

Town and County of Nantucket Select Board • County Commissioners

Jason Bridges, Chair
Matt Fee
Kristie L. Ferrantella
Dawn E. Hill Holdgate
Melissa Murphy



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C. Elizabeth Gibson
Town & County Manager

AGENDA FOR THE MEETING OF THE SELECT BOARD NOVEMBER 10, 2021 - 5:30 PM REMOTE PARTICIPATION VIA ZOOM WEBINAR NANTUCKET, MASSACHUSETTS

YOU TUBE LINK:

https://youtu.be/Spl_ziOq2Ug

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:

https://us06web.zoom.us/webinar/register/WN_33169SaaSOOJIouPyRGEbw

I. CALL TO ORDER

II. SELECT BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.
2. COVID Vaccine Clinic: 131 Pleasant Street Trailer, Sundays from 12:00 to 3:00 PM; Final 1st Dose Clinic November 28, Final 2nd Dose Clinic December 19. See <https://www.nantucket-ma.gov/2028/COVID-Vaccine> for Full Schedule.
3. Veterans' Day Observance Ceremony to be Held Thursday, November 11, 2021 at 10:30 AM at Federal Street War Memorial Adjacent to Town Building (in Case of Inclement Weather, Ceremony will Take Place at American Legion Hall, 21 Washington Street); Reception to follow American Legion Hall.
4. Town Offices Closed Thursday November 11, 2021 in Observance of Veterans' Day.
5. May 2, 2022 Annual Town Meeting:
- Warrant Open for Citizen Warrant Article Submittals through 4:00 PM on November 15, 2021.
6. Select Board Announcements/Comments.

IV. FOLLOW-UP ON COMMENTS FROM PRIOR SELECT BOARD MEETINGS

V. PUBLIC COMMENT*

VI. NEW BUSINESS*

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of November 1, 2021 at 4:30 PM; November 3, 2021 at 5:30 PM.
2. Approval of Treasury Warrants for November 10, 2021.
3. Approval of Pending Contracts for November 10, 2021 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

VIII. TOWN MANAGER'S REPORT

1. Traffic Safety Work Group Recommendations:
 - a) Curb Cut at 134 Main Street, Resulting in Elimination of One On-Street Parking Space and Creation of Two Off-Street Parking Spaces.
 - b) Designate No Parking on South Side of Starbuck Road from Baltimore Street to Approximately 47 Starbuck Road to Allow for Emergency Vehicles and Residents to Pass Through.

IX. SELECT BOARD'S REPORTS/COMMENT

1. Town Administration: Request for Select Board Direction Regarding Funding for Private Road Repaving in Connection with Water Main Extension Project/Surfside Area.
2. Continued Review/Potential Votes on Select Board-Sponsored 2022 Annual Town Meeting Warrant Articles.
3. Review of 2022 Select Board Meeting Schedule.
4. Committee Reports.

X. ADJOURNMENT

****Identified on Agenda Protocol Sheet***

SELECT BOARD AGENDA PROTOCOL:

Roberts Rules: The Select Board follows Roberts Rules of Order to govern its meetings as per the Town Code Charter.

Public Comment: Public Comment is to bring matters of public interest to the attention of the Board. The Board welcomes concise statements on matters that are within the purview of the Select Board. At the Board's discretion, matters raised under Public Comment may be directed to Town Administration or may be placed on a future agenda, allowing all viewpoints to be represented before the Board takes action, if any. Except in emergencies, the Board will not normally take any other action on Public Comment in its sole discretion.

To facilitate that any individual who wishes to provide Public Comment has the opportunity and to ensure the ability of the Board to conduct its business in an orderly fashion, the following rules and procedures are adopted consistent with state and federal free speech laws:

- The agenda for regular Select Board meetings will include a Public Comment period at the beginning of the meeting unless there is more urgent business for the Board to take up first. This time is reserved for speakers to address the Board on matters that are not related to any other Agenda item. If a speaker wishes to address the Board on a matter that is related to another Agenda item, the Chair will accept public comment when that Agenda item is reached during the meeting.
- All speakers are encouraged to present their remarks in a respectful manner.
- All remarks will be addressed through the Chair of the meeting.
- The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not constitutionally protected because it constitutes true threats, incitement to imminent lawless conduct, comments that were found by a court of law to be defamatory, and/or sexually explicit comments made to appeal to prurient interests. Verbal comments may also be curtailed if they exceed three (3) minutes and to the extent they exceed the scope of the Board's authority.

Disclaimer: Public Comment is not a time for debate or response to comments by the Board. Comments made during the Public Comment period do not reflect the views or positions of the Board. Because of constitutional free speech principles, the Board does not have authority to prevent all speech that may be upsetting and/or offensive made during the Public Comment period.

New Business: For topics not reasonably anticipated by the Chair 48 hours in advance of the meeting may be brought up for discussion in accordance with the Open Meeting Law.

Public Participation: The Board welcomes valuable input from the public at appropriate times during the meeting with recognition from the Chair at his/her sole discretion. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Board Members may have questions on the clarity of the information presented. The Board will hear any staff input and then deliberate on a course of action.

Select Board Report and Comment: Individual Board Members may have matters to bring to the attention of the Board during a meeting. If the matter contemplates action by the Board, Board Members will consult with the Chair and/or Town Manager in advance and provide any needed information by the Thursday before the meeting and/or schedule the matter for a future Board meeting. Otherwise, except in emergencies, the Board will not normally take action on Select Board Comment.

Approved on February 17, 2021

BYRON L. SYLVARO AMERICAN LEGION POST #82

To The Select Board:

The members of the Byron L. Sylvaro Post #82 of The American Legion would like to invite you, your families and all island residents and visitors to our annual Veterans' Day Observance. This year's ceremony will take place on Thursday, November 11 at 10:30 a.m. at the memorial plaque outside The Town Building on Federal Street. Please help us honor all veterans past and present for their service to our country in defending our homes and freedom.

A reception will follow at the American Legion Hall at 21 Washington Street.

We look forward to seeing you there,

Neville J. Richen,
Commander Post 82

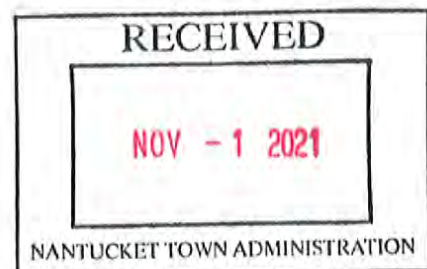


EXHIBIT 1
AGREEMENTS TO BE EXECUTED BY TOWN MANAGER
UNLESS RESOLUTION OF DISAPPROVAL BY SELECT BOARD
November 10, 2021

Type of Agreement/Description	Department	With	Amount	Other Information	Source of Funding	Term
Construction Agreement	Sewer	Robert B. Our Co., Inc.	\$23,268,672.50	Construction of Sea St. Pump Station Force Main No. 3	Article 16 2020 ATM	November 10, 2021 - November 9, 2024



MEMO

TO: Town Manager

FROM: Arthur Gasbarro, Chair
Traffic Safety Work Group

DATE: November 1, 2021

RE: Traffic Safety Recommendations Requiring Select Board Action

The Traffic Safety Work Group has recommended the following that requires Select Board approval:

- a) Curb Cut at 134 Main Street, Resulting in Elimination of One On-Street Parking Space and Creation of Two Off-Street Parking Spaces.
- b) Designate No Parking on South Side of Starbuck Road from Baltimore Street to Approximately 47 Starbuck Road to Allow for Emergency Vehicles and Residents to Pass Through.

