



IN CITY COUNCIL

ORDERED:

June 26, 2023

Be it ordained by the City Council of the city of Newburyport as follows:

THAT the City Council of the City of Newburyport hereby approve and authorize the acceptance of land by deed to the City, for conservation purposes, and with no monies other than nominal consideration paid to grantor, as follows:

That parcel of land known as 21 Malcolm Hoyt Drive, Newburyport Essex County, Massachusetts, an open space parcel containing approximately 5.425 acres of wetland resource area, forested upland habitat, stormwater conveyances and flood storage, and depicted as “Lot A4 21 Malcolm Hoyt Drive” on a plan of land, entitled “Plan of Land in Newburyport, MA Surveyed for Hale Business Park Realty Trust dated March 7, 2023, prepared by Winter GEC, LLC 44 Merrimac Street Newburyport, MA 01950, recorded at the Essex South District Registry of Deeds at Book 41592, Page 022, (the “Plan”), to which reference may be made for a more detailed description.

FURTHER, THAT said land accepted by the City shall be kept free of permanent structures and open to the public as permanent open space subject to the protections afforded by Article 97 of the Amendments to the Massachusetts Constitution, for the purposes of conservation; and

FURTHER, THAT upon acceptance said land shall be transferred to the Conservation Commission for care and custody consistent with the foregoing purposes and restrictions; and

FURTHER, THAT the Mayor of the City of Newburyport is hereby authorized to act on behalf of the City and enter into any and all instruments, including acceptance of a deed to the property for conservation purposes, and to take any other actions necessary to execute this acceptance accordingly.

Councillor Heather L. Shand

In City Council June 26, 2023:

Motion to refer to Planning & Development by Councillor Zeid, seconded by Councillor Cameron. So voted.



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

June 5, 2023

Hon. Sean Reardon
Mayor
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

Heather Shand, President
City Council
City of Newburyport
60 Pleasant Street
Newburyport, MA 01950

Re: Donation of 21 Malcolm Hoyt Drive, Newburyport

Dear Mayor Reardon and President Shand,

Reference is made to the above-captioned matter. In that connection, I am attaching a deed hereto for approval by the City Council. We have been retained by the current owners of 21 Malcolm Hoyt Drive to permit the development of their property, now at 21 Hale Street.

The Planning Board approved 21 Hale Street's Site Plan Review pursuant to Newburyport Zoning Ordinance Section IX-B-2 on April 5, 2023, contingent on the Approval Not Required Plan they endorsed on April 6, 2023, to split 21 Malcolm Hoyt Drive into two parcels. The Zoning Board of Appeals approved a variance from the Zoning Ordinance's Section VI-A front yard setback requirement pursuant to Section X-H-3-C on October 11, 2022. And on April 18, 2023, the Conservation Commission approved the owners' plans for work on 21 Hale Street by issuing an Order of Conditions. Each permit conditions its approval on the owners offering to convey and providing a deed to the open space parcel remaining at 21 Malcolm Hoyt Drive to the City for conservation purposes.

I have attached a proposed deed from Craig Pessina and Patrick Reddy, Trustees of the Hale Business Park Realty Trust, of 21 Malcolm Hoyt Drive, consistent with the conditions in the permits. Attached as exhibits are the ANR plan showing the property, recorded at the Essex South District Registry of Deeds at Book 41592, Page 022, the Zoning Board of Appeals' decision, recorded at Book 41574, Page 020, granting a variance, the Planning Board's decision, recorded at Book 41574, Page 003, approving the site plan review, and the Conservation Commission's order of conditions, recorded at Book 41567, Page 171, approving the development at 21 Hale Street.

Millis Office

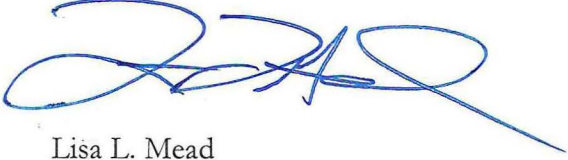
730 Main Street, Suite 1F
Millis, MA 02054
Phone/Fax 508.376.8400

New Bedford Office

227 Union Street, Suite 606
New Bedford, MA 02740

I hope that the foregoing explains the situation clearly, and please do not hesitate to contact me with questions. On behalf of the owners, I would request you place this matter on the City Council agenda as appropriate in order to take action thereon.

Respectfully submitted,



Lisa L. Mead

cc: Richard Jones, City Clerk
Andy Port, Planning Director
Julia Godtfredsen, Conservation Administrator

EXHIBIT A

QUITCLAIM DEED

We, Craig Pessina and Patrick Reddy, Trustees of the Hale Business Park Realty Trust u/d/t dated May 20, 2016 as evidenced by a Trustee Certificate recorded in the Essex South Registry of Deeds in Book 34937, Page 564 of Newburyport, Massachusetts (hereinafter “Grantor”), for consideration paid in the amount of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged, and pursuant to the conditions of the Site Plan Review Decision issued by the City of Newburyport Planning Board on April 24, 2023 and recorded in the Essex South Registry of Deeds Book 41574, Page 3, as amended by a Variance Decision recorded in Book 41574, Page 20, hereby grants, for conservation purposes, to the **City of Newburyport**, a Massachusetts municipal corporation, acting by and through its Mayor, with an address of 60 Pleasant Street Newburyport, Massachusetts,

with QUITCLAIM COVENANTS,

That parcel of land known as 21 Malcolm Hoyt Drive, Newburyport Essex County, Massachusetts, an open space parcel containing approximately 5.425 acres of resource area, habitat, upland and wet meadow, and flood storage and depicted as “Lot A4 21 Malcolm Hoyt Drive” on a plan of land, entitled “Plan of Land in Newburyport, MA Surveyed for Hale Business Park Realty Trust dated March 7, 2023, prepared by Winter GEC, LLC 44 Merrimac Street Newburyport, MA 01950, recorded at the Essex South District Registry of Deeds at Book 41592, Page 022, (the “Plan”), to which reference may be made for a more detailed description.

The conveyance is subject to a 50’ Wide Easement as shown on the Plan and as shown on a plan recorded in the Essex South Registry of Deeds in Plan Book 199 Plan 1.

Being a portion of the land conveyed to Grantor by deed, recorded with the Essex Southern District Registry of Deeds in Book 34937, Page 566.

The City’s acceptance of the deed is attached hereto and incorporated herein.

No deed stamp taxes are due on this conveyance pursuant to G.L. c. 64D, § 1.

[signatures on following page]

Property Location: 21 Malcolm Hoyt Drive Newburyport, Massachusetts

Executed as a sealed instrument this _____ day of _____, 2023.

Craig Pessina, Trustee

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss:

On this ___ day of _____, 2023, before me, the undersigned notary public, personally appeared Craig Pessina, Trustee of the Hale Business Park Realty Trust, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Trustee of the aforesaid Trust.

Notary Public:
My commission expires: _____

Executed as a sealed instrument this _____ day of _____, 2023.

Patrick Reddy, Trustee

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss:

On this ___ day of _____, 2023, before me, the undersigned notary public, personally appeared Patrick Reddy, Trustee of the Hale Business Park Realty Trust, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as Trustee of the aforesaid Trust.

Notary Public:

My commission expires: _____

ACCEPTANCE OF DEED

The foregoing Quitclaim Deed from **Craig Pessina and Patrick Reddy**, Trustees of the Hale Business Park Realty Trust, is hereby accepted pursuant to the authority granted by the vote of the Newburyport City Council dated _____, an attested copy of which is recorded herewith and any other authority in any way appertaining, for open space, conservation, resource area, habitat, upland and wet meadow, and flood storage purposes.

EXECUTED as of this _____ day of _____, 2023

CITY OF NEWBURYPORT
By its Mayor,

Sean Reardon

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss:

On this ___ day of _____, 2023, before me, the undersigned notary public, personally appeared Sean Reardon, Mayor of the City of Newburyport, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, on behalf of the City of Newburyport.

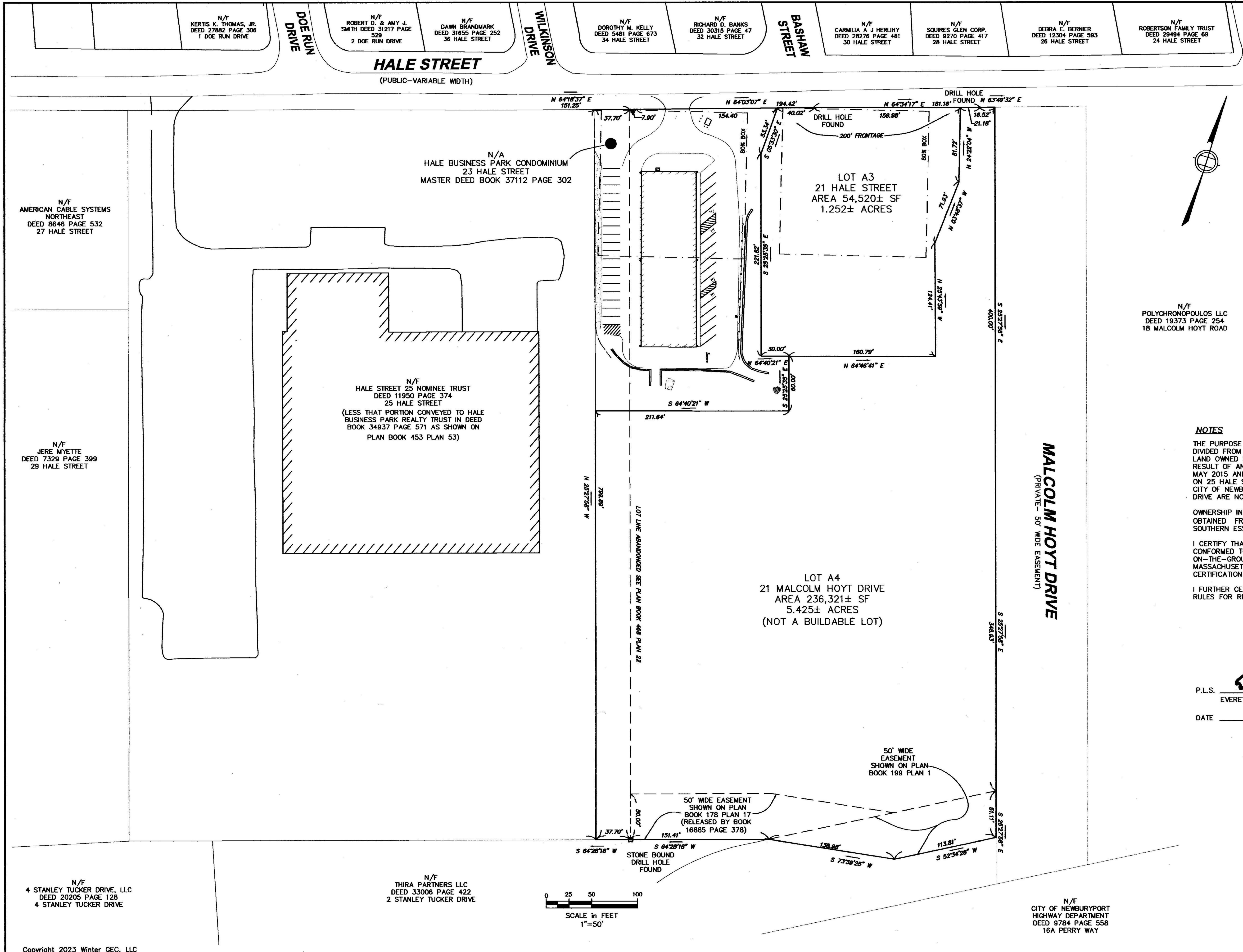
Notary Public:
My commission expires: _____

EXHIBIT B

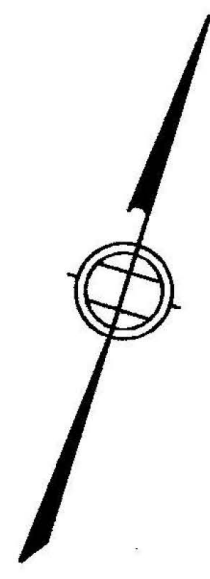


#49
BK: 41592 PG: 22
06/01/2023

RESERVED FOR REGISTERS USE ONLY



SQUIRES
GLEN



APPROVAL UNDER SUBDIVISION
CONTROL LAW NOT REQUIRED.
CITY OF NEWBURYPORT PLANNING BOARD
BY: Andrew R. Post, Director DATE: 4/6/2023
Planning & Development, on behalf DATE: _____
of the Planning Board, DATE: _____
deputy authorized DATE: _____
DATE: _____

THE PLANNING BOARD'S ENDORSEMENT OF THE PLAN AS NOT REQUIRING APPROVAL UNDER THE SUBDIVISION CONTROL LAW DOES NOT GIVE LOTS OR PARCELS ANY STANDING UNDER THE ZONING BY-LAW OF THE CITY OF NEWBURYPORT.

