



**Town of Brewster
2198 Main Street
Brewster, MA 02631-1898
Phone: (508) 896-3701
Fax: (508) 896-8089**

**Office of:
Select Board
Town Administrator**

September 25, 2018

Mr. Jonathon Idman
Chief Regulatory Officer
Cape Cod Commission
3225 Main Street, P.O. Box 226
Barnstable, Mass. 02630

Dear Mr. Idman:

Please accept the Town of Brewster's application for a Development of Regional Impact (DRI) Exemption Application on behalf of our Conservation Commission and Chester A. Robinson III et al ("Owners"). The Town has a contract to purchase 42 of the Owners' 47+/- acres in early 2019 for conservation, watershed protection and passive recreation. Town Meeting approved the purchase this spring.

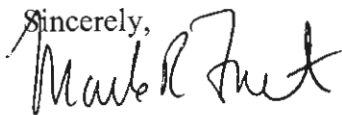
The Owners hold title to more than 30 contiguous acres with frontage on Long Pond Road (State Route 137) and Long Pond (the Cape's largest pond). Any division of their property would trigger DRI review, according to mandatory thresholds. Owing to the fact that new division lines are being drawn for the sole purpose of conveying title to the majority of the vacant woodland property for public conservation purposes, we seek exemption from DRI review. The Owners will retain their three long-existing residences on three reconfigured lots on five-plus acres. There is no additional development potential in the 47 acres, after this transaction is completed.

No new roads or utilities are proposed or needed. The only future improvements will be a 2-3 car parking area on the Town-owned land on W.H. Besse Cartway, at a site already cleared on the Cartway shoulder; no more than two or three pitch pines would need to be cut. The Town will eventually install a loop walking trail through the forest leading to an overlook of the pond above the high steep bank. No new drainage structures are needed. The unimproved Cartpath would continue to be graded occasionally by the Town.

J.M. O'Reilly & Associates of Brewster has been retained by the Town to prepare the plans needed for the conveyance. These will be submitted to the Planning Board for approval and will need approval from the Land Court before any conveyance can occur. We expect the Planning Board to review the plan submission this fall.

We hope you agree that, far from creating any impact on neighboring communities or the region, this land conservation proposal will advance several goals of the Regional Policy Plan, including protection of groundwater resources, protection of surface water quality, and protection of rare species habitat. The Town worked with the Commission ten years ago to adopt a District of Critical Planning Concern for our Zone IIs; more than half of the 42 acres to be acquired lies within the DCPC.

Our advisor under contract in this matter is Mark H. Robinson, Executive Director of The Compact of Cape Cod Conservation Trusts, Inc. of Brewster, who has been in contact with you about this proposal. You may coordinate your review of our Exemption Application with him. Thank you for your consideration. I look forward to working with you and the Commission on this important proposal.

Sincerely,


Mark Forest
Interim Town Administrator
Enc.

cc: Planning Board; Conservation Commission; Elizabeth Taylor, Cape Cod Commission representative; Mark Robinson



Application Cover Sheet

Cape Cod Commission
3225 Main Street, PO Box 226
Barnstable, MA 02630
Tel: (508) 362-3828 • Fax: (508) 362-3136

For Commission Use Only

Date Received:
Fee (\$):
Check No:
File No:

A Type of Application (check all that apply)

- ☐ Development of Regional Impact (DRI) ☐ Hardship Exemption ☐ Limited DRI Review
☐ Jurisdictional Determination ☒ DRI Exemption ☐ Request for Joint MEPA/DRI Review

B Project Information

Project Name: Long Pond Woodlands Conservation Area Total Site Acreage: 47.5
Project/Property Location: W.H. Besse Cartway & Rt 137, Brewster Zoning: residential
Brief Project Description:
Include total square footage of proposed and existing development, gross floor area, number of lots existing or to be created, specific uses, description of existing conditions, as applicable (attach additional sheets if necessary).
This proposal would create a new subdivision for the sole purpose of placing three existing dwellings in a family compound on separate lots of their own, using 5.5 of 47 acres, and conveying the remaining 42 acres to the Town of Brewster for conservation, passive recreation and wellfield protection. No new roads or structures are proposed.

C Owner(s) of Record

List the following information for all involved parcels. Provide copies of each Deed and Purchase and Sale Agreement and/or evidence of leasehold interest, if applicable, for all involved parcels. Proof of ownership/legal rights for Applicant(s) to proceed with the proposed development must be documented prior to the Commission deeming any application complete (attach additional sheets if necessary).

| Map/Parcel | Owner's Name | Lot & Plan | Land Court Certificate of Title # | Registry of Deeds Book/Page # |
|------------|----------------------------|-----------------------|-----------------------------------|-------------------------------|
| 83-5 | Chester Robinson III et al | Lot 1 & 2; LCP 34330B | LCC198070 | |
| 84-54 | same | LCP 40024A | same | |

There **ARE/ARE NOT** (circle one) court claims, pending or completed, involving this property (if yes, please attach relevant information).

D Certification

I hereby certify that all information provided on this application form and in the required attachments is true and accurate to the best of my knowledge. I agree to notify the Cape Cod Commission of any changes on the information provided in this application, in writing, as soon as is practicable. I understand failure to provide the required information and any fees may result in a procedural denial of my project.
NOTE: For wireless communication facilities, a licensed carrier should be either an applicant or a co-applicant.

APPLICANT
Applicant(s) Name: Town of Brewster Tel: 508-896-3701 Fax: 508-896-8089
Address: 2198 Main Street Brewster MA 02631 c/o Mark Forest, Administrator
Signature: Mark Forest Date: 8-1-2018

CO-APPLICANT
Co-Applicant(s) Name: Brewster Conservation Trust Tel: 508-694-7415 Fax: na
Address: P.O. Box 268 Brewster MA 02631
Signature: _____ Date: 8-1-2018

CONTACT
Contact: Mark Robinson Tel: 508-694-7415 Fax: na
Address: P.O. Box 443, Barnstable MA 02630
Signature: _____ Date: 8-1-2018

PROPERTY OWNER
Property Owner: Chester Robinson III et al Tel: 774-237-9636 Fax: na
Address: 66 Cemetery Road Harwich MA 02645
Signature: _____ Date: 8-1-2018

BILLABLE ENTITY
Name: Town of Brewster Tel: _____ Fax: _____
Address: as above



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| | Address: <u>2198 Main Street Brewster MA 02631 c/o Mark Forest, Administrator</u> | | |
| | Signature: _____ Date: <u>8-1-2018</u> | | |
| CO-APPLICANT | Co-Applicant(s) Name: <u>Brewster Conservation Trust</u> | Tel: <u>508-694-7415</u> | Fax: <u>na</u> |
| | Address: <u>P.O. Box 268 Brewster MA 02631</u> | | |
| | Signature: <u>[Signature]</u> <u>PRESIDENT/TREASURER</u> Date: <u>8-1-2018</u> | | |
| CONTACT | Contact: <u>Mark Robinson</u> | Tel: <u>508-694-7415</u> | Fax: <u>na</u> |
| | Address: <u>P.O. Box 443, Barnstable MA 02630</u> | | |
| | Signature: <u>[Signature]</u> Date: <u>8-1-2018</u> | | |
| PROPERTY OWNER | Property Owner: <u>Chester Robinson III et al</u> | Tel: <u>774-237-9636</u> | Fax: <u>na</u> |
| | Address: <u>66 Cemetery Road Harwich MA 02645</u> | | |
| | Signature: _____ Date: <u>8-1-2018</u> | | |
| BILLABLE ENTITY | Name: <u>Town of Brewster</u> | Tel: _____ | Fax: _____ |
| | Address: <u>as above</u> | | |



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| APPLICANT | Applicant(s) Name: <u>Town of Brewster</u> | Tel: <u>508-896-3701</u> | Fax: <u>508-896-8089</u> |
| | Address: <u>2198 Main Street Brewster MA 02631 c/o Noelle Bramer, Conservation Administrator</u> | | |
| | Signature: _____ Date: <u>8-1-2018</u> | | |
| CO-APPLICANT | Co-Applicant(s) Name: <u>Brewster Conservation Trust</u> | Tel: <u>508-694-7415</u> | Fax: <u>na</u> |
| | Address: <u>P.O. Box 268 Brewster MA 02631</u> | | |
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| CONTACT | Contact: <u>Mark Robinson</u> | Tel: <u>508-694-7415</u> | Fax: <u>na</u> |
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| | Signature: _____ Date: <u>8-1-2018</u> | | |
| PROPERTY OWNER | Property Owner: <u>Chester Robinson III et al</u> | Tel: <u>774-237-9636</u> | Fax: <u>na</u> |
| | Address: <u>66 Cemetery Road Harwich MA 02645</u> | | |
| | Signature: <u>Charles Robinson III</u> Date: <u>8-1-2018</u> | | |
| BILLABLE ENTITY | Name: <u>Town of Brewster</u> | Tel: _____ | Fax: _____ |
| | Address: <u>as above</u> | | |

3 of 4

REQUIRED FILING MATERIALS

The following must be attached to the Application Form at the time of its filing:

- ☒ Certified List of Abutters (required for all application types except Attachment 5, Jurisdictional Determination). A list of abutting property owners within 300 feet of the boundaries of the development site and their addresses. Include both local and off-Cape addresses when applicable.

already
hand-
delivered
to Idman

- ☐ This list must be formatted in three columns consistent with the Standard Label Format designed to print on Avery Labels #5160.
- ☐ List must be certified by the Town Assessor's office. Note: Assessor's offices may take up to 10 days to certify an abutter's list.
- ☐ If there are more than 50 abutters, applicants must provide **three sets** of the certified list on self-adhesive labels.

Exempt - Town applicant

- ☐ Required Filing Fee. Please calculate according to the Schedule of Fees (see Enabling Regulations, Section 14). Please make check payable to **BARNSTABLE COUNTY TREASURER**.

- ☒ An 8 1/2"x 11" copy of the U.S.G.S. quadrangle map of the area, containing sufficient information for the Commission to locate the site of the proposed development.

- ☒ Development Plans. File as required for each application type you are making. See list of Attachment(s) below for specific instructions.

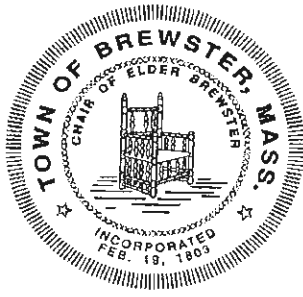
J.M. O'Reilly, surveyor

- ☐ Permits or Actions. List of local, state, or federal agencies or boards from which a permit or other actions have, will, or may need to be sought. Include agency/board name, type of permit, date filed, and file number. If one of the listed permits or actions requires the filing of an Environmental Notification Form under the Massachusetts Environmental Policy Act (MEPA), please contact the Commission's Chief Regulatory Officer to discuss the potential for joint Commission and MEPA review. For information on MEPA regulations contact the Executive Office of Energy and Environmental Affairs, MEPA Unit, at (617) 626-1020. Please attach all relevant MEPA documents and describe the status of the MEPA filing.

Planning Board only

Applicants must also submit the necessary attachment(s) based on the type of application(s) being made:

- | | |
|---------------|---|
| Attachment 1: | DRI Application Filing Procedures & Requirements |
| Attachment 2: | DRI Exemption Application Filing Procedures & Requirements |
| Attachment 3: | Hardship Exemption Application Filing Procedures & Requirements |
| Attachment 4: | Limited DRI Review Application Filing Procedures & Requirements |
| Attachment 5: | Jurisdictional Determination Application Filing Procedures & Requirements |
| Attachment 6: | Joint MEPA/DRI Review Application |



Town of Brewster

2198 Main Street
BREWSTER, MASSACHUSETTS 02631

(508) 896-4506 – Fax (508) 896-8089
cwilliams@brewster-ma.gov

OFFICE OF:
COLETTE WILLIAMS CMC/CMMC
TOWN CLERK
JUSTICE OF THE PEACE

To Whom It May Concern:

This letter is to certify that at the Annual Town Meeting, held, Monday, May 7th, 2018 with a quorum being present the following article was approved by a declared 2/3 vote:

LAND ACQUISITION/Community Preservation Act

ARTICLE NO. 29: To see if the Town will vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, for conservation, watershed protection and/or passive recreation purposes under the provisions of G.L. Ch. 44B, G.L. Ch. 40, Sections 8C, 39B and 41, and Article 97 of the Articles of Amendment of the Massachusetts Constitution, all or portions of the parcels of land located at 180 and 224 W.H. Besse Cartway, which portions contain 42.01 acres, more or less, are part of the property described in a Certificate of Title Number 198070, and shown on Land Court Plans Nos. 34330B and 40024A, with the care, custody, control and management of such parcels to be vested with the Conservation Commission; to raise and appropriate, borrow pursuant to any applicable statute and transfer from available funds, including, without limitation, the Community Preservation Fund, a sum of money for the foregoing acquisition and costs incidental or related thereto, including costs of appraisal, grant applications, grant compliance and all other incidental and related costs; further, to authorize the Board of Selectmen and/or the Conservation Commission to apply for, accept and expend any funds that may be provided by the Commonwealth or other public or private sources to defray all or a portion of the costs of said acquisition, including, but not limited to, grants and/or reimbursement from the Commonwealth under the Self-Help Act, G.L. Ch. 132A, Section 11 (now, so-called LAND grants), and the Federal Land and Water Fund grants, which grants and/or funds so received shall be used to repay all or a portion of the sum transferred from the Community Preservation Fund hereunder; and to authorize the Board of Selectmen to grant to the Brewster Conservation Trust or any other qualified organization a perpetual conservation and / or watershed preservation restriction pursuant to the provisions of G.L. Ch. 184, Sections 31-33, in compliance with G.L. Ch. 44B, Section 12(a), protecting the property for the purposes for which it is acquired, and to enter into all agreements and execute any and all instruments as may be necessary or convenient to effectuate the foregoing purposes, or take any other action relative thereto.