Application for Curb Cut/Driveway Access Permit

Date: 2021.08.09Property Owner: Susan M Doughan Living Trust

Tel.: _____

Address: 134 Main StreetOn-Island Agent: Gryphon Architects Inc.Tel.: 502 228 2820Address: PO Box 325 Nantucket MA 02554Location of Proposed Work: 134 Main Street Map & Parcel: 41/37.1Proposed Improvements: New Driveway - 9x20 + 7x17 spots

Plot plan showing proposed improvements must be attached. Site must be marked prior to inspection. No permit will be issued unless complete plans showing driveway location and drainage control are attached.

If curb cut will eliminate a legal parking space, approval from the Board of Selectman is required.

Parking Space Eliminated: 1 B.O.S. Approved: _____

All proposed work must comply with Chapter 139 (Zoning Bylaw), Section 139-20.1, Curb Cut and Driveway Access, of the Code of the Town of Nantucket.

Drainage improvements associated with the installation of the driveway on the subject property are the sole responsibility of the property owner.

This permit will be subject to the following conditions. All conditions must be met before certificate of occupancy is issued.

1. Any required pipe and/or appurtenances shall be installed at the owner's expense.
2. Stormwater run-off shall be prevented from discharging onto the public right-of-way.
3. Where applicable, an apron shall be installed by the property owner as per Ch. 139-20.1 B(2)(d).
4. Any granite or stone curbing removed shall be returned to the Department of Public Works garage.
5. Additional Conditions *if any*): _____

Applicant Signature:  _____

Approved by DPW: _____

Issue
Date: _____Expiration
Date: _____



ONSHINE

134

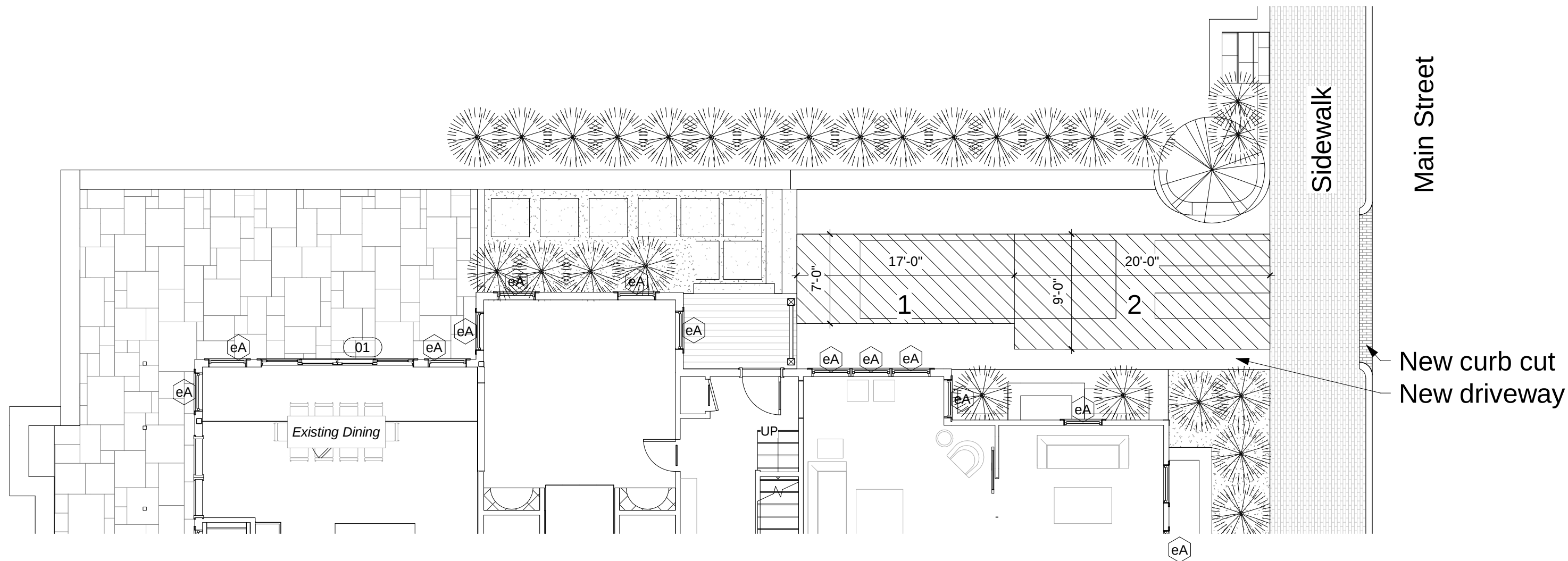
134

An architectural line drawing of a three-story townhouse. The house features a gabled roof with a small dormer window. The front facade has a central entrance with a small porch and steps, flanked by windows. A balcony with a railing is located on the second floor. The house is surrounded by landscaping, including shrubs and a small tree. A paved area with a patterned rug is visible in the foreground.

An architectural elevation drawing of a three-story house. The central portion of the house is finished with light-colored horizontal siding and features a central entrance with a small porch and steps. There are four windows on the second floor and two on the first floor, all with dark frames. To the left and right of this central section are wings with dark, shingled roofs. The rooftop deck, accessible via a set of stairs, has a wooden railing and is positioned over the central part of the house. The drawing includes stylized landscaping like bushes and trees, and a brick foundation is visible at the base of the structure.

The architectural drawing shows a three-story house with a gabled roof and a small dormer. The main body of the house is clad in white horizontal siding, while the roof and dormer are covered in grey shingles. The first floor features a central entrance with a white door and a small stoop, flanked by two windows. The second floor has four windows, and the third floor has two. A small balcony with a white railing is located on the roof. To the right, a smaller section of the house is visible, also with a gabled roof and shingles. The drawing includes landscaping elements like bushes and a brick walkway. An inset photograph in the top right corner shows the actual house, which is a yellow-painted version of the drawing, with a red brick base and a white door. The house is situated on a street with a brick sidewalk and a utility pole in the foreground.

HDC3.3



1 Floor 1 - Parking Layout
1/8" = 1'-0"

Doughan
Residence

SK

No.	Description	Date
25	Parking	2021.06.28

This drawing represents a design intent and concept only. This document and all associated documents are prepared for a specific site and event, and incorporate calculations and measurements available from the client at the time of drafting. The recipient agrees to protect the contents from distribution and dissemination except as required for the specific event named, without the written permission of the designer. The contents of this document are not to be reproduced or copied in whole or part without the written permission of Gryphon Architects Inc. Use of this design is granted to the client for the specified and named event only. Copyright © 2021-07-12 5:44:39 PM