NOTES

THE PURPOSE OF THIS PLAN IS TO DEPICT NEW PARCELS A3 AND A4 AS BEING DIVIDED FROM LOT A2 ON PLAN RECORDED PLAN BOOK 468 PLAN 21, BEING LAND OWNED BY HALE BUSINESS PARK REALTY TRUST. THIS PLAN IS THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY PERFORMED BETWEEN MAY 2015 AND JULY 2022. BUILDING FOOTPRINT AND PARKING LOT LOCATION ON 25 HALE STREET ALONG WITH THE EDGE OF ROAD HAVE BEEN TAKEN FROM CITY OF NEWBURYPORT GIS DATA. LIMITS OF PAVEMENT FOR MALCOLM HOYT DRIVE ARE NOT SHOWN.

OWNERSHIP INFORMATION USED IN THE PREPARATION OF THIS PLAN WAS OBTAINED FROM THE CITY OF NEWBURYPORT ASSESSOR'S OFFICES AND SOUTHERN ESSEX DISTRICT REGISTRY OF DEEDS.

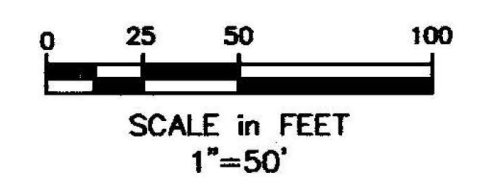
I CERTIFY THAT THAT THE SURVEY PERFORMED TO PREPARE THIS PLAN CONFORMED TO THE PROCEDURAL AND TECHNICAL STANDARDS FOR AN ON-THE-GROUND CADASTRAL SURVEY IN ACCORDANCE WITH COMMONWEALTH OF MASSACHUSETTS 250 CMR SECTION 6.01, AND THAT THIS IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN.

I FURTHER CERTIFY THAT THIS PLAN WAS PREPARED IN CONFORMANCE WITH THE RULES FOR RECORDING ADOPTED BY THE REGISTERS OF DEEDS.

P.L.S. Everett J. Chandler
EVERETT J. CHANDLER, P.L.S. MASS. REGISTRATION NO. 41783
DATE: 3/15/23

LOCUS TITLE INFORMATION

21 MALCOLM HOYT DRIVE
OWNER: HALE BUSINESS PARK REALTY TRUST
DEED REFERENCE: BOOK 34937 PAGE 566
ASSESSORS: MAP 84 PARCEL 1E
PLAN REF: PLAN BOOK 265 PLAN 9
PORTION OF 25 HALE STREET
OWNER: HALE BUSINESS PARK REALTY TRUST
DEED REFERENCE: BOOK 34937 PAGE 571
PLAN REF: PLAN BOOK 453 PLAN 53



N/F
4 STANLEY TUCKER DRIVE, LLC
DEED 20205 PAGE 128
4 STANLEY TUCKER DRIVE

N/F
THIRA PARTNERS LLC
DEED 33006 PAGE 422
2 STANLEY TUCKER DRIVE

N/F
CITY OF NEWBURYPORT
HIGHWAY DEPARTMENT
DEED 9784 PAGE 558
16A PERRY WAY

Winter GEC, LLC

44 MERRIMAC STREET
NEWBURYPORT, MA 01950
978-270-8626

SCALE:
HORIZ: 1" = 50'
VERT: _____

NO.	DATE	BY	REVISIONS

FIELD: EC/PFS
CALCS: EC
CHECKED: EJC
APPROVED: EJC

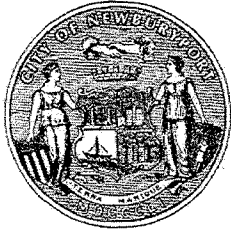
APPROVAL NOT REQUIRED
PLAN OF LAND
21 MALCOLM HOYT DRIVE

PLAN OF LAND IN
NEWBURYPORT, MA
SURVEYED FOR
HALE BUSINESS PARK REALTY TRUST

PROJECT NO.
2022-21MALCOLM
DATE: MAR 7, 2023
SHEET NO.
1 OF 1

EXHIBIT C

2022 NOV -8 AM 11:45



CITY OF NEWBURYPORT
ZONING BOARD OF APPEALS
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400
WWW.CITYOFNEWBURYPORT.COM

**RECORD OF PROCEEDINGS AND
VARIANCE DECISION**

APPLICANT: Hale Business Park LLC, c/o Lisa Mead, Mead, Talerman & Costa LLC
30 Green Street, Newburyport, MA 01950

PROPERTY OWNER: Hale Business Park LLC

FILE No.: VAR-22-5

PROPERTY ADDRESS: **21 Malcolm Hoyt Rd. (21 Hale Street)**

DECISION DATE: 10/11/2022

MAP/PARCEL(S): 84-1-E

BOOK/PAGE: 34937/566

ZONING DISTRICT: I1

PROCEDURAL HISTORY

The above referenced application for a Variance was submitted on 09/09/2022 for relief from Newburyport's Zoning Ordinance Section VI.A Dimensional Controls for the following request: *construct industrial services building within front yard setback*. The application was determined complete and filed with the City Clerk on 09/09/2022. Notice of the public hearing was published on 09/26/2022 and 10/03/2022 in the Newburyport Daily News. A public hearing on the application was held on 10/11/2022.

After the close of the public hearing, upon a motion to approve made by Ken Swanton and seconded by Gregory Benik, the Board voted as follows:

Rob Ciampitti, Jr., Chair	<u>Yes</u>	Stephen DeLisle	<u>Yes</u>	Ken Swanton	<u>Yes</u>
Walter Chagnon	<u>Yes</u>	Gregory Benik	<u>Yes</u>	Lynn Schow, Assoc.	<u>Not Voting</u>
Patricia Peknik, Assoc.	<u>Not Voting</u>				

Having received the necessary two-thirds super majority vote of the Zoning Board of Appeals, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition was therefore **APPROVED**.

PLANS AND DOCUMENTS

The Board approved the project subject to the following plans attached hereto:

- “Zoning Plan, 21 Hale Street, Newburyport, MA” prepared by Winter GEC, LLC and dated September 6, 2022 and revised on October 3, 2022; and
- “Proposed Exterior Elevations, 21 Hale Street, Newburyport, MA” prepared by Graf Architects and dated September 6, 2022 consisting of sheets A01 and A02.

This application was also accompanied by the following plans, drawings, documents, and submittals, which are hereby incorporated into this decision:

- “Existing Conditions Plan of Land, 23 Hale Street, Newburyport, MA” prepared by Winter GEC, LLC and dated November 30, 2015;
- ZBA Presentation from 10/11/22.

Throughout its deliberations, the Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, as made at the public hearing.

FINDINGS

In order to grant a Variance, the Board must first determine that the applicant’s project meets specific criteria, as provided in Section X-H (6) of the NZO. These criteria and the Board’s project specific findings for each are enumerated here:

- 1. Conditions and circumstances are unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district.**

The property is located in the I1 zoning district and is unique in that it is a large lot with only two upland areas, one at the front portion adjacent to Hale Street within the front yard setback and another to the southeast rear which would require a wetlands crossing that would remove wildlife habitat in order to develop. Soil conditions, mainly the jurisdictional wetlands, and exceptional physical situation of the site prevents the applicant from locating the building at the required front yard setback.

- 2. Strict application of the provisions of this chapter would deprive the applicant of reasonable use of the lot, structure, or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures, or buildings in the same district.**

Imposing strict application of the Ordinance would deprive the applicant of the most modicum use of the property that is a prime location within the Industrial Park.

- 3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this chapter.**

Resource areas on the property are naturally occurring and not created by the applicant.

- 4. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.**

Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

STANDARD CONDITIONS

In view of the foregoing findings, the Zoning Board of Appeals hereby grants a Variance subject to the terms and conditions stated below:

1. Recording of Decision and Approved Plans: The applicant shall file this decision with the Southern Essex County Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be included with the application for any related Building Permits. To ensure compliance with this decision, site/construction plans issued to any contractors shall make clear reference to this written decision and conditions of approval contained herein.
2. Permit Lapse: This permit will lapse after one year from the date of granting and shall no longer be valid if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause, within this period. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL Chapter 40A Section 17.
3. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the above referenced and approved plans which are incorporated herein by reference. Should the applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the ZBA and Office of Planning and Development (OPD) of the proposed modifications in writing and obtain approval from the ZBA (or OPD as specified herein) for such modifications prior to making any changes in the field. The OPD shall determine whether such modifications are minor or major (material) in nature. The ZBA shall schedule a public hearing for review and approval of any changes deemed major or material in nature to the permit originally issued. Any major or material alterations or changes to the above referenced plans shall require prior approval by the ZBA. Minor changes may be approved in writing by the OPD without further review by the ZBA. The determination as to whether an alteration or change in plans is material and therefore subject to ZBA review shall be made at the discretion of the OPD.
4. Curb Cuts: Any new driveway opening or curb cuts that have egress to the public right of way must be approved by the Director of Public Services or Designee in advance of construction.
5. Fire Department Review and Approval: The applicant, owner, successors, or assigns shall be responsible for designing the utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval.
6. Stormwater Management Permit: If the project involves more than 10,000 square feet of land disturbance, the applicant, owner, his successors or assigns, shall obtain a Stormwater Management Permit under the City of Newburyport Stormwater Management Ordinance (Code of Ordinances, Chapter XVII) from the Department of Public Services prior to beginning any site work, including tree clearing and/or regrading. The applicant shall provide a copy of said permit to the Building Commissioner and Zoning Administrator with the application for any related Building Permits.
7. Submission of As-Built Foundation Plan: A copy of the as-built foundation plan shall be provided to the Office of Planning and Development and Building Department upon foundation completion.

8. Site Lighting: All lighting fixtures, including but not limited to, signage, building, parking lot, site, decorative, and security, shall feature cut off fixtures so that the lights are pointed downward reducing light pollution and glare onto abutting properties.
9. Hours of Construction: The developer shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 5 p.m. Monday through Friday and 8 a.m. and 4 p.m. on Saturday.
10. Trees and Sidewalks: The applicant shall be responsible for compliance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance. If at least one (1) dwelling unit is added or if the cost of the project exceeds more than 50% of the physical value of the entire property, the applicant shall obtain the written recommendation from the Newburyport Tree Warden and Department of Public Services prior to building permit with respect to plans and specifications for (1) the reconstruction, repair, and/or replacement, where appropriate, of all city-owned sidewalks actually adjoining the project Property, in accordance with Sections 12-54 and 12-55 of the Newburyport Code of Ordinances; and (2) the planting, preservation, and/or replacement, where appropriate, of street trees along all public rights-of-ways actually adjoining the project Property, in accordance with article VI of chapter 12 of the Newburyport Code of Ordinances. Said improvements shall be completed prior to occupancy or a proposal shall be submitted to the Zoning Administrator indicating proposed completion schedule.
11. Submission of As-Built Site Plans: A copy of the as-built site plan stamped by a professional engineer shall be submitted to the Office of Planning and Development at the completion of the construction.

SPECIAL CONDITIONS

In addition to the foregoing standard conditions, the Zoning Board of Appeals hereby grants approval subject to the special conditions stated below:

1. *Prior to the issuance of Building Permit for the proposed project, the applicant shall submit to the City Council a plan and deed/conveyance for approval and acceptance of the open space parcel labeled as Lot A4 on the above referenced plan (5.425 acres of resource area, habitat, upland and wet meadow, and flood storage) adjacent to the project site and as referenced in the applicant's presentation to the Zoning Board of Appeals on October 11, 2022.*
2. *Prior to the issuance of Occupancy Permit for the proposed project, the applicant shall provide the Zoning Administrator proof of recording of the fee interest transfer and deed to the City of Newburyport of the open space parcel labeled as Lot A4 on the above referenced plan (5.425 acres of resource area, habitat, upland and wet meadow, and flood storage) adjacent to the project site to the City of Newburyport, in the event that the City Council votes to accept said offer as noted above.*

CONCLUSION AND DECISION

For all of the reasons stated herein, the petition for a Variance is therefore **APPROVED**.

APPEALS

Appeals shall be made within twenty (20) days after the date of filing of this decision in the Office of the

City Clerk directly to a court of competent jurisdiction in accordance with the provision of M.G.L. Chapter 40A Section 17.

SIGNATURE OF THE BOARD



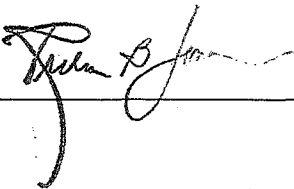
Ken Swanton, Vice-Chair

11/8/2022

Date

CITY CLERK CERTIFICATION

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Variance decision for the property known as 21 Hale Street (21 Malcolm Hoyt Rd.) was filed in the Office of the City Clerk on November 8, 2022. Twenty (20) days have elapsed since the decision was filed and no appeal has been filed.



