted is incomplete and referred to her letter of 5 May to Mr. Brady. Mrs. Greenhalgh noted that Tom Wingard, Building commissioner, has stated in his letter that the entire site needs a formal Site Plan Review. She then reviewed her letter specifying the deficiencies in the Plan that need to be addressed.

Mr. Weinstein stated that in order for the Planning Board to do its job, they need to know what is on the site, how it is being used, and how the new structure affects use. Mr. Brady responded that the use of buildings for living space referred to in Mr. Wingard's letter has been discontinued. He asked how much detail on parking and landscaping is needed when the purpose of the storage building is to improve the appearance of the site. Mr. Chaplin responded that procedurally, the applicant needs to submit a complete application. Mr. Weinstein added that the Board needs more information so it can see what the applicant plans to do to clean up the site.

Mr. Brady responded that there is no problem in adding nos. 1 and 2 in Mrs. Greenhalgh's letter. Mr. Worthington suggested a site visit, and Mr. Brady responded that that would be fine; the building is staked out. Mr. Worthington made a motion to conduct a site visit at 1 Noons Heights Road; second by Mr. Weinstein. Mr. Chaplin asked if it is premature to have a site visit before the Board has a complete plan, and Mr. Brady responded that a site visit would help him and his client to complete the plan. Ms. Snow expressed disagreement with having a site visit as the Board does not have an application before it, and this issue has come up in the past. Mr. Weinstein stated that the Board does have an application before it, and a site visit would help.

Mr. Golden asked a question related to the statement in Mr. Wingard's letter that a Site Plan Review of the entire site is needed, i.e. is the Board conducting a full Site Plan Review or one for the storage building only? Mrs. Greenhalgh stated that her understanding was for the entire site, but agreed that clarification on this point was needed. Vote on the motion to conduct a site visit: 6-0-1 (Mr. Chaplin abstained). The Board agreed to meet at the flower shop on the site on Wednesday, 27 May at 8:30 am. for the site visit.

Mr. Brady asked about a continuation of the matter to the Board's meeting on 9 June. Mrs. Greenhalgh responded that she would need the revised Plan by Friday morning, 29 May in order for it to be on the agenda for the 9 June meeting. Mr. Chaplin moved to continue the hearing to 9 June; second by Mr. Weinstein. Vote: 7-0-0

#### **Michael Winkler – 2 Lot Preliminary Subdivision Plan – 178 Route 6**

Mr. Brown moved that the Board approve the applicant's request to withdraw the application without prejudice; second by Mr. Weinstein. So voted unanimously. Mrs. Greenhalgh raised the matter of refund of the filing fee which the applicant has requested, noting that if the application had been withdrawn immediately, the fee would have been refunded, but that staff time and that of the Town Clerk had been expended on the application. Mr. Worthington moved that the filing fee of \$275 not be refunded; second by Mr. Weinstein. Vote: 6-0-1 (Mr. Williams abstained)

#### **Gebelein Trust – Sladeville Cottages, 2 Meetinghouse Road - Site Plan Review**

This was a continuation of the hearing from April 7, 2009. Mr. Brown moved to continue the matter to the Board's meeting on 23 June; second by Mr. Weinstein. Vote: 7-0-0

Referring to the matter of the filing fee for the Winkler Preliminary Plan, Mr. Chaplin asked that the topic of a partial refund be put on the agenda for the next meeting. Mrs. Greenhalgh stated that the \$275 fee nowhere near covers the cost of staff time on an application. Mr. Chaplin then decided not to insist that it be placed on the agenda.

#### **Dr. Willie J. and Gloria J. Cater – 2 Lot Preliminary Subdivision Plan - property off Benson Road**

Mrs. Greenhalgh distributed copies of correspondence related to the matter for Board members to add to documentation they had already received, including a letter from the Caters' attorney requesting a continuance to June 9, 2009. Mr. Brown moved to continue the Cater Preliminary Plan to the Board's meeting on 9 June; second by Mr. Weinstein. Vote: 6-0-1 (Mr. Worthington abstained)



Mr. Golden asked whether the Board could proceed if the court decision on the Cater matter has not yet been rendered. Mrs. Greenhalgh responded that she believes the Board can proceed, but some people do not.

