



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## 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you fail to submit the additional information within the timeframe above, MassDEP will determine the review request as withdrawn, and will terminate its review without further notice.**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](mailto:James.Persky@mass.gov), or at the above address, no later than 90 days from the date of this letter.

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)


Printed on Recycled Paper

**Comments & Submittal Requirements:**

1. The Zone I Equivalent Areas<sup>1</sup> 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 Measures<sup>1</sup>. 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,



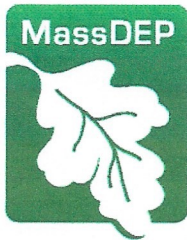
James H. Persky  
Environmental Analyst  
Drinking Water Program



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

<sup>1</sup> 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

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

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 Esenyie at 617-626-1282.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: [www.mass.gov/dep](http://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 Submittal<sup>1</sup> 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 documentation<sup>2</sup> 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

---

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

<sup>2</sup> 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.



Figure 1. Site Locus.

0 2,000

Scale in feet



Base Map: MassGIS Quads.

GeoHydroCycle, Inc.

Project No. GHC#22008

Drafted SWS

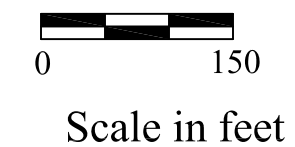
Date 9/12/22

Farm Road Homes  
55/65 Farm Road  
Sherborn, MA



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

Figure 2. Site Features.



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

GeoHydroCycle, Inc.





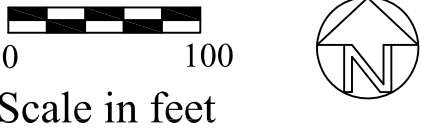
Farm Road Homes  
55/65 Farm Road  
Sherborn, MA

Figure 3. Well Group 1.



Farm Road Homes  
55/65 Farm Road  
Sherborn, MA

Figure 4. Well Group 2.

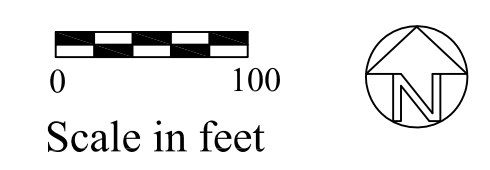


Project No. GHC#22008  
Drafted SWS  
Date 6/30/22 Rev 5/25/23  
Base Map: AutoCAD file from  
CLAW.



Farm Road Homes  
55/65 Farm Road  
Sherborn, MA

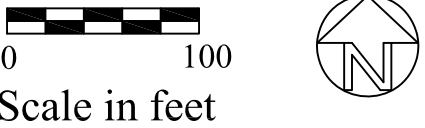
Figure 5. Well Group 3.



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

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  
CLAW.



Farm Road Homes  
55/65 Farm Road  
Sherborn, MA

Figure 7. Well Group 5.



Farm Road Homes  
55/65 Farm Road  
Sherborn, MA

Figure 8. Well Group 6.



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 9. Well Group 7.



