



Department of Environmental Protection

Northeast Regional Office • 150 Presidential Way Woburn, MA 01801 • 978-694-3200

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

April 4, 2023

Robert Murchison
Fenix Partners Farm Road, LLC
177 Lake Street
Sherborn, MA 01770

RE: Sherborn
Request for Determination of Applicability
310 CMR 22.02(1)
Notice of Incomplete or Deficient Submittal

Dear Mr. Murchison:

On October 1, 2022, Fenix Partners Farm Road, LLC, of the above-listed address submitted to the Massachusetts Department of Environmental Protection (“MassDEP”) a request for a determination pursuant to 310 CMR 22.02(1) that a proposed drinking water system to be located at 55-65 Farm Road in Sherborn, Massachusetts, (the “Drinking Water System”) should not be regulated as a Public Water System subject to the Massachusetts Drinking Water Regulations, 310 CMR 22.00 (“the Regulations”).

MassDEP has completed its administrative review of the materials submitted and has determined that the materials provided do not contain sufficient information to complete the review. The deficiencies that have been identified with the documentation submitted to date are outlined below under the heading “Comments & Submittal Requirements.” To address these deficiencies, the additional information requested by MassDEP should be submitted.

Please submit the requested information as quickly as possible, but within 90 days from the date of this letter to ensure completion of the review in a timely manner. If you fail to submit the additional information within the timeframe above, MassDEP will determine the review request as withdrawn, and will terminate its review without further notice.

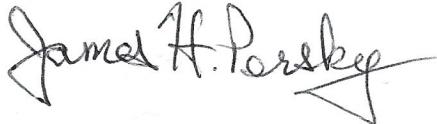
If you have questions about the requested information, or if you require additional time to prepare and submit the requested information, please contact James Persky by telephone at (781) 223-4827, e-mail at James.Persky@mass.gov, or at the above address, no later than 90 days from the date of this letter.

Comments & Submittal Requirements:

1. The Zone I Equivalent Areas¹ for the wells for Groups #2, #3, and #4 extend onto the adjacent property to the east. This parcel is owned by the Town of Sherborn and is shown on the site map as Town Forest land. Does the Town have this land under a Conservation Restriction?
2. The site maps provided suggest that the existing house on the property will be subdivided from the rest of the parcel. The Zone I Equivalent Area for the Group #6 well extends onto the house parcel. How will the Group #6 well be protected against potential future land use activities on the house parcel?
3. The site maps suggest that the Group #5 well is less than 20 feet from a proposed stormwater basin. Is this proposed as a retention basin with an impermeable bottom or a leaching basin? While the Town's private well regulation does not indicate a setback requirement for leaching basins, its proximity is close enough to the well that it may pose a potential bacterial threat. Please provide additional specifications regarding the proposed stormwater basin.
4. The submittal does not include any Source Protection Measures¹. The septic system is considered a "Moderate" potential pollution threat because of the wastewater piping from the residential units to the alternative/innovative treatment system. Are there any Source Protection Measures planned for implementation that would be useful in this regard? Lawn care will also pose a "Moderate" threat adjacent to the wells. Turf care products often include both fertilizer and herbicides. Is there any Standard Operating Protocol (SOP) being developed for the groundskeepers to prevent overuse or ensure limited use of lawn chemicals near the wells?

Please be advised that any proposed or existing Drinking Water System that has not obtained a MassDEP determination that it should not be regulated as a Public Water System, remains subject to regulation under 310 CMR 22.00, as applicable.

Sincerely,



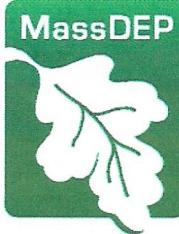
James H. Persky
Environmental Analyst
Drinking Water Program



Kristin L. Divris
Deputy Regional Director
Bureau of Water Resources

cc: DWP/Boston Office (no attachment)
Stephen W. Smith, GeoHydroCycle, Inc., 5 Madison Avenue, Newton, MA 02460
Sherborn Board of Health, 19 Washington Street, Sherborn, MA 01770

¹ As defined in the "Key to Terms" document for the PWS Applicability Review Request



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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August 14, 2023

Robert Murchison
Fenix Partners Farm Road, LLC
177 Lake Street
Sherborn, MA 01770

RE: Sherborn
Request for Determination of Applicability
310 CMR 22.02(1)
55-65 Farm Road, Sherborn
Preliminary Approval of Request

Dear Mr. Murchison:

Please find attached the following information:

Preliminary approval for a determination pursuant to 310 CMR 22.02(1) that proposed drinking water systems to be located at 55-65 Farm Road in Sherborn should not be regulated as a Public Water System subject to the Massachusetts Drinking Water Regulations, 310 CMR 22.00.