City Clerk

May 22, 2023

Date

project:

21 HALE STREET

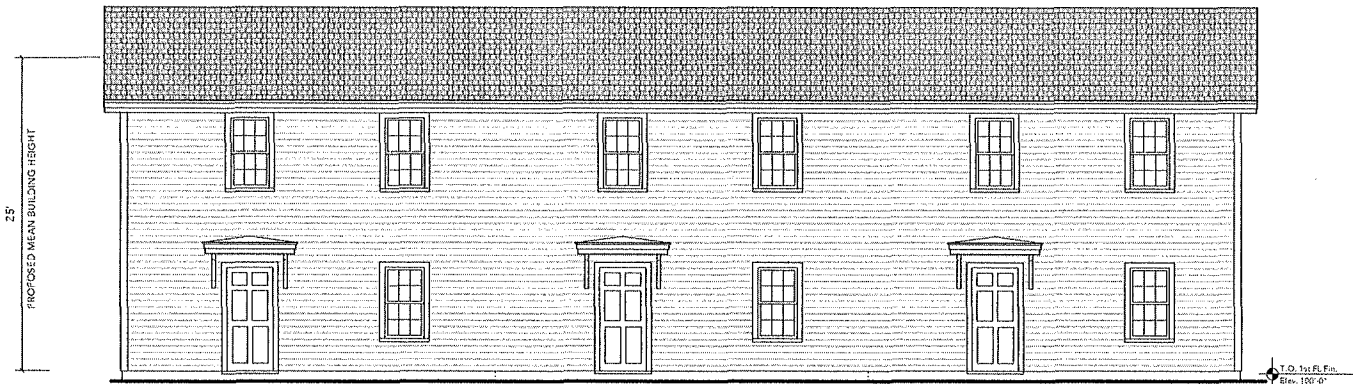
Newburyport, MA

architect:

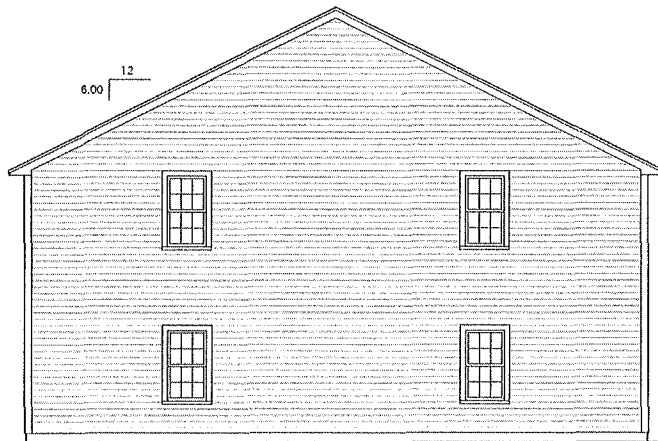
**GRAF
ARCHITECTS**

2 Library Street
Newburyport, MA
01950
T 978.499.9442

www.grafarch.com



1 Exterior Elevation - REAR
SCALE: 1/8" = 1'-0"



2 Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"

PROPOSED
Exterior Elevations

SCALE: 1/8" = 1'-0"
0 sept 2022

A01

project:

21 HALE STREET

Newburyport, MA

architect:

**GRAF
ARCHITECTS**

2 Liberty Street
Newburyport, MA
01950
T 978 499 9442

www.grafarch.com

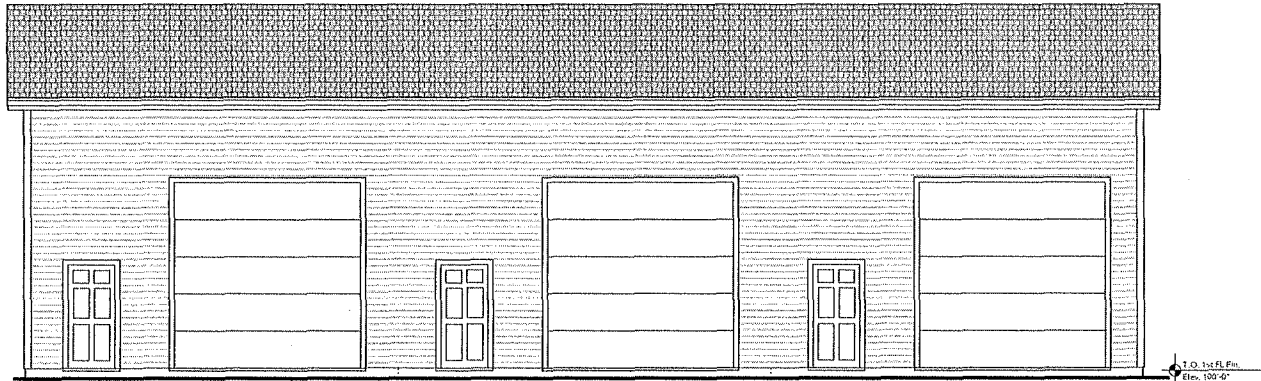
**PROPOSED
Exterior Elevations**

SCALE: 1/8" = 1'-0"

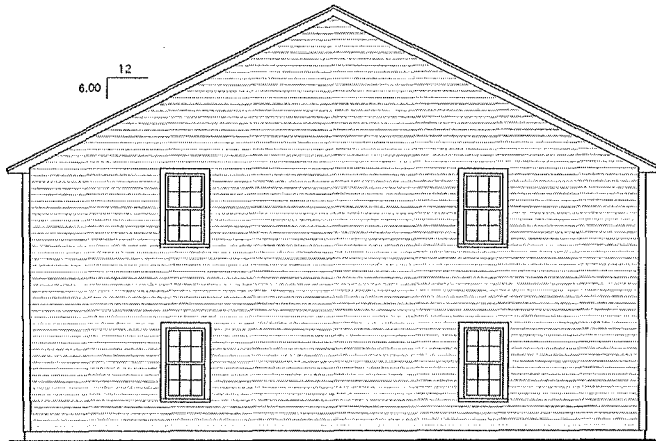
6 sep 2022

A02

THE ARCHITECTURE OF 21 HALE STREET



1 Exterior Elevation - REAR
SCALE: 1/8" = 1'-0"



2 Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"

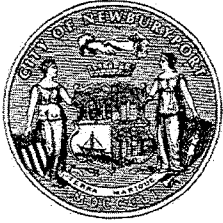
EXHIBIT D

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA



SO.ESSEX #87 Bk:41574 Pg:003
05/22/2023 10:58 AM DCSN Pg 1/17
eRecorded

2023 APR 24 A 11:35



CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400
WWW.CITYOFNEWBURYPORT.COM

**RECORD OF PROCEEDINGS AND
SITE PLAN REVIEW DECISION**

APPLICANT: Hale Business Park LLC, c/o Lisa Mead, Mead, Talerman & Costa, LLC
30 Green Street
Newburyport, MA 01950

PROPERTY OWNER: PESSINA CRAIG TRS

FILE NO.: SPR-23-1

PROPERTY ADDRESS: **21 Hale Street (formerly part of 21 Malcolm Hoyt Road)**

DECISION DATE: 04/05/2023

MAP/PARCEL(S): 84-1-E

BOOK/PAGE: 34937/566

ZONING DISTRICT: I1

PROCEDURAL HISTORY:

The above referenced application for Site Plan Review was submitted on 2/2/2023 for relief from the Newburyport's Zoning Ordinance Section XV Site Plan Review for the following request: *Major site plan review for construction of industrial service building*. The application was determined complete and filed with the City Clerk on 2/2/2023. Notice of the public hearing was published on 2/20/2023 and 2/27/2023 in the Newburyport Daily News. The public hearing was held on 3/1/2023 and continued to 3/15/2023 and 4/5/2023.

At the close of the public hearing, upon a motion to approve made by Don Walters and seconded by Alden Clark, the Planning Board voted as follows:

Rick Taintor, Chair	<u>Yes</u>	Don Walters	<u>Yes</u>	Elisabeth DeLisle	<u>Absent</u>
Alden Clark	<u>Yes</u>	Robert Koup	<u>Yes</u>	Heather Rogers	<u>Yes</u>
Jamie Pennington	<u>Yes</u>	Richard Yeager	<u>Yes</u>		

Having received the necessary majority vote of the Planning Board, in accordance with M.G.L. Chapter 40A Section 9, as amended, the petition was therefore **APPROVED**.

PLANS AND DOCUMENTS:

The Board approved the project subject to the following plans, drawings, documents, and/or submittals:

- A comprehensive plan set for the proposed project entitled, “Industrial/Office Building, 21 Hale Street (21 Malcolm Hoyt Drive) in Newburyport, MA” prepared by GM2 Associates, Inc. consisting of the following sheets:

Sheet No.	Sheet Title	Date
T-1	Title Sheet	7/28/22 (rev. 3/30/23)
S-1	Existing Conditions Plan of Land (20 Scale)	5/31/22
S-2	Existing Conditions Plan of Land (50 Scale)	5/31/22
C101	Erosion Control Plan	7/28/22 (rev. 3/30/23)
C102	Civil Site Plan	7/28/22 (rev. 3/30/23)
C103	Landscape Plan	7/28/22 (rev. 3/30/23)
C501	Civil Details	7/28/22 (rev. 3/30/23)
C502	Civil Details	7/28/22 (rev. 3/30/23)

- “Proposed Exterior Elevations, 21 Hale Street, Newburyport, MA” prepared by Graf Architects and dated September 6, 2022 consisting of sheets A01 and A02.

This application was also accompanied by the following, which are hereby incorporated into this decision:

- Project Narrative and Stormwater Analysis, 21 Malcolm Hoyt Drive, Newburyport prepared by GM2 Associates, Inc. revised on March 30, 2023; and
- Waiver Request dated February 2, 2023; and
- Trip Generation Memorandum prepared by Stephen Sawyer, P.E/ GM2 Associates, Inc. dated February 1, 2023; and
- Review Responses and Updated Submission, prepared by GM2 Associates, Inc. dated March 30, 2023; and
- Approval Not Required Plan of Land, 21 Malcolm Hoyt Drive, Newburyport, MA prepared by Winter GEC, LLC and dated March 7, 2023; and
- Proposed Lighting Spec Sheets submitted with the application

A peer review of engineering and stormwater design was conducted by Christiansen & Sergi, Inc., on behalf of the Planning Board. Additional City Department comments were received on the draft plans which were subsequently revised to address outstanding issues. A full copy of this documentation is on file with the City of Newburyport Office of Planning & Development, 60 Pleasant Street, Newburyport, MA 01950; and

Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, as made at the public hearing.

FINDINGS:

In order to grant Site Plan approval, the Board must first determine that the applicant’s project meets specific criteria, as provided in Section XV-G of the NZO. These criteria and the Board’s project specific findings for each are listed here:

Community Character

As shown in the accompanying plans and elevations, the proposed building has a footprint of 2,880 square feet. The structure will have a height of 25 feet and the front façade design will be residential in appearance with garage doors in the rear in order to better blend in with the residential area across the street. The proposed building height, size, massing, and materials will allow it to fit well into the immediate neighborhood across Hale Street and with the other industrial buildings in the industrial park.

Traffic, Parking, and Public Access

There will be negligible traffic impacts to Hale Street given the modest size and proposed use of the property. The project minimizes vehicular traffic and safety impacts on adjacent roadways and maximizes the convenience and safety of vehicular, bicycle, and pedestrian movements within the site and neighborhood. The proposed project minimizes adverse impacts on neighborhood parking through the provision of adequate off-street parking. 15 parking spaces along with 2 handicapped spaces will be provided. The site includes two means of egress to Hale Street at the request of the Newburyport Fire Department.

Health, Public Services and Utilities

The project will provide for the appropriate handling of hazardous materials and minimize adverse air quality impacts, noise, glare, and odors. The proposed facility plans demonstrate adequate water supply, wastewater, and solid waste disposal systems service and connections; is well within the capacity of the city's infrastructure; includes appropriate stormwater management; and demonstrates a strong effort to conserve energy.

Land Use Planning

The project is fully consistent with the uses in the industrial park, the zoning ordinance and land use planning and development goals of the 2017 Master Plan. The low impact development of industrial land while preserving open space is in keeping with the planning goals of the city.

Open Space and Environmental Protection

There is no negative impact on Open Space. The proposal includes the preservation of over 5 acres of open space by deeding same to the Conservation Commission and preventing development to the rear of the lot. The developed portion of the property is 5.3% lot coverage which is below the 30% which is allowed by the district. The applicant has been sensitive to the topography and surrounding non-disturbed areas of the site. Donating the remainder of the open space to the Conservation Commission will allow the City to properly maintain important existing drainage channels.

Development and Performance Standards– This project meets the performance standards as listed in Section XV-H of the Newburyport Zoning Ordinance in the following ways:

Pedestrian and Vehicular Access and Traffic Impacts

The site plan shows adequate vehicular access and safe site distance when exiting to Hale Street. The proposed site plan assures safe interior circulation by separating walkway areas and vehicular traffic within the site. 15 parking spaces along with 2 handicapped spaces will be provided. There are two means of egress in accordance with the direction of the Newburyport Fire Department. Two means of egress prevents firetrucks from backing out on to Hale Street and also for access of all sides of the building.