(Community Preservation Committee)

(Two Thirds Vote Required)

Motion: Move that the Board of Selectmen is hereby authorized to acquire, by purchase, gift, and/or eminent domain, for conservation, watershed protection and/or passive recreation purposes under the provisions of G.L. c.44B, G.L. Ch. 40, Sections 8C, 39B and 41, and Article 97 of the Articles of Amendment of the Massachusetts Constitution, all or portions of the parcels of land located at 180 and 224 W.H. Besse Cartway, which portions contain 42.01 acres, more or less, are part of the property described in a Certificate of Title Number 198070, and shown Land Court Plans Nos. 34330B and 40024A, with the care, custody, control and management of such parcels to be vested with the Conservation Commission; appropriate and transfer **Thirty**

Five Thousand Dollars (\$35,000) from Community Preservation Fund Open Space Reserve and authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the remaining **One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000)** under and pursuant to G.L. Ch. 44B, Section 11, G.L. Ch. 44, Sections 7, 7(1), or 8, and/or any other enabling authority, and to issue bonds or notes of the Town therefor, for the foregoing acquisition and costs incidental or related thereto, including, without limitations, costs of appraisal, grant applications, grant compliance and other costs; and, while such bonds shall be general obligation bonds of the Town, it is anticipated that the principal and interest thereon shall be paid from the Community Preservation Fund; in accordance with G.L. c.44, §20, to authorize any premium received by the Town upon the sale of any bonds or notes approved hereunder, less any such premium applied to the payment of the costs of issuance of such bonds or notes, to be applied to the payment of costs approved hereunder, thereby reducing by a like amount the amount to be borrowed to pay such costs; and, further the Board of Selectmen and/or the Conservation Commission are hereby authorized to apply for, accept and expend any funds that may be provided by the Commonwealth or other public or private sources to defray all or a portion of the costs of said acquisition, including, but not limited to, grants and/or reimbursement from the Commonwealth under the Self-Help Act, G.L. Ch. 132A, Section 11 (now, so-called LAND grants), Federal Land and Water Fund Grants, which grants and/or funds so received shall be used to repay all or a portion of the sums appropriated and transferred from the Community Preservation Fund Open Space Reserve hereunder; and the Board of Selectmen is authorized to grant to the Brewster Conservation Trust or any other qualified organization a perpetual conservation restriction pursuant to the provisions of G.L. Ch. 184, Sections 31-33, in compliance with G.L. Ch. 44B, Section 12(a), protecting the property for the purposes for which it is acquired and to enter into all agreements and execute any and all instruments as may be necessary or convenient to effectuate the foregoing purposes.

Paul Ruchinskas, CPC Member:

I move to approve the motion under Article No. 29 as printed in the warrant.

Vote: Voice. Approved by a declared 2/3 vote.

A True Copy Attest:



Colette M. Williams

CMC/CMMC

Town Clerk

Brewster, MA

PURCHASE AND SALE AGREEMENT

1. Information and Definitions

- (a) DATE OF AGREEMENT: June 25, 2018.
- (b) PREMISES: Four (4) parcels of land located in Brewster, containing 42 acres, more or less, in the aggregate, and described as: Lots 1, 2, and 3 (the "B Lots") shown on Land Court Plan 34330B and the parcel of land (the "A Lot" and, with the B Lots, the "Property") shown on Land Court Plan 40024A all as described in Certificate of Title Number 198070 filed with the Barnstable Registry District of the Land Court (the "Property"), excepting therefrom the three (3) parcels of land shown as "Lot A", "Lot B", and "Lot C" (collectively, the "Excepted Parcels") on the plan entitled "Preliminary Site Plan" prepared by J.M. O'Reilly & Associates, Inc. (the "Preliminary Plan"), and attached hereto as Exhibit A. The Property, excluding the Excepted Parcels, is referred to herein as the "Premises". The Premises and the Excepted Parcels shall be shown on a final plan, as set forth more particularly in Section 5. An existing cartway runs northerly from the B Lots (and shown on Land Court Plan No. 34330A as "Way B" and "Way D") and the A Lot (shown on Land Court Plan No. 40024A as a "Way 2"), is known as the "W.H. Besse Cartway" (the cartway, as it lies on the A Lot and the B Lots, is referred to as the "Cartway").
- (c) SELLER: Chester A. Robinson, III, Kenneth Robinson, Judith A. Marshall, and Beth A. Robinson (collectively, "Seller")
- Address: c/o Chester A. Robinson, III, 66 Cemetery Road, Harwich MA 02645
- Seller's Attorney: William D. Crowell, Esq., 466 Main Street, P.O. Box 185, Harwich Port, MA 02646
- Phone: (508) 432-1643 Fax:
- Email: wcrowell.office2@comcast.net
- (d) BUYER: Town of Brewster

Address: Brewster Town Hall, 2198 Main St., Brewster, MA 02631-3701

Buyer's Attorney: Shirin Everett, Esq., KP Law, P.C., 101 Arch St., Boston, MA 02110

Phone: (617) 556-0007 Fax: (617) 654-1735

Email: severett@k-plaw.com

(e) PURCHASE PRICE: The total purchase price for the Premises is One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00), of which:

PRKR DM BR
\$ 1,100.00 \$100.00

\$ 10,000.00 *MHR*

have been paid a refundable deposit on this day;

are to be paid if Brewster Town Meeting votes on May 7, 2018 to authorize BUYER'S acquisition of the Premises for conservation and passive recreation purposes under the care and custody of the Conservation Commission and appropriates the purchase price therefor, said second deposit to be paid within ten (10) days from the close of said successful Town Meeting, which deposit shall be nonrefundable except for Seller's failure to comply with the terms of this Agreement and except as provided in Section 5, and

PRKR DM BR MHR
\$1,738,900.00

\$1,739,900.00

are to be paid at the time of delivery of the deed by certified, treasurer's, or bank check or by wire transfer (or \$1,813,900 per subsection (f) below), at BUYER'S discretion.

\$1,750,000.00

TOTAL

(f) PRICE ADJUSTMENT:

In the event that SELLER has timely applied for a tax credit of Seventy-Five Thousand Dollars (\$75,000) under the Massachusetts Conservation Land Tax Credit Program and fails to obtain said credit despite exercising good faith and diligent efforts, including the transmittal of a qualified appraisal for State approval, then BUYER will, on receipt of the Grant Funds (defined below), increase the purchase price by Seventy-Five Thousand Dollars (\$75,000), which sum shall be paid within eighteen (18) months from the date on which the deed from SELLER to BUYER is recorded.

To B delivered \$10,000 to Atty Crowell on 6-28-18 via Mark R. There was a \$100 deposit from the Compact but no additional \$1000 deposit, since we did not have the Pts signed prior to Town Mtg.

Mark R.

- (g) CLOSING DATE: January 15, 2019, as said date may be revised in accordance with the terms hereof. Time is of the essence.
- (h) PLACE: 11:00 a.m. at the Barnstable Registry of Deeds, or a closing by mail, at BUYER'S election.
- (i) TITLE: Quitclaim Deed.

2. Covenant. SELLER agrees to sell and BUYER agrees to buy the Premises upon the terms hereinafter set forth.

3. Buildings, Structures, Improvements, Fixtures. The Premises consist of vacant land.

4. Title Deed. Said Premises are to be conveyed by a good and sufficient quitclaim deed running to BUYER, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except:

- (a) Provisions of existing building and zoning laws;
- (b) Except as provided herein, such taxes for the then current year as are not due and payable on the date of the delivery of such deed, except as provided below;
- (c) Any liens for municipal betterments assessed after the date of this Agreement; any betterments assessed before the date of this Agreement shall be paid by SELLER in full;
- (d) Easements, restrictions and/or reservations of record, if any, provided the same do not interfere with the access to and/or use of the Premises for conservation, passive recreation, and watershed protection purposes; and
- (e) The Restrictions (defined below).

5. Deed; Plans, Subdivision Plan. SELLER shall prepare the deed to the Premises. BUYER shall, at its cost, prepare a Land Court approved plan necessary for SELLER to convey the Premises to BUYER (the "Subdivision Plan"), install any new bounds required by the Land Court, and bear such other reasonable expenses as may be necessary to subdivide the Premises and the Excepted Parcels, provided that BUYER shall have no obligations hereunder until and unless Brewster Town Meeting approves the acquisition of the Premises on the terms set forth herein. The parties agree that the Preliminary Plan shows the location and area of the Excepted Parcels; the Subdivision Plan will show the metes and bounds of the Premises and the Excepted Parcels, and may make minor revisions to the Preliminary Plan, subject to the approval of both BUYER and SELLER. For purposes of this Agreement "minor revisions" to the Preliminary Plan and the resulting Final Subdivision Plan shall not include any revisions that render any Lot retained by the SELLER or structures on any said Excepted Lots non-conforming with any applicable Federal, State or Municipal Laws or Regulations (such revisions are referred to herein as the "Unacceptable Changes"). If SELLER objects to any of the Unacceptable Changes, then SELLER shall have the right to terminate this Agreement and such termination shall not be considered "SELLER'S failure to comply with the terms of this Agreement" pursuant to Paragraph 1(e) and BUYER shall forfeit said \$10,000.00 non-refundable deposit. BUYER agrees to cooperate in any reasonable manner in connection with the foregoing, but SELLER

acknowledges that BUYER has no control over and cannot guarantee that any permits and/or approvals required from municipal boards or officers or the Cape Cod Commission or the Massachusetts Natural Heritage and Endangered Species Program within their statutory or regulatory authority will be granted or waived. The BUYER herein agrees to notify the SELLER'S Agent, Chester A. Robinson III in writing of any and all meetings, hearings, and the like at least seventy two (72) hours in advance of the same so as to allow Mr. Robinson to have time to review Plans, revisions to Plans, research applicable issues, and attend any said hearings, meetings and the like.

5A. Deposit. All deposits shall be held by SELLER'S attorney in an IOLTA account and shall be paid over to the party that becomes entitled to such deposits under the terms of this Agreement. At closing, all deposits shall be credited against the purchase Price. In the event of any disagreement between the parties, the escrow agent may retain all deposits made under this Agreement pending instructions mutually given by the SELLER and the BUYER.

6. Restrictions. BUYER acknowledges that SELLER intends to convey the Premises subject to the following restrictions (collectively, the "Restrictions"): (a) BUYER shall not cut, construct or install any trail segment down the bank to Long Pond from the intended overlook until at least two (2) years have passed from the date on which the deed from SELLER conveying the Premises to BUYER is recorded, after studying the advisability of extending said trail and complying with all applicable permits and approvals; (b) no segment of the pond bank trail will be located within twenty feet (20') of the Excepted Parcels; (c) Any pond bank trail that ends at the edge of Long Pond shall not extend further south than seventy-five (75) feet from the iron pipe found at the pond share in the range (boundary line) of 52 Capt. Barker Road and, (d) BUYER may, at its sole discretion, create and maintain a single unpaved parking area on the Premises ("Parking Area"), having sufficient space for parking no more than three (3) vehicles, and located approximately four hundred eighty (480) feet south from the place where the Cartway enters the A Lot (from the rear sideline of 938 Crowells Bog Road), as shown on Land Court Plan No. 40024A. There shall be no other Parking Areas created by BUYER on the Property as defined in Paragraph 1(b) above.

7. Registered Title. In addition to the foregoing, if the title to said Premises is registered, said deed shall be in a form sufficient to entitle BUYER to a Certificate of Title of said Premises, and SELLER shall deliver with said deed all instruments, if any, necessary to enable BUYER to obtain such Certificate of Title.

8. Possession and Control of Premises. Full possession of said Premises free of all tenants and occupants is to be delivered at the time of the delivery of the deed, said Premises to be then (a) in the same condition as they now are, reasonable use and wear thereof excepted, and in broom-clean condition, and (b) not in violation of said building and zoning laws, and (c) in compliance with provisions of any instrument referred to in Section 4 hereof. BUYER shall be entitled to inspect said Premises personally prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this Section.

9. Extension to Perfect Title or Make Premises Conform. If SELLER shall be unable to give title or to make conveyance, or to deliver possession of the Premises, all as herein stipulated, or if at the time of the delivery of the deed the Premises do not conform with the

provisions hereof, then SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said Premises conform to the provisions hereof, as the case may be, and thereupon the time for performance hereof shall be extended for a period of up to thirty (30) calendar days. In no event, however, will the closing be extended beyond the time required for BUYER to comply with any state or federal grant and/or reimbursement programs unless the granting authority consents thereto in writing.

10. Failure to Perfect Title or Make Premises Conform. If at the expiration of the extended time SELLER shall have failed so to remove any defects in title, deliver possession, or make the Premises conform, as the case may be, all as herein agreed, then any payments made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto.

11. Buyer's Election to Accept Title. BUYER shall have the election, at either the original or any extended time for performance, to accept such title as SELLER can deliver to the said Premises in their then condition and to pay therefore the purchase price, without deduction, in which case SELLER shall convey such title.

12. Acceptance of Deed. The acceptance of a deed by BUYER, or its assignee or nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

13. Use of Money to Clear Title. To enable SELLER to make conveyance as herein provided, SELLER may, at the time of delivery of this deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed, or, if an institutional mortgages only, within a reasonable time thereafter in accordance with customary Massachusetts conveyancing practices.

14. Adjustments. Taxes for the then-current fiscal year shall be apportioned as follows: if taxes are outstanding as of the closing date, taxes will be apportioned as of the closing date in accordance with G.L. c. 59, §72A; if, however, SELLER has paid taxes through and past the closing date, such payments shall not be refunded, it being acknowledged that BUYER is tax exempt and has no obligation to pay taxes upon acquisition of the Premises. All utilities, if any, shall be apportioned as of the day of performance of this Agreement.