If you have any questions regarding this letter, please contact James Persky at (781) 223-4827.

Sincerely,

James H. Persky
Environmental Analyst
Drinking Water Program

Kristin L. Divris
Deputy Regional Director
Bureau of Water Resources

cc: DWP/Boston Office (no attachment)
Stephen W. Smith, GeoHydroCycle, Inc., 5 Madison Avenue, Newton, MA 02460
Sherborn Board of Health, 19 Washington Street, Sherborn, MA 01770

File Name: MassDEP BWR SharePoint\DWPArchive\NERO\Sherborn-FarmRd-PWS Det-PrelimApproval-2023-08-14

This information is available in alternate format. Please contact Melixza Esenye at 617-626-1282.
TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

On October 1, 2022, Fenix Partners Farm Road, LLC (“Fenix”), of the above-listed address submitted to the Massachusetts Department of Environmental Protection (“MassDEP”) a request for a determination pursuant to 310 CMR 22.02(1) that one or more proposed drinking water systems to be located at 55-65 Farm Road in Sherborn, Massachusetts, (the “Drinking Water System”) should not be regulated as a Public Water System (“PWS”) subject to the Massachusetts Drinking Water Regulations, 310 CMR 22.00 (“the Regulations”). Additional documentation was submitted to MassDEP on April 24, 2023 and May 26, 2023. MassDEP issues this letter in response to your request.

You have made an Information Submittal¹ to MassDEP, as more particularly described below in Section I. Based upon your Information Submittal, MassDEP has evaluated your request.

For the reasons set forth in Section II, MassDEP has made a preliminary determination that the Drinking Water Systems should be exempt from regulation as a PWS, taking into account the risk to public health.

I. INFORMATION SUBMITTED FOR REVIEW. You submitted the following information and supporting documentation² to MassDEP for review in support of your request.

- A project plan
 - “Final Seven Private Well Groups Submittal,” dated May 25, 2023. This revision of an earlier plan moved two wells farther upgradient from septic-disposal systems and one well farther from a stormwater basin
- A listing of the units, with number of bedrooms, that will be served by each Drinking Water System
 - “Farm Road Homes PWS Applicability Review Request Information Figures and Data Tables,” dated October 1, 2022
- Ownership or control evidence/Source Protection Measures
 - “Farm Road Homes Draft Language Well Ownership and Control,” dated October 1, 2022
 - Conservation Restriction on the lot identified as Lot 3B as is Recorded at the Middlesex South Registry of Deeds at Book 144, Page 441
- Certification
 - “Fenix Partners Farm Road PWS Applicability Review Request Certification,” dated October 1, 2022

¹ Capitalized terms used in this letter are defined in MassDEP’s “Key to Terms,” a copy of which is attached.

² MassDEP has provided you with a copy of its “Minimum Recommendation Information List,” a copy of which is attached, and the Key to Terms to assist you in providing information needed for review of your request.

II. CONCLUSION.

MassDEP has made a **Preliminary Determination** that the Drinking Water Systems for the proposed development at 55-65 Farm Road in Sherborn should not be regulated as a PWS, taking into account the risk to public health. This determination is preliminary because finalized deeds and documentation indicating the ownership and control of each Drinking Water System and its associated Zone I equivalent area are not yet available.

This Preliminary Determination has been made in reliance upon and subject to the truth, accuracy and completeness of the information contained in the Information Submittal, except to the extent that the plans and documents listed in Section I. above are modified as a result of the local planning board or other local approving authority's approval process. The Preliminary Determination is based upon the condition that there will be no material changes to the plans and documents listed in Section I. above when made final.

Each Drinking Water System may be subject to other State or local regulation, including without limitation Title 5 (State septic-disposal regulations, 310 CMR 15.000).