Site Plan and Architectural Design

The proposed building is of appropriate scale, height, bulk and general massing. The architectural style and site placement of the structure is consistent with and complementary to the general area, surrounding topography and natural condition of the site.

Lighting

The proposed building-mounted lights identify and accent key elements of the building such as exterior doors. The lighting uses low level, LED lights which are dark sky compliant.

Landscaping

Landscaping is an integral part of the protection of the resource areas around the site. All plantings are in keeping with the requirements of the Conservation Commission. Parking areas meet the landscape requirements of the zoning ordinance.

Stormwater Runoff, Water Quality, Wetlands, and Erosion Control

The proposed project will include measures to prevent stormwater pollution, minimize erosion and potential flooding as described in the Stormwater Management Report dated March 16, 2023. There will be no adverse impacts on nearby water bodies, subsurface groundwater or neighboring properties are anticipated.

Environmental performance standards

The proposed plans address the development and performance standards referenced within Section XI of the Newburyport Zoning Ordinance. The proposed project and use will not be conducted in a manner "as to create any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise, or vibration, smoke, dust or other form of air pollution; electrical or other disturbance; glare, liquid or solid, refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance, conditions or element in a manner or in an amount as to affect adversely the surrounding areas."

Utilities

The proposed facility will be served with adequate water supply, wastewater, and solid waste disposal systems; is well within the capacity of the city's infrastructure; includes appropriate stormwater management; and demonstrates a strong effort to conserve energy.

WAIVERS:

The Board reviewed and granted the following waivers as requested in the applicant's submission:

- Section XV-E, a, 4 - Landscape Plan Stamped by Landscape Architect
- Section XV-E, b, 3 – Environmental and Community Impact Analysis
- Section XV-E, b, 4 – Traffic Impacts (waiver from submitting a full traffic report)
- Section XV-H, a, 6 – Tree and Sidewalk Ordinance

STANDARD CONDITIONS:

In view of the foregoing findings, the Planning Board hereby grants a Site Plan approval subject to the terms and conditions stated below:

1. Recording of Decision and Approved Plans: The applicant shall file this decision with the Southern Essex County Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be included with the application for any related Building Permits. To ensure compliance

with this decision, site/construction plans issued to any contractors shall make clear reference to this written decision and conditions of approval contained herein.

2. Permit Lapse: This permit will lapse after three years from the date of granting and shall no longer be valid if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause, within this period. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL Chapter 40A Section 17.
3. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the above referenced and approved plans which are incorporated herein by reference. Should the applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the Planning Board and Office of Planning and Development (OPD) of the proposed modifications in writing and obtain approval from the Planning Board (or OPD as specified herein) for such modifications prior to making any changes in the field. The OPD shall determine whether such modifications are minor or major (material) in nature. The Planning Board shall schedule a public hearing for review and approval of any changes deemed major or material in nature to the permit originally issued. Any major or material alterations or changes to the above referenced plans shall require prior approval by the Planning Board. Minor changes may be approved in writing by the OPD without further review by the Planning Board. The determination as to whether an alteration or change in plans is material and therefore subject to Planning Board review shall be made at the discretion of the OPD.
4. Curb Cuts: Any new driveway opening or curb cuts that have egress to the public right of way must be approved by the Director of Public Services or Designee in advance of construction.
5. Fire Department Review and Approval: The applicant, owner, successors, or assigns shall be responsible for designing the utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval.
6. Stormwater Management Permit: If the project involves more than 10,000 square feet of land disturbance, the applicant, owner, his successors or assigns, shall obtain a Stormwater Management Permit under the City of Newburyport Stormwater Management Ordinance (Code of Ordinances, Chapter XVII) from the Department of Public Services prior to beginning any site work, including tree clearing and/or regrading. The applicant shall provide a copy of said permit to the Building Commissioner and Zoning Administrator with the application for any related Building Permits.
7. Submission of As-Built Foundation Plan: A copy of the as-built foundation plan shall be provided to the Office of Planning and Development and Building Department upon foundation completion.
8. Site Lighting: All lighting fixtures, including but not limited to, signage, building, parking lot, site, decorative, and security, shall feature cut off fixtures so that the lights are pointed downward reducing light pollution and glare onto abutting properties.
9. Hours of Construction: The developer shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 5 p.m. Monday through Friday and 8 a.m. and 4 p.m. on Saturday.
10. Submission of As-Built Site Plans: A copy of the as-built site plan stamped by a professional engineer shall be submitted to the Office of Planning and Development at the completion of the construction.

SPECIAL CONDITIONS

In addition to the foregoing standard conditions, the Planning Board hereby grants approval subject to the special conditions stated below:

1. Prior to the issuance of Building Permit for the proposed project, as proposed by the applicant, the applicant shall submit to the City Council a plan and deed/conveyance for approval and acceptance of the open space parcel labeled as Lot A4 on the proposed ANR Plan (5.425 acres of resource area, habitat, upland and wet meadow, and flood storage) adjacent to the project site.
2. A Stormwater Pollution Prevention Plan (SWPPP) for the project shall be submitted prior to the start of construction.
3. Prior to the issuance of Occupancy Permit for the proposed project, as proposed by the applicant, if the City Council accepts the deed for open space, the applicant shall provide the Zoning Administrator proof of recording of the fee interest transfer and deed to the City of Newburyport of the open space parcel labeled as Lot A4 on the proposed ANR Plan (5.425 acres of resource area, habitat, upland and wet meadow, and flood storage) adjacent to the project site to the City of Newburyport. In the event that the City Council does not vote to accept said offer as noted above, the provision shall be null and void and an Occupancy Permit may be issued in the regular course of business.
4. Prior to grant of an Occupancy Permit the applicant shall provide the Zoning Administrator with written confirmation from the City Engineer that the plantings along the Hale Street frontage and vehicular access to the site have been installed consistent with the approved plans so as to maintain the intended sight line distances for vehicles exiting the site.

CONCLUSION AND DECISION:

For all of the reasons stated herein, the petition for a Site Plan Review is therefore **APPROVED**.

APPEALS:

Appeals of this decision may be made in accordance with applicable law.

SIGNATURE OF THE BOARD:

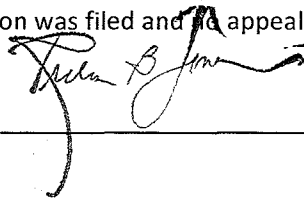
The following signature is made in accordance with M.G.L. c.110G and pursuant to the Planning Board's electronic signature authorization vote recorded on Jun 12, 2020 in Book 38602 Page 210 at the Southern Essex Registry of Deeds.


Frederick S. Taintor (Apr 21, 2023 11:16 EDT)
Rick Taintor, Chair

Apr 21, 2023
Date

CITY CLERK CERTIFICATION:

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Site Plan Review decision for the property known as 21 Malcolm Hoyt Road was filed in the Office of the City Clerk on April 24, 2023. Twenty (20) days have elapsed since the decision was filed and no appeal has been filed.



City Clerk

May 22, 2023
Date

SHEET INDEX

SHEET NO.	DESCRIPTION
T-1	TITLE SHEET
S-1	EXISTING CONDITIONS PLAN OF LAND (20 SCALE)
S-2	EXISTING CONDITIONS PLAN OF LAND (50 SCALE)
C101	EROSION CONTROL PLAN
C102	CIVIL SITE PLAN
C103	LANDSCAPE PLAN
C501	CIVIL DETAILS
C502	CIVIL DETAILS

INDUSTRIAL/ OFFICE BUILDING

21 HALE STREET
 (21 MALCOLM HOYT DRIVE)
 IN
 NEWBURYPORT, MASSACHUSETTS

PREPARED FOR
 CHART HOUSE DEVELOPMENT, LLC
 234 MIDDLE STREET
 WEST NEWBURY, MASSACHUSETTS

DRAINAGE NOTE:
 THE WORK PROPOSED WITH THIS PROJECT AT 21 HALE STREET HAS NO IMPACT TO THE FUNCTION OF THE DRAINAGE SYSTEM LOCATED AT 23 HALE STREET. ADDITIONALLY STORMWATER RUNOFF FROM 23 HALE STREET DOES NOT IMPACT THE CONDITIONS AND DRAINAGE FLOW ON THIS PROJECT WITH A FINAL PROJECT ADDRESS OF 23 HALE STREET. THE RECEIVING AREA FOR RUNOFF IS THE LOW WETLAND AREA DOWN GRADIENT OF BOTH PARCELS. THE STORMWATER SYSTEMS FOR BOTH LOTS OPERATE INDEPENDENTLY AND ARE FULLY LOCATED WITHIN EACH PROPERTY.



OWNER
 CHART HOUSE
 DEVELOPMENT, LLC
 234 MIDDLE ST
 WEST NEWBURY, MA 01985

ZONING
 INDUSTRIAL (I-1)

	REQUIRED*	PROPOSED** (INDUST. SERVICES-607)
MINIMUM LOT AREA	50,000 SQUARE FEET	54,520 SQUARE FEET
MINIMUM FRONTAGE	200 FEET	200 FEET
FRONT SETBACK	60 FEET	20.4 FEET
SIDE SETBACK (R)	50 FEET	61.5 FEET
SIDE SETBACK (L)	50 FEET	69.0 FEET
REAR SETBACK	60 FEET	212.2 FEET
MAXIMUM LOT COVERAGE (R) 30%		5.3%
MAXIMUM HEIGHT	35 FEET	25 FEET
MINIMUM OPEN SPACE	N/A	N/A
PARKING SPACE	15*	15 PLUS 2 HC SPACES

* 0.75 x 5 EMPLOYEES/UNIT x 3 UNITS + 1 COMPANY VEHICLE/UNIT = 15 SPACES REQUIRED

** REMAINING LAND FROM 21 MALCOLM HOYT DRIVE DRIVE APPROVAL NOT REQUIRED SUBDIVISION OF LAND

ON-LINE ZONING ORDINANCES
 CITY OF NEWBURYPORT WEBSITE
<http://www.cityofnewburyport.com/Planning/Index.html>
 PLANNING DEPARTMENT - MAIN PHONE: 978-463-4400

INFORMATION REGARDING ZONING, INCLUDING PARKING ABOVE, SHOWN HEREON IS NOT INTENDED TO BE A DEFINITIVE ZONING OPINION AND IS FOR INFORMATIONAL PURPOSES ONLY. ALL INFORMATION SHOULD BE VERIFIED BY LEGAL COUNSEL PRIOR TO RELIANCE UPON THE SAME.

LOCUS TITLE INFORMATION

21 MALCOLM HOYT DRIVE

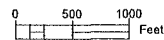
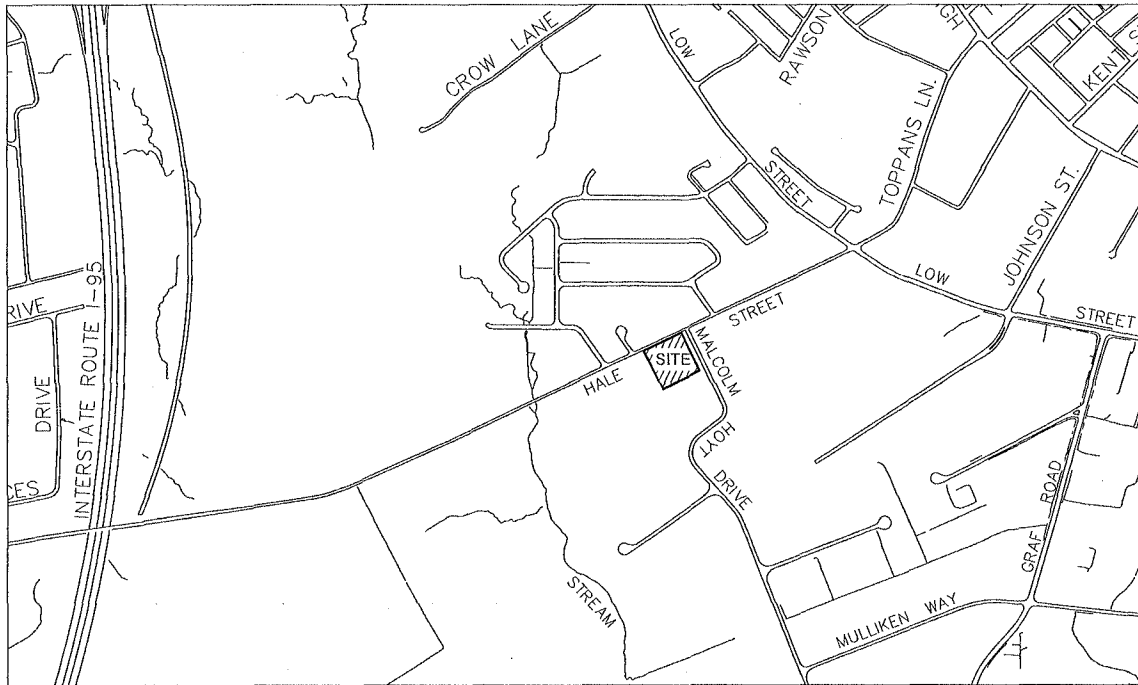
OWNER: CRAIG PESSINA TRS / PATRICK REDDY TRS

DEED REFERENCE: BOOK 34937 PAGE 0566

ASSESSORS: MAP 84 PARCEL 1E

"PLANNING BOARD APPROVAL UNDER
 SECTION XV SITE PLAN REVIEW"
 CITY OF NEWBURYPORT PLANNING BOARD

DATE



P:\2007 PROJECTS\40874.00 NEWBURYPORT 21 HALE ST_CIVIL_ENGINEERING\LOCAL\DWG\TITLE SHEETING

PROJECT TEAM

21 HALE STREET
 (21 MALCOLM HOYT
 DRIVE)
 2-STORY BUILDING
 & PARKING
 NEWBURYPORT, MA
 PROJECT 020

REV	DESCRIPTION	DATE
4	CITY & PEER REVIEW	10/02
3	PR & PEER REVIEW	09/02
2	TECH REVIEW	04/02
1	SPR SUBMISSION	10/02



STAMP

TITLE SHEET

SHEET NAME

T-1

DWG NO.