15. Reservation of Easements. (a) SELLER will reserve, solely for the benefited of the Excepted Parcels, the following permanent and non-exclusive rights and easements: (i) an easement to use the Cartway, as shown on Land Court Plans No. 34330B and 40024A, solely for pedestrian and vehicular access to and from Crowell's Bog Road to the Excepted Parcels. The portion of the Cartway located on the A Lot is referred to as the "Lot A Path" and the portion located on the B Lots is referred to as the "Lot B Path" (together, the "Cartway"), as shown more particularly in Exhibit B, attached hereto and incorporated herein. BUYER shall be solely responsible for ensuring that the Cartway meets all the requirements of the Brewster Fire Department, including but not limited to grading, tree removal, trimming and the like, both prior

to and subsequent to the closing herein. SELLER shall not increase the width of the Cartway beyond the minimum width necessary to satisfy the access requirements of the Brewster Fire Department at any given time and/or pave or surface the Cartway with impervious materials. SELLER shall have no right to access or use, and shall release to BUYER any right, title and interest that SELLER may have in and to the forty-foot (40') wide strip of land shown as "Way" on Land Court Plan 34330B (Sheet 1) that runs north from the Lot B Path to Massachusetts Highway Route 137 (a/k/a Long Pond Road) (the "Abandoned Way"), as shown on Exhibit B, and shall release said Abandoned Way in the deed by which SELLER conveys the Premises to BUYER unless the same shall cause the Excepted Parcels to lose any required legal frontage for the same in which case SELLER shall retain title to the Abandoned Way but shall release any right to access or use the Abandoned Way; and (ii) the right to maintain the existing overhead electric wires over the A Lot (the "Utility Line"), provided that SELLER shall, at its sole expense and prior to the closing, undertake any and all work necessary so that all utility lines are securely at least ten (10) feet above the ground surface or installed wholly underground.

(b) Rights and Obligations. Neither SELLER nor BUYER shall have any obligation to remove snow and ice from the Cartway, and BUYER shall have no obligation to maintain the Cartway other than as necessary to ensure that said Cartway meets the requirements of the Brewster Fire Department. The Cartway shall remain unpaved.

(c) Survival. The provisions hereof shall survive the closing.

16. Buyer's Contingencies. BUYER'S obligation to perform under this Agreement is subject to the following conditions, at BUYER'S option:

(a) Town Meeting has authorized the acquisition of the Premises on the terms set forth herein and appropriated the purchase price therefore;

(b) If applicable, compliance with the provisions of G.L. c.30B (the Uniform Procurement Act) for acquisition of real property;

(c) The SELLER shall have raised or buried the utility lines, as aforesaid;

(d) SELLER shall have waived any rights SELLER may have to relocation benefits under the provisions of G.L. c. 79A, and SELLER shall have obtained waivers of relocation benefits under G.L. c. 79A and CMR 27.03 from all tenants of occupants, if any, of the Premises or any portion thereof. SELLER shall represent and warrant in writing at closing that all such waivers have been provided as to all occupants and shall defend, indemnify and hold harmless BUYER as to any claim for relocation benefits brought against BUYER by any former, present or future tenant or occupant. The provisions of this paragraph shall survive the delivery of the deed; and

(e) Compliance by BUYER and SELLER with any other requirements of Massachusetts General or Special Laws or regulations relative to the acquisition of real property by the BUYER, and BUYER and SELLER agree to diligently pursue full compliance with said laws and regulations.

Provided, however, that if any of the conditions are not satisfied by the closing date, BUYER shall have the right to extend the closing for one (1) month at a time, provided that BUYER, prior to the closing date and any extension period, pays SELLER \$5,000 for each one (1)-month extension, pro-rated for any partial month, and gives SELLER written notice of the new closing date at least seven (7) days prior thereto, provided that no payment shall be made if the closing is extended because of and/or by SELLER. In no event, however, will the closing be extended beyond the time required for BUYER to comply with any state or federal reimbursement programs unless BUYER consents thereto, in its sole and absolute discretion. Said sums shall be returned to BUYER if SELLER fails to comply with the terms of this Agreement.

17. Title to Premises. Notwithstanding anything herein contained, the Premises shall not be considered to be in compliance with the provisions of this Agreement with respect to title unless:

- (a) No building, structure or improvement of any kind, including driveways and utilities, belonging to any person or entity encroaches upon or under the Premises from other premises except for the Cartway providing pedestrian and vehicular access to and from the Excepted Parcels.
- (b) Title to the Premises is insurable, for the benefit of BUYER, by a title insurance company acceptable to BUYER, in a fee owner's policy of title insurance at normal premium rates, in the American Land Title Association form currently in use; and
- (c) All buildings, structures and improvements, including but not limited to any driveways, garages, cesspools and leaching fields, and all existing means of access to the Premises, shall be located completely within the boundary lines of said Premises and shall not encroach upon or under property of any other person or entity except for such improvements on the Excepted Parcels that minimally extend into or encroach upon the Premises and are reasonably acceptable to BUYER.

18. Affidavits, etc. Simultaneously with the delivery of the deed, SELLER shall execute and deliver: (a) Affidavits and indemnities under oath with respect to parties in possession and mechanic's liens to induce BUYER's title insurance company to issue lender's and owner's policies of title insurance without exception for those matters, and SELLER shall indemnify and hold harmless the title insurance company for any losses, costs, or damages sustained as a result of issuing a policy without exceptions covered by such representations; (b) An affidavit, satisfying the requirements of Section 1445 of the Internal Revenue Code and regulations issued thereunder, which states, under penalty of perjury, SELLER's United States taxpayer identification number, that SELLER is not a foreign person, and SELLER's address (the "1445 Affidavit"); (c) Internal Revenue Service Form W-8 or Form W-9, as applicable, with SELLER's tax identification number, and an affidavit furnishing the information required for the filing of Form 1099S with the Internal Revenue Services and stating SELLER is not subject to back-up withholding; (d) a "Disclosure of Beneficial Interests in Real Property Transaction" certificate as required by G.L.c.7C, §38; and (e) Such additional and further instruments and

documents as may be consistent with this Agreement and customarily and reasonably required by BUYER's counsel and/or BUYER's title insurance company to complete the transactions described in this Agreement.

19. Title Standards. Any matter or practice arising under or relating to this Agreement which is the subject of a title standard or a practice standard of the Real Estate Bar Association at the time for delivery of the deed shall be covered by said title standard or practice standard to the extent applicable.

20. Representations and Warranties. SELLER represents and warrants to BUYER, effective as of the date of this Agreement and also effective as of the date of closing (subject to any subsequent notice from SELLER as hereinafter set forth), that:

- (a) To the best of SELLER'S actual knowledge, without making an independent inspection, SELLER holds good and clear, record and marketable title to the Premises in fee simple subject to exceptions of record;
- (b) SELLER has not granted any options, rights of first refusal, or other contracts have been granted or entered into which give any other party a right to purchase or acquire any interest in the Premises;
- (c) SELLER has not entered into leases, licenses, or other occupancy agreements (whether written or oral) in effect with respect to any part of the Premises. SELLER agrees not to enter into any other leases or occupancy agreements from and after the date of this Agreement;
- (d) To SELLER'S knowledge, SELLER'S execution of this Agreement does not violate any other contracts, agreements, or any other arrangements of any nature whatsoever that SELLER has with third parties;
- (e) SELLER has the right, power and authority to enter into this Agreement and to sell the Premises in accordance with the terms and conditions hereof. This Agreement, when executed and delivered by SELLER, will be a valid and binding obligation of SELLER in accordance with its terms;
- (f) SELLER is not a party to any litigation affecting the Premises, and SELLER knows of no litigation or threatened litigation affecting the Premises, or affecting SELLER, or any basis for any such litigation, which would either enjoin SELLER'S performance under this Agreement or adversely impact the Premises;
- (g) To SELLER'S actual knowledge: (i) no Hazardous Waste (defined in Section 22) has been generated, released, or disposed of at or from the Premises; (ii) there has been no release of any Hazardous Waste from the Premises; (iii) there are no underground storage tanks or other subsurface facilities holding petroleum or oil products currently in use or previously abandoned on the Premises, and (iv) chlordane has not been used as a pesticide on the Premises;

- (h) SELLER has not received written notice from any governmental authority or agency having jurisdiction over the Premises of any environmental contamination, or the existence or release of any Hazardous Waste (defined below), at or near the Premises; and
- (i) No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against or contemplated by SELLER.

SELLER will not cause nor, to the best of SELLER's ability, permit any action to be taken which would cause any of SELLER's representations or warranties to be false as of closing, and in any event shall notify BUYER promptly of any change in these representations and warranties. SELLER has no knowledge or information of any facts or circumstances which would materially and adversely affect the use or operation of the Premises for BUYER'S intended use that are not set forth in this Agreement. SELLER shall confirm whether the foregoing representations and warranties continue to be true and correct in all material respects at the Closing. Such representations and warranties shall survive the closing and the delivery of the deed.

21. Inspection Rights. BUYER and its agents, employees, consultants, contractors or licensees shall have the right, upon at least twenty-four (24) hours prior notice to SELLER, which notice may be oral notice, to enter the Premises at BUYER'S own risk for the purposes of conducting surveys, inspections and tests, and environmental site assessments, (hereinafter, the "Work"), and SELLER or its agents may choose to accompany BUYER and/or BUYER's agents. BUYER'S performance hereunder is expressly conditional, at BUYER'S option, upon BUYER not having found on the Premises any oil, hazardous waste or hazardous materials, as such terms are used in G.L. c.21E and any applicable federal and/or state laws, rules, and regulations ("Hazardous Waste"). In the event Hazardous Waste is found and/or BUYER is not satisfied with the Premises, BUYER shall have the right, to be exercised in its sole and absolute discretion, to terminate this Agreement, without resource, whereupon all the rights and obligations of the parties shall cease, except for those obligations, if any, stated to survive said termination. Nothing herein shall affect BUYER'S rights under this Agreement to walk through and inspect the Premises at any time prior to the delivery of the deed.

22. Brokers. Both parties agree, acknowledge and warrant that there is no real estate broker associated with this transaction. BUYER and SELLER agree to defend, indemnify the other against and hold the other harmless, to the extent permitted by law, from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the other by any broker in connection with this transaction as a result of a breach of this warranty. The provisions of this Section shall survive delivery of the deed.

23. Closing. The deed and other documents required by this Agreement are to be delivered and the Purchase Price, less the permitted adjustments, paid at the Date and Time of Closing and at the Place of Closing. All documents and funds are to be delivered in escrow subject to prompt rundown of title and recording, which term shall include registration in the

case of registered land. SELLER's proceeds may be in the form of a Town Treasurer's check, and the check shall be held in escrow by SELLER's attorney who shall release the check to SELLER only following the recording of the deed.

24. Condition of Premises at Closing. SELLER agrees to deliver the Premises at the time of delivery of SELLER'S deed in a condition substantially similar to its condition at the time of the signing of this Agreement, broom-clean, free of debris, removing all of SELLER'S personal property therefrom which is not being sold to BUYER, or left for its benefit, as consented to by it. Until the delivery of the deed, SELLER shall maintain insurance on the Premises in its current amount.

25. Casualty; Condemnation. Notwithstanding anything herein to the contrary, in the event of a taking of all or part of the Premises by eminent domain by any entity other than BUYER, or if the Premises are damaged or destroyed by fire or other casualty, and such taking or casualty, in BUYER's reasonable determination, may interfere unreasonably with BUYER's use of the Property for the purposes set forth herein, then BUYER may terminate this without recourse against the parties (except for those provisions that are stated herein to survive such termination). All risk of loss shall remain with SELLER until the recording of the deed.

26. Liability of Trustee, Shareholder, Fiduciary, etc. If SELLER or BUYER executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

27. Extensions. BUYER and SELLER hereby authorize their respective attorneys (as the case may be) to execute on their behalf any extensions to the time for performance and any change of location and/or time for delivery of the deed. BUYER and SELLER shall be able to rely upon the signature of said attorneys as binding unless they have actual knowledge before the execution or other consent to such extensions, that either party has disclaimed the authority granted herein to bind them. For purposes of this Agreement, facsimile and scanned signatures shall be construed as original.

28. Errors. If any errors or omissions are found to have occurred in any calculations or figures used in the settlement statement signed by the parties (or would have been included if not for any such error or omission) and notice thereof is given within six (6) months of the date of delivery of the deed to the party to be charged, then such party agrees to make payment to correct the error or omission. The provisions of this Section shall survive the closing and delivery of the deed.

29. Construction of Agreement. This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both SELLER and BUYER. If two or more persons are named herein as BUYER their obligations hereunder

shall be joint and several. Any claims arising under this Agreement shall be brought in the courts of the Commonwealth of Massachusetts.

30. Captions. The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

[signature page follows]

In Witness whereof, the parties hereto sign this Agreement under seal as of this 25th
day of JUNE, 2018.

SELLERS:

Chester A. Robinson, III

Kenneth Robinson

Judith A. Marshall

Beth A. Robinson

BUYER:

TOWN OF BREWSTER,
By its Select Board

CABingham
Cynthia Bingham

[Signature]
David Whitney

[Signature]
John Dickson

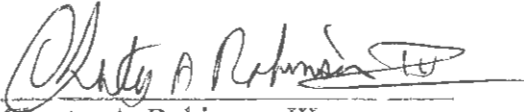
MaryChaffee
Mary Chaffee


[Signature]
Benjamin deRuyter

606730/BREW/0001

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Judith A. Marshall

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TOWN OF BREWSTER,
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John Dickson

Peter G. Norton

Cynthia Bingham

David Whitney

606730/BREW/0001

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BUYER:

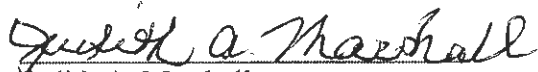
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David Whitney

606730/BREW/0001

The figure is a detailed site plan for the Frelan Quarry. It shows three main lots: Lot A, Lot B, and Lot C. Lot A is a large rectangular area on the left. Lot B is a smaller rectangular area on the right. Lot C is a large irregular area at the bottom. The plan includes various annotations such as 'LONG POND' at the top, 'ZONE R, ZONE RM' at the bottom, and 'LOT A', 'LOT B', 'LOT C' labels. There are also various symbols and lines indicating boundaries, easements, and other features. A legend is located in the bottom right corner, and a scale bar is in the bottom left corner.