**Wallace A. Kelley – 40 South Highland Road - Approval Not Required**

Representative: Matt Farrell J.M., O'Reilly & Associates, Inc.

Board members raised questions about lot frontage; Mrs. Greenhalgh responded that there is adequate frontage on South Hollow Road. An error was found on the locus map on the labeling of a road. Mr. Chaplin moved that the Planning Board endorse the 2 Lot ANR Plan for property located at 20 South Highland Road, Atlas Map 37, Parcel 17; second by Mr. Weinstein. Ms. Snow expressed concerns about frontage issues similar to those raised on past plans. Vote on the motion to endorse: 6-0-1 (Ms. Snow abstained)

**Minutes**

The minutes of the meeting on 21 April were reviewed and corrections made. Mr. Weinstein moved to approve the minutes of the meeting on 21 April as corrected; second by Mr. Brown. Vote: 6-0-1 (Mr. Golden abstained as he was absent)

The minutes of the meeting on 5 May were reviewed and corrected. Mr. Worthington moved to approve the minutes of the meeting on 5 May as corrected; second by Mr. Weinstein. Vote: 7-0-0

**Planning Board Matters**

**Rules of Procedure -**

As there was no document for discussion, the Board moved to the next topic.

**Reorganization of the Board –**

Mr. Worthington nominated Mr. Weinstein to continue as chair; second by Mr. Brown. Vote: 7-0-0

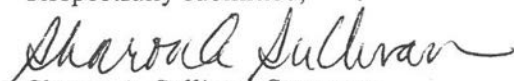
Mr. Weinstein nominated Mr. Brown to continue as Vice Chair; second by Mr. Worthington. Vote: 7-0-0

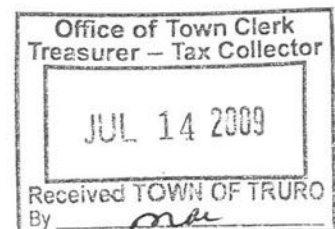
Mr. Weinstein nominated Mr. Worthington to continue as Clerk; second by Mr. Williams. Vote: 7-0-0

Mr. Brown stepped down. Mr. Worthington made a motion to enter into Executive Session in accordance with the provisions of Massachusetts General Laws, Chapter 39, Section 23B to consider on-going litigation and not to reconvene in open session and to include Mr. Lucy; second by Mr. Weinstein. Roll call vote: Weinstein – Yes; Williams – Yes; Snow - Yes; Worthington – Yes; Chaplin – Yes and Golden – Yes.

The regular meeting adjourned at 9:30 p.m.

Respectfully submitted,

  
Sharon A. Sullivan, Secretary



Truro Planning Board  
On-Site Meeting Minutes  
1 Noons Heights Road  
May 27, 2009 – 8:30 am

Members Present: Bob Weinstein, Ansel Chaplin, Bill Worthington, Stephen Williams and Nick Brown  
Members Absent: Karen Snow and Bill Golden  
Others Present: Charleen Greenhalgh, ATA/Planner, Tim Brady, PE and Michael Winkler

Chair Weinstein called the on-site to order at 8:30 am

**Michael Winkler – Site Plan Review – 1 Noons Heights Road (aka 178 Route 6)**

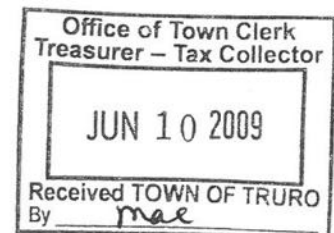
This is a continuance of the meeting from May 19, 2009 and this will be continued further to June 9, 2009. Mr. Brady and Mr. Winkler explained the site to the Board. There is a retail shop at the front of the lot and behind that is a Yoga studio and a storage area. Mrs. Greenhalgh explained that the parking for these uses needs to be better defined and tabulated on the site plan, as with the other use on the site. The group then walked through the entire site to see where the proposed building would be located. Much of the equipment stored on the property would be enclosed in the new building. Some of the other stuff stored on the property would either be removed or stored better on the property once the equipment is under cover. There are a couple of other uses on the property as well and these will be outlined better on the site plan. Mr. Brady and Mrs. Greenhalgh will meet with the Building Commissioner after the on-site to get a better understanding of what it is that he will need to see.