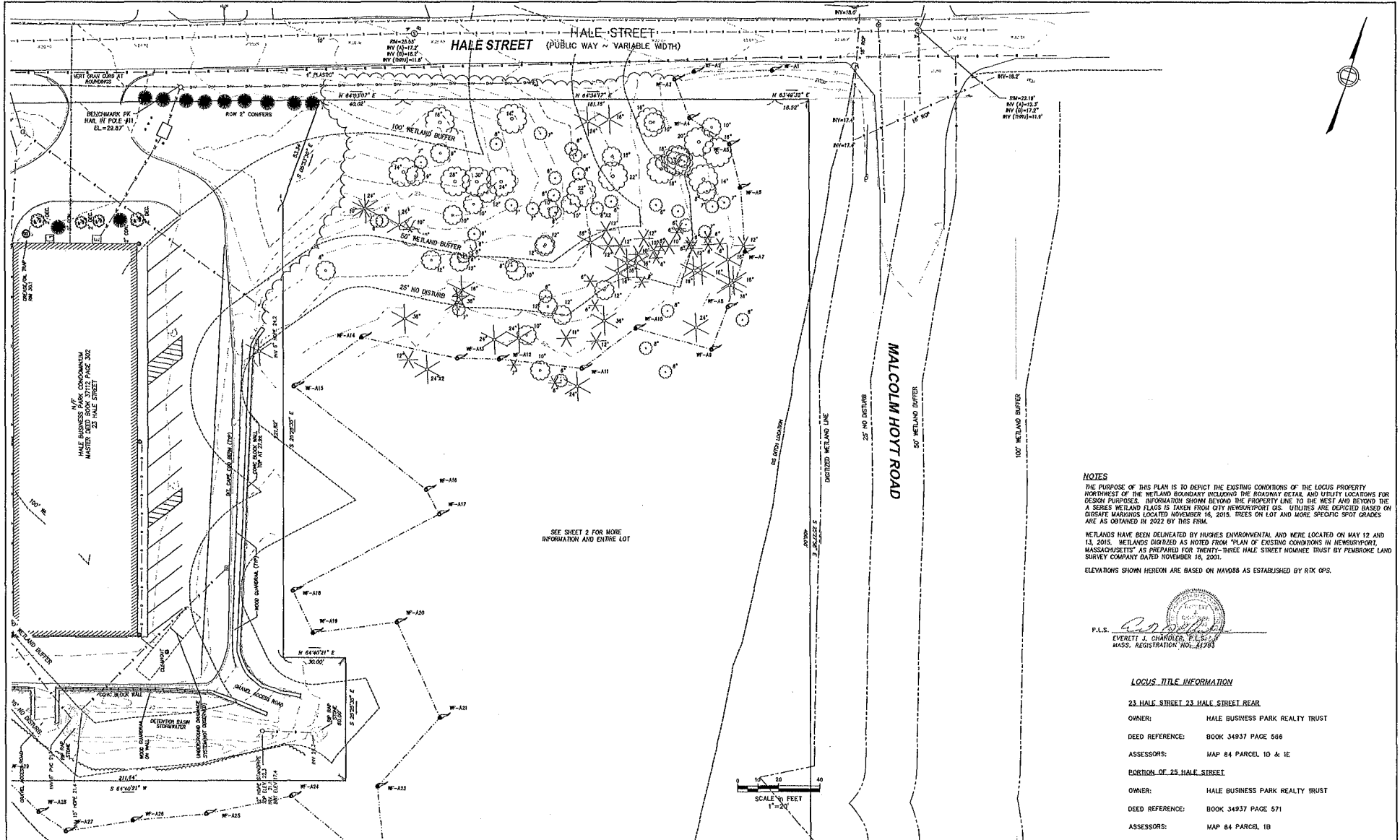
DR BY: GS

CHK BY: SS

PROJ NO: 40874

DATE: 07/28/2022

SCALE: AS NOTED



SEE SHEET 2 FOR MORE INFORMATION AND ENTIRE LOT

NOTES
 THE PURPOSE OF THIS PLAN IS TO DEPICT THE EXISTING CONDITIONS OF THE LOCUS PROPERTY NORTHWEST OF THE WETLAND BOUNDARY INCLUDING THE ROADWAY DETAIL AND UTILITY LOCATIONS FOR DESIGN PURPOSES. INFORMATION SHOWN BEYOND THE PROPERTY LINE TO THE WEST AND BEYOND THE A SERIES WETLAND FLAGS IS TAKEN FROM CITY NEWBURYPORT GIS. UTILITIES ARE DEPICTED BASED ON DIGSAFE BENCHMARKS LOCATED NOVEMBER 16, 2015. TREES ON LOT AND MORE SPECIFIC SPOT GRADES ARE AS OBTAINED IN 2022 BY THIS FIRM.
 WETLANDS HAVE BEEN DELINEATED BY HUGHES ENVIRONMENTAL AND WERE LOCATED ON MAY 12 AND 13, 2015. WETLANDS DIGITIZED AS NOTED FROM "PLAN OF EXISTING CONDITIONS IN NEWBURYPORT, MASSACHUSETTS" AS PREPARED FOR TWENTY-THREE HALE STREET HOMEKEE TRUST BY PEMBORKE LAND SURVEY COMPANY DATED NOVEMBER 16, 2001.
 ELEVATIONS SHOWN HEREON ARE BASED ON NAVD83 AS ESTABLISHED BY RTK GPS.

P.L.S. 
 EVERETT J. CHANDLER, P.L.S.
 MASS. REGISTRATION NO. 41793

LOCUS TITLE INFORMATION
 23 HALE STREET 23 HALE STREET REAR
 OWNER: HALE BUSINESS PARK REALTY TRUST
 DEED REFERENCE: BOOK 34937 PAGE 568
 ASSESSORS: MAP 84 PARCEL 10 & 1E
 PORTION OF 25 HALE STREET
 OWNER: HALE BUSINESS PARK REALTY TRUST
 DEED REFERENCE: BOOK 34937 PAGE 571
 ASSESSORS: MAP 84 PARCEL 1B

Copyright 2022 Winter GEC, LLC

Winter GEC, LLC
 44 MERRIMAC STREET
 NEWBURYPORT, MA 01950
 978-270-9828

SCALE:			
HORIZ: 1" = 20'			
VERT: _____			
NO.	DATE	BY	REVISIONS

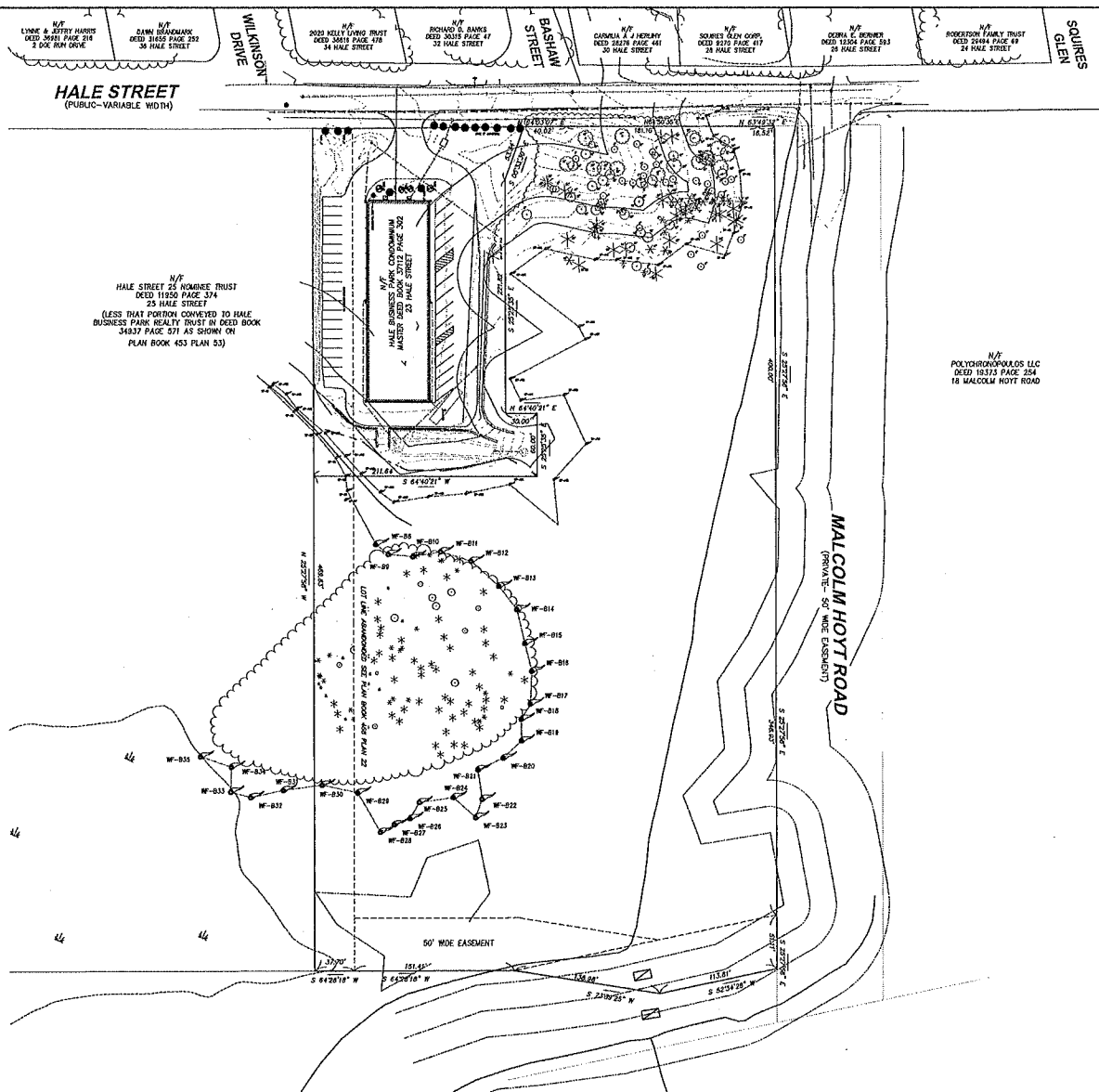
FIELD: EC/SS/CO
 CALCS: EC
 CHECKED: EJC
 APPROVED: EJC

EXISTING CONDITIONS
 PLAN OF LAND
 21 MALCOLM HOYT ROAD

PLAN OF LAND IN
 NEWBURYPORT, MA
 SURVEYED FOR
 HALE BUSINESS PARK REALTY TRUST

PROJECT NO.
 21MALCOLMHOTT
 DATE: MAY 31, 2022

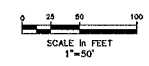
S-1



NOTES
 SHEET 2 OF 2 IS FOR GENERAL DRAINAGE REFERENCE ONLY.
 INFORMATION NOT SHOWN ON SHEET 1 OF 2 HAS BEEN TAKEN FROM
 THE CITY OF NEWBURYPORT GIS OR AS NOTED ON SHEET 1.
 SEE SHEET 1 OF 2 FOR ADDITIONAL NOTES.