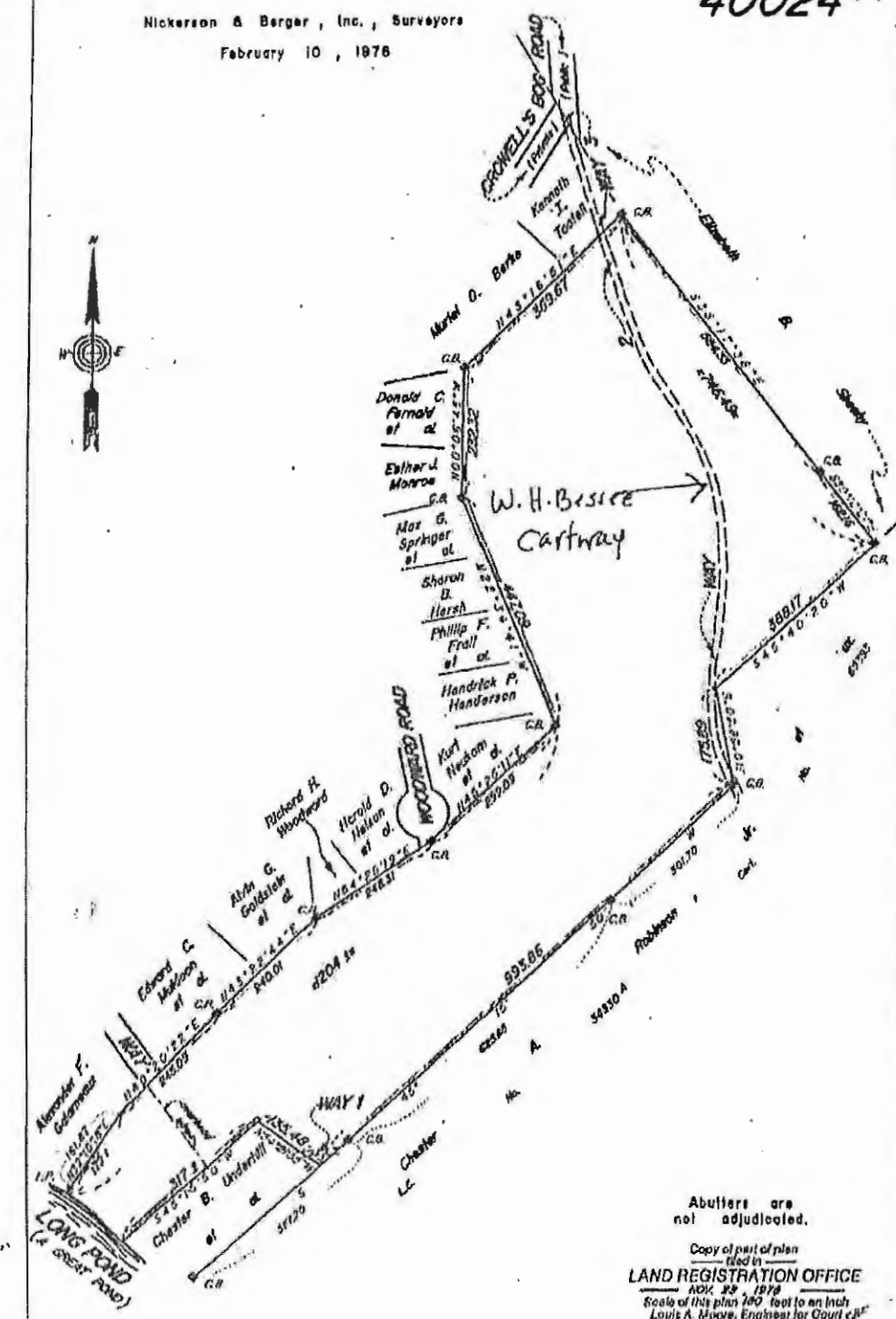
LEGEND

- 1. LOT A
- 2. LOT B
- 3. LOT C
- 4. LOT D
- 5. LOT E
- 6. LOT F
- 7. LOT G
- 8. LOT H
- 9. LOT I
- 10. LOT J
- 11. LOT K
- 12. LOT L
- 13. LOT M
- 14. LOT N
- 15. LOT O
- 16. LOT P
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- 225. LOT HQ
- 226. LOT HR
- 227. LOT HS
- 228. LOT HT
- 229. LOT HU
- 230. LOT HV
- 231. LOT HW
- 232. LOT HX
- 233. LOT HY
- 234. LOT HZ
- 235. LOT IA
- 236. LOT IB
- 237. LOT IC
- 238. LOT ID
- 239. LOT IE
- 240. LOT IF
- 241. LOT IG
- 242. LOT IH
- 243. LOT II
- 244. LOT IJ
- 245. LOT IK
- 246. LOT IL
- 247. LOT IM
- 248. LOT IN
- 249. LOT IO
- 250. LOT IP
- 251. LOT IQ
- 252. LOT IR
- 253. LOT IS
- 254. LOT IT
- 255. LOT IU
- 256. LOT IV
- 257. LOT IW
- 258. LOT IX
- 259. LOT IY
- 260. LOT IZ
- 261. LOT JA
- 262. LOT JB
- 263. LOT JC
- 264. LOT JD
- 265. LOT JE
- 266. LOT JF
- 267. LOT JG
- 268. LOT JH
- 269. LOT JI
- 270. LOT JJ
- 271. LOT JK
- 272. LOT JL
- 273. LOT JM
- 274. LOT JN
- 275. LOT JO
- 276. LOT JP
- 277. LOT JQ
- 278. LOT JR
- 279. LOT JS
- 280. LOT JT
- 281. LOT JU
- 282. LOT JV
- 283. LOT JW
- 284. LOT JX
- 285. LOT JY
- 286. LOT JZ
- 287. LOT KA
- 288. LOT KB
- 289. LOT KC
- 290. LOT KD
- 291. LOT KE
- 292. LOT KF
- 293. LOT KG
- 294. LOT KH
- 295. LOT KI
- 296. LOT KJ
- 297. LOT KK
- 298. LOT KL
- 299. LOT KM
- 300. LOT KN
- 301. LOT KO
- 302. LOT KP
- 303. LOT KQ
- 304. LOT KR
- 305. LOT KS
- 306. LOT KT
- 307. LOT KU
- 308. LOT KV
- 309. LOT KW
- 310. LOT KX
- 311. LOT KY
- 312. LOT KZ
- 313. LOT LA
- 314. LOT LB
- 315. LOT LC
- 316. LOT LD
- 317. LOT LE
- 318. LOT LF
- 319. LOT LG
- 320. LOT LH
- 321. LOT LI
- 322. LOT LJ
- 323. LOT LK
- 324. LOT LL
- 325. LOT LM
- 326. LOT LN
- 327. LOT LO
- 328. LOT LP
- 329. LOT LQ

PLAN OF LAND IN BREWSTER
Nickerson & Berger, Inc., Surveyors
February 10, 1978

40024 A

40024 A



Abutters are
not adjudicated.

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
NOV. 28, 1978
Scale of this plan 100 feet to an inch
Louis K. Moore, Engineer for Court

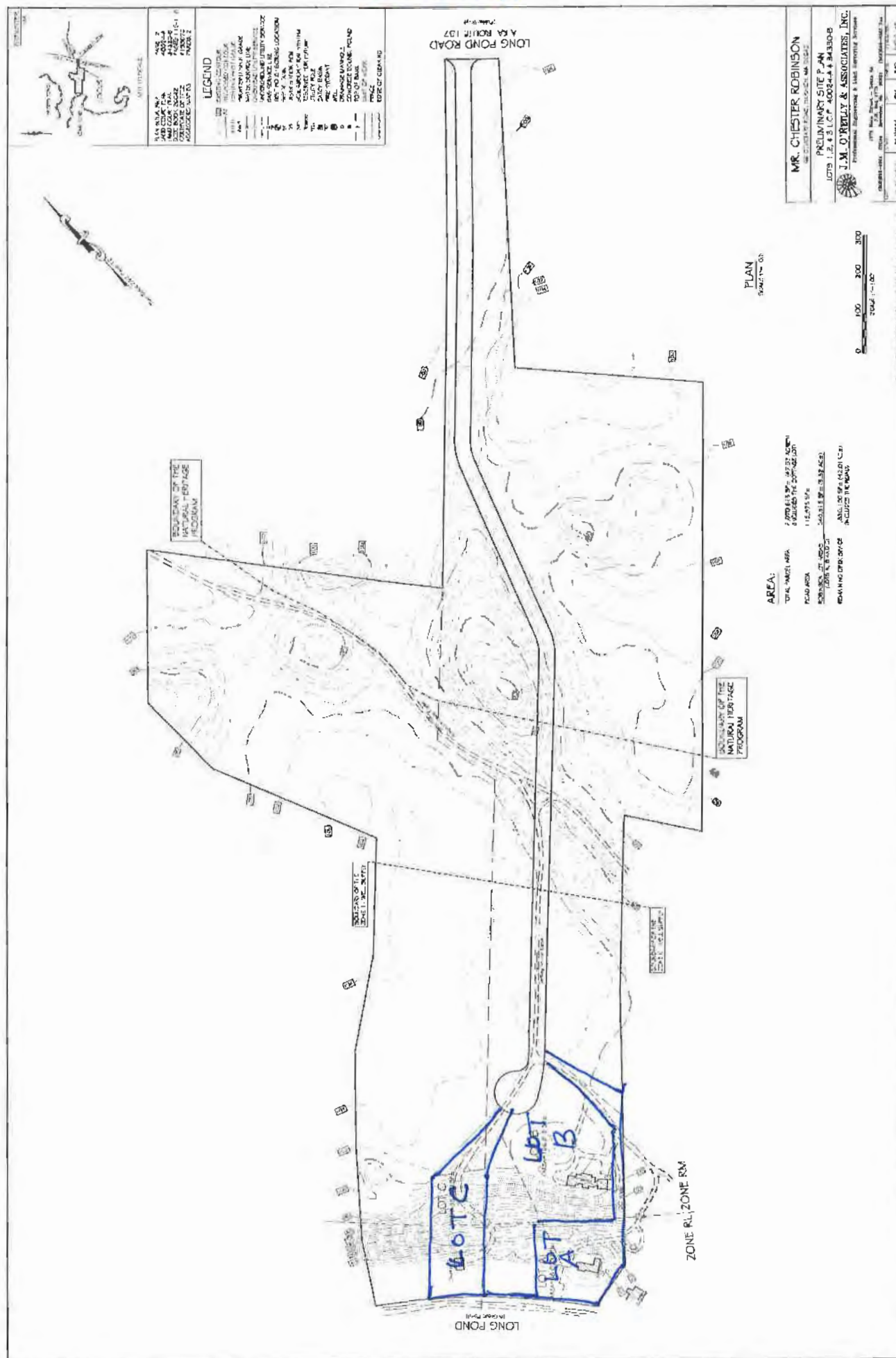
SA

Form LUB-D-3, 1969 3-54

P.B. 24

15-PL-58

EXHIBIT A



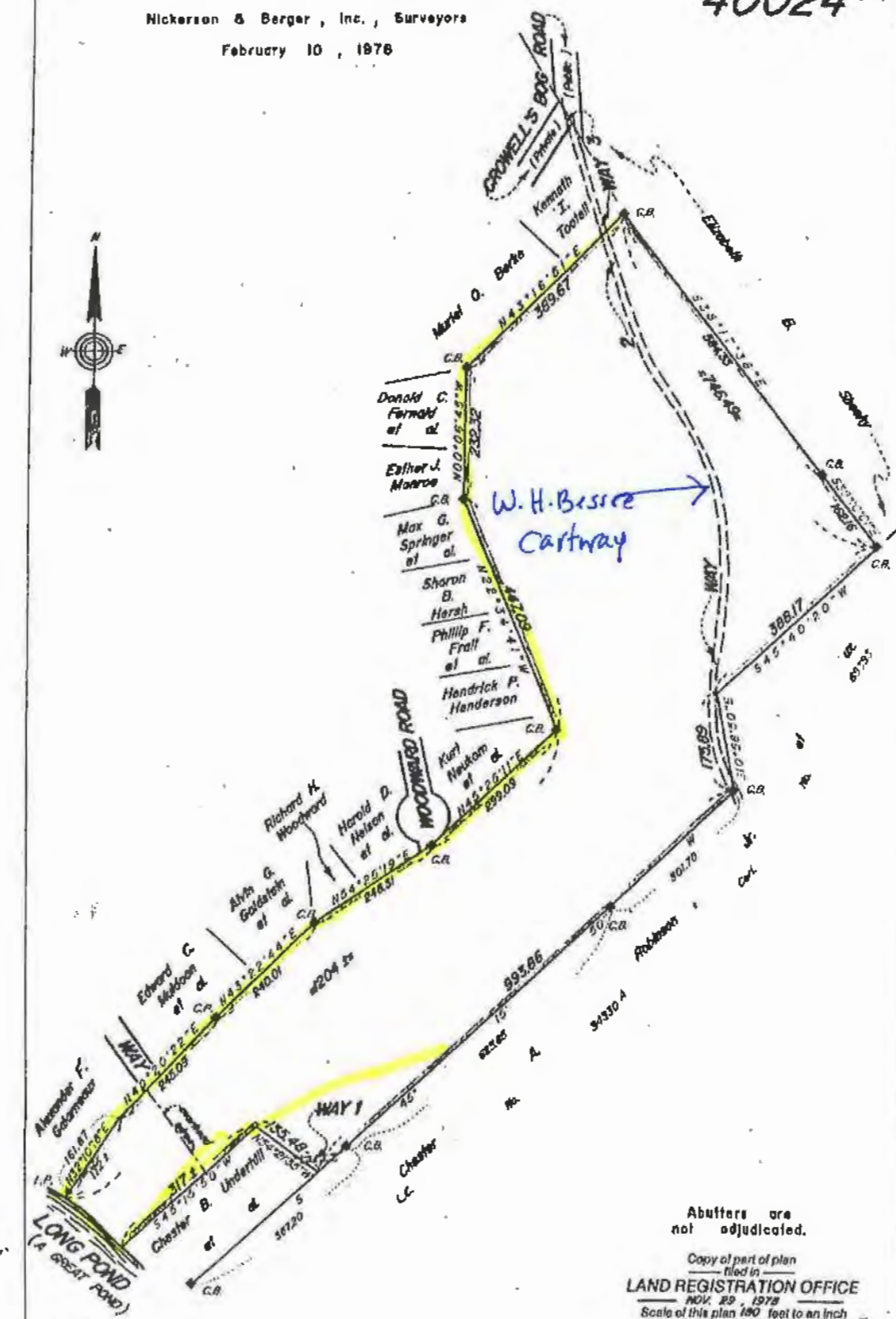
Scale of this plan, 300 feet to an inch
Louis A. Moore, Engineer for Court

Abutters are shown as
on original decree plan.

