

VICENTE SEDERBERG LLP

BOSTON | DENVER | JACKSONVILLE | LOS ANGELES

2 SEAPORT LANE, 11TH FLOOR
BOSTON, MA 02210
TEL: 617.934.2121

July 24, 2020

Adam Turner
Executive Director
Martha's Vineyard Commission
PO Box 1447
Oak Bluffs, MA 02557

Dear Mr. Turner:

Please accept this correspondence on behalf of Patient Centric of Martha's Vineyard, Ltd. ("PCMV") relative to its proposal to operate a co-located medical and adult-use marijuana retail facility at 510 State Road in West Tisbury. PCMV has modified its application in response to feedback received by the Martha's Vineyard Commission ("MVC") on July 2, 2020 as follows:

1. Updated Memorandum of Understanding

An updated Memorandum of Understanding is attached hereto as Exhibit A. The revisions are intended to allow for oversight of changes to PCMV's appointment-only operations within the purview of the Town of West Tisbury's Zoning Board of Appeals and its designated representatives, while maintaining the MVC's overriding oversight with respect to the project.

2. Product Labeling

In response to an inquiry from a Commissioner relative to health warnings on labels, please be advised that, pursuant to the regulations set forth within 935 CMR 500.105(5), all marijuana and marijuana products sold by PCMV will be secured within packaging that contains a legible, firmly affixed label on which the wording is no less than 1/16 inch in size that contains the a variety of information, but specifically:

- a. A statement and a seal certifying that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
- b. This statement, including capitalization.
This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential

harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.**;

- c. The following symbols:



- d. In the instance that PCMV is selling marijuana products, labels must also include a warning if nuts or other known allergens are contained within the product as well as a statement that reads: "The impairment effects of edible products may be delayed by two hours or more."

Additionally, any and all marketing, advertising and branding created for viewing by the public shall include the statement "Please Consume Responsibly", in a conspicuous manner on the face of the advertisement and shall include a minimum of two of the following warnings in their entirety in a conspicuous manner on the face of the advertisement:

- a. "This product may cause impairment and may be habit forming.";
- b. "Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug.";
- c. "There may be health risks associated with consumption of this product.";
- d. "For use only by adults 21 years of age or older. Keep out of the reach of children."; or
- e. "Marijuana should not be used by women who are pregnant or breastfeeding."

All marketing, advertising and branding produced shall include the following warning, including capitalization, in accordance with M.G.L. c. 94G, § 4(a1/2)(xxvi):

“This product has not been analyzed or approved by the Food and Drug Administration (FDA). There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.** There may be health risks associated with consumption of this product. Marijuana can impair concentration, coordination, and judgment. The impairment effects of Edible Marijuana Products may be delayed by two hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222 or 9-1-1. This product may be illegal outside of MA.”

3. Data Collection

In response to an inquiry from a Commissioner relative to data collection relative to adult use marijuana consumers, please be advised that it is PCMV's practice not to retain customer information without customer approval.

4. Site Plans

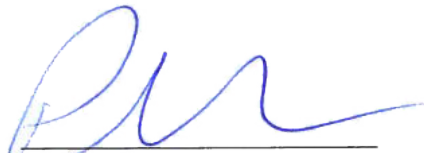
Please see updated Site Plans attached hereto as Exhibit B. The site now provides for 20 parking spaces, which include one handicap van accessible space, four spaces reserved for medical patients, 11 customer spaces, one express order space and three employee spaces. The plans also include a Vehicle Turning Path plan as requested by the MVC, as well as updated landscape plans in response to abutter preferences.

5. Customer Demand Management Plan

Please see an updated Customer Demand Management Plan attached hereto as Exhibit C. This plan is updated to mirror the changes in the Site Plans denoted above and is incorporated into the Memorandum of Understanding described above.

Please do not hesitate to contact me if you have any further questions regarding this matter.

Sincerely,



Phil Silverman, Esq.

PCS/rr

Exhibit A

MEMORANDUM OF UNDERSTANDING

WHEREAS, Patient Centric of Martha's Vineyard, Ltd. ("PCMV") intends to operate a co-located medical marijuana dispensary and adult-use marijuana retail establishment at 510 State Road, West Tisbury, Massachusetts in accordance with MGL ch. 94G and 935 CMR 500.000 and 502.; and

WHEREAS, PCMV has appeared before the Martha's Vineyard Commission ("MVC") and the Town of West Tisbury (the "Town") in the course of seeking permits and approvals to operate its business; and

WHEREAS, the parties seek to establish and implement guidelines and processes to allow PCMV to operate its business while ensuring an efficient and orderly operation which minimizes traffic and other impacts on the surrounding community; and

WHEREAS, the parties intend that this agreement allow both MVC and the Town local control over PCMV's establishment consistent with MGL ch. 94G Section 3 and provide the basis for enforcement of the provisions set forth herein;

NOW THEREFORE, the parties hereto agree as follows:

1. PCMV will commence operations and continue same for the period as set forth herein whereby both adult-use and medical customers will be allowed to utilize its facility on an appointment-only basis. Such customers will be able to schedule appointments through, among other means, a designated telephone booking number, and online appointment portal on PCMV's website or by pre-scheduling a customer's next appointment while on site. Upon confirmation of their appointment, a customer will receive an email from PCMV confirming their appointment date and time, providing a link to modify their reservation, and providing information about parking, public transit accessibility, and cyclist parking.
 2. Appointments will be scheduled in 15-minute intervals. PCMV will commence operations by scheduling five appointments per fifteen minutes, or 20 appointments per hour.
 3. Future Modifications to Appointment-Only Practices.
 - a. Each time PCMV seeks to increase the number of appointments accepted within its facility to allow for an additional customer per one (1) hour increment, it shall request same in writing from a designated official from the Town of West Tisbury ("Town Designee") and provide notice of the request to abutters within 300 feet of the facility at least 21 days prior to the proposed increase. The Town Designee will determine whether to approve or deny the request in writing within 14 days following the request. Should the Town Designee decline PCMV's request, PCMV may appeal the decision to the Town's Zoning Board of Appeals ("ZBA"). Should the Town Designee approve the request, abutters may appeal the approval to the ZBA.
 - b. The ZBA will reserve the right to decrease the number of appointments per 15-minute increments during appointment-only operations upon appropriate evidence
-

of the need for same or provide for seasonal schedules as to the number of allowable appointments.