P.L.S. 
 EVERETT J. CHARUKER, P.L.S.
 MASS. REGISTRATION NO. 41283

LOCUS TITLE INFORMATION
 23 HALE STREET 23 HALE STREET BEAR
 OWNER: HALE BUSINESS PARK REALTY TRUST
 DEED REFERENCE: BOOK 34937 PAGE 566
 ASSESSORS: MAP 64 PARCEL 1D & 1E
 PORTION OF 25 HALE STREET
 OWNER: HALE BUSINESS PARK REALTY TRUST
 DEED REFERENCE: BOOK 34937 PAGE 571
 ASSESSORS: MAP 64 PARCEL 1B



Copyright 2022 Winter GEC, LLC

Winter GEC, LLC
 44 MERRIMAC STREET
 NEWBURYPORT, MA 01950
 978-270-6626

SCALE:			
HORIZ: 1" = 50'			
VERT: _____			
NO.	DATE	BY	REVISIONS

FIELD: EG/SS/CO
 CALCS: EC
 CHECKED: E&C
 APPROVED: E&C

EXISTING CONDITIONS
 PLAN OF LAND
 21 MALCOLM HOYT ROAD

PLAN OF LAND IN
 NEWBURYPORT, MA
 SURVEYED FOR
 HALE BUSINESS PARK REALTY TRUST

PROJECT NO.
 21MALCOLMHOYT
 DATE: MAY 31, 2022
 S-2



G&M ASSOCIATES, INC.
150 MAIN STREET, SUITE 200
NEWBURYPORT, MA 01960
TEL: 978-546-1111
FAX: 978-546-1112
WWW.GM-ASSOCIATES.COM

OWNER
CHART HOUSE
DEVELOPMENT, LLC
234 MIDDLE ST
WEST NEWBURY, MA 01985

PROJECT

21 HALE STREET
(21 MALCOLM HOYT
DRIVE)
2-STORY BUILDING
& PARKING
NEWBURYPORT, MA
PROJECTING

NO.	DATE	DESCRIPTION
1	01/11/2010	ISSUED FOR PERMIT
2	01/11/2010	ISSUED FOR PERMIT
3	01/11/2010	ISSUED FOR PERMIT
4	01/11/2010	ISSUED FOR PERMIT
5	01/11/2010	ISSUED FOR PERMIT
6	01/11/2010	ISSUED FOR PERMIT
7	01/11/2010	ISSUED FOR PERMIT
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98	01/11/2010	ISSUED FOR PERMIT
99	01/11/2010	ISSUED FOR PERMIT
100	01/11/2010	ISSUED FOR PERMIT



DATE

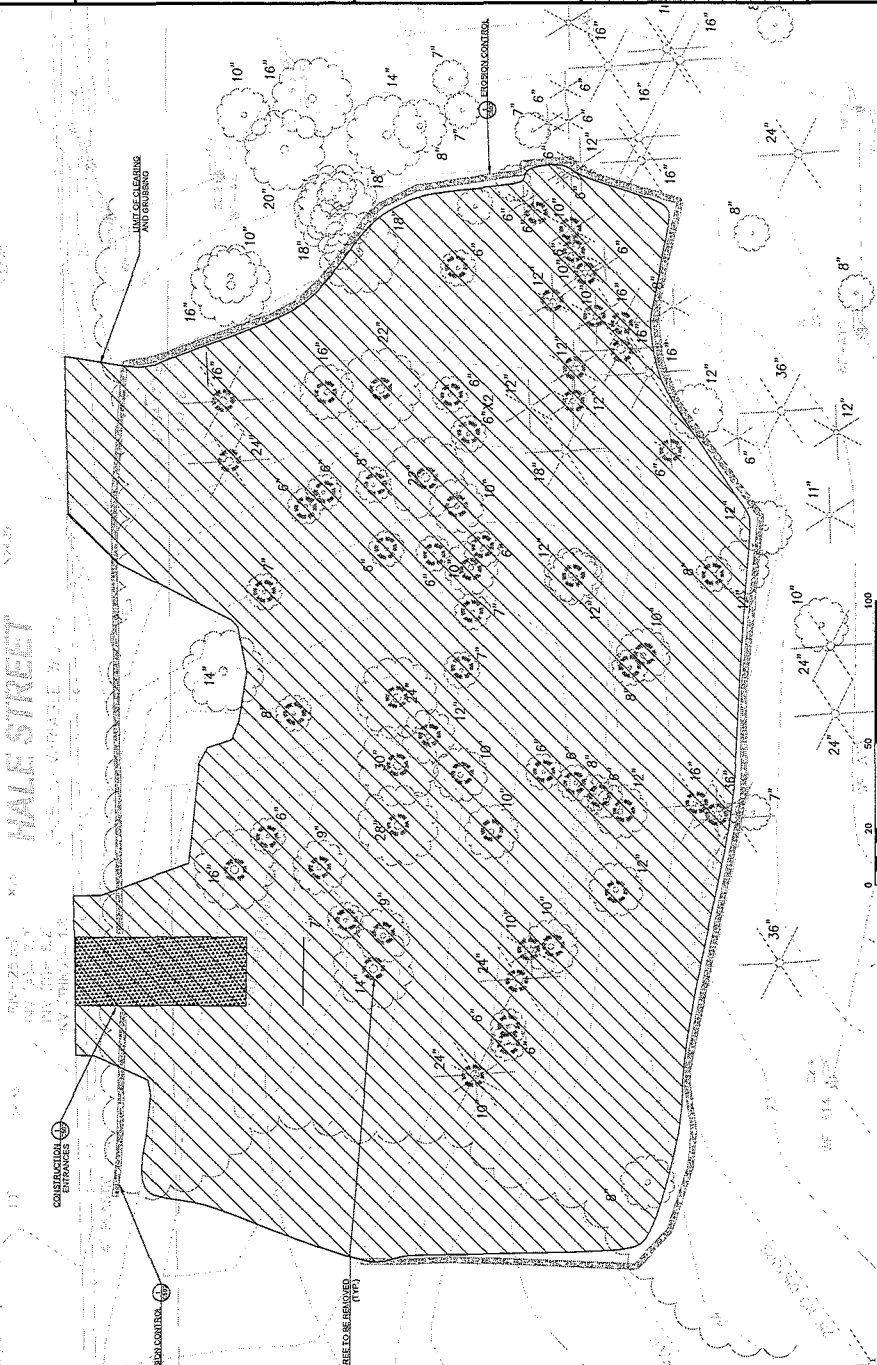
EROSION CONTROL PLAN

SHEET NAME

C101

DATE: 07/28/22
PROJECT NO: 48874
DRAWN BY: GS
CHECKED BY: SS

DATE



SCALE: 1" = 20'

BEST CONTROL
A. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTROLLING EROSION THROUGHOUT THE CONSTRUCTION PERIOD. EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF ANY EXCAVATION OR EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. EROSION CONTROL MEASURES SHALL BE REMOVED IMMEDIATELY UPON COMPLETION OF THE PROJECT.

WASTE DISPOSAL
A. ALL WASTE MATERIALS SHALL BE REMOVED FROM THE SITE IMMEDIATELY UPON GENERATION. WASTE SHALL BE STORED IN A DESIGNATED AREA AND REMOVED FROM THE SITE TO AN APPROVED WASTE DISPOSAL FACILITY. WASTE SHALL NOT BE DISPOSED IN ANY MANNER THAT IS UNLAWFUL OR VIOLATES ANY APPLICABLE REGULATIONS.

ADDITIONAL NOTES FOR WATER CONSTRUCTION
A. ALL EXCAVATIONS SHALL BE PROTECTED FROM EROSION AND SEDIMENTATION. EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF ANY EXCAVATION AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. EROSION CONTROL MEASURES SHALL BE REMOVED IMMEDIATELY UPON COMPLETION OF THE PROJECT.

EROSION CONTROL NOTES
1. THE TOTAL AREA TO BE DISTURBED IS APPROXIMATELY 1,000 SF.
2. THE PROJECT CONSISTS OF EXCAVATING A NEW 20' X 20' IN-TERRAZZO WATER/ACCESS BAY AND CONSTRUCTION PERIOD. ALL EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF ANY EXCAVATION OR EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. EROSION CONTROL MEASURES SHALL BE REMOVED IMMEDIATELY UPON COMPLETION OF THE PROJECT.

INSTALLATION, MAINTENANCE AND INSPECTION PROCEDURES OF EROSION CONTROL
A. GENERAL - THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE FOLLOWING INSPECTIONS:
1. ALL CONTROL MEASURES SHALL BE INSPECTED DAILY.
2. THE CONTRACTOR SHALL MAINTAIN RECORDS OF ALL INSPECTIONS AND REPAIRS.
3. THE CONTRACTOR SHALL MAINTAIN RECORDS OF ALL INSPECTIONS AND REPAIRS.

WASTE DISPOSAL
A. ALL WASTE MATERIALS SHALL BE REMOVED FROM THE SITE IMMEDIATELY UPON GENERATION. WASTE SHALL BE STORED IN A DESIGNATED AREA AND REMOVED FROM THE SITE TO AN APPROVED WASTE DISPOSAL FACILITY. WASTE SHALL NOT BE DISPOSED IN ANY MANNER THAT IS UNLAWFUL OR VIOLATES ANY APPLICABLE REGULATIONS.

ADDITIONAL NOTES FOR WATER CONSTRUCTION
A. ALL EXCAVATIONS SHALL BE PROTECTED FROM EROSION AND SEDIMENTATION. EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF ANY EXCAVATION AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. EROSION CONTROL MEASURES SHALL BE REMOVED IMMEDIATELY UPON COMPLETION OF THE PROJECT.

EROSION CONTROL
A. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTROLLING EROSION THROUGHOUT THE CONSTRUCTION PERIOD. EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF ANY EXCAVATION OR EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. EROSION CONTROL MEASURES SHALL BE REMOVED IMMEDIATELY UPON COMPLETION OF THE PROJECT.

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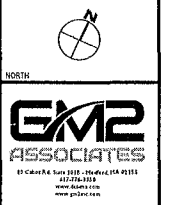
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P:\2022 Projects\087100 - Newburyport 21 Hale St\DWG\087100_Landscape\087100_Landscape.dwg

CARVIN
DEED
30

PLANTING NOTE:
PLANTS SHOWN ON THIS PLAN WERE PROVIDED UNDER THE
DIRECTION OF HUGHES ENVIRONMENTAL CONSULTING

Landscape Plant Schedule			
Common Name	Latin Name	Size	Quantity
Tulip Tree	Liriodendron tulipifera	1.5" dbh	1
Red Maple	Acer Rubrum	1.5" dbh	2
Eastern Red Cedar	Juniperus virginiana	6-8' height	6
Flowering Dogwood	Cornus Florida	5-7" height	10
Cranberry Bush	Viburnum trilobum	1 Gallon Pot	5
Winterberry	Ilex verticillata	1 Gallon Pot	11
Blueberry	Vaccinium corymbosum	1 Gallon Pot	8
Seed Mixes			
New England Semi- Shade Grass and Forbs	Front of site landscape area	Rate per New England Wetland Plants Spec Sheet	
New England Coastal Salt Tolerant Grass Mix	Perimeter of remaining site	Rate per New England Wetland Plants Spec Sheet	



OWNER
CHART HOUSE
DEVELOPMENT, LLC
234 MIDDLE ST
WEST NEWBURY, MA 01885

PROJECT TEAM

21 HALE STREET
(21 MALCOLM HOYT
DRIVE)
2-STORY BUILDING
& PARKING
NEWBURYPORT, MA

REV	DESCRIPTION	DATE
1.	CITY & PIER REVIEW	3/8/23
1.	P&L PIER REVIEW	3/16/23
2.	TECH. REVIEW	2/14/23
1.	SPR. SUBMISSION	1/19/23

MALCOLM HOYT DRIVE
(PRIVATE - 50' WIDE EASEMENT)