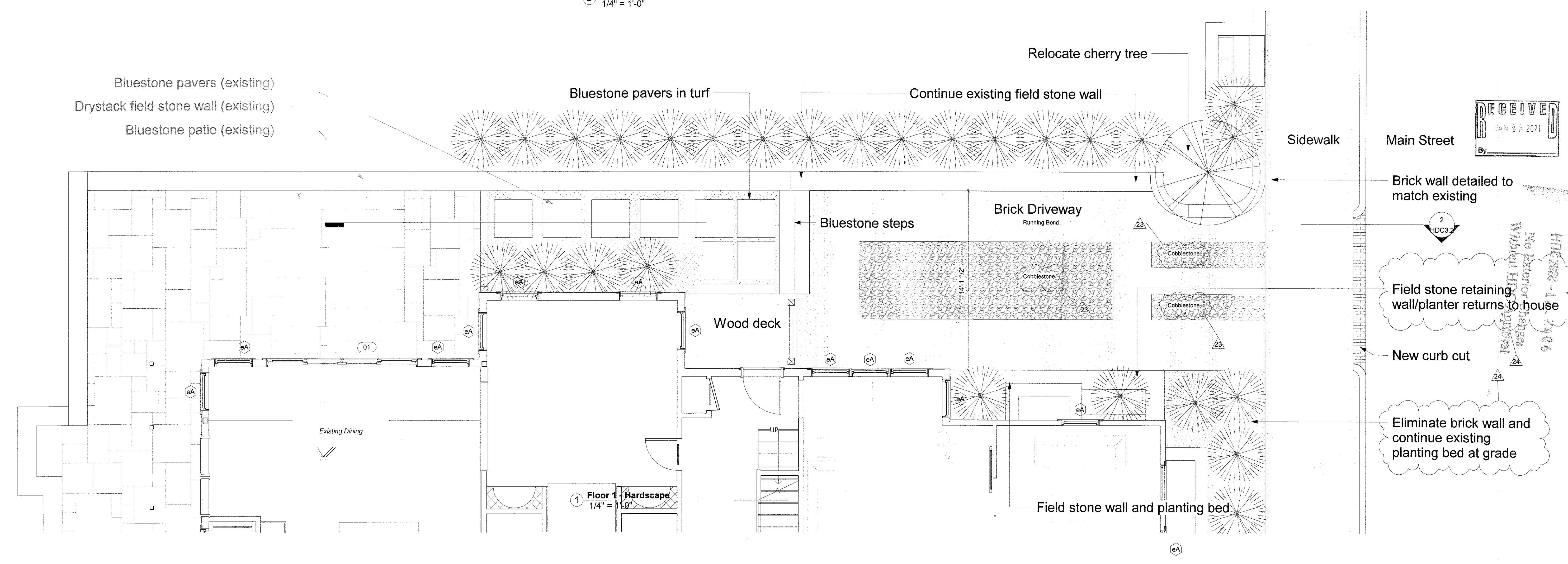
po box 325 nantucket ma 02554
508 228 2820 gryphonarchitects.com



NOT FOR CONSTRUCTION



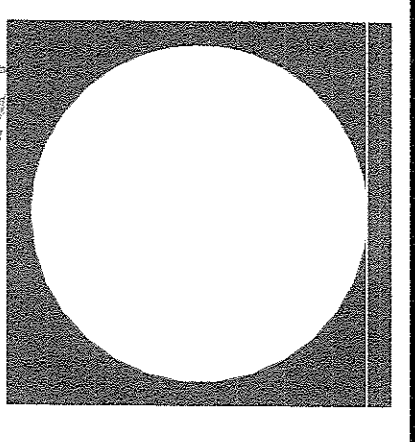
2 Section - Parking
1/4" = 1'-0"



1 Floor 1 - Hardscape
1/4" = 1'-0"

Doughan Residence
Main House
134 Main St Nantucket MA
417 377

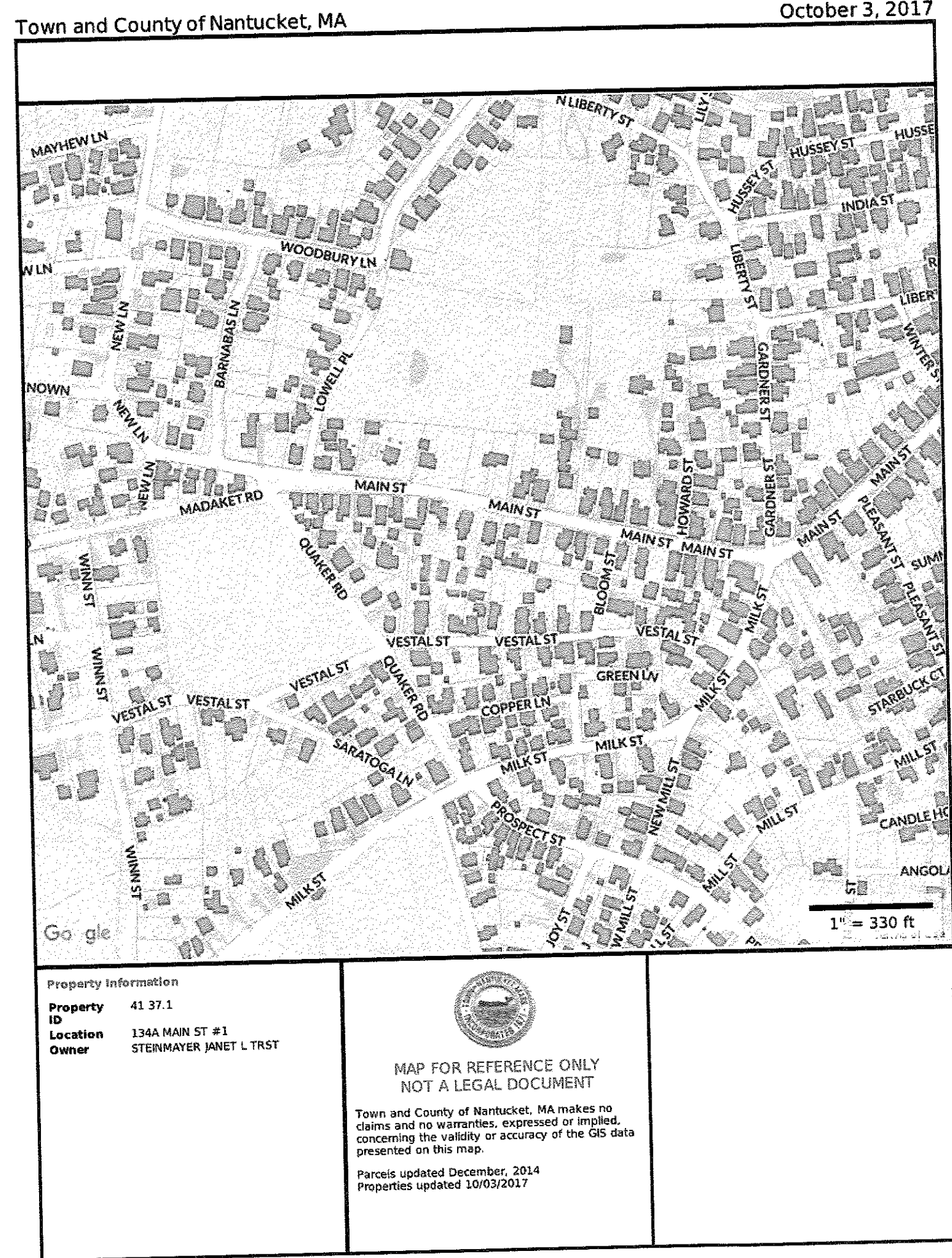
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#	Description	Date
22	HDC Submission	2020.11.04
23	HDC Revision	2021.01.13
24	HDC Staff	2021.01.28