- c. Should PCMV seek to remove appointment-only operations altogether, it must provide notice of its intention to abutters within 300 feet of the facility at least 21 days prior to the proposed increase and first obtain the approval of the ZBA. In the event that the ZBA allows for the removal of appointment-only operations altogether, it reserves the right to re-implement appointment-only operations upon appropriate evidence of the need for same.
 4. PCMV will appear before MVC on or after April 1 of each year, as scheduled by MVC, to review the status of operations at the facility, and MVC reserves the right to review and re-set any provisions for operation as to the number of appointments per one (1) hour increment and appointment-only operation or otherwise.
 5. **Term.** This Agreement shall remain in effect for the duration of PCMV's operation of its business within the Town.
 6. **Governing Law.** This Agreement shall be governed and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to the principles of conflicts of law thereof. The Parties expressly waive any defense to enforcement based upon nonconformance with federal law regarding the illegality of marijuana.
 7. **Validity.** Company agrees it will not challenge, in any jurisdiction, the enforceability of any provision included in this Agreement.
 8. **Amendments/Waiver.** Amendments or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all Parties, prior to the effective date of the amendment.
 9. **Severability.** If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both Parties would be substantially or materially prejudiced.
 10. **Successors/Assigns.** This Agreement is binding upon the Parties hereto, their successors, assigns and legal representatives.
 11. **Entire Agreement.** This Agreement constitutes the entire integrated agreement between the Parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be
-

modified or amended except by a written document executed by the Parties hereto. Notwithstanding the foregoing, PCMV acknowledges that it is bound separately by the terms and conditions of the Host Community Agreement and special permits granted by Town and other conditions imposed by MVC as a part of its approval process.

12. **Notices.** Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To the Town:

Town of West Tisbury
1059 State Road
PO Box 2787
West Tisbury, MA 02575

To the Company:

Patient Centric of Martha's Vineyard
510 State Road
P.O. Box 1323
West Tisbury, MA 02575

With a copy to:

Philip C. Silverman, Esq.
Vicente Sederberg LLP
2 Seaport Lane, 11th Floor
Boston, MA 02210

To: MVC:

Martha's Vineyard Commission
33 New York Ave
Oak Bluffs, MA 02557
Attn: Adam Turner

Notice shall be deemed given (a) two (2) business days after the date when it is deposited with the U.S. Post Office, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if next business day delivery is required, or (c) upon the date personal delivery is made.

*** * * SIGNATURE PAGE FOLLOWS * * ***

IN WITNESS WHEREOF, the Parties hereto have duly executed this Memorandum of Understanding on the _____ day of July, 2020.

Town of West Tisbury

Patient Centric of Martha's Vineyard, Ltd.

By: _____

By: _____

Its:

Its:

Martha's Vineyard Commission

By: _____

Its:

Exhibit B

Schematic Site Plan in WEST TISBURY, MASS.

Hayes Engineering, Inc.
Civil Engineers & Land Surveyors
603 Salem Street
Wakefield, MA 01880

Telephone: 781.246.2800
Facsimile: 781.246.7596
www.hayeseng.com

Hayes

Scale: 1" = 20'