PLAN OF LAND IN BREWSTER
Nickerson & Berger, Inc., Surveyors
February 10, 1978

1000000 130090

40024 A



Abutters are
not adjudicated.

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
NOV. 29, 1978
Scale of this plan 100 feet to an inch
Louis A. Moore, Engineer for Court

S.S.R.

Form L.B.D-2, 1900 3-54

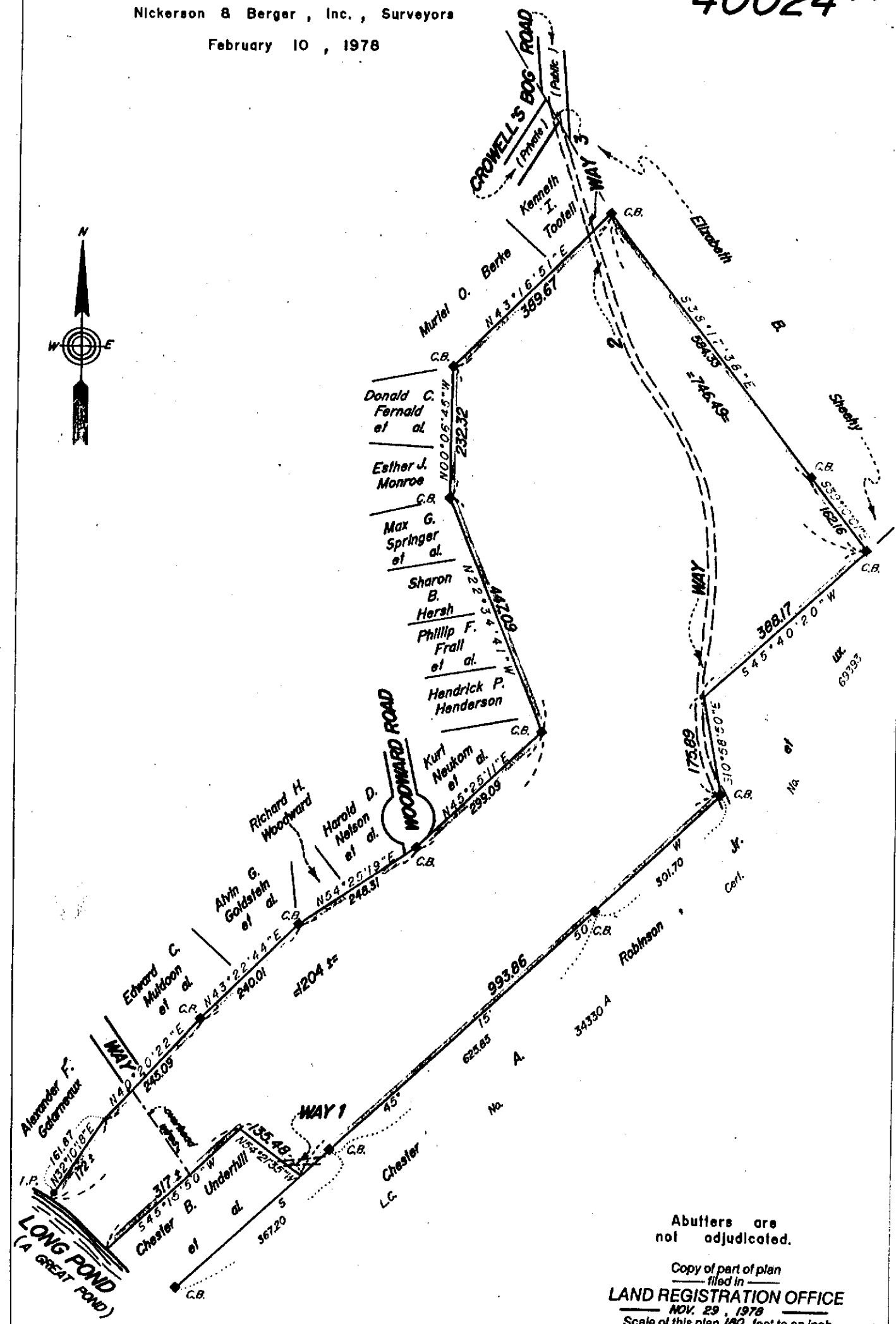
P.D. 24

15-82-92

with city 130090

PLAN OF LAND IN BREWSTER
Nickerson & Berger, Inc., Surveyors
February 10, 1978

40024 A



Abutters are
not adjudicated.

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
NOV. 29, 1978
Scale of this plan 180 feet to an inch
Louis A. Moore, Engineer for Court CB

SUBDIVISION PLAN OF LAND IN BREWSTER

Nickerson & Berger, Surveyors

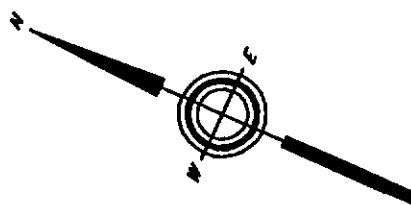
June 21, 1995

34330B

SHEET 1 OF 2

plan fee

(Route 137)
LONG POND ROAD



Chester Williams

Earl M. Carriere et al.

DETAIL

Scale: 150 feet to an inch.

2

2

3

1

3

LONG POND
(A GREAT POND)

LONG POND
(A GREAT POND)

Subdivision of Land
Shown on Plan 34330-A
Filed with Cert. of Title No. 69393
Registry District of Barnstable County

Separate certificates of title may be issued for land shown hereon and on sheet 2 as Lots 1, 2 and 3 By the Court.

Charles K. Smith
Recorder

Abutters are shown as on original decree plan.

Copy of part of plan filed in

LAND REGISTRATION OFFICE
JAN. 26, 1996

Scale of this plan 300 feet to an inch
Louis A. Moore, Engineer for Court

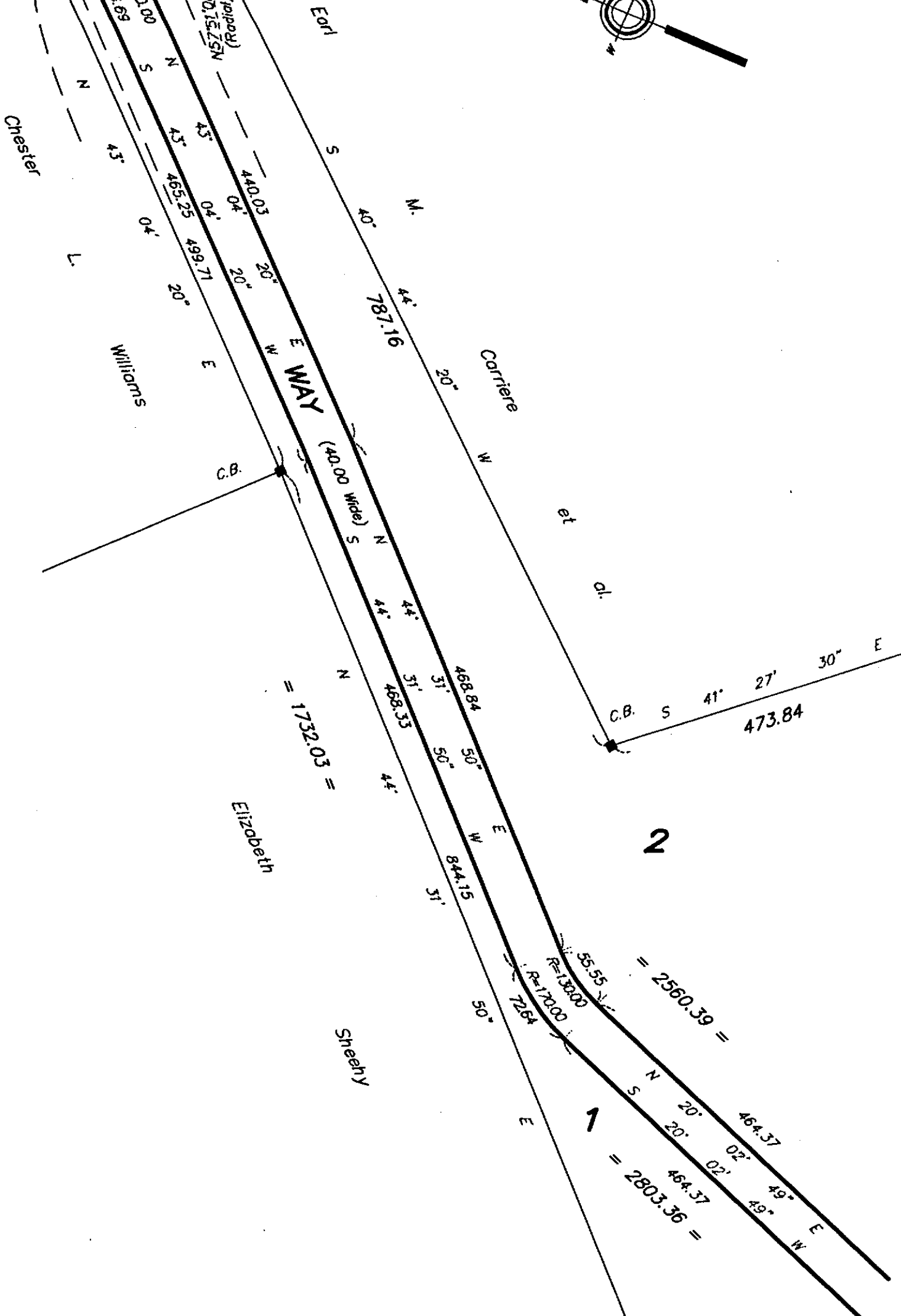
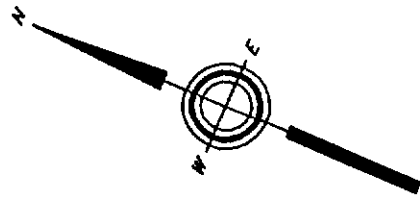
JAN. 26, 1996