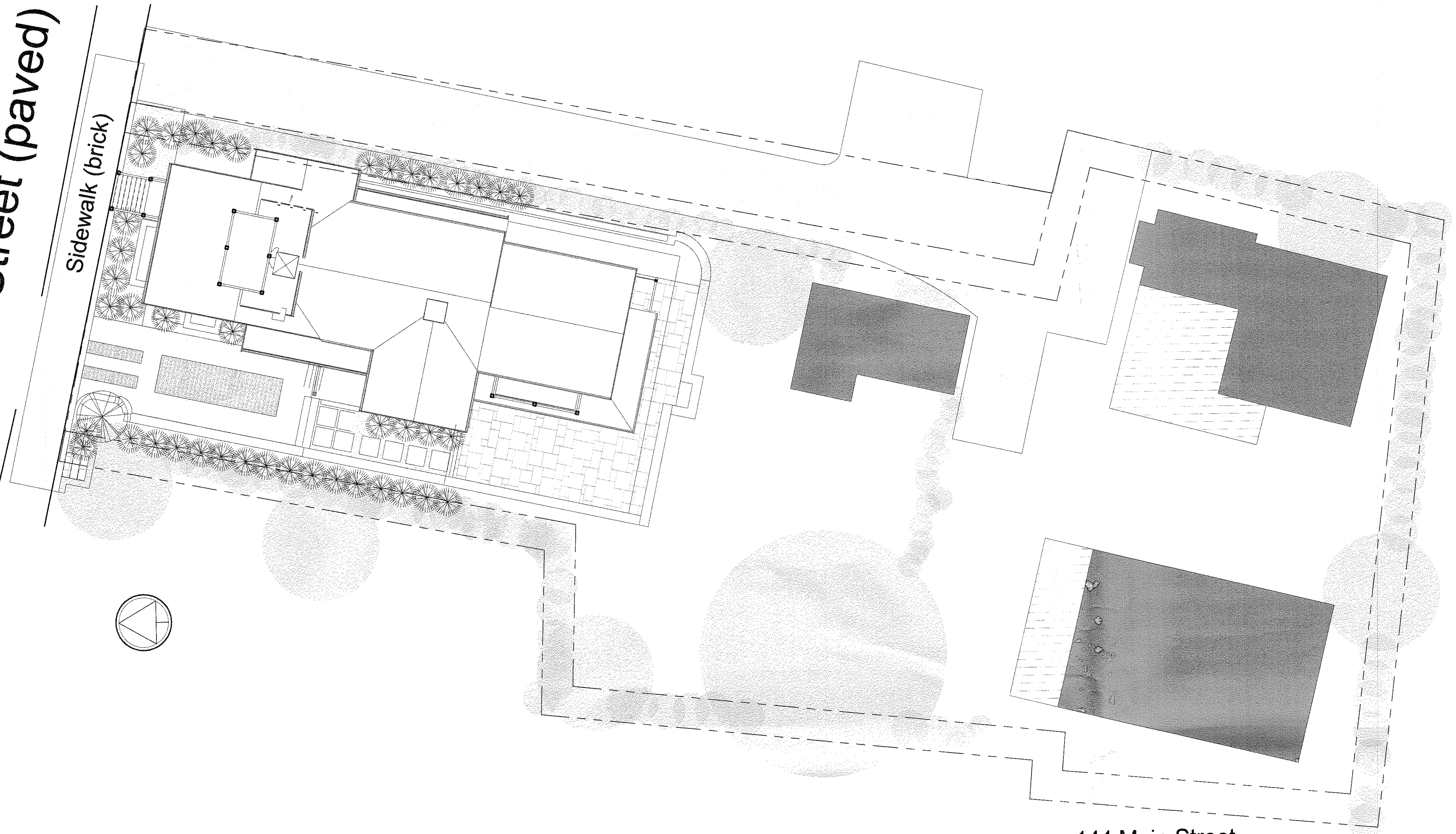
HDC3.2

NOT FOR CONSTRUCTION



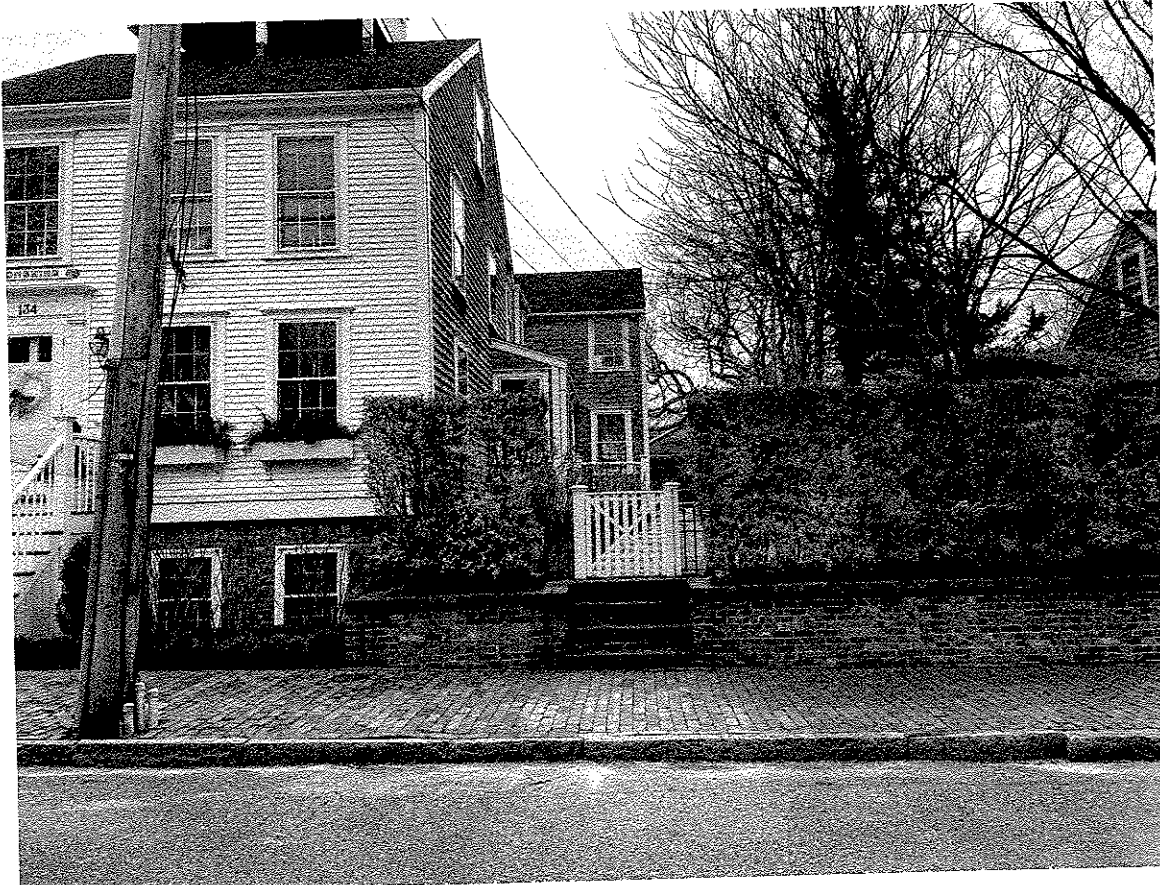
Main Street (paved)

Sidewalk (brick)