June 29, 2020
Revised July 21, 2020

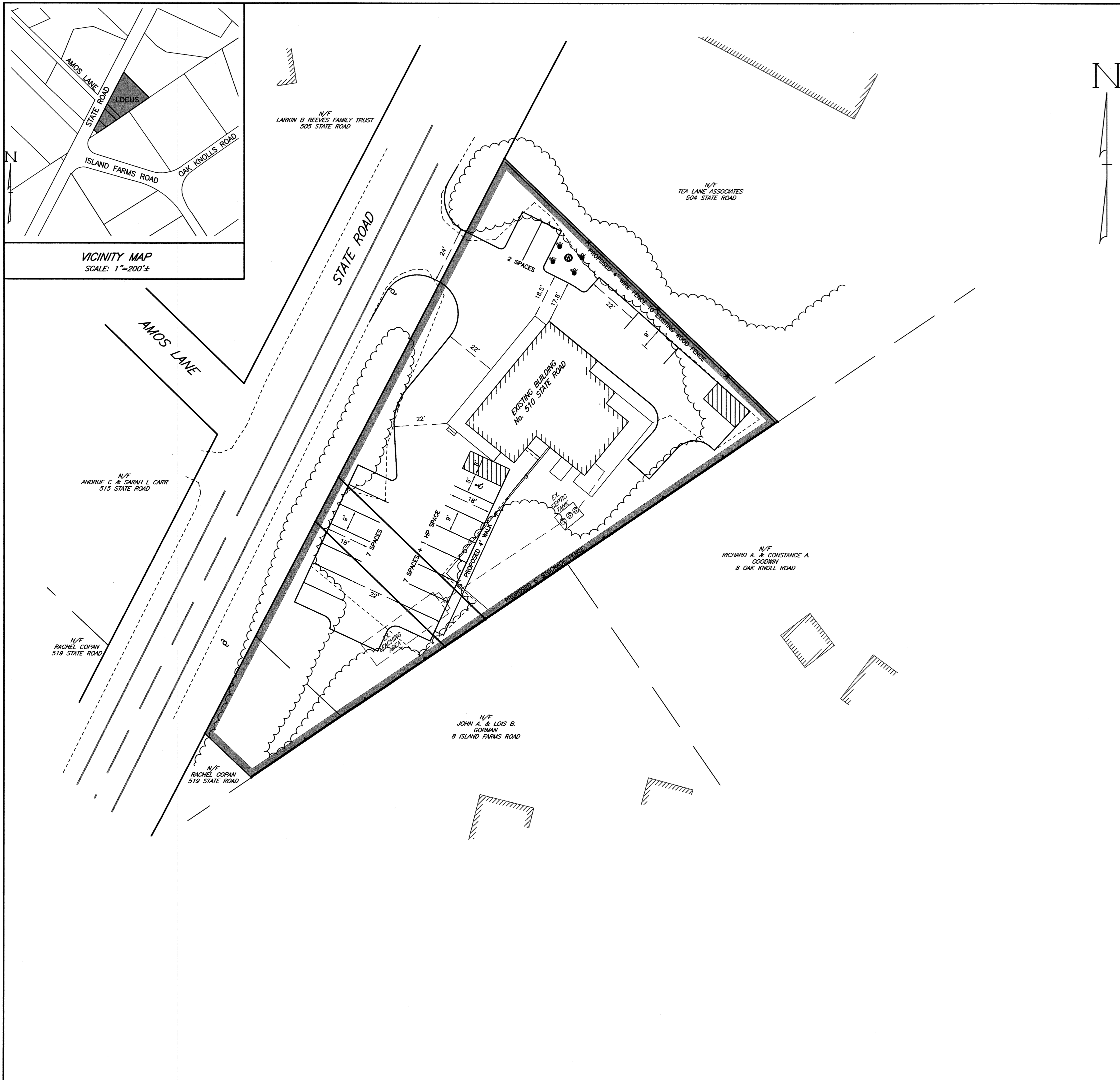
Sheet 1 of 4 - Site Plan



7-21-2020

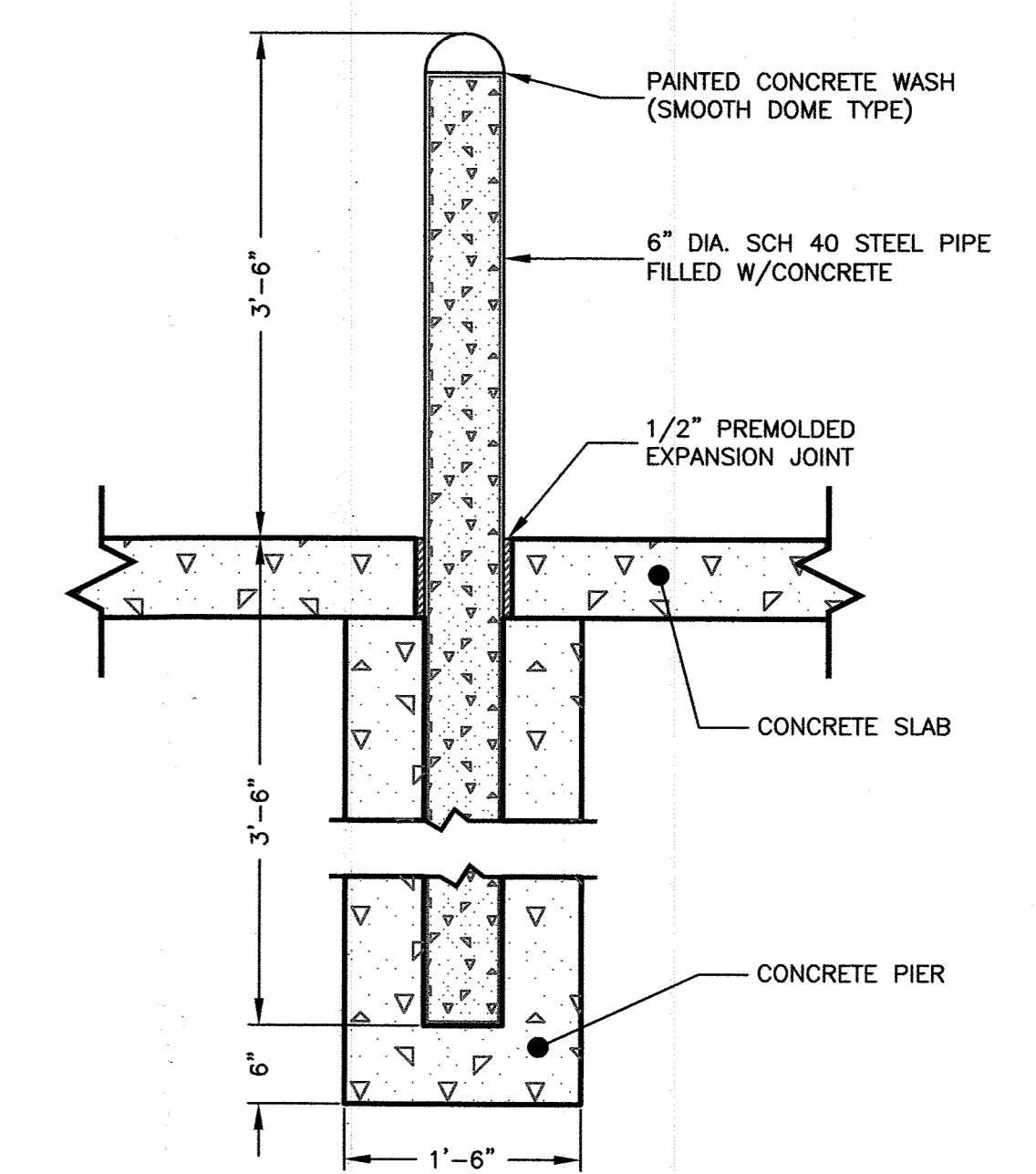


VICINITY MAP
SCALE: 1"=200'±



GENERAL NOTES:

- PROPERTY LINE INFORMATION DEPICTED ON THIS PLAN IS A COMPILATION OF RECORD PLAN AND DEED INFORMATION AND A NON-RECORD PLAN TITLED, "SKETCH PARKING PLAN" BY VINEYARD LAND SURVEYING & ENGINEERING, INC. DATED OCTOBER 10, 2019 AND IS NOT THE RESULT OF AN ACTUAL FIELD SURVEY BY HAYES ENGINEERING, INC. BOUNDARY INFORMATION DEPICTED HEREIN IS APPROXIMATE ONLY.
- BUILDING LOCATIONS DEPICTED ON THIS PLAN TAKEN FROM THE ABOVE RECORD PLANS AND MASSGIS 2-D LIDAR BUILDING LOCATIONS AND ARE NOT THE RESULT OF AN ACTUAL FIELD SURVEY BY HAYES ENGINEERING, INC.
- THE PURPOSE OF THIS PLAN IS TO IDENTIFY THE EXTENTS OF THE PROPOSED PARKING, LANDSCAPING AND LIGHTING FOR THE PROPERTY.
- THE PERMANENT STRUCTURES DEPICTED HEREIN ARE APPROXIMATELY LOCATED ON THE GROUND AS SHOWN. THEY EITHER CONFORMED TO THE SETBACK REQUIREMENTS OF THE LOCAL ZONING ORDINANCES AT THE TIME OF CONSTRUCTION, OR ARE EXEMPT FROM VIOLATION ENFORCEMENT ACTION UNDER M.G.L., TITLE VII, CHAPTER 40A, SECTION 7.
- THE WAY BISECTING THE PARCEL IS TO THE BENEFIT OF THE LOCUS PARCEL ONLY PER A LEGAL OPINION PROVIDED BY THE PROPERTY OWNER'S COUNSEL STATING THAT NO OTHER PARTY OF RECORD HAS RIGHTS IN THE WAY.