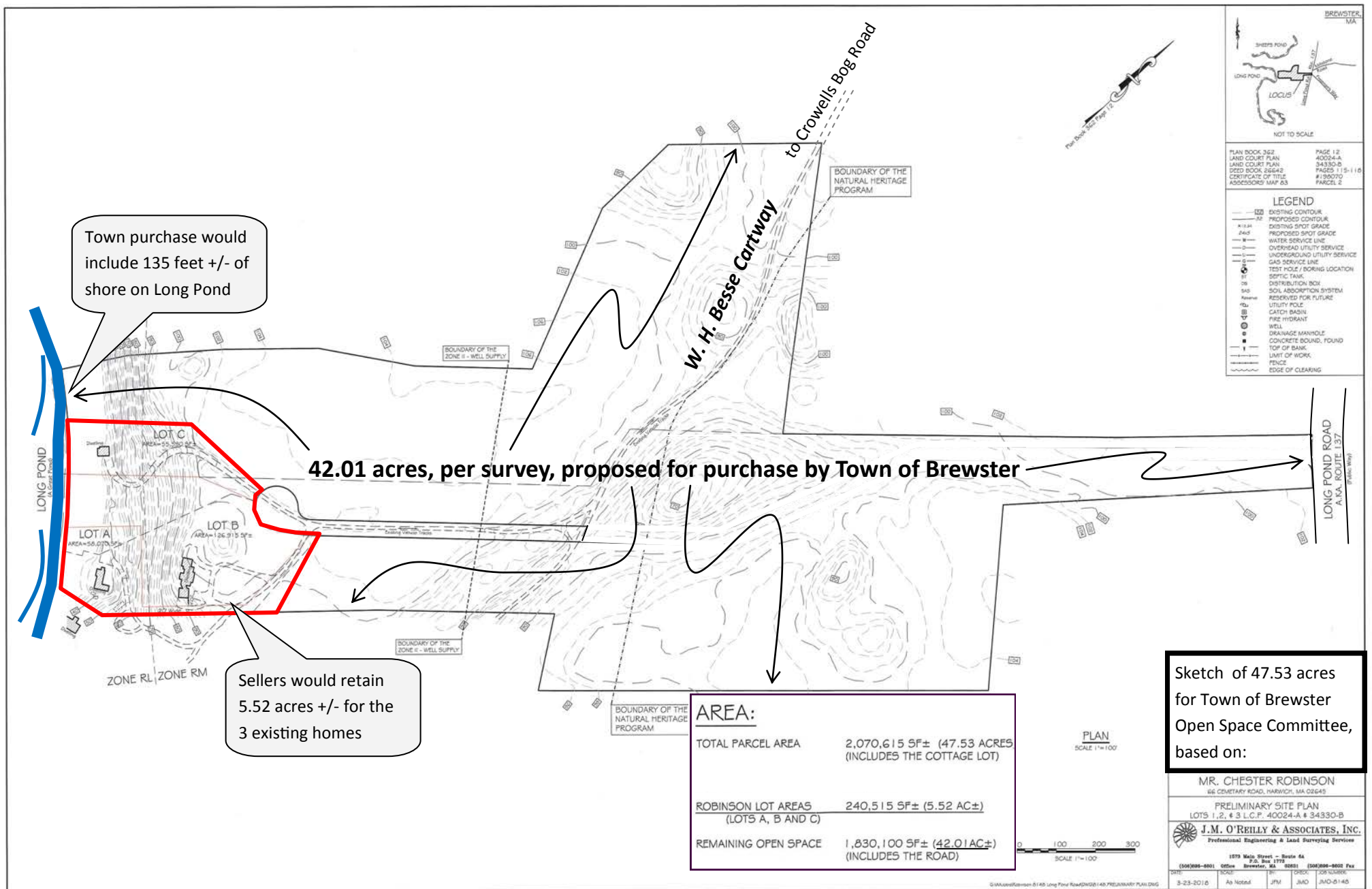
REC-002W

34330B

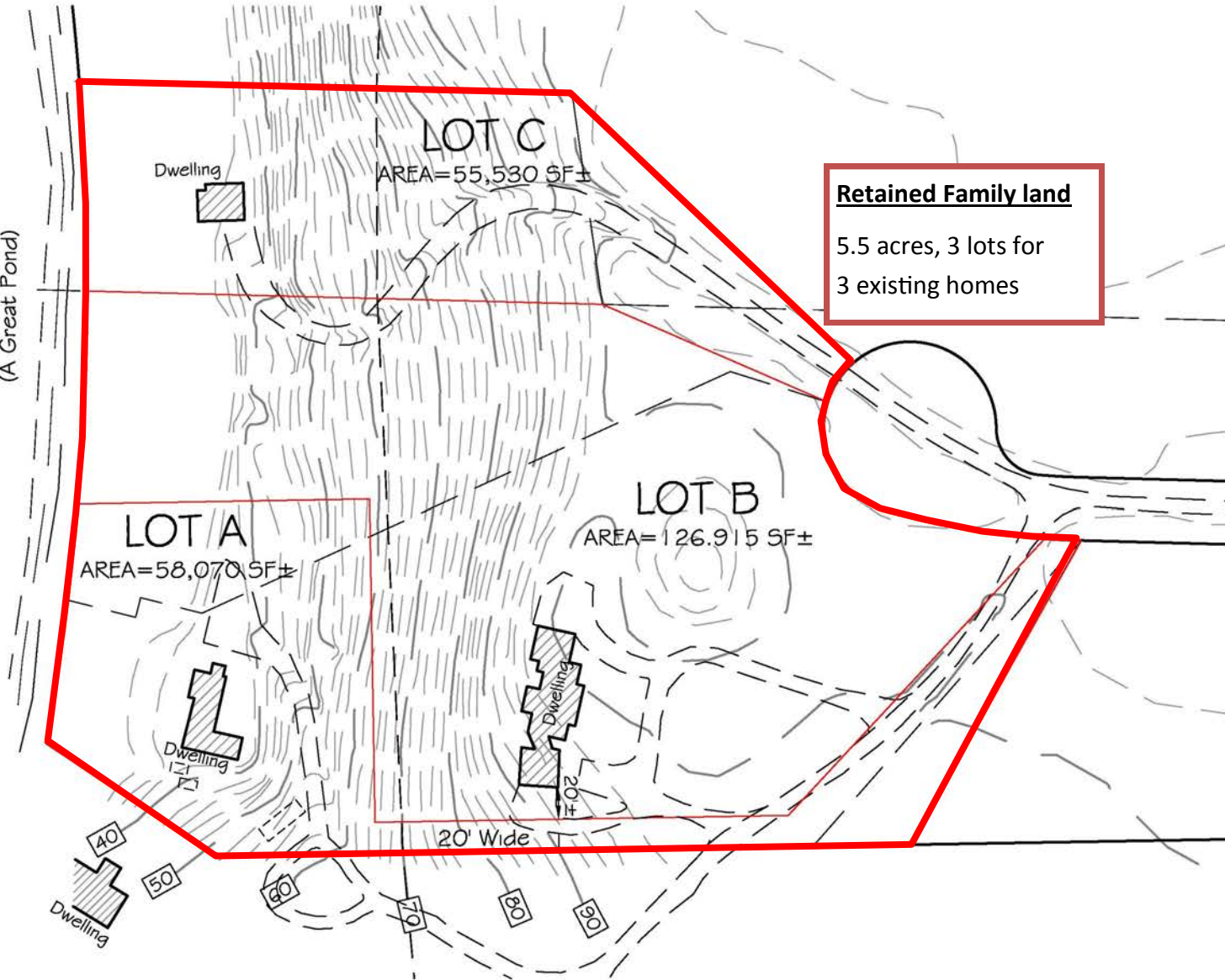
SHEET 2 OF 2
DETAIL SHEET

LONG POND ROAD
(Route 137)
(60.00 Wide)
C.B. = 2030.00





LONG POND
(A Great Pond)



DEED

I, CHESTER A. ROBINSON, JR., being unmarried, of Orleans, Barnstable County, Massachusetts, for consideration paid, my love and affection for my four (4) children, GRANT to said children:

CHESTER A. ROBINSON, III, of 5 Quanset Road, Orleans, MA 02653;
KENNETH A. ROBINSON, of 181 W.H. Besse Cartway, Brewster, MA 02631;
JUDITH MARSHALL, of 112 Mount Misery Road, (Box 326), New Lisbon, NJ 08064;
and
BETH ANN ROBINSON, of P.O. Box 533, Campton, Grafton, NH 02112, all four as tenants in common and not as joint tenants, with QUITCLAIM COVENANTS, the following parcels of land, with the buildings thereon, as follows:

PARCEL I: That certain parcel of land situate in Brewster in the County of Barnstable and Commonwealth of Massachusetts, bounded and described as follows:

| | |
|---------------|---|
| Northeasterly | by Long Pond Road, one hundred thirty-four and 46/100 (134.46) feet; |
| Southeasterly | seven hundred eighty-seven and 16/100 (787.16) feet, and |
| Northeasterly | four hundred seventy-three and 84/100 (473.84) feet by land now or formerly of Earl M. Carriere, et al; |
| Southeasterly | by land now or formerly of Camp Wono, Inc., eleven hundred forty-three and 15/100 (1143.15) feet; |
| Southwesterly | by land now or formerly of Charles A. Robinson et al, two hundred (200) feet; |
| Southeasterly | by said land now or formerly of Charles A. Robinson et al and by land now or formerly of Henry L. Mitron et al, eleven hundred forty-eight and 45/100 (1148.45) feet; |
| Southerly | by said land now or formerly of Henry L. Mitron et al, about one hundred thirty (130) feet; |
| Southwesterly | by Long Pond; |
| Northwesterly | about thirteen hundred fifty-four (1354) feet, and |
| Westerly | one hundred seventy-five and 89/100 (175.89) feet by land now or formerly of Chester B. Underhill et al; and |

PROPERTY ADDRESS: 180, 206 & 224 W.H. BESSE CARTWAY, BREWSTER MA 02631
MAILING ADDRESS: 5 QUANSET RD. ORLEANS, MA - 02653

Northwesterly by lands of sundry adjoining owners, seventeen hundred thirty-two and 03/100 (1732.03) feet.

All of said boundaries, except the water line, are determined by the Court to be located as shown on a plan drawn by Nickerson & Berger, Surveyors, dated January, 1966, as modified and approved by the Court, filed in the Land Registration Office, a copy of a portion of which will be filed with the original certificate of title issued on this decree. See also Land Court Plan No. 34330 A. *Now shown as lots 1, 2 & 3 on plan 34330-B*

The land hereby registered is subject to rights of way set forth in three grants made by Kenneth E. Wilson, one to Frederick L. Hull et ux, dated March 27, 1954, duly recorded in Book 872, Page 197, one to L. Henry Mitron et ux, dated March 2, 1954, duly recorded in Book 940, Page 114, and one to Nina A. Underhill et al, dated March 19, 1965, duly recorded in Book 1291, Page 961.

So much of the land hereby registered as is included within the limits of Way "A," Way "B," Way "C," and Way "D," approximately shown on said plan, is subject to the rights of all persons lawfully entitled thereto in and over the same.

The land hereby registered is subject to the rights of the public in Long Pond, a great pond of The Commonwealth.

For Grantor's title to said Parcel I, see Certificate of Title No. 69393 on file with the Registered Land Department, Barnstable Registry of Deeds.

PARCEL II: That certain parcel of land situate in Brewster in the County of Barnstable and Commonwealth of Massachusetts, bounded and described as follows:

Southwesterly by Long Pond;

Northwesterly by lands now or formerly of Alexander F. F. Galarneaux, by the end of a Way, by lands of sundry adjoining owners, by the end of Woodward Road and by land now or formerly of Kurt Neukom et al, about twelve hundred four (1204) feet;

Southwesterly by lands of sundry adjoining owners, four hundred forty-seven and 09/100 (447.09) feet;

Westerly by lands now or formerly of Esther J. Monroe and of Donald C. Fernald et al, two hundred thirty-two and 32/100 (232.32) feet;

Northwesterly by lands now or formerly of Muriel O. Berke and of Kenneth I. Tootell, three hundred eighty-nine and 67/100 (389.67) feet;

| | |
|---------------|---|
| Northeasterly | by land now or formerly of Elizabeth B. Sheehy, seven hundred forty-six and 49/100 (746.49) feet; |
| Southeasterly | three hundred eighty-eight and 17/100 (388.17) feet; |
| Easterly | one hundred seventy-five and 89/100 (175.89) feet; and |
| Southeasterly | nine hundred ninety-three and 86/100 (993.86) feet by land now or formerly of Chester A. Robinson, Jr. et ux; and |
| Southwesterly | one hundred thirty-five and 48/100 (135.48) feet; and |
| Southeasterly | about three hundred seventeen (317) feet by land now or formerly of Chester B. Underhill et al. |

All of said boundaries, except the water line, are determined by the Court to be located as shown on a plan drawn by Nickerson & Berger, Inc., Surveyors, dated February 10, 1978, as modified and approved by the Court, filed in the Land Registration Office, a copy of a portion of which will be filed in the Land Registration Office, a copy of a portion of which will be filed with the original certificate of title issued on this decree. See also Land Court Plan No. 40024 A.

So much of the land hereby registered as is included within the limits of Way 2, approximately shown on said plan, is subject to the rights of all persons lawfully entitled thereto in and over the same.

The land hereby registered is subject to the rights of the public in said Long Pond, a great pond.

The land hereby registered is subject to such rights as may exist at the date of this decree in Way 1, approximately shown on said plan.

The land hereby registered is subject to overhead wires, as shown on said plan.

There is appurtenant to the land hereby registered the right to pass and repass over Way 3 and Crowell's Bog Road (private), as shown on said plan, to and from said land and Crowell's Bog Road (public), in common with all other persons lawfully entitled thereto.

So much of the land hereby registered as is included within the areas marked "Way 1" and "Way 2," approximately shown on said plan, is subject to the right of way reserved in a deed given by Chester B. Underhill et ux to Chester A. Robinson, Jr., dated April 20, 1973, duly recorded in Book 1891, Page 157.

For Grantor's title to said PARCEL II, see Certificate of Title No. 134090 on file with the Registered Land Department, Barnstable County Registry of Deeds.

PARCEL III: The land with buildings thereon in Brewster in the County of Barnstable and Commonwealth of Massachusetts, bounded and described as follows:

Northeasterly by land of Chester A. Robinson, Jr., one hundred thirty-five and 48/100 (135.48) feet;

Southeasterly by land of Chester A. Robinson, Jr., three hundred thirty-five and 00/100 (335.00) feet more or less;

Southwesterly by Long Pond, a great pond, one hundred thirty-five and 46/100 (135.46) feet more or less; and

Northwesterly by land of Chester A. Robinson, Jr., three hundred seventeen and 00/100 (317.00) feet more or less.

For Grantor's title to said PARCEL III, see deed from Barbara U. Barker to the Grantor herein, said deed dated August 31, 1995, recorded with Barnstable County Registry of Deeds, Book 9843, Page 65.

Executed as a sealed instrument this 31st day of AUGUST, 2012.

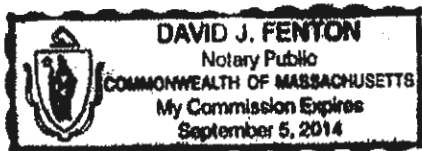



CHESTER A. ROBINSON, JR.

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

On this 31st day of AUGUST, 2012, before me, the undersigned notary public, personally appeared CHESTER A. ROBINSON, JR., proved to me through satisfactory evidence of identification, which was notary's personal knowledge of the signer, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that said person signed it voluntarily for its stated purpose.





David J. Fenton – Notary Public
My commission expires: September 5, 2014

BARNSTABLE REGISTRY OF DEEDS

LOND POND WOODLANDS (42-acre Property)

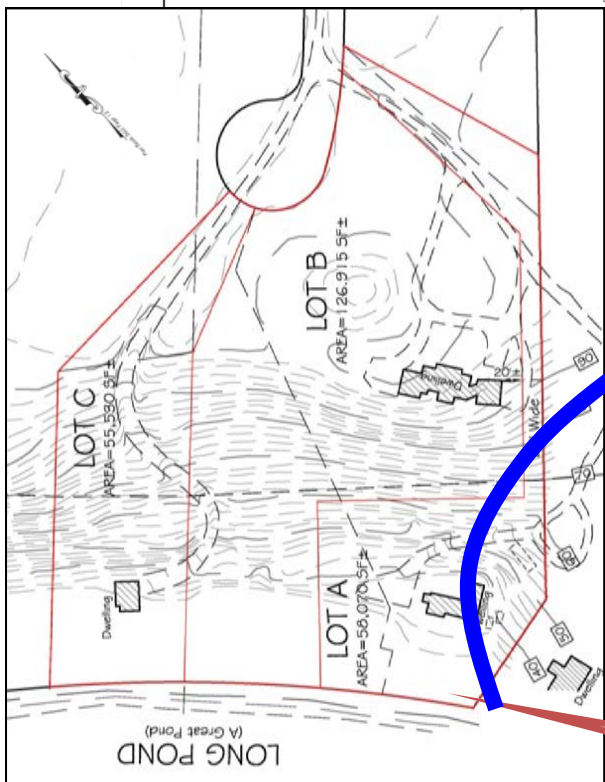
BREWSTER MA

FY19 State LAND Grant Application from

Town of Brewster

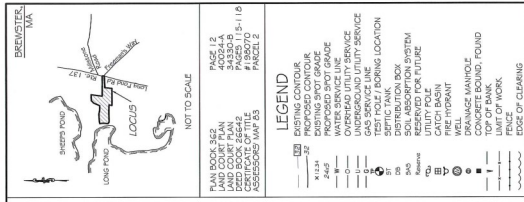
Map C.