1 Site - Curb Cut Plan
3/32" = 1'-0"

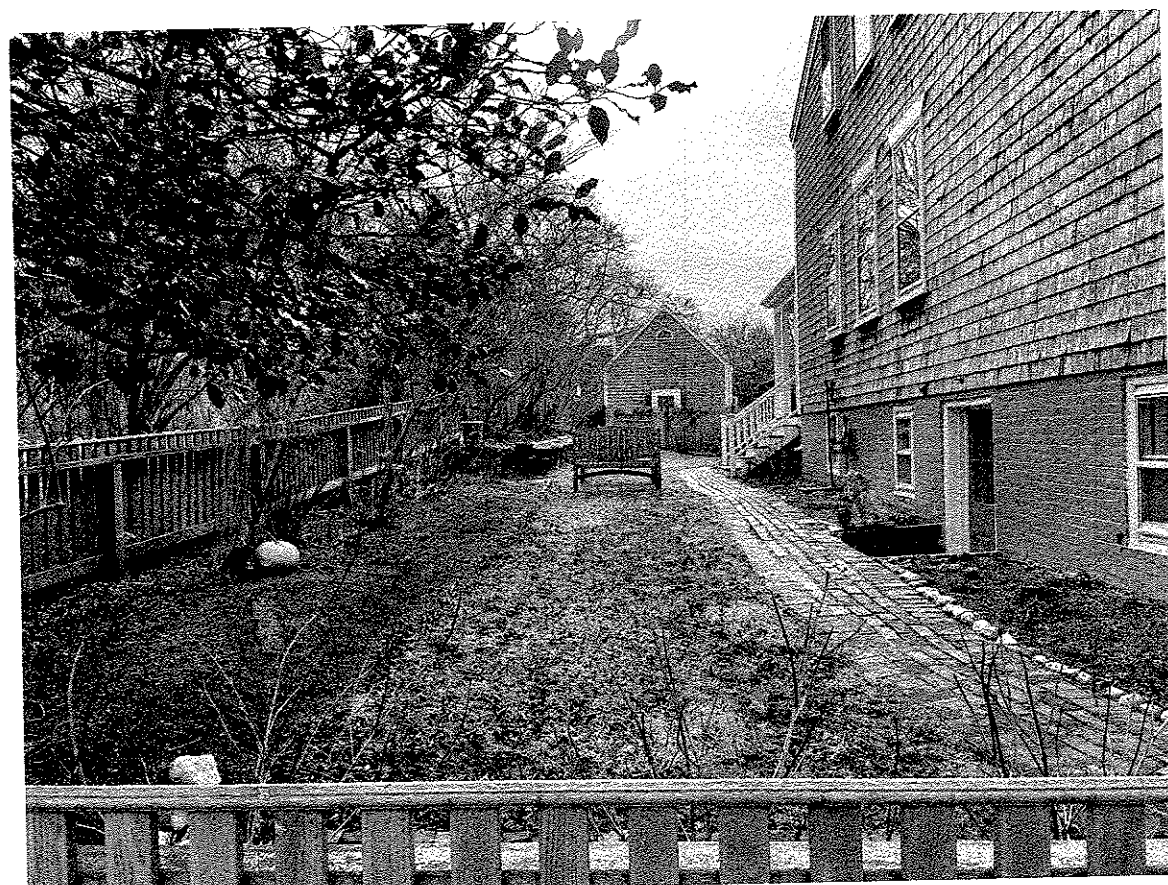
134 Main Street



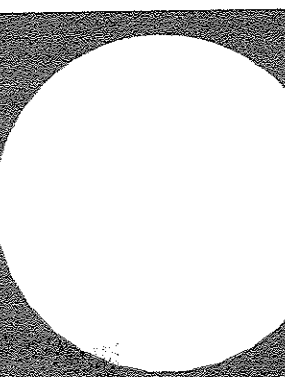
144 Main Street



124 Main Street



132 Main Street



#	Description	Date
2	HDC Sub	2018.0
3	HDC Submission	2020.1
4	HDC Revisions	2021.0
5	HDC Staff	2021.0

HDCL

**Property Information**

Property ID 60 27
Location 30 STARBUCK RD
Owner MADAKET CONSERVATION LAND TRUS

**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

Town and County of Nantucket, MA makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 07/29/2021
Data updated Jan. 2021

Print map scale is approximate.
Critical layout or measurement activities should not be done using this resource.



Agenda Item Summary

Agenda Item #	IX. 1.
Date	11/10/2021

Staff

Town Manager, Airport Manager

Subject

Airport PFAS Water Main Curb-to-Curb Paving “Gap” Funding

Executive Summary

Town Administration seeks Board direction on funding the “gap” between the cost to only patch over the Airport’s PFAS-related water line trenching effort versus the cost to pave curb-to-curb.

Staff Recommendation

Fund the difference between the patching and full curb-to-curb paving.

Background/Discussion

The Nantucket Memorial Airport is currently under a MassDEP Municipal Contingency Plan (MCP) to mitigate proven PFAS run-off from AFFF release. As a result, the Airport is extending Town water to the affected areas. Due to FAA restrictions the project can only fund the patching of roadway for a trenching project and not provide curb-to-curb. Town Administration believes the road should be brought back to proper condition based on previous experience with patching. There is precedent for curb-to-curb paving on private roads for similar projects using taxpayer money, with the NHS Sewer Project.

- \$121,895: The cost to patch only.
- \$710,000: The cost to completely repave with survey, grading, milling, drainage engineering, etc. (rounded up).
- **\$588,105: The difference, or “gap” between patching and curb-to-curb paving.**

The Town does not have an existing appropriation nor does the Town have borrowing authorization that fits this purpose. The Town could, with Board approval, pay from an existing appropriation and transfer the funds with a confirmatory vote at the 2022 ATM (Per the Director of Municipal Finance).



Impact: Environmental ☐ Fiscal ☐ Community ☒ Other ☒

Other = long term deterioration of the road if not properly repaved.

Board/Commission Recommendation

N/A

Public Outreach

N/A

Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)

N/A

Attachments

Trench Only Paving Estimate; Full Road Repaving Estimate



MADEQUECHAM VALLEY ROAD WATERLINE
NANTUCKET, MA
PROJECT MJ-EN-01



ORIGINAL PROJECT - SKYLINE ROAD PATCH ONLY
September 30, 2021

McFarland-Johnson, Inc.
Concord, NH

Item No	Description	Unit of Measure	Unit Price	Total Quantity	Total Price
415.3	PAVEMENT MICRO MILLING	SY	\$ 37.00	760	\$ 28,120.00
450.22	SUPERPAVE SURFACE COURSE - 9.5 (SSC - 9.5)	TON	\$ 363.00	70	\$ 25,410.00
450.31	SUPERPAVE INTERMEDIATE COURSE - 12.5 (SIC -12.5)	TON	\$ 363.00	115	\$ 41,745.00
452.	ASPHALT EMULSION FOR TACK COAT	GAL	\$ 66.00	70	\$ 4,620.00
453.	HMA JOINT SEALANT	FT	\$ 8.80	2500	\$ 22,000.00
				TOTAL	\$ 121,895.00

**MADEQUECHAM VALLEY ROAD WATERLINE
NANTUCKET, MA
PROJECT MJ-EN-01**



**ADDITIONAL WORK - SKYLINE DRIVE FULL ROAD PAVING
September 30, 2021**

**McFarland-Johnson, Inc.
Concord, NH**

Item No	Description	Unit of Measure	Unit Price	Total Quantity	Total Price
170.	FINE GRADING AND COMPACTING - SUBGRADE AREA	SY	\$ 3.00	6,050.00	\$ 18,150.00
220.	DRAINAGE STRUCTURE ADJUSTMENT	EA	\$ 500.00	5.00	\$ 2,500.00
415.3	PAVEMENT MICRO MILLING	SY	\$ 15.00	6,050.00	\$ 90,750.00
443.	WATER FOR ROADWAY DUST CONTROL	MGL	\$ 100.00	5.00	\$ 500.00
450.22	SUPERPAVE SURFACE COURSE - 9.5 (SSC - 9.5)	TON	\$ 250.00	510.00	\$ 127,500.00
450.31	SUPERPAVE INTERMEDIATE COURSE - 12.5 (SIC -12.5)	TON	\$ 250.00	850.00	\$ 212,500.00
452.	ASPHALT EMULSION FOR TACK COAT	GAL	\$ 66.00	470.00	\$ 31,020.00
453.	HMA JOINT SEALANT	FT	\$ 9.00	5,000.00	\$ 45,000.00
748.	MOBILIZATION	LS	\$ 10,000.00	1.00	\$ 10,000.00
767.121	SEDIMENT CONTROL BARRIER	FT	\$ 10.00	5,000.00	\$ 50,000.00
TOTAL					\$ 587,920.00
10% CONTINGENCY					\$ 58,792.00
TOTAL CONSTRUCTION					\$ 646,712.00
	ENGINEERING AND SURVEY				\$ 60,000.00
SUB TOTAL PROJECT					\$ 706,712.00
ROUNDING					\$ 3,288.00
TOTAL PROJECT					\$ 710,000.00