MassDEP, upon written notice to the Applicant or its successor, reserves the right to withdraw the Preliminary Determination that each Drinking Water System (or a subset of such Drinking Water Systems) is not required to be regulated as a PWS, in the event that:

- A material fact upon which the Preliminary Determination is based is not as described in the Information Submittal;
- A Source Protection Measure which the Applicant has identified in the Informational Submittal and the Department has determined is necessary has not been properly maintained and operated, or is otherwise inadequate; or
- MassDEP finds that continuing to exempt each Drinking Water System (or a subset of the Drinking Water Systems) from regulation as a PWS would pose a risk to public health.

The Preliminary Determination shall be valid for one year from its date of issuance. It may be extended for a period of one year upon advance written notice to MassDEP, that shall be submitted no less than thirty (30) days prior to its expiration. It shall only be extended beyond two years for satisfactory cause explained in an advance written request submitted to MassDEP no less than thirty (30) days prior to the expiration of the Preliminary Determination (satisfactory cause, for example, being an unavoidable delay in a planning board or other local approval authority issuance of a final decision or in the event of an appeal of such a decision). Any such extension shall be in writing and shall provide a date certain for its expiration.

Prior to the expiration of the Preliminary Determination, the Applicant must submit to MassDEP a request for a final Determination with the final, approved, executed and/or filed version of the plans and documents listed in Section I. above, with a letter explaining any substantive changes

to such plans and documents, including any appropriate supporting documentation, which shall be subject to further MassDEP review for a final Determination. Depending on the nature of such substantive changes, MassDEP could withdraw its Preliminary Determination.

The Preliminary Determination shall remain valid pending MassDEP's review of a timely submitted request for a final Determination and issuance of such final Determination approving or denying the Applicant's request. Any action taken under or reliant upon the Preliminary Determination shall be solely at the Applicant's risk and expense.



0 2,000

Scale in feet



Base Map: MassGIS Quads.

GeoHydroCycle, Inc.

Figure 1. Site Locus.

Project No. GHC#22008
Drafted SWS
Date 9/12/22

**Farm Road Homes
55/65 Farm Road
Sherborn, MA**

Farm Road Homes
55/65 Farm Road
Sherborn, MA



Figure 2. Site Features.

0 150
Scale in feet



Project No. GHC#22008
Drafted SWS
Date 6/30/22 Rev 5/25/23
Base Map: AutoCAD file from CLAWE.

Farm Road Homes
55/65 Farm Road
Sherborn, MA



Figure 3. Well Group 1.

0 100
Scale in feet



Project No. GHC#22008
Drafted SWS
Date 6/30/22 Rev 5/25/23
Base Map: AutoCAD file from CLAWE.

GeoHydroCycle, Inc.

Farm Road Homes
55/65 Farm Road
Sherborn, MA



Figure 4. Well Group 2.

Project No. GHC#22008
Drafted SWS
Date 6/30/22 Rev 5/25/23
Base Map: AutoCAD file from
CLAWE.

GeoHydroCycle, Inc.

Farm Road Homes
55/65 Farm Road
Sherborn, MA



Figure 5. Well Group 3.

Project No. GHC#22008
Drafted SWS
Date 6/30/22 Rev 5/25/23
Base Map: AutoCAD file from CLAWE.

GeoHydroCycle, Inc.

Farm Road Homes
55/65 Farm Road
Sherborn, MA



Figure 6. Well Group 4.

Project No. GHC#22008
Drafted SWS
Date 6/30/22 Rev 5/25/23
Base Map: AutoCAD file from CLAWE.

GeoHydroCycle, Inc.

Farm Road Homes
55/65 Farm Road
Sherborn, MA



Figure 7. Well Group 5.

Project No. GHC#22008
Drafted SWS
Date 6/30/22 Rev 5/25/23
Base Map: AutoCAD file from CLAWE.

GeoHydroCycle, Inc.



Farm Road Homes
55/65 Farm Road
Sherborn, MA

Figure 8. Well Group 6.

Farm Road Homes
55/65 Farm Road
Sherborn, MA



Figure 9. Well Group 7.

0 100
Scale in feet



Project No. GHC#22008
Drafted SWS
Date 6/30/22 Rev 5/25/23
Base Map: AutoCAD file from
CLAWE.

GeoHydroCycle, Inc.

Certification

NOTE: Capitalized terms used in this document shall have the meaning set forth in the Key to Terms, which is attached to and made a part of this document, as applicable.