2018 Survey Sketch of Premises to be
Conveyed to Town



42 acres to be purchased by Town

5.5 acres to be retained by sellers



LONG POND ROAD
A.K.A. ROUTE 137
(Public Way)

PLAN
SCALE 1" = 100'

AREA:
TOTAL PARCEL AREA
2,070,649.55 SF (47.53 ACES)
ROAD AREA
1,158,975.55 SF
2,450,515.55 SF (56.32 ACES)
REMAINING OPEN SPACE
1,450,100.55 SF (32.91 ACES)
(INCLUDED THE ROAD)

0 100 200 300
SCALE 1" = 100'

0 100 200 300
SCALE 1" = 100'

MR. CHESTER ROBINSON
65 CONANT ROAD, HARMON, MA 02645
PRELIMINARY SITE PLAN
LOTS 1, 2, 3 L.C.P. 40024-A & 34330-B
J.M. O'REILLY & ASSOCIATES, INC.
Professional Engineering & Land Surveying Services
1870 Main Street - Suite 6A
Brewster, MA 02631
(603) 896-6001
DATE: 3-23-2016
As Noted
JFM
JMO
JNO-6148

MR. CHESTER ROBINSON
65 CONANT ROAD, HARMON, MA 02645
PRELIMINARY SITE PLAN
LOTS 1, 2, 3 L.C.P. 40024-A & 34330-B
J.M. O'REILLY & ASSOCIATES, INC.
Professional Engineering & Land Surveying Services
1870 Main Street - Suite 6A
Brewster, MA 02631
(603) 896-6001
DATE: 3-23-2016
As Noted
JFM
JMO
JNO-6148

Grantor: Town of Brewster

Grantee: Brewster Conservation Trust

Property Address: Long Pond Road and W.H. Besse Cartway, Brewster

Title: Land Court Certificate _____ in Barnstable Land Registry District

Plan: Land Court Plans _____ in Barnstable Land Registry District

CONSERVATION RESTRICTION

THE TOWN OF BREWSTER, a Massachusetts municipal corporation with an address of 2198 Main Street, Brewster, Massachusetts, 02631, acting by and through its Conservation Commission and Board of Selectmen and pursuant to authority granted by the vote taken under Article 29 of the May 7, 2018 Town Meeting, an attested copy of which is attached hereto as Exhibit C, by authority of Section 8C of Chapter 40 of the Massachusetts General Laws and acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, its successors and assigns holding any interest in the Premises as hereinafter defined ("Grantor"), in consideration of TWO HUNDRED THIRTY THOUSAND and 00/100 DOLLARS (\$230,000.00), grants, WITH QUITCLAIM COVENANTS, to **PAT BERTSCHY, JOE BIERNAT, BETH FINCH, RACHEL HUTCHINSON, DEBRA JOHNSON, PETER JOHNSON, MARTIN KAMARCK, DONALD KEERAN, JOHN LAMB, JOSEPH MASSE, STEVE MCKENNA, HAL MINIS, BONNIE NEWMAN, ROGER V. O'DAY, PETER W. SOULE, CHARLES L. SUMNER AND ROSEMARY VAN ANTWERP**, as **Trustees of the BREWSTER CONSERVATION TRUST**, under a Declaration of Trust dated June 22, 1983 and recorded with the Barnstable County Registry of Deeds in Book 3791, Page 25, as amended, with a mailing address of P. O. Box 268, Brewster, MA 02631 and to its successors and permitted assigns, ("Grantee"), in perpetuity and exclusively for conservation, watershed protection and passive recreation purposes, the following described **CONSERVATION RESTRICTION** ("Restriction"), on a vacant tract of land totaling 42 acres, more or less, located on Long Pond Road and W.H. Besse Cartway in the Town of Brewster, County of Barnstable, Commonwealth of Massachusetts, said parcel being described and shown in Exhibit A and B, both of which are incorporated herein and attached hereto, said parcel hereinafter referred to as the "Premises."

Purposes: This Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws and is intended to comply with the provisions of the Community Preservation Act (so-called) under Section 12(a) of Chapter 44B, as amended. The purpose of this Restriction is to assure that the Premises will be preserved for conservation, watershed protection and passive outdoor recreation purposes, and be maintained in perpetuity, in a natural, scenic and open condition, and to prevent any use of the Premises that would materially impair or interfere with the conservation values thereof.

This Restriction will yield a significant public benefit because the Premises' protection will advance the following policies and objectives:

WHEREAS, the Brewster Town Meeting voted by a two-thirds majority at its Town Meeting held on May 7, 2018, which vote was taken pursuant to Article 29 of the Warrant for said Town Meeting, to purchase the Premises for "conservation, watershed protection, and/or passive recreation purposes" to be held in the care, custody and control of the Conservation Commission and, further, authorized the Board of Selectmen to purchase the Premises utilizing funds collected through the so-called "*Community Preservation Funds*" pursuant to Section 298 of Chapter 149 of the Acts of 2004; (See Exhibit C); and

WHEREAS, the Town applied for and received a Four Hundred Thousand Dollars (\$400,000) reimbursement grant from the Commonwealth through the Local Acquisitions for Natural Diversity (so-called LAND) Grant Program administered through Massachusetts General Laws, Chapter 132A, Section 11, (See Exhibit D); *pending*

WHEREAS, the Premises was acquired utilizing, in part, the Conservation Land Tax Credit Program authorized under Chapter 509 of the Acts of 2008 Sections 1-4 as amended by Chapter 409 of the Acts of 2010 Sections 4-13 of the Massachusetts General Court;

WHEREAS, the Town of Brewster updated its Open Space and Recreation Plan in 2014 to further the overall open space goal to preserve and enhance the availability of open space in order to provide wildlife habitat, recreation opportunities, and protect the natural resources, scenery and character of Brewster and to provide as much general public access to the Town's woodlands as possible;

WHEREAS, this acquisition conforms with the specific recreation objective in said Plan to continue to identify trails, which could connect with existing pathways and provide linkage with open space and recreation locations and town centers;

WHEREAS, this acquisition conforms with the specific objective in said Plan to protect and maintain a maximum amount of open space for the purpose of ensuring protection of a sufficient safe drinking water supply to meet the needs of Brewster's residents and visitors today and in the future;

WHEREAS, this acquisition would fulfill an open space objective of the Cape Cod Commission by helping to extend the regional open space greenbelt envisioned in the Regional Policy Plan of 1991 (amended in 1996, 2001, 2008, 2012);

WHEREAS, this acquisition would promote one of the goals of said plan by further preserving the rural character and identity of Brewster;

WHEREAS, this acquisition will provide increased protection for proximate public supply wellfields;

WHEREAS, this acquisition will prevent groundwater degradation associated with residential development of the watershed;

WHEREAS, the Premises is located within a BioMap2 Core Habitat, a designation by the Commonwealth of Massachusetts of critical wildlife habitat in the state;

WHEREAS, the Premises is located within a BioMap2 Critical Natural Landscape, a designation by the Commonwealth of Massachusetts of areas supporting Core Habitats;

WHEREAS, the Premises is located within Resilient Habitat, a designation by The Nature Conservancy of habitat more resilient to climate change;

WHEREAS, the Premises has been identified as a habitat for the Eastern Box Turtle (*Terrapene carolina*), classified by the Division of Fisheries and Wildlife as a species of 'Special Concern' in the state of Massachusetts;

WHEREAS, the Premises possesses significant open, natural, scenic and wildlife habitat values (collectively, conservation values) of great importance to the Grantor and the people of Brewster;

WHEREAS, the Town of Brewster has in recent years come under increasing pressure for development, and such development can destroy or otherwise severely impact the open character, natural resources, and scenic beauty of the area;

WHEREAS, the Community Preservation Act (CPA) states, in part, that CPA properties shall be "bound by a permanent deed restriction limiting the use of the interest [in the land] to the purpose for which it was acquired. Said deed restriction shall run with the land and shall be enforceable by either a land trust or an appropriate state agency...;"

WHEREAS, the Grantee is a land trust which is entitled to hold and enforce perpetual deed restrictions;

WHEREAS, the Grantee has received a letter from the Internal Revenue Service, dated February 9, 1987, a copy of which is on file at the offices of the Grantee, to the effect that said Grantee is not a private foundation within the meaning of Section 509(a) of the Code; and,

WHEREAS, the Grantor intends, as owner of the Premises, to convey to the Grantee, the right to preserve and protect the conservation values of the Premises in perpetuity.

WHEREAS, these and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report ("Baseline Report") prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, and (ii) is intended serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be

unavailable or if it does not adequately address the issues presented.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, Grantor and Grantee voluntarily agree that the CONSERVATION RESTRICTION described herein is an appropriate means to achieve the community's open space and water supply protection goals and objectives.

The terms of this Restriction are as follows:

I. PROHIBITED USES AND RESERVED RIGHTS

A. Prohibited Uses. Except as to reserved rights set forth in paragraph I.B. below, the Grantor will not perform or allow others to perform the following acts or uses, which are prohibited on, above or below the Premises:

- 1) Construction or placing of any temporary or permanent building, structure, facility or improvement, including but not limited to any dwelling unit or habitable living space, parking area, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, antenna, tower, windmill, water tower, water storage tank, well, solar array or other structure or facility on, under or above the Premises;
- 2) Construction of any roads or driveways through or on the Premises, or the clearing of vegetation, or the addition, removal or movement of soil for such purpose;
- 3) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit, or altering the topography thereof;
- 4) Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;
- 5) Cutting, mowing, removing or otherwise destroying trees, grasses or other vegetation;
- 6) Activities detrimental to drainage, flood control, water conservation, surface water quality, groundwater quality, erosion control, soil conservation, or wildlife habitat;;
- 7) The use, parking or storage of motorcycles, motorized trail bikes, all-terrain vehicles, snowmobiles and all other motor vehicles, except motorized wheelchairs, or as necessary by police, firemen or other governmental agents in carrying out their lawful duties or as necessary for the mobility impaired or for purposes of upkeep, maintenance and habitat management of the Premises

provided that non-motorized uses for upkeep, maintenance, and habitat management are impractical;

- 8) Any commercial recreation, commercial agriculture, or business, residential or industrial use; any animal husbandry or horse paddocking or stables, paddocks, grazing areas or enclosures and the storage or dumping of manure or other animal wastes;
- 9) Activities detrimental to archeological and historic resources, including but not limited to earth moving and the alteration of historic stone walls/cellar holes/features;
- 10) Conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the intent to keep the Premises in single ownership;
- 11) All development rights in the Premises are terminated and extinguished by this Restriction; and the Premises may not be used for the purpose of calculating the amount of Grantor's or any other land available for additional subdivision or calculating the building requirements on this or any other land owned by Grantor or any other person; and,
- 12) Any other use of the Premises which is inconsistent with the purposes of this Restriction or that would impair its conservation values and water supply protection values.

B. Reserved Rights and Exceptions

The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not impair the conservation values or purposes of this Conservation Restriction:

- (1) Permits. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with zoning, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (2) Vegetation Management. Selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including existing woods roads, cartpaths and trails as shown in the Baseline Report;
- (3) Non-native or nuisance species. The removal of non-native or invasive species, the inter-planting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;

- (4) Composting. The stockpiling and composting of trees and brush limbs and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this Reserved Right shall take into account sensitive areas and avoid harm to nesting species during nesting season;
- (5) Wildlife Habitat Improvement. With the prior written permission of Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;
- (6) Passive Recreation. In order to protect the conservation values of the Premises, Grantor, Grantee, and the general public may use the property only for purposes consistent with conservation and passive outdoor recreation which for the purposes of this Paragraph shall mean any activity of quiet enjoyment that can be casually performed outdoors with minimum disturbance of an area's natural condition, and in accordance with Section II.E such as walking, jogging, cross-country skiing, fishing, bird watching, hiking, wildlife observation, nature study, photography, sketching and painting and such other consistent activities;
- (7) Security. With Grantee's permission, the installation of minor structures with the goal of preventing unauthorized entry to and dumping on the Premises, such as wildlife-friendly fences or gates;;
- (8) Trails. The marking, clearing and maintenance of existing cartpaths used as trails and footpaths as shown in the Baseline Report. With prior approval of the Grantee, the construction of new trails or the relocation or alteration of existing trails, provided that any construction, relocation, or alteration results in trails that are no wider than eight (8) feet; and the placement of simple sitting benches along the trail; parking for public use shall be provided off-site on other public property;
- (10) Bounding. The right to install temporary or permanent boundary monuments;
- (11) Signs. The erection and maintenance of signs and educational kiosks identifying Grantor and Grantee, the Premises' boundaries and its status as conservation land, the restrictions on the use of the Premises, the identity or location of trails, areas of interest, natural features or other characteristics, including the historical significance, of the Premises, or for providing other like information. Signage will be subject to any applicable regional or local approvals;
- (13) Archaeology. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official); and,

- (14) Site Restoration. Any work undertaken in conjunction with the reserved rights mentioned above in this Section B shall seek to minimize disturbance within the Premises. Upon completion of any site work performed in conjunction with this Section B, any disturbed areas shall be restored substantially to match the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work;
- (15) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph B shall follow established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

C. Notice and Approval.

Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee, by a method requiring proof of receipt, in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not impair the purposes of this Conservation Restriction.

Failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice, the requested activity is not prohibited herein, and the activity will not materially impair the conservation values or purposes of this Conservation Restriction.

II. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief.

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in

taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked.

B. Non-Waiver.

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

C. Disclaimer of Liability

By acceptance of this conservation restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

D. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

E. ACCESS

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines.

Grantor also hereby grants the following rights of access to the Premises to the public generally for passive outdoor recreation purposes such as walking, jogging, cross-country skiing, fishing, bird watching, hiking, wildlife observation, nature study, photography, sketching and painting, and other similar activities by the general public, subject to Grantor's reasonable rules and regulations.

The terms and conditions of public access shall be determined by Grantor and shall be subject to

the reasonable rules and regulations of Grantor. Visitors may be removed at any time by Grantor for failure to abide by the rules and regulations of Grantor.