BOLLARD DETAIL
NOT TO SCALE

Schematic Site Plan in WEST TISBURY, MASS.

Hayes Engineering, Inc.
Civil Engineers & Land Surveyors
603 Salem Street
Wakefield, MA 01880

Telephone: 781.246.2800
Facsimile: 781.246.7596
www.hayeseng.com



Scale: 1" = 20'

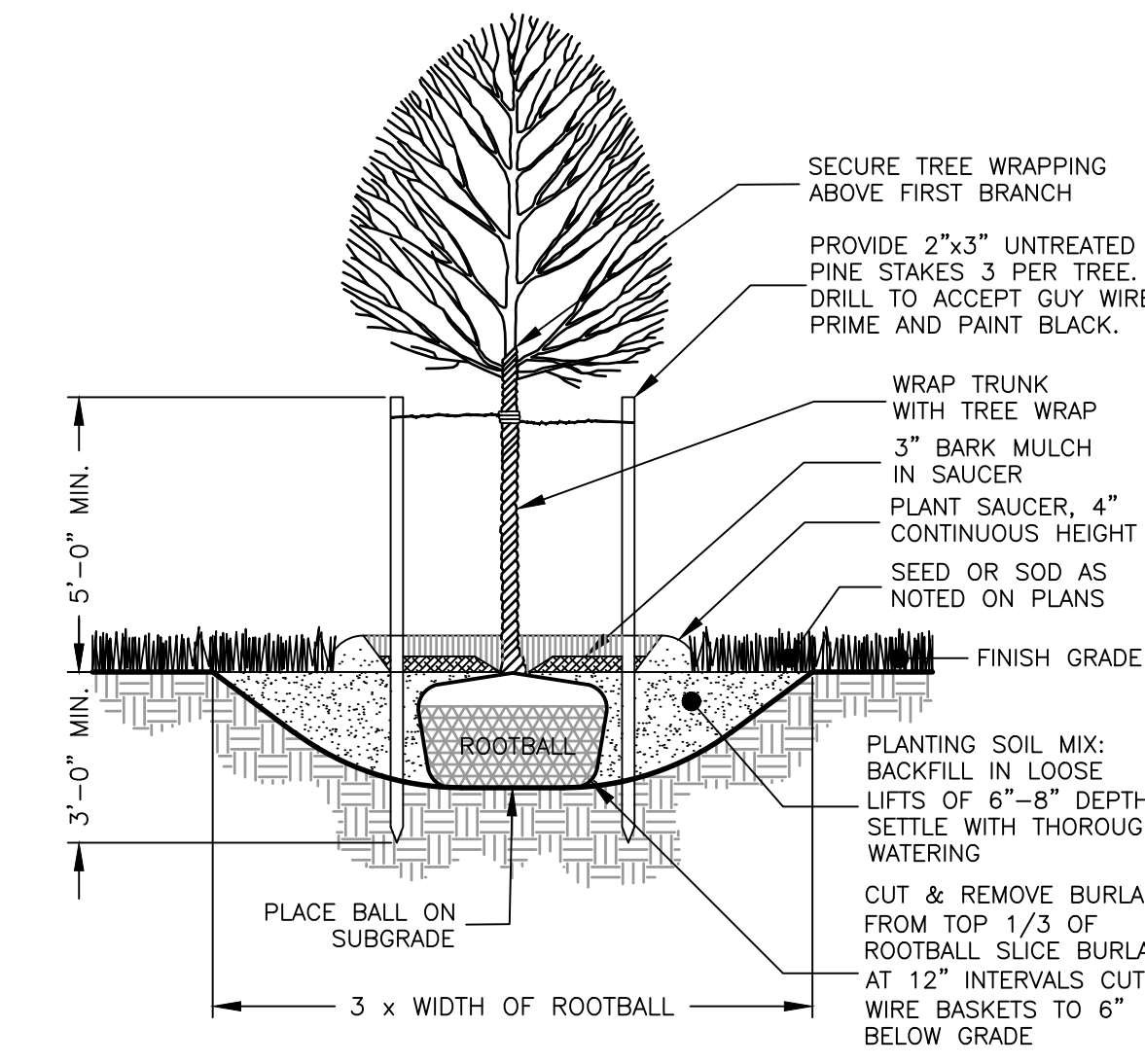
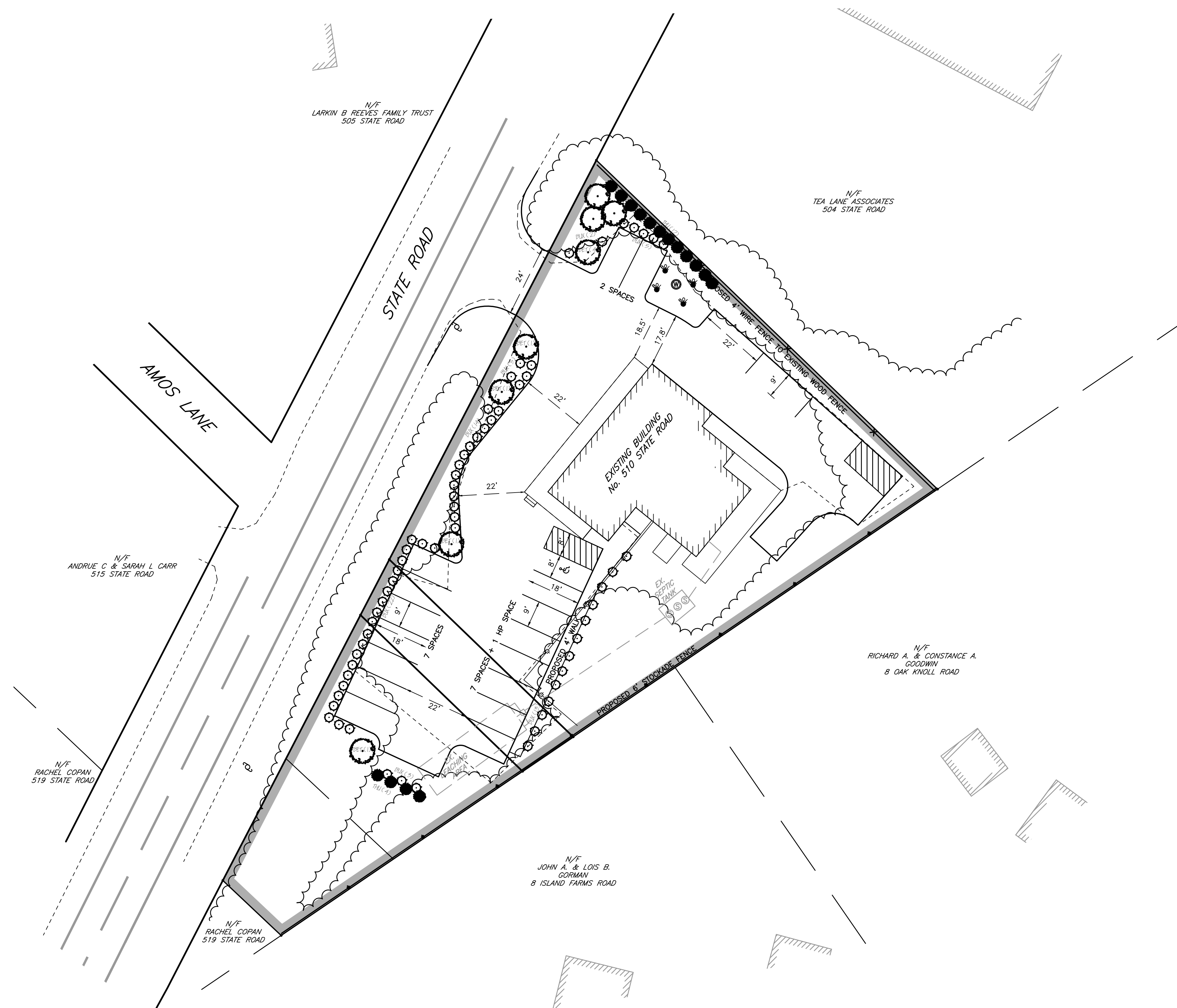