I, Fenix Partners Farm Road, LLC, Applicant, am the owner in fee simple of that certain parcel of land located at 55 and 65 Farm Road, Sherborn, Middlesex County, Massachusetts, with the buildings and improvements thereon, pursuant to a deed from Ioannis Miaoulis and Trinity Farm, LLC, Grantors, dated January 11, 2021 and October 1, 2021 and recorded with Middlesex South Registry of Deeds in Book 76660 and 78824, Page 253 and 317, said parcel being more particularly described as "REMAINING LAND" in **Exhibit A**, attached hereto and made a part hereof, and being shown on a plan entitled "ANR PLAN of LAND in Sherborn Massachusetts Middlesex County", dated February 24, 2022, prepared by Samiotes Consultants, Inc, and recorded with Middlesex South Registry of Deeds as Plan No. 284 in Plan Book 2022.

This Certification is a part of an Information Submittal I make to the Department to address the matters in the Minimum Recommended Information List, in support of my request not to regulate each Drinking Water System I have identified in the Information Submittal as a Public Water System.

In furtherance of my request, I have investigated all relevant information, consulted with trained professionals as appropriate, and state, to the best of my knowledge and belief, that I have provided to the Department truthful, accurate and complete information in my Information Submittal.

I hereby acknowledge that, if I become aware of any substantive changes in the information I have submitted, I have an ongoing duty to notify the Department of such changes and to provide an updated submittal in advance of the Department's issuance of the Determination I have requested.

Signed under penalty of perjury, this 1st day of October, 2022.



[signature of Applicant]