F. EXTINGUISHMENT

1. If circumstances arise in the future such as render the purpose of this CR impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the CR under applicable law, then Grantees, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with paragraphs 2 and 3 below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

2. Grantor/Grantee Cooperation Regarding Public Action. Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with paragraph 3 below, after complying with the terms of any law, gift, grant, or funding requirements. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

3. Division of Proceeds

If any occurrence gives rise to extinguishment or other release of the Conservation Restriction under applicable law, the Grantor and Grantee shall be reimbursed from the proceeds, once recovered, for their respective share of reasonable legal expenses, if any, associated with the recovery of said proceeds. Any proceeds shall be distributed only after complying with the terms of any gift, grant or funding requirements, including the provisions of the LAND grant Program (M.G.L. Chapter 132A, Section 11) and/or the Community Preservation Act (Section 298 of Chapter 149 of the Acts of 2004) with the Grantee receiving 13 percent of the net proceeds.¹

If the conservation interests protected hereby are unaffected by the taking, the only interest taken by the public authority is the Grantor's interest, and recovered proceeds are awarded on the basis of the value of the Premises as restricted by the Conservation Restriction, then the proceeds from such taking shall be payable in their entirety to the Grantor.

4. Grantor's Use of Proceeds

After complying with the terms of the aforementioned LAND grant and any other gift,

¹ *The Town (Grantor) purchased the Premises for \$1,750,000. The Grantee (Brewster Conservation Trust) contributed \$230,000, or 13 percent of that purchase price.*

grant, or funding requirements, any proceeds accruing to the Grantor shall be deposited into the Grantor's open space account of the Community Preservation Fund (CPF) for purchase of interests in land in accordance with the LAND Program (G.L. Chapter 132A, Section 11) and the Community Preservation Act (Section 298 of Chapter 149 of the Acts of 2004.) Should the Grantor's CPF no longer exist for any reason, the funds shall be applied to the acquisition of additional interests in land for conservation or passive recreation purposes consistent with the LAND Program.

G. ASSIGNABILITY

1. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

2. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of itself and its successors and assigns, appoint the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

3. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Premises, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

H. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

I. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within sixty (60) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

J. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

K. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General Laws of Massachusetts. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Barnstable County Registry of Deeds.

Any amendment shall be consistent with the purposes of this Restriction, shall not diminish the conservation values of the Premises, shall not affect its perpetual duration, and shall comply with any gifts, grants or funding requirements **including the LAND Grant Project Agreement recorded in Barnstable Land Registry District. (See Exhibit D attached hereto.) pending**

L. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded in a timely manner in the Barnstable County Registry of Deeds.

M. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Town of Brewster Conservation Commission, 2198 Main Street,
Brewster MA 02631

To Grantee: Brewster Conservation Trust, P.O. Box 268, Brewster MA 02631

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

N. GENERAL PROVISIONS

1. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

2. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purposes of Massachusetts General Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

3. Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.

4. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

5. Pre-existing Public Rights. Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

6. Subordination. The Grantor attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

7. Excise. No Massachusetts deed excise tax stamps are required by Chapter 64D,

Section 1, as a municipality is a party to this instrument.

8. Management Plan. The Grantor, acting through its Conservation Commission, is expected to promulgate a Management Plan for the purposes of addressing management and stewardship issues and facilitating passive outdoor recreational uses of the Premises in a manner that is consistent with Massachusetts General Laws Chapter 40, Section 8C. The Management Plan may provide for, among other things, the creation or modification of foot trails, and the revegetation of disturbed areas. In order to have any effect under this Restriction, the Management Plan or any amendment thereof must be developed in cooperation with and approved by Grantee, which approval shall not be unreasonably withheld. In addition, the Management Plan shall require Grantor and Grantee to meet at least once in the first three years following the recording of this Conservation Restriction for the purpose of, among other things, reviewing management issues relating to the Premises. In the case of any conflict between the Management Plan and this Restriction, this Restriction shall govern.

Attached hereto and incorporated herein by reference are the following:

SIGNATURES:

Grantor: Town of Brewster

Conservation Commission

Board of Selectmen

Grantee: Brewster Conservation Trust

Approval of Massachusetts Secretary of Energy and Environmental Affairs

EXHIBITS:

- A. Description of the Premises
- B. Reduced Copy of Plan of Record
- C. Town Meeting Vote, May 7, 2018, Article 29
- D. Copy of Recorded State LAND Project Agreement

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

In Witness Whereof, on this _____ day of _____, 2018, the Town of Brewster, acting by and through its Conservation Commission pursuant to the authority granted under Chapter 293 of the Acts of 1998, as amended, and Article 29 of the Town Meeting held on May 7, 2018, and acting pursuant to Section 8C of Chapter 40 of the Massachusetts General Laws, voted, at a public meeting, to grant, and do hereby grant, the foregoing Conservation Restriction to Brewster Conservation Trust, and hereby certifies that the Conservation Restriction is in the public interest.

GRANTOR:
TOWN OF BREWSTER
CONSERVATION COMMISSION

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2018, before me, the undersigned Notary Public, personally appeared the above-named Michael Tobin, Chairman of the Conservation Commission, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Brewster Conservation Commission.

Notary Public
My commission expires:

APPROVAL OF GRANT BY TOWN OF BREWSTER BOARD OF SELECTMEN

At a public meeting duly held on this _____ day of _____, 2018, the Board of Selectmen of the Town of Brewster, Massachusetts voted to grant, pursuant to Chapter 293 of the Acts of 1998, as amended, and Article 29 of the Town Meeting held on May 7, 2018, and also approve, in the public interest pursuant to Massachusetts General Laws Chapter 184, Section 32, the foregoing Conservation Restriction from the Town of Brewster acting by and through its Conservation Commission and Board of Selectmen to the Brewster Conservation Trust.

TOWN OF BREWSTER
By its Board of Selectmen

COMMONWEALTH OF MASSACHUSETTS

Barnstable,ss. .

On this _____ day of _____, 2018, before me, the undersigned Notary Public, personally appeared the above-named _____, Chairman of the Brewster Board of Selectmen, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Town of Brewster.

Notary Public
My commission expires:

ACCEPTANCE OF GRANT

The above Conservation Restriction from the Town of Brewster, acting by and through its Conservation Commission and Board of Selectmen, is accepted this _____ day of _____ 2018.

THE BREWSTER CONSERVATION TRUST

By its Trustees, duly authorized

Henry P. Minis, Trustee & President

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Date: _____ 2018

Then personally appeared the above-named Henry P. Minis, Trustee of the Brewster Conservation Trust, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document, and acknowledged the foregoing instrument to be the free act and deed of the Trustees of the Brewster Conservation Trust, before me.

Mark H. Robinson, Notary Public
My Commission expires: 24 July 2020

APPROVAL BY
SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from the Town of Brewster, acting by and through its Board of Selectmen and Conservation Commission to the Brewster Conservation Trust has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32.

Date: _____, 2018

Matthew A. Beaton, Secretary
Executive Office of Energy
and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk,ss.

On this ____ day of _____, 2018, personally appeared the above-named Matthew A. Beaton, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the document and acknowledged to me that he signed it voluntarily for its stated purpose as Secretary of Energy and Environmental Affairs for the Commonwealth of Massachusetts.

Notary Public
My commission expires:

CONSERVATION RESTRICTION
on land owned by
Town of Brewster
in Brewster, Massachusetts

EXHIBIT A

Description of the Premises

The Premises subject to this Conservation Restriction is a parcel of land located in the Town of Brewster, Barnstable County, Commonwealth Massachusetts, containing (a new subdivision sketch is being drawn and will be approved before recording)

42 acres +/-

Street Address: Long Pond Road and W.H. Besse Cartway, Brewster, MA.

For Grantor's title, see Deed recorded in the Barnstable Land Registry District in Document #_____ on Land Court Certificate #_____.

Reduced Copy of Plan of Premises

For official Plan of Record, see _____



EXHIBIT C

Attested Copy of Town Meeting Vote



Town of Brewster

2198 Main Street
BREWSTER, MASSACHUSETTS 02631

(508) 896-4506 – Fax (508) 896-8089
cwilliams@brewster-ma.gov

OFFICE OF:
COLETTE WILLIAMS CMC/CMMC
TOWN CLERK
JUSTICE OF THE PEACE

To Whom It May Concern:

This letter is to certify that at the Annual Town Meeting, held, Monday, May 7th, 2018 with a quorum being present the following article was approved by a declared 2/3 vote:

LAND ACQUISITION/Community Preservation Act

ARTICLE NO. 29: To see if the Town will vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, for conservation, watershed protection and/or passive recreation purposes under the provisions of G.L. Ch. 44B, G.L. Ch. 40, Sections 8C, 39B and 41, and Article 97 of the Articles of Amendment of the Massachusetts Constitution, all or portions of the parcels of land located at 180 and 224 W.H. Besse Cartway, which portions contain 42.01 acres, more or less, are part of the property described in a Certificate of Title Number 198070, and shown on Land Court Plans Nos. 34330B and 40024A, with the care, custody, control and management of such parcels to be vested with the Conservation Commission; to raise and appropriate, borrow pursuant to any applicable statute and transfer from available funds, including, without limitation, the Community Preservation Fund, a sum of money for the foregoing acquisition and costs incidental or related thereto, including costs of appraisal, grant applications, grant compliance and all other incidental and related costs; further, to authorize the Board of Selectmen and/or the Conservation Commission to apply for, accept and expend any funds that may be provided by the Commonwealth or other public or private sources to defray all or a portion of the costs of said acquisition, including, but not limited to, grants and/or reimbursement from the Commonwealth under the Self-Help Act, G.L. Ch. 132A, Section 11 (now, so-called LAND grants), and the Federal Land and Water Fund grants, which grants and/or funds so received shall be used to repay all or a portion of the sum transferred from the Community Preservation Fund hereunder; and to authorize the Board of Selectmen to grant to the Brewster Conservation Trust or any other qualified organization a perpetual conservation and / or watershed preservation restriction pursuant to the provisions of G.L. Ch. 184, Sections 31-33, in compliance with G.L. Ch. 44B, Section 12(a), protecting the property for the purposes for which it is acquired, and to enter into all agreements and execute any and all instruments as may be necessary or convenient to effectuate the foregoing purposes, or take any other action relative thereto.

(Community Preservation Committee)

(Two Thirds Vote Required)

Motion: Move that the Board of Selectmen is hereby authorized to acquire, by purchase, gift, and/or eminent domain, for conservation, watershed protection and/or passive recreation purposes under the provisions of G.L. c.44B, G.L. Ch. 40, Sections 8C, 39B and 41, and Article 97 of the Articles of Amendment of the Massachusetts Constitution, all or portions of the parcels of land located at 180 and 224 W.H. Besse Cartway, which portions contain 42.01 acres, more or less, are part of the property described in a Certificate of Title Number 198070, and shown Land Court Plans Nos. 34330B and 40024A, with the care, custody, control and management of such parcels to be vested with the Conservation Commission; appropriate and transfer **Thirty**


Five Thousand Dollars (\$35,000) from Community Preservation Fund Open Space Reserve and authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the remaining **One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000)** under and pursuant to G.L. Ch. 44B, Section 11, G.L. Ch. 44, Sections 7, 7(1), or 8, and/or any other enabling authority, and to issue bonds or notes of the Town therefor, for the foregoing acquisition and costs incidental or related thereto, including, without limitations, costs of appraisal, grant applications, grant compliance and other costs; and, while such bonds shall be general obligation bonds of the Town, it is anticipated that the principal and interest thereon shall be paid from the Community Preservation Fund; in accordance with G.L. c.44, §20, to authorize any premium received by the Town upon the sale of any bonds or notes approved hereunder, less any such premium applied to the payment of the costs of issuance of such bonds or notes, to be applied to the payment of costs approved hereunder, thereby reducing by a like amount the amount to be borrowed to pay such costs; and, further the Board of Selectmen and/or the Conservation Commission are hereby authorized to apply for, accept and expend any funds that may be provided by the Commonwealth or other public or private sources to defray all or a portion of the costs of said acquisition, including, but not limited to, grants and/or reimbursement from the Commonwealth under the Self-Help Act, G.L. Ch. 132A, Section 11 (now, so-called LAND grants), Federal Land and Water Fund Grants, which grants and/or funds so received shall be used to repay all or a portion of the sums appropriated and transferred from the Community Preservation Fund Open Space Reserve hereunder; and the Board of Selectmen is authorized to grant to the Brewster Conservation Trust or any other qualified organization a perpetual conservation restriction pursuant to the provisions of G.L. Ch. 184, Sections 31-33, in compliance with G.L. Ch. 44B, Section 12(a), protecting the property for the purposes for which it is acquired and to enter into all agreements and execute any and all instruments as may be necessary or convenient to effectuate the foregoing purposes.

Paul Ruchinskas, CPC Member:

I move to approve the motion under Article No. 29 as printed in the warrant.

Vote: Voice. Approved by a declared 2/3 vote.

A True Copy Attest:


Colette M. Williams

CMC/CMMC

Town Clerk

Brewster, MA

Original recorded on

EXHIBIT D

LAND Project Agreement

Development of Regional Impact (DRI)
Referral Form

Please attach a copy of the original municipal development permit application or site plan review, subdivision, or other application showing the date on which it was received by the Municipal Agency. Receipt of this information via the U.S. Mail or delivered in person to the Cape Cod Commission constitutes a referral for purposes of Chapter 716 of the Acts of 1989, as amended.

Referred by:

Town and Agency Town of Brewster

Official Town Planner on behalf of the Planning Board

☒ Mandatory referral

☐ Discretionary referral

☐ Limited Discretionary Referral (please see the back of this form)

Project Name Subdivision of municipal land acquisition for Conservation

Project Proponent Name Town of Brewster

Address 2198 Main Street
Brewster MA 02631

Telephone 508-896-3701

Brief description of the project including, where applicable, gross floor area, lots, units, acres and specific uses:

The Town of Brewster has entered into a P4S to
acquire 42 acres of a 47 acre parcel of undeveloped
land for Conservation purposes.

Project location:

The parcel is located on Long Pond Rd in Brewster
near the intersection of Freeman's Way and abutting
Sheep Pond. Much of the parcel is located within the Zone II.

List municipal agency(ies) before which a municipal development permit is pending:

Planning Board

Ryan Bennett
Print Name of Authorized
Referring Representative

Ryan Bennett
Signature

9/26/18
Date