Preliminary Outline #2 for 2022 Annual Town Meeting Warrant

For 11/10/21 SB review

As of 11/04/21

NOTE: Numbering & Order is NOT FINAL

Annual Articles

1. Receipt of Reports
2. Appropriation: Unpaid Bills
3. Appropriation: Prior Year Articles
4. Revolving Accounts: Annual Authorization
5. Appropriation: Reserve Fund
6. FY 2022 General Fund Budget Transfers
7. Personnel Compensation Plans for FY 2023
8. Appropriation: FY 2023 General Fund Operating Budget
9. Appropriation: Health & Human Services
10. Appropriation: General Fund Capital Expenditures
11. Appropriation: FY 2023 Enterprise Funds Operations
12. Appropriation: Enterprise Funds Capital Expenditures
13. FY 2022 Enterprise Funds Budget Transfers
14. Appropriation: Waterways Improvement Fund
15. Appropriation: Ferry Embarkation Fee
16. Appropriation: Ambulance Reserve Fund
17. Appropriation: County Assessment
18. Appropriation: Finalizing FY 2023 County Budget
19. Rescind Unused Borrowing Authority (*if needed*)
20. Appropriation: OPEB Trust Fund
21. Appropriation: Free Cash
22. Appropriation: Stabilization Fund

Other Select Board Sponsored Articles

NOTE: most of these were reviewed/discussed by SB and/or Town Administration since the 2021 ATM

ZONING* BYLAW & GENERAL BYLAW AMENDMENTS

* Board discussion occurred in January 2018 regarding a request/directive that all zoning articles must be accompanied by a narrative explanation as to why the item is being put forward, along with any operational or financial impacts

Zoning Bylaws

See attached from Planning

General Bylaws

- Paid parking? (see vote on Article 66 of 2020 ATM – attached)
- Rescind/amend Chapter 46-4 of the Town Code re: Town office location will be done through appropriation for design funds for new centralized municipal facility at 2 FG
- Minor change to title of Article II of Chapter 127 (from “Obstructions on Sidewalks” to “Obstructions on Sidewalks, Streets, Bicycles Paths or Ways”)

- Amendment to Chapter 55 (Animals – Leash Law) of the Town Code, to allow for an exemption for established “dog parks”
- Government Study Committee “clean up” items
- Reconcile bylaw numbering references to membership of Agricultural Commission
- **Short-term rental regulations?**

HOME RULE PETITIONS

Resubmittal of Pending HRP's from prior ATMs (these have not been acted upon by the Legislature as of now; some have been through more than one ATM)

- Community Housing Bank (Article 79/2019 ATM)
- Real estate transactions with Land Bank: Mill Hill Park, Nobadeer Playing Fields (Article 92/2021 ATM)
- Airport Capital (Article 94/2021 ATM)
- Charter Change for Audit Comm (Article 93/2021 ATM)
- Issuance of Pension Bonds (Article 95/2021 ATM)

New

- potential transfer(s) in connection with Sheep Pond Road relocation
- **sewer connection fee waiver/reductions based on residential exemption/other specified status (discussed at 11/3/21 SB meeting with agreement that Town Counsel prepare this)**

MGL ACCEPTANCES

- **Municipal Water Infrastructure Investment Fund (needs research, and would also require a ballot vote) – do we want to pursue this?**
- Possible Special Stabilization Fund establishment for allocation of marijuana dispensary fee revenue (need to review with Town Counsel & Finance Director)
- **Community Impact Fee on Short-term Rentals (Town Counsel info attached)**
- Tax Work-off Abatement Program – potential adoption of additional local acceptance statute(s) for senior citizens and veterans (need to review)

REAL ESTATE RELATED

- TBD in connection with HRP's with Land Bank (see above)
- Authorization for grant(s) of utility easement(s) for Airport at Bunker Rd location(s)
- Authorization for grant of utility easement for Shadbush Rd (Marine Maintenance building)
- Long-term lease authorization for shooting range
- Conservation Restriction for property for shooting range
- **Potential purchases – pending SB final review:**
\$4,750,000*

BALLOT QUESTIONS

- possible debt exclusion(s) and/or capital exclusion(s) for capital projects; real estate*
- charter change re: mailing of town meeting warrant (Article 96/2021 ATM)

ANYTHING ELSE?

CITIZEN ARTICLES

Submittal deadline Mon, November 15

DRAFT

ARTICLE 66

(Town Meeting Vote Required to Implement On-street Paid Parking)

To see if the town will vote to require a vote of town meeting prior to the implementation by the Town of Nantucket of paid on-street parking.

(Christopher Glowacki, et al)

FINANCE COMMITTEE MOTION: Moved that the Select Board be requested to seek the prior approval of Town Meeting before implementing paid on-street parking.

SELECT BOARD COMMENT: The Board does not support the Finance Committee Motion. One of the Board's Strategic Plan Goals is: "Launch a downtown parking management system based on demand management principles that achieves (or is measured by) 85% occupancy of public parking spaces". Paid parking is a tool that could be critical to the success of this Goal - which is meant to increase parking turnover so that people are more easily able to find parking in Town and make year-round access to the downtown a pleasant experience; and, to limit reliance on single-occupancy vehicles. The Board believes flexibility is needed to be able to implement paid parking, if needed.

approved at 2020 ATM

[HISTORY: Adopted by the 1863 Town Meeting of the Town of Nantucket, approved 9-7-1863. Amendments noted where applicable.]

§ 46-1 Seal and subscription.

[Amended 6-25-2020 ATM by Art. 70, approved 10-27-2020]

All conveyances under seal which may hereafter be executed on behalf of the Town, or otherwise, shall be sealed with the Town's Common Seal and subscribed by a majority of the Select Board for the time being.

§ 46-2 Short-term leases by Select Board.

[Added 11-13-1990 STM by Art. 58, approved 3-19-1991; amended 6-25-2020 ATM by Art. 70, approved 10-27-2020]

The Select Board may enter into short-term leases of Town-owned property (not to exceed five years), including vacant or improved land or portions thereof, on terms and conditions it deems reasonable, without the further necessity of Town Meeting approval.^[1]

[1] *Editor's Note: All procurement procedures will be governed under the stipulations of the Uniform Procurement Act, which is Chapter 30B of the Massachusetts General Laws.*

§ 46-3 Short-term leases by Park and Recreation Commission.

[Added 11-13-1990 STM by Art. 58, approved 3-19-1991]

The Park and Recreation Commission may enter into short-term leases, not to exceed five years, of property under its jurisdiction, control and management, including vacant or improved land, or portions thereof, on terms and conditions they deem reasonable, without the further necessity of Town Meeting approval.^[1]

[1] *Editor's Note: All procurement procedures will be governed under the stipulations of the Uniform Procurement Act, which is Chapter 30B of the Massachusetts General Laws.*

§ 46-4 Acquisition of land for Town offices.