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

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



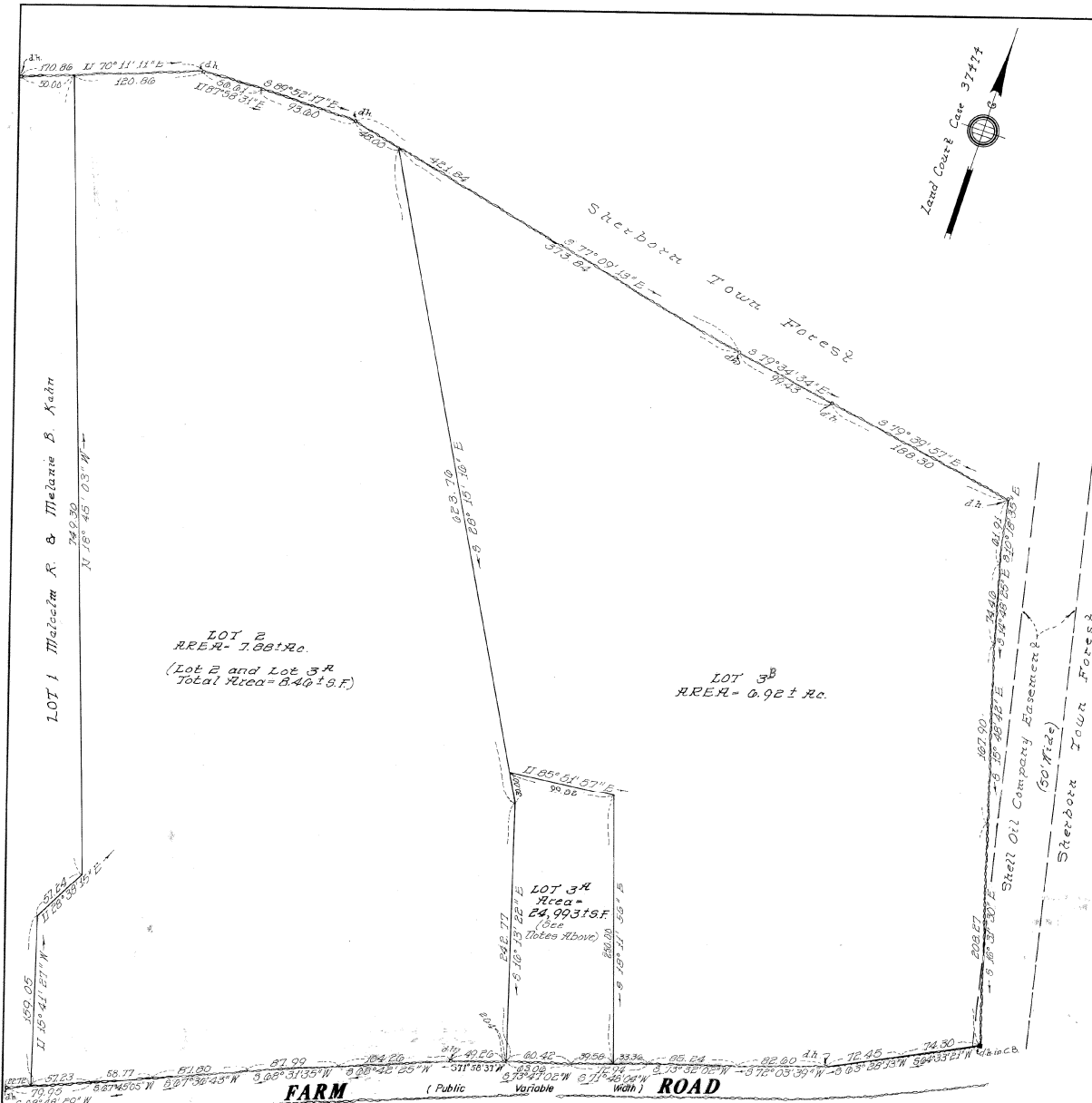
**The following is draft language to be used in the Condominium Master Deed. This paragraph is for Well Group #1 and additional paragraphs would be similarly inserted for Well Group #2, #3, #4, #5, #6 and #7.**

**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.

PLAN NUMBER 1337 OF 1981



NOTE:  
This is compiled plan from a plan of record  
entitled: "Plan of Land in Sherborn, Mass.,  
Scale: 1"=50', Cheney Engineering Co., Inc.,  
January 23, 1975, Needham, Mass." and is not  
to be construed as a survey on the ground  
by Schofield Brothers, Inc., This plan is also  
compiled from a plan by Schofield Brothers, Inc.  
Dated October 18, 1978 as revised.

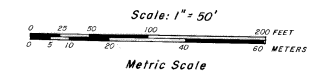
NOTE:  
Lot 3A is to be added to and become part of  
Lot 2  
Lot 3A is subject to a Conservation Restriction  
Lot 3A is not to be considered a separate building Lot.

Approval under the Subdivision  
Control Law not required.  
Sherborn Planning Board:  
*[Signature]*  
*[Signature]*  
*[Signature]*  
Date: November 9, 1981

I certify that the preparation of this plan  
conforms with the rules and regulations of  
the Registers of Deeds, dated January 1, 1976.  
*[Signature]* Reg. Land Surveyor.  
Date: October 15, 1981