The On-Site concluded at 9:15 am

Respectfully submitted,



Charleen L. Greenhalgh  
ATA/Planner



**Truro Planning Board  
Minutes of meeting on 9 June 2009  
Truro Community Center**

Members present: Nicholas Brown, Ansel Chaplin, William Golden, Karen Snow, Robert Weinstein (chair), Stephen Williams, William Worthington

Others present: Tim Brady, East Cape Engineering; Chris Lucy, liaison from the Board of Selectmen; Michael Winkler

Mr. Weinstein called the meeting to order at 7:00 pm.

**Minutes**

Minutes of the meeting on 26 May were reviewed. Mr. Brown moved that they be approved as printed; second by Mr. Worthington. Vote: 6-0-1 (Mr. Chaplin abstained as he had left the meeting early.)

Minutes of the meeting on 27 May were reviewed. Mr. Worthington moved that they be approved as printed; second by Mr. Brown. Vote: 5-0-2 (Mr. Golden and Ms. Snow abstained as they were absent.)

**Michael Winkler – 1 Noons Heights Road – Site Plan Review**

Representatives: Tim Brady, Cape East Engineering; Michael Winkler

The review was continued from the meeting of 19 May. Mr. Brady reviewed the revised Plan: parking has been redefined; areas of existing vegetation are shown with no new landscaping because of the nature of the project; parking for existing buildings has been designated; the Title V septic system is shown; existing buildings have been labeled as well as the building proposed for construction.

Mr. Brown asked Mr. Brady to walk through the clean-up of the property in relation to traffic flow. Mr. Brady stated that a driveway has been added; explained its location, and pointed it out on the Plan. In response to a question from Mr. Brown, Mr. Brady replied that there may need to be changes in traffic flow with future development, but no additional traffic is foreseen at this time.

Ms. Snow expressed agreement with the concerns Mr. Brown raised and her desire for delineated marked parking. Mr. Brady responded that parking can be delineated with curb stops, but the surface is unpaved so striping cannot be done. There was extended discussion between Ms. Snow and Mr. Brady regarding parking. Mr. Golden asked Ms. Snow if curb stops alone would be sufficient to meet her concerns, and she replied, "Probably."

Ms. Snow remarked that she could not determine how the figure of 1300 sq. ft. of retail space was arrived at. Mrs. Greenhalgh interjected that at the site visit (which Ms. Snow did not attend) there was much discussion of parking and traffic which resulted in a much better understanding of how it works. Ms. Snow stated that she has been on the site and added that if storage space is changed to retail, more parking will be required and needs to be delineated. Mr. Brady stated that curb stops can be added.

Referring to the designation of dirt piles on the Plan, Mr. Chaplin said that there should be a notation on the Plan that they are variable. He also requested that the Plan show [additional traffic track doors?]. Mr. Weinstein stated that he would like to see an improved sight line from the doors of the storage building. Mr. Winkler stated that the exit/entrance from the doors will not be used for access to and from Route 6. Mr. Worthington suggested to Mr. Winkler that he apply to the State at some point for a curb cut as it would be an investment for the future.



Ms. Snow stated her desire to postpone action until a revised Plan with parking and movement through the retail section, front and back, is presented. Mr. Brady said he was not sure what more to do regarding this as it is currently working. Ms. Snow suggested using gravel or shell to delineate the path of vehicle movement. Mr. Williams stated that he thought the Board was on the edge of exceeding what's reasonable given the intended use of the property, noting that the site is a work in progress. He added that the next time Mr. Winkler wants to make changes to the site, the Board should review it carefully, but with what is currently proposed, the Board has reached the limit of what it can do.

Mr. Worthington moved that the Planning Board endorse the Plan with the proviso that curb stops be added; second by Mr. Williams. Mrs. Greenhalgh advised the Board that they cannot endorse a Plan without reviewing the changes they have requested and added that at this point, she was not sure what changes the Board wants. Mr. Worthington then revised his motion to endorse the Site Plan as presented; second by Mr. Williams. Vote: 5-0-2 (Mr. Chaplin and Ms. Snow abstained.)

Mr. Williams, referring to the letter of 6 May from Mr. Brady requesting a refund of the filing fee for the Subdivision Plan that was withdrawn (and which the Board had voted not to refund at its meeting on 19 May, expressed his opinion that the filing fee should be refunded and made a motion to refund it. Mr. Brady explained that he had received the letter from Mrs. Greenhalgh explaining the decision not to refund the fee, and he and Mr. Winkler were fine with that decision. Mr. Williams stated that he was asking for a reconsideration of that decision and another vote, adding that it is not a lot of money, and it's a matter of principle. The motion died for lack of a second.