June 29, 2020
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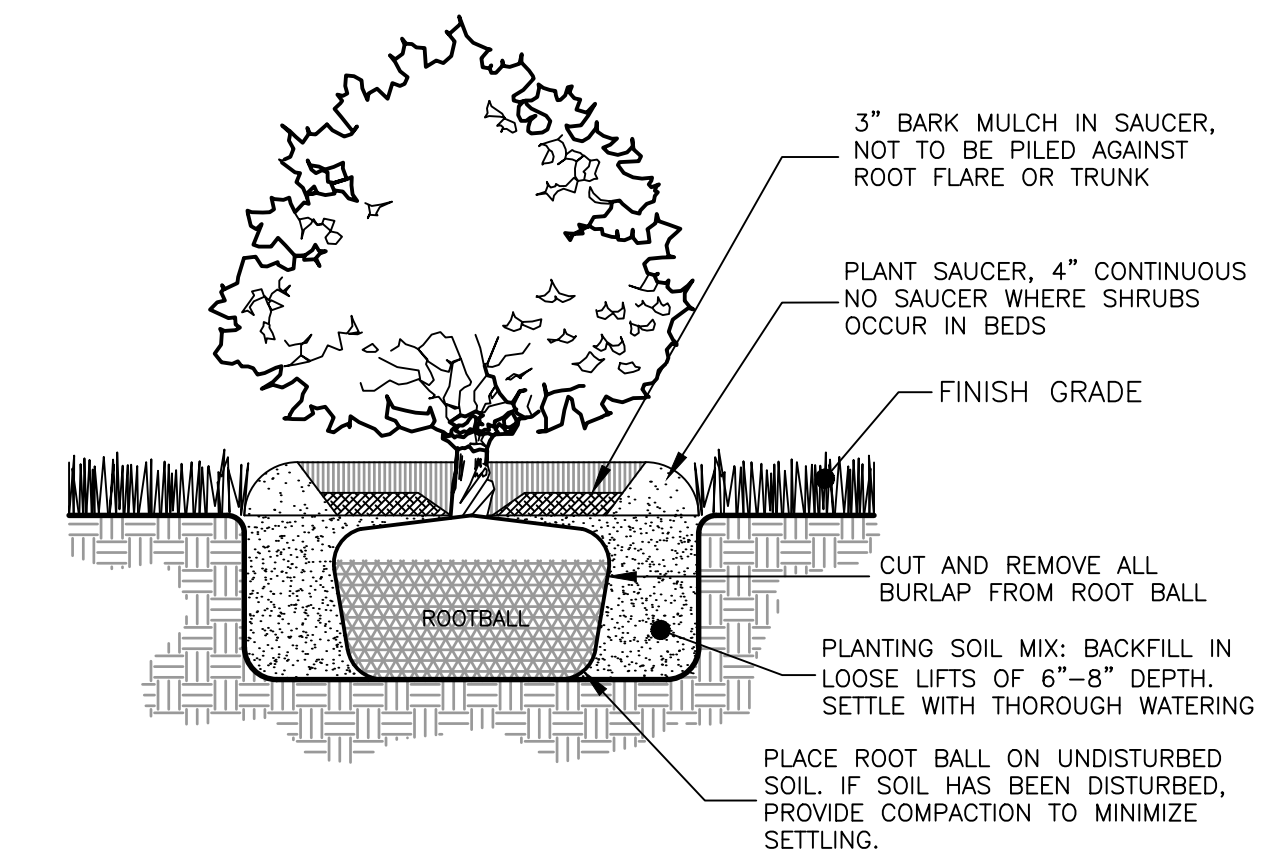
Sheet 2 of 4 - Landscaping Plan

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DECIDUOUS TREE PLANTING
NOT TO SCALE



SHRUB PLANTING
NOT TO SCALE

NOTE:
TREE SHALL BEAR SAME RELATIONSHIP TO FINISHED GRADE AS IT DID TO NURSERY OR FIELD GRADE.

NOTES:
1. SHRUB SHALL BEAR SAME RELATIONSHIP TO FINISHED GRADE AS IT DID TO NURSERY OR FIELD GRADE.
2. WHERE SHRUBS OCCUR IN PLANT BED GROUPINGS, PROVIDE A 12" DEEP MINIMUM CONTINUOUS LOAM BED.