STAMP

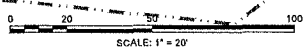
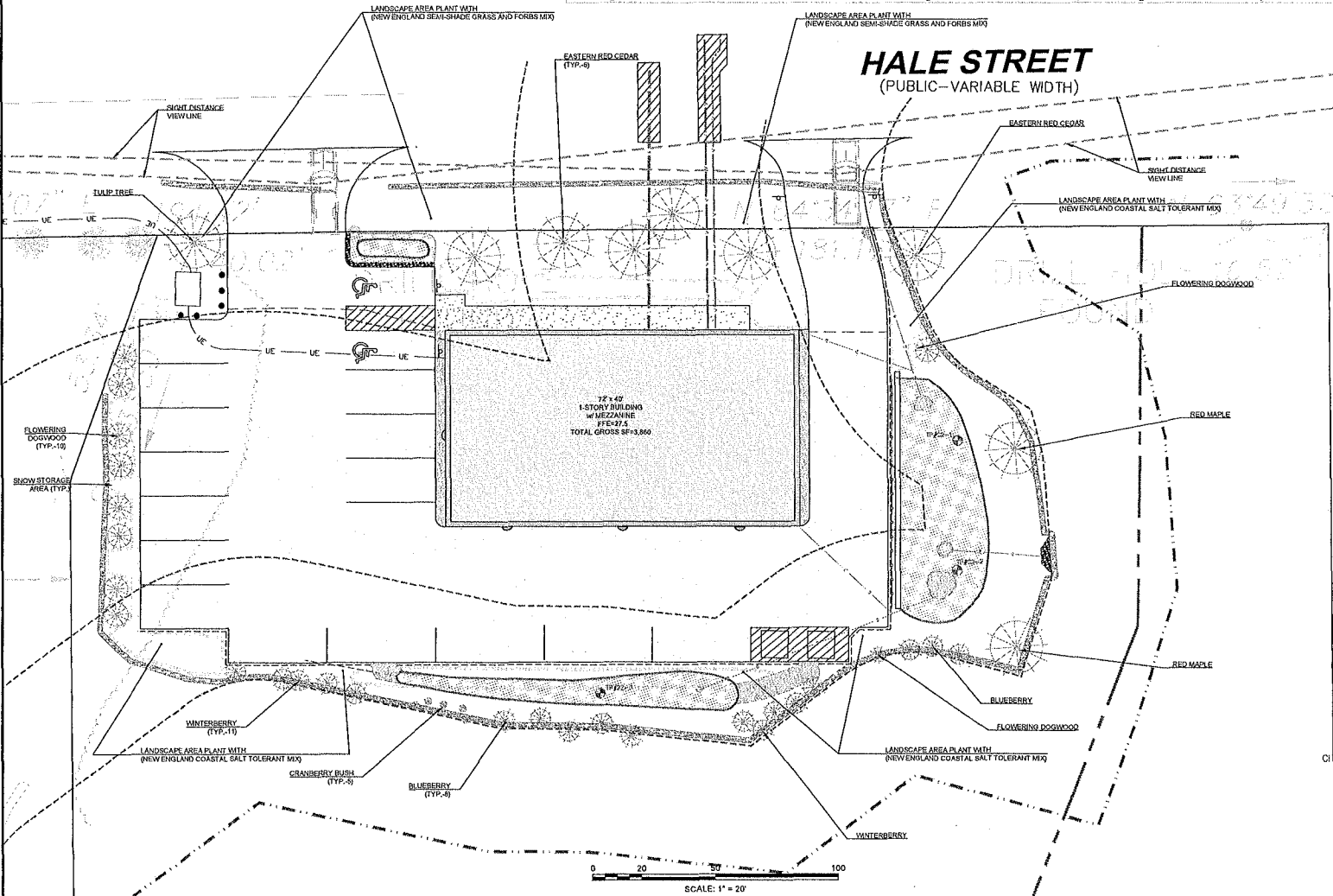
LANDSCAPE
PLAN

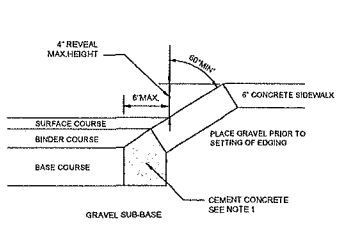
SHEET NAME:
C103

SHEET NO.
DR BY: GS
CHK BY: SS
PROJ. NO. 40874
DATE: 07/28/2022
SCALE: 1"=10'

"PLANNING BOARD APPROVAL UNDER
SECTION XV, SITE PLAN REVIEW"
CITY OF NEWBURYPORT PLANNING BOARD

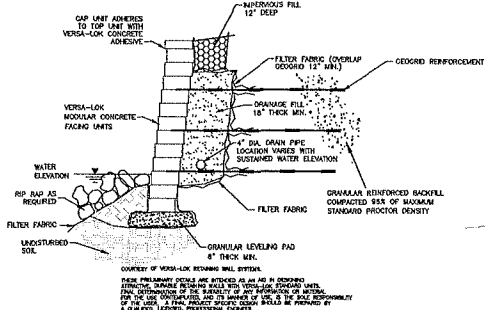
DATE



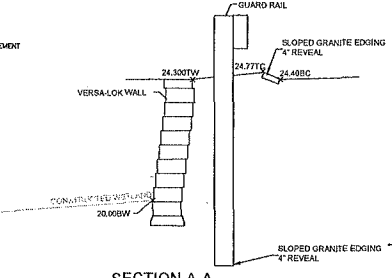


1. ANY DESIGNATED CEMENT CONCRETE THAT IS ACCEPTABLE TO MASSDOT UNDER SECTION 114 OF THE STANDARDS SPECIFICATIONS; ALL TEST REQUIREMENTS ARE WAIVED, NOT W/ ASPHALT SHALL NOT BE USED AS A SUBSTITUTE.
2. THE REVEAL IS TO BE A MAXIMUM OF 4" UNDER ALL CONDITIONS, THE ANGLE IS TO BE A MINIMUM OF 60° FROM VERTICAL UNDER ALL CONDITIONS.

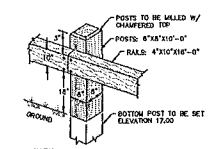
1 SLOPED GRANITE CURB
NOT TO SCALE



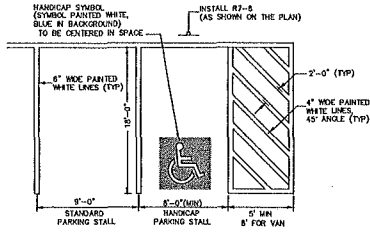
2 WALL DETAIL
NOT TO SCALE



3 WALL SECTION
NOT TO SCALE

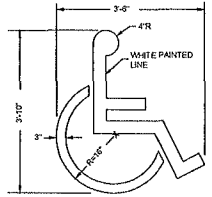


4 WOOD GUARD RAIL - TYPE 1
NOT TO SCALE

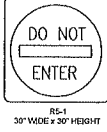


- NOTE:
1. ALL PAINT SHALL BE FAST DRYING WHITE TRAFFIC PAINT, MEET THE REQUIREMENTS OF AASHTO M248-TYPE II. PAINT SHALL BE APPLIED AS SPECIFIED BY MANUFACTURER.
 2. SYMBOLS & PARKING STALLS SHALL CONFORM TO THE REQUIREMENTS OF THE AMERICAN WITH DISABILITIES ACT.

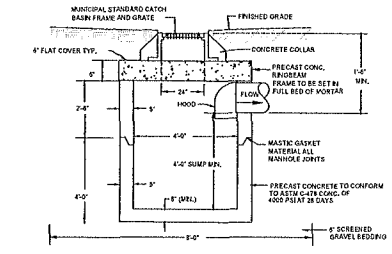
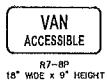
5 PARKING STALL STRIPING
NOT TO SCALE



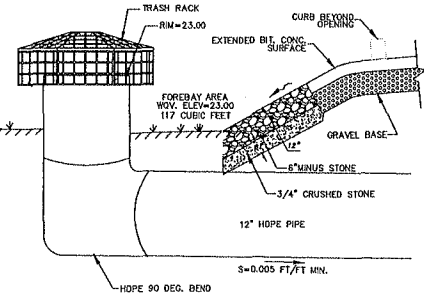
6 PAINTED HANDICAP SYMBOL
NOT TO SCALE



7 SIGNS
NOT TO SCALE



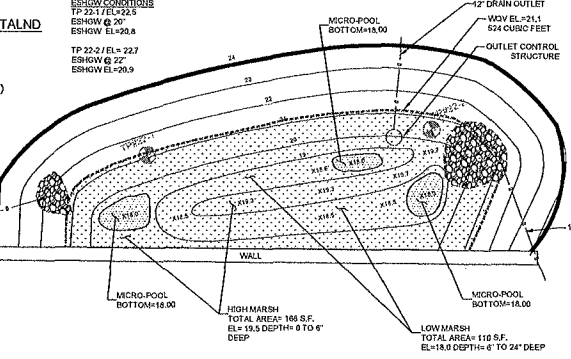
8 FLAT TOP CATCH BASIN FOR H-20 LOADING WITH HOODED OUTLET
NOT TO SCALE



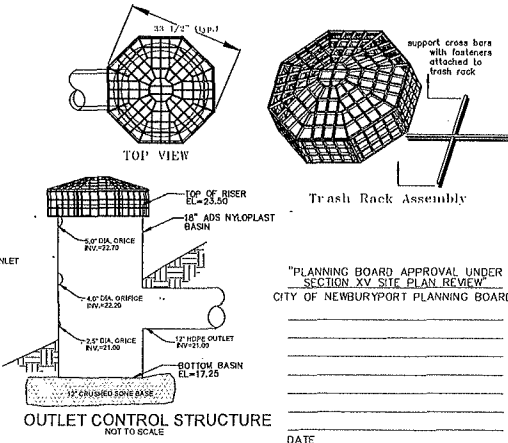
9 FOREBAY AND INLET/OUTLET DETAIL
NOT TO SCALE

PLANTING LIST FOR CONSTRUCTED POCKET WETLAND

- LOW MARSH PLANTINGS:
 BUTTONBUSH (CEPHALANTHUS OCCIDENTALIS) SIX TO EIGHT FOOT CENTERS
 ALDER (ALNUS SERRULATA OR REGOSA) TEN FOOT CENTERS
 QUICK POTATO (SAGITARIA LATIFOLIA) ONE FOOT CENTERS
- HIGH MARSH PLANTINGS:
 PUSSY WILLOW (SALIX DISCOLOR) TEN FOOT CENTERS
 BLACK WILLOW (SALIX NIGRA) EIGHT FOOT CENTERS
- SEED MIX:
 TUSSOCK SEDGE (CAREX STRICTA)
 FOX SEDGE (CAREX VULPINOSA)
 LURID SEDGE (CAREX LURIDA)
 SOFT RUSH (ALCIS EFFUSUS)
 FROVED SEDGE (CAREX GRINKE)
 SWEETFLAG (ACORUS AMERICANUS)
 JOE PYE WEED (EUPATORIUM MACULATUM)
 BOWSET (EUPATORIUM PERFLATUM)
 GREEN BURRUSH (SCIRPUS ATROVIRENS)
 WOODGRASS (SORGHUM OLYMPIENSIS)
 BLUE VERVAIN (VERBENA HASTATE)



10 CONSTRUCTED POCKET WETLAND
NOT TO SCALE



OUTLET CONTROL STRUCTURE
NOT TO SCALE



OWNER
 CHART HOUSE
 DEVELOPMENT, LLC
 234 MIDDLE ST
 WEST NEWBURY, MA 01985

PROJECT TEAM

21 HALE STREET
 (21 MALCOLM HOYT DRIVE)
 2-STORY BUILDING & PARKING
 NEWBURYPORT, MA
 PROJECT #49

REV	DESCRIPTION	DATE
1.	CITY & PEER REVIEW	2/10/23
2.	PK & PEER REVIEW	2/16/23
3.	TECH. REVIEW	2/14/23
1.	SPR SUBMISSION	10/19/22



STEP:

CIVIL
 DETAILS

"PLANNING BOARD APPROVAL UNDER SECTION XV, SITE PLAN REVIEW"
 CITY OF NEWBURYPORT PLANNING BOARD

SHEET NAME:
C502
 SNT NO:
 DR BY: GS
 CHK BY: SS
 PROJ NO: 40874
 DATE: 07/28/22
 SCALE: NOT TO SCALE

project:

21 HALE STREET

Newburyport, MA

architect:

GRAF
ARCHITECTS

2 Liberty Street
Newburyport, MA
01950
T. 978 499 9442

www.grafarch.com

PROPOSED
Exterior Elevations

SCALE: 1/8" = 1'-0"

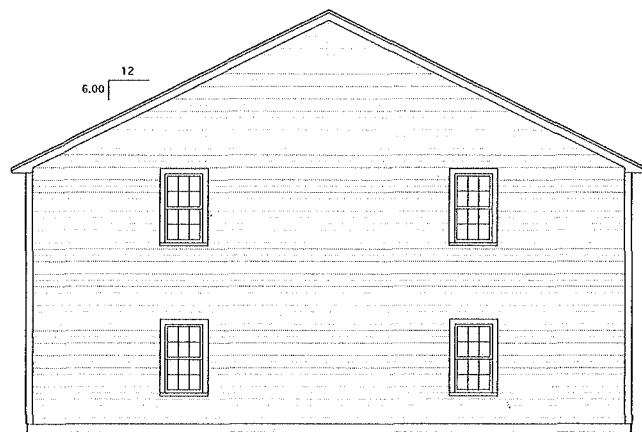
6 sept 2022

A01

PROJECT: 21 HALE STREET | 1110_122.MXD



① Exterior Elevation - REAR
SCALE: 1/8" = 1'-0"



② Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"

project:

21 HALE STREET

Newburyport, MA

architect:

**GRAF
ARCHITECTS**

2 Liberty Street
Newburyport, MA
01950
T. 978 499 9442

www.grafarch.com

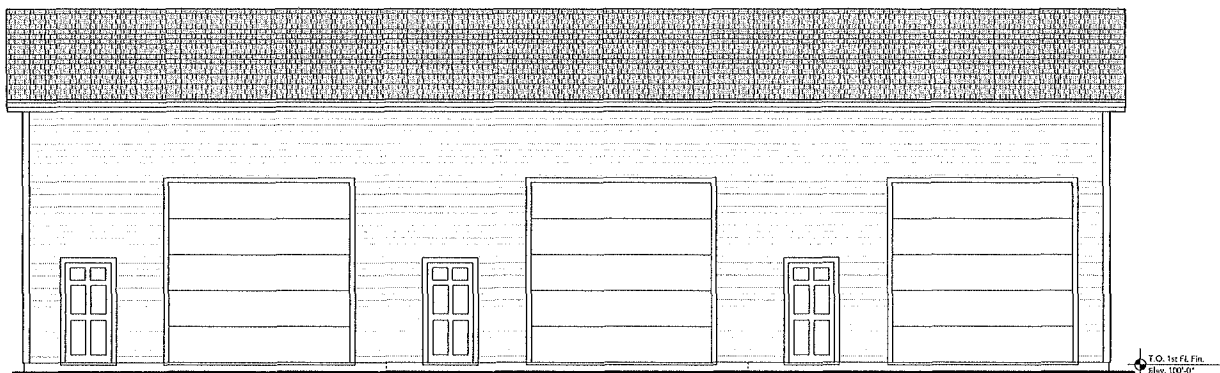
PROPOSED
Exterior Elevations

SCALE: 1/8" = 1'-0"