Manager, Fenix Partner Farm Road, LLC

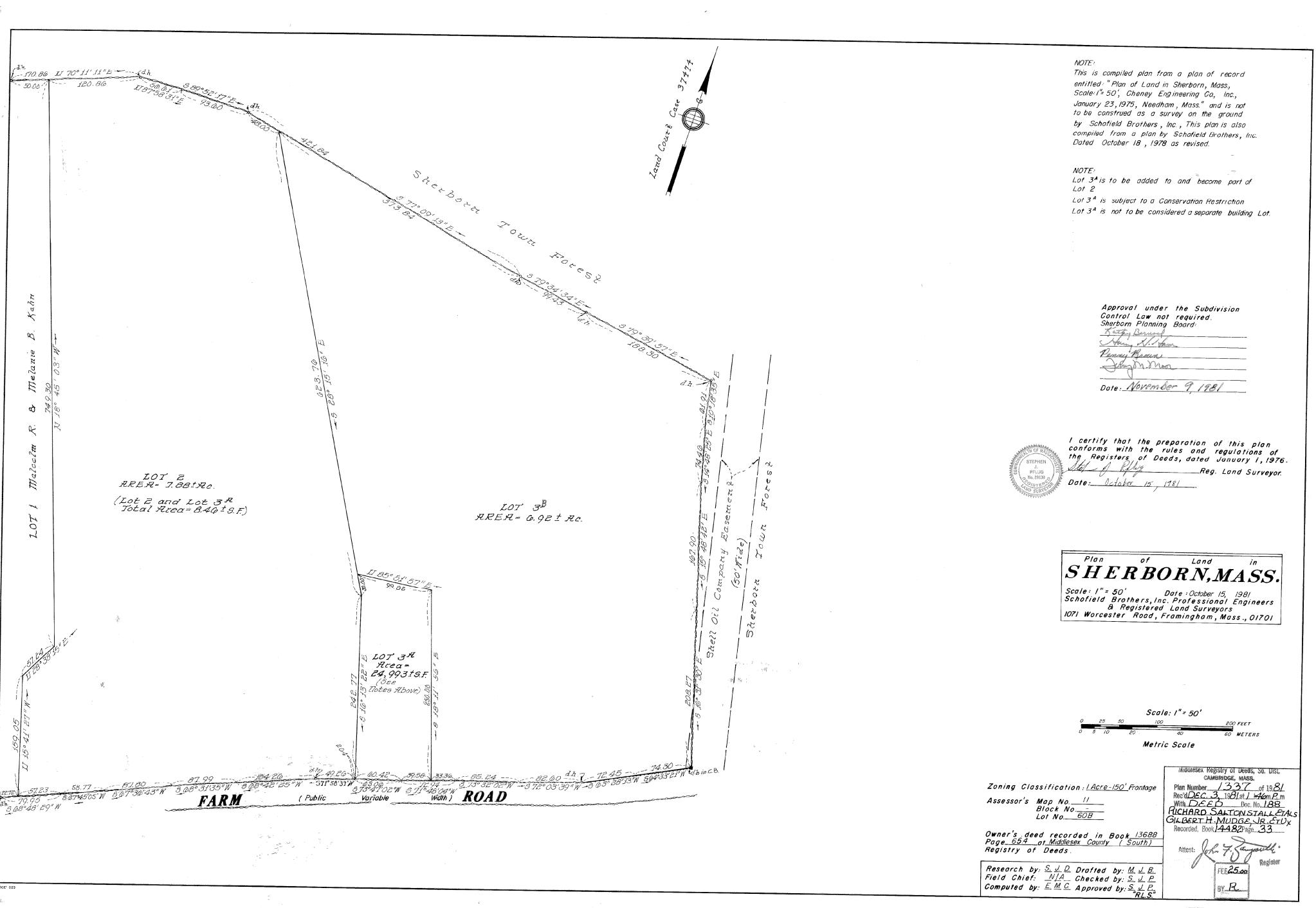
Robert W. Murchison

The following is draft language to be used in the Condominium Master Deed. This paragraph is for Well Group #1 and additional paragraphs would be similarly inserted for Well Group #2, #3, #4, #5, #6 and #7.

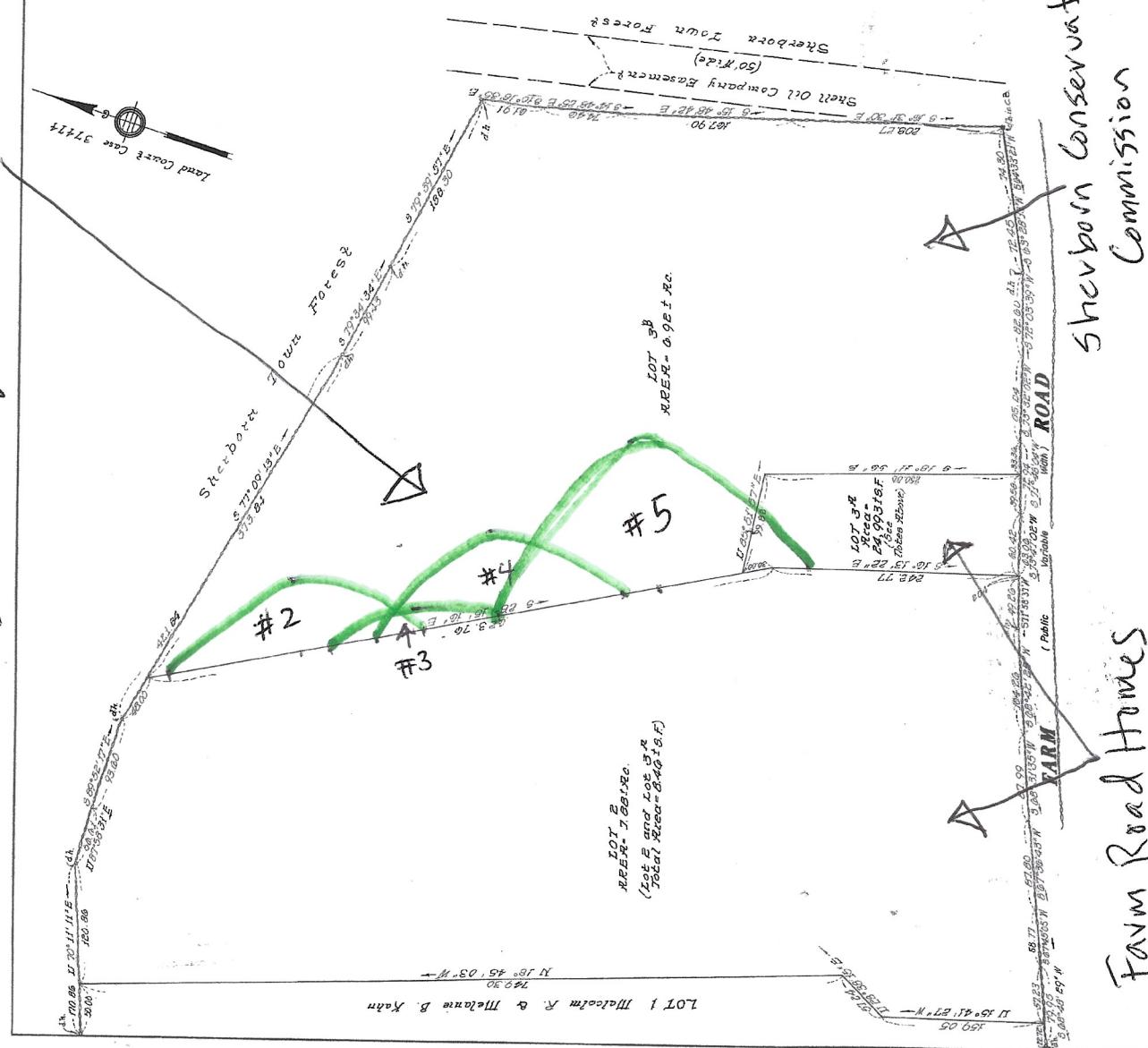
The Condominium Master Deed would also contain a provision restricting occupancy to two people per bedroom.