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., 01701



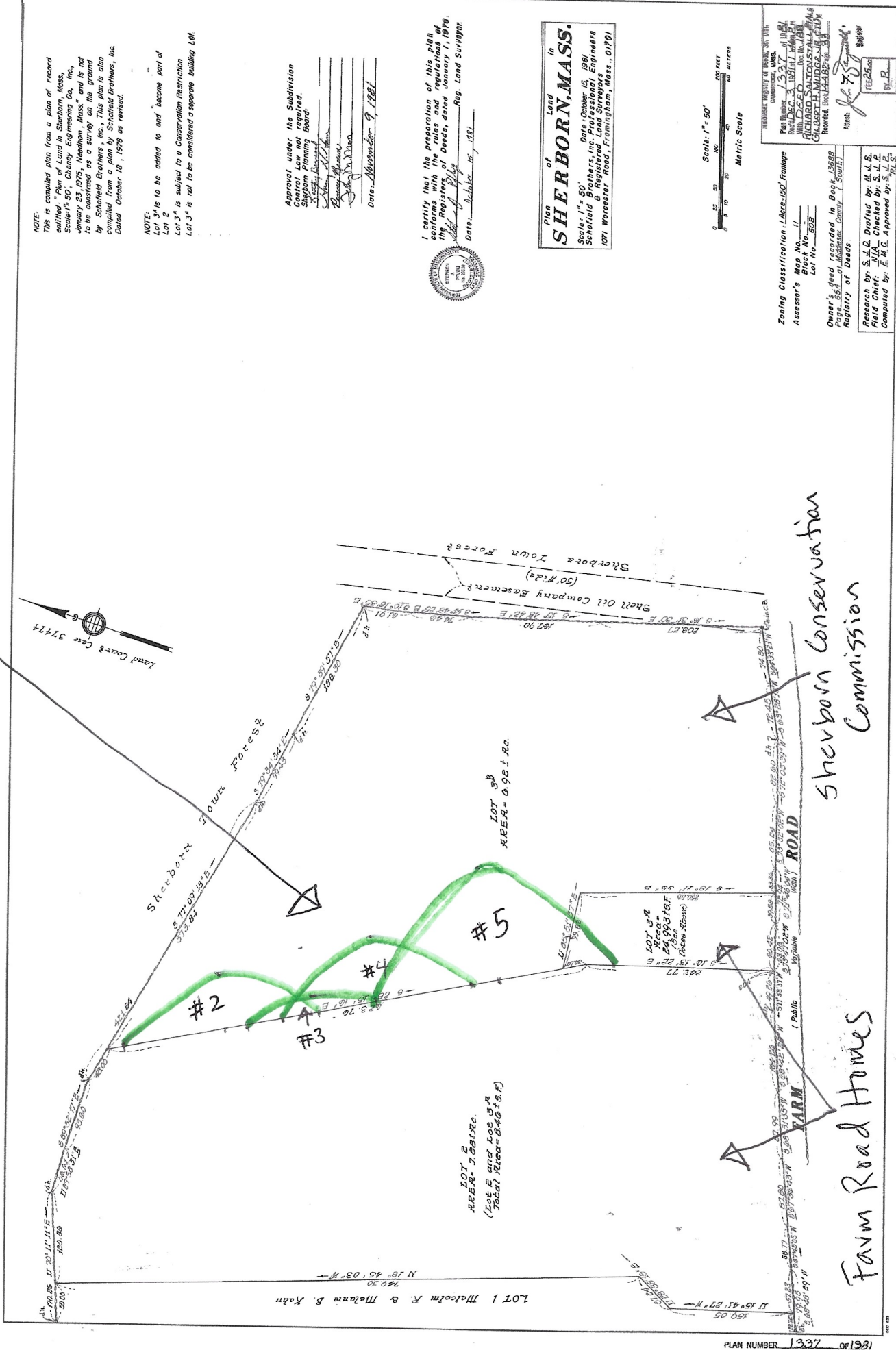
Zoning Classification: 1-Acre-150' Frontage  
Assessor's Map No. 11  
Block No. 60B  
Lot No. 60B

Owner's deed recorded in Book 13688  
Page 254 of Middlesex County (South)  
Registry of Deeds

Research by: S.J.D. Drafted by: M.J.B.  
Field Chief: N/A Checked by: S.J.P.  
Computed by: E.M.G. Approved by: S.J.P.  
RLS

Massachusetts Registry of Deeds, So. Dist.  
CAMBRIDGE, MASS.  
Plan Number 1337 of 1981  
Rec'd DEC 3 1981 at 1:40 P.M.  
With DEED Doc. No. 188  
RICHARD SAKON STALLER  
GILBERT H. MUDGE, JR. CLU  
Recorded, Book 14482 Page 33  
Attest: *[Signature]* Register  
FEE \$25.00  
BY: *[Signature]*

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



NOTE:

This is compiled plan from a plan of record entitled "Plan of Land in Sherborn, Mass., Scale: 1" = 50', Cheney Engineering Co., Inc., January 23, 1975, Needham, Mass." and is not to be construed as a survey on the ground by Schofield Brothers, Inc. This plan is also compiled from a plan by Schofield Brothers, Inc. Dated October 18, 1978 as revised.

NOTE:

Lot 3A is to be added to and become part of Lot 2  
Lot 3A is subject to a Conservation Restriction  
Lot 3A is not to be considered a separate building Lot.

Approval under the Subdivision Control Law not required.  
Schofield Planning Board.

By: [Signature]  
Date: November 9, 1981

I certify that the preparation of this plan conforms with the rules and regulations of the Registry of Deeds, dated January 1, 1976.  
By: [Signature]  
Date: October 15, 1981  
Reg. Land Surveyor



Plan of Land in  
**SHERBORN, MASS.**  
Scale: 1" = 50'  
Date: October 15, 1981  
Schofield Brothers, Inc. Professional Engineers  
107 Worcester Road, Framingham, Mass., 01901



Zoning Classification: Local-100 F-100  
Assessor's Map No. 11  
Lot No. 208  
Owner's deed recorded in Book 1558B  
Registry of Deeds  
Research by: S. L. D. Drafted by: M. L. B.  
Field Chief: J. L. A. Checked by: S. L. B.  
Computed by: E. M. G. Approved by: S. L. B.

## 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 feet, 72.45 feet, 82.60 feet, 85.24 feet and 33.36 feet 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 feet 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 feet to a point;

FILED  
14482 337 33  
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 feet, 167.90 feet and 208.27 feet 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

John L. Worden III  
Notary Public  
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 2 1981

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

Dwight H. Willis  
Notary Public