[Added 4-14-1997 ATM by Art. 77, approved 8-5-1997]

All acquisitions by the Town of Nantucket, whether by purchase or by lease, of vacant or improved land outside the downtown core district, the acquisition of which is for the construction and/or renovation for use as Town offices, shall require a vote of the Town Meeting; no offices presently within the downtown core district shall be relocated to any site outside the downtown core district without a vote of the Town Meeting.

§ 46-5 Limitation on transfer or use of real property interests owned by Town.

[Added 10-10-2018 STM II by Art. 3, approved 5-8-2019]

- A. Purpose: In view of the release and spill of approximately 3,000,000 gallons of wastewater, more or less, from a sewer line during the winter of 2018, the purpose of this bylaw is to reduce the risk of future such releases and spills and to protect the Nantucket environment and the health, safety and welfare of Town residents.
- B. Town Meeting approval of real property transfers for nongovernmental sewer use: In addition to any other requirement applicable by law with respect to state or local permits or approvals, including in addition to (and not in place of) the provisions of Chapter 396 of the Acts of 2008, and notwithstanding Chapter 46 of the Town of Nantucket Town Code or any provision of the Town of Nantucket Town Code to the contrary, no act by the Town of Nantucket to transfer, convey, or allow the use of real property owned by or under the jurisdiction or control of the Town of Nantucket, or interests therein or license thereto, however described, including grants of rights to use or occupy whether by conveyance, lease, easement, grant, transfer or license of any real property owned by or under the jurisdiction or control of the Town of Nantucket by deed, easement, grant, order, law or otherwise, including but not limited to Town street and ways, land owned by the Town, easement areas over which the Town holds an easement for sewer or other purposes, shall be authorized or approved by any Town board, commission, committee or official (the foregoing hereafter referred to as a "real property transfer"), to any private or nongovernmental person or entity for the purpose of operating or maintaining any wastewater sewer system drain, main or pumping station, whether gravity or force sewer mains, unless such real

Libby Gibson

From: John Giorgio <JGiorgio@k-plaw.com>
Sent: Monday, May 24, 2021 9:57 AM
To: Libby Gibson
Cc: Erika Mooney, Brian Turbitt
Subject: FW: Community Impact Fee
Attachments: KP-#657762-
v1-_This_is_the_correct_version_Local_Options_Rooms_Excise_Tax_-_Form_of_Town_Meeting_Votes.DOCX; KP-#655135-v3-MMA_eupdate_regulation_of_short_term_rentals_-_key_provisions.pdf

Dear Libby;

You have asked me to prepare a summary of the options the Town has in imposing a community impact fee on short-term rentals. I am attaching an EUpdate and a paper that I prepared which, among other things, summarizes the community impact fee options and provides the forms of the necessary town meeting votes.

Here are the highlights:

1. The Short-Term Rental Legislation provides for a process for cities and towns to assess two separate community impact fees on short-term rentals.
2. Town Meeting must vote by a majority vote to adopt the specific sections of the law and set forth in the vote the amount of the fee, which cannot exceed 3%.
3. These options are only available to towns that have already adopted the local option rooms excise tax, which, of course, Nantucket has.
4. The community impact fees are separate and apart from both the local options rooms tax and the Cape Cod and Islands Water Protection Fund rooms tax of 2.75%.
5. Nantucket has not, however, opted in to the CCIWPF, so the 2.75% additional tax is not being collected in Nantucket at this time.
6. Unlike the rooms excise tax, however, the community impact fees may only be assessed to short-term rentals and not the other classes of businesses such as hotels that are subject to the rooms tax.
7. The first community impact fee only applies to professionally-managed units, which under the law (G.L. c.64G,§1) includes "1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator's primary residence."
8. The second fee applies to owner-occupied units, which includes "a short-term rental unit that is located within a two-family or three-family dwelling that includes the operator's primary residence."
9. Town Meeting must adopt the two fees in separate votes.
10. The Town cannot adopt the fee on owner-occupied units unless it first votes to adopt the fee on professionally-managed units.
11. If adopted, the Department of Revenue collects the fee(s) along with the local option rooms tax and then remits the revenue to the Town quarterly.
12. The Town is required to spend a minimum of 35% of any community impact fee revenue on affordable housing or infrastructure.

13. From a municipal finance perspective, a minimum of 35% of the revenue from either fee is not unrestricted General Fund revenue. The revenue must be held in a receipts reserved for appropriation account and must be appropriated for either affordable housing or infrastructure projects.
14. The Town may dedicate without further appropriation all or a portion of either fee (but not less than 25%) to a general or special purpose stabilization fund. Moneys in the stabilization fund may be appropriated by Town Meeting for an allowable purpose by a two-thirds vote of Town Meeting.

Clearly, however, not all short-term rentals will even be subject to the host community fee. For example, if an individual operates only one short-term rental on the Island which is not his or her primary residence, that Operator will not be required to pay a community impact fee even if the Operator rents the unit through a real estate agent or a hosting platform because the fee only applies to the rental of 1 of 2 or more units operated by the same Operator. Furthermore, If an Operator occupies one unit of a duplex and it is his or primary residence, the second unit is subject to the fee if it is rented out as a short-term rental. If an Operator rents a room in his or her single-family primary residence, that room rental is not subject to the fee because it is not a two-family dwelling.

According to the Department of Revenue website, the following major municipalities have adopted one or more of the community impact fees: Amherst, Arlington, Boston, Cambridge, Plymouth, and Swampscott. I think it will be difficult to estimate the revenue that the Town will receive from short-term rental community impact fee(s) unless the Town requires registration requirements by either bylaw or regulations that would enable the Town to break out the number and type of short-term rental units operating in the Town. For example, according to the DOR website, Plymouth has collected approximately \$50,000 in community impact fees so far in FY 2021.

John

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Short-Term Rental Law - Key Provisions

January 2019

On December 28, 2018, Governor Baker signed into law Chapter 337 of the Acts of 2018, "An Act Regulating and Insuring Short-Term Rentals" ("Act"), which Act, among other things, replaced sections 1-6 of G.L. c.64G with 11 new sections. These are the key provisions of the new law:

- **Applicability.** The term "short-term rental" as defined in G.L. c.64G, §1 means renting rooms, apartments, houses, or other units, to be occupied for a period of no more than 31 consecutive calendar days, and excluding hotels, motels, lodging houses and bed and breakfast establishments (four or more rooms to rent, with breakfast). Not included in the definition of a "short-term rental" is a "bed and breakfast home", defined as "a private, owner occupied house with up to three rooms to let, with breakfast included."
- **State Registration.** Operators of short-term rentals are required to register with the Department of Revenue and, pursuant to G.L. c.62C, §67, obtain a certificate of registration. The Executive Office of Housing and Economic Development will maintain a registry listing all registered certificate holders in the lodging industry, including short-term rentals, with short term rental locations identified only by street name and municipality.
- **State Excise Tax.** The existing room occupancy excise tax statute, G.L. c. 64G, §3, was amended to include short-term rentals. The state room excise tax remains at 5.7%, provided that no tax may be imposed if the rent is less than \$15 per day. Note that operators renting out their property for a period of 14 days or less in one calendar year are exempt from this tax.
- **Local Option Excise Tax.** The local option room occupancy excise tax, G.L. c.64G, §3A, has also been amended to apply to short-term rentals. This local option allows a municipality, by vote of its legislative body, to adopt and establish a local tax of up to 6% of the total amount of the rent per stay, up to 6.5% in Boston, subject to the same exclusions as the state excise tax. ***Importantly, municipalities that previously accepted G.L. c.64G, §3A need take no further action to apply the local option room occupancy excise to short-term rentals. If a municipality seeks to change the existing local option tax rate, however, local legislative action will be required.***
- **New Local Options.** Municipalities that have adopted the local option room occupancy tax may also consider adoption of two new local options. A municipality that accepts G.L. c.64G, §3D(a) by a majority vote of its legislative body may impose a community impact fee on short-term rental operators of up to

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3% of the total amount of each stay. The fee applies only to operators that own at least two rental units in the municipality, which units are detached from the operator's primary residence (unless that residence is in a structure containing four or more units). By separate vote, a municipality may also adopt G.L. c.64G, §3D(b), to make that fee applicable to units located within a two or three-family dwelling that includes the operator's primary dwelling.