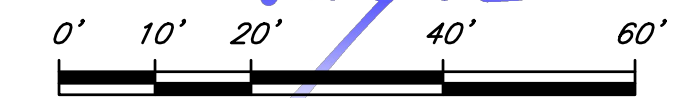
| PLANT SCHEDULE | | | | | |
|----------------|-----|--------|------------------------------|--------------------------|--------|
| QTY. | KEY | SYMBOL | SCIENTIFIC NAME | COMMON NAME | SIZE |
| 16 | THU | | THUJA OCCIDENTALIS 'SMARAGD' | EMERALD GREEN ARBORVITAE | 5 gal |
| 64 | BLX | | BUXUS 'GREEN VELVET' | GREEN VELVET BOXWOOD | 3 gal |
| 8 | BET | | BETULA PAPHYRIFERA | PAPER BIRCH | 1-1/2" |

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Scale: 1" = 20'

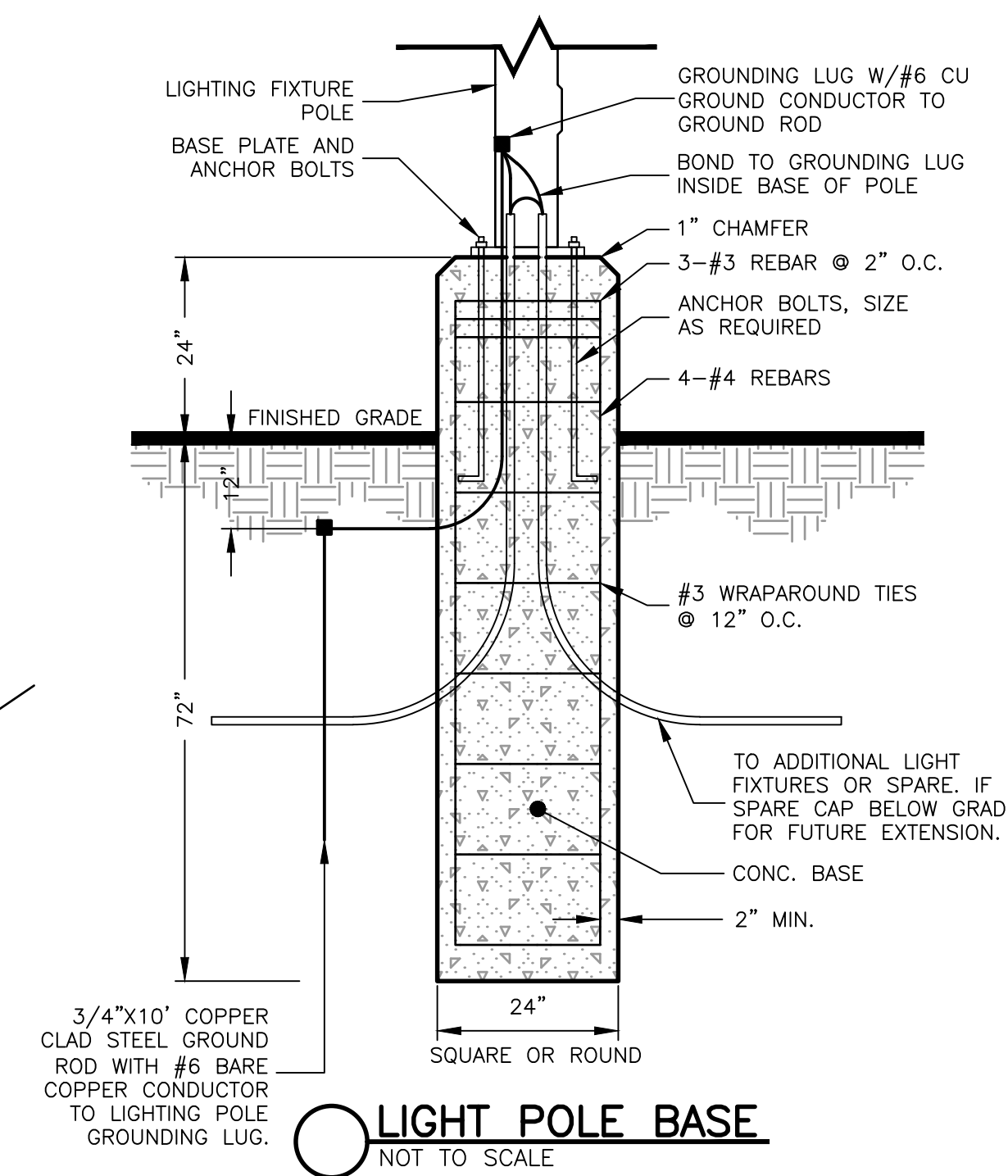


June 29, 2020
Revised July 21, 2020

Sheet 3 of 4 - Lighting Plan

GENERAL NOTES:

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○ LIGHT POLE BASE
NOT TO SCALE



**D-Series Size 1
LED Area Luminaire**

Specifications

| | |
|---------------|---|
| EPA: | 1.01 ft ² (0.09m ²) |
| Length: | 33" (83.8cm) |
| Width: | 13" (33.0cm) |
| Height H1: | 7-1/2" (19.0cm) |
| Height H2: | 3-1/2" (9.1cm) |
| Weight (max): | 27 lbs (12.2kg) |

○ A LITHONIA DSX1-LED LIGHT FIXTURE
NOT TO SCALE



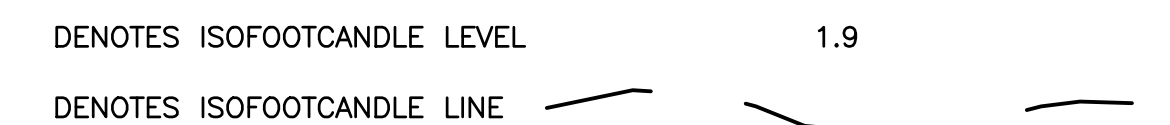
**KAXW
LED Wall Luminaire**

Specifications

| | |
|---------------|---------------------|
| Length: | 14" (35.6cm) |
| Width: | 12" (30.5cm) |
| Height: | 5" (12.7cm) |
| Weight (max): | 19.7 lbs (8.9kg) |

○ B LITHONIA KAXW-LED WALL PACK
NOT TO SCALE

PHOTOMETRIC LEGEND:



GENERAL LIGHTING NOTES:

ILLUMINANCE VALUES SHOWN ARE PROPOSED MAINTAINED HORIZONTAL FOOTCANDLES ON LEVEL GRADE.