**Dr. Willie J. and Gloria J. Cater – 2 Lot Preliminary Subdivision Plan - property off Benson Road**

Mr. Weinstein read the letter dated 9 June from Bruce Edmands, attorney for the Caters, requesting withdrawal of the Preliminary Subdivision Plan. Mr. Brown moved that the Planning Board approve withdrawal without prejudice; second by Mr. Golden. Mr. Williams objected, and it was explained that the current motion did not include refund of the filing fee. Vote: 5-0-1 (Mr. Williams abstained.)

Mr. Williams made the following motion: If Mr. Winkler was not granted a refund, the Caters' filing fee should not be refunded; second by Mr. Golden. Mr. Brown asked that the motion be amended to remove the preamble, and Mr. Williams responded that he would withdraw the motion so Mr. Brown could make it as he wished. Mr. Brown moved that the Planning Board not refund the filing fee for the Caters' Preliminary Subdivision Plan; second by Mr. Weinstein. Mr. Chaplin stated that it is premature to consider refund of the filing fee as there is no matter related to it before the Board. Vote on the motion: 5-0-1 (Mr. Chaplin abstained.)

Mr. Worthington stated that he recused himself on this matter. Mr. Williams then asked Mr. Chaplin if he would recuse himself on the matter as he was formerly a board member of the Truro Conservation Trust. Mr. Chaplin responded that at the last meeting Mr. demands had encouraged him not to recuse himself and to participate on the matter.

**Comprehensive Permit Review – Request from Zoning Board of Appeals (ZBA) re: 10 First Discovery Road (40B – Affordable Housing)**

Mr. Brown stated that as a member of the Board of Highland Affordable Housing (HAH), he was recusing himself and stepping down.

Mrs. Greenhalgh distributed copies of the Plan for 10 First Discovery Road and reviewed the waivers requested: \_\_\_\_\_. She reminded the Board that the ZBA is the permit-granting authority for this project. She explained that there are two slightly different Plans showing different access. She explained that HAH is seeking an easement to use Old Bridge Road, and \_\_\_\_\_ Bank owns the area on which the easement is needed. Old Bridge Road provides much better access than First Discovery Road. The

bank has been unresponsive, however, and if an access easement can't be obtained, the project will use First Discovery Road, which is safe but not the best access.

Mr. Brown offered the following information: the project is fully funded through Town Meeting, a loan, and grants, and the quality and design of the project are equal to or better than that of the affordable housing project just completed on Shore Road.

Ms. Snow expressed concern with two items in the request for waivers: there is enough room to meet the setback requirement so it should be met; the request for waiver of all health codes is not appropriate. Mrs. Greenhalgh explained that the Planning Board does not have the authority to grant a waiver on health regulations, and several other bodies, including the Board of Health, will be reviewing the Plan. Mr. Worthington moved that the Planning Board fully support the necessary zoning waivers; second by Mr. Chaplin. Ms. Snow asked Mr. Worthington if he had taken into account her concern about the setback, and Mr. Worthington responded that he was modeling his motion on what was done for 53 Shore Road, per the copy in the meeting packet, and keeping it simple. Vote: 6-0-0

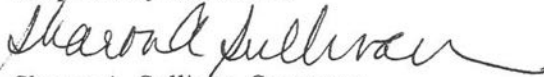
**Zoning Bylaw Review/Discussion Continued**

Mr. Weinstein asked if Board members wanted to take up this topic tonight. Mrs. Greenhalgh reminded the Board of their work session scheduled for Friday, 19 June at 9:30 at which she cannot be present. Mr. Golden said that he also cannot be present at that meeting. Discussion followed on changing the date of the work session. Mr. Weinstein moved that the date of the work session be changed to Monday, 22 June at 9:30 a.m.; second by Mr. Chaplin. Vote: 7-0-0

Mr. Brown moved to adjourn; second by Mr. Golden. Vote: 7-0-0

The meeting adjourned at 8:15 p.m.

Respectfully submitted,



Sharon A. Sullivan, Secretary