NOTE: The municipality must dedicate at least 35% of the revenue from these two new local option fees to affordable housing or local infrastructure projects.

- ***Cape and Islands.*** In Barnstable, Dukes, and Nantucket Counties, the law imposes an additional room excise tax of 2.75% to generate revenue for a Cape and Islands Water Protection Trust Fund for water pollution abatement projects. This surcharge is automatically applicable in Barnstable County and applicable in Dukes and Nantucket Counties in the manner set forth in the statute. Should towns wish to withdraw from the Fund, a mechanism is available.
- ***Local Ordinances and Bylaws.*** General Laws c.64G, § 14 authorizes municipalities to enact ordinances and bylaws to regulate operators of short-term rentals and to impose civil penalties for violations. Types of regulation described include: establishment of a local licensing or registration requirement, the "number of local licenses or permits issued", and "the number of days" in a calendar year a person may make short-term rentals available for rent; zoning; mandated health and safety inspections; and establishment of fees for necessary local administration of the short-term rental program.

Consistent with the Home Rule Amendment to the Massachusetts Constitution, municipalities may enact local ordinances or bylaws containing provisions not enumerated in the Act provided that they are "not inconsistent" with the provisions of the Act. In addition, boards of health retain jurisdiction to enact health and safety regulations with respect to short-term rentals.

Cities and towns are also authorized to publish a "public registry" of all short-term rental accommodations offered for rent by registered operators within their limits, and may determine "what relevant information shall be listed, including where the accommodation is located."

- ***Effective Dates.*** The taxation portions of the Act will be applicable to short-term rentals commencing on or after July 1, 2019, but **will not** apply to contracts executed before January 1, 2019 for short-term rentals executed before January 1, 2019. The Department of Revenue is interpreting the July 1 effective date as excluding all rentals that begin June 30, 2019 or earlier, for the entire length of that rental.

Please contact Attorneys Joel Bard (jbard@k-plaw.com) or John Giorgio (jgiorgio@k-plaw.com) at 617.556.0007 with any questions concerning the Act.

Disclaimer: This information is provided as a service by KP Law, P.C. This information is general in nature and does not, and is not intended to, constitute legal advice. Neither the provision nor receipt of this information creates an attorney-client relationship with KP Law, P.C. Whether to take any action based upon the information contained herein should be determined only after consultation with legal counsel.

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Libby Gibson

From: Leslie Snell
Sent: Thursday, September 30, 2021 12:28 PM
To: Libby Gibson
Cc: Andrew Vorce
Subject: DRAFT Article concepts from Planning Board/PLUS
Attachments: DRAFT Article Concepts for 2022 ATM 093021.docx

Libby –

Attached is a DRAFT list of article concepts. The intention is not to move forward with all of these, but to provide a list of needed amendments for the Board to prioritize and choose from.

Leslie

Leslie Woodson Snell, AICP, LEED AP BD+C
Deputy Director of Planning

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DRAFT Planning Board/PLUS Article Concepts for 2022 ATM (09/30/21)

RC-2 Phase Out Articles

- Remaining Nobadeer Farm Road parcels
- West side of Arrowhead Drive to CTEC
- East side of Surfside Road to CN (near Windy Way and Miacomet Avenue)
- Perry Lane/Bartlett Road to CTEC (one parcel)
- Nobska Way to R-5
- Bartlett and Raceway to CTEC or R-10
- Mioxes Way and Bartlett Road LUG-2 and RC-2 to R-5 or R-10

RC Phase Out Articles

- Galley Beach to CN
- Harbor Place/Commercial Wharf – to ROH and CDT
- End of Washington Street (Sayle (3)) to CN
- 77 Washington Street to ROH
- 34 and 36 Washington Street (TON) to R-40 or ROH
- Harbor Terrace/Spruce Street/Marine Home Center ?

R-1 Phase Out Articles

- SR-1 ? Dependent on Area Plan
- Vesper Lane/Cato Lane/Woodland Hills Subdivision – R-5L

Technical Amendment to the Zoning Map

- Richmond R-5/CN correction for parking areas in Sandpiper II (check to see if needed for Sandpiper I)
- Other split lot clean up

Zoning Bylaw Amendments

- Technical Amendments – all in a single article TBD
 - Correct language about 2nd driveways to include garage apartments and tertiary dwellings
 - Change definition of tent to allow for extension by special permit
 - Add a definition and specific allowance for food truck – currently treated as take-out
- Special permit allowance for regularity factor
- Short term rentals
- Cannabis articles from CAC?
- Additional covenant units allowed on a lot
- Open Space Bylaw

Real Estate

- Paper Street Acquisition/Disposition
 - Red Barn Road and Sheep Pond Road area
 - Surfside yard sale in vicinity of Curve Street (Plan 2012-60)
 - Tom Nevers Road network (additions to prior ATM votes)
 - Eel Point Road
 - Hawthorne (Sconset)
 - Westchester Street (public road? Land Bank)
- Home Rule Petition
 - Ames and New Hampshire Avenue (real estate disposition already voted)

2022 Select Board Meeting Schedule

January

1/5

1/6 - xs

1/12

1/19

1/26 (+ County mtg)

February

2/2

2/3 - xs

2/9

2/16 (+ County mtg)

2/23

March

NO meeting 3/2 (school vacation week)

3/9

3/10 – xs

3/10 – 4pm – joint SB-FinCom-CapCom mtg

3/14 – 4pm – joint SB-FinCom-CapCom mtg (if needed)

3/16

3/23 (+ County mtg)

NO meeting 3/30 (5th Wed)

April

4/6

4/7 - xs

4/13

NO meeting 4/20 (school vacation week)

4/27 (+ County mtg)

4/28 – 2pm – Pre-ATM conference with Moderator

May

5/4 – NO meeting (ATM week)

5/5 - xs

5/11 – 10am (swearing-in & election of SB officers after 5/10 election)

5/11

5/18

5/25 (+ County mtg)

*June – start summer schedule (*added more meetings per Select Board request)*

6/1

6/2 - xs

6/8*

NO meeting 6/15

6/22 (+ County mtg)

NO meeting 6/29 (5th Wed)

July

7/6

7/7 - xs

7/13*

7/20 (+ County mtg)

NO meeting 7/27

August

8/3

8/4 - xs

NO meeting 8/10

8/17 (+ County mtg)

NO meeting 8/24 or 8/31

September

9/7

9/8 - xs

9/14

9/21

9/28 (+ County mtg)

October

10/5

10/6 - xs

10/12

10/19

10/26 (+ County mtg)

November

11/2

11/3 - xs

11/9

11/16

NO meeting 11/23 (day before Thanksgiving)

11/30 (+ County mtg)

December

12/7

12/8 - xs

12/14

12/21 (+ County mtg)

NO meeting 12/28