Section 6.4: Exclusive Rights and Responsibility with Respect to Water Supply Wells:

Notwithstanding any other provision of the Master Deed or Declaration of Trust, the Owners of Units 19, 20, 21 and 22 shall have the exclusive right and obligation as Owners to maintain and operate, and if necessary, make capital improvements in connection with Well #1 for the supply of water to their respective Units. This exclusive ownership right and obligation shall include the right and obligation to maintain, repair or replace the wells themselves, their distribution lines, any storage tank, and their supply lines to their Units, and any other appurtenance to those specific Wells. The Owners of Units 19, 20, 21 and 22 shall have the right and obligation as Owners, unfettered by any other Unit Owner, to make such decisions as they deem necessary or prudent to assure a continuous supply of potable water to their units from Well #1 and shall each have responsibility for one-fourth of the costs of maintaining and operating Well #1. Similarly, the Owners of Units 19, 20, 21 and 22 shall have no right to participate in any decisions made by other Unit Owners who have been granted exclusive right to determine the maintenance or repair obligations, or need for capital improvements of Wells #2, #3, #4, #5, #6 and #7 or their appurtenances. This sub-group of Unit Owners responsible for Well #1 may, at their discretion, create and maintain a separate monetary reserve, to fund the costs or anticipated costs, of any Well #1 expense. The decisions of the sub-group shall be by majority vote of the Unit Owners who comprise the sub-group, limited to one (1) vote per Unit.



Zone 1 Equivalent #2, #3, #4 and #5



NOTE.—This is compiled from a plan of record
Schedler "Plan of Land in Shiloh, Mass.
Square 15-20, Shiloh, Eng. by Schedler, Inc.,
January 23, 1917, Newton, Mass." and is not
to be construed as survey on the ground
by Schedler Brothers, Inc. This plan is also
compiled from a plan Schedler Brothers, Inc.
Dated October 16, 1917 as revised.

NOTE:
Lot 34 is to be added to and become part of
Lot 2
Lot 34 is subject to a Conservation Restriction
Lot 34 is not to be considered a separate Aviation Land

I certify that the preparation of this plan
conforms with the rules and regulations of
the Registers of Deeds, dated January 1, 1876.
John C. Flanagan *Reg. Land Surveyor.*
Date: October 15, 1881.

Plan of Land in
SHERBORN, MASS.
Scale: 1' = 50'
Date: October 15, 1981
Schofield Brothers, Inc. Professional Engineers
& Registered Land Surveyors
1071 Worcester Road, Framingham, Mass.

| | |
|---|--|
| Zoning Classification - Lot 165-F Frontage | |
| Assessor's Map No. <u>11</u> | |
| Block No. <u>165</u> | |
| Lot No. <u>202B</u> | |
| Property 55.4 ac. in Madison County, <u>South</u> | |
| Owner's <u>deed recorded in Book 1568B</u> | |
| Research by <u>S. J. D.</u> Drafted by <u>M. J. B.</u> | |
| Recorder Chief <u>J. J. J.</u> Checked by <u>S. J. D.</u> | |
| Approved by <u>E. M. C.</u> Approved by <u>S. J. D.</u> | |
| FEB 25 1968 REC'D. BUREAU OF RECORDS | |