PHOTOMETRIC ANALYSIS DOES NOT CONSIDER ANY EXISTING ILLUMINANCE, SHADOW OR REFLECTED LIGHT FROM EXISTING OR PROPOSED OBJECTS AND GRADE DIFFERENCES.

HORIZONTAL ILLUMINANCE LEVELS SHOWN ARE CALCULATED FROM DATA PROVIDED FROM MANUFACTURER IN ACCORDANCE WITH THE ILLUMINATING ENGINEERING SOCIETY APPROVED METHODS.

ACTUAL ILLUMINANCE LEVELS MAY DIFFER DUE TO SEVERAL FACTORS SUCH AS LAMP LUMEN DEPRECIATION, LUMINAIRE DIRT DEPRECIATION, LUMINAIRE SURFACE DEPRECIATION, AND EQUIPMENT OPERATING FACTOR.

CONTRACTOR TO VERIFY ALL UTILITIES BEFORE CONSTRUCTION.

LUMINAIRE SCHEDULE

| CALLOUT | SYMBOL | DESCRIPTION | VOLTS | QUANTITY |
|---------|--------|---|------------|----------|
| A | DSX1 | DSX1 LED P1 30K T3M MVOLT, 12' H | 120V 1P 2W | 3 |
| B | KAXW | KAXW LED, PERFORMANCE PACKAGE 3, 5000K, TYPE 4, 120-277V, 12' H | 120V 1P 2W | 4 |

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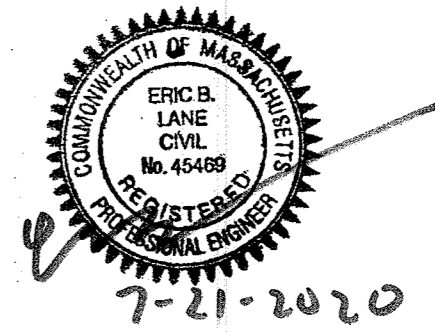
Hayes

Scale: 1" = 20'



June 29, 2020
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Sheet 4 of 4 - Vehicle Turning Paths



GENERAL NOTES:

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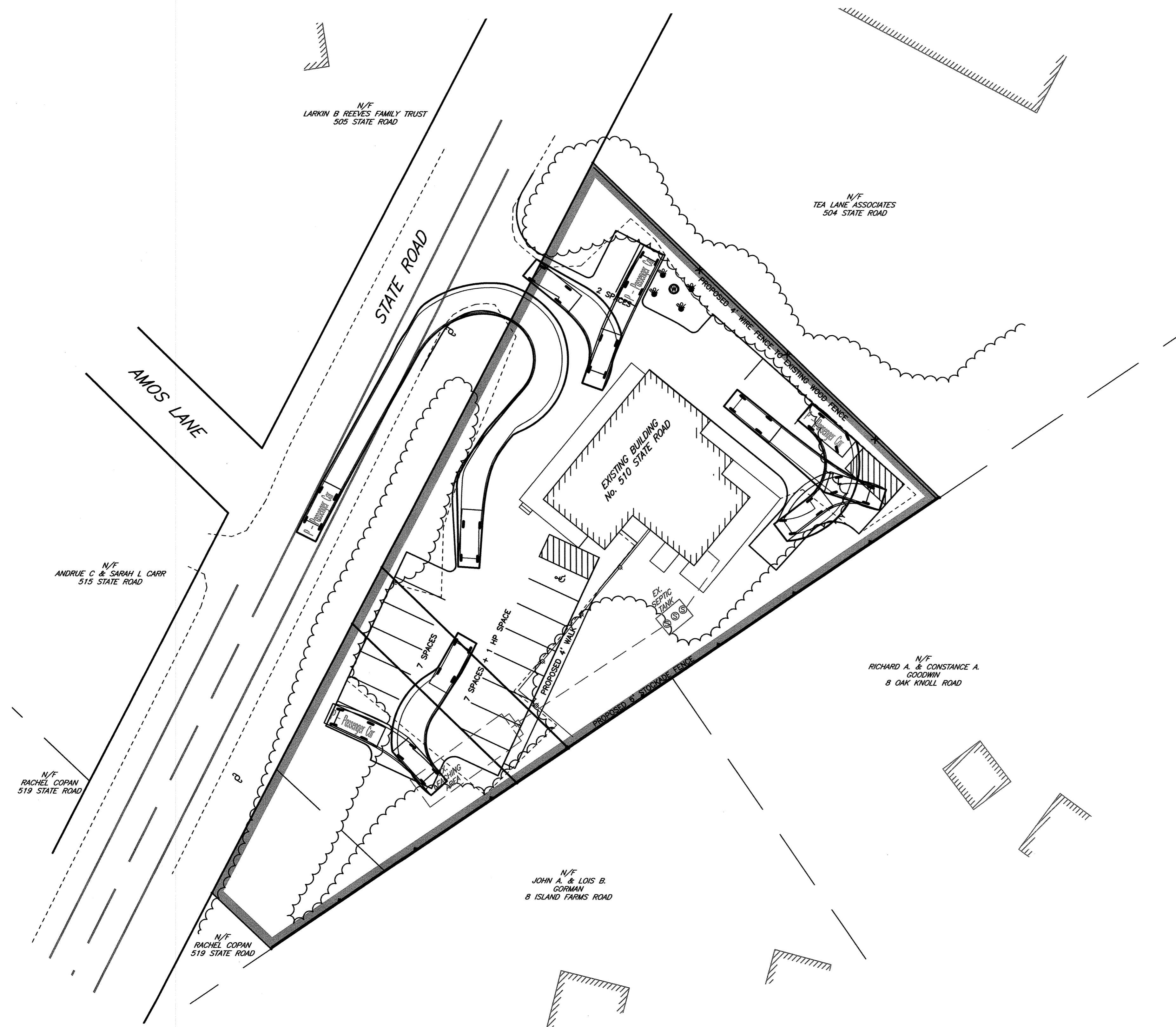


Exhibit C

Customer Demand Management Protocol

Patient Centric of Martha's Vineyard, Ltd. ("PCMV") seeks to manage customer demand through the implementation of an appointment only policy for its initial operations. An appointment only policy requires that customers schedule an allotted entry time prior to arriving at PCMV's facility. The use of this policy will allow PCMV to closely monitor the number of customers within its facility at any given time; prevent external queuing and long wait times through measured entry into the facility; and control the number of vehicle on streets adjacent to PCMV's facility seeking to use the facility, limiting unintentional traffic or hazardous pedestrian conditions.