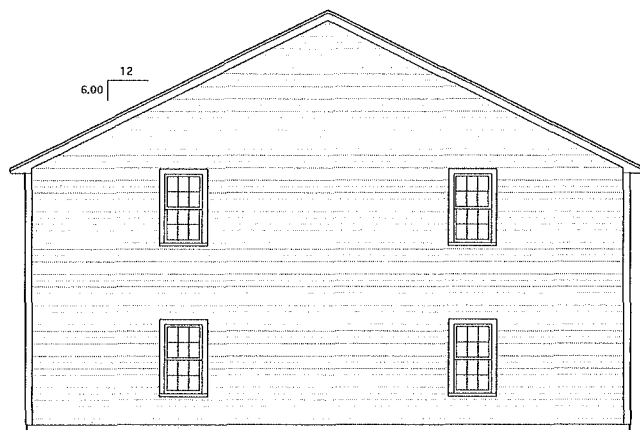
8 sept 2022

A02

MA 0251201100000 1 1/2022 6:01 AM



① Exterior Elevation - REAR
SCALE: 1/8" = 1'-0"



② Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"

EXHIBIT E



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 051-1067
 MassDEP File #
 eDEP Transaction #
 Newburyport
 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Essex
 a. County 34937 b. Certificate Number (if registered land) _____
 c. Book 566 d. Page _____

7. Dates: 7/29/2022 4/18/2023 5/3/2023
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Plan of Land in Newburyport, MA, Surveyed for Hale Business Park Realty Trust, sheets C101 to C103
 GM2, Inc. Stephen B. Sawyer
 b. Prepared By c. Signed and Stamped by
7/28/2022, 3/30/2023 e. Scale _____
 d. Final Revision Date

f. Additional Plan or Document Title _____ g. Date _____

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

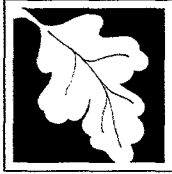
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
- d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
- g. Groundwater Supply h. Storm Damage Prevention i. Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 25
 a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



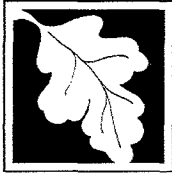
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 051-1067
 MassDEP File # _____
 eDEP Transaction # _____
 Newburyport
 City/Town

B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____ cu. yd	_____ cu. yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu. yd	_____ cu. yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	_____	_____		
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	_____	_____		
	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	_____	_____	_____	_____
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	_____	_____	_____	_____
	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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 Newburyport
 City/Town

B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. <input type="checkbox"/> vv Restoration/Enhancement *:	0	0
	a. square feet of BVW	b. square feet of salt marsh
24. <input type="checkbox"/> Stream Crossing(s):	0	0
	a. number of new stream crossings	b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 5/3/2026 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
051-1067
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eDEP Transaction #
Newburyport
City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 051-1067 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
 - (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
 - i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
 - ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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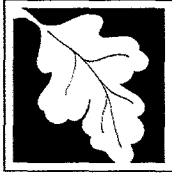
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission (“Commission”) upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See Attached

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes
2. The Newburyport Conservation Commission hereby finds (check one that applies):
Conservation Commission
 - a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:
1. Municipal Ordinance or Bylaw 2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:
1. Municipal Ordinance or Bylaw 2. Citation
3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



CITY OF NEWBURYPORT
CONSERVATION COMMISSION
60 PLEASANT STREET
NEWBURYPORT, MA 01950
978-465-4400

Order of Conditions for 21 Malcolm Hoyt Road

Electronic Signature Page

Standard and Special Conditions for 21 Malcolm Hoyt Road

DEP File Number: 051-1067

Date: April 18, 2023

Applicant: Craig Pessina, Hale Business Park Realty Trust

Property Owner: Same

Project Location: 21 Malcolm Hoyt Road **Map:** 84 **Lot:** 1E

Project Description: Construction of a new two-story commercial building with a footprint of 2,880 square feet, driveway, 17-space parking area, and associated stormwater management systems. 5.425 acres of the site is to be donated to the City of Newburyport as open space.

E-Signatures:

The name(s) typed below represent the intent to sign the foregoing document:

Stephen Moore, Vice Chair

Charles Aloviseti, Member

Dan Warchol, Member

David Vine, Member

Date Signed: April 18, 2023

*Vote to adopt MGL c.110G and use electronic signatures recorded at:
S. Essex Dist. Reg. Deeds Book 40811, Page 353*



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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

5/3/2023
 1. Date of Issuance

Please indicate the number of members who will sign this form.

4

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signature _____	Printed Name _____
Signature _____	Printed Name _____
Signature _____	Printed Name _____
Signature _____	Printed Name _____
Signature _____	Printed Name _____
Signature _____	Printed Name _____
Signature _____	Printed Name _____
Signature _____	Printed Name _____

by hand delivery on

by certified mail, return receipt requested, on

 Date

5/3/2023
 Date



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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Provided by MassDEP:
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F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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Provided by MassDEP:
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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Newburyport
 Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

 Conservation Commission

Please be advised that the Order of Conditions for the Project at:

_____ Project Location _____ MassDEP File Number

Has been recorded at the Registry of Deeds of:

_____ County _____ Book _____ Page

for: _____
 Property Owner

and has been noted in the chain of title of the affected property in:

_____ Book _____ Page

In accordance with the Order of Conditions issued on:

 Date

If recorded land, the instrument number identifying this transaction is:

 Instrument Number

If registered land, the document number identifying this transaction is:

 Document Number

 Signature of Applicant



CITY OF NEWBURYPORT
CONSERVATION COMMISSION
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400
WWW.CITYOFNEWBURYPORT.COM

Standard and Special Conditions for 21 Malcolm Hoyt Road

DEP File Number: 051-1067

Date: May 3, 2023

Applicant: Craig Pessina, Hale Business Park Realty Trust

Property Owner: Same

Project Location: 21 Malcolm Hoyt Road **Map:** 84 **Lot:** 1E

Project Description: Construction of a new two-story commercial building with a footprint of 2,880 square feet, driveway, 17-space parking area, and associated stormwater management systems. 5.425 acres of the site is to be donated to the City of Newburyport as open space.

These conditions are in addition to and part of the Order of Conditions (WPA Form 5) for the property located at 21 Malcolm Hoyt Road, Newburyport, MA 01950.

This project shall conform to the following documents and plans unless otherwise specified:

1. WPA Form 3 Notice of Intent, Project Narrative and Supporting Documentation, prepared by Hughes Environmental Consulting, dated July 29, 2022.
2. 21 Malcolm Hoyt Drive, 2-Story Building and Parking, Newburyport, MA, Sheets C101-C103, prepared by Design Consultants Inc., signed by Stephen Sawyer, dated 07/28/2022. Revised 3/30/2023.

A. General Conditions

19. The Conservation Commission shall be informed of all changes that may be made to the Plan(s) of Record by any other Board, Commission or Authority or as a result of changes by the Applicant. All changes shall require additional approvals from the Conservation Commission.
20. A member of the Newburyport Conservation Commission (the Commission) or its administrator may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the limited purpose of evaluating compliance with this Order.
21. With respect to all conditions the Conservation Commission designates the Conservation Administrator as its agent with full powers to act on its behalf in administering and enforcing this Order.
22. The term "Applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of

Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the Certificate of Compliance.

23. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this Order, and that are created or modified after the issuance date of this Order, along with a statement that this Order shall supersede any conflicting contractual arrangements, plans or specifications.
24. The applicant shall provide a copy of this Order to the person or persons supervising the activity that is the subject of this Order, and shall be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this Order.
25. Any person performing work on the activity that is the subject of this Order is individually responsible for understanding and complying with the requirements of this Order, the Act, 310 CMR 10.00.
26. The Commission reserves the right to impose additional conditions on this project, including but not limited to, additional or modified erosion/siltation controls during construction, if it deems that site conditions warrant such measures to mitigate potential impacts.
27. If any changes are made in the above-described plan(s) which, in the Commission's opinion, may alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00 or the Newburyport Wetlands Ordinance, the applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed. Approval of changes must be granted by the Conservation Commission before such work may continue.
28. This Order authorizes only the activity described on the approved plan(s) and approved documents referenced in this Order. Any other or additional activity in areas within the jurisdiction of the Commission shall require separate review and approval by the Commission or its agent.
29. The limits of work in the field shall be clearly marked and all workers shall be instructed not to work beyond the specified limits. Resource area flags shall be maintained and replaced as necessary until a final Certificate of Compliance is issued for the project.

B. Pre-Construction

30. Prior to the commencement of any activity on this site, the applicant or owner shall complete and submit the attached "Permit Compliance Contact Form," providing the name(s), address(es), phone number(s) and email address(es) of a contact person or persons responsible for compliance with this Order. Should the responsible parties change during the course of the project, the Commission shall be notified as soon as practical of such change.
31. The applicant shall display the Department of Environmental Protection (DEP) file number for this Order on a sign within the minimum dimensions of two feet by two feet at a location clearly visible from the street. This sign shall remain in place and visible until a Certificate of Compliance is issued for the activity.

32. The applicant shall arrange for a pre-construction meeting with the Conservation Commission or its designated representative(s) no less than 72 hours prior to the commencement of construction. Commencement of construction includes any site clearing or grading. The purpose of this meeting is to inspect the erosion controls and to review all conditions of this Order of Conditions with the applicant, contractor and sub-contractors as appropriate to ensure they are understood.
33. The Commission shall be notified at least 48 hours in advance of the commencement of work at the site.

C. During Construction

34. A copy of this Order of Conditions and approved Plan(s) of Record shall be on the site upon commencement and during any site work for contractors to view and adhere to.
35. Any material placed in wetland resource areas or outside the Limit of Work by the applicant without express authorization under this Order shall be removed as soon as possible by the applicant upon the request of the Conservation Commission or its administrator.
36. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones under cover and surrounded by a double-staked row of hay bales or other approved erosion control device to prevent contact with rain water.
37. As soon as possible, all disturbed areas shall be brought to final grade and shall be permanently stabilized within 30 days of that time by measures acceptable to the Commission.
38. The project manager shall be responsible for regular inspections of the erosion controls on at least a weekly basis and after each rain storm. Necessary repairs and maintenance of the erosion control devices shall be made expeditiously.
39. Any and all demo/construction debris resulting from the approved construction shall be placed in an enclosed covered container or removed from the site daily.
40. Trash dumpsters shall be located as far away from the resource areas as possible and shall be emptied at least once a week during construction.
41. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this Order.
42. No fuel, oil, urethanes, or other pollutants shall be stored in any resource area or the buffer zone.

D. Special Conditions

43. Prior to the initiation of work on the site, the applicant shall convey ownership of the rear lot, labeled Lot A4 and referenced on the Approval Not Required project plans dated July 27, 2022, to the City of Newburyport for conservation purposes.
44. Prior to the transfer of Lot A4 to the City, the applicant shall establish by mowing the proposed maintenance and monitoring pathway leading from Malcolm Hoyt Road to the

upland island within the site and such pathway shall include a bridge to provide access to the site by a mower of approximately four feet in width.

45. The applicant shall install permanent markers at the boundaries of the City property as well as the boundary of the 25-foot no-disturb zone and these markers shall be presented to the Commission on a monument plan for review and approval and shall be established in the field prior to the completion of work on the site.

E. Post Construction

46. After the completion of construction and prior to the expiration date of this Order of Conditions, the applicant shall submit the following to the Conservation Commission:
 - a. A completed Request for a Certificate of Compliance – WPA form 8A.
 - b. A letter from a registered professional engineer certifying compliance of the property with this Order of Conditions and detailing any deviations that exist and their potential effect on the project. A statement that the work is in “substantial compliance” with no detailing of the deviations shall not be accepted.
 - c. Photos of the completed project (including photos of first floor elevations for projects on Plum Island) and an “As-Built” plan showing post-construction conditions, stamped and signed by a professional engineer or land surveyor. This plan shall note any deviations from the original plans/profiles and shall include final lot elevations when grades have been changed.

F. Perpetual Conditions

47. As the project has impacted greater than 20% of the pre-existing buffer zone on the site, no additional expansion of the footprint or impact to the buffer zone shall be permitted in perpetuity.