Shevchenko Conservatory
Ukrainian

Fawn Road Hories

SHERBORN CONSERVATION COMMISSION

We, RICHARD SALTONSTALL, individually, of 174 Farm Road, Sherborn, Middlesex County, Massachusetts, DUDLEY H. WILLIS and SALLY S. WILLIS of 216 Farm Road, Sherborn, Middlesex County, Massachusetts, husband and wife as tenants by the entirety, each of such two interests being held as tenants in common with the other one, for consideration of less than one hundred (100.00) dollars grant to the TOWN OF SHERBORN CONSERVATION COMMISSION, (address of grantee: Town Office Building, P.O. Box 78, Main Street, Sherborn, Massachusetts 01770) for CONSERVATION PURPOSES ONLY and with QUITCLAIM COVENANTS

a certain parcel of land, situated in Sherborn, Middlesex County, Massachusetts and being shown as Lot 3B on a plan of land entitled "Plan of Land in Sherborn, Massachusetts" by Schofield Brothers, Inc., 1071 Worcester Road, Framingham, Massachusetts, dated October 15, 1981, duly recorded at the Middlesex South Registry of Deeds herewith.

Said parcel being more particularly bounded and described as follows:

Beginning at the southeasterly corner thereof at the northerly side of Farm Road at land now or formerly in the ownership of Richard Saltonstall, Dudley H. Willis and Sally S. Willis.

Thence running southwesterly by Farm Road by five courses measuring 74.30 foot, 72.45 foot, 82.60 foot, 85.24 foot and 33.36 foot to a point;

Thence running northwesterly by land now or formerly owned by Gilbert H. Mudge, Jr. and Barbara J. Mudge shown as Lot 3A on such plan by one course measuring 250.00 foot to a point;

Thence running westerly by land now or formerly owned by Gilbert H. Mudge, Jr. and Barbara J. Mudge shown as Lot 3A on such plan by one course measuring 99.82 foot to a point;

RECORDED
Plan # ~~14482~~ 1337
14482 33

running

Thence/northwesterly by land now or formerly owned by Gilbert H. Mudge, Jr. and Barbara J. Mudge shown as Lot 2 on such plan by one course measuring 623.76 feet to a point;

running

Thence/southeasterly by the Sherborn Town Forest in three courses measuring 373.84 feet, 99.43 feet and 188.30 feet to a point;

running

Thence/southerly by the Sherborn Town Forest in part and the Shell Oil Company Easement in part in four courses measuring 61.91 feet, 74.46 foot, 167.90 feet and 208.27 foot to the point of the beginning.

Said Lot 3B containing 6.92 acres more or less.

A portion of Lot 3B is subject to an easement to the Shell Oil Company as shown on such plan.

This conveyance is made upon the express condition that the land shall forever be kept in its natural state, it being the intention of the grantors hereby to convey fee simple subject to a condition subsequent, the breach of which may cause the forfeiture of the fee, and to retain a right of entry for condition broken.

For the grantor's title see deed from Richard Saltonstall of Sherborn and Dudley H. Willis and Sally S. Willis, both of Sherborn, and Gilbert H. Mudge, Jr. and Barbara J. Mudge, both of Sherborn, to the grantors dated May 11, 1979 and recorded at Middlesex South Registry of Deeds in Book 13688, Page 654.

WITNESS our hands and seals this 3rd day of December, 1981

Dudley H. Willis
Dudley H. Willis (as grantor)

Sally S. Willis
Sally S. Willis (as grantor)

Commonwealth of Massachusetts

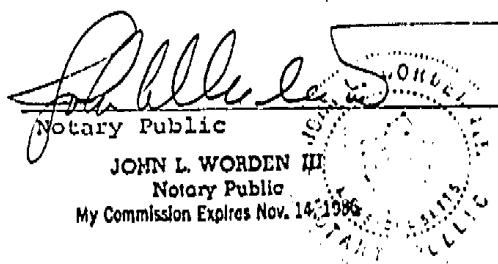
Suffolk, ss.

Dec. 3 1981

Then personally appeared the above named DUDLEY H. WILLIS, and acknowledged the foregoing instrument to be his free act and deed, before me

-2-

JOHN L. WORDEN III
Notary Public
My Commission Expires Nov. 14, 1986



WITNESS our hands and seals this 3rd day of December, 1981

Richard Saltonstall
Richard Saltonstall (as grantor)

Commonwealth of Massachusetts

Suffolk, ss.

December 3 1981

Then personally appeared the above named RICHARD SALTONSTALL, and acknowledged the foregoing instrument to be his free act and deed, before me

Dorothy H. Willis
Notary Public