Please be advised that portions of the material outlined within this document will be commemorated within an enforceable agreement between PCMV, the Martha's Vineyard Commission (the "MV Commission"), and the Town of West Tisbury.

I. Obtaining an Appointment

Customers may schedule appointments through the following means:

- A. Telephone through a designated PCMV booking number;
- B. Online through an appointment portal on PCMV's website; or
- C. Pre-scheduling a customer's next appointment while on site.

Upon confirmation of their appointment, a customer will receive an email from PCMV confirming their appointment date and time, providing a link to modify their reservation, and providing information about parking, public transit accessibility, and cyclist parking.

The average customer or patient takes no longer than 15 minutes within a marijuana facility between entry to departure. As such, PCMV will phase appointments in 15-minute intervals. Understanding that some customers or patients will arrive early or late to their appointments, PCMV will permit the scheduling of five appointments per fifteen minutes, or 20 appointments per hour. Customers or patients who arrive early for their appointment will be permitted to wait in an indoor waiting area and will be notified by text, buzzer, or a customer service representative when it is their turn to be served.

II. Parking Solutions

Parking Availability: PCMV's proposed site offers 20 spaces for its exclusive use as follows:

- A. Four parking spaces will be designated for use by registered patients in the Medical Use of Marijuana Program. PCMV will utilize the parking spaces closest to the building to facilitate ease of access for ill patients. The parking spaces will be notated by clear signage that reads "Medical Patient Parking Only".
- B. Three parking spaces will be designated for use by employees of PCMV's facility. PCMV will utilize the parking spaces away from customer parking to facilitate ease of access to the facility for all customers. The parking spaces will be notated by clear signage that reads

“Staff Parking Only.”

- C. One parking space will be designated as a handicap van accessible parking space.
- D. One parking space will be designated as an express space during peak hours for use by customers who have preordered products. Customers will be directed to this parking space by parking lot attendants. This parking space is anticipated to be filled for five minutes per visit.
- E. The remaining 11 parking spaces will be available for adult-use consumers.

Ride-Share Program: At peak times, PCMV anticipates that eight (8) employees will be on site. Depending on staff preference, PCMV will utilize a Guaranteed Ride Program to ensure that employees are able to arrive and depart the facility without utilizing customer parking in PCMV’s lot, parking in nearby retail lots, or experiencing difficulty accessing work. Coordinated each week at staff meetings, managerial staff will offer other colleagues a ‘Guaranteed Ride’ program and will be compensated for their willingness to do so.

Parking and Facility Capacity: The average customer/patient visit takes no longer than 15 minutes within a marijuana facility between entry to departure, with the vast majority of customers taking significantly less time. As such, PCMV will utilize parking capacity as means through which to identify the number of appointments it can accommodate.

Because the average transaction takes no longer than 15 minutes, each of PCMV’s non-employee parking spaces can accommodate four customers per hour and these allotted spaces can accommodate 68 medical and retail customers per hour. PCMV’s internal facility is able to accommodate this facility load.

III. Arriving at the Facility

For at least the first three (3) months of operation, the first peak season, and as long is deemed necessary by officials (the “Designated Officials”) an designated by the Town of West Tisbury (the “Town”), PCMV will employ two parking lot attendants - one at the entrance and the other centrally located in the parking area - to allow for the safe and efficient flow of customers/patients in and out of the parking lot.

The parking lot attendants will be equipped with tablets that show a list of scheduled appointments by name and time and offer the ability to book an appointment if availability exists.

If a Customer/Patient Has an Appointment: The customer/patient will provide their name and the parking lot attendant will confirm their arrival. The parking lot attendants will direct customers/patients to available parking spaces to eliminate backups occurring in and out of the lot and assist in ensuring that customers/patients safely traverse the parking lot when walking in and out of the facility.

If a Customer/Patient Does Not Have an Appointment: Should a customer/patient arrive at PCMV's facility without an appointment, either on foot or by vehicle, they will be granted access if an appointment time is available.

If an appointment is available, the parking lot attendant will register the appointment quickly for the customer. The parking lot attendant will direct customers/patients to available parking spaces to eliminate backups occurring in and out of the lot and assist in ensuring that customers/patients safely traverse the parking lot when walking in and out of the facility.

If an appointment is not available at that time, they will be directed to PCMV's website or phone number to schedule an appointment. The Parking Lot Attendants will direct them to the Turnaround area of the parking lot in order to exit the area.

IV. Future Modifications to Appointment-Only Practices

Each time PCMV seeks to increase the number of appointments accepted within its facility to allow for an additional customer per 15-minute increment, it shall request same in writing from the Designated Official(s) and provide notice of the request to abutters within 300 feet of the facility at least 21 days prior to the proposed increase. The Designated Official(s) must determine whether to approve or deny the request in writing within 14 days following the request. Should the Designated Official(s) decline PCMV's request, PCMV may appeal the decision to the Town's Zoning Board of Appeals ("ZBA"). Should the Designated Official(s) approve the request, abutters may appeal the approval to the ZBA.

The ZBA will reserve the right to decrease the number of appointments per 15-minute increments during its appointment-only operation upon appropriate evidence of the need for same or provide for seasonal schedules as to the number of allowable appointments.

Should PCMV seek to remove appointment-only operations altogether, it must provide notice of its intention to abutters within 300 feet of the facility at least 21 days prior to the proposed increase and first obtain the approval of the ZBA.

In the event that the ZBA allows for the removal of appointment-only operations altogether, it reserves the right to re-implement appointment-only operations upon appropriate evidence of the need for same.

PCMV will appear before MVC on or after April 1 of each year, as scheduled by MVC, to review the status of operations at the facility, and MVC reserves the right to review and re-set any provisions for operation as to the number of appointments per one (1) hour increment and appointment-only operation or otherwise.